

Report of the Group of Observers
Procurement of electricity in Moldova (2020)

I. Background

Given the limited size of the Moldovan electricity market, the annual electricity procurement in Moldova has always suffered from lack of competition. Until Moldova will be interconnected with Romania, the only competition in the wholesale market will be *de facto* limited to imports from Ukraine, from the Moldavskaya GRES (MGRES) power plant situated in Transnistria, and from a few small Moldovan electricity producers (mostly active in the hydro, solar and wind sectors). Under these circumstances, and as a transitional measure on the way to establishing an open and interconnected wholesale electricity market, the Energy Community Secretariat took the initiative to improve the process for the electricity procurement by suppliers and network operators in Moldova.

In 2017 the Secretariat issued Guidelines for the procurement of electricity for the Moldovan electricity market. Each year, the Guidelines were amended by the Secretariat to address the experience and shortcomings from the previous year. However, such amendments were not always fully taken into account by the Ministry of Economy and Infrastructure when adopting Guidelines.

2019 was meant to be the last year when such a procedure was applied and the procurement of electricity in Moldova was monitored by a Group of Observers.

Between September 2019 and January 2020, technical assistance activities to support in development of rules, procedures and framework contracts for electricity procurement took place within the framework of the EU funded programme “EU4Energy” Governance, where a transitional balancing mechanism together with efficient procedures were proposed. However, due to the limited time left for the implementation of the new procedure, ANRE concluded that they could not approve it in time for the organisation of the procurement of electricity for the period 1 April 2020 – 31 March 2021.

Consequently, the 2020 procurement of electricity was conducted in accordance with the 2019 Guidelines. In addition to the 2019 Guidelines, the licensees were encouraged to use already in 2020 some requirements from the new procedures, and to organise tenders for any period shorter than one year.

II. The 2020 electricity procurement procedure

This year's Group of Observers, consisting of representatives of the Secretariat, the Delegation of the European Union to the Republic of Moldova, the EU High Level Adviser for Energy and ANRE was constituted on 6 February 2020.

1. The invitation to express interest in tender

On 7 February 2020, the distribution system operator *S.A. RED Nord* published an invitation to express interest in the tender on their website and in the Official Journal of Moldova. The invitation was also sent to seven potential suppliers. The deadline for receiving the letters of expression of interest was 24 February 2020.

On 10 February 2020, the transmission system operator *S.E. Moldelectrica* published an invitation to express interest in the on their website. The deadline for receiving the letters of expression of interest was 24 February 2020.

On 10 February 2020, the supplier *S.A. Furnizare Energie Nord* published an invitation to express interest in the tender on their website. The deadline for receiving the letters of expression of interest was 17 February 2020.

On 13 February 2020, the distribution system operator *Premier Energy Distribution* and supplier *ICS Premier Energy SRL* published on their website an invitation to express interest in tender. The invitation was also sent to all the suppliers / producers who are licensed in the electricity sector of the Republic of Moldova, as well as suppliers from Ukraine (*DTEK* and *Donbass Energo*). The deadline for receiving the letters of expression of interest was set for 24 February 2020.

2. The identification of pre-qualified suppliers

a. S.A. RED Nord

On 26 February, *S.A. RED Nord* informed the Group of Observers that they had received letters of interest from *Energocom* and *MGRES*. Upon request, the letters of interest and the supporting documentation were later submitted to the Group of Observers.

Both companies were included on the list of pre-qualified suppliers upon examination of the letters of interest, and a request for technical and financial offers was sent to them, together with the tender documentation. *Energocom* did not state the source of electricity; however, its commitment to do so within the deadline for submitting the final offers was deemed satisfactory at this stage by *S.A. RED Nord*.

The deadline for submitting the offers was set for 18 March 2020.

b. S.A. Furnizare Energie Nord

On 13 March 2020, S.A. *Furnizare Energie Nord* informed the Group of Observers that they had received letters of interest from *Energocom*, *DTEK* and *MGRES*. The letters of interest and the supporting documentation were also submitted to the Group of Observers.

The Group of Observers was also informed that all three companies were included on the list of pre-qualified suppliers upon examination of the letters of interest, and that a request for technical and financial offers was sent to them, together with the tender documentation.

The deadline for submitting the offers was set for 18 March 2020.

c. Premier Energy Distribution

On 26 February 2020, *Premier Energy Distribution* informed the Group of Observers that had they received letters of interest and supporting documentation from *Energocom*, *DTEK*, *MGRES*, *DE Trading LLC* and *Fly Ren First Solar Park*.

On 28 February 2020, the company informed the Group of Observers that *Energocom*, *DTEK*, *MGRES* and *DE Trading LLC* complied with the pre-qualification criteria and were invited to submit their technical and financial offers by 18 March 2020. According to *Premier Energy Distribution*, *Fly Ren First Solar Park* failed to submit sufficient information to prove compliance with technical criteria; further on, on 27 February, *Fly Ren Solar Park* withdrew its intent to participate in the tender. *Energocom* did not state the source of electricity; however, its commitment to do so within the deadline for submitting the final offers was deemed satisfactory at this stage by *Premier Energy Distribution*.

The deadline for submitting the offers was set for 18 March 2020.

d. ICS Premier Energy SRL

On 26 February 2020, *ICS Premier Energy SRL* informed the Group of Observers that they had received letters of intent from *MGRES*, *DTEK*, *Energocom*, *DE Trading LLC*, *Fly Ren First Solar Park* and *SA Moldelectromontaj*.

On 2 March 2020, *ICS Premier Energy SRL* informed the Group of Observers that four companies had been selected for the list of pre-qualified suppliers: *MGRES*, *DTEK*, *Energocom* and *DE Trading LLC*. As in the case of *Premier Energy Distribution*, *Fly Ren First Solar Park* allegedly failed to submit sufficient information to prove compliance with technical criteria; furthermore, on 27 February, *Fly Ren Solar Park* withdrew its intent to participate in the tender. *SA Moldelectromontaj* was disqualified for alleged lack of experience in the complexity of the electricity market and lack of clear evidence of the capacity to manage the process of supplying electricity to the beneficiary, and later it withdrew from the procedure. *Energocom* did not state the source of electricity claiming that it was still under negotiation; however, its commitment to disclose the source within the deadline for submitting the final offers was deemed satisfactory at this stage by *ICS Premier Energy SRL*.

The deadline for submitting the offers was set for 18 March 2020.

e. S.E. Moldelectrica

On 25 February 2020, S.E. *Moldelectrica* informed the Group of Observers that they had received letters of interest from *Energocom*, *MGRES* and *Transelectropostach* and shared the respective letters. S.E. *Moldelectrica* also informed the Group of Observers that all three companies were included on the list of pre-qualified suppliers upon examination of the letters of interest, and that a request for technical and financial offers was sent to them, together with the tender documentation.

The deadline for submitting the offers was set for 18 March 2020.

3. Extension of the deadline for submitting the offers

On 17 March 2020 the deadline for submitting the offers was extended by one week by all the companies procuring electricity (until 25 March 2020). This came following requests from several pre-qualified suppliers; the requests were motivated by COVID-19 pandemic and the institution of a state of emergency in the Republic of Moldova.

All the companies procuring electricity organised video conferences for the opening of the offers on 25 March 2020.

4. Suspension of the procurement procedure due to the COVID-19 pandemic

Following a decision by the Emergency Commission in Moldova on 24 March 2020, the electricity procurement process was temporary suspended for three months due to the COVID-19 crisis. As instructed by the Emergency Commission, *Energocom* unilaterally entered into a contract with *MGRES* valid between 1 April 2020 and 30 June 2020 for the entire consumption on the regulated market in Moldova. In a press release published on the same day, *Energocom* stated that *MGRES* is the only electricity generator which can fully cover the electricity demand in Moldova, and that the prices offered to the market participants would see a decrease of approximately 9%.

5. Restart of the procurement procedure

On 15 May 2020, the state of emergency ended in Moldova. On the same day, the Group of Observers addressed the five companies procuring electricity and requested them to provide information on how they intended to conduct the electricity procurement procedure for 1 July 2020 – 31 March 2021.

Over the next two weeks, all companies informed the Group of Observers that they would resume the procurement procedure from the stage where it had been suspended. The information was sent to the Group of Observers on 21 May by *Premier Energy Distribution*, 22 May by *ICS Premier Energy SRL*, 28 May by S.E. *Moldelectrica* and S.A. *Furnizare Energie Nord*, and 29 May by S.A. *RED Nord*.

On 15 May 2020, *Transelectropostach* informed *Moldelectrica* that they were not going to submit an offer, due to lack of stability of the energy market in Ukraine as a result of the covid-19 crisis.

All the remaining pre-qualified tenderers were informed that the procurement procedure had been resumed. In all cases, the deadline for submitting the offers was 22 June 2020.

6. Opening and evaluation of the offers

The opening and evaluation of the offers took place on 22 June 2020. All companies procuring electricity organised video-conferences. Some of the members of the Group of Observers attended in person.

Premier Energy Distribution

The company offered the possibility to send password-protected electronic offers and also requested the pre-qualified suppliers to send the respective offers to a representative of the Energy Community Secretariat. Three offers, from *Energocom*, *DE Trading* and *DTEK* were submitted on time electronically. *MGRES*, instead, sent a letter announcing that it decided to withdraw from the procedure, as it had chosen to continue the commercial relationship with *Energocom*, and that the contract between *Energocom* and *MGRES* will cover all the electricity needed by *Premier Energy Distribution*.

The initial offers were: *DE Trading* – 56 USD/MWh; *DTEK* – 57.5 USD/MWh; *Energocom* – 52 USD/MWh.

Two issues were discussed during the evaluation of the technical offers, as 2020 is the first year such new criteria were introduced. A representative of S.E. *Moldelectrica* was present during the videoconference to explain the reasons behind the introduction of the new criteria.

1. The fact that the pre-qualified suppliers can only tender for 100% of the volume (also including balancing electricity);

Article 68(8) of Law 107/2016 requires the suppliers performing a public service obligation and suppliers of last resort to procure electricity at the lowest price. Unfortunately, the word “price”, in singular in the original Romanian version of the law, leaves room to interpretations. One such interpretation can legitimately be that each of the companies procuring electricity should have one winning price only, and therefore one source for 100% of its demand (including balancing electricity).

The tender documents circulated to pre-qualified suppliers on 3 March 2020 did not include this requirement, and suppliers were permitted to choose the volume they intended to supply. The requirement was introduced only in the documentation circulated to the all the pre-qualified suppliers on 4 June 2020.

2. The request that the pre-qualified suppliers submit a letter of endorsement from the TSO regarding the compliance with “static stability”.

This requirement is based on the need to preserve the static stability of the Moldovan power system, and apparently, in order to do so, several blocks of *MGRES* must be functional at all times. This is also linked with the cross-border capacity that are made available by TSOs on Ukraine-Moldova interconnection as calculated by Ukrenergo. The net transfer capacity made available

seems to be very low compared to technical capabilities of the interconnections, and therefore is not sufficient to cover all the demand in Moldova.

Only *Energocom* submitted such a letter of endorsement from S.E. *Moldelectrica* and it is unclear whether the other participants could have received such a letter as well.

However, all participants to the tender were requested to submit a new offer for the second round of the tender, on the condition that the new offer will cover 100% of the demand which included also the balancing electricity. The improved offers were: *DE Trading* – 56 USD/MWh; *DTEK* – 57.5 USD/MWh; *Energocom* – 48.65 USD/MWh. The winner was *Energocom* with 48.65 USD/MWh.

The same price was obtained in the case of *ICS Premier Energy SRL*.

The TSO letter

Later on 22 June 2020, the Group of Observers received the translation of a letter by S.E. *Moldelectrica* to *ICS Premier Energy SRL*, in which the TSO communicated the following:

1. that imports of 100% of Moldova's demand from Ukraine will affect the static stability of the Ukraine-Moldova-Odessa interface;
2. that there is no agreement between the Moldovan TSO and its Ukrainian counterpart regarding the compensation for unscheduled volumes;
3. that due to the different stages of market development in Ukraine and Moldova, the supply of electricity from Ukraine is problematic, but that this situation will be resolved once the Wholesale electricity market rules enter into force in Moldova.

The letter was sent to *ICS Premier Energy* on 15 June, however due to Covid-19 – related restrictions it reached the management of the company, the Group of Observers and the pre-qualified suppliers only in the morning of 22 June 2020.

S.E. Moldelectrica

The Group of Observers monitored the opening of the offers at *Moldelectrica* via video conference. *MGRES* sent a letter announcing that it decided to withdraw from the procedure, as it had chosen to continue the commercial relationship with *Energocom*, and that the contract between *Energocom* and *MGRES* will cover all the electricity needed by S.E. *Moldelectrica*. *Energocom* remained the only tenderer. The initial offer was 52 USD/MWh. After the finalisation of the procurement process at *Premier Energy Distribution* and *ICS Premier Energy SRL*, *Energocom* offered a price of 48.65 USD/MWh to *Moldelectrica*.

S.A. RED Nord

The opening and evaluation of the offers at *RED Nord* was not attended by the Group of Observers, as it took place roughly at the same time with the ones at *Premier Energy Distribution* and *ICS Premier Energy SRL*. The company, however, offered the possibility to join via video conference. After the procedure was finalised, S.A. *RED Nord* submitted minutes of the meeting to the Group

of Observers. As in the other tenders, *MGRES* submitted a letter withdrawing from the procedure and announcing that it had already entered into a contract with *Energocom* for the entire volumes needed by *S.A. RED Nord*. *Energocom* initially submitted a financial offer for 52 USD/MWh. After negotiations, the final offer of *Energocom* was 48.65 USD/MWh.

S.A. Furnizare Energie Nord

The opening and evaluation of the offers was attended by the Group of Observers via video conference. *MGRES* submitted a letter withdrawing from the procedure and announcing that it had already entered into a contract with *Energocom* for the entire volumes needed by *S.A. Furnizare Energie Nord*. *DTEK* did not present a financial offer. The winner of the procedure was *Energocom*, with an initial offer of 52 USD/MWh, followed by the final offer of 48.65 USD/MWh.

III. Observations by the Group of Observers on the technical criteria introduced in 2020

Two new criteria were used for the first time in the 2020 procurement procedure.

- (i) The first one is based on the interpretation of Article 68(8) from Law 107/2016 (which requires the suppliers performing a public service obligation and suppliers of last resort to procure electricity with the lowest price) as imposing an obligation to have one winning price only, therefore only one source for 100% of the tendered volumes (including balancing electricity). In practical terms, this means that each of the five parallel procurement procedures could have one winner only (for both load and balancing).
- (ii) Secondly, the participants to the tender were requested to provide a letter of support from the TSO regarding the compliance with the “static stability” of the system. From the explanation received from the TSO during the opening of the offers, it seems that in order for the stability of the Moldovan power system to be preserved, there is a need to keep a certain number of blocks of the *MGRES* power plant in function.

This is also linked with the cross-border capacity that are made available by TSOs on the Ukraine-Moldova interconnection as calculated by Ukrenergo. The net transfer capacity made available seems to be very low compared to technical capabilities of the interconnections, and therefore is not sufficient to cover all the demand in Moldova. This means in practice that a certain volume of electricity must be procured from *MGRES* at all times. Due to the delay in implementing market reforms in Moldova, the cross-border capacity made available at the Ukrainian-Moldovan interconnection is not efficiently used.

When applied together, the two criteria prevent any pre-qualified tenderer from Ukraine to gain access to the Moldovan market. There is, on the one hand, an obligation of a bidder to supply 100% of the demand (including balancing electricity), but on the other hand the *MGRES* power plant must still supply a certain volume for network stability reasons. It is therefore only *MGRES* (or a trader contracting with *MGRES*) that can fulfil these conditions. In addition, smaller Moldovan producers, such as renewable or hydro power producers, were excluded from the

procedure, as they were unable to provide the entire volume required by any of the companies purchasing electricity.

The Moldovan TSO raised the fact that signing of balancing contracts and compensation for unscheduled volumes cannot take place between Ukrainian suppliers and Moldovan companies procuring electricity, due to lack of application of balancing responsibility in Moldova.

These issues must be clarified without delay, in order to avoid similar situations during the next procurement procedure. The Group of Observers urges the Moldovan TSO to provide clear data regarding the impact of *MGRES* on the Moldovan and Ukrainian power systems, and requests the Ministry of Economy and Infrastructure to propose amendments to the Electricity Law to replace the controversial provision related to “lowest price” from Law 107/2016 with a more appropriate wording, keeping the lowest acquisition cost within a reasonable level of security of supply and system stability as target.