

**REGULATION
FOR THE PROCEDURE OF ELECTRICITY PURCHASE FOR COVERING LOSSES
IN DISTRIBUTION AND TRANSMISSION NETWORKS AND FOR PURCHASE AND
SALE OF ELECTRICITY FOR ENSURING FULFILMENT OF PUBLIC SERVICE
OBLIGATIONS**

Ist PART

GENERAL PROVISIONS

Article 1

Legal basis

This regulation is drafted implementing Law No. 43/2015 article 19, letter “l” article 62, point 2, article 69, letter “ë” of date 28.05.2015 “On Power Sector”, Council of Ministers Decision no. 244 of date 30.03.2016 “On approving the conditions to set public service obligation, that will be implemented to the licensees on power sector, which perform electricity generation, transmission, distribution and electricity supply activity”,

Article 2

Object and purpose

- 1- The object of this regulation is to define electricity sale-purchase procedures according to Article 6 below from the transmission system operator and any other electricity company for which are imposed public service obligations (PSOs) from the companies licensed for electricity trading.

- 2- The purpose of this regulation is:
 - a. to define efficient and practical procedures for the energy undertakings referred to in paragraph 1 of this Article to purchase electricity from the traders;
 - b. to provide electricity purchase at lowest prices;
 - c. to promote trader’s participation in electricity purchase process;
 - d. to promote competition in electricity purchase process;
 - e. to ensure transparency and equal treatment for all traders and participants in electricity purchase procedures
 - f. to comply with the legislation in force

Article 3

Principles

Electricity purchase procedures according to this regulation shall be implemented according to the principles of equality, competition, transparency and protecting confidentiality principles.

Article 4

Definitions

In this regulation the terms used below shall mean:

1. **ERE:** shall mean Energy Regulator Authority, responsible for electricity and natural gas sector, that operates in conformity with the laws 43/2015 “On Power Sector” and Law no. 102/2015 “On Natural Gas Sector”.
2. **Purchaser:** shall mean the distribution system operator, transmission system operator and other energy undertakings to which PSO for selling and/or purchasing electricity has been imposed according to the licenses issued by Energy Regulator Authority.
3. **Electricity purchase:** shall mean the transferring in quantity and time of electricity from electricity traders and/or energy Exchanges, to the Purchaser, upon the payment and other conditions defined in the relevant sale/purchase contract, and according to the procedures defined in this regulation.
4. **Electricity trader:** shall mean any legal person/domestic or foreign company that performs licensed activity, for wholesale electricity trading.
5. **Request/Invitation for bid:** shall mean the official document that the Purchaser addresses publicly to all electricity traders for submitting the bids, drafted in the form provided in this regulation.
6. **Grid Code Operation** shall mean the Transmission Grid Code, Distribution Grid Code, Metering Code.
7. **Bidder:** shall mean the electricity Trader that submits a Bid.
8. **Bid:** shall mean the complete information and correspondence sent through the electronic platform administered by the Purchaser according to the regulations in force.
9. **Bidding Calendar:** shall mean the calendar containing all days of running the purchase processes within the next 12 months. It shall be updated on a monthly basis and publically available. Any change to the calendar shall be notified without delay to all traders licensed by ERE and registered in electricity market in conformity with the Market Rules.
10. **Register of Electricity traders:** shall mean a register of all Electricity traders that is kept by the Purchaser, with the contacts of responsible persons to provide information for the purchase process.
11. **Commercial terms:** shall mean the set of elements relating to the technical conditions, the quantities, sale-purchase prices, delivery, interconnection capacities as well as other tariffs or payments associated with the purchase transaction.
12. **Transmission/interconnection capacities:** shall mean the interconnection capacities ensured by the purchasers and/or traders, to enable electricity purchase.
13. **IT online platform** shall mean an electronic platform for the publication of seller and purchaser data in the function of electricity sale/purchase.

Article 5

Responsibilities

The Purchaser is responsible for defining the capacity graph in MW and that of electricity in MWh respectively (in electricity capacity and quantity) as well as for defining the period and its delivery program that should be calculated in compliance with the Power Sector Law, Electricity Market Rules as well as Network Operation Codes.

Article 6

Implementation

The procedures of electricity purchase defined in this regulation shall be implemented by:

- a. The distribution system operator and the transmission system operator to cover the losses respectively in the distribution and transmission network;
- b. Energy undertakings to which is imposed public service obligation for electricity sale and/or purchase
- c. In the case of electricity purchase in emergency conditions, including and not being limited to the breakdowns that have occurred in the electricity distribution or transmission unit.

Article 7

Format of collection, submission and review of bids

1. An online IT platform shall be used by the Purchaser for all interactions with Electricity traders in the process of the Purchase. It shall be available through the internet.
2. The Purchaser shall manage the Bidding Calendar and the Register of Electricity traders. All bids, their time of submission, and all details of the bid shall be stored within the system for a period of 5 years.
3. Submission of the offers by Electricity traders shall be online to the system according to a predefined gate on the day of bid submission. The gate opening and closure times shall be published in the Bidding Calendar.
4. The review of the completeness of the bids and the evaluation shall take place automatically through the online IT system. Results of the tendering procedures shall be automatically submitted at **ERE** for review and shall contain the Electricity traders which have submitted the bids, all available information on the bids received and the bids selected.
5. The Purchaser through the online IT system shall publish the results of the Purchase in an anonymised and aggregated manner with average prices and volumes purchased for the Purchase procedure.

Article 8

Format of the bids

1. All bids submitted through the online purchase platform for each procurement/purchase process shall contain the following information:

- bidder name;

- capacity offered/period in (MW);
- price/unit/period (Euro/MWh);

2. All bids shall be firm and submitted for the entire duration of the period for which the energy is procured. The bids' capacity offered shall be between 1MW and the total capacity ensured for the respective period.

3. Each procurement process shall only have a fixed period of delivery and a fixed capacity procured for the entire period resulting in a maximum quantity covered by the respective procurement process. Where the procurement way foresees variable demand during this period, separate procurements with fixed delivery periods and fixed capacity demanded shall be organized. This shall not undermine the Electricity traders' possibility to submit bids with less than the maximum capacity procured.

Article 9

Electricity purchase contracts

1. Electricity purchase or sale by energy undertakings referred to in Article 2(1) of this Regulation is performed on the basis of the contracts signed in compliance with the procedures and criteria defined in this regulation.
2. Kontratat duhet të hartohen në përputhje me legjislacionin në fuqi të sektorit të energjisë elektrike dhe atë civil. The contracts shall be in conformity with the legislation in force of power sector and the civil one.
3. The delivery point shall be the balancing group for the Purchaser according to the Albanian bidding zone.

Article 10

Publication of information about electricity purchase

- 1- For each electricity purchase, all information specified in paragraph 2 below shall be published in the Bidding calendar which is to be made available to all market participants by the Purchaser through the online platform.
- 2- The information for each tendering and bidding process that needs to be published through the online platform shall contain at least:

-The overall electricity quantity in MWh that is required to be purchased in each procurement/purchase process;

- The maximum capacity of electricity in MW that can be bid for in each procurement/purchase process;

- The full period of electricity delivery defined in the contractual (sale-purchase) agreement;
- Provider of the transmission capacities;
- Qualification requirements for the purchase procedure as provided in article 10;
- The criteria for evaluating the bids in line with Article 12;
- Payment conditions

3- The Purchaser shall publish any information contained in the Bidding Calendar both in English and Albanian language on the official website of the Purchaser. In case of discrepancies, the

information in Albanian language shall prevail.

4- Within a one working day after the end of the electricity purchase process, in the IT Platform for the Purchases the following data shall be published:

- The bidders name;
- The capacities offered for every bid (MW);
- The quantities offered for every bid (MWh);
- The Price /unit for (Euro/MWh);
- Total value for any purchase process;
- Delivery profiles for every bid;
- Electricity delivery points for every bid;
- Validity of all bids;
- Announcing the winners and/or not winning companies

5- The Purchaser shall publish on its official website a copy of all the complaints submitted as well as its answers for the complaint.

Article 11

Legal and Administrative Documentation

- 1- Any company licensed for electricity trading in Albania and/or any Party to the Energy Community Treaty that wants to take part in the electricity purchase procedure shall submit to the Purchaser the necessary administrative documentation that verifies its legal and electricity trading abilities, from respective competent authorities of the states where they are registered, as follows:
 - a. The documentation that certifies the company registration in the relevant trade, judicial registers of the state where the company is established or registered.
 - b. The license for electricity trading issued by ERE for the traders that are established or registered in the Republic of Albania, or from the respective states for those electricity Traders that are established or registered outside the Republic of Albania.
 - c. The documentation issued by competent institutions of the respective state not later than 3 months from the submission of the bid and shall verify that:
 - The trader is not in bankruptcy process [document issued by the National Registration Center (QKR)]
 - The Trader or legal representatives of the company are not condemned by the court decision for penal offences
 - The trader or legal representatives of the company are not condemned by the court decision for issues regarding electricity trading activity;
- 2- These requirements shall be explicitly mentioned in the public notice inviting for the submission of bids.
- 3- Traders that do not fulfil the requirements set out in paragraph 1 shall be considered not eligible to bid.
- 4- The traders that express their interest to take part in the procedures of electricity purchase organized by the Purchaser for the first time, which have not deposited the legal documentation referred to in paragraph 1(c) of this Article, shall submit the above mentioned documentation

through the online platform together with the expression of interest.

5- Other interested companies, already registered for bidding with the Purchaser, in any future purchase procedure, shall submit only the bid form with the data specified in Article 8(1) of this Regulation,

6- The Purchaser shall not refuse the companies that have submitted the full documentation, even if submitted in tranches, required to participate in electricity purchase procedures.

Article 12

Criteria for evaluating the bids

The online IT platform for the procurement/purchase of electricity to cover the losses or the energy set by Public Service Obligation (PSO) for the purchaser shall evaluate the bids received in an automated manner within the gate opening and closure times only based on the price per MWh. The IT platform shall select all bids in order to minimize the cost for each procurement process announcing winner those bids accumulated to the lowest overall purchase result for the process. Where bids have the same quantity and price, a first-come-first-serve principle shall apply.

Article 13

Purchaser communication with the participants in the procedures for electricity purchase

1. Any communication of the Purchaser with the companies participating in the electricity purchase procedure shall be only through the IT online platform for the procurement, after the registration of electricity traders.
2. All announcements resulting in a change of the bidding calendar shall be made in writing and shall be published on the Purchaser's website. Any other form of communication or negotiation between the Purchaser and the Electricity traders or between the Electricity traders with each other shall be prohibited.

Article 14

Electricity procurement procedure

1. The Purchaser shall develop a procurement way/strategy for all foreseen losses in the distribution or transmission network, or foresee the energy imposed by Public Service Obligation (PSO) on the Purchaser, for the entire calendar year. It shall update this procurement way at least on a monthly basis.
2. All changes in the procurement way/strategy which will directly influence the quantities and frequency of purchase leading to a change in the purchase process shall be included in the bidding calendar within one day.
3. The procurement way/strategy shall aim to minimize the costs for the procured energy for an entire calendar year.
4. The purchase way/strategy and its representation in the bidding calendar shall contain:

- electricity quantity in MWh that will be purchased;
- timeframe and day of purchase
- daily graph of electricity delivery;
- duration of electricity delivery;
- the date/hour of submitting the bids;

5. Any submission of a bid for electricity purchase by any bidder shall be done through the online IT platform for the purchase/procurement of energy.

6. The evaluation of the bids shall take place in an automated manner in line with Article 12 of this Regulation. The detailed rules for this evaluation need to be publically available on the Purchaser's website and on the IT platform.

7. All the attached documentation of electricity Purchase procedure together with the contract signed by the Purchaser and the winning bidder/bidders shall be documented and saved according to the legislation in force. It shall be submitted to the ERE in line with Article 19 of this Regulation.

Article 15

Repetition of Bidding Process

1. In case less than three traders submitted bids, the bidding process shall be repeated
2. Where the review, evaluation and comparison by the Purchaser is not possible due to the format of bid information and/or the information requires clarification by the bidder, the bid shall be disqualified. If the number of bids after all potential disqualifications is below three, the bidding process shall be repeated.
3. The repetition of the bidding process shall be announced to all Electricity traders and be published on the online platform and the website of the Purchaser. The repeated bidding process should take place at least two days after the initial bidding process, and with at least two days notification period.

Article 16

Conflict of interest declaration

Before the operation of the IT platform begins, any employee of the Purchaser in charge of the IT platform operation and its development shall sign the declaration, by which she/he expresses the absence of his conflict of interest with the bidders, in conformity with the legislation in force.

Article 17

Announcing the winner and signing the contract

1. Winner announcement is given to the bid/bidders that has/have submitted the winning bids by the end of the bids evaluation process. The announcement of the winner contains at least:

- the name, address of the bidder;
- electricity supply period;
- electricity supply profile;
- the quantity, price/unit and the value of the contract;

2. After announcing the winner, the Purchaser and the bidder announced winner sign the contract.

Article 18

Administrative complaint procedure

1. Any bidder may require the review of the administrative procedure followed for a purchase, when it deems that the decision of the Purchaser is in contradiction with this Regulation, following the steps below:

- a. The bidder submits a complaint in a written form through the online platform or e-mail to the Purchaser, within 24 hours from the moment of announcing the disqualified bidder or claiming violation.
- b. In this complaint, the complainant must submit the name and address, reference to the concrete procedure where it participated, the legal basis and description of the claiming violation.
- c. When receiving a complaint, the Purchaser is obliged to approve a decision for accepting or rejecting the complaint within 24 hours upon the receipt of the complaint.
- d. When the complainant does not agree with the complaint handling from the Purchaser, within 5 working days it may address ERE for settling the dispute in accordance with Article 24 of the Power Sector Law.
- e. When the complainant does not agree with complaint handling by ERE, it may challenge ERE's decision in court.

Article 19

Monitoring electricity purchase

1. All the operations of electricity purchase shall be documented accurately. No purchase shall be done without the attached documentation required.

2. Until the 5th of every month, the Purchaser submits to ERE a copy of the final summarized report of reviewing and evaluating the offers, and a copy of all the complaints submitted, if any, as well as its answers for the complaints.

3. The Purchaser is obliged to submit to ERE in a transparent way all the required documentation, for electricity purchases within ERE authority for monitoring.

4. ERE reviews the data submitted by the Purchaser and evaluates whether the bidding processes in the preceding month complied with the criteria and provisions of this Regulation.
5. In case ERE finds irregularities in the bidding processes that could be attributed to the Purchaser or any of the bidders, ERE may issue an administrative measure in accordance with Article 20 of the Power Sector Law.

Article 20

Payment, invoicing, settlement

1. The entire reconciliation process of the electricity quantities delivered between the parties, the respective financial value and the invoicing shall be closed within 10 working days from the last date of delivering electricity. This payment shall be executed by the purchaser within 90 calendar days from the last day of delivery.
2. The Purchaser shall transfer the purchase price to the Electricity traders within three working days after the end of the week containing any delivery.
3. Any day or delivery period shorter than that, if the delivery period for the purchase is shorter, shall be submitted as an item on the invoice. The invoice shall be generated from the IT platform established by the seller that performs the electricity sale procedures according to this regulation and shall be invoiced to the Purchaser.

Article 21

Review

These Regulations are subject to be reviewed with ERE Board of Commissioners decision, according to ERE Practice and Procedure Regulations.

Article 22

Sanctions

For violating these rules, when it is not a penal offence, ERE acts in conformity with Law No. 43/2015 article 107, date May.28.2015, "On Power Sector", as amended.

Article 23

Entry into force and validity

This Regulation enters immediately in force and is published in the Official Gazette.