

# Guidelines for the Annual Procurement of Electricity

## 1. Introduction

- The Republic of Moldova confirmed its European goals and pro-European choice when it signed the Energy Community Treaty and the Association Agreement with the European Union. By doing that, it also confirmed its firm decision to deepen the market integration and the EU legal approximation with the *acquis*, with a view to maximize the energy security of supply.
- One of the aims of the Energy Community Treaty is to ensure that its Contracting Parties develop a fully open and well-functioning electricity market. To this end, security of supply and competitive prices for the consumers are important preconditions.
- The Energy Community is founded on the principles of equality, non-discrimination and transparency. In the present circumstances, these principles translate into treating economic operators equally and without discrimination by designing selection criteria for procurement of electricity in such a way that competition is not narrowed and certain undertakings are not favored.
- Moldova's dependence on one main source of energy hinders the development of a competitive (wholesale) market where the offer of the producers and traders meets the requests of the suppliers, so that the best value for the consumers is always given preference. In Moldova's case, which is unique in the Energy Community, ensuring the transparency of the procurement procedures applicable to the wholesale market is of utmost importance.
- Clear and non-discriminatory rules for the procurement of electricity will have a positive impact on attaining Moldova's mid- and long- term objectives. The creation of a common electricity market between Ukraine and Moldova is an option which will be thoroughly analyzed in the future. The coupling of the two markets and their integration into the

European energy market would allow the wholesale suppliers in Moldova to be given non-discriminatory access to the regional supply market and market-based access to capacities on interconnections for cross-border trade with the neighboring states. At the same time, the interconnection with Romania will be increasing the security of electricity supply in Moldova and reduce the dependence on limited resources of electricity, and finally it will increase the competition to the benefit of the consumers. Furthermore, as the synchronization of the Moldovan power system to the continental Europe power system is also considered a priority, attention should be channeled towards establishing transparent, competitive and non-discriminatory processes in terms of wholesale commercial activities.

- These Guidelines are meant to guide and orient the process of identification of the most economical sources of electricity to cover both the demand of the regulated suppliers (hereinafter RS) and the electricity losses of transmission and distribution companies (hereinafter TDC), with regard to each separate entity. The selection of these sources will be done through a competitive bidding process, in full compliance with the principles of transparency, non-discrimination and wide publicity. The bidding process will take place once a year, in the first quarter of the year.
- The power purchased based on these Guidelines refers to the electricity traded on the wholesale electricity market only, with the exception of the electricity quantities for which prices and dispatch schedules are regulated by ANRE.

## **2. Legal Framework**

These Guidelines are based on the existing legal framework in the Republic of Moldova:

- The Electricity Law (no 107 / 05.27.2016 ), and in particular its Article 3(1) (“the electricity is to be produced, transported, distributed and used in the most efficient way”), Article 3(2)(c) (“organization and assurance of the electricity market functioning under the conditions of transparency, competition and non-

discrimination, its integration to the regional and European markets and creation of the conditions for maintenance of competition on the energy markets”), Article 11 (“public service obligations”), Article 19 (“general principles of electricity generation”), Article 75 (general principles of the electricity market), Article 77 (“retail sale electricity market”), Article 78 (“wholesale electricity market”), Article 79 (“bilateral agreements electricity market”), Article 81 (“the rules of the electricity market”), Article 85 (“promotion and monitoring of competition in the energy market”).

- The Electricity Market Rules (ANRE Decision no.212 / 2015 of 10/09/2015), and in particular its Section 4 (“procurement and supply of electricity”).

### **3. Definitions and abbreviations**

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*Distribution system operator (DSO)* – an electricity undertaking, holder of a license for electricity distribution, which owns electricity distribution networks, is entitled to distribute electricity, is in charge for exploitation, maintenance, including re-technology, and development of electricity distribution networks, and for assuring that electricity distribution networks are able to satisfy, continuously and on a reasonable level, the demand for the electricity distribution services;

*Transmission System Operator (TSO)* – an electricity undertaking, holder of a license for electricity transmission, which owns electricity transmission networks, is entitled to transport electricity and manage electric energy systems from an operational and technical perspective, is in charge for exploitation, maintenance, including re-technology, and development of electricity transport networks and interconnections, and for assuring that electricity transmission networks are able to satisfy, continuously and on a reasonable level, the demand for the electricity transmission services;

*Electricity market* – an organized framework for the sale and purchase of electricity by the participants of the electricity market and for rendering system services necessary to ensure continuous and viable supply of electricity to the consumers;

*Electric energy system* – means electricity plants and equipment necessary to manage electricity networks and electricity installations of the final consumers, forming one sole system, from an operational and technological perspective;

*Supplier* – means electricity company which holds a license for supply of electricity;

*Universal service supplier* – means a supplier who has been appointed, in the context of the public services, to ensure universal service to the household consumers and small entities;

*Central electricity supplier* – means the supplier appointed by the Government to purchase electricity from eligible electricity plants using renewable sources of energy and electricity produced by urban thermal energy electricity plants and to deliver it to the electric energy market based on the regulated prices approved by the National Agency for Energy Regulation;

*Last resort supplier* – the supplier who has been appointed, in the context of the public services, to deliver electricity under specifically regulated conditions, for a limited period of time, to the final consumers who, by virtue of certain circumstances, lost their supplier;

*Balancing power* - electricity needed to cover the full power system demand, in addition to one planned and confirmed, and that ensures coverage of the actual load curve.

### **3.2. Abbreviations**

- a. RS-TDCs - regulated suppliers (ie, suppliers for which the retail prices are regulated by ANRE) and transmission and distribution companies
- b. DSO - Distribution System Operator
- c. TSO - Transmission System Operator
- d. ANRE – National Energy Regulatory Agency
- e. GO– The Group of Observers
- f. DAF – Deliver at Frontier

#### **4. The competences of the Ministry of Economy**

With regard to the purchase of electricity in accordance with the present guidelines, the Ministry of Economy, as the central specialized authority in the field of energy in Moldova, will be actively involved in issuing all the legal authorizations and take all the measures to ensure the conformity of the procurement process with the principles of non-discrimination and fairness.

#### **5. The Group of Observers**

The Group of Observers (GO) will monitor the whole electricity tendering process. The members of the GO shall include representatives of: ANRE, the Ministry of Economy, the Energy Community Secretariat and the delegation of the European Union to Moldova.

The GO will be informed by the Ministry of Economy of the time frame and of the stages of the tendering procedure, and it will have access to the latest information regarding the tendering process. The members of the GO will be entitled to participate as observers at any stage of the tendering process.

The RS/TDCs will align their procedures and practices with these Guidelines immediately after their issuance. Each RS/TDC will define its own detailed electricity tender planning following the time frames indicated in paragraph 6.1 of these Guidelines.

The RS/TDCs will share information with the Ministry of Economy, in writing, including on the following topics:

1. their internal organization, procedures and practices as aligned with these Guidelines (by 15 January 2017);
2. the schedule of the tendering process for procurement of the annual electricity contract (by 15 January 2017);
3. each individual step in the tendering process (in line with the procedure).

The role of the GO will be limited to making its best efforts to ensure that the principles of equity, transparency and non-discrimination are respected during the procurement process. The members of the GO are not in a position to guarantee the legality of the entire selection procedure in line with the applicable provisions of Moldovan law.

## **6. The Tender Procedure**

### **6.1. The steps of the procedure**

The steps of the procedure are the following

- Step 1: Invitation to express interest in tender
- Step 2: Identification of potential suppliers and preparing a list of potential suppliers: maximum 2 weeks
- Step 3: Launching the request for bids and reception of offers: maximum 4 weeks
  - *Regular period: 3 weeks*
  - *Extended period (if one offer is received): + 1 week*
- Step 4: Evaluation of offers: maximum 1 week
- Step 5: negotiations on the price: 1 week
- Step 6: publication of the winner/s: immediately after the negotiations are finalized

### **6.2. Publicly available information**

The RS/TDCs will post on their web site the relevant information throughout the process (in Romanian and Russian), including, but not limited to:

- The steps of the procedure (as per paragraph 6.1 of these Guidelines)
- The list of the licensed suppliers at non-regulated prices to whom an invitation to participate to Step 2: “identification of potential suppliers” has been officially submitted by the RS/TDC
- The list of the documents to be submitted by the undertakings participating to the bid (as per paragraph 6.3 of these Guidelines)
- The list of the potential suppliers (following Step 2), invited to Step 3 “Request for Proposals”
- The detailed technical specifications for the energy and power required (as per paragraph 6.4 of these Guidelines)
- The criteria for the award of the contract (as per paragraph 6.7 of these Guidelines)
- The number of offers, as well as a brief description of the technical offers (the description should not contain the prices and should not allow the identification of the tenders)

The information listed above shall be published provided that the relevant Moldovan law on secrecy of information and to the confidentiality of the bidding process requirement is respected.

### **6.3. Criteria and required documents for the list of potential suppliers**

RS/TDC will announce publicly on their respective web pages an invitation to express interest based on the below-mentioned criteria and conditions, inviting all potential electricity traders and suppliers at non-regulated prices. Only those suppliers at non-regulated prices who meet the requirements indicated will be part of the list of potential suppliers.

In this communication, the RS/TDC will inform the interested parties about the criteria and will further provide information about the overall schedule of the tender process in line with the timeframes indicated in paragraph 5.1, including:

- the deadline for submission of expressions of interest

- the deadlines for submitting technical and financial offers

The list of potential electricity suppliers at non-regulated prices will be drafted following the criteria and conditions as follows:

- General information:
  - a copy of the registration certificate
- Technical criteria:
  - the source of electricity (own power plant, pool, import (from which country, other))
  - a proof that the respective supplier has a sufficient volume of electricity (the exact value, ie what “enough” means, will be determined by the RS/TDC)
  - the interconnection capacity availability for the time period of the contract, MW (for suppliers at non-regulated prices out of Moldova)
  - delivery of electricity at frontier (DAF)
  - evidence of availability of energy and power, including back-up sources if appropriate
  - evidence of fuel sources for the companies processing fuels, proof they have no past debts to fuel providers
- Company experience and company financial indicators:
  - copy of the registration certificate;
  - proof of experience in electricity supply (defined by the RS/TDC)
  - proof that the company has no debts to the state budget
  - copy of financial report for the last two years
- The companies will provide a statement that they are not in one of the following situations :
  - they are bankrupt or being wound up and/or have suspended their business activities;



- they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;

The GO will review the documentation and, if needed, it will comment on the list of potential suppliers drafted by RS/TDCs.

#### **6.4. Request for proposals**

To those potential suppliers at non-regulated prices, the RS/TDC will send request for proposals. The requests for proposals will include the following information:

- The tender procedure (according to section 6.1), including deadline for the reception of offers and the date when the winners will be selected.
- The criteria and conditions for accepting, evaluating and awarding the contract (in accordance with paragraph 6.7).
- The detailed technical specifications for electricity and capacity required under the tender process. The technical specifications shall include at least the following information:
  - Amount of electricity demand (MWh)
  - Monthly maximum electricity load for the contracted period
  - Typical load curves for working and leisure days and schedule for winter and summer periods
  - Period of power supply
  - Any other delivery and supply conditions (if necessary)
  - Metering and settlement requirements, including for balancing of power
- The financial offers shall include at least the following information:

- Price per 1 MWh of electricity
- Payment conditions.
- Special conditions for fuel processors, such as the condition to provide regularly a proof of payment for used fuel.

#### **6.5. Reception and custody of the offers**

Both the technical and the financial offer should be submitted in sealed envelopes to the RS/TDC according to the overall tender procedure.

If two or less than two offers are received, the RS/TDC is entitled to extend the term for the receipt of offers in accordance with the timeframes set in para 5.1. In this case, the RS/TDC shall notify all the potential participants about the modifications in the bid process launched.

#### **6.6. Opening of the offers**

After the deadline for the submission of offers has passed, the RS/TDCs will call for a session to open and validate the offers received, according to the conditions for accepting, evaluating and awarding the energy offers set in paragraph 6.7 below.

Each sealed envelope received will be opened and registered, with a remark indicating if the offer is valid or not, and why.

The GO will be informed by the Ministry of Economy about the time and place where the offers will be opened, so that it is able to participate.

#### **6.7. Analysis and evaluation of offers**

The RS/TDC will accept, evaluate and rank the offers received from the potential electricity suppliers at non-regulated prices according to the following conditions and criteria:

The following conditions must be met:

- The power system static stability in the region should be maintained
- TSO accepts dispatching of power offers
- In case of supply through interconnections, evidence that the bidder holds (or has made arrangements with holders of) appropriate long term physical transport rights (PTRs) in the corresponding interconnector. For the period when no joint auctioning of PTRs is taking place between Moldova and its neighboring countries, the bidder should bring evidence that it holds appropriate agreement with both TSOs involved i.e. the Moldavian TSO and the TSO of the originating country, regarding the dispatching of corresponding quantities through the interconnector.

All bidders will submit a technical and a financial offer.

The **technical offer** will contain information with regard to:

1. Quantity of electricity and electrical power available
2. Reliable power source
3. Payment conditions
4. Capacity to provide reserve power along with the bulk one
5. Capacity to provide balancing power.

The RS/TDC will award points from 1 to 10 for each of the criteria above. For each of the technical offers, an average (arithmetic mean) representing the technical score will be calculated.

The **financial offer** will contain the price. The score for the financial offer will be calculated as follows: the most expensive offer will be granted 1 point, and the cheapest one will be granted 10 points. The offers in between will be granted a proportional number of points.

The RS/TDC will rank the offers using the criteria the **most technically and economically advantageous offer**. The final score for each bidder will be calculated by adding up the technical and the financial score. The GO is entitled to participate to the meeting when the offers are opened.

A short list will be drawn with the three offers which scored highest, and the respective potential suppliers will be invited for negotiations regarding the price.

During the negotiations, the bidders will make proposals for the price, starting with the bidder which accumulated the highest score for the its technical and financial offer.

A structure of the negotiation schedule will be agreed by the RS/TDC after the short list is drafted. The RS/TDC will select the winner(s) and inform the bidders about the evaluation and ranking of offers made, along with the reasons of their classification or rejection.

## **6.8. Complaints**

A complaints commission will be constituted. The commission will solve, within three days from receipt, contestations in relation to the procurement procedure.

The complaints commission/s will be constituted within the RS/TDC.

The complaints commission/s, through the Ministry of Economy, will make available to the GO all the documents related to the complaints procedure.