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REPUBLIKA E SHQIPËRISË  
ENERGY REGULATORY AUTHORITY  
BOARD  
DECISION

No. 135, Dated 11.04.2023

ON

**APPROVING THE AMENDMENT NO.2 OF THE CONTRACT “FOR  
“ELECTRICITY SALE-PURCHASE TO COVER THE LOSSES IN THE  
TRANSMISSION SYSTEM BETWEEN THE TRANSMISSION SYSTEM  
OPERATOR TSO COMPANY AND KESH COMPANY”**

Based on article 16, 20 letter “h”, 47, 56, letter “f”, 62 and 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 approving the conditions for setting public service obligation, that shall be implemented to the licensees on power sector, which exercise the electricity production, distribution and supply activity*”, Council of Ministers Decision no. 650, dated 10.10.2022 “*On some additions and amendments in Council of Ministers Decision no. 584, dated 08.10.2021 “On declaring the state of emergency for electricity supply”*”; Council of Ministers Decision no. 519, dated 13.07.2016 “*On the approval of the electricity market model*”, as amended; as well as article 15 of 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 11.04.2023, after reviewing the report Protocol no. 1111/1, dated 07.04.2023, prepared by the Technical Directorates “*On the amendment no.2 of the contract for electricity sale-purchase to cover the losses in the transmission system between Transmission System Operator TSO company and KESH company*”,

**Observed that:**

- ERE Board with decision no. 30, dated 16.02.2023, approved amendment no. 1 of the contract for electricity sale-purchase to cover the losses in the transmission system between Transmission System Operator TSO company and KESH company, approved with ERE Board decision no. 230, dated 12.09.2022.
- The parties, through official joint letter Protocol no. 1691/1 from TSO company and Protocol no. 1668/1 from KESH company, dated 23.03.2023, protocolled at ERE with Protocol no. 1111 dated 23.03.2023, submitted the amendment no. 2 of the contract for electricity sale-purchase to cover the losses in the transmission system between Transmission System Operator TSO company and KESH company which is also published on the official website of ERE, in the

"Consulting" section.

- From the review of the contract approved with ERE Board decision no. 230/2022 and Amendment no. 2 of this contract, the following changes are noted:
  - **Article 1 of Amendment no. 2** of the contract submitted for approval, amends Article 3 (Rights and obligations of the buyer) of the contract approved by decision no. 230, dated 12.09.2022, (amended with ERE board decision no. 30, dated 16.02.2023).
  - **Article 2 of Amendment no. 2** of the contract submitted for approval, amends Article 7 (Submission, Metering, Transmission and Risk) of the contract approved by decision no. 230, dated 12.09.2022, (amended by the decision of the ERE board no. 30, dated 16.02.2023).
  - **Article 3 of Amendment no. 2** of the contract submitted for approval, amends Article 11 (Invoicing and payment) of the contract approved by decision no. 230, dated 12.09.2022, (amended with ERE board decision no. 30, dated 16.02.2023).
- It results in a material error in counting in Amendment no. 2 of the contract submitted for approval, as Article 3 is repeated twice in the enumeration, Article 3 repeated (which must be changed according to the enumeration in Article 4) of Amendment no. 2 of the contract submitted for approval as well as Articles 4 and 5 should be changed to Articles 5 and 6, respectively.
- Taking into consideration the operation process of the ALPEX power exchange, the amendments presented by the parties are estimated to enable this Contract to be treated as an OTC Contract (Over the Counter Contracts) in the DAM that shall be organized by ALPEX, where compliance is prioritized of Buyer's and Seller's Orders. Both the buyer and the seller shall create a dedicated portfolio for the implementation of OTC contract obligations on ALPEX DAM to fulfill the volumes under this Contract.

For all of the above mentioned, ERE Board

#### **Decided:**

1. To approve amendment no. 2 of the Contract for electricity sale-purchase to cover the losses in the transmission system between Transmission System Operator TSO company and KESH company”, (Amendment attached to this decision).
2. Amendment no. 2 of the contract signed by the parties for “electricity sale-purchase to cover the losses in the transmission system between Transmission System Operator TSO company and KESH company” with the relevant corrections shall be submitted at ERE within 5 days of receiving knowledge of this decision.

3. The Legal Directory shall inform the Ministry of Infrastructure and Energy, TSO company and KESH company about ERE Board decision.

This decision enters immediately into force.

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

This decision shall be published on the Official Gazette.

**ERE CHAIRMAN**

**Petrit AHMETI**