

DECISION OF RAE UNDER NO. 987/2021

Modification of the Day-Ahead and Intra-Day Market Trading Rulebook (GG B' 3857/18.08.2021), of the Methodology for Calculating Fees and Charges for the operation of the Day-Ahead Market and the Intra-Day Market and of the decision on Administrative fees and Charges for the Day-Ahead and the Intra-Day Market

The Regulatory Authority for Energy

At its regular meeting, at its headquarters, **on the 9th of December 2021**, 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 especially articles 6, 8.10 and 18 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 Regulation (EU) 2015/1222 of the Committee dated as of July 24th, 2015 establishing a guideline on capacity allocation and congestion management (EEL 197 dated as of 25.07.2015, p. 24 suc.).
4. The Day-Ahead and Intra-Day Market Trading Rulebook, (Decision of RAE under the No. 1116/2018, GG B' 5914/2018), as applying following its modification by the Decisions of RAE 820/2020 (GG B' 1941/21.05.2020), 1228/2020 (GG B' 4124/24.09.2020), 610/2021 (GG B' 3857/18.08.2021) and 775/2021 (GG B' 4982/27.10.2021), and in particular the provisions of section 3.12.
5. The No. 1124/5.12.2019 Decision of RAE "*On defining the public limited company "HELLENIC ENERGY EXCHANGE S.A." and distinctive title "HEEx 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. 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 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 "HEnEx S.A." as Energy Exchange for the administration and operation of the Day-Ahead and Intra-Day Market" (GG B' 742/10.03.2020).

7. The No. 949/2020 Decision of RAE with subject "*Methodology for Calculating Fees and Charges for the operation of the Day-Ahead Market and the Intra-Day Market*" (GG B' 2541/24.06.2020).
8. The No. 950/2020 RAE Decision with the subject "*Administrative fees and Charges for the Day-Ahead and the Intra-Day Market for the years 2020-2022*" (GG B' 2542/24.06.2020).
9. The No. 1007/2020 Decision of RAE with subject "*Approval of the Executive Decision pertaining to the "Charges and Administrative Fees EnExClear for clearing the transactions of the Day-Ahead Market and the Intra-Day Market for the years 2020-2022"*" (GG B' 3267/05.08.2020).
10. The under Reg. No. I-295361/28.01.2021 letter of HEnEx S.A. (No./DATE./HEnEx: 103/27.01.2021) with subject "*Calculation of Annual Subscription for the year 2021*".
11. The under Reg. No. O-86354/23.02.2021 letter of RAE with subject "*Calculation of Annual Subscription for the year 2021*".
12. The under Reg. No. PAE I-313591/12.11.2021 letter of HEnEx S.A. (No./DATE./HEnEx: 1649/11.11.2021) with the subject: "*Proposals on the subject of the Methodology for Calculating Administrative Fees and Charges*".
13. The RAE Public Consultation on the aforementioned proposal of HEnEx S.A. (ref. 12) which took place from 16.11.2021 up to 30.11.2021¹ and on which no comments were submitted.
14. The under Reg. No. RAE I-315298/08.12.2021 letter of HEnEx S.A. (No./DATE./HEnEx: 1779/08.12.2021) with the subject: "*Modification of the Day-Ahead and Intra-Day Market Trading Rulebook*".
15. The fact that the provisions hereof do not entail any charge on the State Budget.

Has come to the following conclusions:

Whereas, according to point (c), of par. 1 of article 6 of L. 4425/2016 regarding the duties of RAE:

"1. In addition to the duties laid down in the current legislation, and especially in the provisions of L. 4001/2011, RAE:[...]

*c) Exercises the responsibilities of the regulatory authorities provided for in Regulation (EU) 2015/1222 and provide in particular for the definition of the NEMO, monitoring its compliance with the definition criteria, **approving the administrative fees of the NEMO in case of monopoly**, the approval of the cooperation plan for the NEMOs for the joint establishment and execution of the operation of Market Coupling Operator, the approval of the other terms and conditions or methodologies and the execution of all duties, functions and responsibilities, according to the details provided in this Regulation.[...]*»

Whereas, in accordance with article 8 of L. 4425/2016 regarding the definition and the duties of the NEMO:

¹ <https://www.rae.gr/diavoulefseis/16241/>

"[...]2. Without prejudice to par. 7 hereof and par. 4 of article 117E of L. 4001/2011, the NEMO is assigned by decision of RAE, according to the criteria provided for in the Regulation (EU) No. 2015/1222. **RAE is also responsible for monitoring the compliance with the definition criteria, the approval of the administrative fees of the NEMO or the methodology for calculating these administrative fees, the recovery of the NEMO, as well as any other duty assigned to the national Regulatory Authorities, in virtue of the aforementioned Regulation [...]**

5. The NEMO receives from the Participants administrative fees for the administration and operation of the Day-Ahead and the Intra-Day Market, with the approval of RAE subject to the provisions of the Regulation (EU) 2015/1222. [...]"

Whereas, 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 Market [...]. The Regulations 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 Regulations 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 [...]

j) **Approval procedures from RAE and recovery from the Energy Exchange and the HTSO of the administrative fees or other charges for the operation cost of Energy Markets. [...]**

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. [...]"

Whereas, subject to section 3.12 of the Day-Ahead and Intra-Day Market Rulebook (rel. 4, hereinafter referred to as the "Rulebook"), the following are provided:

«3.12 Administrative fees and Charges

1. The operating costs of the Day-Ahead and Intra-Day Markets are recovered through fees and charges paid by the Participants in HEnEx.
2. HEnEx maintains separate accounts for the operation of the Day-Ahead Market and the operation of the Intra-Day Market.
3. The above applicable fees and charges are determined by RAE Decision, **based on a methodology for calculating fees and charges, upon HEnEx's recommendation.** The relevant administrative fees and charges apply after the lapse of a time period specified by the aforementioned RAE Decision, which cannot be less than thirty (30) days from the date on which the relevant decision was published.
4. HEnEx shall submit to RAE for approval a proposal for the above methodology no later than three (3) months before the date of entry into force of RAE decision on the determination of fees and charges.
5. The applicable fees and charges of HEnEx are published by HEnEx on its website and include, but are not limited to: [...]

3.12.3 Annual Subscription

1. *The Annual Subscription is paid by the Participants separately for the participation in the Day-Ahead Market, in the Intra-Day Auctions of the Intra-Day Market and in the Continuous Intra-Day Trading upon HEnEx's recommendation.*
2. *Participant's Annual Subscription fee is a precondition for Participant's activation in the Markets. **Participants are required to pay the Annual Subscription fee for each subsequent year of the year of their activation, five (5) Working Days prior to the start of the reference year.***
3. *No Annual Subscription amounts will be reimbursed by HEnEx to Participants, if their participation expires during the year.[...]"*

Whereas, by the No. 1124/2019 decision (rel. 5), RAE assigned the public limited company operating under the name "HELLENIC ENERGY EXCHANGE S.A." and distinctive title "HEnEx S.A." as Nominated Electricity Market Operator (NEMO) for five (5) years, in application of the provisions of par. 2 of article 8 of L. 4425/2016.

Whereas, by the No. 36/2020 RAE decision (rel. 6) 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 Market, has been approved in accordance with par. 1 of article 9 of L. 4425/2016 and par. 1 of article 117C of L. 4001/2011, as in force.

Whereas, by the No. 949 and 950/2020 Decisions of RAE the Methodology for Calculating Fees and Charges for the operation of the Day-Ahead Market and the Intra-Day Market was specified, as well as the Administrative fees and Charges for the Day-Ahead and the Intra-Day Market for the years 2020-2022 respectively. In particular, subject to article 9 of the Methodology for Calculating Fees and Charges for the operation of the Day-Ahead Market and the Intra-Day Market:

"Article 9. Scalable Fees and Charges Mechanism (SFCM)

1. *SFCM is applied to the basic pricing policy, as it emerged from the procedure of the above articles, to reduce the impact of economies of scale from the application of horizontal, annual or lump sum administrative fees and charges and affects the Administrative Fee for the Initial Registration of Participant and the Annual Subscription.*
2. *SFCM does not change the expected revenue of HEnEx from the Annual Subscriptions, except for small deviations due to rounding.*
3. ***SFCM is based on the distinction of Participants in two categories, A and B, based on the total volume of transactions in the previous calendar year from the year of application of the categorization.** The total trading volume includes all quantities of energy sold or purchased in the Day-Ahead Market and the Intra-Day Market. The limits of classes are specified as such:*
 - *Class A: Up to 0.1 TWh annually.*
 - *Class B: Above 0.1 TWh annually.*
4. *New Participants for whom there is no data for the previous calendar year are considered in Class A.*

5. *The Annual Subscription, otherwise AS, resulting from the basic pricing policy, is further analyzed with the application of SFCM at two levels of Annual Subscription, $E\Sigma_A$ and $E\Sigma_B$ for the above Categories of Participants. The AS_B is considered equal to AS. AS_A results by applying a 90% reduction on AS_B .*
6. *HEnEx calculates the loss of revenue from Annual Subscriptions due to the above reductions based on transaction data in the Hellenic Day-Ahead and Intra-Day Market during the previous calendar year of the implementation of the SFCM and the above calculation for the number of Participants of the Regulatory Period. The first application of the SFCM takes into account the trading data of the DAS.*
7. *The loss of income from Annual Subscriptions is fully compensated, on the verge of rounding the 3rd decimal place, by increasing the Trading Fee on the executed trading volume.*
8. *The Administrative Fee for the Initial Registration of Participant, otherwise RF, resulting from the basic pricing policy, is further analyzed with the application of SFCM at two levels, RF_A and RF_B for the above Categories of Participants. RF_B is considered equal to RF. RF_A results by applying a 66.6% reduction on RF_B .*
9. *New Participants who, in the absence of trading data for the previous calendar year, were included in Class A and paid the reduced Initial Membership Fee for a Participant TE_A , provided in the following full calendar year they will come under another Class, they pay the corresponding difference of the Initial Membership Fee for a Participant. No part or difference of the Initial Membership Fee is reimbursed.”*

Furthermore, in accordance with paragraph 4 of Article 4 of Decision No. 950/2020 of RAE (Administrative fees and Charges for the Day-Ahead and the Intra-Day Market for the years 2020-2022):

*“4. For each subsequent year of the year of activation of the Participant in the respective Market, **the Annual Subscription** is paid in its entirety, fully in cash, **five (5) business days prior to the start of every report year**”.*

Whereas, given that i) the distinction of Participants in two categories, A and B, is based on the total volume of transactions in the previous calendar year from the year of application of the categorization and ii) the calculation took place within 2020 in order to make possible the payment of the Annual Subscription up to five (5) working days before the start of 2021, when applying the above provisions for the calculation thereof (of the Annual Subscription) for the year 2021, it was observed that the categorization of the Participants was done on the basis of the 2019 data, which in some cases of Participants deviated significantly from those of the 2020 activity. However, according to the corresponding decision on EnExClear fees and charges (rel. 9), the annual subscription is paid ten (10) working days after the beginning of each reference year, therefore the calculations for 2021 took into account the trading volume of 2020.

Whereas, as it was considered reasonable for the calculation of the fees to take into account the most recent data, RAE by its letter dated as of 23.02.2021 (rel. 11), invited HEnEx S.A. to submit a proposal to amend the relevant regulatory framework, so that when calculating the Annual Subscription, data should be taken into account as close as possible to the reference year, either by postponing the calculation and invoicing procedures after the end of the year

preceding the year relating to the fees, or through the use of available data of the last 12 months for the calculation of fees.

Whereas, by its letter dated as of 11.11.2021 (rel. 12), HEnEx S.A. proposed amending Decisions 949 and 950/2020. RAE raised the relevant proposal of HEnEx S.A. in public consultation (rel. 13) during which no comments were submitted. Additionally, HEnEx S.A. submitted a proposal for the amendment of the Rulebook in line with the proposed amendment of the Decision 950/2020 (rel. 14).

Whereas, RAE accepts the proposal of HEnEx S.A. to postpone the payment date and consequently the calculation of the Annual Subscription, as reasonable, symmetrical and proportionate, but mainly because this change will result in a fairer treatment of the Participants, given that for the categorization of the Participants in application of the Methodology of Calculation of Fees and Charges for the Day-Ahead Market and the Intra-Day Market, the most recent trading volume data will be taken into account.

Whereas, on the final proposal of HEnEx S.A. legislation and clarification changes were made.

Decides:

Within the frame of its duties, subject to articles 6, par. 1 ed. (c), 8 par. 2 and 5, 10 par. 8 and 18 of L. 4425/2016 (GG A' 185), as applying.

1. **The modification of paragraph 2 of the subsection “3.12.3 Annual Subscription” of the Regulation** of the company “Hellenic Energy Exchange S.A.” on the operation of the Day-Ahead Market and the Intra-Day Market, as follows:

“2. Participant’s Annual Subscription fee is a precondition for Participant’s activation in the Markets. Participants are required to pay the Annual Subscription fee for each subsequent year of the year of their activation ten (10) Working Days after the beginning of the reference year”.

2. **The modification of paragraph 3 of article 9 of No. 949/2020 decision of RAE “Methodology for Calculating Fees and Charges for the operation of the Day-Ahead Market and the Intra-Day Market”** as follows:

“3. SFCM is based on the distinction of Participants in two categories, A and B, based on the total volume of transactions in the previous calendar year from the year (y-1) of application of the categorization (y). The total trading volume includes all quantities of energy sold or purchased in the Day-Ahead Market and the Intra-Day Market. Calculations for the total volume of transactions take place within the first five (5) working days of the year y and relate to the distinction of the Participants in the two categories (A and B) for this year. The limits of classes are specified as such:

- *Class A: Up to 0.1 TWh annually.*
- *Class B: Above 0.1 TWh annually.”*

3. **The modification of par. 4 of Article 4 of the No. 950/2020 decision of RAE “Fees and Charges for the operation of the Day-Ahead Market and the Intra-Day Market for the years 2020-2022”** as follows:

“4. For each subsequent year of the year of activation of the Participant in the respective Market, the Annual Subscription is paid in its entirety, fully in cash, ten (10) business days after to the start of every report year.”

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.

**Athens, December the 09th, 2021
The President of RAE**

Dep. Prof. Athanasios Dagoumas