

UNOFFICIAL TRANSLATION FROM GREEK

To

RAE

132 Peiraios Ave.,
118 54, Athens
Attn: Mr. President, Dr. N. Boulaxis

Cc

ADMIE

89 Dyrachiou & Kifissou St.
104 43, Athens
Attn: Mr. Chairman & CEO, Dr. M. Manousakis

Cc

Hellenic Energy Exchange

110 Athinon Ave.
104 42, Athens
Attn: Mr. M. Phillipou, CEO

SUBJECT: RAE's public consultation regarding the Hellenic Energy Exchange S.A.'s (EXE) proposals on the Energy Exchange Regulation and the Clearing Regulation, as well as ADMIE S.A.'s proposals on the Balancing Market Regulation, as defined in Law. 4425/2016 (as amended and currently in force)

Athens, 03.08.2018

Dear Mr. President,

The Hellenic Association of Independent Power Producers (HAIPP) monitors and participates - through Eurelectric - in discussions and operations undertaken at European level for the design and operation of the electricity markets. The implementation of PCR for day-ahead price coupling has become a reality for the regions of North, Western and Southern Europe since February 2014, while in June 2018 began the coupling of markets to the Cross-Border Intraday (XBID) timeframe around the same geographic area. In the meantime, the European Commission published in November 2016 the new package of legislative and non-legislative proposals for the energy sector (Clean Energy Package), the discussion and processing of which is underway. For some of these proposals, the European Parliament, the Commission and the Council of Ministers have already entered into three-party negotiations (trilogues) in order for the proposals to take their final form and complete their legislative process. A typical example is that of the new Electricity Market Regulation, for which trilogues are underway. The legislative process is expected to be completed in 2019 and it shall be implemented from the year 2020. This new regulation - with immediate effect in all EU countries since the date of its enforcement - affects the design and operation of energy and ancillary service markets on a day-ahead and intraday level. It also affects the Balancing Market and sets the rules for the operation of long-term available capacity markets, which will complement the electricity and reserve markets where necessary.

Within this constantly evolving European context and following a long period of discussions and consultations, our country is committed to the operation of the new electricity markets within the first half of

2019. The implementation of this commitment will cover a significant deficit of the Greek electricity market, which is similar to our neighboring markets in the region of Southeastern Europe: that of imperfect and incomplete market design. In Greece, the only type of market currently in operation is the Day-Ahead Market.

However, it is not easy to predict to what extent the most important feature of the Greek electricity market (the presence of a single undertaking with a right of access to all energy sources and hence with super-dominant position in the retail market) will be materially changed when the new electricity markets enter into operation. According to the most recent data, the PPC continues to hold a retail market share of more than 80%, while the process of divestiture of lignite units and mines is not directly linked to a proportional share reduction in the retail market, especially during the time period following the completion of this process. Additionally, there is no plan to change the current status of large hydroelectric power plants and third party access to them. All this suggests that even during the initial operational phase of the new markets, an electricity company with a very high retail market share and a strong net buyer profile shall keep on being present in the market.

Under this perspective and taking all this into consideration, the HAIPP has already pointed out during the first phase of the New Electricity Markets Regulations consultation (letter 465/22.01.2018) that **the already existing structural weaknesses certainly need to be taken into consideration when designing the new markets and, in particular, when establishing the specific parameters to be applied during the initial phase of the new markets' operation.** The general context for the three electricity markets (day-ahead, intraday, balancing markets) is set by the European Regulations 2015/1222/EU and 2017/2195. At the same time, the final version of the Regulations under consultation should also take into account the provisions of the new European Regulation's draft concerning the Electricity Market given the fact that this European Regulation shall enter into force only a few months after the new electricity markets in Greece will start operating. However, beyond the general context, the existing Regulation 2015/1222/EU (see Articles 41 and 54) does not prohibit the adoption of measures to restrict the market power of an undertaking, especially in cases where such measures contribute to the disclosure of the electricity commodity's actual value. The draft of the new European Regulation on the Electricity Market is even more specific (see Article 9, par. 4 & 5) which calls on Member States and national regulatory authorities to identify (Par. 4) measures and policies that may lead to a restriction (e.g. due to dominant position abuse) in the price formation on the wholesale electricity market and to engage in (par. 5) appropriate actions in order to eliminate or mitigate the impact of these measures and policies.

HAIPP believes that during the initial period of the operation of the markets foreseen by the target model operation there are four main points that shall be taken into consideration:

- A) Determining a low single-digit percentage of the clients' energy quantity that a dominant company could cover through physical (not financial) bilateral and forward contracts. This percentage could be as low as zero if the dominant company's retail market share is higher than e.g. 80%. In order to change the percentage from its initial value, a specific methodology should be developed. This methodology should take into consideration, inter alia, the dominant company's retail market share as well as the overall market structure and in particular the third parties' possibility to access any type of energy sources.
- B) Establishment and operation of an organized ex-ante and ex-post market monitoring mechanism as key tools for limiting the market power of the dominant company.
- C) Continuing apply the successful existing methodology to determine the lower bidding limit for hydro power plants that has been shown to operate under competitive market rules as it increases the price of the commodity in times of water scarcity while decreasing this price at very low levels during times of water adequacy.
- D) Correct -and in accordance with the Regulation 2017/1485/EU – determination of the type and magnitude

of the necessary reserves to be included in the balancing market, in particular for the automatic and manual Frequency Restoration Reserve (aFRR, mFRR) in upward as well as (and mainly) in the downward direction.

More specifically, HAIPP's positions are as follows:

- 1) Setting, for any company with high retail market share, an upper limit regarding the percentage of its clients' demand that could be covered through physical delivery of Energy Financial Contracts (contracted at the organized Energy Financial Market) or through physical delivery of bilateral contracts. The fact that the draft Energy Exchange Regulation includes such a provision is something positive. However, HAIPP believes that, in order this provision to be a meaningful one, this percentage should not be higher than 0%-5% during the initial phase of the Energy Exchange operation. Taking into consideration the market shares and the production units of the Greek power companies, this low single-digit percentage provides to any company the flexibility to make available an adequate number of production units to serve bilateral physical delivery contracts with specific clients. Additionally, this low single-digit percentage safeguards that the vast majority of the energy will be traded at the Day Ahead Market which then will be able to disclose the commodity's actual value and form substantial and efficient economic signals to the consumers, producers and the cross-border trade.
- 2) Establishing and operating an organized ex-ante market monitoring mechanism with regard to the prices of Sale Orders and Buy Orders submitted by the thermal units (per Entity) in the day-ahead market as a tool for limiting the market power of the dominant undertaking; which can be expressed e.g. by systematically submitting Selling Orders at a price which is lower than the actual operating costs of its thermal units. Such an effective mechanism is currently in place by the US PJM Market Watch Unit, where relevant audit is performed during bid submission and prior to solving the market and if an attempt is made to manipulate the market, the Participant is informed so as to correct his offer. If the Participant does not comply with the Market Operator's suggestions, his bid is accepted but the Market Operator informs the Participant that in the event that his bid has a significant impact on the market outcome, the FERC will be informed accordingly, for further action. This audit could be combined with an ex-post mechanism for imposing non-compliance charges in proportion to the one proposed in Section 4.5.3.2 of the draft Regulation of the Hellenic Energy Exchange and/or by the establishment of a certified market surveillance body (Independent Market Monitor), in line with the Midcontinent ISO, New York ISO, ISO New England and ERCOT markets, which can detect malfunctions and market manipulation efforts.
- 3) Maintaining the existing methodology for determining a variable threshold on the hydroelectric units' bids depending on the water volume in the reservoirs i.e. depending on the commodity scarcity. It is well known that this methodology has been incorporated into the institutional framework of the Greek electricity market as part of the reforms the Greek State has pledged to the Directorate General for Competition of the European Commission (DG Comp) within the framework of the approval of the previous measure to compensate for the available flexible capacity (SA 38968/31.03.2016). This reform was deemed necessary as PPC is the only company that owns large hydroelectric power plants coupled with strong net buyer characteristics in the wholesale market. As already mentioned, no changes have been planned or decided for the first point, whilst for the second point no significant change is expected during the initial phase of the markets' operation. It is therefore necessary to maintain this measure since this methodology does not restrict but reinforces the operation of the market; when there is a scarcity of water in the reservoirs the prices increase, while when they have an adequate amount of water, the prices

lower. This ability of the methodology has also made a significant contribution to ensuring security of supply during the second phase of the recent energy crisis (January 2017) when the lack of water in the reservoirs led - by applying the methodology - to a rise in wholesale prices and consequently, through cross-border trade, to safeguarding adequate imports' capacity so as to meet the needs of the Greek Electricity System.

- 4) Correct determination of type and size of the necessary reserves included in the Balancing Market. The current European Regulation 2017/1485/EU (see in particular Articles 142, 153, 157 and 160) sets out in a clear way which parameters should be taken into account in determining the necessary quantities for each type of reserve, both upward and downward. This Regulation states (Article 157, par. 2, points (d) and (f)) that the required amount of Frequency Restoration Reserve (including both aFRR and mFRR) shall take into account the greatest loss of load or export interconnection. For the Greek Electricity System this means taking into account the 500 MW Italian-Greek interconnection.

The operation of the new electricity markets, and especially the Balancing Market's operation, is expected to enable a better disclosure of the actual value of the electricity commodity, since it will be closer to real time. However, this true assumption will only be possible if the demand for ancillary services through the Balancing Market responds to the actual needs of the System. Only then can a more rational allocation of the available power between the Day-Ahead Market and the Balancing Market be effectuated and reasonable economic signals be produced at every timeframe of the electricity markets.

- 5) The number of order types which can be submitted by Participants at the day-ahead timeframe should be expanded. It is well known that in several European markets, all possible block order types are allowed to be submitted. We believe that the same shall apply to the Participants in the Greek market. Moreover, there shall not only exist three order types, as envisaged in the Hellenic Energy Exchange's draft regulation under consultation. This goal is not a theoretical requirement, but an essential need. In particular, the "Exclusive group of block orders" type would be particularly effective for the gas units scheduling as the Producer could submit several bid blocks and then, the Day-Ahead Market solution algorithm shall choose the single block order to be served (if one is served) for each unit, based on the goal of maximizing the total social surplus. The ability to submit linked block orders is also useful, as it enables the scheduling and operation of the production units in case of specific price conditions in the day-ahead market.
- 6) Introducing a new product into the Balancing Market for short-term Flexible Ramping Capacity. This product can help to integrate larger amounts of variable renewables and has already been incorporated into US regional markets such as in California and PJM. For this reason, we believe that ADMIE should immediately initiate the relevant procedures of introducing the new product by filing a documented proposal to ACER.
- 7) The draft Regulation on the Balancing Market (Article 113) foresees the coverage of transmission cost losses, charged to the Suppliers through the corresponding Uplift Account. However, in most European markets (e.g. Germany, the Netherlands, Belgium, Switzerland, Spain, Austria, Denmark) this charge falls within the category of regulated charges and not the competitive part of tariffs. This is a reasonable option as transmission losses are not essentially the subject of a competitive process. For this reason, we propose to amend the draft Code and to include the cost of transmission losses in regulated charges.
- 8) The Regulation on the Balancing Market shall foresee (in line with the Hellenic Energy Exchange Regulation) the establishment of a Committee to amend the Regulation along with the presence of market participants at this Committee.
- 9) In Article 105 of the draft Balancing Market Regulation, the calculation of the final deviation of a Balancing Service Entity, that was not operating under Automatic Generation Control (AGC) for a deviation

settlement clearance period, should take into account a tolerance threshold (% TOL) between the measured and the instructed energy of the Balancing Service Entity, within which the finally calculated deviation will be zero. This threshold should be different for each category of Balancing Service Entity.

- 10) Article 108 of the draft Regulation for the Balancing Market states that the calculation of the Deviation Settlement Price will be based on the weighted average of all the upward and downward Balancing Energy quantities respectively. It should be investigated whether this mode of pricing is likely to lead to deficits in the total payment account of Deviations that will then be required to be paid by Suppliers through the Uplift Accounts.
- 11) HAIPP believes that several provisions included in Chapter 3 of the Hellenic Energy Exchange Regulation require further legal assessment and clarification. For example, we refer to the provisions in paragraphs 2 and 3 of section 3.6.2 which appear to be unilateral ones in favor of the Hellenic Energy Exchange SA as well as the rights to use and commercially process the transaction data that the paragraph 3d of section 3.9.1 grants to the Hellenic Energy Exchange SA. The same observation applies for paragraph 3.f of section 3.8.1. which enforces the obligation - and not the possibility - of accepting on-site inspections on the premises. This provision firstly raises unconstitutional issues (Articles 9 and 26 of the Constitution) as it permits an on-the-spot check to be carried out at the site of the Participant's occupational establishment by conferring controlling power on the Hellenic Energy Exchange that is a private legal entity (see CC 1934/1998). In any case, this arrangement does not define in a sufficient way the Hellenic Energy Exchange's control power (prerequisites and control conditions, prior notification of a Participant). Furthermore, the conditions' absence in the wording of paragraph 3 of section 3.8.4 on the Participant's liability for the use of codes by unauthorized persons is problematic. In addition, we believe that the imposition of a penalty should always follow the participant's call to a hearing.

We believe that all of these issues in Chapter 3 of the draft Hellenic Energy Exchange's Regulation should be analyzed by the competent Exchange's executives and discussed with Market Participants during a workshop to be held in September 2018 and dedicated exclusively in the discussion of Chapter 3.

Sincerely,

Giorgos Stamtsis
General Manager