

Pursuant to Article 39, paragraph 1 and Article 51, item 2a) of the Energy Law ("Official Gazette of RS", No. 145/14, 95/98-other law and 40/21), on the 166th session of October 28, 2021, the Council of the Energy Agency of the Republic of Serbia adopted

Rules on Prevention of Abuse in Electricity and Natural Gas Market

1. Subject matter

The Rules closely regulate the conditions for the registration of wholesale electricity and natural gas market players, conditions for publication of inside information, ban on trade in inside information, ban on market manipulation, type, content, format and method of data creation and publication, data protection, professional secret, operational responsibility and obligations of persons regulating transactions professionally in line with the obligations of the Republic of Serbia assumed by ratified international treaties and the law regulating the energy field.

2. Terms

Some terms used in the Rules imply the following meaning:

- 1) 'wholesale market' means a market on which wholesale products defined by the Rules are traded;
- 2) 'consumption capacity' means the consumption of a final customer of either electricity or natural gas at full use of that customer's production capacity. It comprises all consumption by that customer as a single economic entity, in so far as consumption takes place on markets with interrelated wholesale prices.

For the purposes of this definition, consumption at individual plants under the control of a single economic entity that have a consumption capacity of less than 300 GWh of electricity or natural gas per year shall not be taken into account in so far as those plants do not exert a joint influence on wholesale energy market prices due to their being located in different relevant geographical markets;

- 3) 'critical infrastructure' means an asset, system or part thereof located on the territory of the Republic of Serbia which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of people, and the disruption or destruction of which would have a significant impact on the realization of these functions.
- 4) 'person' means any natural person, entrepreneur, local or foreign legal person;

- 5) 'market manipulation' means action or behavior defined in item 7.2 of the Rules;
- 6) 'parent undertaking' means an economic entity registered in the Republic of Serbia having a control in the sense of the Law over one or several economic entities;
- 7) 'sensitive critical infrastructure protection related information' means facts about a critical infrastructure, which if disclosed could be used to plan and act with a view to causing disruption or destruction of critical infrastructure;
- 8) 'related undertaking' means a dependent or other economic entity related to another local or foreign legal entity in the sense of the law regulating economic entities;
- 9) 'inside information' means information of a precise nature which has not been made public, which relates, directly or indirectly, to a wholesale product and which, if it were made public, would be likely to significantly affect the prices of those wholesale products.

For the purposes of this definition, 'information' means:

1. information which is published in line with ruling regulations, in particular information published in line with rules regulating electricity market operations, i.e. rules regulating the operations of the electricity transmission system operator, i.e. rules regulating the operations of the natural gas transmission system operator;
2. information relating to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas, including planned or unplanned unavailability of these facilities;
3. information which is required to be published or disclosed in accordance with regulations, contracts, good practice on the wholesale electricity and natural gas market, in so far as this information is likely to have a significant effect on the prices of wholesale products;
4. other information that a market participant would be likely to use as part of the basis of their decision to enter into a transaction relating to, or to issue an order to trade in products on the wholesale electricity and natural gas market.

For the purpose of this definition, information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence, or an event which has occurred or may reasonably be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale products;

For the purpose of this definition, information has a crucial impact if it would have been taken into account as a segment of the basis for decision-making process on issuing order for trade or on realization of a transaction in the wholesale market;

- 10) "attempt to manipulate the market" means an action or behavior defined in item 7.4 of these Rules;
- 11) "wholesale energy products" – means the following contracts and derivatives (derived financial instruments related to them) which are traded, i.e.:
 1. contracts for the supply of electricity or natural gas regardless whether the electricity or natural gas delivery point is in the Republic of Serbia or in another Contracting Party;
 2. contracts on access to the system with the purpose of electricity and natural gas transmission including contracts concluded with the purpose of electricity transmission, i.e. natural gas transmission between the Republic of Serbia and one or several Contracting Parties;
 3. contracts on electricity or natural gas supply and distribution for the final customer with an annual electricity or natural gas consumption capacity of 300 GWh or more;
- 12) "Regulatory Board" – means the competent body defined in line with obligations assumed from ratified international treaties;

- 13) “Contracting Party” – means the signatory of the Treaty establishing the Energy Community which is indicated as such in the Law on Ratification of the Treaty establishing the Energy Community between the European Community and the Republic of Albania, Republic of Bulgaria, Bosnia and Herzegovina, Republic of Croatia, Former Yugoslav Republic of Macedonia, Republic of Montenegro, Romania, Republic of Serbia, and Interim United Nations Mission in Kosovo in line with Resolution 1244 of the United Nations Security Council (“Official Gazette of RS”, No. 62/06);
- 14) “market participant” means any electricity and natural gas market participant including the electricity and natural gas transmission and distribution operator who enters or plans to enter into transactions, including the placing of orders to trade in wholesale electricity or natural gas market.

3. Rules objective and scope

- 3.1. The objective of these Rules is to provide transparent functioning of wholesale electricity and natural gas market via:
 - 1) Registration of market participants which enter into transactions by products in wholesale electricity and natural gas market in the Republic of Serbia;
 - 2) Commitment of persons to due, effective and comprehensive publication of inside information;
 - 3) Definition of actions and behavior which represent abuse in the electricity and natural gas market which are punishable in line with the Energy Law (hereafter: Law), such as market manipulation, attempts of market manipulation and trade in insider information;
 - 4) Definition of prohibition of market abuse from subitem 3);
 - 5) Observing functioning of wholesale market in line with the Law and obligations of the Republic of Serbia assumed in line with ratified international treaties.
- 3.2. These Rules relate to wholesale market products.
- 3.3. In line with obligations of the Republic of Serbia assumed in line with ratified international treaties, these Rules are harmonized with the Energy Community Ministerial Council Decision No. D/2018/10/MC–EnC of November 29, 2018 by which the Regulation No. 1227/2011 of the European Parliament and Council on wholesale energy market integrity and transparency in the field of electricity and natural gas of October 15, 2011 was adjusted for Energy Community Contracting Parties.
- 3.4. The implementation of these Rules is without prejudice to the implementation of regulations in fields of protection of competition and financial markets monitoring.

4. Conditions for wholesale market participants’ registration

- 4.1. Market participants who plan to enter into transaction in wholesale electricity and natural gas market in the Republic of Serbia via order to trade are registered at the Energy Agency of the Republic of Serbia (hereafter: Agency) in line with these Rules prior to entering transactions with wholesale market products.

The registration of market participants is without prejudice to obligations prescribed for market participants by the Law and rules regulating market operation and electricity, i.e. natural gas system operation.

- 4.2. The Agency registers market participants referred to in item 4.1 within 30 days from the date when a valid registration application was filed.

Registration application is submitted to the Agency in the electronic form by rule while it can be also submitted in the written form.

Registration application is submitted on the Template REMIT R-1 which includes business data on the applicant (business name, title, headquarters, company number, Tax Identification Number, etc.), data on parent company and associated company, data on authorised person and contact persons and other data.

Template REMIT R-1 is attached to these Rules and represents its constituent part and it is downloadable on the Agency website (www.aers.rs).

- 4.3. The obligation to register prior to entering into transaction in the wholesale market is upon:

- 1) electricity producer with facilities with total allowed capacity of 10MW or more and natural gas producer;
- 2) electricity supplier, natural gas supplier, wholesale electricity supplier, natural gas wholesale supplier, guaranteed and public natural gas supplier;
- 3) electricity transmission system operator, natural gas transmission system operator, electricity market operator, organized electricity market operator, natural gas market operator, electricity distribution system operator, natural gas distribution system operator, natural gas storage operator and regasification terminal operator;
- 4) final electricity customers and final natural gas customers with annual electricity or natural gas consumption capacity with full production capacity utility rate amounting to 300 GWh and more;
- 5) other market participants intending to enter into transactions in wholesale market.

- 4.4. When the registration application is accepted, the Agency registers the applicant into the Registry of Wholesale Electricity and Natural Gas Market (hereafter: Registry) and allocates a single identification reference to the applicant which includes sufficient information for their identification on the wholesale market.

The registration application will be considered invalid if the application is not complete, if it includes incorrect data or if it is not filed by an authorised person and the applicant fails to remove all defects within an additional deadline upon the Agency invitation.

- 4.5. A wholesale market participant is informed on complete registration upon application via insight into the Registry which is available on the website (www.aers.rs) where the Agency publishes the date of registration and other data from the registration application.

- 4.6. The data referred to in item 4.5 within the Registry are indicated in Template REMIT R-2 which is attached to these Rules and represents its integral part.

- 4.8. Registered wholesale market participants use a single identification reference referred to in item 4.4 paragraph 1 when entering into transactions with wholesale market products.

- 4.9. Registered wholesale market participant informs the Agency on any change of registration data at the latest 8 days upon being informed on the given change.

The change of data is filed via Template REMIT R-1.

- 4.10. The Agency forwards the registration data from the Registry to the Regulation Board in order to establish and keep Central Registry of Wholesale Electricity and Natural Gas Market Participants of all Energy Community Contracting Parties in line with obligations assumed via ratified international treaties.

5. Prohibition of insider information trading

5.1. Insider information trading is prohibited.

Insider information trading represents market abuse punishable in line with the Law.

5.2. The prohibition referred to in item 5.1 means prohibition imposed on any person having an insider information with reference to wholesale market product to perform the following:

- 1) while acquiring or disposing of or trying to acquire or dispose of, use the information which relates to that wholesale market product for their own account or for the account of a third party, either directly or indirectly;
- 2) disclose that information to any other person unless such disclosure is made in the normal course of the exercise of their employment, profession or duties;
- 3) recommend or induce another person, on the basis of inside information, to acquire or dispose of wholesale energy products to which that information relates.

If the person referred to in paragraph 1 is an undertaking with inside information, the prohibition of inside information trading also relates to all natural persons within the business entity who participate in the decision-making process on whether the transaction will be performed for the account of that undertaking.

5.4. Prohibitions referred to in item 5.1 apply to the following persons who possess inside information in relation to a wholesale energy product:

- 1) members of assembly, management boards, executive boards and other boards as well as heads of smaller organization units within the entity;
- 2) persons with holdings in the capital of an undertaking;
- 3) persons with access to the information through the exercise of their employment, profession or duties;
- 4) persons who have acquired such information through criminal activity;
- 5) persons who know, or ought to know, that it is inside information.

5.5. Provisions from item 5.2 paragraph 1, item 1) and 3) shall not apply to transmission system operators when purchasing electricity or natural gas in order to ensure the safe and reliable operation of the system, provision of ancillary and system services in line with the law regulating the energy field.

5.6. Provisions of this item of the Rules do not apply to:

- 1) transactions conducted in the discharge of an obligation that has become due to acquire or dispose of wholesale energy products where that obligation results from an agreement concluded, or an order to trade placed, before the person concerned came into possession of inside information;
- 2) transactions entered into by electricity and natural gas producers, operators of natural gas storage facilities or operators of natural gas regasification terminals the sole purpose of which is to cover the immediate physical loss resulting from unplanned outages, where not to do so would result in the market participant not being able to meet existing contractual obligations where such action is undertaken in agreement with the transmission system operator(s) concerned in order to ensure safe and secure operation of the system. The relevant information relating to the transactions shall

be reported to the Agency without prejudice to the obligation on publication of inside information referred to in item 6 hereof.

These pieces of information are reported to the Agency on Template REMIT R-6 attached hereof and representing its integral part.

- 3) market participants acting under national emergency rules, where national authorities have intervened in order to secure the supply of electricity or natural gas and market mechanisms have been suspended. In this case, in a Contracting Party or parts thereof. In this case, the authority competent for emergency planning shall ensure publication in accordance with Item 6.10 hereof.

5.7. When information is disseminated for the purposes of journalism or artistic expression such dissemination of information shall be assessed taking into account the rules governing the freedom of the press and freedom of expression in other media, unless:

- 1) those persons derive, directly or indirectly, profits from the dissemination of the information in question; or
- 2) the disclosure or dissemination is made with the intention of misleading the market as to the supply of, demand for, or price of wholesale energy products.

6. Conditions for publication of inside information. Manner, content and deadlines for data design and publication

6.1. Market participant is obliged to publish available inside information related to the undertaking or facility owned or under control of the market participant, of their parent or associated company or of whose operational work is accountable either fully or partially that market participant, i.e. the undertaking on their own website and/or other centralised website in due time and fully.

The publication of inside information referred to in paragraph 1 implies in particular the publication of information related to the capacity and use of facilities for electricity and natural gas production, storage and consumption, electricity transmission system, natural gas transmission system, i.e. capacity and use of natural gas storage, natural gas regasification terminal, including data on planned or unplanned unavailability of these energy systems, i.e. facilities.

6.2. In special cases, market participant may delay the publication of inside information under their own responsibility if their legitimate interest may be endangered by their publication if the public is not misled by this act, if they can provide confidentiality of the information and if decisions on trading wholesale market products are not made based on the information.

If a market participant delays the publication of inside information in line with paragraph 1 hereof, they are obliged to submit the information and the grounds for the delay of their publication to the Agency without any delay.

6.3. The delay of publication of inside information referred to in item 6.2 is reported to the Agency by the market participant within Template REMIT R-3 which is by rule submitted in the electronic form.

Template REMIT R-3 is attached to hereof and represents its integral part and it is available in the electronic form on the Agency website (www.aers.rs).

- 6.4. If a market participant, their employee or another person hired by them discloses inside information related to a certain wholesale market product within the course of their regular operation, working tasks or professional engagement, the market participant, i.e. their employee or a person hired by them acting on behalf of the market participant and for their account is obliged to provide the publication of full information at the same time.
- 6.5. If inside information is disclosed unintentionally, market participant is obliged to publish that information fully and without delay immediately after it is disclosed unintentionally.
- The obligation referred to in paragraph 1 is not imposed on the person receiving inside information if this person is appointed as the person who protects the confidentiality of this piece of information in line with regulations, internal act or other act or contract.
- 6.6. Inside information, including those in the collective form, are considered to be published in line with these Rules if their publication is performed fully, in due time and effectively.
- The publication is dully published and effective if inside information is published in its full form and without delay on the website, i.e. at the same time the inside information was acknowledged in terms of items 6.4 and 6.5 and if the publication was performed prior to the transaction the information relates to.
- 6.7. The compliance with the obligation to publish inside information referred to in item 6.1 does not prejudice the obligation of market participants to publish prescribed information within deadlines and in a manner defined by the Law and other regulations adopted based on this law.
- 6.8. The system operator who is exempted from the obligation to publish certain data in line with the Law is not obliged to publish as referred to in item 6.1 in case of these data.
- 6.9. Market participants do not publish information related to key infrastructure and information on the assessment of needs for the improvement of their protection if an obligation to protect the confidentiality of those pieces of information is prescribed.
- 6.10. The report on the exercise of exemption referred to in item 5.5 is submitted to the Agency within the Template REMIT R-4 which is attached hereof and represents their integral part and downloadable in the electronic form on the Agency website (www.aers.rs).

7. Prohibition of wholesale market manipulation

- 7.1. Wholesale market manipulation is prohibited as well as the attempts of wholesale market manipulation.

Wholesale market manipulation as well as the attempts of wholesale market manipulation represent market abuse which is sanctioned in line with the Law.

- 7.2. Wholesale market manipulation as referred to in item 7.1 is any of the following:

- 1) any transaction or issuing any trading order by electricity and natural gas wholesale market products which:
 1. gives or probably gives false or misleading signals in terms of supply, demand or prices of wholesale market products or
 2. provides or tries to provide via one person or by cooperation between several persons an artificial level of price of one or several wholesale market products unless the person who performed the transaction or has given order for trading proves that there are justified reasons for that and that the transaction or trading order was given in line with accepted practice on the wholesale market or

3. uses or tries to use fictional means or any other form of fraud or deceit which gives or probably gives false or misleading signals in terms of supply, demand or price of any or wholesale market products,

or

- 2) spread of information via media, internet or in any other manner which gives or probably gives false or misleading signals in terms of supply, demand or prices of wholesale market products including spread of rumours and false or misleading news if the person spreading them knew or was supposed to know that the information were false or misleading.

7.3. If the information referred to in item 7.2, subitem 2) are disseminated for the purposes of journalism or artistic expression such dissemination of information shall be assessed taking into account the rules governing the freedom of the press and freedom of expression in other media, unless:

- 1) those persons derive, directly or indirectly, profits from the dissemination of the information in question; or
- 2) the disclosure or dissemination is made with the intention of misleading the market as to the supply of, demand for, or price of wholesale energy products.

7.4. An attempt of market manipulation referred to in item 7.1 is any of the following:

- 1) any transaction or issuing any trading order or taking any other activity related to a certain wholesale market product with an intention to:
 - a) give false or misleading signals in terms of supply, demand or price of electricity wholesale products;
 - b) provide an artificial level of price of either one or several wholesale market products unless the person who performed the transaction or issued trading order proves that there are justified reasons for this and that the transaction was performed or that the trading order was issued in line with accepted market practice in the electricity or natural gas market or
 - c) use of fictional means or any other form of fraud or deceit which gives or probably gives false or misleading signals in terms of supply, demand or price of wholesale market products

or

- 2) spread of information via media, internet or in any other manner with an intention to give false or misleading signals in terms of supply, demand or prices of wholesale market products.

7.5. Actions and behavior indicating that it is likely that inside information trade or market manipulation or an attempt of market manipulation occurred are reported to the Agency without delay on the Template REMIT R-5 which is attached hereof and which represents integral part of these Rules and which is available on the Agency website (www.aers.rs).

In particular, the report referred to in paragraph 1 includes the data on the type of market abuse, data on report applicant, description of an event which represents market abuse, persons included in the market abuse.

8. Obligations of persons performing transactions within the course of their profession

- 8.1. Persons operating an organized market or system for transactions pairing (market operators, system operators) and any other person who performs transactions by wholesale market products within the course of their job or working tasks are obliged to inform the Agency without any delay when there is a grounded suspicion that a certain transaction may represent an example of market abuse as defined hereof.
- 8.2. Persons referred to in paragraph 1 are obliged to establish effective mechanisms and measures for the recognition and prevention of actions and behavior representing market abuse and to inform the Agency and other competent bodies on cases which cause grounded suspicion that there was market abuse.

9. Wholesale market observation

- 9.1. The Agency observes the functioning of wholesale market and collects notifications in order to identify transactions based on inside information abuse, wholesale market manipulation or attempts of wholesale market manipulation.
- 9.2. When observing wholesale market, the Agency cooperates with neighbouring regulatory authorities of Contracting Parties and the Regulatory Board in line with obligations of the Republic of Serbia in line with ratified international treaties.
- 9.3. In case of suspicion that acts representing market abuse in terms of these Rules in the wholesale market are being performed or have been performed, the Agency takes measures and initiates procedures with relevant bodies in line with the Law in order to prevent market abuse.

In cases referred to in paragraph 1, the Agency investigates circumstances, data and information exchanged with reference to electricity and natural gas wholesale market functioning, requires direct insight into data and documentation necessary for the performance of their duties and taking necessary measures in order to provide unhindered functioning of electricity and natural gas wholesale market.

- 9.4. In line with the Law, the Agency observes the implementation of these Rules and cooperates with bodies competent for competition and financial market monitoring in order to have an effective, efficient and single approach to the investigation and initiates prescribed procedures aiming at penalizing acts contradictory to the provisions of these Rules.
- 9.5. Within their annual report which is published on their website, the Agency informs on the activities taken within the implementation of these Rules.

The Agency submits an annual report on the implementation of these Rules to the competent body in line with the obligations assumed from ratified international treaties.
- 9.6. The Agency harmonises the templates which are attached to the Rules and which represent their integral part to the obligations of the Republic of Serbia assumed in line with ratified international treaties.

10. Observation of abuse in Contracting Parties markets which have cross-border effect

- 10.1. While performing their duties, the Agency takes into consideration the recommendations of the Regulatory Board, cooperates with Contracting Parties regulatory authorities directly or via the Regulatory Board and, if necessary,

participates in the work of the working groups established by the Regulatory Board in case there is a suspicion that prohibited actions were taken which represent market abuse with cross-border effect to wholesale markets in the Republic of Serbia and one or several Contracting Parties.

- 10.2. When the Agency suspects that actions are taken in the wholesale market of another Contracting Party which affect the wholesale market and the prices in the wholesale market of the Republic of Serbia, the Agency informs the neighbouring regulatory body on this, i.e. the Regulatory Board in order to take measures so as to secure regular functioning of the wholesale market in that Contracting Party.
- 10.3 Upon the request of the Regulatory Board, the Agency will submit requested data and information related to the investigation of the concrete case of market abuse if the investigation was initiated unless another procedure has been initiated against the same persons and for the same actions at the competent body in the Republic of Serbia or if a legally-binding decision has already been adopted within this procedure or if the submission of such data would endanger the sovereignty or defense of the Republic of Serbia.

11. Data protection, keeping professional secret and operational responsibility

- 11.1. In line with the Law and other regulations, the Agency protects the secrecy of commercial and other confidential data submitted to them with the purpose of performance of their duties.
- 11.2. The Agency protects the secrecy and wholeness of information submitted by market participants in line with item 6.3 hereof and secures the confidentiality of information obtained from other competent bodies, competent regulatory authorities of Contracting Parties and Regulatory Board.

The Agency exchanges confidential information with other competent bodies in line with the Law if those pieces of information were not obtained from another Contracting Party or Regulatory Board.

- 11.3. The Agency acts with confidential information obtained, exchanged or forwarded within the course of implementation of these Rules in line with regulations on professional secret protection.
- 11.4. The Agency will publish a segment of a piece of information available to them if its disclosure does not lead to disclosure of commercially sensitive information on any market participant or on individual transaction or any individual market and if it not possible to derive conclusions on them based on such publication.
- 11.5. In order to improve transparency of wholesale electricity market, the Agency may publish or provide access to the information available to them if there is no probability for competition endangerment.

The Agency may disclose information in the form of aggregated data or in the collective form if it will not lead to the disclosure of an individual market participant or trading point.

12. Final provisions

- 12.1. At the latest six months upon the date of adoption of these Rules, the Agency will establish an electronic Registry referred to in item 4.4 hereof.
- 12.2. Market participants who enter into transactions in the wholesale market and those intending to submit registration application as of April 1, 2022.

- 12.3. Until the moment a centralized website page for the publication of inside information referred to in item 6.1 is established, market participants are obliged to publish inside information on their websites in due time and fully.
- 12.4. These Rules enter into force on the eighth day upon their publication in the "Official Gazette of RS" and shall be applicable as of April 1, 2022.

Council of the Energy Agency of the Republic of Serbia

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Belgrade, October 28, 2021.

COUNCIL PRESIDENT

Dejan Popović
(sealed and signed)