

“On some recommendations on the growth of competition in the market of procurement electricity to cover losses in the distribution network”

In its meeting dated 31.10.2014, the Competition Commission examined the monitoring report of the electricity import market from CEZ AD for cover losses. Before making the final decision the Commission held a consultation meeting with the Board of Commissioners of Energy Regulator.

Market electricity import is applied in function of DCM No. 338, dated 19.03.2008 "On approval of model of electricity market" and item 4.5 of the Declaration Regulatory adopted by the ERE Decision no. 12, dated 03.03.2009, the OSSH will buy electricity to cover losses in accordance with the procedures provided in this regulation, which will be in effect until the completion of the Regulatory Bill.

According the tender procedures of OSSH, ERE, based on the Decision No. 42, Dated 25.05.2009, has approved “Rules and Standard Procurement Procedures of electricity from OSSH SH.A (company)”. Based on this regulation CEZ has imported electricity to cover losses for the period until February 2014.

During August 2013 and 2014, The Competition Authority has received continually a complaint regarding the non-compliance of recommendation that CA had filed for ERE “... to redact a special monthly regulation for the procedures of purchasing electricity to cover losses based on the principles of transparency, non-discrimination and equally treatment for the participants...” and “clarification of the negotiation procedure between CEZ and bidders after the announcement of the first offers for the purchase of electricity to cover losses”.

ERE with the Decision No.9, dated 06.02.2014, point 2, appoints “... CEZ SHA, in temporary administration, in order to cover the losses must accomplish the purchase of electricity on monthly bases for the amount of electricity that is not covered from the annual procurement. For the procurement of electricity to cover losses on monthly bases, the Administrator applies Decision of Commission of ERE No. 30, dated 23.03.2011, “On approval of Regulations and Procedures of purchasing electricity from KESH SHA”.

In conclusion, the Competition Commission decided to recommend ERE, in fulfillment of the purpose for the functioning of the electricity market, to increase competition in the relevant market of purchasing power, which in terms of the statute changed after agreement of understanding with CEZ, to review the procedures of monthly and annual purchasing electricity for OSSHE according to these principles:

- (a) to promote the participation in power purchase procedures,
- (b) Promote competition among buyers
- (c) ensuring equal and non-discrimination treatment for all participants in the process of purchasing power
- (d) ensuring the integrity, transparency and public trust in the procedures of purchasing power and much lower cost for these types of transactions.

For the short term (since bids are in monthly frequency) until the adoption of a new regulation for the purchase of electricity from the operator of the Electricity Distribution, Competition Commission has recommended the revised decision 30 dated 03/23/2001 of ERE "On approval of rules and procedures for acquisition by KESH ....":

- By amending Article 13, paragraph 4, the admission, evaluation and negotiation of offers carried out in the presence of bidders by increasing the reliability of the process and competition among providers.

- By amending Article 7 of the Regulation, which actually excludes from the tendering procedures domestic producers, opening the market and allowing all market actors to participate in tender procedures and making it more competitive.

The Competition Authority has recommended that in the draft regarding the purchase of electricity to be taken into account the forecasts of Decision No.30, dated 23.3.2011 "On approval of rules and procedures for acquisition by KESH", specially Article 9/2 (publication of invitation), Article 11 (criteria of assessment according to the lower price per unit), Article 19 ( publication in the official website of the procedure of purchasing).

Also the determination of the winning bid must be adjusted according to the Ministry of Finance Regulation No.31, dated 27.12.2013 "On the issuance of bonds ", Article 13 point6, "competitive demands are accepted as winners starting from those that have the lowest price until the completion of the amount of energy required".

Taking into consideration the fact that currently in Albania, all public procurement procedures are carried out electronically and through appropriate electronic platforms, Competition Commission recommends that this procedure should be provided in the regulation of purchasing electricity too.

Also, to rise the transparency and lowering the possibility of abuses, it must be published each month and year the amount and average price of imported electricity from the Energy Regulator ERE.

The Commission has recommended that the ERE and the Ministry of Industry and Energy, pursuant to articles 69 and 70 of the Law "On Protection of Competition" should bring to mind at the Competition Commission before approval, all laws and regulations of market functioning energy, as this would help the energy market to develop and become more competitive.