



RULES ON PREVENTION OF ABUSE IN ELECTRIC ENERGY AND NATURAL GAS MARKET

On 28 October 2021, Energy Agency of the Republic of Serbia (“AERS”) adopted Rules on prevention of abuse in electric energy and natural gas market (“Rules”), that were published in the Official gazette of the Republic of Serbia 103/2021.

The Rules are drafted in line with the Decision of Ministerial Council of the Energy Community no. D/2018/10/Mc-EnC, implementing Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency.

Rules set out several obligations and restrictions that must be complied with, when participating in and making transactions on wholesale electric energy and natural gas market, namely:

1. Registration of participants with AERS;
2. Prohibition to trade with insider information;
3. Obligation to publish insider information;
4. Prohibition of manipulation on the market; and
5. Monitoring the market.

Registration of participants on wholesale electric energy and natural gas market with AERS

Rules stipulate obligation of participants on the market to register themselves with AERS. This obligation only applies to participants intending to make transactions on wholesale electric energy and natural gas market, being the market on which it is traded with products on wholesale market.

Products on wholesale markets are defined by the Rules as:

- i) agreements on electric energy/natural gas supply, regardless of whether the delivery point is in the Republic of Serbia or in the other Contracting Party (being party to the Treaty establishing Energy Community),
- ii) agreements on access to the transmission system for electric energy/natural gas, and
- iii) agreements on electric energy/natural gas supply to the final consumer whose annual consumption of energy is equal to 300 GWh or more; as well as financial derivatives relating to the mentioned agreements.

Obligation to register with AERS have, inter alia, producer of electric energy in the power plants with installed power of 10 MW or more, producer of natural gas, supplier of electric energy/natural gas, wholesale supplier of electric energy/natural gas, transmission system operator for electric energy/natural gas, market operator for electric energy/natural gas, distribution operator for electric energy/natural gas, final consumer whose annual consumption of energy is equal to 300 GWh or more.

Registration with AERS is, without prejudice, the obligation of market participants to register themselves with market operator for electric energy/natural gas, in line with market rules of such operator.

Last but not least, AERS shall share registered data with Energy Community Regulatory Board in order to establish and manage Central Register of Participants on Wholesale Electric Energy/Natural Gas Market of all Contracting Parties.

Prohibition to trade with insider information

Rules strictly prohibit trade with insider information. By the insider information are encompassed unpublished information that relate directly or indirectly to products on wholesale market whose publishing will most likely have significant impact on prices of such products, including, inter alia, information on capacity and usage of facilities for production, storage, consumption, transmission of electric energy/natural gas.

By this prohibition is considered prohibition for any person (natural or legal) having insider information to:

- i) use it when buying or selling products on wholesale market,
- ii) reveal such information to any other person, and
- iii) suggest, on the basis of insider information, to any other person to buy or sell products on wholesale market.

This prohibition applies also to the members of general assembly of the companies, members of management board of the companies, shareholders of the companies, persons who manage such information within their working competences etc

Each market participant is obliged to report to AERS, without delay, any behavior which is likely to represent trade with insider information.

Breach of prohibition to trade with insider information represents commercial offence abuse on market, which is punishable by the Energy Law ("Official gazette of the RS" no. 145/2014, 95/2018 – other law and 40/2021) with prescribed pecuniary fine in the range from 1.500.000,00 RSD (cca. 12.710.00 EUR) to 3.000.000,00 RSD (cca. 25.420.00 EUR).

Obligation to publish insider information

Rules stipulate obligation of market participant to publish timely and in whole, on its website, insider information relating to itself, facility in its ownership or under its control or, facility for which operation is responsible. Publication of such information includes especially information on capacity and usage of facilities for production, storage, consumption, transmission of electric energy/natural gas, as well as data on scheduled or non-scheduled unavailability of such facilities.

Exceptionally, market participant may decide to postpone publication of insider information in order to protect its legitimate interest, provided that it does not use such information when trading with products on wholesale market. In this case, market participant is obliged to, without delay, deliver such information to AERS with explanation of postponement of publication.

Prohibition of manipulation on the market

Rules set out strict prohibition of manipulation on the market, as well as an attempt of manipulation on the market. Under manipulation on the market, it is considered making any trade with products on wholesale market while:

1. giving false or deceiving signals in respect to the offer, demand or price of products on wholesale market;
2. creating artificial level of prices of one or more products; or
3. using or trying to use imaginary means or any other kind of fraud which gives false or deceiving signals in respect to the offer, demand or price of products on wholesale market.

Sharing information via media, internet or by any other means, which gives false or deceiving signals in respect to the offer, demand or price of products on wholesale market, represents manipulation on the market, in case the person sharing such information is aware that they are false or deceiving.

Attempt to manipulate the market exists if any person makes trade with products on wholesale market with intent to achieve any prohibited goals listed above under a), b) or c), as well as if sharing information via media or internet with the same intent.

Each market participant is obliged to report to AERS, without delay, any behavior which is likely to represent manipulation on the market.

Monitoring the market

Rules set out obligation of AERS to monitor functioning of wholesale market in order to timely notice any prohibited behavior. For this purpose, AERS shall cooperate with regulatory bodies of Contracting Parties, as well as Energy Community Regulatory Board.

Additionally, in case any suspicion of existence of market abuse in the Republic of Serbia arises, AERS is obliged to undertake measures and initiate appropriate procedures before competent bodies in the Republic of Serbia. Furthermore, if AERS suspects on market abuse on the wholesale market of other Contracting Party, it is obliged to inform regulatory body of such Contracting Party, as well as Energy Community Regulatory Board.

Last but not least, Rules envisage that AERS shall comply with data protection rules in respect to all information acquired by the market participants, regulatory bodies of Contracting Parties and Energy Community Regulatory Board.



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