



REPUBLIKA E SHQIPËRIË
ENERGY REGULATOR AUTHORITY

DECISION

No.39, Dated 06.03.2020

ON

APPROVING THE AMENDMENT OF THE CONTRACT KESH PROTOCOL NO. 6651 AND OST (TSO) PROTOCOL NO. 8859, DATED 31/12/2018, SIGNED BETWEEN OST (TSO) AND KESH COMPANIES "TO ENSURE THE BALANCING SERVICE, THE RESERVE CAPACITY AND THE BALANCING ENERGY"

Based on article 16 and 20, letter h) of Law no. 43/2015 "On Power Sector", as amended, article 15 of the "Regulation for ERE Organization, Operation and Procedures", approved with ERE Board Decision, no. 96, dated 17.06.2016; article 105, letter c) of Administrative Procedures Code, ERE Board, on their meeting dated 06.03.2020, after reviewing the report of Legal Issues Directory and Market Monitoring Directory, Protocol no. 30/10, dated 18.02.2020 regarding the approval of the amendment of the contract KESH Protocol no. 6651 and OST (TSO) Protocol no. 8859, dated 31/12/2018, signed between OST (TSO) and KESH companies, "To ensure the balancing service, the reserve capacity and the balancing energy", approved with Board Decision no. 84 dated 31.05.2019,

**Observed
that:**

- OST (TSO) company with the official letter Protocol no. 269/2 dated 24.01.2020, ERE Protocol no. 140, dated 27.01.2020, submitted for approval at ERE the amendment of the Contract KESH Protocol no. 6651, and OST (TSO) Protocol no. 8859, dated 31/12/2018, signed between OST (TSO) company and KESH company, "To ensure the balancing service, the reserve capacity and the balancing energy". This contract is approved with ERE Board Decision no. 84 dated 31.05.2019.
- Regarding the above mentioned comes as request and implementing article 15 of the contract approved with ERE Board Decision no. 84 dated 31.05.2019 where it is stated: "*This contract may be amended only with a written document signed by both Parties and approved by ERE*".
- The contract covers the 01.01.2019 – 31.12.2019 period, for ensuring the balancing service between OST (TSO) and KESH companies.
- This amendment comes from the need of the Parties to gain time, to close the negotiations for signing the 2020 contract as follows and at the same time to perform some tests for the implementation of the draft contract in the future.
- The parties with their free and joint will decided to amend this contract by amending the duration of the contract, by the extension of its effects until on 31.01.2020.
- ERE with the official letter Protocol no. 142/1 dated 04.02.2020, informed OST (TSO) company that ERE reviews the acts according to a procedure defined on the Internal Regulation of ERE Organization and Operation, approved with ERE Board Decision no.144 dated 30.09.2019. With the same official letter ERE required from the Parties that implementing the legal obligations, shall draft and agree the Contract "On ensuring the balancing service" for 2020 and submit for review at ERE meeting the timeframes.

- The amendment of the Contract consists on amending article 17, second paragraph as follows: "This contract shall extend its effects from 01.01.2019, (the start date), until on 31.01.2020 (the termination date)".
- Based on article 105, letter c) of the Administrative Procedure Code the **“Reactive Effects”**, which provides: *“the competent body may issue reactive power to the act when it is permitted by the law and is in favor of the stakeholders and does not damage the rights of a third party”*, ERE is charged to take this decision.
- Being that the parties with their will have signed the amendment of the contract, as above mentioned results completed as a condition for providing the reactive effects in an act of the decision-taking body.
- ERE finds that the parties have not yet agreed on an agreement to regulate the relationship between them for 2020.
- ERE finds that OST (TSO) company ensures the balancing service and the reserve capacity from KESH company.
- ERE accesses that this regulation shall continue beyond the term provided on the agreement for which it is required the approval for the contract amendment, on the conditions that this service is connected with the security of supply and currently OST (TSO) has not reached to provide other resources for this service.
- KESH company, present at the meeting, confirmed the continuation for executing this service from OST (TSO), beyond the terms defined on the request for amendment, as well as the agreement and will of the parties regarding the request submitted at ERE.

For all of the above mentioned, ERE Board,

Decided:

1. The contract KESH Protocol no 6651, and OST (TSO) Protocol no 8859, dated 31.12.2018, between OST (TSO) and KESH companies, “To ensure the balancing service, reserve capacity and balancing energy” shall extend the effects defined on article 15 until the approval by ERE of the contract “For ensuring the balancing service, reserve capacity and the balancing energy” for 2020, submitted from the parties in the absence of other resources to ensure this service for OST (TSO) company.
2. For the period until the approval of the contract “For ensuring the balancing service, the reserve capacity and the balancing energy” for 2020, if the delivered and received electricity price according to the effective contract, is different from the price agreed between the parties for 2020, the invoices shall be adjusted from the parties in this contract.
3. Legal Issues Directory shall inform the stakeholders about ERE Board Decision.

This decision enters immediately into force.

For 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 publication in the Official Gazette.

This decision shall be published on the Official Gazette

ERE CHAIRMAN
Petrit AHMETI