



REPUBLIKA E SHQIPËRIË

ENERGY REGULATORY AUTHORITY

BOARD

DECISION

No. 202, Dated 02.12.2020

“ON APPROVING THE “REGULATION ON THE PROCEDURES FOR THE SALE OF SURPLUS ELECTRICITY IN THE UNREGULATED MARKET FOR THE PUBLIC SUPPLY COMPANY”

Based on article 16 and 19 of Law no. 43/2015, “On Power Sector” as amended, article 11, point 2 and 3 of Council of Ministers Decision no. 244, dated 30.03.2016, “On approving the conditions to impose public service obligation, that shall be implemented to the licensee on power sector, which perform the electricity generation, transmission, distribution and electricity supply activity” as amended also article 15 and 26 of the "Rules on ERE Organization, Operation and Procedures", approved with ERE Board Decision, no. 96, dated 17.06.2016, the Energy Regulatory Authority Board (ERE), on their meeting dated 02.12.2020, after reviewing the report Protocol no. 123-7 dated 17.08.2020 prepared by the Technical Directories, regarding the request of the Universal Service Supplier (FTL) to approve the “Regulation for the procedures for the sale of surplus electricity “,

Observed that:

- Council of Ministers Decision no. 244/2016, as amended, with Council of Ministers Decision no. 883, dated 27.12.2019 stipulates inter alia that: In case of created surpluses they shall be traded in an unregulated market at the price offered by this market in accordance with the determined terms and procedures, based on the regulation for electricity trading, approved by the Energy Regulatory Authority.
- Following the request of the Universal Service Supplier (FTL) Company, ERE Board with decision no. 136, dated 21.08.2020, decided to open the procedures to review and approve the "Regulation on the procedures for the sale of surplus electricity in the unregulated market for the public supply company"
- The draft regulation was published for consultation and sent for opinion with official letter Protocol no. 1072, dated 31.08.2020, to the interested parties (i) Ministry of Infrastructure and Energy, (ii) Competition Authority, Electricity Distribution Operator (iii) Transmission System Operator, (iv) Free Market Supplier, (v) Albanian Association of Electricity Suppliers, (vi) Association for the Protection of Traders and the Market, (vii) Energy Community Secretariat to provide relevant opinions and comments within 30 days from the notification provided in the official letter mentioned above.

- In response to the official letter protocol no. 1072, dated 31.08.2020, the Albanian Association of Electricity Suppliers (AAES), with official letter protocol no. 14, dated 30.09.2020, submitted among others as follows.

1. To clearly define the prohibition of any optimization / negotiation procedure between the public supply company, as well as the participants in the sales procedure.

2. The regulation shall treat all surpluses of Free Market Supplier Company and not only those produced by the priority producers of electricity.

- Regarding the first point, ERE considers that the submission made by AAES in the proposal of point 1 above is guaranteed in the definitions of point 7.2 of the regulation. At the same time also the definitions of point 7.3 of the regulation guarantee the immutability of the request for bids made by the seller. As the above definitions guarantee the immutability of the bids made by the participants in these procedures, but also the immutability of the bid request, the proposal made by AAES in point 1 above is considered exhausted.

- Regarding the second point, it is evaluated that the proposal made by AAES, to give the Free Market Supplier the opportunity to sell in the market all the surpluses of the Free Market Supplier company and not only those produced by priority producers of electricity, but also the surpluses that are generated from the fluctuations of generation and / or consumption of electricity, it is found that it contradicts point three (3) in article 11 of Council of Ministers Decision no. 244, dated 30.3.2016, as amended. In these conditions the proposal made by AAES, in point 2 set out above, is not accepted.

- In addition to the above, in the assessments made during the process to review the draft of the “Regulation on the procedures for the sale of surplus electricity in the unregulated market for the public supply company” the following changes are considered necessary:

- In Article 1, relevant corrections have been made in the legal basis of the proposed draft, this regulation is based on the provisions of Law no. 43/2015 “On Power Sector”, as amended, article 19, letter “I”, article 62, point 2, article 69, letter “ë”, as well as Council of Ministers Decision no. 244, dated 30.3.2016, as amended.

- In Article 4 point 2, in the proposed draft of the regulation the definition of the term “Contracting Authority” is amended as the “Seller”.

- In Article 4 point 4, it changes as follows: "Electricity Trader" shall be considered any legal person/domestic company that performs licensed activity, for electricity trading, in our country according to the legislation into force and any foreign company operating in accordance with the provisions of Article 4, point 3 and 4 of the "Regulation on the procedures and terms for license issue, modification, transferring, renewal or license termination in the power sector", approved with ERE Board Decision no .109 / 2016, as amended.

- In Article 7, Bid form, point 3, the paragraph "This should not impair the ability of electricity traders to submit bids, which are less than the maximum capacity provided" is added.

- In Article 10, Legal and administrative documentation, point (d) is added “Documents provided in point (c) of this article, shall be updated by all registered participants, within December of each year and shall be valid for the following year. In any case and at any time the seller may request the registered participants to submit within 30 days and not more than 3 times a year, each of the documents provided in point (c) of this article, in order to verify the legal status of the subject. Failure to submit the required documentation within the specified time, results in deregistration of the licensed participant from the Seller's register.

- In Article 18, the Monitoring of the sale of surpluses produced by priority producers of electricity, in point 2 taking into account the provisions of the regulation for the purchases approved with ERE Board Decision no. 103, dated 23. 06.2016, as amended, it is set a deadline in which the seller until the 5th of each month submits at ERE a copy of the final summary report for review and evaluation of bids and a copy of all complaints submitted, if any, as well as responses to complaints for the previous month.

1. Article 18, point 5, changes: In case that ERE notices irregularities in the reports submitted under point 2 of this article, which may be charged to the Seller and / or bidders, the ERE shall impose an administrative measure based on Article 20 , of Law no. 43/2015, "On Power Sector", as amended.

- In Article 18, point 6, which refers to the Free Market Supplier in the role of buyer and not of the seller is incorrect. In these conditions, the definition of point 6 is removed from the draft of the proposed regulation.

- The regulation is a complete document and deals in its entirety with the whole process of trading surpluses produced by priority producers of electricity, according to the legal provisions into force.

For all of the abovementioned ERE Board,

Decided:

1. To approve the "Regulation on the procedures for the sale of surplus electricity in the unregulated market for the public supply company in the free market, Free Market Supplier (FTL) Company” (Attached)

2. The Legal Issues Directory shall inform the Free Market Supplier (FTL) company and the interested parties regarding ERE Board Decision.

This decision enters immediately into force.

About this decision may be required its review within 7 calendar days and may be complained on Tirana Administrative Court within 30 calendar days from the day of its publication on the Official Gazette.

This decision shall be published on the Official Gazette

ERE CHAIRMAN

Petrit AHMETI