



REPUBLIKA E SHQIPËRISË

**ENERGY REGULATORY AUTHORITY
BOARD**

DECISION

No. 173, Dated 18.05.2023

ON

**SOME AMENDMENTS IN THE STANDARD CONTRACT “ON VERIFYING
ELECTRICITY METERS AND THEIR SEALS”, APPROVED WITH ERE BOARD
DECISION NO.164/2016**

Based on article 16 and 77 of Law no. 43/2015 “*On Power Sector*” as amended; Law no.126/2020 “*On Metrology*”; “*Metering Code*”, approved with ERE Board decision no.101, dated 26.08.2008, 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 18.05.2023, after reviewing the report Protocol no. 994/3 dated 17.05.2023 prepared by the Technical Directorates : “*On some amendments in the Standard Contract on verifying electricity meters and their seals, approved with ERE Board decision no. 164/2016*”,

Observed that:

- ERE Board with decision no. 70, dated 13.03.2023, decided to open the procedure for some amendments in the Standard Contract on verifying electricity meters and their seals, approved with ERE Board decision no. 164/2016. The above decision-making was based on the request of the Distribution System Operator (DSO) company which with official letter Protocol no. 2136 dated 01.03.2023, protocolled at ERE with Protocol no. 994 dated 03.03.2023, requested amendments to the above-mentioned standard contract.
- ERE with official letter Protocol no. 1090 dated 20.03.2023, announced the opening of the public consultation process addressing the request for opinions and positions of interested parties.
- Following the opening of the public consultation process in ERE, comments were submitted from the following interested parties: General Directorate of Metrology (DPM), HTT company

and VME company.

- ERE for the purpose of discussion with interested parties regarding the proposals of DSO company on which the procedure was opened for some amendments in the standard contract approved with ERE Board decision no. 164/2016, organized a hearing session on 18.04.2023, with representatives from ERE, DPM, DSO company, HTT company and VME company, who submitted their proposals regarding the requirements of DSO company to amend the standard contract approved with ERE board decision no. 164/2016.
- Taking into consideration the positions of the parties in relation to Article 12.2, point 1 of the standard contract, it is evaluated that: the legislation in force, specifically law no. 126/2020 "On Metrology" does not provide in any provision the competence of DPM as the body that "drafts or approves" the annual graphic plan divided by months and regions. Moreover, Article 39 point 4 of the above-mentioned law provides that: The minister responsible for the economy is tasked with approving the regulation on the criteria and procedures for the authorization of legal and natural persons to carry out activities in legal metrology and for the authorization of legal and natural persons to perform the service for the repair of metering equipments, as well as for monitoring their activity/performance in accordance with points 1, 2 and 3 of this article.
- Under these conditions and in accordance with the aforementioned legal provisions, it is evaluated that in the standard contract, article 12, point 12.2.1 shall be amended as follows: *In accordance with the obligations defined in the Law, shall draft the annual graphic plan (divided by months and by regions) of services, ensuring that within the periods for periodic verification defined in the Metering Code, all electric meters in use are to be verified. Part of the services related to the initial verification of electric meters; verification of the electric meter according to customer complaints or verification according to the requirements of the network operator for anomalies identified, are not part of this planning.*
- In the same chapter of the contract, article 12, point 12.2.16 provides that: It is responsible for the realization of the monthly plan of services approved by DPM and if for a certain period of time the monthly plan is not realized, then the non-realization shall be fulfilled in the following month. As a result of the above-mentioned amendments, where the "annual graphic" plan divided by months and regions shall be determined according to and based on the above-mentioned legal provisions, it is considered necessary to amend Article 12, point 12.2.16 as follows: *Bears responsibility for the realization of the **monthly plan of services** and if for a certain period of time the monthly plan is not realized, then the non-realization shall be completed in the following month.*
- These amendments to the standard contract are also related to the various possible legal ones according to the provisions of Article 39 of the Law "On Metrology" where, among other things, it is determined that the Ministry is the authority that shall issue the respective acts in relation to: performing activities in legal metrology and for the authorization of legal and natural persons for performing the service of repairing metering equipments, as well as for monitoring the activity/performance, it is evaluated that in this sense provisions 21.1, 21.2 and 21.7 shall be reviewed as follows:

- 21.1. *The parties are responsible for the implementation of the annual service plan subject to this contract.*
- 21.2 *The network operator is responsible for creating conditions and realizing the work program. If the work program shall not be realized within a certain month of the year, then the difference shall be realized in the following month.*
- 21.7 *The services shall be performed in the laboratory and in the field. The authorized subject shall perform services in the regions and agencies according to the division of geographical areas in accordance with the legislation in force. In Chapter XXVI, point 26.1 of the standard contract provides that: The contract enters into force on the date of its signature by the parties and is valid for a period of no less than 2 (two) years from the date of its signature and no more than 3 (three) years, with the right to repeat. If the Network Operator does not notify the contractor in writing one month before the end of the two-year term, the contract is considered automatically renewed for another year; and below in point 26.2 it is provided that: After the end of this term, the parties have the right to sign a new contract in accordance with the law. One month before the end of this contract, the parties start negotiations for its renewal.*
- Meanwhile, in the law no. 43/2015 "On power sector" as amended, in article 77 " Meters Verification" point 1, provides that: Verification of electricity meters shall be performed by the General Directorate of Metrology (GDM) or its legal person authorized/licensed. The authorized legal person for this purpose is accredited according to the legislation in force. Whereas in point 10, of article 77, it is determined that: ERE shall approve the standard contract between the system operator and the GDM or its authorized subject for meters verification.
- For what was quoted above and in its entirety, it results that, in no provision of the law no. 43/2015, the duration of the "Standard contract on the verification and sealing of electric meters" is foreseen. In this sense, the duration of the contract, subject to revision, does not prevent the realization of the verification of the meters according to the aforementioned legal definitions. In addition, the reduction of the time limit creates opportunities for the integration of new subjects that are authorized to perform the verification and sealing of electric meters.
- Law no. 126/2020 "On Metrology" also does not provide in any provision a time limit for the duration of the Standard contract subject to this procedure. Taking into consideration that a three (2 + 1) year term provided for in the standard contract is a contractual obstacle, it is evaluated that it can become an obstacle for the liberalization of the market for the verification of meters as provided for in Article 2 of Law no. 43/2015 "On power sector" as amended, which, among other things, stipulates that: sets the rules regarding: a) the opening, organization and operation of a competitive electricity market. Under these conditions, it is evaluated the amendment of point 26.1 in Chapter XXVI of the Standard contract.
- In relation to point 31.2 of the standard contract, which stipulates that: Annexes are created by agreement of the parties. Annexes can be changed, agreed in writing by the parties, without requiring approval from ERE. Annexes never exceed the content of the general requirements; It is evaluated that any amendment to the contract must be approved by ERE including but not limited to its Annexes since they are an integral part of the standard contract. As a result, there is a need to repeal point 31.2. and the reordering of points within the estimated amendment.

- In terms of the amendment as explained above, it is also necessary to adapt Annex No. 2 of the Contract in accordance with the amendments explained above by adapting the used terminology.

For all of the above mentioned, ERE Board

Decided:

1. To approve some amendments in the Standard Contract on verifying electricity meters and their seals, approved with ERE Board decision no. 164/2016.
2. Chapter XXII, article 12.2, point 1 and point 16 is amended and becomes:

12.2.1 In accordance with the obligations defined in the Law, shall draft the annual graphic plan (divided by months and by regions) of services, ensuring that within the periods for periodic verification defined in the Metering Code, all electric meters in use are to be verified. Part of the services related to the initial verification of electric meters; verification of the electric meter according to customer complaints or verification according to the requirements of the network operator for anomalies identified, are not part of this planning.

12.2.16 Bears responsibility for the realization of the monthly plan of services and if for a certain period of time the monthly plan is not realized, then the non-realization shall be completed in the following month.
3. Chapter XXI, article 21, point 21.1, point 21.2 and point 21.7 are amended and become:

21.1. The parties are responsible for the implementation of the annual service plan subject to this contract.

21.2 The network operator is responsible for creating conditions and realizing the work program. If the work program shall not be realized within a certain month of the year, then the difference shall be realized in the following month.

21.7 The services shall be performed in the laboratory and in the field. The authorized subject shall perform services in the regions and agencies according to the division of geographical areas in accordance with the legislation in force.
4. Chapter XXVI, article 26, point 26.1, is amended and becomes:

26.1 The contract enters into force on the date of its signature by the parties and is valid for a period of not less than 1 (one) year from the date of its signature, with the right to repeat, only with another term of 1 (one) year . If the Network Operator does not notify the contractor in writing one month before the end of the 1 (one) year term, the contract is automatically renewed for another 1 (one) year.
5. In chapter XXXI, article 31, point 31.2, is repealed. The order changes and point 31.3 becomes point 31.2, the rest remains unchanged.

6. Annex No. 2 of the contract is amended and becomes:

Annex 2 Titled: Division of regions and agencies: Authorized Subject_____NUIS Number:

7. The Legal Directory, shall inform the Ministry of Infrastructure and Energy, DSO company, the General Directorate of Metrology (GDM) and the interested parties 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