

DECISION OF RAE UNDER NO. 1657/2020

Definition of the percentage X% of the retail supply share and A% of energy quantities that included in the validated Physical Offtake Nominations and correspond to energy quantities on transactions of Energy Financial Instruments for the year 2021, according to the provisions of subsection 4.4.2.2 of the Day-Ahead & Intra-Day Markets Trading Rulebook and article 18 par. 6 of the Law. 4425/2016, as in force

The Regulatory Authority for Energy

At its regular meeting, at its headquarters, on the, **23rd December 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 applying and in particular article 18 par. 6 of this law.
2. The stipulations of L. 4001/2011 *"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 No. 369/2018 Decision of RAE *"Directions for drawing up the Regulations of Energy Markets, as provided for in L. 4425/2016, as applying"* (GG B' 1880/24.05.2018).
4. The Day-Ahead and Intra-Day Markets Trading Rulebook, (Decision of RAE under the No. 1116/2018, GG B' 5914/2018), as in force following its modification by the No. 820/2020 Decision of RAE (GG B' 1941/21.05.2020) and the No. 1228/2020 Decision of RAE (GG B' 4124/24.09.2020), and in particular sub-section 4.4.2.2 thereof.
5. The No. 1298/2020 RAE Decision *"As regards the day of commencement of the Day-Ahead and Intra-Day Markets non coupled operation in accordance with the provisions of articles 6 and 9 of L. 4425/2016 (GG A' 185), as in force, and the*

provisions of Chapter 7 of the Day-Ahead and Intra-Day Market Trading Rulebook, as in force". (GG B' 4415/07.10.2020).

6. The No. 1574/2020 RAE Decision *"As regards the day of commencement of the Day-Ahead Market coupling operation on the Greek-Italian border, according to the provisions of subsection 7.1.1 of Chapter 7 of the Day-Ahead and Intra-Day Markets Trading Rulebook, as in force.» (GG B' 5505/14.12.2020).*
7. 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 HEnEx proposals 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".*
8. The No. 1008A/2020 Decision of RAE pertaining to the definition of the percentage X% of the retail supply share and A% of energy quantities that included in the validated Physical Offtake Nominations and correspond to energy quantities of transaction on Energy Financial Instruments for the year 2020, in accordance with the provisions of subsection 4.4.2.2 of the Day-Ahead & Intra-Day Markets Trading Rulebook and article 18 par. 6 of the L. 4425/2016, as applying" (GG B' B' 3385/13.08.2020).
9. The under Reg. No. RAE I-290573/27.10.2020 letter of the Public Power Corporation S.A. (ΔΔΕ/ΕΚ. 128621/3647 /19.10.2020) with the subject: *"Amendment of the Day-Ahead and Intra-Day Markets Trading Rulebook and Balancing Market".*
10. The under Reg. No. RAE I-292790/07.12.2020 document of HEnEx S.A. (No./DATE./HEnEx: 2458/04.12.2020) with the subject: *"Proposal regarding the definition of the percentage X% of the retail supply share and A% of the quantities of energy that included in the validated Physical Offtake Nominations and correspond to energy quantities of transactions on Energy Financial Instruments within the Energy Derivatives Market or bilaterally, on the total amounts of energy purchased with acceptable Buy Orders in the Day-Ahead Market for the calendar year 2021".*
11. The under Reg. No. RAE O-85393/15.12.2020 electronic letter to HEnEx S.A. by which its opinion was requested on the subject of the aforementioned letter of Public Power Corporation S.A. (ref. 9).
12. The under Reg. No. RAE I-293231/15.12.2020 letter of HEnEx S.A. (HEnEx: 2504/14.12.2020) with the subject: *"Reporting of non-compliance charges for November 2020".*
13. The RAE Public Consultation on the aforementioned proposal of HEnEx S.A.. (relevant document 10), that took place from 15.12.2020 up until 18.12.2020¹ and about which the following remarks have been posted in its website²:
 - (a) The under Reg. No. RAE I-293345/16.12.2020 letter of EBIKEN.

¹ http://www.rae.gr/site/categories_new/about_rae/factsheets/2020/gen/1512.csp

http://www.rae.gr/site/categories_new/about_rae/factsheets/2020/gen/1712_3.csp

² http://www.rae.gr/site/categories_new/about_rae/factsheets/2020/maj/231220.csp

- (b) The under Reg. No. RAE I-293376/17.12.2020 letter of Public Power Corporation S.A.
- (c) The under Reg. No. RAE I-293384/17.12.2020 letter of the Hellenic Association of Independent Power Producers.
- (d) The under Reg. No. RAE I-293640/21.12.2020 letter of ZENITH, ATTIKI NATURAL GAS, NRG and WATT+VOLT.
14. The under Reg. No. RAE I-293362/17.12.2020 electronic document of HEnEx S.A. by which its opinion was submitted on the subject of the aforementioned letter of Public Power Corporation S.A. (ref. 9).
15. The under Reg. No. RAE O-85497/22.12.2020 electronic document of RAE to HEnEx S.A., as regards the indexing of the comments of the aforementioned Public consultation and submitting opinions on them.
16. The under Reg. No. RAE I-293834/23.12.2020 document of HEnEx S.A. (No./DATE./HEnEx: 2568/23.12.2020) with the subject: *"Submitting responses to the comments of the Public Consultation on the proposals/methodologies of HEnEx S.A. for the parameters of Non-Compliance Charges for the calendar year 2021, according to the stipulations of the Day-Ahead Market and Intra-Day Market Rulebook"*.
17. 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 Official Gazette.
18. The fact that the provisions hereof do not entail any charge on the State Budget.

Has come to the following conclusions:

Because, according to par. 6 of article 18 of L. 4425/2016 as applying:

"6. "To ensure the efficiency of the operation of Electricity Markets, it is possible, with RAE decision, to define for the Participants, per supply portfolio, a maximum transaction rate on Energy Financial Instruments, settled with physical delivery of energy and/or on other energy derivatives and/or on wholesale energy products of the Rulebook (EU) No. 1227/2011 with the obligation of physical delivery, that have been concluded within the Energy Derivatives Market or bilaterally outside of it, which can be declared in the trading system of the Day-Ahead Market, as specified in detail in the HEnEx Rulebook."

Because, RAE, in accordance with its No. 369/2018 Decision, regarding the *"Directions for drawing up the Regulations of Energy Markets, as provided for in L. 4425/2016, as in force"* (rel. 3), stipulated, among other, that:

"9. NEMO audits in sell orders prior to the settlement of Day-Ahead Market. The audit includes the following: [...] Additionally, NEMO following the settlement of Day-Ahead Market, audits in sell orders in terms of keeping the maximum transaction rate through Energy Financial Instruments, settled with physical delivery of energy and have been concluded within the Energy Derivatives Market or bilaterally outside of it, and/or other wholesale energy products of the Rulebook (EU) No. 1227/2011 with the obligation of physical delivery for the Participants per supply portfolio."

Whereas, in accordance with paragraph 1 of subsection 4.4.2.2 **"Non-Compliance Charge for breaching the restriction of the Maximum Percentage of Physically Delivered Energy Financial Instruments"** of the Day-Ahead and the Intra-Day Markets Trading Rulebook (hereinafter referred to as the "Rulebook") (rel. 4), the following is stipulated:

*"1. For each Supplier with a retail market share exceeding a X% threshold and for each Market Time Unit, the percentage of energy quantities included in the validated Physical Offtake Nominations that correspond to energy quantities of transactions on Energy Financial Instruments executed within the Energy Derivatives Market or concluded bilaterally, on the total amount of energy quantities purchased under accepted Day-Ahead Market Buy Orders, may not exceed an A% threshold. **The X% and A% values are set for each calendar year by a RAE Decision, following a proposal of HEnEx.**"*

Whereas, by the relevant 8 Decision, according to the stipulations of sub-section 4.4.2.2 of the Rulebook and article 18 par. 6 of the L. 4425/2016, as in force, RAE, thinking over the need to find the optimal balance among the objectives of having sufficient liquidity in the Day-Ahead Market, of tackling the abuse of a dominant position and of the existence of hedging tools, defined the percentage X% of the retail supply share at 4% and A% of the quantities of energy that included in the validated Physical Offtake Nominations and that correspond to energy quantities of transactions on Energy Financial Instruments at 20% for the calendar year 2020.

Whereas, additionally, by the aforementioned RAE Decision, the way of calculating the Supply share X% of each Supplier was defined, as well as the procedure for the relevant briefing of the Authority on its calculation, as follows:

"The Supply share, X%, of each Supplier to be calculated on a monthly basis, taking into account the formed total position of Sells and Buys (for Position Correction) of the Supplier r in the Day-Ahead and in the Intra-Day Market, during the month of Physical Delivery m-1 for consumers representatives in Load Portfolios of the Bidding Zone z, and after the announcement of the Day-Ahead Market Results for the first day of physical delivery d of the month m, as follows:

$$X_{r,m,z} = \frac{\sum_{t=1}^T [BQ_{r,z,t} - SQ_{r,z,t}]}{\sum_{r=1}^R \sum_{t=1}^T [BQ_{r,z,t} - SQ_{r,z,t}]}$$

Wherein:

$BQ_{r,z,t}$ *The total quantities of the Supplier's transactions r for buying energy in the Day-Ahead and the Intra-Day Market, for the Market Time Unit t of month m-1 in Load Portfolios of the Bidding Zone z, at MWh, excluding the quantities of transactions corresponding to Pumping Units;*

$SQ_{r,z,t}$ *The total quantities of the Supplier's transactions r for selling energy in the Day-Ahead and the Intra-Day Market, for the Market Time Unit t of month m-1 in Load Portfolios of the Bidding Zone z, at MWh, excluding the quantities of transactions corresponding to Pumping Units;*

T The total / number of Market Time Units of month *m-1*.

R The total / number of Suppliers *R* that participated in the Day-Ahead and the Intra-Day Market during month *m-1*.

In particular, for the month in which the Day-Ahead Market operation will start, the Supply share, X%, for each Supplier will be calculated on the basis of the Load Declarations that were entered in the DAS, during the immediately preceding month.

The results of the above calculations should be sent on a monthly basis to RAE."

Because, by the relevant 5 Decision, RAE, in accordance with the provisions of Articles 6 and 9 of L. 4425/2016 and the provisions of Chapter 7 of the Rulebook, as in force, 1st November 2020, has been specified as the Delivery Date *D*, of the non coupled operation of the Day-Ahead and Intra-Day Market .

Because, by the relevant document 10, HEnEx S.A. submitted its proposal regarding the definition of the percentage *X%* of the retail supply share and *A%* of the quantities of energy that included in the validated Physical Offtake Nominations and correspond to energy quantities of Transactions on Energy Financial Instruments within the Energy Derivatives Market or bilaterally, on the total amounts of energy purchased with acceptable Buy Orders in the Day-Ahead Market for the calendar year 2021, in accordance with the provisions of subsection 4.4.2.2 of the Rulebook.

Whereas, in the aforementioned document, energy quantity statistics attached which included in the validated Physical Offtake Nominations, on the total amounts of energy purchased with acceptable Buy Orders in the Day-Ahead Market per Supplier (*A'*) to whom the percentage *X%* pertains for the month November 2020, which were calculated as follows:

Supplier	$0 \geq A' \geq 5\%$	$5\% \geq A' \geq 10\%$	$10\% \geq A' \geq 15\%$	$15\% \geq A' \geq 20\%$
1	7%	36%	46%	12%
2	0%	0%	0%	0%
3	0%	0%	0%	0%
4	0%	0%	0%	0%

Whereas, HEnEx S.A., taking into account the above statistics and first that a sufficient time is required from the beginning the new markets operation in order to make safe conclusions regarding the effect of the *X%* and *A%* limits on liquidity of the Day-Ahead Market, and secondly, there have been no significant differences in the assumptions of the company's initial proposal for the calendar year 2020, it considers that there is currently no justification for submitting a revised proposal for the calendar year 2021, meaning that it proposes the redefinition of *X%* at 4% and of *A%* at 10%.

Whereas, RAE raised the No. 10 proposal of HEnEx S.A. in Public Consultation from 15.12.2020 up until 18.12.2020 (rel. 11). In the context of public consultation were submitted opinions on this proposal by EBIKEN, the Public Power Corporation S.A., the Hellenic Association of Independent Power Producers and ZENITH, ATTIKI NATURAL GAS, NRG and WATT+VOLT. HEnEx S.A., by its rel. 16 document, in response to the rel. 15 electronic document of RAE, submitted, among other to the Authority its views on the remarks of the participants in the aforementioned public consultation, as well as the relevant documentation on the acceptance or not of the same.

Whereas, RAE considers the position of HEnEx S.A. to be reasonable, given the fact that the time elapsed since the beginning of the new markets is not considered sufficient to draw conclusions which could lead to a modification of its proposal. On the other hand, the Authority itself considers that there has been no substantial amendment of the date based on which the under No. rel. 8 decision of the Authority was made, and as detailed have been recorded in it, so that the Authority may reconsider its decision, taking into account the short time since the launch of the new markets.

Whereas, as described also in the relevant No. 8 RAE decision, the smooth operation of the Day-Ahead Market is based on the price formation, which is achieved when the Clearing Price reflects the short-term marginal cost of production. In this case, further period is required for the Clearing Prices in the Day-Ahead Market to be adjusted and balanced, and to give a clear signal of the effect of X% and A% values on market liquidity, which is an essential feature of its effectiveness.

Whereas, in terms of market shares and participants' incentives, no substantial change has taken place during this period, as the Power Public Corporation S.A., as dominant participant, is still keeping a significant share in electricity supply (66.33%, in accordance with Electricity Day-Ahead and Intraday Markets Monthly Report of November 2020³). Moreover, in proportion, competition and liquidity conditions and market signals may be affected, to the extent of market participation interest, not only by the dominant player but also by other participants whose ability to apply similar practices may affect the overall effectiveness of the market;

Whereas, as referred to in the relevant. 16 document of HEnEx S.A., in the context of replying to a participant's view that was submitted in the relevant public consultation (rel. 11), in the case of exclusive application of the measure to the dominant enterprise, other vertical suppliers would be given the opportunity to submit bilateral self-contracts for the whole of the represented supply and therefore further reduce residual demand, based on which the possibility of Configuration of Clearing Prices is adjusted, thus depriving the pricing department of relevant information on short-term marginal costs of Natural gas units.

³ https://www.enexgroup.gr/el/c/document_library/get_file?uuid=d7dbdc6d-4bcf-2d83-b502-14fefe432895&groupId=20126

Whereas, on the other hand, the operation of the Futures Market with sufficient liquidity should be ensured, that will allow Participants to mitigate price risk, by "locking" the prices of the quantities they contract, thus limiting their exposure to more volatile prices of the Day-Ahead and the Intra-Day Market, while at the same time futures transactions will empower long-term system design activities, such as investments in Production, Transportation, Distribution and Demand Management, indicating future expectations of hourly market prices and providing reliable financial reference signals to the Participants.

Whereas, RAE, based on the above and based in particular on the lack of an adequate period of operation of the new market and the relevant maintenance of assumptions/admissions during this period, considers it appropriate to maintain the value of the percentage X% at 4%, ie to continue to apply to all vertical suppliers, as well as the value of the percentage A% to 20% for the following calendar year, ie until 31.12.2021.

Decides:

Within the frame of its duties, subject to article 18, par. 6 of L. 4425/2016, and the provisions of sub-sections 4.4.2.2 of the Day-Ahead and Intra-Day Market Rulebook, as applying:

The extension of validity up until 31.12.2021 of the No. 1008A/2020 Decision of RAE pertaining to the definition of the percentage X% of the retail supply share and A% of energy quantities that included in the validated Physical Offtake Nominations and correspond to energy quantities of transactions on Energy Financial Instruments, in accordance with the provisions of subsection 4.4.2.2 of the Day-Ahead Market & Intra-Day Market Rulebook and article 18 par. 6 of the L. 4425/2016, as applying" (GG B' B' 3385/13.08.2020).

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, 23 December 2020

The President of RAE

Ass. Prof. Athanasios Dagoumas