

DECISION OF RAE UNDER NO. 867/2020

Defining the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders relating to the Available Capacity for the year 2020 subject to the provisions of sub-section 4.4.2.1 of the Day-Ahead and Intra-Day Markets Trading Rulebook and article 18 par. 4 of L. 4425/2016, as applying

The Regulatory Authority for Energy

During its ordinary meeting, at its headquarters, **on the 20th of May 2020, which continued on the 21st, 22nd and 25th of May 2020, and**

Taking into account:

1. The provisions of Chapter C' "*Stipulations coming under the competency of the Ministry for the Environment and Energy*" of L. 4425/2016 "*Urgent regulations of the Ministries of Finance, Environment and Energy, Infrastructure, Transport and Networks and the Ministry of Labor, Social Security and Social Solidarity, on the application of the agreement on fiscal targets and structural reforms and other stipulations*" (GG A' 185/30.09.2016), as amended by the L. 4512/2018 (GG A' 5/17.01.2018) and applying and in particular article 18 par. 4 of this law.
2. The stipulations of L. 4001/2011 "*On the operation of Energy Markets for Electricity and Natural Gas, for Research, Production and Hydrocarbon transfer networks and other regulations*" (GG A' 179/22.08.2011), as applying.
3. The Day-Ahead and Intra-Day Markets Trading Rulebook, (decision of RAE under the No. 1116/2018, GG B' 5914/31.12.2018, as applying following its modification by the No. 820/2020 Decision of RAE, GG B' 1941/21.05.2020), and in particular the provisions of sub-sections 4.4.2.1.
4. The Decision of the Deputy Minister of Environment and Energy "*Setting a schedule for the date of commencement of the Day-Ahead, Intra-Day and Balancing Markets of L. 4425/2016 (A' 185), as applying*" (YTIEN/ΔHE/7083/112, GG B' 172/30.01.2020).
5. The No. 1124/5.12.2019 Decision of RAE "*On defining the public limited company "HELLENIC ENERGY EXCHANGE S.A." and distinctive title "HEEnEx S.A." as "Nominated Electricity Market Operator/NEMO", in accordance with paragraph 2 of the article 8 of L. 4425/2016 (GG A' 185/30.09.2016), as applying*".

6. The No. 1250/2019 Decision of RAE with the subject “*Defining unit charges, incremental factors and other parameters to calculate the Non-Compliance Charges due to Non Legal Offers and Declarations for the calendar year 2020*” (GG B’ 5130/31.12.2019).
7. The No. 36/2020 Decision of RAE with the subject “*Approval, in accordance with par. 1 of article 9 of L. 4425/2016 and par. 1 of the article 117C of L. 4001/2011 as applying, of the operation of the public limited company operating under the name "HELLENIC ENERGY EXCHANGE S.A." and distinctive title "HEEnEx S.A." as Energy Exchange for the administration and operation of the Day-Ahead and Intra-Day Markets*” (GG B’ 742/10.03.2020).
8. The under Reg. No. RAE I-258026/02.04.2019 proposal of HEnEx S.A. to Define the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders relating to the Available Capacity subject to the provisions of sub-section 4.4.2.1 of the Day-Ahead and Intra-Day Markets Trading Rulebook.
9. The Public Consultation of RAE on the above mentioned proposal of HEnEx S.A, that took place from 10.04.2019 up until 17.05.2019¹ as well as the views submitted by the Hellenic Association of Independent Power Producers. RAE I-261063/17.05.2019)².
10. The under Reg. No. RAE I-267409/10.09.2019 letter of HEnEx S.A. with the subject “*Indexing of the public consultation comments - Regulation methodologies – views*”.
11. The under Reg. No. O-79222/14.10.2019 letter of RAE with the subject: “*Proposals of HEnEx S.A. on issuing decisions by RAE, based on the Day-Ahead and Intra-Day Market Rulebook*”.
12. The under Reg. No. RAE I-269698/17.10.2019 letter of HEnEx S.A. (No./DATE./HEnEx: 2394/16.10.2019) with the subject: “*Proposal of HEnEx S.A. on the amendment of provisions of the Day-Ahead and Intra-Day Markets Trading Rulebook and the Proposals and Decisions issued subject thereto*”.
13. The under Reg. No. RAE I-271456/13.11.2019 letter of HEnEx S.A. (No./DATE./HEnEx: 2592/13.11.2019) with the subject: “*Amendment of Provisions of the Day-Ahead and Intra-Day Markets Trading Rulebook (GG B’ 5914/31.12.2018)*”.
14. The under Reg. No. RE I-275984/31.01.2020 letter of HEnEx S.A. (No./DATE./HEnEx: 203/31.01.2020) with the subject: “*Submission of Proposals, Methodologies and Draft Technical Decisions based on the Day-Ahead and Intra-Day Markets Trading Rulebook of the Hellenic Energy Exchange S.A..*”.
15. The RAE Public Consultation on the aforementioned proposals of HEnEx S.A. (relevant document 14), that took place from 05.02.2020 up until 28.02.2020³ and about which the following remarks have been posted in its website ⁴:
 - (a) The under Reg. No. RAE I-277077/18.02.2020 letter of UNICEN.
 - (b) The under Reg. No. RAE I-277724/28.02.2020 letter of Public Power Corporation.
 - (c) The under Reg. No. RAE I-277805/28.02.2020 letter of Hellenic Association of Independent Power Producers.

¹ http://www.rae.gr/site/categories_new/about_rae/activity/global_consultation/history_new/2019/1004.csp
http://www.rae.gr/site/categories_new/about_rae/factsheets/2019/maj/0705_1.csp

² http://www.rae.gr/site/categories_new/about_rae/activity/global_consultation/history_new/2019/0406_liv_1004.csp

³ http://www.rae.gr/site/categories_new/about_rae/activity/global_consultation/current/2020/0502_2.csp?viewMode=normal
http://www.rae.gr/site/categories_new/about_rae/factsheets/2020/maj/2102_3.csp

⁴ http://www.rae.gr/categories_new/about_rae/activity/global_consultation/history_new/2020/0503_liv_0502_1.csp.

- (d) The under Reg. No. RAE I-277876/03.03.2020 letter of Natural Gas - Hellenic Energy Company.
- (e) The under Reg. No. RAE I-277879/03.03.2020 letter of HERON.
16. The under Reg. No. O-81505/17.03.2020 letter of RAE with subject “*Proposals of HEnEx S.A. on the amendment of Day-Ahead and Intra-Day Markets Trading Rulebook as well as the relevant Methodologies and Technical Decisions in the frame of its application*”.
17. The under Reg. No. RAE I-279139/24.03.2020 letter of HEnEx S.A. (No./DATE/HEnEx: 716/23.03.2020) with subject “*Transfer of planned proposals of HEnEx S.A. on the amendment of Day-Ahead and Intra-Day Market Rulebook as well as the relevant Methodologies and Technical Decisions in the frame of its application*”.
18. The under Reg. No. RAE I-279630/01.04.2020 letter of HEnEx S.A. (No./DATE/HEnEx: 762 /31.03.2020) with the subject: “*Transfer of proposals of HEnEx S.A. on the amendment of Day-Ahead and Intra-Day Markets Trading Rulebook as well as the relevant Methodologies and Technical Decisions in the frame of its application*”.
19. The fact that in accordance with the provisions of par. 1 of article 32 of L. 4001/2011, the regulatory acts issued by RAE are published in the Government Gazette.
20. The fact that the provisions hereof do not entail any charge on the State Budget.

Has come to the following conclusions:

I. Legal framework - duties

Because, in accordance with par.(a), of section (A), of par.2 article 7 L. 4425/2016 regarding the Day-Ahead Market:

*“The Participants in the Day-Ahead Market submit energy transaction orders with an obligation of physical delivery the day ahead (Delivery Day D). Energy quantities which have been nominated on Energy Financial Instruments and/or other wholesale energy products of the Rulebook (EU) No. 1227/2011 with the obligation of physical delivery are declared in the Day-Ahead Market. **The sell orders of the Producers must expend the remaining available capacity, which has not been allocated via trading on the aforementioned Energy Financial Instruments and/or other energy wholesale energy products with the obligation of physical delivery.**”*

Because, article 18 of the same law provides for, among other things, the following:

“[...]2. Energy Exchange Rulebook [...] defines the terms and conditions for the operation of the Day-Ahead and Intra-Day Markets [...]. The Rulebooks include transparent and non-discriminatory rules, which are based on objective criteria regarding the access of the Participants to the Electricity Markets. The Participants and any other person to whom the Rulebooks relate must comply with their obligations arising from them. The Rulebook determines the consequences that occur in case of breach of its rules. The following are specifically specified: [...]

b) The obligations and rights of the Participants, [...]

g) The rules and procedures for trading [...]

ja) *The imposition of measures and the consequences of breaching the Energy Exchange Rulebook [...]*

jf) *Any other regulation necessary for the smooth, transparent and efficient operation of each Energy Market. [...]*

4. Methodologies, parameters and other special approvals provided by the Market Codes, are decided by RAE, following a suggestion of the Market Operators and are published in the Government Gazette. [...]

Because, in accordance with paragraphs 6 and 7 of the sub-section 4.2.5 “Validation of Orders” of the Day-Ahead and Intra-Day Markets Trading Rulebook (hereinafter referred to as “Rulebook”, Decision of RAE 1116/2018 as amended by the Decision of RAE 820/2020):

“6. In case the Sell Order quantity corresponding to a Generating Unit plus the quantity of the Priority Price-Taking Sell Order, submitted on behalf of the Producer by HEnEx, is less than the Available Capacity of the Generating Unit, then HEnEx shall impose Non-Compliance Charges to the respective Producer, as described in subsection 4.4.2.1 of the Rulebook.

7. In case of a Buy Order corresponding to a Generating Unit, if the quantity of the Priority Price-Taking Sell Order, submitted on behalf of the Producer by HEnEx, minus the Buy Order quantity, is less than the Available Capacity of the Generating Unit, then HEnEx shall impose Non-Compliance charges to the respective Producer, as described in subsection of the Rulebook.”

Because, in sub-section 4.4.2.1 "Non-Compliance Charge for unlawful submission of Sell Orders concerning Available Capacity" of the Rulebook, as applying, the following are provided for:

“1. In the event of unlawful submission of Sell Orders for Delivery Day D for a Generating Unit u registered in the Participant Account of a Participant p for which the Participant is obliged to submit an appropriate Sell Order to cover the Available Capacity of that Unit, after the publication of the Day-Ahead Market results, HEnEx shall calculate for that Participant and for that Delivery Day D the amount of $NCEO_{p,D}$ as follows:

$$NCEO_{p,D} = UNCEO \cdot (1 + A_{EO}) \cdot (NEO_p)^x \cdot \sum_{u \in p} NCAP_u$$

wherein:

$UNCEO$: *the unit charge for Non-Compliance Charges to Participants for failing to submit valid Sell Orders for their generating units by the Day-Ahead Market Gate Closure Time, in €/MWh*

A_{EO} : *the charge increase factor for Non-Compliance Charges to Participants for failing to submit valid Sell Orders for their generating units by the Day-Ahead Market Gate Closure Time;*

NEO_p : *a running counter of the Delivery Days in the current calendar year when a Participant p failed to submit valid Sell Orders for its generating units by the Day-Ahead Market Gate Closure Time;*

x : *an exponent factor between 0 and 1, and*

$NCAP_u$: *the Registered Capacity of a generating unit u (in accordance with its Registered Operating Characteristics) for which Participant p has not lawfully submitted Sell Orders for Delivery Day D, in MW. In case of lawful*

submission of Sell Orders for a Generating Unit u for Delivery Day D , the N_{CAP_u} in this equation equals zero.

2. The numerical values of the unit charge UN_{CEO} , the exponent factor x and the charge increase factor A_{EO} as well as any other parameter and technical application detail, including HEnEx's periodical report data to RAE, shall be established for each calendar year by a RAE Decision, following a proposal of HEnEx. Such decision shall be taken at least two (2) months prior to the end of a calendar year, it shall be in force for the next calendar year and it cannot be modified within such year.

3. The $N_{CEO_{p,D}}$ charges shall be notified to the Clearing House at a time and with a procedure that are to be defined by a relevant Technical Decision of HEnEx."

Because, by the RAE Decision 36/2020 (rel. 7) the operation of the public limited company operating under the name "HELLENIC ENERGY EXCHANGE S.A." and distinctive title "HEnEx S.A." as Energy Exchange for the administration and operation of the Day-Ahead and Intra-Day Markets, has been approved in accordance with par. 1 of article 9 of L. 4425/2016 and par. 1 of the article 117C of L. 4001/2011, as in force.

II. On the proposal of HEnEx S.A. regarding the identification of the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders relating to the Available Capacity

Because, by the RAE Decision 1116/2018 (rel. 3), a schedule has been set for the proposals submission on behalf of HEnEx S.A. to RAE in order to be approved, in accordance with paragraph 4 of article 18 L. 4425/2016, which included the definition of the Regulatory Parameters for Calculating the Non-Compliance Charge for Sell Orders. By letter, HEnEx S.A. (rel. 8) submitted to RAE, among other things, a proposal pertaining to the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders associated with the Available Capacity in conformance with the stipulations of sub-section 4.4.2.1 of the Rulebook. RAE has submitted the relevant proposal of HEnEx S.A. in public consultation from 10.04.2019 until 03.05.2019, which was extended until 17.05.2019 (rel. 9). Within the frame of the public consultation, the Hellenic Association of Independent Power Producers submitted views. HEnEx S.A., having regard to the remarks submitted to the above-mentioned public consultation, submitted an amended proposal (rel. 10) as regards the definition of the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders associated with the Available Capacity (reduction of factor x from 1 to 0.33).

Because, from the analysis of the proposals as a whole of HEnEx S.A., authorized by the Rulebook, as well as of the results of the relevant proposals, the need for further elaboration of the submitted methodologies and amendment of the Rulebook was identified (rel. 11-13).

Because, by the dated as of 23.01.2020 decision of the Deputy Minister of Environment and Energy (rel. 2) the schedule was set for the date of commencement of the Day-Ahead, Intra-Day and Balancing Markets of L. 4425/2016, as in force. In particular, according to point A:

"The expiry date for the submission of the proposals required subject to the stipulations of L. 4425/2016, as applying, on Rulebooks, Codes, Manuals, methodologies, as well as

technical decisions to the Regulatory Authority for Energy, is the 31st of January, 2020,[...]”.

Because, with the dated as of 31.01.2020 document (rel. 14), HEnEx S.A. timely submitted, among other things, its renewed proposal pertaining to the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders associated with the Available Capacity in conformance with the stipulations of sub-section 4.4.2.1 of the Rulebook. RAE raised again the relevant proposal of HEnEx S.A. in Public Consultation (rel. 15). The results of the Public Consultation did not provide any comment leading to the need to amend the proposal of HEnEx S.A. (rel. 18).

Because, according to the proposal of HEnEx S.A., the non legal submission of Sell Orders by Producers for Units, may artificially affect the level of the Clearing Price of the Day-Ahead Market and create technical scarcity conditions in the market, increasing the level of prices in the Day-Ahead Market. Additionally, the level of non-compliance charge may also act as a deterrent to discrepancies from the relevant obligations for submission of Sell Orders for the Available Capacity. In this sense, the unit non-compliance charge *UNCEO* is proposed to be directly related to the formed level of the Average Daily Clearing Price of the Day-Ahead Market $AvgMP_D$ for the Delivery Days *D* during which, non-compliance is observed.

Because, furthermore, the importance of the participation of Production Units in the Day-Ahead Market in order to ensure adequacy and to create the relevant financial signals is recognized by the applicable legal framework and is additionally specialized in the regulatory framework. Both during operation under DAS, and for the Day-Ahead Market, there is a correlation between the non-compliance charge for the non legal submission of Sell Orders with the number of breaches *NEO*, with a constant increment factor (for the Day-Ahead Market A_{EO}) as well as with the Registered Capacity of a Generating Unit *NCAP* (and not with the remaining available capacity of the unit for which no Sell Orders have been legally submitted). Furthermore, for the Day-Ahead Market, the charge depends on the exponential increment factor *x*, which may receive the value between 0 and 1. From the above there is a relative continuity of regulatory provisions between the existing and the proposed framework of non-compliance charges.

Because, HEnEx S.A. proceeded to a sensitivity analysis on the parameters A_{EO} , *x* and *UNCEO*. As regards the selection of the parameters A_{EO} and *x* for the calendar year 2020, it is suggested to maintain the value of the parameter $A_{EO} = 0$, in proportion to the RAE Decision 1250/2019, while it is suggested that the parameter *x* should have the value 0.33. The reason lies in the smoother transition of the size of the Non-Compliance Charge in relation to the existing method of calculation.

Because, the aforementioned proposal of HEnEx S.A. is considered reasonable as to the purpose of its adoption. Additionally, the establishment of a procedure for regular reporting of non-compliance charges to RAE is necessary, so that the Authority can follow the application of sub-section 4.4.2.1 of the Rulebook, based on the relevant regular reports from HEnEx S.A., especially during the first period of operation of the new Markets, and therefore to be able, in cooperation with HEnEx S.A., to modify the Non-Compliance Charge for the non legal submission of Sell Orders associated with the Available Capacity, if deemed appropriate.

Decides:

Within the frame of its duties, subject to article 18, par. 4 of L. 4425/2016, and sub-section 4.4.2.1 of the Day-Ahead and Intra-Day Markets Trading Rulebook, as applying;

1. The definition of the Regulatory Parameters for Calculating the Non-Compliance Charge for the non legal submission of Sell Orders associated with the Available Capacity for the year 2020 as applying:

Parameter	Numerical price
$UNCEO$	$AvgMP_D$ €/MWh
A_{EO}	0
x	0.33

2. The establishment of a procedure for Reporting Non-Compliance Charge, as follows:

In case a Non-Compliance Charge is imposed for the non legal submission of Sell Orders by Producers for their Units, the Energy Exchange sends to RAE for the calendar month m and at the latest by the 10th work day of month $m+1$ a relevant monthly report which includes the following:

- a) the participating producers and the units for which Non-Compliance Charges are imposed;
- b) the remaining available capacity of the units, per Market Time Unit and Delivery Day D , for which no legal Sell Orders have been submitted in the Day-Ahead Market;
- c) the Clearing Price of the Day-Ahead Market and the Market Time Unit for the Market Time Units during which non-compliance is observed;
- d) the total calculated charges $NCEO_{p,D}$ as well as the details pertaining to the calculations;
- e) analysis of the effects of non-compliance on Clearing Prices including exploring opportunistic or coordinated market manipulation practices, and
- f) historical statistics on non-compliance charging.

The data of the monthly reports can be taken into account when formulating the proposal of the Energy Exchange regarding the definition of the parameters for the calculation of the non-compliance charge.

3. The entry into force of this decision from the day of commencement of operation of the Day-Ahead Market

This Decision is notified to the company "Hellenic Energy Exchange S.A.", posted on the official website of RAE and published in the Government Gazette (GG).

Athens, May 25th, 2020

The President of RAE

Dr. Nikolaos G. Boulaxis