



Pristina, 01 December 2023
ERO Code: V_1793_2023

The Board of Energy Regulatory Office,

Based on:

- Provisions of Article 9, paragraph 1, sub-paragraph 1.7, Article 15, paragraph 1, point 1.2 and paragraph 7, sub-paragraph 7.2, Article 25, Article 26, paragraph 1, sub-paragraph 1.2 of the Law on Energy Regulator (Law no. 05/L-084 Official Gazette of the Republic of Kosovo/no. 25/ 14 July 2016, Pristina);
- Enacting clause under point II. and III. Od the Decision V_1748_2023, dated on 17.07.2023, issued by the Board of the Energy Regulatory Office, and
- Request of Albanian Power Exchange – ALPEX JSC on fulfilment of the obligations of ALPEX prior to the functionalization as a Nominated Electricity Market Operator (NEMO), dated on 13.09.2023,

in the session held on 01 December 2023, issued the following:

DECISION

- I. Hereby, it is **VERIFIED** the fulfilment of point II. of the enacting clause of the Decision V_1748_2023, dated on 17.07.2023, according to the legal requirements and as such it is considered that the legal criteria in the context of review, amendment and approval of the Economic Development Program 2023 have been fulfilled by the governing bodies of ALPEX.
- II. **REFUSAL** – of the proposal of the Organizational Structure of ALPEX JSC, reviewed and proposed according to Decision no. 9, dated on 23.08.2023, on amendment of the Decision no. 2, dated on 13.07.2023, of the Supervising Council, given that the legal criteria of point III. of the enacting clause of ERO's Board decision are not fulfilled, due to the absence of the acceptable justification, on adding the number of employees by four (4) in ALPEX – Branch in Kosovo.
- III. Therefore, it is **PROPOSED** that the Organizational Structure of ALPEX – Branch in Kosovo shall currently remain with three (3) employees, until the establishment of more favourable conditions and the provision of justifications based on real circumstances.



Reasoning

ERO, on 13 September 2023, received from the Albanian Electricity Exchange (ALPEX JSC) the request, which in the framework of the obligations and commitments undertaken in the capacity of the licensee as an Electricity Market Operator (Albania) , as well as on the basis of the responsibilities undertaken in the capacity of the Nominated Electricity Market Operator (NEMO), has sent the following documents: The letter "Completion of the obligations of ALPEX prior to functionalization as the Nominated Electricity Market Operator (NEMO), and the relevant documentation attached to the letter".

- ERO, following the analysis of the request and the relevant documentation, evaluated that the documents related to the obligations of point II. of the decision V_1748_2023 of ERO Board, have been submitted by ALPEX, respectively: the Economic Program has been completed and amended/supplemented by the governing bodies of ALPEX, and it has been approved by decision no. 11, dated on 23.08.2023, of the Supervisory Council of the company, and subsequently it was approved by decision no. 4, dated on 25.08.2023, of the General Assembly of the Albanian Electricity Exchange JSC.
- Regarding point III. of the decision of ERO, according to which ALPEX is obliged to submit an acceptable justification for the change in the number of staff in relation to the first submitted proposal, the applicant has emphasized that with decision no.14, dated on 02.12.2021 on approval of some changes in decision no. 5, dated on 19.11.2020, for the approval of the Organizational Structure of ALPEX, of the Supervisory Council, the Organizational Structure of ALPEX had twelve (12) employees, of which three (3) for the Branch in Kosovo, whereas by decision no. 2, dated on 13.07.2023 on the approval of the organizational structure of the Power Exchange, of the Supervisory Council of ALPEX JSC, the organizational structure of ALPEX was approved, which is also presented schematically and the number of employees is set at 23.
- According to the Structure, it is proposed that in the ALPEX - Branch in Kosovo, there shall be a change of three (3) additional employees, setting the organizational structure in terms of the Branch in Kosovo to six (6) employees.
- According to the applicant, this change is proposed as a result of the obligations arising from the agreement for the transfer of rights and obligations from KOSTT to ALPEX, Branch in Kosovo, for the organization of the market, ERO Regulation no. 04/2020 on the determination of NEMO, the response received from PPRC on 15.02.2023 where according to them the Branch in Kosovo is considered a public authority in Kosovo, and has the obligation to submit to the legal framework of public procurement. The following positions have been added: 1 (one) employee in the position of expert/specialist of clearing and finance, one employee in the position of specialist for legal issues, and one employee in the position of specialist in monitoring the Kosovo market.



- Whereas in the meeting no. 11, dated on 18.08.2023, of the General Assembly of ALPEX JSC, where the agenda was the approval of the reviewed economic development program of the company (part of which is the organizational structure) as a non-negotiable criteria of the shareholder KOSTT was requested the addition of the function of market operator through a staff member (specialist) who will report to the Director of Market Operations at the headquarters of ALPEX, Albania, while being physically located in the Kosovo Branch.
- According to the applicant, in relation to the non-negotiable criteria of the shareholder KOSTT, the Supervisory Council has reviewed the organizational structure and by decision no. 9, dated on 23.08.2023 on the approval of a change in decision no. 2, dated on 13.07.2023, for approving the organizational structure of ALPEX JSC, approved the structure with twenty-four (24) employees, of which seven (7) employees were designated for ALPEX - Branch in Kosovo.
- ERO, following the analysis and review of the Economic Development Program (where the organizational structure is included as well), has evaluated that point II. of the decision has been fulfilled according to the legal requirements and as such it is considered that the legal criteria have been fulfilled in terms of review, change and approval by the governing bodies of ALPEX.
- ERO evaluates that in relation to point III. of the Decision, that it has not been supplemented with an acceptable justification for the change in the number of staff in relation to the first submitted proposal. Moreover, from three (3) that were in the first proposal, three (3) more have been added, while with the non-negotiable criteria of the shareholder KOSTT JSC., an additional employee has been added, a total of seven (7) employees being proposed for the Branch in Kosovo.
- Therefore, ERO, in the absence of sufficient justification in relation to the role and responsibility of the additional staff in the Kosovo Branch, knowing also the commitment that will be made at this stage, does not accept the proposal as such, and furthermore revisions of the structure with additional staff implies the reflection of personnel costs.

ERO Board, following the analysis and evaluation of the request of Albanian Power Exchange ALPEX JSC on fulfilment of obligation of ALPEX prior to the functionalization as a Nominated Electricity Market Operator (NEMO) and based on legal provisions mentioned in the introductory section of this decision, has decided as in the enacting clause to this decision.

IV. The decision is issued in official languages of the Republic of Kosovo.

V. The decision enters into force on the date of approval by the Board and will be published on the official website of ERO.

Legal advice: The party dissatisfied with this decision may initiate an administrative dispute at the competent court within thirty (30) days from the date of receipt of the decision or the date of its publication on the Regulator's website, whichever occurs last.



ERO Board:

Ymer Fejzullahu, Chairman

Lutfije Dervishi, Member

Gani Buçaj, Member

Arta Qorolli, Member

Adnan Preniqi, Member

This decision is sent to:

- The party,
- ALPEX JSC,
- ALPEX Branch in Kosovo, and
- ERO Archive