



REPUBLIKA E SHQIPËRIË

ENERGY REGULATORY AUTHORITY

BOARD

DECISION

No. 274, Dated 27.10.2022

ON

REVIEWING THE STANDARD CONTRACT FOR THE SALE AND PURCHASE OF ELECTRICITY BETWEEN THE ELECTRICITY PRODUCTION COMPANY CHARGED WITH THE PUBLIC SERVICE OBLIGATION, THE SHARES OF WHICH ARE FULLY OR PARTIALLY CONTROLLED BY THE STATE, KESH COMPANY AND UNIVERSAL SERVICE SUPPLIER (FSHU) COMPANY FOR THE SUPPLY OF CUSTOMERS WHO ARE SUPPLIED BY UNIVERSAL SERVICE SUPPLIER (FSHU) COMPANY FOR 01/01/2022 TO 31/12/2022 PERIOD

Based on article 16,20, letter “h”, 47,56 letter “f” as well as 90 of Law no. 43/2015 “On Power Sector” as amended, Part 1, article 4, point 7 of Council of Ministers Decision no.456, dated 29.06.2022 “On the approval of conditions for the imposition of the public service obligation, which will be applied to licensees in the electricity sector, who exercise the activity of production, transmission, distribution and supply of electrical energy”; Council of Ministers Decision no.650, dated 10.10.2022 “On some amendments in Council of Ministers Decision no. 584, dated 08.10.2021 “On announcing the Emergency Situation for Electricity Supply” Chapter V of the “Albanian Electricity Market Rules” approved with ERE Board decision no.139, dated 15.08.2016, as amended; “Transmission Code” approved with ERE Board decision no. 63, dated 11.04.2022 as well as the Regulation for ERE Organization, Operation and Procedures, approved with ERE Board decision no.96, dated 17.06.2016; ERE Board on their meeting dated 27.10.2022, after reviewing the report Protocol no. 1829/4-1 dated 26.10.2022, prepared by the Technical Directories on “ approving the Standard contract for electricity sale – purchase between the electricity production company charged with public service obligation, whose shares are fully/partially controlled by the state, KESH company and the Universal Service Supplier (FSHU) company for the supply of the customers supplied by FSHU company for 01/01/2022 until 31/12/2022 period”,

Observed that:

- With the joint official letter Protocol no. 4845/1 dated 30.09.2022 KESH company and Free Market Supplier submitted at ERE the request for the approval of the contract presented with

official letter Protocol no. 4670 dated 30.09.2022 (Free Market Supplier company) and official letter Protocol no. 6926 dated 30.09.2022 (KESH company) approved and signed between both parties.

- The legal basis referred to in this contract is:

- Article 20, letter “h” of Law no.43/2015 “On Power Sector” as amended;

- Council of Ministers Decision no.456, dated 29.06.2022 “On the approval of conditions for the imposition of the public service obligation, which will be applied to licensees in the electricity sector, who exercise the activity of production, transmission, distribution and supply of electrical energy”

- Council of Ministers Decision no. 584, dated 08.10.2021 “On announcing the Emergency Situation for Electricity Supply” as amended;

- ERE Board of Commissioners decision no.23. dated 25.03.2009 “On renewing the licenses in the electricity production and trading activity of KESH company”, as amended;

- ERE Board Decision no. 112, dated 08.07.2016 “On the conditions for the licensee charged with universal service obligation for the electricity market in Albania”

- ERE Board decision no. 215, dated 11.10.2018 “On transferring the electricity supply license no. 251 series P14FPP approved with ERE Board decision no. 97, dated 27.10.2014, valid until 27.10.2019 and the universal service obligation for the electricity supply, of the electricity distribution operator (OSHEE) company, approved with ERE board decision no. 112, dated 08.07.2016 to the "Universal Service Supplier" (FSHU) company, as amended;

- ERE Board decision no. 164, dated 04.11.2019 “On the renewal of the license of Universal Service Supplier company in electricity supply activity”;

- Decision of the Minister responsible for Energy with Protocol no. 1394/1 dated 16.02.2022 (in the quality of the representative of the state as the owner of the shares of the production entity, charged with the public service obligation), of the General Assembly of the Company for the approval of the sale price of electricity for supply purposes of the Universal Service Provider.

- The parties respectively KESH company and Free Market Supplier company have referred as the legal basis in the contract, Council of Ministers Decision no. 456, dated 29.06.2022. This legal reference is correct but incomplete as this Council of Ministers decision extends its effects from 29.06.2022 onwards, while the contract referred to at ERE extends its effects for 01/01/2022 - 12/31/2022 period.

- In point 2 of Council of Ministers Decision no. 456, dated 29.06.2022, results that Council of Ministers Decision no. 244/2016 and Council of Ministers Decision no. 620/2021 as amended, are repealed. For the period January 1, 2022 until the entry into force of Council of Ministers Decision no. 456, dated 29.06.2022, the relations between the parties are regulated based on Council of Ministers Decision no. 620, dated 22.10.2021, "On the approval of the conditions for establishing the obligation of public service to the licensees in the electricity sector, during the state of

emergency in the supply of electricity and for coping with its prevention, amended by Council of Ministers Decision no. 757, dated 9.12.2021. In this context, the Parties should review the contract signed between them, taking into consideration the above-mentioned Council of Ministers Decisions and the periods for which they have legal effects. Since for 01.01.2022 - 31.12.2022 period, the Council of Ministers decisions have legal power for different parts of the year.

- The joint request of KESH company and Universal Service Supplier (FSHU) company for the approval of contract with Protocol no. 4845 dated 30.09.2022 of KESH company and with Protocol no. 6926, dated 30.09.2022 of Universal Service Supplier (FSHU) company, consists in the Approval of the Standard contract for the sale - purchase of electricity between the electricity production company charged with the public service obligation, whose shares are fully or partially controlled by the state, (KESH company) and the Universal Service Supplier (FSHU) company for the supply of customers who are supplied by the Universal Service Supplier (FSHU) company for the time period 01/01/2022 - 12/31/2022.
- The request of the parties consists in the approval of the Standard contract, but at the same time the previous Standard contract approved by ERE with decision no. 73, dated 22.04.2020, amended with ERE board decision no. 04, dated 15.01.2021, is not for a specified time limit as requested by the parties for the new contract for the time period 01/01/2022 - 12/31/2022.
- KESH company and the Universal Service Supplier (FSHU) company they must make the relevant clarifications if the contract submitted at ERE is a standard contract that shall be used in each case between the parties or if it is a contract only for a certain period of time.

Article 2 of the signed contract states that:

- The contracted amount, nominated for the year, that the Seller is obliged to supply to the Purchaser, is the entire amount necessary to meet the Purchaser's full request, this referring to the monthly/weekly/daily/intra-day programs according to the provisions of Article 4 and 5 of this contract.
- The electricity sale price for 2022 is the one approved by the Decision of the General Assembly of the Seller with Protocol no. 1394/1 dated 16.02.2022, as amended and according to this decision it is about 2.6 ALL/KWh for electricity which serves for the supply from the Universal Service Supplier (FSHU) company to customers connected to the low voltage distribution network, 0.4 KV and 12 ALL/ KWh for the electricity that serves for the supply by the Universal Service Supplier (FSHU) company as the Supplier of Last Resort (FMF) of customers connected to the medium voltage distribution network 6/10/20 KV.
- The price used for this contract is that of the General Assembly of the Seller with Protocol no. 1394/1 dated 16.02.2022, as amended and according to this decision it is about 2.6 ALL/KWh. ERE Board with decision no. 242, dated 23.09.2022, decided on the request of the Universal Service Supplier (FSHU) company regarding the costs that must be included in the calculation of the retail price of electricity for household customers with consumption over 800 kWh per month.
- It is estimated that: *"The public service obligation established by the Council of Ministers, among other things, determines the obligation of KESH company to supply electricity to all customers*

who are supplied under universal service conditions by the Universal Service Supplier (FSHU) company. In accordance with Council of Ministers decision- in the aforementioned, the General Assembly of Shareholders of KESH company, through decision no. 6645/1, dated 08.09.2022, decided in its point 1, the approval of the electricity sale price for FSHU company according to the following table”:

Electricity sold for consumption to household customers in Low Voltage, up to 800 kWh/Month	2.6 ALL/kWh
Electricity sold for consumption to household customers in Low Voltage, over 800 kWh/Month	34.3 ALL/kWh
Electricity sold for consumption to non-household customers in low voltage	2.6 ALL/kWh
Electricity sold for consumption to customers connected to Medium Voltage, 6/10/20 KV	12 ALL/kWh

- Under these circumstances, it is estimated that ERE board decision no. 242 dated 23.09.2022, as well as the decision of the General Assembly of Shareholders of KESH company no. 6645/1, dated 08.09.2022 are not reflected in the contract signed by the parties and submitted at ERE.
- Also point 4 of the Standard contract emphasizes the annual demand for electricity, in these circumstances the emphasis of the demand in article 2 point 1 of the proposed contract would count on the provision of an indicative/planned amount which would also emphasize the annual amount of electricity which is adjusted with the following monthly/weekly/daily/intra-day programs. Consequently, KESH company and the Universal Service Supplier (FSHU) company must emphasize the above in the contract between them so that there is also an annual amount programmed for this contract.
- The parties have made the relevant adjustments in the contract with Protocol no. 4845 dated 30.09.2022 of KESH company, and with Protocol no. 6926 dated 30.09.2022 of the Universal Service Supplier (FSHU) company. These adjustments also affect elements related to the payment term, which changes from 30 days to 45 days, as well as the invoicing method, which changes due to the fact that the Universal Service Supplier (FSHU) company also serves as Supplier of Last Resort. Under these conditions, KESH company and the Universal Service Supplier (FSHU) company must inform ERE if the adjustments to the contract entail additional costs for them.
- Consequently, it is necessary for the parties to review the contract submitted at ERE with the joint official letter of KESH company with Protocol no. 4845/1 dated 30.09.2022, and of the Universal Service Supplier (FSHU) company with Protocol no. 6926/1 dated 30.09.2022, contract with Protocol no. 4845 dated 30.09.2022 of KESH company and with Protocol no. 6926 dated 30.09.2022 the Universal Service Supplier (FSHU) company, reflecting the above-mentioned assessments.

For all of the above mentioned, ERE Board,

Decided:

1. The electricity production company charged with the public service obligation, whose shares are fully or partially controlled by the state, KESH company and Universal Service Supplier (FSHU) company shall review the legal basis, articles 1, 2, 9, 14 and 21 of the contract submitted at ERE with the joint official letter of KESH company with Protocol no. 4845/1 dated 30.09.2022 and of Universal Service Supplier (FSHU) with Protocol no. 6926/1 dated 30.09.2022, contract with Protocol no. 4845 dated 30.09.2022 of KESH company and with Protocol no. 6926 dated 30.09.2022 of Universal Service Supplier (FSHU).

2. The Legal Directory shall inform KESH company and Universal Service Supplier (FSHU) company about ERE Board decision.

This decision enters immediately into force.

Each party involved in this procedure can request ERE, within 7 calendar days from the date of the decision, to review the board's decision in case it has provided new evidence that could lead the board to make a decision different from the previous one or for detected material errors. This decision can be appealed to the Tirana Administrative Court, within 30 calendar days from the day of publication in the Official Gazette.

This decision shall be published in the Official Gazette.

ERE CHAIRMAN

Petrit AHMETI