



## **DECISION 1<sup>1</sup>**

### **"Procedure for Acquiring the Participant capacity, Participant resignation and other issues regarding Participants in HEnEx Day-Ahead and Intra-Day Market"**

#### **THE HELLENIC ENERGY EXCHANGE S.A.**

Having taken into consideration the provisions of sections 1.3, 3.1, 3.2, 3.3, 3.4, 3.5, 3.7 and 3.8 of the Day-Ahead & Intra-Day Markets Trading Rulebook (hereinafter referred to as the "Rulebook")<sup>2</sup> of the Hellenic Energy Exchange S.A. (HEnEx) as in force:

#### **DECIDES AS FOLLOWS**

##### **Article 1. Objective - Scope – Definitions**

1. This Decision sets out the following issues in relation to HEnEx Day-Ahead and Intraday Markets Participants:
  - a) the process of acquiring the Participant capacity;
  - b) the process related to the resignation from the Participant capacity;
  - c) the process applied to a Participant's corporate transformations; and
  - d) the process applicable in case of relocation of the Participant's information structure.
2. The terms of this Decision have the same meaning as those given in L. 4425/2016, L. 4001/2011 or other relevant national or union legislation, HEnEx Day-Ahead and Intra-Day Markets Trading Rulebook (hereinafter the "Rulebook"), the Clearing Rulebook for Transactions on Day-Ahead & Intraday Markets (hereinafter referred to as the "Clearing Rulebook") and in any other decisions adopted for their implementation.

##### **Article 2. Process of acquiring the capacity of Participant**

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<sup>1</sup> Unofficial translation from the Greek language (Ref. HenEx: 864/13.04.2020), as of 07/05/2020. In case of any discrepancy between the Greek and the English version, the Greek version prevails.

<sup>2</sup> Regulatory Authority of Energy (RAE), Decision 1116/13.11.2018 (GG 5914/31.12.2018), "Approval of the Day-Ahead and Intra-Day Market Trading Rulebook, according to the articles 9, 10 and 18 of L.4425/2016 (GG A' 185), as applying".

### **1.1. Procedure & Stages of checking and Approval of the Participant**

1. In order to acquire the capacity of Participant, the candidate must successfully complete the procedure of this Article. The process consists of three (3) individual stages, namely:
  - a) the stage of submitting the Application to Become a Participant (hereinafter the "Application") and its corresponding approval;
  - b) the stage of preparation for the activation of the Participant; and
  - c) the stage of activation of the Participant.
2. HEnEx informs the candidate Participant on the stages of the procedure and provides any information and necessary data for its participation in those stages. The participation of the candidate Participant in each subsequent stage of the process requires the successful completion of the preceding stages.

#### **2.1.1.1<sup>st</sup> Stage: Submission and Approval of Application**

This stage regards the submission of the Application to the competent department of HEnEx for the acquisition of the Participant Capacity.

##### **2.1.1.1.1. General terms**

1. The Application shall be submitted in a standard form provided by HEnEx. The application form also contains an explanatory memorandum guide, which is attached as an integral part thereof. The explanatory memorandum guide contains at least the content specified in the Rulebook and follows the basic guidelines.
2. All supporting documents must be submitted in Greek or English. All documents must bear the stamp of the company and signature authentication with the Hague Apostille, where applicable.
3. When examining the following information and supporting documentation provided by the candidate Participant at all stages described below, the competent department of HEnEx may request additional documents if it deems it necessary for the completeness of the application.
4. The Application shall be accompanied by the following information and supporting documents.

##### **2.1.1.1.2. Eligible Persons**

If the applicant for the acquisition of the Participant capacity is an Eligible Person of section 3.2(1) of the Rulebook, it shall also submit the following documents:

1. Based on the licensing framework governing it in accordance with Articles 132 suc. of L.4001/2011:
  - a) Electricity Generation License or a relevant exemption from the obligation to obtain a Generation License, in the case of a Producer, or
  - b) Electricity Supply License, in the case of a Supplier, or
  - c) Electricity Trading License, in the case of a Trader, or
  - d) Contract for sliding Feed in Premium (sFiP) or DAPEEP certificate concerning the operating capacity of the RES & CHP Units that come under the stipulations of par. 19

of Article 3 of L. 4414/2016, in the case of a RES Producer and High Efficiency Cogeneration of Heat and Power or

- e) RES Aggregator License, in the case of RES Aggregator, or
  - f) Solemn Declaration of L. 1599/1986 1599/86 that it is subject to the provisions of applicable law relating to Self-Supplied Customers, to the extent that this is the case of a Self-Supplied Customer.
2. In addition, the candidate Participant will have to submit the following documents depending on the category to which it belongs:
- a) **Natural Persons**
    - i. Copy of identity card.
    - ii. Certificate for the commencement of professional activity and/or modification of the same for electricity production.
    - iii. Certificate of non-bankruptcy of the competent Court of First Instance (issued not more than 60 days prior to its submission to HEnEx).
  - b) **Legal persons**
    - i. Announcement of the latest codified statute by the General Commercial Registry or in case of a Foreign Participant issued by the respective Publicity Registry of Companies to which it belongs and provision of relevant information for its electronic search (link). If the above electronic search is not possible, a copy of the Articles of Association according to the books of the said Registry.
    - ii. Announcement of the current legal representation of the candidate's company and provision of relevant information for its electronic search (link) as well as samples of signatures of legal representatives.
    - iii. If the above electronic search cannot be made on the basis of items (i) or (ii), a copy of the latest codified Articles of Association as well as the representation act in accordance with the company records, as these have been filed with the Registry of Companies to which the candidate belongs.
    - iv. Certificate of non-bankruptcy of the competent Court of First Instance (issued not more than 60 days prior to its submission to HEnEx) or an equivalent document in the case of a foreign participant.
3. Foreign Eligible Persons, which have a branch or office in Greece, should also submit a statement from the General Commercial Registry as regards the legal establishment of the branch or office concerned.

#### **2.1.1.3. Candidate Participants who are not Eligible Persons**

If the applicant for the acquisition of the Participant capacity is not a person of section 3.2(1) of the Rulebook, it submits the supporting documents concerning the legal entities of subsection 2.1.1.2 par. 2 (b).

#### **2.1.1.4. Additional Candidate Participant Documentation**

- 1. In addition, the candidate Participant must submit the following:
  - a) The following documents regarding REMIT Regulation (EU) No. 1227/2011:

- i. REMIT Registration Application;
- ii. General Terms and Conditions;
- iii. Subscription to Service(s);
- iv. Service Description;
- v. Service Fee;

or Declaration of L. 1599/86 in which the candidate Participant states that it does not intend to conclude a reference service contract with HEnEx, in accordance with Article 6 of REMIT Regulation.

- b) Declaration of Activation as a Non-Clearing Member or as a Direct Clearing Member in the relevant Market (only for capital companies ).
  - c) Joint statement of the candidate Participant with the General Clearing Member who cooperates with the latter in clearing its transactions.
  - d) Agreement of Balancing Responsible Party with the HTSO Operator, being in force.
  - e) Financial statements or data of the last two (2) years certifying that the candidate Participant meets the financial requirements as these are defined by the applicable law, or, in the case of a newly established company, financial evidence certifying the above.
  - f) Proof of filing an Application Fee.
2. The HTSO Operator and the RES & GO Operator are excluded from the submission of the following:
    - a) The financial statements of case 1(e) par. 2.1.1.4 of this Article.
    - b) The payment of an Application fee of case 1(f) par. 2.1.1.4 of this Article.
  3. After submitting all of the above documents, the competent entity of HEnEx decides on the candidate Participant's Application.
  4. In case of approval of the Application by the competent entity of HEnEx, HEnEx shall issue a Participant Registration Certificate in the relevant HEnEx market, followed by the actions described in stage 2.

### **2.1.2.2<sup>nd</sup> Stage: Preparation for activation of the Participant**

1. Once the Participant Registration Certificate has been issued by HEnEx, the Participant must perform the following steps regarding its activation:
  - a) The Participant must have the required technological infrastructure to ensure its successful interconnection to HEnEx's Energy Trading Spot System (ETSS), in accordance with the provisions of the relevant HEnEx Decisions or procedures and the Rulebook.
  - b) In order to check the readiness of the candidate Participant and its Certified Traders to acquire the requested Participant capacity, HEnEx may request participation in mock trading sessions or other simulation scenarios of actual trading or clearing conditions.
  - c) The Participant must have a sufficient number of Certified Traders, in accordance with the terms of the Rulebook, as well as the relevant HEnEx Decisions.

- d) If the Participant intends to become active as a Direct Clearing Member, it must submit a certificate from EnEx Clearing House S.A. certifying that it meets the requirements to act as a Direct Clearing Member.
  - e) The Participant is required to pay to HEnEx the applicable Initial Registration Fee and the applicable Annual Subscription.
2. The Participant must have completed the above actions and submitted the required supporting documents no later than one month after the completion of the 1<sup>st</sup> Stage, excluding the time of preparation of the technical infrastructure and the charges of point 1(e) par.2.1.2 of this Article, which are paid within five (5) business days of the issue of the "Participant Registration Certificate". Otherwise, its Application shall be rejected for not completing the 2<sup>nd</sup> Stage and for the acquisition of the relevant capacity the candidate Participant shall re-submit the Application.

### **2.1.3.3<sup>rd</sup> Stage: Activation of the Participant in the Energy Trading Spot System (ETSS)**

1. Once the Participant successfully completes the actions described in the above stage, it is required to submit to HEnEx the following forms electronically in accordance with the procedures below, , which are posted on HEnEx website.
  - a) " Membership Form"

With this form, the Participant must indicate the dates on which it wishes to be activated:

    - i. in the Day-Ahead Market, and/or
    - ii. in the Intra-Day Market
  - b) "Participant's/Member's Profile Form"

With this form, the Participant is required to indicate the persons who will be acting as persons of communication of the Participant with HEnEx and as Certified Traders, as well as the responsibilities that each of them will have vis-a-vis the Participant.
  - c) "Connection to ETSS Form"

With this form, the Participant requests the assignment/deletion of users, as well as the starting/termination/modification of connection to ETSS.
2. The above actions must be completed within one month of the completion of 2<sup>nd</sup> Stage.
3. If the candidate Participant is going to clear its own transactions as a Direct Clearing Member, its activation as a Participant is carried out after its activation as a Direct Clearing Member.
4. The candidate Participant is entitled, upon the acquisition of the capacity, to access EnExClear systems in accordance with the Clearing Rulebook, where required by the relevant Rulebooks and the decisions made pursuant thereto.

## **2.2. Notification to HEnEx**

1. The Participant shall electronically record the relevant data and documents, following the procedure indicated by the competent HEnEx services, in order to permanently meet the conditions for acquiring and maintaining its capacity as a Participant. Participants are solely responsible for the completeness, correctness and truthfulness of the information provided

to HEnEx, either original or updated at any time, and must respond promptly and seamlessly to HEnEx's requests, also participating in the relevant meetings.

2. The Participant is obliged to immediately inform HEnEx, as indicated by the competent bodies of HEnEx, of any change in the Participant Registry data as provided in the Rulebook. Until notification of this change, any document is legally disclosed to the contact details provided by the Participant at the stage of the Submission of Application.

### **Article 3. Procedure Related to Resignation from the Participant Capacity**

In addition to the specifications in the Rulebook, in order to resign from the capacity of Participant, the Participant shall comply with the following:

- a) The Participant shall take all necessary measures to ensure that the obligations arising from its transactions are met in accordance with the Rulebook and the Clearing Rulebook. Indicatively, the Participant shall meet its clearing obligations, where applicable, and shall disable any passwords or accounts which it holds in the relevant capacity.
- b) The Participant complies with HEnEx's instructions on the final settlement of any outstanding issues related to the capacity of the Participant.

### **Article 4. Corporate Transformations of Participants**

#### **4.1. Merger of a Participant by another Participant in HEnEx (Article 6 par.2 L.4601/2019)**

The conditions provided in par. 4.1 apply exclusively when both the merged and the merging legal entity, are Participants in the HEnEx Electricity Markets.

##### **4.1.1. Actions of the absorbing Participant**

In case of a Participant being merged by another Participant, the absorbing Participant continues to function as a Participant, automatically inheriting the absorbed Participant in all of the latter's rights and obligations. Therefore, in this case, the absorbing Participant is not required to regain the capacity of the absorbed Participant. In particular, the absorbing Participant must comply with the following procedures:

##### **4.1.1.1. Installation of the information structure and activation in the Energy Trading Spot System (ETSS)**

The procedure of the said installation pertains to the case of Participants and includes the following three (3) stages:

###### **1<sup>st</sup> Stage**

At least fifteen (15) business days prior to the time on which the Participant states that it wishes to become active in the ETSS with its new details, resulting from the merger and subject to the completion of the merger, meaning the entry in the General Commercial Registry (or in the case of a Foreign Participant in the respective Publicity Registry of Companies to which it belongs) of the decision to approve the merger in accordance with article 18 of Law 4601/2019, the

absorbing Participant sends an information letter with its details with the purpose of merger to the relevant HEnEx department and cooperates with it:

- a) on planning any changes to the information structure (nodes, terminals, etc.) of the absorbing Participant's;
- b) on calculating the related costs; and
- c) on designing the timetable for the implementation of the above actions.

### **2<sup>nd</sup> Stage**

At the latest ten (10) business days prior to the stated time of the Participant's activation in ETSS, the absorbing Participant must have completed the required technical preparation, according to the instructions of the competent department of HEnEx.

### **3<sup>rd</sup> Stage**

At the latest ten (10) business days prior to the stated time of the Participant's activation in ETSS, the absorbing Participant submits to the relevant HEnEx department the corresponding form completed with the new details of the Participant resulting from the merger, which is posted on the HEnEx website.

## **4.1.2. Actions of the absorbed Participant**

The actions that the absorbed Participant must follow include the following three (3) stages:

### **1<sup>st</sup> Stage**

Not later than ten (10) business days prior to the time the Participant declares that it wishes to become active in the ETSS with its new details resulting from the merger and subject to the completion of the merger, the merged Participant must submit to HEnEx electronically, according to its procedures, the following forms posted on HEnEx website:

- a) deletion of users;
- b) deletion of absorbed Participant; and
- c) technical forms for disabling the node and the terminals.

### **2<sup>nd</sup> Stage**

Approval for deletion of the Participant due to a merger by the competent HEnEx entity subject to the completion of the merger, in accordance with Article 18 of L. 4601/2019 and submission of a copy of entry in the General Commercial Registry (or in the case of a Foreign Participant in the respective Publicity Registry of Companies to which it belongs) and providing relevant information for its online search (link).

### **3<sup>rd</sup> Stage**

1. In order to be deleted, the Participant, provided it is a Clearing Member, must have fully paid its obligations to EnExClear.
2. Once the merger is complete, HEnEx immediately updates its Participant database and website with the new details of the absorbed Participant resulting from the merger.

## **4.2. Merging of a Participant by a non HEnEx Participant**

The conditions provided in par. 4.1 describe the merger process of Participant by a Non Participant. This procedure shall not apply in cases of forced transfer of the capacity as a result of specific provisions.

### **4.2.1. Actions of the legal entity which absorbs a Participant of HEnEx to become a Participant in HEnEx Markets**

#### **4.2.1.1. Procedure Related to Participant Capacity**

1. In case of merger of a Participant by a legal entity that is not a Participant, in order for the legal entity resulting from the merger to become a HEnEx Participant, it must follow the procedure of acquiring the relevant capacity ab initio, including its obligations, on payment of Participant fees and charges as defined in Section 3.12 of the Rulebook and Article 1 of this Decision.
2. The decision to approve the new Participant, received by the competent HEnEx entity, is subject to the completion of the merger and the submission of a copy of entry in the General Commercial Registry (or in the case of a Foreign Participant in the respective Publicity Registry of Companies to which it belongs) of the decision approving the merger.

#### **4.2.1.2. Actions for the installation and activation of the information structure in ETSS**

For the installation and activation of the information structure in ETSS, the legal entity absorbing the Participant shall take the actions provided for in par. 2.1.3 of this Decision.

### **4.2.2. Actions of the absorbed Participant**

1. Fifteen (15) business days at least before the time the absorbed Participant estimates that the merger will be completed (entry in General Commercial Registry or in the case of a Foreign Participant in the respective Publicity Registry subject to the decision to approve the merger), sends a letter of information with details on the merger to the competent HEnEx department and cooperates with it:
  - 1) on planning any changes to the information structure of the absorbed legal entity (nodes, terminals etc.);
  - 2) on calculating the related costs;
  - 3) on designing the timetable for the implementation of the above actions.
2. The absorbed Participant shall take the actions provided for in Article 3 of this Decision.

### **4.2.3. Activation in ETSS of the new Participant resulting from the merger**

1. The activation of a new Participant in ETSS as this results from the merger, is done according to the date indicated on the relevant standard form, which is posted on the HEnEx website and provided that the previous stages of the merger have been completed.
2. Once the merger is complete, HEnEx immediately updates its Participant database and website with details of the new Participant resulting from the merger.

## **4.3. Other corporate transformations**

The terms of the preceding paragraphs of Article 3 herein shall apply mutatis mutandis to any other case of corporate transformation relating to HEnEx Participants in accordance with the



more specific company law provisions applicable to the transformation of companies (Articles 1-88 L.4601/2019). In any event where, as a result of a corporate transformation, the license under which the Participant acquired its capacity requires modification by RAE based on the applicable regulatory framework, the Participant must inform HEnEx on the subject by letter prior to the initiation of the corporate transformation process, in order for HEnEx to reassess the capacity of the Participant. HEnEx may suspend the capacity of the Participant, according to Section 3.7.2 par.1 point (3) until RAE's amended license is granted.

## **Article 5. Relocation of a Participant's Information Structure**

In the case of relocation of a Participant's Information Structure to another site, to the same or another address, the Participant must perform the following actions.

### **1<sup>st</sup> Stage**

At least thirty (30) calendar days prior to the time stated by the Participant that he wishes his information structure to operate in the new site, the Participant sends an information letter with the details of the relocation site to the competent department of HEnEx and cooperates with it:

- a) on planning any changes to the Participant's information structure (nodes, terminals, etc.);
- b) on calculating the related costs;
- c) on designing the timetable for the implementation of the above actions.

### **2<sup>nd</sup> Stage**

At the latest ten (10) business days prior to the stated time of operation of the Participant's information structure in the new site, the Participant must have completed the required technical preparation, according to the instructions of the competent department of HEnEx.

### **3<sup>rd</sup> Stage**

At the latest ten (10) business days prior to the stated time of operation of the Participant's information structure in the new site, the Participant must electronically submit to HEnEx the relevant standard form, which is posted on HEnEx's website for the Participant's relocation.

## **Article 6. Enforcement**

This Decision shall apply from 13/04/2020.

This decision is to be posted immediately on HEnEx website [www.enexgroup.gr](http://www.enexgroup.gr).