

On the basis of Article 24, paragraph (1), point 1), indent 11 of the Law on Energy (Official Gazette of the Republic of Macedonia no. 96/18), the Energy Regulatory and Water Services Commission of the Republic of Macedonia, at the session held on 7 September 2018, adopted the following:

## **Rules of Electricity Procurement for the Requirements of the Universal Supplier**

### **Subject to Contract**

#### **Article 1**

- (1) These Rules of Electricity Procurement for the Requirements of the Universal Supplier (hereinafter referred to as: Rules) lay down the manner, terms and procedure for procurement of electricity for covering the needs of consumers belonging to the categories of households and small consumers (hereinafter referred to as: consumers), supplied by the selected, i.e. appointed electricity supplier charged with delivering a universal service in the area of electricity supply (hereinafter referred to as: universal supplier).
- (2) The Energy Regulatory and Water Services Commission of the Republic of Macedonia (hereinafter referred to as: Energy Regulatory Commission) oversees implementation of these Rules.

### **Manner and Type of Procurement**

#### **Article 2**

- (1) The Universal Supplier supplies electricity in the Republic of Macedonia and/or abroad, particularly on the electricity market by means of bilateral contracts (hereinafter referred to as: bilateral market), as well as the organized electricity market (hereinafter referred to as: organized market), in the quantities necessary for meeting the consumption needs of consumers supplied over the period during which it has been selected or appointed as a universal supplier.
- (2) The Universal Supplier procures electricity by implementing transparent, non-discriminatory and competitive procedures and selecting the most favourable bid submitted by generators, traders and suppliers of electricity (hereinafter referred to as: bidders) by means of a qualification system established in line with these Rules, the Law on Energy and the Electricity Market Rules.

### **Establishing Qualification System**

#### **Article 3**

- (1) In order to determine bidder capacity, the universal supplier establishes and manages a qualification system of bidders through a web-based platform for the period over which it has been selected or appointed to provide a universal service in the area of electricity supply.
- (2) The universal supplier sets up objective criteria and rules for determining the capacity of bidders that request admittance to the system.
- (3) The universal supplier publishes a public call for accepting bidders into the qualification system through a web-based platform.

- (4) The public call referred to in paragraph (3) of this Article includes information about:
  - 1) the procurement subject
  - 2) the term of validity of the qualification system
  - 3) the procedure for awarding procurement contracts
  - 4) the criteria for assessing bid capacity for admittance to the qualification system
  - 5) the special criteria for assessing bid capacity for admittance to the qualification system offering the universal supplier electricity that has been supplied on organised day-ahead or within-day electricity markets.
  - 6) the minimum number of bidders that should be admitted to the qualification system during the establishment and term of validity of the system,
  - 7) the procurement contract model, and
  - 8) the administrative and additional information for familiarising interested bidders with the rules of using the qualification system and the web-based platform.
- (5) In the public call, the universal supplier shall include the indicative procurement dynamics and indicative electricity quantity to be supplied on a yearly and quarterly level over the period of validity of the qualification system, determined on the basis of information on electricity consumption in the last three years provided by the Energy Regulatory Commission.
- (6) In the preparation of the indicative procurement dynamics and indicative electricity quantity referred to in paragraph (5) of this Article, the universal supplier collaborates closely with the electricity generator with the greatest installed capacity in the Republic of North Macedonia, in compliance with the obligation of said generator laid down in Article 237, paragraph (4) of the Law on Energy.
- (7) Each year, the universal supplier shall update the indicative procurement dynamics and indicative electricity quantity and publish it through the web-based platform.
- (8) The universal supplier shall submit the public call for the qualification system to the Energy Regulatory Commission within 15 days from its publishing and shall be obligated to observe the requirements of the Energy Regulatory Commission that contribute to the increase in competitiveness and transparency of the procedure, as well as safety in consumer supply and meeting of the obligation for delivery of a universal service in electricity supply.

### **Procurement Contract Model**

#### **Article 4**

- (1) The contract model referred to in Article 3, paragraph (4), point 7) of these Rules contains in particular:
  - 1) information on the contracting parties
  - 2) subject of the contract,
  - 3) prices and quantities of electricity
  - 4) delivery period
  - 5) delivery point
  - 6) flexibility in delivery of contract quantities
  - 7) terms of payment and manner of invoicing
  - 8) liability for non-fulfilment of contract responsibilities
  - 9) bank guarantee for timely and quality execution of the contract

- 10) terms of activating bid guarantee, as well as guarantee for timely and quality execution of the contract
  - 11) compensation for expenses in the event of unfulfilled contract obligations
  - 12) force majeure
  - 13) contractual penalties
  - 14) manner of dispute resolution, and
  - 15) contract termination
- (2) The contract model referred to in paragraph (1) of this Article is approved by the Energy Regulatory Commission.

### **Accepting Bidders into the Qualification system**

#### **Article 5**

- (1) The bidder shall submit a request for admittance to the qualification system which is being established for the first time through the web-based platform, within the deadline determined in the public call referred to in Article 3 of these Rules.
- (2) The universal supplier shall also allow admittance to the qualification system of bidders offering electricity supplied on the day-ahead and within-day regulated electricity market.
- (3) The electricity generator with the greater installed capacity in the Republic of North Macedonia is obligated to apply and be selected for the qualification system until cessation of the obligation of this generator laid down in Article 237, paragraph (4) of the Law on Energy.
- (4) Establishing bidder capacity and drafting technical specifications is performed in line with the effective regulations in the Republic of North Macedonia laying down these matters.
- (5) The universal supplier assesses bidder capacity within 30 days of request submission.
- (6) If the request is incomplete, the universal supplier allows the bidder an additional deadline of 7 days to complete the request.
- (7) After completing the assessment referred to in paragraph (5) of this Article, the universal supplier passes a detailed decision on accepting the bidder or rejecting the request for admittance to the qualification system.
- (8) The bidder may file a complaint against the decision referred to in paragraph (7) of this Article with the Energy Regulatory Commission.
- (9) If the number of bidders meeting the criteria for acceptance into the qualification system (hereinafter referred to as: qualified bidders) is smaller than the minimum number stated in the public call, the universal supplier shall establish and manage the qualification system with the approval of the Energy Regulatory Commission, provided that there is a sufficient number of bidders to ensure competitiveness of the electricity procurement procedure.
- (10) Bidders may submit a request for admittance to the qualification system through the web-based platform used by the universal supplier at any time during the term of validity of the qualification system.
- (11) The universal supplier manages and publishes in its website the list of qualified bidders accepted into the qualification system.
- (12) The qualified bidder reports every change that may affect the meeting of criteria for admittance to the qualification system through the web-based platform.

**Carrying out Individual Procurement on Bilateral Market**  
**Article 6**

- (1) The universal supplier issues a request for bids through the web-based platform to all qualified bidders interested in submitting an electricity procurement bid for each electricity procurement carried out on the bilateral market.
- (2) The request for bids referred to in paragraph (1) of this Article includes information about:
  - 1) date, time and manner of bid submission,
  - 2) documents attached to the request for bids,
  - 3) duration of the request for bids
  - 4) language of use in the request for bids and procedure
  - 5) time period for delivery of electricity and electric power
  - 6) delivery point
  - 7) requested power in MW and electricity in MWh for the entire delivery period
  - 8) minimum bid quantity
  - 9) maximum number of bids per bidder
  - 10) allowed flexibility in contract power and quantities
  - 11) invoicing and payment terms
  - 12) bid currency
  - 13) manner of bid evaluation
  - 14) beginning and duration of electronic auction
  - 15) notice of adopted decision on most favourable bid
  - 16) special terms
  - 17) guarantee for the bid as a bank guarantee or a deposit not exceeding 3% of the value of offered electricity
  - 18) amount of bank guarantee for timely and quality execution of the contract not exceeding 10% of the value of offered electricity
- (3) The only criterion for selection of the most favourable bid is the price of offered electricity. The criterion is part of the bid referred to in paragraph (1) of this Article.
- (4) Qualified bidders with acceptable bid submitted in response to the request for bids referred to in paragraph (1) of this Article may take part in the electronic auction.
- (5) The bid with the lowest price is selected as the most favourable bid; however, if the bidder with the lowest price is unable to offer the complete requested quantity, selection is made based on the lowest offered price from the merit order list until procuring the complete electricity quantity stated in the bid. In the event of two bidders offering identical price and quantity, the first submitted bid shall take precedence.

**Carrying out Individual Procurement on Organized Market**  
**Article 7**

- (1) For electricity procurement on the organized market, the universal supplier issues a request for bids through the web-based platform to all qualified bidders meeting the criteria for electricity procurement on the organized day-ahead and within-day electricity market.

- (2) The request for bids referred to in paragraph (1) of this Article contains the elements included in Article 6, paragraph (2) of these Rules, with the exception of the elements contained in points 7), 8), 9) and 10).
- (3) The sole criterion for selection of the most favourable bid is the trading charge for the requested electricity quantity on the organized electricity market. The criterion is an integral part of the request for bids referred to in paragraph (1) of this Article.
- (4) Qualified bidders with acceptable bid submitted in response to the request for bids referred to in paragraph (1) of this Article may take part in the electronic auction.
- (5) The bid with the lowest trading charge is selected as the most favourable bid. However, in the event of two bidders offering identical trading charge, the first submitted bid shall take precedence.
- (6) The most favourable bidder conducts the procurement on the organized market in complete compliance with the daily delivery schedule submitted by the universal supplier.

### **Deadline for Submission of Bids and Expenses**

#### **Article 8**

- (1) The deadline for bid submission referred to in Article 6, paragraph (1) and Article 7, paragraph (1) of these Rules may not be shorter than three business days from the day of submission of the request for bids.
- (2) The expenses for bid preparation and participation in the procedure shall be borne by the bidder.

### **Procurement Contract**

#### **Article 9**

- (1) The universal supplier shall submit to selected bidders a procurement electricity contract modeled upon the contract referred to in Article 4 of these Rules.
- (2) The procurement referred to in Article 7 of these Rules shall be subject to a separate contract with validity of no more than a year.
- (3) If the selected bidder does not sign the contract within five work days from receiving the contract, they shall be considered as having renounced the contract and the universal supplier shall collect the bid guarantee.

### **Report on Conducted Procurement**

#### **Article 10**

- (1) Within five days of concluding the contract referred to in Article 9 of these Rules, the universal supplier shall submit a report on the conducted procedure and concluded contracts to the Energy Regulatory Commission.
- (2) The universal supplier shall specify the electricity quantities stated in the bid of the electricity generator with the greatest installed capacity of the Republic of North Macedonia in the report referred to in paragraph (1) of this Article.

## **Guarantees**

### **Article 11**

- (1) The bidder shall submit a bank guarantee for timely and quality execution of the contract to the universal supplier within seven days of conclusion of the electricity procurement contract.
- (2) If the bidder that signed the procurement contract fails to submit the bank guarantee for timely and quality execution of the contract within the deadline defined in paragraph (1) of this Article, the universal supplier shall terminate the contract and collect the bid guarantee referred to in Article 6, paragraph (2), point 17) of these Rules.
- (3) After submission of the bid guarantee referred to in paragraph (1) of this Article, the universal supplier shall return the bid guarantee or deposit submitted by qualified bidders, except if submitted by the qualified bidder referred to in paragraph (2) of this Article.
- (4) As an exception to Article 6, paragraph (2), points 17) and 18) of these Rules and the provisions of this Article, to make sure the obligation of the electricity generator with the greatest installed capacity of the Republic of North Macedonia defined in Article 237, paragraph (4) of the Law on Energy is met, the universal supplier, with the prior approval of the Energy Regulatory Commission, shall accept the bid without a bank guarantee or deposit, i.e. shall not request the submission of a bid guarantee for timely and quality execution of the contract from the generator with the greatest installed capacity.

## **Exceptions to Procurement**

### **Article 12**

- (1) The universal supplier may procure electricity on an organized electricity market in the country or abroad by itself in the event of nonfulfillment of the contractual obligation by the qualified bidder.
- (2) As an exception to Article 9 of these Rules, with prior consent of the Energy Regulatory Commission, the universal supplier may conclude a procurement contract with a qualified bidder by means of direct negotiations without requesting the submission of competitive bids if:
  - 1) The qualified bidder with awarded contract fails to meet the obligation for delivery, which may seriously impede safe and secure electricity delivery, and
  - 2) The universal supplier is unable to procure the necessary quantities of electricity on the organized electricity market.
- (3) In the request for obtaining the approval referred to in paragraph (2) of this Article, the universal supplier notifies the Energy Regulatory Commission of the effect of the concluded contract on the safety of electricity delivery and consumer prices, as well as of the collection of the bank guarantee for timely and quality execution of the contract.

## **Final Provision**

### **Article 13**

These Rules come into force on the eighth day of their publishing in the Official Gazette of the Republic of North Macedonia.

**No. 01-1764/1**  
**7 September 2018**  
**Skopje**

**PRESIDENT**  
**Marko Bislimoski**

## EXPLANATION

On the basis of Article 24, paragraph (1), point 1), indent 11 of the Law on Energy (Official Gazette of the Republic of Macedonia, no. 96/18), the Energy Regulatory and Water Services Commission of the Republic of Macedonia began the preparation of Rules of Electricity Procurement for the Requirements of the Universal Supplier.

For the purposes of exercising the rights of households and small consumers connected to the power system delivering universal service in the area of electricity supply (hereinafter referred to as: universal service), the Government, based on predefined selection criteria by the Energy Regulatory and Water Services Commission, in a procedure laid down by the regulations governing the procurement of a public service, chooses a supplier for delivering a universal service (hereinafter referred to as: universal supplier) of specific quality and with reasonable, easily and clearly comparable, transparent and non-discriminatory prices. The Government of the Republic of North Macedonia shall publish a public call for choosing a universal electricity supplier and electricity supplier of last resort within 90 days of coming into effect of the Law on Energy.

The universal supplier is obligated to supply households and small consumers located in areas where the universal supplier is charged with providing a universal service and that chose its services, in compliance with the obligations determined in the Law on Energy and the Supply Rules, and to particularly:

- supply and protect consumers in remote areas,
- protect vulnerable consumers in compliance with the measures defined in the Programme for Protection of Vulnerable Electricity Consumers,
- implement electricity prices set in compliance with the tariff system laid down by the new Law on Energy, especially when supplying households and small consumers,
- inform consumers about their rights and the supply terms of the universal supplier,
- inform consumers about the supply terms and electricity price, as well as about their right to change the supplier,
- supply electricity under market terms by selecting the most favourable bid in compliance with the Supply Rules adopted by the Energy Regulatory Commission,
- publish supply prices on its website.

The Rules of Electricity Procurement for the Requirements of the Universal Supplier lay down the manner, terms and procedure for procurement of electricity intended for supplying consumers belonging to the categories of households and small consumers supplied by the selected, i.e. appointed universal supplier.

The Energy Regulatory Commission drafted the Rules of Electricity Procurement for the Requirements of the Universal Supplier with the help of USAID and in collaboration with the Energy Community Secretariat.

On 1 August 2018, the Energy Regulatory Commission published the Draft Rules of Electricity Procurement for the Requirements of the Universal Supplier on its website, as well as invitation to all interested parties to submit their suggestions, comments and proposals about the Draft Rules of Electricity Procurement for the Requirements of the Universal Supplier at the official email: [erc@erc.org.mk](mailto:erc@erc.org.mk) no later than 23 August 2018. Comments were submitted by EVN Makedonija AD, Skopje, AD ELEM – Skopje, GEN-I PRODAZHBA NA ENERGIJA DOOEL Skopje and ENEKOD DOO Skopje by 23 August 2018.



On 23 August 2018, based on Decision 02-1539/1, dated 1 August 2018, the Energy Regulatory Commission convened a preparatory session to consider the Draft Rules of Electricity Procurement for the Requirements of the Universal Supplier. Invited to attend the preparatory session were: members of the Energy Regulatory Commission, representatives of AD ELEM – Skopje, MEPSO AD- Skopje, Elektrodistribucija DOOEL Skopje, EVN Makedonija AD, Skopje, the Office of the Deputy Prime Minister of the Government of RM in charge of economic issues, the Ministry of Economy, the Energy Agency of RM, the Commission for Protection of Competition, the Economic Chamber of the Republic of Macedonia, Macedonian Chambers of Commerce, the Consumer Protection Association, as well as representatives of active licensed electricity suppliers.

A preparatory session was held on 23 August 2018, attended by members of the Energy Regulatory Commission, representatives of the Office of the Deputy Prime Minister of the Government of the Republic of Macedonia in charge of economic issues, the Ministry of Economy, the Energy Agency of the Republic of Macedonia, the Commission for Protection of Competition, the Economic Chamber of the Republic of Macedonia, AD ELEM – Skopje, MEPSO AD – Skopje, EVN Makedonija AD, Skopje, TE-TO AD Skopje, BEG AD Skopje, USAID consultants and representatives of licensed electricity suppliers: EVN Makedonija Elektrosnabduvanje DOOEL Skopje, EDS DOO Skopje, ENERGY ACTIVE DOOEL Skopje, SOLARPRO HOLDING AD Sofija, U-POWER DOO Skopje. At the preparatory session, attendants passed their comments on the Draft Rules of Electricity Procurement for the Requirements of the Universal Supplier.

Taking into consideration the notes submitted within the specified deadline, the comments given at the preparatory session by the interested parties, as well as the comments made by the Energy Community Secretariat, the Energy Regulatory Commission prepared a proposal text of the Rules of Electricity Procurement for the Requirements of the Universal Supplier. The Energy Regulatory Commission adopted the Rules of Electricity Procurement for the Requirements of the Universal Supplier at the session held on 7 September 2018.

The Rules of Electricity Procurement for the Requirements of the Universal Supplier are in compliance with the Energy Community Secretariat.