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Republika Kosova - Republic of Kosovo

ZYRA E RREGULLATORIT PËR ENERGJI
REGULATORNI URED ZA ENERGIJU
ENERGY REGULATORY OFFICE



ERO Rule /No. /2023

RULE ON DETERMINATION OF REGULATED REVENUES FOR THE NEMO (NEMO Pricing Rule)



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Pursuant to the authority given under Article 9 paragraph 1, subparagraph 1.7, Article 26, of Law on Energy Regulator No. 05/L-084 and Article 23 paragraph 8. of Law on Electricity No.05/L-085, in its session held on _____2024, approved the following:

**RULE ON DETERMINATION OF TARIFFS FOR THE NOMINATED ELECTRICITY MARKET
OPERATOR
(NEMO Pricing Rule)**

CHAPTER I GENERAL PROVISIONS

**Article 1
Scope and Purpose**

1. This Rule sets:
 - 1.1. The basis and process for determination of the Allowed Regulated Revenues which the Nominated Electricity Market Operator (NEMO) may recover in any Relevant Year in order to allow it to recover the reasonable costs of operating and maintaining the electricity market in accordance with Law on Electricity;
 - 1.2. The principles and processes by which the NEMO tariffs shall be approved, reviewed, and adjusted.

**Article 2
Definitions**

1. The terms used in this document have the following meaning:
 - 1.1. “Actual Regulated Revenues” - the revenues recovered by the NEMO through tariffs for the provision of NEMO Services and any other revenue items stipulated by the Regulator, measured on an actual basis;
 - 1.2. “Allowed Investment Plan” - the program of capital projects for the Regulatory Period as allowed by ERO;
 - 1.3. “Energy Regulatory Office” - (hereinafter: the Regulator) is an independent agency in the energy sector, established by Law on Energy Regulator;
 - 1.4. “License Fee” - the amount payable under the terms of the Schedule of Fees issued by the Regulator;



- 1.5. "Market Operator (MO)" - natural or legal person, licensed by the Energy Regulatory Office, responsible for operation and organization of the electricity market in Kosovo.
 - 1.6. "Market Operator Tariffs"- the tariffs set for liabilities which are paid for operation and organization of electricity market, set by the Regulator.
 - 1.7. "Regulated Allowed Revenues" - the revenues, as stipulated in Schedule 1 of this Rule, which can be recovered in a Relevant Year by the NEMO through Tariffs;
2. Other terms in this rule shall have the meanings specified in the Law on the Energy Regulator, in the Law on Electricity, or in the Law on Energy.

CHAPTER II REGULATION OF NEMO REVENUES

Article 3 General Principles

1. This rule is based on the following principles:
 - 1.1. The Regulated Revenue which the NEMO expects to earn through Tariffs shall cover the reasonable costs for providing services as authorized under the Nominated Electricity Market Operator License, to the extent that those costs are justified and prudently incurred.
 - 1.2. NEMO revenues are determined in a transparent and impartial way, based on non-discriminatory criteria;
 - 1.3. NEMO revenues ensure sustainability and predictability of the Market Operators business.
 - 1.4. NEMO revenues ensure fairness and balance between the interests of the Market Operator and the interests of users of the services that the market operator provides.
 - 1.5. NEMO revenues and Tariffs aim to be predictable and stable to the largest extend possible.
2. The NEMO shall propose the Market Operator tariffs (MO) such that the Actual Rate of Return that it expects to earn from these tariffs is within the set boundaries of the Rate of Return (Chapter III) approved by the Regulator.

Article 4 Tariff Reviews and Regulatory Periods

1. Regulated Revenues and Allowed Rate of Return margins shall be set at Tariff Reviews.



2. The Regulatory Period for which the NEMO Tariffs are in force is an “open-ended” period, where the approved Regulated Revenues and Allowed Rate of Return margins remain in force until a Tariff Review is requested by the NEMO or the ERO.
3. The formulas for calculating Allowed Regulated Revenues are given in SCHEDULE I.
4. The process for undertaking Tariff Reviews is given in SCHEDULE II.

CHAPTER III

NEMO ALLOWED REGULATED REVENUES

Article 5

General Principles

1. The regulatory method of "Rate of Return" is applied to determine the Allowed Regulated Revenues of the NEMO, which is based on the determination of fees, based on reasonable costs.
2. The ERO shall set the target Rate of Return for the company at a level which allows reasonable recovery of capital costs for the assets within the Regulated Asset Base.
3. Allowed Regulated Revenues shall be set at such a level that enables the NEMO to recover the reasonable costs of providing services as authorized under the Nominated Electricity Market Operator License, to the extent that those costs are justified and prudently incurred, and an allowed Return on Investment (ROI).
4. Allowed Regulated Revenues Regulatory Year of the Regulatory Period shall comprise of:
 - 4.1. Allowed operating and maintenance costs (Article 6);
 - 4.2. Allowed depreciation (Article 7);
 - 4.3. Allowed Rate of Return from performing energy activities as authorized under the Nominated Electricity Market Operator License of this methodology;
 - 4.4. License Fees and Taxes (Article 10);
5. In determining reasonable costs, the Regulator shall refer to, but is not bound by or limited to:
 - 5.1. Existing information of the previous periods related to the volume, cost, and service quality of the NEMO;
 - 5.2. Projected volumes, costs and service quality relating to the NEMO; and



5.3. Comparisons with the costs of similar Market Operators in Europe, taking account of the similarities between the Market Operators and the NEMO in Kosovo;

6. Any other revenue that is not collected through regulated tariffs but is related to the provision of services as authorized under the NEMO License shall be deducted from NEMO Regulated Revenue, including any difference between the disposal value of assets and their regulatory value.

Article 6

Allowed Operating and Maintenance Costs

1. Upon submitting its estimates of fixed and other operating and maintenance costs required to be recovered through Allowed Regulated Revenues for any forthcoming Regulatory Period, the NEMO shall only seek to recover any portion or element of such costs which can be reasonably attributed to the NEMO licensees.
2. Allowed operating and maintenance costs shall only include any proportion or element of corporate costs (of any parent entity or any affiliated entity) that can reasonably be attributed to the NEMO licensees using accounting practices.

Article 7

Allowed Depreciation

1. Allowed depreciation costs shall be calculated on a straight-line basis as a function of Economic Asset Lives and the Regulatory Asset Base for different classes of assets.
2. The NEMO shall not be allowed to cover the depreciation costs for assets funded by capital grants and customers contributions.

Article 8

Allowed Rate of Return

1. The Allowed Rate of Return on capital shall be calculated as a function of the Regulatory Asset Base and the Weighted Average Cost of Capital (WACC), described in SCHEDULE II.
2. Allowed Rate of Return margins, shall be set by the regulator within the tariff review.
3. The Regulatory Asset Base shall include only assets which are considered as used and useful at the tariff review period, excluding accumulated depreciation.
4. The NEMO shall not earn a return on assets financed using capital grants or customer contributions.

Article 9

Allowed Working Capital



1. The Allowed Revenues shall include a working capital allowance which shall account for the short-term financing costs to cover the difference between payables and receivables within any given month.
2. The working capital allowance shall be calculated according to the following formula

$$WCLC = 1/12 * ROR * [(RAB * ROR) + OPMC + DEPC + LICC - NTFR]$$

Article 10
License Fee Costs and Taxes

The Regulator shall allow the MO to recover all licensing costs and tax expenses.

CHAPTER IV **NOMINATED ELECTRICITY MARKET OPERATOR TARIFFS**
(NEMO TARIFFS)

Article 11
General Principles

1. The NEMO shall propose NEMO Tariffs for approval by the Regulator such that:
 - 1.1. The NEMO recovers its market operator costs, for the provision of services as authorized under the NEMO License, up to the established Allowed Regulated Revenues set through this rule; and
 - 1.2. NEMO Tariffs are in accordance with a methodology developed by the NEMO and approved by the Regulator. The methodology shall specify how costs are allocated to Market Operator functions and how these are to be recovered from tariffs.

Article 12
NEMO Tariffs Approval Process

1. The NEMO shall submit to the Regulator its methodology for NEMO Tariffs and any subsequent amendments to this methodology at least fifteen (15) business days prior to its proposed date of effectiveness.
2. No methodology or amendments to a methodology shall be effective until approved by the Regulator.
3. The NEMO is entitled to propose the NEMO Tariffs subject to the requirements of Article 11 above.
4. NEMO tariffs shall aim to fulfill the following criteria:



- 4.1. Promote the efficient operation of the sector and the use of electricity services for the long-term interests of consumers;
- 4.2. The fee structure of the NEMO shall be simple and easily understandable by users.
- 4.3. Tariffs should reflect costs causality, to the largest extent possible.
- 4.4. Tariffs should avoid discrimination against a category or categories of members.
- 4.5. Tariffs should be easily comparable to regional NEMO tariff structures.

CHAPTER V TRANSITIONAL AND FINAL PROVISIONS

Article 13 Initial founders capital

The initial founders capital utilized for operationalizing the power exchange will be recovered within a reasonable period of time established by the regulator during the tariff review.

Article 14 Interpretation

If there is uncertainty about the provisions of this Rule, the Board will issue explaining information.

Article 15 Amendment

1. ERO retains the right to change or modify any provision of this Rule.
2. Procedures for amendment or modification of this Rule will be the same as for its approval.

Article 16 Entry into force

This Rule comes into force upon its adoption by the ERO Board and will be published on the official website of ERO.

Board of the Energy Regulatory Office:

Ymer Fejzullahu, Chairman

Lutfije Dervishi, Member



Gani Buçaj, Member

Arta Isufi, Member

Adnan Preniqi, Member



SCHEDULE I

NEMO ALLOWED REGULATED REVENUES CALCULATION

1. This schedule sets out the formulae for calculating Regulated Allowed Revenues of the NEMO. This schedule is intended to complement and clarify the application of the principles set out in the main body of the Rules.
2. NEMO Allowed Regulated Revenues (NEMORR) shall be calculated at Tariff Reviews using the following formula:

$$NEMORR = (RAB * ROR) + (OPMC + DEPC + WCLC + LICC - NTFR)$$

Where:

<i>NEMORR</i>	<i>NEMO Allowed Regulated Revenues</i>
<i>RAB</i>	<i>Regulatory Asset Base</i>
<i>ROR</i>	<i>Allowed Rate of Return</i>
<i>OPMC</i>	<i>Allowed Operation and Maintenance Costs</i>
<i>DEPC</i>	<i>Allowed Depreciation Costs</i>
<i>LICC</i>	<i>License Fee and Taxes</i>
<i>NTFR</i>	<i>Non-tariff Revenues</i>
<i>WCLC</i>	<i>Working Capital</i>

3. ERO shall monitor the actual Rate of Return through the following formula:

$$ROR = \frac{Actual\ Revenues - (OPMC + DEPC + WCLC + LICC - NTFR)}{RAB}$$



SCHEDULE II REGULATORY ASSET BASE

1. This schedule describes the determination of the Regulatory Asset Base for the purpose of calculating allowed depreciation and (Article 7).
2. The Regulatory Asset Base shall be a regulatory value of the NEMO's used and useful fixed assets that are necessary for the provision of Market Operator Services. The Regulatory Asset Base shall distinguish between different classes of assets.
3. The Regulator shall define the opening of the Regulatory Asset Base prior to the start of the first Regulatory Period.
4. The Regulatory Asset Base shall be updated at each Tariff Review as follows:
 - 4.1. Allowed depreciation costs during the current Regulatory Period shall be subtracted from the Regulatory Asset Base, calculated on a straight-line basis using Economic Asset Lives;
 - 4.2. Asset sales or disposals during the current Regulatory Period shall be subtracted from the Regulatory Asset Base at their disposal value;
 - 4.3. Regulatory Asset Base shall not include assets funded by grants and customer contributions;
 - 4.4. Capital expenditure during the current Regulatory Period shall be added to the Regulatory Asset Base during the first Tariff Review after the date when the asset is brought into service and at the cost allowed in the Allowed Investment Plan. Interest during construction shall be capitalized. At Tariff Review the licensee may request that the actual rather than allowed cost of an investment be added to the Regulatory Asset Base. The Regulator shall accept the request if the licensee can clearly demonstrate that the difference between allowed and actual costs is due to factors outside of the licensee's control and that its best efforts were made to minimize cost increases;
 - 4.5. If a capital project in the Allowed Investment Plan is not brought into service in the current Regulatory Period, its allowed cost shall not be added to the Regulatory Asset Base at the next Tariff Review;
 - 4.6. Where any maintenance cost is or has previously been included in allowed operating costs it shall not be capitalized, nor shall it be included in the Regulatory Asset Base;
 - 4.7. The Regulatory Asset Base shall be adjusted to take into account inflation over the previous Regulatory Period, using the Harmonized Indices of Consumer Prices - All Items for the Eurozone area as published by Eurostat as the relevant measure; and



- 4.8. Depreciation policies, set by ERO, related to asset lifespan shall be applied continuously and consistently and shall not be changed by the licensee for regulatory purposes,
5. Economic Asset Lives for different asset classes shall be used to calculate depreciation on the Regulatory Asset Base. Economic Asset Lives shall be determined at Regulated Revenue Reviews such that they reflect the technical lives of assets, except where there is demonstrable reason why the technical life of an asset shall vary from the useful economic life of an asset.
6. Allowed capital expenditure shall be determined at Tariff Reviews based on the Allowed Investment Plan. The Allowed Investment Plan shall:
 - 6.1. Comprise the capital projects reasonably required to provide Market Operator Services;
 - 6.2. Identify each capital project ranked in priority order;
 - 6.3. Show the benefit to market operator performance that each capital project is reasonably expected to deliver, with reference where appropriate to the meeting of any relevant, Planning or Operating Security Standard as may be required by the MO's license;
 - 6.4. Have regard to any other relevant investment or development plans for the NEMO that have been approved by the Regulator (and any differences between these plans shall be identified by the MO and explained); and
 - 6.5. Be developed using an analysis of the discounted costs and benefits of the capital project.
7. The Allowed Investment Plan shall be implemented as follows:
 - 7.1. The NEMO shall make all reasonable endeavors to ensure the implementation of the Allowed Investment Plan in line with its allowed timetable;
 - 7.2. If the NEMO shall be or is unable to, for reasons beyond its control, undertake a capital project in accordance with the timetable given in the Allowed Investment Plan, it shall notify the Regulator. The NEMO shall also detail the reasons for the delay and the revised timetable;
 - 7.3. The NEMO may at any time apply to the Regulator to substitute an alternative capital project with another capital project in its Allowed Investment Plan; so long the alternative project can be shown to be expected to result in the same or greater net benefits to customers (taking account of the expected outcomes and costs). If the Regulator approves the substitution, the alternative project shall be added to the Regulatory Asset Base at the next Periodic Review; and



7.4. If the NEMO substitutes an alternative capital project with a capital project in its Allowed Investment Plan without the prior approval of the Regulator, the Regulator shall consider whether to approve the substitution at the next Regulated Revenue Review but is not bound to do so.



SCHEDULE III TARIFF REVIEW PROCESS

1. The Regulator shall, in order to promote transparency, publish all submissions, comments, and other documentation received from the NEMO or other interested parties in relation to the Regulated Revenue Review on its official website and the Regulator shall disclose all material information submitted to it by the NEMO, excluding any information that the Regulator acknowledges as being commercially confidential.
2. The NEMO may submit a request to the ERO for a tariff review in the following cases:
 - 2.1. There has been a deviation of the actual Rate of Return from the Rate of Return thresholds which were approved by the regulator during the past tariff review.
 - 2.2. There has been a significant change in the circumstances that existed at the time of approval of the Base Regulated Revenue.
 - 2.3. There has been a significant change in the elements on the basis of which the Base Regulated Revenues were determined, which are not adjusted through the yearly adjustment process.
3. Upon receiving the request as in paragraph 2 of this Schedule, or if the regulated company does not submit a request to the ERO to reduce the Regulated Allowed Revenue, in the event of the occurrence of the cases from paragraph (2) of this article, the ERO adopts a decision to initiate a procedure for Reviewing the Regulated Revenue and submits it to the NEMO.
4. The timetable for the overall review process shall be submitted by ERO during the initiation of the review process.
5. The Regulator shall initiate the Tariff Review by notification to the NEMO of:
 - 5.1. Data on actual and forecast years, as required;
 - 5.2. The format in which the data is required to be submitted;
 - 5.3. The timetable for submission of the NEMO's Proposal for its Allowed Regulated Revenues for the forthcoming Regulatory Period.
6. The NEMO's Proposal shall contain the following information and address the following matters (without limitation):
 - 6.1. Actual Regulated Revenues, and Actual Rate of Returns on investments earned during the most recent Regulatory Year, and the past Regulatory Year;



- 6.2. Actual costs of providing Market Operator Services during the current Regulatory Period, in line with the definition of costs that was used for calculating Allowed Regulated Revenues;
 - 6.3. The audit report and audited financial statements for each financial year that ended in the current Regulatory Period, when these are available, as required by the reporting requirements contained in the MO's licenses;
 - 6.4. Actual demand and Customer Numbers during the current Regulatory Period;
 - 6.5. Forecast Demand and Customer Numbers for the forthcoming Regulatory Period;
 - 6.6. Forecast Maximum Allowed Revenues, reporting each of the allowed cost components separately, for the forthcoming Regulatory Period;
 - 6.7. Any studies commissioned by the MO relating to any of the matters to be contained in the NEMO's Proposal; and
 - 6.8. Any other additional material that the Regulator reasonably considers should be included in the NEMO's proposal, so long as the Regulator has notified the NEMO a reasonable time prior to the deadline for the NEMO's proposal.
7. In preparing its proposal, the NEMO shall, to the fullest extent possible, apply the principles and formulae set out in this Rule.
 8. In the cases when NEMO did not apply the principles and formulas, in accordance with this Rule, NEMO shall disclose any areas where it has not applied these, the reason for not applying them, the reasons supporting the alternative approach, and provide an estimate of the impact of using the alternative approach.
 9. Upon receiving the NEMO's Proposal, the Regulator shall determine its accuracy, relevance, and reasonableness by applying the methodology set out in this Rule, including determining whether the proposed Allowed Regulated Revenues reflect the reasonable costs of providing NEMO Services.
 10. The Regulator shall prepare a Provisional Evaluation of the NEMO's Proposal within a reasonable time (set forth in paragraph 4 of this Schedule) after reviewing the proposals of the NEMO and consultation with the NEMO. The Provisional Evaluation shall set out the Regulator's proposals on the Allowed Regulated Revenues to be recovered by the NEMO during the Regulatory Period and the justification for these. The Regulator, in preparing its Provisional Evaluation, may amend, remove, or replace any part of the NEMO's Proposal as it considers appropriate provided that it shall identify such amendments, removals or replacements and provide justification for these.



11. Following notification of the NEMO of its Provisional Evaluation, the Regulator shall launch a public consultation on its Provisional Evaluation, in accordance with the Law on the Energy Regulator.
12. Following the completion of the public consultation within a reasonable time (set forth in the paragraph 4 of this Schedule) before the start of the forthcoming Regulatory Period, the Regulator shall make its Final Decision on Allowed Regulated Revenues for the forthcoming Regulatory Period. Its decision shall be consistent with this Rule. Allowed Regulated Revenues as provided in the Regulator's Final Decision shall apply from the start date of the forthcoming Regulatory Period.
13. The NEMO may dispute or appeal any decision by the Regulator in accordance with applicable legislation.