

On approval of a model agreement on procurement of a service for maintenance of the readiness of electric capacity with wholesale market entities included into the Register of groups of entities

Unofficial translation

Order of the Minister of Energy of the Republic of Kazakhstan dated December 14, 2018 No. 512. Registered with the Ministry of Justice of the Republic of Kazakhstan on December 20, 2018 No. 17976.

Unofficial translation

In accordance with sub-item 7-2) Article 5 of the Law of the Republic of Kazakhstan dated July 9, 2004 "On Electric Power Industry", **I HEREBY ORDER:**

1. To approve the attached Model agreement on procurement of a service for maintenance of the readiness of electric capacity with wholesale market entities included into the Register of groups of entities.

2. The Department for implementation of the state policy in the field of electric power industry of Ministry of Energy of the Republic of Kazakhstan in accordance with the procedure established by the legislation of the Republic of Kazakhstan shall ensure:

1) state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) within ten calendar days from the date of state registration of this order in the Ministry of Justice of the Republic of Kazakhstan, the direction hereof in Kazakh and Russian languages to the Republican State Enterprise on the right of economic management "Republican Center for Legal Information of the Ministry of Justice of the Republic of Kazakhstan" for official publication and placement in the Reference Control Bank of the regulatory legal acts of the Republic of Kazakhstan;

3) placing this order on the Internet resource of the Ministry of Energy of the Republic of Kazakhstan;

4) within ten working days after state registration of this order with the Ministry of Justice of the Republic of Kazakhstan, the reporting to the Department of Legal Services of the Ministry of Energy of the Republic of Kazakhstan on performance of activities, stipulated by sub-items 1), 2) and 3) of this item.

3. Control over the execution of this order is entrusted to the supervising Vice-Minister of Energy of the Republic of Kazakhstan.

4. This order is put into effect upon expiry of ten calendar days after the day of its first official publication.

Model agreement on procurement of a service for maintenance of the readiness of electric capacity with wholesale market entities included into the Register of groups of entities

_____ " ____ " _____ 20 ____.
(place of execution of the agreement)

—
(Name of the energy producing organization included into the Register of the groups of entities,
certificate of state registration, date and issuing authority) represented by

—
(position, surname, name, patronymic)
acting on the basis of

—
(name of document)
hereinafter referred to as “the Entity”, on the one hand

—
(name of the sole procurer, certificate of state registration, date and issuing authority)
represented by

—
(position, surname, name, patronymic)
acting on the basis of

—
(constituent document of the sole procurer)
hereinafter referred to as the “Sole Procurer” on the other hand, hereinafter collectively referred to as the "Parties", and individually - the “Party”, have made this agreement on procurement of a service for maintenance of the readiness of electric capacity (hereinafter referred to as the Agreement) as follows:

Chapter 1. Main provisions

1. The following concepts and definitions shall be used in this Agreement:

1) certified electric capacity - the amount of certified electric capacities of power plants according to the results of relevant certifications, in MW;

2) record of operating electric generating capacities, technological and technical minimums - a document drawn up by the System Operator for every day of the current and upcoming billing period (calendar month), which includes the values of the operating electric generating capacities, possible electric generation capacities, technological and technical minimums of power plants of power generating organizations, provided by energy producing organizations and agreed with the System Operator;

3) generating unit- a device that generates electric power;

4) certification of electric capacities of generating units - activities performed by the system operator, aimed at determining the values of the certified electric capacity and certified velocities of increase and decrease in electric capacity;

5) billing period - the period defined in the Agreement as a period of time equal to one calendar month from 00-00 on the first day to 24-00 (Central European time - Greenwich meridian time plus one hour) of the last day of the month for which calculation of the service on maintaining the readiness of electric capacity is made;

6) system operator - the national company performing centralized operational-dispatch management, provision of parallel operation with the power systems of other states, maintaining the balance in the power system, providing system services and procuring ancillary services from the wholesale electricity market entities, and also transmitting electric power through the national power grid, providing its maintenance and operational readiness;

7) regional load profile - an algorithm for calculating hourly consumption values (net power flow) of electric energy of the capacity market consumers agreed (determined) by the system operator;

8) fiscal metering complex - equipment required for commercial metering, located between a certain commercial metering point and a connection point to the data collecting device;

9) test command- an order given by the system operator to the energy producing organization to change the electrical capacity of power plants included in the energy producing organization;

10) technical minimum – the amount of minimum permissible electric capacities of generating units: for condensation, heating, gas turbine and combined cycle power plants - according to the conditions for ensuring stability of their operation in accordance with the corresponding passport data, for hydraulic power plants - according to the conditions of provision assigned by the authorized body in the use and protection of water resources, water supply, wastewater disposal, in MW;

11) technological minimum - the amount of the minimum electric capacities of generating units (at a given level of their thermal capacity), in MW;

12) authorized body - a state body that exercises management in electric power industry;

13) service for maintaining the electric capacity readiness - a service provided by energy producing organizations to the Single procurer in maintaining the readiness of the electric capacity of generating units certified in accordance with the established procedure for bearing the load;

14) certified velocity of decrease in electric capacity- an average value of the rate of decrease in electric capacity by the power plant of the energy producing organization during the time of the power plant undergoing the third stage of electric capacity certification of the generating units, in MW / min;

15) certified velocity of increase in electric capacity- an average value of the rate of increase in electric capacity by the power plant of the energy producing organization during the time of undergoing by the power plant of the first stage of electric capacity certification of the generating units, in MW/min;

Other concepts and definitions used in this Agreement shall apply in accordance with the legislation of the Republic of Kazakhstan in electric power industry.

Footnote. Paragraph 1 - as amended by Order No. 368 of the Minister of Energy of the Republic of Kazakhstan dated 27.10.2020 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

Chapter 2. Subject matter of the Agreement

2. The Entity shall undertake to provide and the Sole Procure shall undertake to procure (consume) and pay for the service for maintenance of the readiness of electric capacity (hereinafter the maintenance service) in accordance with this Agreement and the requirements of the legislation of the Republic of Kazakhstan in electric power industry.

3. Technical conditions and characteristics of provision of maintenance service: _____

(this item provides for technical conditions and characteristics of the subject matter of the Agreement).

4. Price (individual tariff), at which the Sole Procurer undertakes to pay for the maintenance service of the Entity under this Agreement (hereinafter referred to as the agreed price), shall be determined in accordance with item 12 of article 15-5 of the Law of the Republic of Kazakhstan "On electric power industry" (hereinafter referred to as the Law) and sub-item 4) of item 11 of the Rules for organization and operation of the electric capacity market, approved by the order of the Ministry of Energy of the Republic of Kazakhstan dated February 27, 2015 no. 152 (registered in the Register of State Registration of Regulatory Legal Acts as no.10612) (hereinafter referred to as the Rules of capacity market).

The agreed price shall be specified in accordance with annex 1 to this Agreement.

5. The scope of the maintenance service, which the Entity is obliged to provide to the Sole Procurer (hereinafter referred to as the agreed scope), shall be determined in accordance with the Rules of capacity market and item 12 of article 15-5 of the Law.

The agreed scope shall be specified in form in accordance with annex 1 to this Agreement

6. The term, during which under this Agreement the Entity shall undertake to provide maintenance service and the Sole Procurer shall undertake to procure this service (hereinafter referred to as the agreed term), shall be specified in accordance with the Rules of capacity market and item 12 of article 15-5 of the Law.

The agreed term shall be specified in form in accordance with annex 1 to this Agreement.

7. The maximum value of electric capacity of own consumption, maximum electric capacity of supplies to the retail market entities and maximum export electric capacity shall be specified in form in accordance with annex 1 to this Agreement.

Therewith, in case if one of the current agreements on procurement of the service for maintenance of the readiness of electric capacity of the Entity has already indicated the values of electric capacities, specified in part one of this item, the annex 2 to this Agreement the data values of electric capacities shall not be specified.

Chapter 3. Rights and obligations of the Parties

8. The Sole Procurer shall be obliged:

1) to pay timely for the service for maintenance of the Entity in accordance with this Agreement;

2) to notify timely the Entity about the change in its name, legal address, actual location or other details, required for execution of this Agreement;

3) to perform termination, amendments, and (or) adjustments to this Agreement in accordance with the Rules of capacity market;

9. The Sole Procurer shall have the right:

1) to perform termination, amendments, and (or) adjustments to this Agreement in accordance with the Rules of capacity market;

2) to receive the maintenance service in accordance with this Agreement and the legislation of the Republic of Kazakhstan in electric power industry;

3) upon request of the state agencies within their competencies, to provide information about the activities of the Entity in the electric capacity market;

4) to require from the Entity to perform obligations under this Agreement;

5) to apply to the judicial authorities for settlement of disputable issues associated with conclusion and execution of this Agreement.

10. The entity shall:

1) maintain in constant readiness the electric capacity of generating units, which are part of its power plants in the amount equal to or exceeding the contractual volume;

- 2) execute test commands of the system operator;
- 3) daily submit applications to the system operator for participation in regulation for increase and decrease in the balancing electricity market;
- 4) maintain in permanent readiness the system of general primary frequency regulation in accordance with the requirements established by the legislation of the Republic of Kazakhstan in electric power industry;
- 5) daily, by 11:00 a.m. of the current day (Nur-Sultan time), provide the system operator with information on the values of the working electric generation capacities, technological and technical minimums of power plants that are part of the energy producing organization, for the coming day of planning, and, if by 16:00 of the current day (Nur-Sultan time), notification by the system operator on the date of giving the planned test command was not received, a one-time (once a day) correction of this information shall be permitted during the next day in case of withdrawal from repair of generating equipment (subject to the submission of a corresponding application to the system operator for withdrawing the equipment from repair), as well as additional correction of this information if the system operator is provided with a copy of the order to change the water regime received within the corresponding day from the basin inspections on regulating the use and protection of water resources of water consumption;
- 6) provide the system operator with telemetric information on the current values of electric generation capacities and release to the network of power plants of the entity, and on the current values of the electric capacity of the entity's own consumption;
- 7) provide the system operator on a daily basis with information on the actual hourly values of electric power capacities and release to the network of the power plants of the entity, and on the actual hourly values of the electric capacity of the entity's own consumption;
- 8) monthly register and provide the system operator with information on the actual hourly values of electric generation capacities and release to the network of the power plants of the Entity and on the actual hourly values of the electric capacity of the Entity's own consumption for the previous billing period (calendar month);
- 9) ensure availability of metering complexes for fiscal metering of electric power with connection to the automated system for fiscal metering of electricity by the system operator;
- 10) admit employees of the system operator to fiscal metering devices for the purpose of taking readings, checking the technical condition of telemetry circuits and fiscal metering systems;
- 11) immediately notify the Single Procurer of the change in its name, legal address, actual location and other details required for the execution of this Agreement;
- 12) comply with the agreed by the system operator annual, quarterly, monthly schedules of overhaul and current repairs of electric grid, electrical and heat power equipment, relay protection and automation devices, and emergency control automation, which are under operational control and under the management of the system operator;

13) prevent the sale (realization) of electric energy to power supplying, power transmitting organizations and consumers that are the wholesale electric power market entities, including industrial complexes that do not have contracts with the single procurer for provision of services on ensuring the electric capacity readiness for bearing the load;

14) pass extraordinary certification of electric capacity of generating units in accordance with the Rules for certification of the electric capacity of generating units, approved by Order No. 686 of the Minister of Energy of the Republic of Kazakhstan dated December 3, 2015 (registered in the Register of State Registration of Regulatory Legal Acts under No. 12489);

15) ensure appropriate technical condition of switchgears, emergency control devices located at the facilities of the Entity, devices and complexes of fiscal metering of electricity in accordance with the requirements established by the legislation of the Republic of Kazakhstan in the electric power industry;

16) carry out hourly planning of the generation mode in accordance with the consumers' requests within the technical capability determined by information on the values of the operating electric generation capacities, technological and technical minimums of power plants that are part of the energy producing organization, provided to the system operator for the corresponding day of planning;

17) monthly, by the 28th day, report information to the system operator on the values of the possible electric generation capacity for each day of the upcoming billing period (calendar month) and coordinate this information with the system operator (for energy producing organizations that have entered into an agreement with the single procurer on the purchase of services on maintaining the electric capacity readiness in accordance with subparagraph 4) of paragraph 11 of the Power Market Rules, as well as for energy producing organizations (which include only thermal power plants that provide centralized heat supply to cities in the autumn-winter season) that are members of a corporate group included in the register of corporate groups).

Footnote. Paragraph 10 - as amended by Order No. 368 of the Minister of Energy of the Republic of Kazakhstan dated 27.10.2020 (shall be enforced upon expiry of ten calendar days after the date of its first official publication).

11. The Entity shall have the right:

1) to require from the Sole Procurer to pay for the maintenance service in accordance with this Agreement;

2) to apply to the judicial authorities for the settlement of disputable issues associated with conclusion and execution of this Agreement.

Chapter 4. Payment for the maintenance service

12. The Sole Procurer shall pay for the maintenance service of the Entity under this Agreement on a monthly basis, no later than forty five working days after the end of the month of provision of this service.

Therewith, the scope of maintenance service actually provided (hereinafter referred to as the actual scope of maintenance service) for the settlement period (a calendar month) shall be subject to payment under this Agreement.

The Sole Procurer shall determine the actual scope of maintenance service in accordance with the Rules of capacity market.

Information about the actual scope of maintenance service that is subject to payment by the Sole Procurer (hereinafter referred to as the Information), shall be provided by the Sole Procurer to the Entity within twenty working days from the day of the end of the relevant settlement period (a calendar month).

13. Payment for the actual scope of maintenance service, specified in item 12 of this Agreement, shall be made by the Sole Procurer based on the relevant invoice, submitted by the Entity for payment, and on the service delivery report signed by the Parties.

The invoice, specified in the first part of this item shall be formed by the Entity based on the relevant Information, submitted by the Sole Procurer to the Entity.

14. If the Sole Procurer disputes the correctness of the issued invoice, it shall notify the Entity within five calendar days from the date of its receipt and submits to the Entity a written application with statement of objections. Therewith, the Sole Procurer shall be obliged to pay not disputed part of the invoice in accordance with the first part of item 12 of this Agreement.

15. Payment by the Sole Procurer of actual scopes of maintenance service shall be made through deposition of the relevant volumes of money to the current account of the Entity in accordance with the details, specified in this Agreement.

16. Where there is a debt for the previous settlement periods, first of all payment shall be sent to the debt repayment. In case if for the settlement period, the Sole Procurer has paid to the Entity the amount, exceeding in the relevant invoice, the difference of this excess shall be automatically counted to the advance payment of the following settlement period.

Chapter 5. Organization of metering

17. For the purposes of electric power metering, the Entity shall use calibrated and sealed Fiscal metering devices.

18. When performance of any type of works, associated with changing or violation of work of the fiscal metering devices, the Entity before the commencement of works shall notify thereof the Sole Procurer in writing. Within the period of performance of repair by the Entity, metering shall be made in accordance to the temporary schemes, agreed with the system operator.

Chapter 6. Liabilities of the Parties

19. The Parties shall be liable for failure to perform or improper performance of obligations hereunder in accordance with the legislation of the Republic of Kazakhstan.

20. The Entity shall be liable for the data submitted hereunder in accordance with the legislation of the Republic of Kazakhstan.

21. For non-payment of an invoice by the time it becomes due for payment, the Entity shall have the right to charge a penalty on the amounts not paid by the Sole Procurer, starting from the day following the deadline for payment. For overdue amounts, the Entity has the right to demand from the Single Buyer the payment of a penalty calculated on the basis of 1.5 times the refinancing rate set by the National Bank of the Republic of Kazakhstan on the day of the actual performance of the Sole Procurer of the monetary obligation.

Chapter 7. Force Majeure circumstances

22. Force majeure circumstance shall be determined in accordance with the Civil Code of the Republic of Kazakhstan.

23. The parties shall be exempted from liability for failure to fulfill or improper fulfillment of obligations under this Agreement if this results from force majeure circumstances. In this case, none of the Parties will be entitled to damages. At the same time, none of the Parties shall be released from the obligations under this Agreement arising before the occurrence of force majeure circumstances.

24. If one of the Parties is unable to fulfill its obligations under this Agreement within sixty calendar days from the date of occurrence of force majeure circumstances, the other Party shall have the right to terminate the Agreement.

Chapter 8. Settlement of disputes

25. All disputes or controversies arising from the substance of this Agreement are resolved by negotiation of the Parties.

26. If disputes and disagreements arising from this Agreement cannot be resolved through negotiations, such disputes and disagreements shall be settled in accordance with the legislation of the Republic of Kazakhstan.

Chapter 9. Miscellaneous

27. Settlements between the Parties under this Agreement shall be made in the national currency of the Republic of Kazakhstan.

28. Relations of the Parties arising from this Agreement and unresolved by them shall be governed by the legislation of the Republic of Kazakhstan in the field of electric power industry..

29. The information contained in this Agreement is confidential and shall not be subject to disclosure and / or transfer to third parties without the written consent of the Parties, except

for the cases provided for by this Agreement and cases established by the legislation of the Republic of Kazakhstan.

30. All amendments to the annex [может быть должно быть все изменения и приложения - прим. переводчика] to this Agreement shall be valid and shall have effect only if they are made in writing and signed by both Parties.

31. This Agreement shall enter into force on the date of its signing, and shall remain valid until the end of the last year of purchase of the maintenance service specified in Annex 1 to this Agreement.

32. The Agreement is made in two copies, in Kazakh and Russian languages, one copy for each Party. Both copies shall have equal legal force.

Chapter 10. Legal addresses, bank details and signatures of the Parties

33. Legal addresses, bank details and signatures of the Parties

Name of the Sole Procurer	Name of the Entity
Address:	Address:
Telephone:	Telephone:
Bank details:	Bank details:
_____, surname, name, patronymic	_____, surname, name, patronymic
(signature)	(signature)

Annex 1

to the model agreement on procurement of a service for maintenance of the readiness of electric capacity with wholesale market entities included into the Register of groups of entities

Agreed price (individual tariff), the volume and term of the purchase of the service for maintenance of the readiness of electric capacity of the Entity by years*

Form

Item no.	Period, year **	Price (individual tariff) for the service for maintenance of the readiness of electric capacity, including VAT, thous.tenge/(MW*month)	Scope of service for the service for maintenance of the readiness of electric capacity, MW	Term for procurement of the service for the service for maintenance of the readiness of electric capacity, years***
1	2	3	4	6
1				
2				
3				

Note:

* - the numerical values of the parameters of the table are reflected within the accuracy of integers;

** - each period from the date of procurement of the service for maintenance of the readiness of electric capacity of the Entity shall be specified in the format: 20____.

*** - The period of procurement of the service for maintenance of the readiness of electric capacity of the Entity for each its period shall be specified equally in the format: 20__ - 20__.

Annex 2
to the model agreement on
procurement of a service for
maintenance of the readiness of
electric capacity with wholesale
market entities included into the
Register of groups of entities

Maximum value of electric capacity of own consumption, maximum electric capacity of supplies to the wholesale market entities and maximum electric capacity of the Entity's export by years.*

Form

item no.	Period, year **	Maximum value of electric capacity of own consumption, MW	including:	Maximum electric capacity of supplies to the wholesale market entities, MW	Maximum electric capacity of export, MW	Maximum in the target year value of electric capacity of supplies to the consumers, being the wholesale market entities, and included with the Entity into one group of entities, included into the Register, MW
			Maximum value of electric capacity of own needs of electric power plants, MW***			
1	2	3	4	5	6	
1						
2						
3						

Note:

* - the numerical values of the parameters of the table are reflected within the accuracy of integers.

** - periods must comply with the periods, reflected in annex 1 to this Agreement, and shall be specified in the format: 20__ г.

*** - the maximum value of the electric capacity of own needs of electric power plants of the Entity, which includes both the maximum value of the electrical capacity of all the needs of power plants of the Entity, and the corresponding maximum value of the electrical capacity of all economic and production needs of these electric power plants of the Entity.