



REPUBLIKA E SHQIPËRISË
**ENERGY REGULATORY AUTHORITY
BOARD**

**DECISION
No. 285, dated 05.10.2023**

**ON
APPROVING THE PROJECT PROPOSAL OF TAP AG, SRG AND DESFA FOR
THE INCRIMENTAL CAPACITY PROCESS FOR 2021- 2ND BINDING PHASE**

Based on Article 16 of Law no. 43/2015, “*On Power Sector*” as amended, articles 13; 15, point 1 letter “a”; article 16, point 24 and 108 of Law no. 102/2015 “*On Natural Gas Sector*”, as amended; the provisions of Final Joint Opinion of the Energy Regulators on the Exemption Application of TAP AG, dated 6 June 2013, issued from the Regulatory Authorities according to Directive 2009/73/EC, (“Final Joint Opinion”) as well as Opinion 1/2013 of Energy Community Secretariat, dated 14 May 2013; articles 15 and 26 of the *Regulation on ERE organization, operation and procedures*, approved with ERE Board Decision no. 96, of date 17.06.2016; ERE Board after reviewing the report protocol no. 2238, dated 04.10.2023 , prepared by Natural Gas Directory “*On approving TAP AG, SRG and DESFA project for the Incremental Capacity Proces for 2021 – 2nd Binding Phase*”,

Observed that:

- On 01 September 2011, TAP AG submitted at the Energy Regulatory Authority of Albania (ERE) “the Exemption Application for Trans Adriatic Pipeline”, according to Article 22 of Natural Gas Directive 2003/55/EC.
- On June 2013 the Italian Ministry, the Grek Regulatory Authority (RAE) and ERE decided to exempt from the provisions of articles 9,32 (Third Party Access TPA) and Article 41.6, 41.8, 41.10 (Regulated Tariffs) of Natural Gas Directive for the Initial Capacity of 10 bcma, according to some conditions, adopting the Final Joint Opinion (hereinbelow FJO), a document that is jointly drafted from ARERA, ERE and RAE (hereinbelow the Authorities) and amended to comply with the Commission Decision [C(2013)2949 final], of date 16 May 2013, considering:
 - Directive 2009/73/EC of the European Parliament dated 13 July 2009;
 - EU Directive 2019/692 of the European Parliament and of the Council dated 17 April 2019;
 - 715/2009/EC Regulation of the European Parliament and of the Council dated 13 July 2009;
 - 2019/942/EC Regulation of the European Parliament and of the Council dated 05 June 2019.
 - EU Commission Regulation 312/2014 of date 26 March 2014 (BAL NC);
 - EU Commission Regulation 2017/460 dated 16 March 2017 (TAR NC).
 - Opinion 1/2013 of Energy Community Secretariat, dated 14 May 2013;
- On 16 March 2017, it is approved the new EU Regulation 459/2017 “On the TAR NC Tariff Code”. The EU Regulation 459/2017 (as follows CAM NC) set up a Network Code that defines

the distribution mechanisms of the capacities in the transmission system of natural gas for the existing capacity and for the incremental capacity and abrogates EU Regulation 984/2013.

- On 11 June 2021, TAP AG submitted to the Authorities the “*Guidelines for the 2021 Market Test of Trans Adriatic Pipeline*” for the incremental capacity process, to align with the respective provisions of the Final Joint Opinion with the EU Regulation 459/2017, coordinating the terms/expected terms and strengthening the cooperation with adjacent TSO-s.
- On January 2022, SRG, DESFA and TAP AG, in conformity with the provisions defined on Article 27 (3) of CAM NC, jointly initiated the public consultation about the identified project proposal of the written project to comply in the appropriate measure the received indicative non-binding requirements.
- The joint project proposal was approved from the Regulatory Authorities on November 2022, according to the provisions defined on Article NC CAM and the binding phase initiated with the publication of the Project Proposal on TAP AG website on 14 November 2022.
- On September 2023, SRG, TAP AG, and DESFA, confirmed their purpose to continue with the second binding phase by submitting to the Energy Regulators, ERE, RAE and ARERA, the Project for “Incremental Capacity Process for 2021 – the 2nd Phase of the 2021 Market Test”, according to the provisions defined on Article 28 of CAM NC that above all provides:
 - The Project for the incremental capacity of the second binding phase for the Incremental Capacity Process for 2021 includes 7 (seven) interconnection points (IP) during TAP AG track: Kipoi (TR-GR), Komotini (GR), Nea Mesimvria (GR), Kuçovë (AL), Relievi Roskovec (AL), Fier (AL), and Melendugno (IT).
 - The project is in conformity with the principles mentioned on Final Joint Opinion, the approved Guidelines, the Network Code for the Capacity Allocation Mechanisms and does not include unnecessary obstacles for the process foreseen for the construction of additional capacity.
- Implementing Paragraph 4.1.7 of the Final Joint Opinion, TAP AG performs a Market Test before the initiation of gas operation, to provide to all interested parties the additional capacity to reach the maximum potential extension of the pipeline (the so-called Expansion Capacity); The Market Test shall be performed according to the approved guidelines jointly from the regulatory authorities of energy the Italian one (ARERA), the Greek one (RAE) and the Albanian one (ERE) (as follows the Authorities).
- CAM NC provides that the TSO-s shall perform a coordinated procedure for providing the additional capacities at the Interconnection Points with the European Union Countries and this procedure may initiate with the performance of the annual capacities auctions provided from CAM NC.
- On 1 July 2019 TAP AG initiated the non-binding phase of the Incremental Capacity Process for TAP AG, in coordination with the TSO-s of the participating countries. The Demand Assessment Report (DAR) on 21 October 2019 concluded that the received indicators were sufficient to continue the with the subsequent phase of the incremental capacity project. On January 2022, SRG, DESFA and TAP AG, according to Article 27 (3) of CAM NC, initiated the public consultation phase on the additional capacities project to comply with the non-binding requests accepted from the entities.
- On 30 March 2021, TAP AG send to ARERA, RAE ERE the document for the “Project Proposal of TAP, SRG and DESFA for 2019”, the development of the three possible levels of the bids defined as “limited expansion, partial and full”.
- On 31 October 2022, ERE, ARERA and RAE drafted the common document the Approval of TAP AG, SRG and DESFA Project for the incremental capacity process of 2021, limited to aspects of common competence regarding TAP AG gas pipeline, considering the respective provisions of national importance.

- On September 2023, ERE, ARERA and RAE drafted a joint document “*the Approval of TAP AG, SRG and DESFA Project for the incremental capacity process of 2021 – 2nd binding phase (ANNEX A)*”.
- The joint document of the Authorities “*the TAP AG., SRG and DESFA Project for the incremental capacity process of 2021 – the 2nd binding Phase*” is according to the principles of the Final Joint Opinion, of the Market Test Guideline and of CAM NC as well as the national and european legislation. This document shall not establish unreasoned obstacles for the establishment of incremental capacity and is developed in cooperation with adjacent TSO-s to provide a coordinated development of the network and is approved from the Italian (ARERA) and Greek (RAE) Regulators, and for this reason it is important its approval from the Albanian Regulatory Authority.

For all of the above mentioned ERE Board,

Decided:

1. To approve the joint document agreed with the Italian (ARERA) and Greek (RAE) Regulatory Authorities attached as ANNEX A.
2. Shall publish this decision on ERE website, www.ere.gov.al, including Annex A and B.
3. The original version (the English one) shall have priority in case of interpretation disagreements from the parties.
4. Legal and Dispute Settlement Directory, shall inform the parties TAP AG, ARERA and RAE regarding ERE Board Decision.

This decision enters immediately into force.

Each party included on this procedure may require from ERE, within 7 calendar days from the date of taking the decision, to review this decision if provided new evidences that may lead the board in taking a different decision from the previous one or there are observed material errors. About this decision may be complained on Tirana Administrative Court, within 30 calendar days from the day that this decision is published on the Official Gazette.

This decision is published on the Official Gazette.



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**ENERGY REGULATORY AUTHORITY
BOARD**

ERE Board vote for,

DECISION

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ON

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Board Members	Pro-s	Con-s
Petrit Ahmeti	_____	_____
Erjola Sadushi	_____	_____
Maksim Shuli	_____	_____
Raimonda Islamaj	_____	_____
Petraç Lika	_____	_____