



**REPUBLIC OF CROATIA**  
**CROATIAN ENERGY REGULATORY**  
**AGENCY (HERA)**  
**Ulica grada Vukovara 14, 10 000 Zagreb**

Class: 011-01/15-01/12

Ref. No.: 321-01/15-02

Zagreb, 25 September 2015

Pursuant to the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, the Croatian Energy Regulatory Agency hereby announces

## **AN INVITATION**

**to submit applications for the designation  
of a nominated electricity market operator**

## **1. Introduction**

In accordance with Article 4, paragraph 1 of the Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (hereinafter: CACM), each Member State electrically connected to a bidding zone in another Member State shall ensure that one or more nominated electricity market operators (hereinafter: NEMO) are designated by four months after the entry into force of this Regulation to perform the single day-ahead and/or intraday coupling.

For this purpose, the Croatian Energy Regulatory Agency (hereinafter: HERA) invites applications for the designation of a NEMO (hereinafter: the Application).

In the process of evaluating the applications, HERA will assess whether the applicant (hereinafter: the Applicant) meets the criteria of Article 6 of the CACM referred to in this invitation.

## **2. Documentation required:**

The Applicant shall submit to HERA the Application and attachments which must be originals or certified copies.

Also, the Applicant shall submit the Application and attachments in electronic form as well.

HERA may request from the Applicant additional explanations and documentation in the event that the submitted documentation raises doubts in terms of the evaluation of the Application according to the criteria set out in the CACM.

## **3. Language**

All documents must be in the English or Croatian language.

For specific documentation, HERA may require that the Applicant submit a Croatian translation done by a certified court translator.

For documents that are not in the Croatian or English language, together with the original or a certified copy, the Applicant shall submit a certified translation into the Croatian language, which has been done by a certified court translator.

## **4. Submission of Applications**

The Application shall be submitted using the template which makes up Annex 1 of this Invitation, and is published on the HERA website.

The Application, together with attachments, shall be submitted in paper form (according to items 6 to 16 of this Invitation) directly to HERA or sent by mail or by an authorized provider of postal services to the following address:

CROATIAN ENERGY REGULATORY AGENCY (HERA)  
Ulica grada Vukovara 14

10000 Zagreb  
Croatia

with the indication "INVITATION FOR THE DESIGNATION OF THE NOMINATED ELECTRICITY MARKET OPERATOR".

The Application, together with attachments, shall also be submitted in electronic form on an appropriate medium (CD / DVD, USB memory) to the above address or sent via email to [hera@hera.hr](mailto:hera@hera.hr) and titled "INVITATION FOR THE DESIGNATION OF THE NOMINATED ELECTRICITY MARKET OPERATOR".

## **5. The deadline for submitting applications**

The Application, regardless of the method of delivery, must be received by HERA, at the above address, no later than 26 October 2015.

If the Application is sent by registered mail or by a licensed postal service provider, the date of delivery to the post office or to the authorized provider of postal services shall be deemed as the date of submission to HERA.

The deadline for submitting the Application refers to the submission of the Application with attachments both in paper and electronic form.

## **6. The evidence for the identification and basic assessment of the Applicant**

The Applicant shall submit with the Application:

- 1) an excerpt from the court or other appropriate registry of its country of residence which may not be older than 60 days from the date of receipt of the Application by HERA;
- 2) a notary-certified statement of no criminal records issued by the person responsible for the Applicant himself and for the legal entity he/she is authorized to represent, from which it is clear that no final convictions against the person giving the statement were issued for one or more of the following criminal offenses: association to commit crimes, accepting a bribe in business operations, offering a bribe in business operations, abuse of position and power, abuse of public office, illegal mediation, accepting a bribe, offering a bribe, fraud, computer fraud, fraud in business operations or concealing illegally obtained money;
- 3) a proof of payment of all outstanding tax liabilities in the Republic of Croatia and/or in other member states of the EU;
- 4) a document issued by a bank or other financial institution proving the solvency of the Applicant;
- 5) the balance sheet, profit and loss account, or other appropriate financial report for the last fiscal year.

## 7. Evidence of the resources necessary to perform the duties and tasks of the NEMO

Article 6, paragraph 1, item (a) of the CACM provides that an applicant can be designated as NEMO if it meets the following criteria:

*“.. [The Applicant] has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead and/or intraday coupling, including the resources necessary to fulfil the NEMO functions, financial resources, the necessary information technology, technical infrastructure and operational procedures or it shall provide proof that it is able to make these resources available within a reasonable preparatory period before taking up its tasks in accordance with Article 7”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (a) of the CACM, the Applicant shall submit the following:

1) A **Business Plan** which gives an overview of business activities of the NEMO for the period of at least 4 years, and which must include the following:

– Description of business activities

The Applicant shall describe how it plans to carry out the duties and tasks of the NEMO.

The Applicant shall describe in detail all its business activities and describe how they affect the performance of duties and tasks of the NEMO.

– Description of cooperation with other NEMOs and transmission system operators (hereinafter: TSO)

– Human Resources

The Applicant shall describe how the responsibilities of the NEMO will be structured and specify the number of workers employed at jobs related to the performance of duties and tasks of the NEMO, specifying jobs and providing job description.

If the activities related to the implementation of the duties and tasks of the NEMO are performed or will be performed by other persons besides the Applicant's employees, the Applicant shall explain that and submit relevant agreements concluded with the Applicant.

Along with the description, the Applicant shall submit the organizational chart.

– External services

If the Applicant shares office space and technical equipment with other persons, or it is a lessee of business premises, the Applicant shall explain such use of premises and equipment, or the lease, stating the (legal) foundation for the same.

The Applicant shall indicate whether it has or intends to enter into agreements with other parties that would have a significant impact on the activities related to the performance of duties and tasks of the NEMO.

– Description of the technical system and operational reliability of the system

The Applicant shall describe the main parts of the information and communication system (hereinafter: the ICT system) and the resources upon

which the operation of the system depends, including, inter alia, the ownership and/or access via the operational and service contracts. The Applicant shall also specify the systems and procedures used for communication with the Croatian Transmission System Operator Ltd. (hereinafter: HOPS). In addition, the Applicant shall provide an overview of the safety of the ICT system and a description of the data backup system, as well as a description of the procedures for monitoring the operation of the ICT system, including its availability.

- 2) A **Financial Plan** which covers the current fiscal year and the next four-year period. The Financial Plan shall present individual activities related to the operation of the NEMO, the functions of the market coupling operator (hereinafter: MCO) and other business activities, including:

- the balance sheet and profit and loss account estimates and the cash flow statement;
- estimates, i.e. planned changes regarding the equity level.

The Plan should include clarifications for the assumptions used in the Plan.

The Applicant shall submit all the contracts with other persons that have an impact on its technical, financial and professional capacity, and which are listed in the Business Plan and Financial Plan.

## **8. Evidence that market participants have free access to information related to the tasks of the NEMO**

Article 6, paragraph 1, item (b) of the CACM provides that the Applicant may be designated if it meets the following criterion:

*“.. [The Applicant] shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (b) of the CACM, the Applicant shall submit a separate document that describes how it will, in a transparent and non-discriminatory manner, provide access to information to market participants in accordance with the CACM. In addition to the above specified document, the Applicant shall submit all relevant evidence related thereto (for example, internal regulations, codes of conduct, etc.).

## **9. Evidence that the Applicant will be cost effective**

Article 6, paragraph 1, item (c) of the CACM provides that the Applicant may be designated if it meets the following criterion:

*“.. [The Applicant] shall be cost-efficient with respect to single day-ahead and intraday coupling and shall in its internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (c) of the CACM, the Applicant shall submit a separate document that will include:

- Justification of the Applicant's ability to carry out its activities in a cost-effective manner, with the submission of relevant evidence;
- Description of accounting policies related to the performance of duties and tasks of the NEMO, the MCO and other business activities, including a description of the separation of accounting and reporting regarding the functions of the NEMO and the MCO, supported by an explanation of the accounting categories.

## **10. Evidence of an appropriate degree of the separation of business**

Article 6, paragraph 1, item (d) of the CACM provides that the Applicant may be designated if it meets the following criteria:

*".. [The Applicant] shall have an adequate level of business separation from other market participants"*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (d) of the CACM, the Applicant shall submit a separate document that describes the business separation, containing at least:

- a complete overview of its ownership structure and management rights, as well as an overview of related parties;
- in the case that the related parties are at the same time market participants, an explanation of the manner in which the Applicant has ensured business separation shall be provided;
- a list of responsible persons, persons authorized to represent the Applicant and the highest level executives (members of the management board and/or director of the company, or persons who make up the managing or executive body of the Applicant, members of the supervisory body, the head of the organizational unit responsible for accounting, the head of the organizational unit responsible for the operations of the NEMO, etc.), along with a detailed description of the relations, responsibilities and business connections of each listed person with other market participants;
- an explanation which shows the manner in which the issue of conflict of interest between the Applicant and its owners is regulated, as well as in the case of a conflict of interest between two or more business activities carried out by the Applicant. Together with the explanation, the Applicant shall submit its internal regulations or other relevant internal documents regulating the above issues.

## **11. Evidence in the case of a designated legal monopoly**

Article 6, paragraph 1, item (e) of the CACM provides that an Applicant can be designated if it meets the following criterion:

*"..if designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, [the Applicant] shall not use the fees in Article 5(1) to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected"*

If applicable, the Applicant should enclose all documents proving that the Applicant maintains separate accounts for the activities of day-ahead or intra-day market connectivity which it performs as a legal monopoly in any of the EU member states in order to prevent cross-subsidization.

## **12. Evidence of non-discriminatory behavior**

Article 6, paragraph 1, item (f) of the CACM provides that an Applicant may be designated if it meets the following criterion:

*“.. [The Applicant] shall be able to treat all market participants in a non-discriminatory way”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (f) of the CACM, the Applicant shall submit a separate document describing the following:

- how it will ensure transparent and non-discriminatory behavior with regard to all market participants;
- how the authorized persons of the Applicant will carry out their duties and tasks with integrity, in an ethical manner and in good faith.

The Applicant shall submit the internal regulations, codes of conduct, standard contracts with market participants, and other documentation the requested document refers to.

## **13. Evidence of adequate market monitoring**

Article 6, paragraph 1, item (g) of the CACM provides that an Applicant may be designated if it meets the following criterion:

*“.. [The Applicant] shall have appropriate market surveillance arrangements in place”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (g) of the CACM, the Applicant shall submit a separate document which shows the manner in which the Applicant will identify and report cases of market abuse, for example, the implementation of the obligations laid down in Regulation (EU) no. 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.

The Applicant shall submit internal regulations or similar documents the requested document refers to.

## **14. Evidence of adequate transparency and confidentiality**

Article 6, paragraph 1, item (h) of the CACM provides that an Applicant can be designated if it meets the following criterion:

*“.. [The Applicant] shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (h) of the CACM, the Applicant shall submit a separate document that explains how the Applicant intends to provide transparency and confidentiality of data exchange with market participants and TSOs, and shall



enclose the appropriate evidence (for example, standard contracts with market participants, separate agreements on data exchange, internal regulations, etc.).

### **15. Evidence concerning clearing and settlement services**

Article 6, paragraph 1, item (i) of the CACM provides that an Applicant may be designated if it meets the following criterion:

*“.. [The Applicant] shall be able to provide the necessary clearing and settlement services”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (i) of the CACM, the Applicant shall submit a separate document which shows that it will be able to perform clearing and settlement services, or that it will adequately ensure the provision of clearing and settlement services. The explanation must include:



- Description of the manner of performing clearing and settlement services, where it must clearly state whether and how the provision of such services, in part or in full, will be arranged with other persons;
- Description of how it will ensure, i.e. obtain financial resources and guarantees required for clearing and settlement of the exchange of electricity which is the result of day-ahead or intra-day coupling;
- A list of measures and mechanisms (technical, administrative and contractual) relating to the clearing and settlement of electricity as a result of day-ahead or intra-day coupling.

### **16. Evidence of the required communication systems and procedures for coordination with HOPS**

Article 6, paragraph 1, item (j) of the CACM provides that an Applicant may be designated if it meets the following criterion:

*“.. [The Applicant] shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State”*

As evidence of meeting the criteria set out in Article 6, paragraph 1, item (j) of the CACM, the Applicant shall submit a statement by HOPS which shows that the required ICT systems and procedures between the Applicant and HOPS for the implementation of the duties and tasks of the NEMO have been or will be established.

  
**President of the Board of  
Commissioners**  
  
**Tomislav Jureković, B.Sc.**