Appendix 3

Rules for the Allocation

of the Cross Zonal Intraday Capacity

between the Bidding Zones of

EMS AD Beograd(“EMS”)

and

Makedonski elektroprenosen sistem operator a.d. (“MEPSO”)

for 2018

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**Section 0.**

# Terms and definitions

In *Intraday Capacity Allocation Rules* (including any annexes and forms) the terms defined in this section (where appropriate in plural) shall, for all purposes of *Intraday Capacity Allocation Rules* have the meanings specified in this section (unless the context requires otherwise).

**Allocated Capacity -** *Capacity* allocated in the yearly, monthly and daily allocation procedures.

**Allocated Intraday Capacity -** *Capacity* obtained as a result of allocation process provided by the *Transmission Capacity Allocator* in the intraday allocation procedure as specified in Section 6 of the *Intraday Capacity Allocation Rules*.

**Allocation Platform -** an electronic web-based application with restricted access operated by the *Transmission Capacity Allocator* available at <https://damas.ems.rs>. Intraday allocation provided by the *Transmission Capacity Allocator* is carried out through the *Allocation Platform*.

**Available Intraday Transfer Capacity** (hereinafter referred to as “**Intraday ATC**”) - The part of Net Transfer Capacity (NTC) that remains available for the intraday allocation after daily allocation procedure and after each phase of the intraday allocation procedure.

**Bidding Zone** - means the largest geographical area within which market participants are able to exchange energy without allocation of *Capacity*.

**Capacity** - cross zonal capacity in MW.

**Capacity Agreement Identification** (hereinafter referred to as “**CAI**”) - An identification that uniquely identifies *Capacity Right.*

**Capacity Holder** - The legal entity (*Registered Participant*) which has obtained intraday *Capacity* during intraday allocation process.

**Capacity Right** (hereinafter referred to as “**CR**”) - right (of the *Registered Participant)* to use *Allocated Capacity* for electricity transfers expressed in MW.

**Cross-border Transaction -** The physical exchange of electrical energy between control areas operated by *EMS* and *MEPSO.*

**Curtailment of Allocated Capacities** - The reduction of *Capacity* between *Bidding Zones* of *EMS* and *MEPSO* in situations caused by *Force Majeure* or *Emergency Situations* where *EMS* and *MEPSO* must act in an expeditious manner.

**Cut off time** - 45 minutes prior to the beginning of the period for which the intraday *Programs* are nominated.

**Daily Auction** - Auction performed in accordance with Daily Auction Rules for the Allocation of Cross Zonal Capacities between the Bidding Zones of EMS AD Beograd (“EMS”) and Makedonski elektroprenosen sistem operator a.d.(“ MEPSO”) for 2018.

**EIC-Code** - Energy identification code serving to clear the identification of entities in a cross-border trade (see <https://www.entsoe.eu/fileadmin/user_upload/edi/library/eic/cds/area.htm>)

**Emergency Situation** -conditions and/or events and/or circumstances which in the professional assessment of *EMS* and/or *MEPSO* put under risk the security of supply, provision or transmission of electricity or the technical safety of a given national transmission system or its significant part.

**EMS (EMS AD Beograd)** -company with registered office at Beograd, Kneza Miloša 11, Serbia and incorporated in the Serbian Business Register with the Company Identification No.20054182.

**Energy Community Treaty** -Treaty establishing the Energy Community between the European Community on the one hand and Albania, Bulgaria, Bosnia and Herzegovina, Croatia, FYR Macedonia, Montenegro, Romania, Serbia and UNMIK on the other hand, signed on October 25, 2005.

**ENTSO-E** - European Network of Transmission System Operators for Electricity – association of *TSO*s

**EU Regulation** - Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity concerning common rules for internal market in electricity.

**First come - First served method** - the allocation method whereby the *Requests* of *Registered Participants*, in the limit of *Intraday ATC*, are served exclusively according to the time of their reception and without applying any other criteria.

**Force Majeure** -any unforeseeable or unusual event or situation beyond the reasonable control of a *Registered Participant* and/or the relevant *TSOs*, and not due to a fault of the *Registered Participant* and/or the relevant *TSOs,* which cannot be avoided or overcome with reasonable foresight and diligence, which cannot be solved by measures which are from a technical, financial or economic point of view reasonably possible for the *Registered Participant* and/or the relevant *TSOs*, which has actually happened and is objectively verifiable, and which makes it impossible for the *Registered Participant* and/or the relevant *TSOs* to fulfil, temporarily or permanently, its obligations.

**MEPSO (Makedonski elektroprenosen sistem operator a.d.) -** The Joint Stock Company for electricity transmission and power system control with registered office at Maksim Gorki No.4 1000 Skopje, Republic of Macedonia and incorporated in the Business register with the Company Identification No 5933781

**Intraday Capacity Allocation Rules** - Rules for the Allocation of the Cross Zonal Intraday Capacity between the Bidding Zones of EMS AD Beograd (“EMS”) and Makedonskielektroprenosen sistem operator a.d. (“MEPSO”) for 2018.

**Intraday Capacity Right** (hereinafter referred to as “**ICR**”) - refer to the obligation of the *Registered Participant* to use *Allocated Intraday Capacity*, in its full amount, for electricity transfers expressed in MW.

**Nomination -** the notification to the *TSOs* by a *Registered Participant* of his *Programs* relating to the power expressed in MW which he will use within the capacity limit defined by the *CR*s allocated to him, or equal to the *ICR*s allocated to him.

**Nomination Validator** - a role defined in *ENTSO-E* role model definitions.

**Program** - *Cross-border Transaction* nomination made by a *Registered Participant*, specifying the power in MW for each hour of a day.

**Registered Participant -** A market participant that fulfills prerequisites for participation in the intraday capacity allocation procedure of at least one of the parties (*EMS* or *MEPSO*) according to Article 3.1 of these *Intraday Capacity Allocation Rules*.

**Request -** the request sent by a *Registered Participant* to acquire *Intraday ATC.*

**Transmission Capacity Allocator** - stands for *EMS* (in its function as the *Transmission Capacity Allocator). EMS* will be subject to all rights and responsibilities attributed to the *Transmission Capacity Allocator*.

**TSO -** means a natural or legal person responsible for operating, ensuring the maintenance of, and, if necessary, developing the transmission system in a given area and where applicable its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity.

**TSOs** - Transmission System Operators participating in this common auction procedure, i.e. *EMS* and *MEPSO*

**Working Day** - the calendar days from Monday to Friday, with the exception of Serbian public holidays.

The headings in *Intraday Capacity Allocation Rules* are intended only as a matter of convenience and for reference and shall be given no effect in the construction or interpretation of *Intraday Capacity Allocation Rules*.

Section 1

# Introduction

## Article 1.1.General context

*Intraday Capacity Allocation Rules* set out the terms and conditions agreed between *EMS* and *MEPSO* acting as transmission system operators in their control areas, for the allocation and usage of the *Intraday ATC* in both directions on the Serbian-Macedonian border. Allocation and usage of the *Intraday ATC* is not a commercially motivated activity but one aimed at providing transparent methods of congestion management.

*Intraday Capacity Allocation Rules* govern the allocation and usage of *Intraday ATC* beginning with January 1st, 2018.

The operation of the intraday procedure described in these *Intraday Capacity Allocation Rules* is in accordance with the current rules of transmission system security and does not affect the volume and usage of the capacity already allocated in yearly, monthly and daily auctions.

## Article 1.2. Allocation procedure

The *Intraday ATC* is allocated in the form of *ICR* which *Capacity Holders* are obliged to use in their full amount. The *Intraday ATC* is allocated by the *Transmission Capacity Allocator* according to the *First come - First serve method* in accordance with Section 6.

In the scope of these *Intraday Capacity Allocation Rules EMS* acts as the *Transmission Capacity Allocator* for *Capacity* of both *EMS* and *MEPSO.*

Proceedings related to this *Intraday Capacity Allocation Rules* may be discontinued or interrupted by *EMS* and/or *MEPSO* at any time without prior notice e.g. in case of technical failures.

All relevant information according to Article 2.2 is made available on websites

<http://www.ems.rs> and <http://www.mepso.mk>.

## Article 1.3. General aspects of Intraday Capacity Allocation Rules

*Intraday Capacity Allocation Rules* describe (among other aspects) the requirements that market participants must fulfill in order to be able to access and use the *Intraday ATC*. Article 10.1 contains a limitation of liability. *Intraday Capacity Allocation Rules* may be amended jointly by the *TSOs* along the way in order to improve or clarify provisions and procedures and to fill gaps according to Article 10.5.

General grid access for the use of allocated capacities is not covered by the scope of the *Intraday Capacity Allocation Rules* unless otherwise stipulated in the following provisions. *EMS* and *MEPSO* carry out the transmission services in compliance with the legal requirements of grid access in each control area and applicable rules of *EMS* and *MEPSO.*

Section 2

# General provisions

## Article 2.1. Intraday ATC

The intraday ATC equals the net capacity of that month (monthly Net Transfer Capacity - NTC), modified in case of planned or unplanned disconnections of critical network components (agreed daily NTC), further reduced by confirmed schedules of yearly, monthly and daily capacity and increased by the nominations in the respective counter direction (netting effect) according to the following formula:

IdATCmk-rs = NTCmk-rs – SCH mk-rs+ SCH rs-mk

IdATCrs-mk = NTCrs-mk – SCH rs-mk + SCH mk-rs

where

IdATCmk-rs – Intra day ATC in direction MK-RS

IdATCrs-mk – Intra day ATC in direction RS-MK

NTCmk-rs – Agreed daily NTC in direction MK-RS

NTCrs-mk – Agreed daily NTC in direction RS-MK

SCH mk-rs – Confirmed Long Term and daily schedules in direction MK-RS

SCH rs-mk – Confirmed Long Term and daily schedules in direction RS-MK

## Article 2.2. Publication of relevant information on the EMS website

In particular, the following information will be published on the *EMS* website:

a)*Intraday Capacity Allocation Rules* (valid release) (also published on the *MEPSO* website);

b) Names, facsimile and telephone number(s), e-mail address(es) of contact persons of *EMS*;

c) User’s Guide for *Allocation Platform*;

d) Other relevant information.

## Article 2.3. Basis on which Intraday ATC is offered

*Intraday ATC* is offered in units of 1 MW with a minimum of 1 MW. *Intraday ATCs* are offered as hourly products.

## Article 2.4. Firmness of Allocated Intraday Capacities

*Intraday ATC* is offered on a firm basis except in case of curtailments due to *Emergency Situation* or *Force Majeure* after taking into account all other available measures according to relevant national and EU legislation.

In case of *Curtailment EMS* and *MEPSO* will reduce *Allocated Intraday Capacity* according to Section 9. The *Registered Participant* is not entitled to receive any financial compensation related to *Allocated Intraday Capacity.*

## Article 2.5. Secondary market

Transfer or resale of the *Allocated Intraday Capacity* is not possible.

## Article 2.6. Payments

The *Capacity Holder* does not pay any price for the reservation or use of the *Allocated Intraday Capacity*.

Section 3

# Participation requirements

## Article 3.1. Registration requirements

In order to participate in intraday allocation process and use the *Allocated Intraday Capacity* resulting from that process, the market participant must comply with all requirements set forth in *Intraday Capacity Allocation Rules* and fulfill the following prerequisites:

* **On *EMS* side** – *Registered Participant* who has a valid and effective balance responsibility contract with *EMS*.(hereinafter: Serbian BRP).
* **On *MEPSO* side** – *Registered Participant* who has a valid and effective balance responsibility contract with *MEPSO*.(hereinafter: Macedonian BRP)

List of Serbian BRP and Macedonian BRP eligible for the month M will be published on the *EMS*’ web site ([www.ems.rs](http://www.ems.rs)) and *MEPSO* web site ([www.mepso.mk](http://www.mepso.mk)) at least three (3) *Working Days* before the 1st day of the calendar month for which notification is valid.

The market participant must send to *EMS*, who acts as the *Transmission Capacity Allocator* for both *TSOs*, three signed copies of the Registration Form (Annex 1) which also includes the statement of acceptance of the *Intraday Capacity Allocation Rules.* Market participants are obliged to deliver an Extract from Commercial or Company Register, only in case if they did not provide that document during registration process for *Daily Auctions*.

The three signed copies of the Registration Form have to be delivered to the *Transmission Capacity Allocator* in writing by registered mail, messenger/courier or personally. The Registration Form has to be delivered to the *Transmission Capacity Allocator’s* address or personally to the filing office of the *Transmission Capacity Allocator* (see Annex 2). The Registration Forms delivered by fax or e-mail will be considered as not delivered and *Transmission Capacity Allocator* will inform about it the market participant who submitted the Registration Form.

The *Transmission Capacity Allocator* may verify information provided in the delivered Registration Forms and in their attachments. The *Transmission Capacity Allocator* is entitled to refuse to register a market participant in case of any discrepancy and/or misrepresentation in the Registration Form.

The *Transmission Capacity Allocator* will confirm registration or refusal by sending a note to market participant no later than three (3) *Working Days* following the receipt of the Registration Form by the *Transmission Capacity Allocator*.

The confirmation or refusal note will be sent by e-mail to the e-mail address filled in the Registration Form. If the *Transmission Capacity Allocator* refuses to register a market participant, the reason(s) will be stated in the refusal note.

All requested documents have to be provided by the market participant at least five (5) *Working Days* before the intended start of the participation to intraday allocation procedures. If this deadline is missed, the relevant *TSO* cannot guarantee the participation of the market participant.

The registered market participant that fulfills all requirements stated in this Article is regarded as the *Registered Participant*.

## Article 3.2. Notification of Changes

The requirements for participation set forth in *Intraday Capacity Allocation Rules* must be fulfilled at all times when participating to intraday allocation proceedings. As a consequence, the *Registered Participant* shall promptly inform both *TSOs* in writing of any changes effecting fulfillment of the requirements concerned.

Changes concerning the *Registered Participant’s* contact data and statements set forth in the forms submitted by the *Registered Participant* shall be notified to *TSOs* in writing within seven (7) days.

Section 4

# Exclusion of the Registered Participant

Should the *Registered Participant* in any manner:

a) infringe *Intraday Capacity Allocation Rules* (especially but not limited to breach of Section7);

b) behave in a way which adversely affects or threatens competition in the intraday capacity allocation proceedings;

c) declare bankruptcy, become insolvent or be granted suspension of payment;

d) become the object of a petition for bankruptcy, insolvency or suspension of payment,

the *Registered Participant* will be excluded from intraday allocation procedures by *EMS*, respectively *MEPSO*, after the approval of the other *TSO* without delay. The barring shall promptly be notified to the *Registered Participant* by both facsimile transmission and registered mail.

Section 5

# Allocation Platform

## Article 5.1 General Conditions

The *Transmission Capacity Allocator* will organize and execute the common allocation of the *Intraday АTC* electronically in the user environment of the *Allocation Platform*.

The *Transmission Capacity Allocator* will provide the *Registered Participants* with documentation of the *Allocation Platform (*on web site <http://www.ems.rs>)*,* and operational instructions, related to using of the *Allocation Platform* and users support.

The *Transmission Capacity Allocator* reserves the right to change operationally a business regime (to move to alternative procedure) or suspend process in reasonable cases, especially when the following technical problems arise: a general collapse of the Internet, a collapse of all Internet connections of the *Allocation Platform*, or a collapse of *Allocation Platform* (servers, database or *Allocation Platform* application error).

All *Registered Participants* of the *Allocation Platform* will be informed, without undue delay, of the actual operational situation.

A data receipt will be valid only if the data had been accepted by the *Allocation Platform* by the deadline.

In order to participate in the allocation procedure, *Request* shall be submitted to the *Allocation Platform. Request* which do not fulfill any of the requirements stated in the *Intraday Capacity Allocation Rules* shall be rejected. *Registered Participant* shall receive a status message of *Request* in *Allocation Platform*. *Allocated Intraday Capacity* cannot be modified or cancelled.

## Article 5.2 Access to the Allocation Platform

Each *Registered Participant* is required to use an electronic certificate (cryptographic hardware token) and *Allocation Platform* user account for the purposes of accessing the *Allocation Platform.*

*Transmission Capacity Allocator* will provide two (2) tokens to each new *Registered Participant* which is licensed for participation in Serbian electricity market.

*Transmission Capacity Allocator* will provide one (1) token to each new *Registered Participant* which is not licensed for participation in Serbian electricity market.

Those *Registered Participants* who have already obtained a token for participation in common auctions organized by *EMS* or for access to *EMS* scheduling system will use that token also for access to the *Allocation Platform* and an additional token will not be issued to them.

Taking over of tokens by the *Registered Participant* can be performed in the following manner:

* 1. The representative of the *Registered Participant* could take over the token and the token password and sign three copies of the Declaration on take-over and use of the electronic certificate (see Annex 4) personally at *Transmission Capacity Allocator* premises (Vojvode Stepe 412, Belgrade, Serbia) each *Working Day* from 09:00 till 14:00 (CET) or
* *2. Transmission Capacity Allocator* could send the token via express mail and three copies of the Declaration on take-over and use of electronic certificate (see Annex 4) to the official address of the *Registered Participant*. After receiving the token and documentation, the *Registered Participant* shall sign all three copies of the Declaration on take-over and use of the electronic certificate (see Annex 4) and send two copies back to the *Transmission Capacity Allocator* (original by registered mail and scanned copy by fax). One copy of the Declaration on take-over and use of the electronic certificate is kept by the *Registered Participant*. After receipt of the Declaration on take-over and use of the electronic certificate by the *Transmission Capacity Allocator*, the token password will be sent to the *Registered Participant* by e-mail to the e-mail address stated in Attachment 1 of the Annex 1.

The *Registered Participant* shall inform the *Transmission Capacity Allocator* on the preferred manner for token take-over one *Working Day* after receiving the confirmation of registration.

The *Transmission Capacity Allocator* will activate the token after receipt of the signed Declaration on take-over and use of the electronic certificate and send by e-mail the username and initial password for access to the *Allocation Platform* to the *Registered Participant*. After receipt of information on the username and initial password, the *Registered Participant* should change the password.

The *Registered Participant* shall keep all information related to the access to the *Allocation Platform* as personal and confidential and shall be liable for any direct or indirect damages resulting from any unauthorized disclosure of such information. The *Transmission Capacity Allocator* is not liable for any unauthorized use of the token, username and password.

The *Transmission Capacity Allocator* shall be entitled to prevent the *Registered Participant* from accessing the *Allocation Platform* in the case it finds any discrepancy such as, but not limited to, the following: information on the *Registered Participant*, the certificate, or expiration of the certificate.

Section 6

# Intraday Allocation Procedure

## Article 6.1. Determination and publication of Intraday ATC

*EMS* will determine *Intraday ATC* in each direction and for each hour, which may be used for the intraday allocation according to the methodology described in Article 2.1.

The values of *Intraday ATC* for the day D will be available in the *Allocation Platform* not later than 18:00 (CET) on the day D-1.

In case of additional limitations in the transmission systems (which could not be foreseen when net transfer capacity was calculated), the values of *Intraday ATC* may be changed. *EMS* is entitled to modify the *Intraday ATC* within the day in the *Allocation Platform*.

The *Intraday ATC* for a certain hour is adjusted following allocation of each *Allocated Intraday Capacity* for that hour and will be published in the *Allocation Platform* continuously.

## Article 6.2. Allocation of Intraday ATC

Only *Registered Participants* which have successfully registered and fully comply with requirements defined in Section 3 can submit a *Request* for *Intraday ATC*. The submission of the *Request*, as well as taking over of the results is carried out exclusively through the *Allocation Platform*.

The *Request* (for the day D) is submitted to *EMS* via *Allocation Platform* starting from 18:00 (CET) on the day D-1 but not later than 120 minutes before the start of the first hour to which the intraday *Cross-border Transaction* relates. The minimum requested capacity is 1MW, аnd the maximum is equal to the value of *Intraday ATC*. Within a single *Request*, only one value of the capacity may be requested for one direction and for one or more hours of the day D.

## Article 6.3. Notification of the allocation results

*Request* of each *Registered Participant* will be processed by *Allocation Platform* applying the *First come - First serve method,* and the *Registered Participant* will be immediately informed about the result through the *Allocation Platform*. In case the *Request* is accepted the *Registered Participant* will obtain capacity right with *CAI*. *EMS* and *MEPSO* will immediately authorize the *Registered Participant* with *CAI* to use the *ICR* (by entering the *ICR* into scheduling systems) and enable the schedule declaration by the local rules.

General information and results on the allocated capacity for the day D will be published on the *EMS* ’website ([www.ems.rs](http://www.ems.rs)) not later than 18:00 (CET) on the day D+1.

Section7

# Use of Allocated Intraday Capacity

The *Capacity Holder* is obliged to use the entire amount of *ICR*. *Capacity Holder* has to *nominate* to *EMS* and/or *MEPSO* intraday *Programs* by using *ICR* based on “M:N” schedule nomination principle. This principle means that *nomination* of intraday *Programs* by using *ICR* could be realized in one or more cross-border electricity exchanges in one direction with several cross-border partners (hereinafter referred to as the Counterpart) where one cross-border partner has to be *Capacity Holder*. In this case the *nominated* amount of capacity is equal to the *ICR* obtained during intraday process for each hour and direction and it is fully matched with one or more *Counterpart* nomination(s). This obligation is monitored by *Transmission Capacity Allocator*.

If the *Capacity Holder* breaches this obligation three (3) times during one (1) calendar year, the *TSOs* (*EMS* and/or *MEPSO*) have the right to exclude the *Capacity Holder* from intraday capacity allocation process for the period of twelve (12) months. The *Transmission Capacity Allocator* based on the request for exclusion from *TSOs* will submit the notice about exclusion to the *Capacity Holder*. This obligation is breached when the *Capacity Holder* (or his *Counterpart*) does not use (or partially use) capacity at least one (1) hour in the gained period. Every hour of unused *ICR* is counted like new breach. The exclusion becomes effective with the date set in the notice but not earlier than next day after the *Transmission Capacity Allocator* receives the request for exclusion from *TSOs*.

The use of reserved transmission capacities is done via the delivery of fixed schedules to *EMS* and *MEPSO* in compliance with the legal requirements of grid access in each control area, and applicable market rules of *EMS* and *MEPSO*.

## Article 7.1. Nomination of Allocated Intraday Capacities

The *Nomination* of intraday *Programs* is done by the *Capacity Holder* and one or more *Counterpart(s)* through existing scheduling systems of both *TSOs* in accordance with local rules.

The *Nomination* shall be made at least 60 (sixty) minutes prior to the beginning of the first hour for which the intraday *Programs* are nominated. The gate opening depends on local market rules.

The same rules and data formats are used as for long-term and daily scheduling process.

## Article 7.2. Intraday Matching Rules

The intraday matching takes place after each intraday capacity allocation and *Nomination* process.

Matching between *TSOs* will be done between H–1h and H-0h45min prior to the beginning of the first hour for which the intraday *Programs* are nominated and the confirmation of the *Nomination* will be done not later than at H–0h30min.

Matching is done for the whole day.

In case of non-compliance between the intraday *Programs* nominated on both sides of electricity border, *EMS* and *MEPSO* are entitled to set zero values on the nominated intraday *Programs*. In no event shall *EMS* and/or *MEPSO* be liable for any loss of profit, loss of business, or any other indirect incidental, special or consequential damages of any kind.

*MEPSO* and *EMS* compare/match submitted individual fixed schedules on common electricity border. Modifications of nominated intraday *Programs* are allowed to the *Capacity Holder* unless intraday *Programs* are already confirmed or deadline for making nomination of intraday *Programs* is reached (Article 7.1). If there is a difference in notified schedules at the *Cut off time*, zero value will be applied.

Not later than the *Cut off time,* the nominated intraday *Programs* will be fully accepted or rejected in accordance with the matching results.

If matching result is not available till H–0h45min, all not yet matched nominated intraday *Programs* are set to zero by both corresponding *TSOs* and consequently set as faultless.

Section 8

# Cancellation of intraday procedure

In case of an *Emergency Situation* or *Force Majeure*, the intraday process can be immediately cancelled by *EMS* and/or *MEPSO* after taking into account all other available measures according to relevant national and EU legislation. It is also possible to reduce the *Intraday ATC* values. In such cases the *Intraday ATC* values for the respective hours are immediately set to 0 or another agreed value. The *Intraday ATC* remains changed until both *TSOs* agree to revoke the cancellation of the intraday procedure or the reduction of the *Intraday ATC*.

The intraday procedure might also be canceled due to the serious disturbance to the functioning of the Internet, *Allocation Platform* and other IT Systems or devices used in the intraday process by *EMS* and/or *MEPSO* and in this case there will be no financial compensation paid to the *Capacity Holder* for the capacity right gained in the intraday allocation process which could not be used.

In case of exceptional circumstances, *EMS* shall inform all *Registered Participants* via publication of the notice on the *EMS* website, if available.

Section 9

# Curtailment of Allocated Capacities

In cases of *Capacity Curtailment,* the following priority order is used:

- *Capacity* allocated in intraday allocation process;

- *Capacity* allocated in daily auction;

- *Capacity* reserved or allocated in monthly and yearly auction.

Within each of the above listed groups of *Capacities*, proportional *Curtailment* will be used, where the curtailed capacity will be rounded to the next higher full MW.

In any case *EMS* and/or *MEPSO* shall inform the affected *Capacity Holder* and his *Counterpart* about the curtailment immediately.

There will be no financial compensation paid to the *Capacity Holder* for the curtailed capacity gained in the intraday allocation process.

Section 10

# Miscellaneous

## Article 10.1. Limitation of Liability

The *TSOs*, either jointly or separately, shall not be liable to a *Capacity Holder* for any damages resulting from a *Capacity Holder* participating or not being able to participate in an intraday allocation process. The *Capacity Holder* shall hold harmless and indemnify the *TSOs*, jointly and separately, in respect of claims regarding such damages from third parties. In no event shall *EMS* and/or *MEPSO* be liable for any loss of profit, loss of business, or any other indirect incidental, special or consequential damages of any kind.

*EMS* and/or *MEPSO* undertake to carry out the provisions set out in the *Intraday Capacity Allocation Rules* with the diligence of a careful businessman and control area manager in compliance with the applicable regulations set out by EU law, respectively by the *EU-Regulation,* Serbian and Macedonian law and regulations set out by the Serbian and Macedonian Authorities.

## Article 10.2 Force Majeure

*EMS* and/or *MEPSO* shall not be held liable for non-performance, defective performance or delayed performance of obligations arising from these *Intraday Capacity Allocation Rules* if and to the extent that said non-performance, defective performance or delayed performance is due to circumstances over which the obliged party has no influence, including but not limited to *Force Majeure* or other circumstances the relevant party is not responsible for and which cannot be solved by measures which, from a technical, financial and/or economic point of view, can reasonably be taken by *EMS* and/or *MEPSO*.

## Article 10.3. Severability

Notwithstanding special provisions set out in these *Intraday Capacity Allocation Rules* no modification of the contract between *EMS* and/or *MEPSO* on the one hand and the *Registered Participant* on the other hand shall take effect unless it is in writing, by fax or e-mail confirmed, executed and delivered by *EMS* and/or *MEPSO*. If any part or provision of the *Intraday Capacity Allocation Rules* and/or its annexes are or become invalid, illegal, void and/or unenforceable, the remaining part(s) shall continue to be valid and enforceable and shall not be affected thereby. Any invalid, illegal, void and/or unenforceable part(s) or provision(s) shall be replaced by valid, legal and/or enforceable part(s) or provision(s) in order to achieve the intended economic and legal effect as far as possible.

## Article 10.4. Confidentiality

By operation and performance under *Intraday Capacity Allocation Rules EMS* and/or *MEPSO* and its affiliates, if any, may receive or have access to *Registered Participant’s* confidential information. Confidential information shall include all information delivered in writing and designated as “Confidential”, or disclosed other than in writing, information as to which the person to whom such information is disclosed, prior to or essentially concurrent with such disclosure, is made aware that confidential information may be or is being disclosed. *EMS* and *MEPSO* agree to hold the confidential information in confidence and not to disclose without the prior consent of the *Registered Participant,* or make such confidential information available, in any form, to any third person or to use such confidential information for any purpose other than the contemplation of the provisions of these *Intraday Capacity Allocation Rules* except to public authorities.

The provisions of this Article shall not apply to any information disclosed to *EMS* and *MEPSO* as contemplated by this Article if:

- before such disclosure it was public knowledge or, after such disclosure, becomes public knowledge through no fault of *EMS* and *MEPSO*,

 - it was known to *EMS* and *MEPSO* before that disclosure,

- after that disclosure the same information is received by *EMS* and *MEPSO* from a third party owing no obligation of secrecy to the respective *Registered Participant* in respect to such information.

## Article 10.5. Amendments and changes

Any amendments and changes to these *Intraday Capacity Allocation Rules* shall be notified to the *Registered Participants* by means of publication of the respective new version of these *Intraday Capacity Allocation Rules* on the websites of *EMS* and *MEPSO*. Such notification shall include reference to the articles amended or changed and the date on which the new version of these *Intraday Capacity Allocation Rules* enters into force. Unless stated in the respective new version of *Intraday Capacity Allocation Rules*, no new registration is required and *Registered Participants* accept the new *Intraday Capacity Allocation Rules* by further taking part in the intraday allocation process.

## Article 10.6. Applicable law and disputes

These *Intraday Capacity Allocation Rules* shall be governed by and construed in accordance with the laws of Serbia excluding the provisions of Serbian private international law, as well as by EU law, *EU Regulation* and *Energy Community Treaty*. For the avoidance of doubt, the application of the UN Convention on the International Sale of Goods shall be excluded.

In the event of any dispute or differences arising from the *Intraday Capacity Allocation Rules* and its Annexes or related to its violation, termination or becoming null or void the claimant is obliged to describe and present a reasoned notice which should contain the identification of an article of the *Intraday Capacity Allocation Rules* which has been breached. All disputes arising in connection with the *Intraday Capacity Allocation Rules* shall be resolved before the Commercial Court in Belgrade. The substantive law of Serbia shall be applicable.

The place of performance of all obligations of the *Registered Participants* resulting from the intraday allocation held in accordance with the *Intraday Capacity Allocation Rules* shall be the registered seat of the *Transmission Capacity Allocator.*

Above mentioned provisions of this article have no impact to the right of the *Registered Participant* taking part in *Auctions* to file a complaint against a *TSO* which refuses use of, or access to, the system to relevant national Regulatory Authority in accordance with national law implementing the *EU Regulation*.

## Article 10.7. Notices

Except where these *Intraday Capacity Allocation Rules* provide otherwise, any notice given under these *Intraday Capacity Allocation Rules* must be in writing and addressed to the addresses given in Annex 2.

## Article 10.8. List of Annexes

Annex 1 Registration Form

Annex 2 List of Contacts

Annex 3 Intraday procedural gates and deadlines

Annex 4 Declaration on take-over and use of the electronic certificate

**Annex 1 - Registration Form**

**Registration form for the participation in intraday capacity allocation process on Serbian-Macedonian border**

|  |  |
| --- | --- |
| **Name of the company/entrepreneur** |  |
| **EIC-Code** |  |
| **Official address, Country** |  |
| **Commercial/company register No.** |  |
| **Legal representative(s)** |  |
| **VAT No.**  |  |

We hereby declare our intention to participate in the intraday capacity allocation process at the Serbian-Macedonian border. We fulfill all participation requirements of the “Rules for the Allocation of the Cross Zonal Intraday Capacity between the Bidding Zones of EMS AD Beograd (“EMS”) and Makedonski elektroprenosen sistem operator a.d. (“MEPSO”) for 2018” (hereinafter *Intraday Capacity Allocation Rules*). Moreover, we have read and fully accept to abide and to be bound by all rules and regulations and IT requirements of the English version of the *Intraday Capacity Allocation Rules*, which have been published on the *TSOs* websites.

We acknowledge that our admission to participate in the intraday allocation process may be withdrawn in case regulations of the *Intraday Capacity Allocation Rules* are breached.

 For the market participant

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature

EMS AD Beograd as the *Transmission Capacity Allocator* approves the above-mentioned registration form, and registers this form under registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 For EMS AD Beograd

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature

**Annex 1 - Attachment 1**

**A list of authorized representatives of the market participant**

The market participant appoints the following persons to be authorized to act on behalf of the market participant:

- for signing of the Registration Form

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name** | **Telephone No.** | **Mobile phone No.** | **Fax No.** | **E-mail**  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

- for submitting *Requests* for *Intraday ATC* to the *Transmission Capacity Allocator*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name** | **Telephone No.** | **Mobile phone No.** | **Fax No.** | **E-mail**  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

|  |  |
| --- | --- |
| **Valid postal address for sending the Registration Form:****(to be filled in case of address change)** |  |

The *Registered Participant* is obliged to inform the *Transmission Capacity Allocator* promptly in case of any changes identified in the table above.

Date:

 For the market participant

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

**Annex 2 - List of Contacts**

**Registration Forms** (see Annex 1) must be delivered by market participants to the *Transmission Capacity Allocator* at the following address:

**EMS AD Beograd**

**Auction Office/Market Division**

**Vojvode Stepe 412**

**11040 Beograd**

**Srbija**

For personal deliveries on the above mentioned address, the filing office is open between 09:00 and 14:00 (CET) on *Working Days.*

Any confirmation issued by the filing office of the *Transmission Capacity Allocator* confirms only the date and time of receiving of the document - not the document’s accuracy or whether or not it is correct.

*Registered Participants* may use for other communication with *Transmission Capacity Allocator* following fax numbers and contacts:

**Allocation Rules**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Phone No.** | **e-mail** | **Fax No.** |
| Mr Duško Aničić | +381 11 39 70 299+381 11 39 57 140 | dusko.anicic@ems.rs | +381 11 39 70 217 |
|  |  |  |  |

**Registration of market participants**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Phone No.** | **e-mail** | **Fax No.** |
| Ms Jelena PejovićMr Jasmin Ličina | +381 11 39 57 112 | jelena.pejovic@ems.rsjasmin.licina@ems.rs | +381 11 39 70 695 |

**Questions related to intraday allocation process (00:00-24:00)**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Phone No.** | **e-mail** | **Fax No.** |
| Operational Department  | +381 11 309 1850  | schedule\_intraday@ems.rs | +381 11 3972 954 |

**Annex 3 –Intraday procedural gates and deadlines**

The time line for every hour of intraday process is described below (H is the hour of the intraday for the day D):

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Intraday period** | **00:00-24:00** | **01:00-24:00** | **02:00-24:00** | **…..** | **23:00-24:00** |
| Intraday ATC is available on Allocation Platform (*Note: updates are continuously available)* | 18:00 (D-1) | 18:00 (D-1) | 18:00 (D-1) |  | 18:00 (D-1) |
| Gate for request | 18:00 (D-1)- 22:00 (D-1) | 18:00 (D-1)- 23:00 (D-1) | 18:00 (D-1)- 00:00 | **…..** | 18:00 (D-1)- 21:00 |
| Gate for nomination | 18:00 (D-1)-22:59 (D-1) | 18:00 (D-1)-23:50 (D-1) | 18:00 (D-1)-00:59(D-1) | **…..** | 18:00 (D-1) -21:59 |
| Matching between TSOs | 18:00 (D-1)-23:15 (D-1) | 18:00 (D-1)-00:15 | 18:00(D-1)- 01:15 | **…..** | 18:00(D-1)-22:15 |
| Deadline for confirmation to Serbian BRP/Macedonian BRP | 23:30 (D-1) | 00:30 | 01:30 | **…..** | 22:30 |
| Deadline for publishing of Intraday allocation results Allocation Platform | 18:00 (D+1) | 18:00 (D+1) | 18:00 (D+1) |  | 18:00 (D+1) |

The indicated start and closing times are independent from the changes of day-light saving time.

**Annex 4- Declaration on take-over and use of the electronic certificate**

For:

|  |  |
| --- | --- |
| **Name of the *Registered Participant*** |  |
| **Address, Country** |  |
| **Name of the person authorized to sign the Declaration** |  |

**I.**

*Intraday Capacity Allocation Rules*, Section 5 specify the conditions of use of electronic certificates. This document is made only with the intention to allow the *Registered Participant* communicate with the *Allocation Platform* while using the electronic certificate.

**II.**

The electronic certificate does not identify a specific person but it only identifies and recognizes the *Registered Participant* as a legal person or entrepreneur.

**III.**

The *Registered Participant* declares that it has implemented a technical device - communication server (web services client) for the purposes of communication with the *Allocation Platform* by means of web services in order to carry out the transactions and to accept obligations specified in the *Intraday Capacity Allocation Rules*.

**IV.**

As of the signature date of this document by the *Registered Participant*’s representative, all of the *Registered Participant*’s transactions in connection with the use of *Allocation Platform* identified by its electronic certificate bind the *Registered Participant* as if performed by any of all the Authorized representatives as nominated in Attachment 1of Annex 1 of the *Intraday Capacity Allocation Rules* (Registration Form).

**V**.

The *Registered Participant* declares that he took over the following electronic certificate:

Hardware token specification:

Hardware No.:

Certificate No. : Valid till: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**VI.**

In case of loss, damage or compromised security of the electronic certificate the *Registered Participant* is obliged to inform the *Allocation Office* as soon as possible and the *Transmission Capacity Allocator* will revoke the certificate immediately.

Date:

For EMS AD Beograd For the *Registered Participant*

as *Transmission Capacity Allocator*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Signature