

*Unofficial translation*

## **THE ELECTRICITY LAW**

The **Parliament of Romania** adopts the present Law

### **CHAPTER I**

#### **Background**

##### **Scope**

**Art. 1.** – (1) The present Law sets the regulatory framework for carrying out activities in the field of electricity and of heat produced in co-generation under conditions of quality and security in order to optimise the primary energy sources in compliance with the environmental protection norms.

(2) The followings are not subject to the present Law:

- a) batteries, mobile groups, installations integrated in any kind of vehicle;
- b) electricity stationary sources of direct current;
- c) energy installations on territorial sea;
- d).electricity sources with less that 250 kW power.

##### **Objectives of the law**

**Art.2.** - Activities in the electricity and heat sector are meant to:

- a) Ensure a sustainable development of the national economy.
- b) Diversify the primary energy resources.
- c) Create and ensure the functioning of competitive electricity market.
- d) Ensure regulated and non-discriminatory access of all electricity market participants to public transmission and distribution networks.
- e) Ensure transparency of electricity tariffs prices and taxes within the applicable tariff policy – with a view to increase efficiency upon electricity generation, transmission, distribution and use.
- f) Ensure safety fuel stocks for generation of electricity and of heat produced in co-generation.
- g) Ensure the interconnection of the National Power System (SEN) to the national power systems of neighbouring countries and to the UCTE power systems (Union for the Co-ordination of Transmission of Electricity).
- h) Promote the use of new and renewable energy resources.
- i) Ensure environmental protection at local and global level, in accordance with the treaties signed by Romania.
- j) Ensure security measures against terrorist and sabotage acts.

## Definition of terms

**Art. 3.** – For the purpose of the current law the terms and definitions herein have the following meanings:

1. **Auto-producer** means a legal or natural person who, in addition to the activities performed in the normal course of business, generates electricity and heat in co-generation mainly for his own use. The auto-producer can operate on the electricity market as a consumer or as a holder of generation and supply licenses, under the present Law.
2. **Access to the public electricity network** means the right of sector companies generating and/or supplying electricity and the right of electricity consumers to get connected to and use, under the provisions of the law, the transmission and distribution networks.
3. **Vertically integrated undertaking** means an undertaking performing two or more of the following activities: generation, transmission and distribution of electricity.
4. **Horizontally integrated undertaking** means an undertaking performing, in addition to activities outside the electricity sector, at least one of the following activities: generation, transmission, distribution and supply of electricity.
5. **Competent authority** means: The Romanian Energy Regulatory Authority -ANRE.
6. **Failure** means an event implying dangerous deviations from the parameters stipulated in the technical norms in force.
7. **Interconnection capacity** means the equipment by which the connection of two or several electricity systems is performed.
8. **Energy capacity** means the units generating electricity and heat in co-generation, the electric networks and other electric power equipment.
9. **Power plant** means the group of installations, constructions and equipment required in order to generate electricity.
10. **Co-generation plant** means the group of installations, constructions and equipment required for the generation of combined heat and power.
11. **Customer** means any legal or natural person with whom electricity is traded.
12. **Electricity consumer** means any legal or natural person buying electricity for his own use and, possibly, for a sub-consumer connected to its installations.
13. **Eligible electricity customer** means the consumer that is free to purchase electricity from the supplier of his choice and has access to the transmission and/or distribution networks.
14. **Captive consumer** means the consumer who, for technical economical or regulation-related reasons, is unable to purchase electricity from the supplier of his choice.
15. **Passageway of the electric line** means the land area situated along the electric line and the space above it, where restrictions are imposed from the point of view of the co-existence of the line with natural elements, objects, constructions, installations, etc; the passageway includes the protection and the safety zones.
16. **Distribution** means the transmission of electricity through distribution networks from the transmission network or from the producers to the installations of the consumer;
17. **Commercial operation of an energy capacity** means the group of activities developed by a sector company in order to obtain profit.
18. **Supplier** means a legal person, holder of a supply license ensuring electricity supply to one or several consumers on a supply contract basis.
19. **Supply** means the activity of trading electricity and/or heat to customers.
20. **Direct line** means the electricity line by which electricity is transmitted from the generator to a single user; the direct line is complementary to the electric power system.

21. **Natural monopoly in the energy field** means a market circumstance in which a single company provides electricity transmission and, respectively distribution services for all the consumers across an assigned territory.
22. **Electricity market operator** means a legal person ensuring the trade of electricity amounts on the electricity market and establishing prices on the spot market.
23. **Distribution system operator (DSO)** means a legal person, owner of a distribution license that holds, operates, ensures the maintenance, modernises and develops the electricity distribution network.
24. **Transmission system operator (TSO)** means a legal person, holder of electricity transmission and system services license.
25. **Merit order** means the order in which an electricity producer is taken into consideration according to the price offered to cover the National Power System (SEN) electricity demand.
26. **Electricity market** means the organisational framework where electricity and associated services are traded.
27. **Long-term planning** means the planning of the need for investment in generation, transmission and distribution capacity on a long-term basis, with a view to meeting the demand for electricity of the system and securing supplies to the customers.
28. **Plan for the protection of the national power system against major disturbances** means a document comprising technical and organisational measures taken with a view to preventing extension of disturbances in the system and restraining the consequences.
29. **Electricity producer** means a legal or natural person holding a license for the generation of electricity, including heat in co-generation.
30. **Independent power producer** means a producer with no electricity transmission or distribution functions in the area covered by the electricity network to which it is connected.
31. **Rehabilitation** means the set of operations carried out in order to restore to former technical status and efficiency certain power equipment and/or capacities without altering their original technological conception.
32. **Retrofitting** means the set of operations carried out in order to replace the existing morally and/or physically obsolete equipment with state-of-the-art technologies in order to increase production, reduce specific energy consumption, mitigate polluting emissions, etc.
33. **Electricity network** means all the electricity lines, including their support and protection elements, the sub-stations and other electric power equipment connected to each other. The electricity networks can be a transmission network or a distribution network.
34. **Electricity transmission network** means the electric power network of national and strategic interest with rated voltage higher than 110 kV.
35. **Electricity distribution network** means an electric power network with voltage values of up to 110 kV, including.
36. **Public electricity network** means the electricity network to which at least two users can be connected.
37. **Electricity sector** means all the activities and the capacities involved in the generation of electricity and co-generation of heat, in the electricity transmission, ancillary services, distribution and supply, including the import and export of electricity and the customary and/or emergency exchanges with the national power systems of neighbouring countries.
38. **Electricity transmission service** means the service provided by the transmission system operator consisting in the transmission of a certain amount of electricity to two or several points of the transmission network, at the required quality standards.
39. **System services** means the services provided in order to ensure the safe operation of the power system and the quality of the transmitted energy at parameters specified in the norms in force.

40. **Ancillary services** means the service generally provided by the producers upon the request of the transmission system operator.
41. **Electric power system** means all the interconnected electric power capacities providing the generation, transmission, dispatch, distribution and use of electricity.
42. **National Power System (SEN)** means the power system situated on Romania's territory. SEN is the basic infrastructure that is jointly used by all electricity market participants.
43. **Isolated power system** means the local electricity generation, transmission and distribution system that is not interconnected with SEN.
44. **Sub-consumer** means a legal or natural person whose electricity capacities are connected downstream the consumer's metering unit.
45. **Electricity transmission** means the transmission of electricity from the producers to the distribution capacities or to the consumer installations connected directly to the electricity transmission networks.
46. **Electricity network user** means the producer, transmission system operator, distribution system operator, supplier, eligible consumer or captive consumer.
47. **UCTE** means the Union for the Co-ordination of Transmission of Electricity.
48. **Protection zone** means the area, also expanded in space, that is adjacent to the energy capacities in which interdictions are imposed regarding the access of people and the land use regime.
49. **Safety zone** means the area, also expanded in space, that is adjacent to the energy capacities in which interdictions and restrictions are imposed in order to ensure the proper functioning of the capacities and avoid putting population, goods and environment at risk; the safety zone includes the protection zone.

## CHAPTER II

### Authorities and Competencies

#### Energy strategy and policy

**Art. 4. - (1)** The national energy strategy defines the energy sector targets as well as the most appropriate ways to achieve them while ensuring a sustainable development of the national economy on long and medium run. The energy strategy is issued by the Government, under consultation with the non-governmental organisations and is approved by law.

**(2)** The energy policy is issued on medium run by the relevant ministry in compliance with the government programme and the directives set by the energy strategy and under consultation with government and non-government organisations, having in view the possible evolutions on long run and taking into consideration mainly the following:

- a) Creating the appropriate institutional framework by defining the competent bodies and authorities to implement this policy;
- b) Ensuring security of fuel supply;
- c) Ensuring import and export of fuels and energy;
- d) Ensuring protection of the environment and rehabilitation, in an environment-friendly manner, of sites affected by energy sector activities;
- e) Ensuring transparency of pricing and tariffs for fuels and energy;
- f) Increasing the efficient use of energy and fuels;
- g) Developing energy renewable sources, prioritising the electricity sources for island regions;
- h) Enhancing international co-operation in the energy field.

(3) Financing for the implementation of the Government energy strategy and policy is ensured through funds coming from sector companies, state and local budgets, loans and grants.

### **Energy programme**

**Art. 5. – (1)** The energy policy is described in a programme, approved through Government decision, which includes the measures to be taken in order to stimulate sector investments, research and development activities, etc.

**(2)** The Government, the relevant ministry and the other public administration bodies take measures to carry out the objectives given in the programme described under paragraph (1) and examine, yearly or whenever deemed necessary the progress of their fulfilment.

### **The tasks of the relevant ministry**

**Art. 6. - (1)** The relevant ministry issues the national energy policy and ensures the fulfilment of its directives, under the present law, having the following main tasks:

- a) Draw up programmes and action plans in order to implement the Government's policy for the electricity sector, including programmes for energy efficiency and for promotion of renewable energy sources.
- b) Draw up normative acts for the electricity sector.
- c) Approves mandatory norms and technical prescriptions for the electric power system.
- d) Draw up studies on which priorities concerning the electricity sector investments are set.
- d) Draw up the programme for fuel safety supplies and monitor the implementation of its provisions by sector companies.
- e) Monitor on a permanent-basis the performance and quality of sector technologies and capacities and initiate measures for improvement.
- f) Act as a concession granting authority for the electricity sector.
- g) Take steps to building electricity generation capacities that allow the use, under cost efficient conditions, of domestic low quality fuels and the use of pre-established quantities of renewable and unconventional sources.
- h) Monitor the implementation and observance, by all participants developing activities in the electricity sector, of measures set for the environment protection.
- i) Draw up programmes to encourage electricity exports and propose the Government the appropriate measures to diminish the country's reliance upon primary energy sources.
- j) Monitor and recommend appropriate measures to be taken by the Government regarding the SEN primary energy sources safety supplies – coal, hydrocarbons and, together with the Ministry of Water and Environment the water level in the reservoirs.
- k) Implement the Government energy policy regarding the use of co-generation as an efficient solution to covering the national heat consumption and of renewable energy sources – solar, wind, geothermal, biomass and biogas.
- l) Co-ordinate the co-operation with similar institutions in other countries as well as with international organisations in the field.
- m) Endorse together with the Ministry of Labour, Social Solidarity and Family the labour protection norms in the energy field.
- n) Draw up and substantiate, together with the Ministry of Labour, Social Solidarity and Family, the employer associations and the trade unions, the proposals for the energy sector social policy as well as the programmes for social and medical assistance, for insurance against accidents and occupational risks and for recovery of those who have suffered labour casualties or occupational illnesses.

## **The competent authority**

Art. 7. - (1) The competent authority in the electricity sector is the Romanian Energy Regulatory Authority – ANRE, organised as an independent public legal person of national interest under the co-ordination of the relevant ministry. ANRE operates as per its own organisation and functioning regulation approved through government decision.

## **ANRE financing**

Art. 8. – (1) ANRE is entirely financed from funds outside the budget through fees obtained for licenses, authorisations and other regulatory activities levied upon the regulated companies and through funds provided by international organisations, as per the legal provisions on public finances.

(2) Fees under paragraph (1) are set by ANRE on a yearly basis under the provisions of the law and are made public.

(3) ANRE draw up its annual budget according to the methodological norms in force.

(4) Annual balances resulting from the yearly budget execution are at ANRE disposal to be used in the following year for the same purposes.

## **ANRE management**

**Art. 9. -(1)** ANRE is managed by a president and a vice-president appointed by order of Prime Minister upon the proposal of the relevant minister for a period of 5 years. The president represents ANRE in the relationship with third parties.

(2) A Regulatory Committee made up of the president, the vice-president and 3 regulators is set up in order to confer increased objectivity to the regulatory process.

(3) The 3 regulators in the Regulatory Committee under par (2) are appointed of by the relevant minister for a period of 5 years.

(4) The mandate of the Regulatory Committee members shall cease:

a) upon termination of appointment

b) upon resignation

c) in case of decease

d) if conclusively unable to fulfil his tasks as a result of an unavailability exceeding 60 consecutive days

e) upon occurrence of one of the incompatibilities provided in par (5)

f) through revocation, for failing to meet the requirements of the mandate or for criminal prosecution on the grounds of a Court's final decision. The appointing body revokes the president and the vice-president.

(5) The position of the Regulatory Committee member is incompatible with the exertion of any trading activities and other civil servant or dignitary functions, with the exception of the academic position, according to the law.

(6) ANRE orders and decisions are adopted within the Regulatory Committee by a majority vote.

(7) ANRE orders are published in Romania's Official Gazette, part I.

(8) Orders and decisions issued by the president in exercising his duties can be appealed in the Administrative Litigation Division with the Bucharest Court of Appeal within 30 days following publication in Romania's Official Gazette, part I, respectively from the date of notification of the parties involved.

(9) The Regulatory Committee is assisted by an Advisory Council made up of nine members appointed by order of the relevant minister, of which:

- a) 2 members – representing the employer associations in the energy field
- b) 2 members – representing the trade unions in the energy field
- c) 1 member – representing the public administration associations in the energy field
- d) 2 members – representing the professional organisations in the energy field
- e) 2 members – representing the large electricity and heat consumer associations

(10) Advisory Council members benefit of a session allowance equal to 10% of the president's salary base rate, without exceeding 20% of the latter, over one month.

(11) Travel and accommodation expenses of the Advisory Council members shall be reimbursed if the advisory council meeting is held in another location than the one of residence.

(12) The Advisory Council supports the harmonisation of the interests of both sector companies and consumers, assess the impact of ANRE regulations and make suggestions for improvement as per ANRE organisation and operation rules.

### **Employment and payment of ANRE staff**

**Art. 10** – (1) ANRE personnel is employed and released from their functions as per the provisions of ANRE organisation and operation rules, of the collective labour contract and of the legal regulations in force. Incompatibilities specified under art. 9 par (5) apply to ANRE personnel as well.

(2) Salaries of ANRE personnel are set through negotiation under the provisions of both the collective and the individual labour contracts as per the current regulations regarding the public institution entirely financed through funds outside the state budget.

### **ANRE tasks**

**Art. 11.** - (1) ANRE issues, sets up and monitors mandatory regulations to be implemented at national level with a view to ensuring the proper functioning of the electricity sector and market in terms of efficiency, competition, transparency and consumer protection.

(2) ANRE has the following tasks and competencies:

- a) set up mandatory regulations for sector companies;
- b) issue, grant, suspend or withdraw authorisations and licences for sector companies, including for the producers generating heat in co-generation as well as for sector companies that are likely to emerge as a result of the opening of the electricity market;
- c) issue and approve calculation methodologies for prices and tariffs;
- d) set up tariffs for captive consumers;
- e) set up prices and tariffs to be used among sector companies, tariffs for system services, prices and tariffs applied to activities and services related to the generation of heat in co-generation;
- f) set up framework contracts for electricity supply and framework contracts for electricity selling, purchase, transmission, dispatch and distribution operating among sector companies as well as for the sale of heat produced in co-generation;
- g) draw up the Regulation for electricity supply to the consumers, approved through Government Decision;
- h) set up requirements, criteria and procedures for the eligibility of electricity customers and accredit the eligible customers;
- i) approve technical and commercial norms for sector companies;

- j) perform control activities in order to assess sector companies compliance with the existing regulations, with the pricing and tariff system in force and levy penalties for non-compliance;
- k) set up the procedure for the resolution of pre-contractual disputes and settle possible disputes occurring among sector companies upon the conclusion of contracts and of the electricity supply contracts as well;
- l) set up its own monitoring and control procedures in order to assess compliance of sector companies with the existing pricing and tariff system;
- m) draw up as per the provisions of the law its own regulation for the identification, notification and penalisation of violation of sector regulations;
- n) draw up the regulation for the power engineers authorisation and sector companies certification to design, construct, verify and operate energy capacities, respectively facilities;
- o) monitor the enforcement of the specific electricity sector regulations;
- p) notify the relevant ministry and the Competition Council with respect to the abuse of the dominant position on the market and the breach of the legal provisions referring to competition whenever non-compliance with the regulations on competition and transparency is found;
- q) create and implement a national data basis required for the unfolding of its own regulatory activity and for the dissemination of information to other authorities involved in the drawing up of sector development strategy as well as in connection with the international trade and practices in the field;
- r) draw up the regulation regarding users connection to the public electricity networks, subject to Government approval;
- s) inform the relevant ministry on the unfolding of its own activity through annual reports to be published subsequently.

(3) In discharging its tasks, ANRE works together with the Competition Council, the National Authority for Consumer Protection, with the ministries and other public local or central administration bodies, with the electricity consumer associations, with sector services companies, with the professional associations and the employer and trade union associations in the energy field.

### **Electrification of towns and villages**

**Art. 12. – (1)** Local councils shall provide financing from local budgets, the state budget or from other legally established funds.

(2) Local public administration authorities and the relevant ministry are responsible for the implementation of electrification projects and programmes and for their enhancement.



## **CHAPTER III**

### **Authorisations, Licenses and Concessions**

#### **Section 1 Authorisations and Licenses**

##### **Activities subject to license/authorisation**

**Art. 13. – (1)** Activities related to the establishment of new energy capacities and to the retrofitting of existing capacities are subject to establishment authorisation granted under the legal provisions in force.

**(2)** Generation, transmission, dispatch, distribution and supply of electricity as well as the activities of the electricity market operator and the ones related to the ancillary services are subject to licensing under the condition of the present law.

**(3)** All energy sector activities carried out without authorisation or license are subject to penalisation as per the laws in force.

##### **Authorisation regime**

**Art. 14. – (1)** In order to receive an authorisation, the applicant shall record an application with the competent authority.

**(2)** The applicant shall attach to his application all the documents certifying his compliance with the economic, financial, technical and professional conditions by categories of energy capacities and of sector activities.

**(3)** The applicant, legal person, shall establish its headquarters in Romania. The applicant, foreign legal person, shall establish and legally maintain a secondary location in Romania for the whole period of the authorisation.

**(4)** Applicants under reorganisation or bankruptcy procedures or those from whom a license or authorisation has been withdrawn within a five- year period preceding the registration date of the application are prohibited to receive authorisation.

**(5)** The license/authorisation granting procedures, deadlines, tariffs and conditions consisting of: criteria, power levels, certification, approvals, guarantees and alike, differentiated by category of capacities and by activities subject to authorisation, are set in a specific regulation to be drawn up by the competent authority and approved through Government Decision.

**(6)** Refusal to grant an authorisation or license, lack of response within deadline and any ruling of the competent authority, which might be considered illegal and prejudicial by the applicant, can be appealed in the Administrative Litigation Division within the Bucharest Court of Appeal, according to the law.

##### **Categories of license and authorisation**

**Art. 15.** The competent authority issues:

**(1)** Establishment authorisations for:

- a) new electricity generating capacities and capacities for heat produced in co-generation or retrofitting of the existing capacities with power values exceeding 10 MW;

- b) high, medium and low voltage electricity transmission lines and sub-stations or retrofitting the existing ones;
- c) retrofitting electricity networks with rated voltage higher than or equal to 110 kV or retrofitting the existing ones.
- (2) Licenses for:
  - a) commercial operation of electricity generation capacities and of capacities for heat produced in co-generation;
  - b) commercial operation of the electricity transmission capacities;
  - c) commercial operation of electricity distribution capacities;
  - d) the electricity market operator activities;
  - e) SEN dispatching activities;
  - f) electricity supply activities;
  - g) ancillary services supply activities.

### **Rights and obligations resulting from establishment authorisations and from licenses**

**Art. 16. – (1)** The energy capacities' construction and retrofitting works for which authorisations are granted and the activities and services for which licenses are granted are of public interest, with the exception of the works, activities and services carried out to meet exclusively the own consumption demand of the authorisation/license holder.

(2) Throughout the construction and operation period of the energy capacity, the license/authorisation holders have, under the terms of the law, the following rights over the land and assets in public or private ownership of natural or legal persons and over the activities the natural or legal persons carry out in the vicinity of the energy capacity:

- a) the right to use the land in order to carry out construction or retrofitting works of the energy capacity representing the object of authorisation;
- b) the right to use the land to ensure the normal operation of the capacity representing the object of authorisation, the overhauls, repairs and other works alike;
- c) the right to have access of underground, surface or air with a view to assembling the electricity lines or other associated equipment as well as access to their location, under the provisions of the law;
- d) the right to obtain restriction or suspension of activities that might endanger people and goods;
- e) the right to have access to public utilities.

(3) The object of the usage and the access rights is the public utility and their legal nature and content are stipulated in art. 18; the usage and the access rights shall be exercised throughout the entire life span of the energy capacity or temporarily during retrofitting works upon an operating capacity, during repairs, overhauls or emergency interventions.

(4) The usage and the access rights over the properties affected by energy capacities are exercised free of charge throughout the entire life span of the capacity. For possible damages caused during the interventions for retrofitting, repairs, overhauls and emergencies, license holders shall pay compensations to owners from the vicinity of the energy capacity.

(5) Landowners and activity developers affected by authorisation/license holders exercising the rights under par (2) shall be indemnified for the losses suffered. The following shall be taken into consideration when calculating the damage compensations:

- the land surface affected by the works;
- the types of cultures and plantations as well as the developments affected by the works
- the activities restricted as a consequence of the works.

The compensation amount shall be set by agreement of parties or, if the parties involved fail to reach an agreement by court decision.

(6) The usage and the access rights over private land, the restriction or cessation of certain activities pursuant to par (2) are set and exercised following the principle of impartiality, the ownership right or as per the legislation in force.

(7) Holders of authorisations and licenses are entitled to carry out vegetation clearing or modelling cutting in order to obtain and keep the minimum requested distance as against the electricity networks only with specialised personnel and in compliance with the legislation in force.

(8) Authorisation and license holders that are beneficiaries of the usage and the access rights over the public or private ownership of the state and of the local authorities, shall be exempted from the payment of taxes and other liabilities imposed by central and local government authorities.

### **Obligations resulting from establishment authorisations and licenses**

**Art. 17.** – (1) Holders of establishment authorisation have the following obligations:

- a) to set and apply appropriate measures for the protection of people, assets and environment throughout the duration of the works;
- b) to obtain all the lawful approvals, endorsement and certificates for the construction of the authorised objective;

2) For the entire validity period of the license, license holders have the following obligations:

- a) to observe the conditions in the license;
- b) to keep separate accounts for each activity that is within the object of the license granted by the competent authority for the vertically or horizontally integrated undertaking in the electricity sector, in the same way as it is proceeded when the respective activity is performed by separate sector companies and to draw up financial reports as per the standard format issued by the competent authority;
- c) to hold and maintain financial guarantees that allow them to continue their activity and to ensure the continuity of the service;
- d) to provide the competent authority the information required for the proper unfolding of the activity.

### **Rights and obligations of establishment authorisation/license holders over property of thirds**

**Art. 18 .** – (1) The usage right over the land for the construction or the retrofitting of energy capacities is valid within the entire period required to complete the works. As per the provisions of the law, in exercising this right, authorisation/ license holders are entitled to:

- a) store construction materials, equipment, gears and installations on the private properties of the thirds;
- b) remove cultures or plantations or other existing developments or only restrict them inasmuch as it is strictly necessary to carrying out the works for the authorised capacity, as per the provisions of the law;
- c) remove materials and capture water, as per the provisions of the law;
- d) install and operate gears, erect offices and site dwellings;
- e) suspend or restrict activities of the owner, inasmuch as it is strictly necessary to carry out the works for the authorised capacity.

(2) The usage right under paragraph (1) ceases before the end of the period set for the completion of works or before deadline, upon anticipate completion of the works or upon suspension and renunciation of the authorisation. Any of the aforementioned cases must be immediately notified to the owner.

(3) The usage right over the land to ensure the proper operation of the energy capacity ranges throughout the entire operation period of the capacity and shall be exercised whenever it is required to ensure the proper functioning of the capacity. In exercising this right, the license holder can act as follows:

- a) store materials, equipment, gears, installations for maintenance, overhauls, repairs and interventions in order to ensure the proper functioning of the capacity;
- b) install and operate gears;
- c) remove cultures or plantations or other existing developments or only restrict them inasmuch as it is strictly necessary to carrying out the maintenance, repair and overhaul works to ensure the proper functioning of the capacity.

(4) The license holder shall inform in writing the owner of assets, lands or activities about the assets, lands and activities that are to be affected by the capacity works, with the exception of the failures in which case the owner shall be informed in the shortest time possible.

(5) The license holders shall indemnify the owners for possible damages caused and shall free and restore the land to the former condition in the shortest time possible.

(6) The access of underground, surface or air includes the right of access and execution of works on the energy capacity site during the retrofitting, repair, overhaul and failure interventions.

(7) In order to avoid endangering persons, assets or other activities unfolding within the construction or retrofitting area of the energy capacity as well as within the zone where overhaul or repair works to the capacity under operation are performed, the holder of the license or of the authorisation has the right to restrict or suspend the nearby activities performed by other persons throughout the duration of the works. In this case, the affected persons shall be notified in writing about the date of inception and respectively completion of the works.

(8) Upon the cessation of the rights stipulated at art. 16 par. (2), the license or authorisation holder has the obligation to clear and restore the land to the former condition.

(9) The authorisation or license holder shall exert the right of access to public utilities stipulated in art.16 par (2), item e) in good faith and in a reasonable manner, without hindering the access of other persons to the respective public utilities.

### **Protection and safety zones**

**Art. 19.** – (1) Protection and safety areas shall be established for the protection and normal operation of the energy capacities and their annexes, as well as for avoiding endangering persons, assets and the environment.

(2) The protection and safety zones shall be established for each capacity, according to the technical norms issued by the competent authority.

(3) A legal right of access shall be established on the lands of thirds that are included in protection and safety zones.

### **Expropriation**

**Art. 20.** – (1) The land required for the construction and operation of the energy capacity is the private ownership of either a third or of the holder of the authorisation or is public ground.

(2) If the land required for the construction and operation of the energy capacity is the private ownership of a third, the applicant of the establishment authorisation may either buy it or, if a public utility cause is invoked, initiate the legal procedure for the expropriation of the land and obtain its concession throughout the energy capacity's life span, according to the law.

## **Modifying the authorisations and licenses**

**Art. 21. – (1)** Authorisations and licenses shall be modified if changes have occurred of the circumstances or conditions existing as of the date of the granting.

## **Suspension and withdrawal of authorisations and licenses**

**Art. 22. – (1)** In the event the holders of the establishment authorisation, respectively of the license, fails to meet their legal obligations, as well as in the event they fail to observe the conditions, limitations, restrictions, interdictions or the tasks established in the authorisation, respectively in the license, identified by the competent authority ex officio or upon the notice of thirds or upon notification of the holder, the competent authority shall proceed as specified below:

- a) in case the failure to meet or observe the obligations is not imputable to the holder, it shall decide:
  - a term for compliance in case the situation created is remediable;
  - the withdrawal of the authorisation, respectively of the license in case the situation created is irremediable;
- b) in case the failure to meet or observe the obligations is imputable to the holder, it shall decide:
  - the temporary suspension of the authorisation, respectively of the license, for a set period in order to remedy the situation created and to be in compliance with the authorisation, respectively with the license, in case the situation created is remediable;
  - the withdrawal of the authorisation, respectively of the license, in case the situation created is irremediable.

(2) In all cases under par (1), the prejudiced persons may bring action in court against the holder in order to recover the damage caused.

(3) The competent authority shall suspend the establishment authorisation, respectively the license of the holder, if legal reorganisation or bankruptcy procedures start against the holder.

(4) The competent authority shall withdraw the establishment authorisation, respectively the license, in case of the disqualification, incapacity or bankruptcy of the holder, as well as upon the termination of the concession or of the lease of the energy capacity or upon the sale of the capacity by the holder.

## ***Section 2***

### ***Concession***

#### **Object of the concession and the concession granting authority**

**Art. 23 – (1)** The assets under public or private ownership of the state, the public activities in the electricity sector and the services of national interest may be the object of an energy concession.

(2) The concession contract comes into force as of the date of its publication in the Official Gazette of Romania.

(3) The conditions for the commercial operation of the assets under the public or private ownership of the state and for the unfolding of the activities or of the public services shall be established through the concession contract signed by the concession granting authority and approved according to the provisions herein.

(4) The relevant ministry is the concession granting authority for the assets under the public or private ownership of the state or for the public activities or services of national interest.

(5) The general framework regarding the legal regime of concession contracts, the procedures for granting concessions as well as the standard content of the terms of reference shall be established by the concession granting authority and shall be approved by Government decision.

## **CHAPTER IV**

### **Electricity**

#### **Electricity market**

**Art. 24** – (1) The electricity market consists of the regulated market and of the competitive market, and the electricity transactions shall be wholesale or retail transactions.

(2) The electricity market shall be gradually opened by increasing the competitive market percentage, according to the provisions of the energy sector strategy and policy and shall be approved by Government Decision.

#### **Electricity market participants**

**Art. 25** – (1) The participants in the electricity market and the associated operational structures are: the producer, the transmission system operator, the auto-producer, the market operator, the distribution operator, the supplier, the eligible customer and the captive consumer.

(2) The activities of generation, transmission and distribution of electricity may be carried out by distinct legal or natural persons.

(3) The disputes on the electricity market shall be settled through the Arbitration Committee, which shall be organised and shall operate based on the regulations issued by the competent authority.

(4) The members of the Arbitration Committee benefit of a session allowance equal to 5% of ANRE president salary base rate, without exceeding 10% of the same base rate, over one month.

#### **The regulated electricity market operation**

**Art. 26** – (1) The regulated electricity market and its associated services function on contractual arrangements with regulated prices, concluded between the participants on the electricity market.

(2) On the regulated electricity market and associated services, the competent authority shall establish the quantities to be contracted in the wholesale electricity transactions between the producers and the suppliers.

## **The competitive electricity market operation**

**Art. 27** – The competitive electricity market operates on:

- a) bilateral contracts negotiated by the electricity producers with the suppliers;
- b) bilateral contracts negotiated by the electricity suppliers with the eligible customers;
- c) contracts for import and export of electricity;
- d) transactions through spot market bids;
- e) other transactions of sector services.

## **Transmission and distribution**

**Art. 28** – (1) The holder of the license and the consumer have regulated access to the electricity networks of public interest. The access to electricity networks of public interest is a regulated mandatory service to be provided by the transmission system operator as well as by the distribution system operator.

(2) The cases where the network operator has no conditions to provide this service are exempted from the provisions of paragraph (1). In this case, the refusal to deliver the service shall be justified.

(3) The access tariff for the electricity networks of public interest shall be regulated.

(4) The construction of direct electricity lines and the access thereto shall be regulated by the competent authority.

## **Generation of electricity**

**Art. 29** – Generation of electricity and of heat in co-generation shall be ensured by license holders, according to the terms hereof.

## **Obligations of the producers**

**Art. 30** – The electricity producers have the following main obligations:

- a) to ensure the supply of electricity, respectively of heat produced in co-generation and of ancillary services, in compliance with the terms imposed by licenses, contractual clauses and the regulations in force;
- b) to offer the entire quantity of electricity available and to provide ancillary services, under non-discriminatory conditions;
- c) to maintain appropriate fuel stock reserves, namely water reserves, in order to fulfil the obligations regarding the uninterrupted generation and supply of electricity provided by regulations in force;
- d) to operatively comply with the requirements of the transmission system operator and to set up, as adequate, its own levels of operative control.

### **The rights of the generators**

**Art. 31** – Electricity producers have the following main rights:

- a) to have access to the electricity networks of public interest, under the terms hereof.
- b) to obtain, according to the law, a passageway for their own electricity lines;
- c) to trade electricity and ancillary services on the regulated and the competitive markets;
- d) to establish and maintain their own telecommunications system for the connection with their generation capacities, with the consumers or with the levels of operative control.

### **Electricity transmission**

**Art. 32** – (1) Transmission of electricity is made by the transmission system operator, legal person holder of a license.

(2) The electricity transmission network, including the land on which it is located is under public ownership of the state.

### **Prospective Plan**

**Art. 33** – (1) The transmission system operator has the obligation to issue prospective energy transmission plans according to the current stage and the future evolution of the energy consumption and of the resources, including the import and export of energy.

The plans shall include the financial and investment means provided for the transmission installations, taking also into account the urban and regional planning for the area crossed by the transmission installations, in compliance with the environmental protection norms.

(2) The plans provided at paragraph (1) are subject to endorsement by the competent authority and shall be approved by the relevant ministry.

### **Transmission system operator**

**Art. 34** – (1) The transmission system operator provides public utility services for all the users of the electricity transmission networks, without discrimination, ensuring the access to these networks of any applicant meeting the requirements hereof, in compliance with the norms and performance standards specified in technical regulations in force.

(2) The transmission system operator is allowed to take part in the trading of electricity only within the limit of the electricity quantity purchased in order to cover the electricity losses in its networks.

(3) The transmission system operator shall provide non-discriminatory system services for all SEN users as well as the operative control in order to ensure the safe operation, uniform frequency and voltage and the uninterrupted supply to the consumers and the co-ordination of electricity exchanges with other power systems.

(4) The transmission system operator shall carry out mainly the following activities:

- a) operate, retrofit, rehabilitate and develop: equipment in the electricity transmission networks, equipment for the metering of electricity flow in the transmission network and to the interface with the assigned electricity network users, transmission networks IT and telecommunication equipment relating to SEN;



- b) ensure the public electricity transmission service and the electricity transit on the Romanian territory, according to the contracts concluded;
- c) examine and endorse the compliance of the electricity transmission network users with the network connection technical conditions, as per the technical regulations in force;
- d) ensure the transmission of the electricity metering results to the market operator and the access of the transmission service beneficiaries to verify the metering units;
- e) carry out SEN operational scheduling and operative control through its dispatch centres at central and regional level based on its own forecasts according to the electricity market legal regulations in force;
- f) authorise the operative control staff according to regulations in force;
- g) collect, keep records and store statistical data regarding SEN operation;
- h) exchange information with the interconnection partners and with other collaborators in the energy field, as per the UCTE regulations regarding the information exchange protocols, reports, structure and the access procedures to databases;
- i) qualify the ancillary services suppliers according to their own procedure that shall be subsequently approved by the competent authority;
- j) draw up and submit, after consultation with the electricity market participants, the technical norms and the specific regulations for the operative control activity to the competent authority for approval;
- k) draw up, under the terms of the law, the plan for the protection of SEN against major disturbances;
- l) endorse the studies, programmes and works regarding SEN development.

(5) In case of extended failure putting the safe operation of SEN at risk the transmission system operator may decide to use the water reserves beyond the schedule, having the obligation to inform the competent water management authorities in this respect.

(6) The transmission system operator is prohibited to disclose commercial information obtained while performing its activity.

(7) The costs incurred with the modification of the electricity transmission installations, following the connection of new users or the change of the initial energy characteristics of the existing users, including the ones incurred with the clearing of certain sites shall be entirely allocated to the applicant generating the modification.

### **Interdictions**

**Art. 35** – For the protection of the transmission installations the natural or legal persons are prohibited to:

- a) build any kind of constructions within the safety zones of the installations without the transmission system operator's approval for the location;
- b) make diggings of any kind or set up plantations within the safety zones of the electricity transmission networks without the transmission system operator's approval;

- c) deposit materials on passageways and within the protection and safety zones of the installations;
- d) throw objects of any kind on the electricity transmission networks or to intervene on them, in any way;
- e) deteriorate constructions, fences or identification and warning labels related to the transmission equipment.

### **Electricity market operator**

**Art. 36** – (1) The electricity market operator is the electricity market organiser and administrator. The electricity market operator is a legal person, holder of a license, having the following main activities:

- a) ensure the take-over and the processing of the electricity sale-purchase and services offers placed by the market participants, according to the regulations in force;
- b) establish, on a daily basis, the electricity quantities traded for each hourly settlement period;
- c) establish the payment rights and obligations of market participants and ensure the functioning of the specific payment adjusting mechanisms;
- d) collect and release, as per the regulations of the competent authority, statistical data regarding the market, including short term offer-meeting-demand forecasts;
- e) establish and communicate, according to the regulations of the competent authority, the market prices on hourly settlement periods, the hourly settlement period as well as other monetary obligations that are relevant for the market;
- f) suspend the market upon its own initiative or upon the request of the transmission system operator, in the situations provided by the regulations in force;
- g) co-ordinate the electricity demand forecasting activities in order to ensure the operational planning and the operative scheduling of SEN;
- h) establish the hourly settlement periods requested for setting up tariffs, based on the methodology issued by the competent authority.

(2) The electricity market operator is prohibited to disclose transaction information obtained while performing its activity.

(3) The participants to the electricity market have the obligation to inform the electricity market operator on the setting up of the consumption forecast.

### **Electricity distribution**

**Art. 37** – (1) Electricity distribution shall be carried out by the distribution system operator, legal person and license holder.

(2) The distribution operator shall provide non-discriminatory electricity distribution services to all electricity distribution network users, ensuring the access to the distribution networks of all applicants that meet the requirements hereof, while observing the performance standards and norms provided by technical regulations in force.

(3) The electricity distribution networks are delimited from the generation installations or from the electricity transmission networks and the users' installations in the patrimonial delimitation points.

(4) The ground on which the electrical distribution networks existing upon the coming into force of the present law are located, is and shall remain under the public ownership of the state.

(5) The lands for which the distribution operator, license holder, obtained the right of ownership, according to the law, are exempted from the provisions of art. (4).

(6) The electricity distribution networks shall be developed in compliance with the urban planing, the right of ownership, the environmental protection, the people's lives and health and the rational use of energy, according to the technical and safety norms included in the technical regulations in force.

(7) The costs incurred with the modification of the electricity transmission installations, following the connection of new users or the change of the initial energy characteristics of the existing users, including the ones incurred with the clearing of certain sites shall be entirely allocated to the applicant generating the modification.

### **Distribution system operator**

**Art. 38** – (1) The distribution operator shall have the following main attributions:

- a) operate, retrofit, rehabilitate and develop electricity distribution networks, observing the technical regulations in force;
- b) ensure, upon the request of and by informing the transmission system operator, the transit of electricity through the electricity distribution networks to areas where the transmission operator has not enough network capacity to receive power injection from the electric power plants, respectively co-generation plants, with a view to interconnecting with a neighbouring power system, under an existing bilateral agreement signed in this respect, in cases when SEN incidents occur and operation, maintenance or new works in the transmission network are carried out that render transmission in that zone temporarily unavailable;
- c) perform, upon consultation with the transmission operator, as adequate, works for the development of the electricity distribution networks through optimal development programmes, based on long term studies, as well as through specific modernisation programmes for installations;
- d) ensure the operative control according to the distribution license;
- e) ensure, in compliance with the technical connection conditions, the users' access to the network and provide information on the electricity distribution network while observing the confidentiality regime, as per the regulations approved by the competent authority;
- f) submit the repair and maintenance programme scheduled for the 110 kV to the transmission system operator for approval;
- g) monitor the electricity distribution networks safe operation as well as the performance indicators of the distribution service.

(2) In order to carry out the tasks under paragraph (1), the distribution system operator may interrupt the operation of installations inasmuch as it is strictly necessary to completing the scheduled repairs and maintenance works, having previously notified the electricity distribution network users in this respect.

### **Interdictions**

**Art. 39** – For the protection of the transmission installations the natural or legal persons are prohibited to:

- a) build any kind of constructions within the safety zones of the installations without the transmission system operator's approval for the location;
- b) make diggings of any kind or set up plantations within the safety zones of the electricity transmission networks without the transmission system operator's approval;
- c) deposit materials on passageways and within the protection and safety zones of the installations;
- d) throw objects of any kind on the electricity transmission networks or to intervene on them, in any way;
- e) deteriorate constructions, fences or identification and warning labels related to transmission equipment.

### **Isolated systems**

**Art. 40** - (1) Communities that, for technical or economic reasons, are not connected to SEN networks may be supplied with electricity through isolated systems.

(2) Consumers supplied through isolated systems shall pay the same price as the captive consumers supplied through SEN for the consumed electricity.

(3) The competent authority shall establish the local price and minimum required conditions regarding the continuity and quality of the supply service.

(4) If the local price does not cover the costs related to the supply from an electrical network of public interest, the difference shall be covered from the state budget.

### **Supply of electricity**

**Art. 41** – (1) Electricity supply means the trading of electricity by the legal person license holder to the customers. A contract shall be concluded for the supply of electricity, according to the regulation on electricity supply.

(2) The electricity supplied to customers shall be invoiced by the supplier as per the values recorded by the metering equipment.

(4) The supplier that is also a distribution operator has the obligation to conclude supply contracts with captive consumers and with the eligible customers not exercising their eligibility right.

(5) Consumption of electricity without having concluded a supply contract is prohibited.

### **Contracting obligation**

**Art. 42** – (1) Upon the written request of the consumer asking for a supply of electricity to new consumers or for an additional supply to the existing consumers, the supplier that is also a distribution operator has the obligation to communicate in writing, within no more than 30 days, the technical and economic conditions in view of meeting the request, and to co-operate with their customers in finding the most profitable solutions for the supply. Failing to communicate the conditions in due time presumes the acceptance of the request.

(2) The supply contract shall be concluded for an undetermined period or for a period agreed by the parties.

(3) The consumer may at any time terminate the supply contract, with a prior notification of 7 days for captive consumers, respectively of 30 days for eligible customers.

(4) The supplier is entitled to terminate the contract only in the event of fraudulent consumption, repeated failure to pay the bills or in other situations provided by the law.

### **Retransmission of electricity**

**Art. 43** – (1) The consumer can transmit or resell electricity to another consumer only with the approval of the supplier and the distribution operator, according to the law herein.

(2) The consumer, legal person, holding its own electricity distribution network that supplies at least two sub-consumers has the obligation to ensure regulated access to the network. To this end, the consumer may conclude a contract for energy services with the sub-consumers, as per the framework contract issued by the competent authority. The sub-consumer shall pay the electricity supplied by the consumer according to the methodology established by the competent authority.

(3) The consumer may interrupt the supply of electricity to the sub-consumer only if the latter fails to fulfil the obligations undertaken in the contract.

### **Limitation or interruption of supply**

**Art. 44** – (1) The distribution operator is entitled to interrupt the supply of electricity in the following situations:

- a) when life and health of people or the integrity of tangible assets is put at risk;
- b) prevention or limitation of failures extension in the power equipment, in the electricity network areas or in the entire SEN;
- c) for operations and works that cannot be carried out without the interruption of the supply.

(2) The distribution operator, through the supplier, has the obligation to notify the consumers affected by the scheduled interruptions, as per the conditions in the contract, and to communicate the duration of the interruptions scheduled for maintenance and repair works.

(3) The distribution operator shall be liable for damages caused to the consumers through its own fault.

(4) The conditions in which, in exceptional cases, the electricity supply to the consumers may be limited or interrupted are set in the electricity supply regulation.

### **Payment of supplied electricity**

**Art. 45** – According to the provisions of the contract, the consumer has the obligation to pay the consumed electricity.

## **Responsibilities of the supplier**

**Art. 46** – (1) The supplier is liable for all damages caused to the consumers through its own fault, according to the conditions established in the supply contract.

(2) For the damages caused to the consumers, the supplier is entitled to receive compensation from the distribution operator, from the transmission system operator, or from the producer, if there is proof that the damages were caused by the fault of any of them.

## **Responsibility of the consumer**

**Art. 47** – (1) The consumer is liable for the damages caused to the supplier through its own fault, according to the conditions established in the supply contract.

(2) Consumer's failure to observe the conditions in the electricity supply contract entails the payment of the consumed electricity, respectively estimated, as well as the following consequences, as adequate:

- a) penalties;
- b) temporary interruption of the electricity supply;
- c) disconnection from the electricity network.

(4) In case of fraudulent consumption, the consumer shall be disconnected from the electricity network, shall have to pay the value of the consumed electricity, and the costs related to the disconnection, evaluated according to technical norms in force.

## **The rights of the consumer**

**Art. 48** – Consumers have the following rights:

- a) to have access to electricity networks of public interest and to consume electricity according to the provisions of the supply contract;
- b) to request the supplier the modification and complementation of the supply contract and the annexes thereto or to initiate addenda to contracts, when new elements occur or when deemed necessary to detail or complement certain contractual clauses;
- c) to have access to the metering units in view of settlement of payment;
- d) to connect sub-consumers to their own installations, with the written approval of the network operator or of the supplier, according to the law;
- e) to request the supplier to take measures in order to remedy the faults and malfunctions occurring in electricity networks;
- f) to request compensation from the supplier, according to the contractual provisions, when damages occur of supplier's fault or in case power quality indicators are not observed.

## **Electricity metering**

**Art. 49** - (1) Electricity traded on the electricity market shall be metered through metering equipment, according to the metering code issued by the competent authority.

(2) Electricity metering units shall be provided, in view of payment settlement by, as adequate:

- transmission system operator, to ensure metering on the wholesale market;
- producers, to ensure metering in non-dispatchable units for delivering electricity in the distribution network;
- distribution operator, to ensure metering on the retail market.

(3) The electricity network operator has the obligation to allow the users to additionally install metering units, upon their request and on their own expenses.

## **CHAPTER V**

### **Renewable energy sources**

#### **Definition of sources**

**Art. 50** – Under the terms of the law herein, the following sources are defined as renewable energy sources:

- a) wind
- b) solar
- c) waves and tide
- d) geothermal
- e) hydroelectric
- f) biomass - biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;
- g) LFG - landfill gas resulted from anaerobic digestion of waste in the landsite;
- h) STPG – sewage treatment plant gas resulted from anaerobic digestion of the sewage in the treatment plant;
- i) biogas - secondary gas products, obtained through anaerobic digestion of organic residual materials, forming the category of gas fuel;
- j) alcohol fuel - liquid products obtained from the distillation of fermented organic material, forming the category of liquid fuel, referred to as alcohol fuel;
- k) other renewable energy sources, not exploited so far.

#### **Technical conditions for use and sale**

**Art. 51** – The competent authority shall regulate the technical access conditions to the electricity network and the trading of electricity and heat produced in co-generation, from renewable sources (RES).

## **Facilities**

**Art. 52** – The development and use of renewable energy sources shall be stimulated based on technical and economic in-depth studies. Facilities shall be granted based on Government decision, upon the proposal of the competent authority.

## **CHAPTER VI**

### **Prices and tariffs**

#### **Types of prices and tariffs. Substantiation**

**Art. 53** – In the electricity sector whose production is traded on the internal market, the following prices and tariffs shall be applied:

- a) prices resulting from the competitive mechanisms of the market;
- b) regulated prices for heat produced in co-generation;
- c) regulated tariffs for electricity transmission and distribution services, that are natural monopoly activities;
- d) regulated tariffs for electricity supply to captive consumers;
- e) regulated tariffs for ancillary services until a competitive market is established;
- f) regulated tariffs for transformation and interconnection services;
- g) regulated tariffs for connection to network;
- h) tariffs applied by the transmission system operator and by the electricity market operator for services provided to market participants.

#### **Prices regulation**

**Art. 54** – (1) The competent authority may suggest the relevant ministry the regulation of a price for an electricity sector company if it considers that the respective company is making use of an abusive dominant position.

(2) The regulation of a price shall be made through Government decision, initiated by the relevant ministry for limited periods, with the endorsement of the Competition Council.

#### **Tariffs regulation**

**Art. 55** – The electricity tariffs for captive consumers shall be regulated by the competent authority and are the same for the entire territory of the country.

#### **Prices and tariffs regulation methodologies**

**Art. 56** – (1) The regulated prices and tariffs shall be established on methodologies approved and published by the competent authority. When calculating the regulated prices and tariffs, the justified costs of generation, transmission, distribution and supply of electricity and of heat produced in co-generation, the development and environment protection costs, as well as a reasonable profit share shall be taken into consideration.

(2) The competent authority shall approve methodologies for prices and tariffs regulation and the possible subsequent modifications, after informing and consulting the relevant ministry and the sector companies involved.



### **Disclosure of costs and revenues**

**Art. 57** –Sector companies, holders of licenses in the electricity and heat sector practising regulated prices and tariffs have the obligation to provide the competent authority:

- a) the costs and revenues obtained separately from activities that are the object of the licenses granted under the structure established by the competent authority;
- b) the allocation of assets, liabilities, expenses and revenues taken into consideration upon the drafting of the accounting statements, according to art 17 paragraph (2), item b).

### **Principles for substantiating the regulated price and tariff proposals**

**Art. 58** – (1) Proposals for the regulated electricity and heat prices and tariffs shall be drafted by electricity sector companies, in compliance with the methodologies issued by the competent authority and shall be transmitted to the latter, together with the substantiation in the standard format.

(2) Electricity sector companies shall send the competent authority all the necessary information used in the process of substantiating the request and shall ensure the access to data of the competent authority representatives.

(3) The order approving the regulated electricity prices and tariffs, applicable to captive consumers and to natural monopoly activities, shall be published in the Official Gazette of Romania, Part I. The order shall contain their date of enforcement.

(4) Spot market prices shall be made public by the electricity market operator on a daily basis.

(5) The principles on which the regulated electricity prices and tariffs are established envisage the following:

- a) to contribute to the efficient use of electricity;
- b) to be differentiated by categories of consumers, depending on the energy behaviour and not on the nature of the activity, allowing the consumers to chose, out of the price/tariff types used by the supplier, the one that is most profitable for them;
- c) for electricity consumers, other than householders, with a capacity higher than or equal to 30 kW, the tariff for both electricity and heat should have a binomial structure, respectively a price for the capacity and a price for energy;
- d) to encourage electricity consumers to switch their consumption from peak hours to off-peak hours in SEN;
- e) to protect the interests of the consumers and ensure quality services.

(6) Consumers subvention through electricity and heat tariffs or through the recovery of costs corresponding to the service provided to a certain category of consumers through tariffs applied to other categories of consumers is prohibited.

### **Interdiction of subvention in co-generation. Related services.**

**Art. 59** – Companies generating combined heat and power and trading at least one of them shall allocate the costs between the two forms of energy according to the regulations approved by the competent authority. Cross subvention between the two forms of energy is prohibited.

### **Related services**

**Art. 60** – Services provided to third parties by sector companies generating hydroelectric power and that have dams, dikes and reservoirs under administration, concession or lease, shall be carried out based on contracts concluded with the beneficiaries.

## CHAPTER VII

### Infraction and contravention

#### Liabilities

**Art. 61** – The violation of the provisions hereof entails, as the case may be, criminal, contravention or civil liability.

#### Infractions

**Art. 62** – (1) Stealing electricity is an infraction of theft and shall be punished according to the provisions of the Criminal Code.

(2) The deterioration, modification with no right or the blockage of the electricity metering equipment operation represent infractions and shall be punished with imprisonment for 6 months to 4 years.

(3) The deterioration, modification with no right or the theft of power installations components are infractions and shall be punished with imprisonment for one to 5 years.

(4) The execution or use of clandestine installations, in order to perform connection directly to the network or to avoid the metering equipment represent infractions and shall be punished with imprisonment for one to 5 years.

(5) In case the infractions provided by paragraphs (2) – (4) are committed by an employee of a license holder, the special minimum and maximum limit of the punishment shall be increased by one year.

(6) The attempt to the infractions provided by par (2) – (4) shall be punished.

#### Contravention

**Art. 63** – (1) The following deeds are considered contravention:

- a) The breach of the technical and commercial regulations issued by the competent authority, as well as the non-compliance with the conditions in the licenses and authorisations;
- b) influencing prices on the competitive electricity market;
- c) the unjustified refusal of producers to observe the obligations assigned to them according to art. 30;
- d) failing to observe the operative decisions of the transmission system operator;
- e) operation of installations that do not observe the technical safety conditions that can create damages to natural persons, property and/or environment;
- f) the unreasonable refusal of the access of any applicant to the transmission and distribution networks;
- g) reselling electricity to captive consumers without supplier's and distribution operator's agreement;
- h) the refusal to allow the verifications and inspections provided in the regulations or decided by the competent authority, as well as obstructing it in meeting its attributions;
- i) failing to produce the data and information required by the competent authority or the inaccurate and incomplete provision of data and information necessary for the competent authority to carry out its activity, as well as the failing to observe the measures decided by the said authority;

- j) consumers' refusal to allow access to metering equipment;
- k) failing to observe the generation obligations and/or the offer obligations to the electricity market operator according to the legal provisions, without the confirmation of the transmission system operator;
- l) any action of the transmission system operator meant to unreasonable alter the merit order of generation capacities;
- m) the provision of false or incomplete information to external partners of SEN by the transmission system operator;
- n) the transmission of confidential data regarding commercial operations;
- o) unreasonable delay in connecting new consumers or in reconnecting them after disconnection, as well as the proposal of certain connection solutions, other than the technically optimal ones, with minimum costs, according to normative acts in force and to regulations established by the competent authority;
- p) execution of diggings or works of any kind in the equipment protection areas, without the prior consent of their holder;
- q) failing to observe the performance standards established by the regulations in force;
- r) failing to observe the measures for the efficient use of sector resources;
- s) the interdiction by natural or legal persons of network operator's access for carrying out retrofitting, repair, failures intervention and land clearing works or for modelling cutting in order to create and maintain the set distance as against the electricity networks;
- ş) using prices or tariffs for regulated activities without the approval of the competent authority.

(2) Contravention stipulated by paragraph (1) items a) – i) shall be sanctioned with fine from ROL 1,000,000 to ROL 5,000,000 – for natural persons and with fine from ROL 100,000,000 to ROL 500,000,000 – for legal persons, and contravention stipulated by paragraph (1) letters j) – ş) with fine from ROL 1,000,000 to ROL 2,000,000 – for natural persons, and with fine from ROL 100,000,000 to ROL 200,000,000 – for legal persons.

(3) Identification of contravention cases and application of sanctions shall be made by:

- a) the mandated representatives of the competent authority – for contravention stipulated by paragraph (1), items a), b), d), h), i), k), l), m), n), o), r) and ş);
- b) the mandated representatives of local councils – for contravention stipulated by paragraph (10), items c), e), f), g), p), q), s).

(4) Identification of contravention stipulated by paragraph (1), item e), g), p) and s) can also be made, apart from persons provided by paragraph (3), by mandated representatives of license holders, the said representatives having the obligation to notify the bodies entitled to apply the sanctions, according to the provisions hereof.

### **Legal regime of contravention**

**Art. 64** – The provisions of Government Ordinance no. 2/2001 regarding the legal regime of contravention, approved with modifications and amendments by Law no. 180/2002, as subsequently modified, shall be applied to the contravention listed under art. 63.

### **Establishment of contravention**

**Art. 65** – (1) In view of establishing the contravention cases stipulated in art 63, paragraph (1), the agents provided by art. 63 paragraph (3) and (4) are allowed to access, according to the law, buildings, rooms, installations and any other locations, up to the energy receptors, and are entitled to verify the installations, as well as to make measurements and determinations. The owners and operating personnel of such buildings, locations or installations have the obligation to put at the agents' disposal the documents and acts specific to their activity.

(2) Police authorities have the obligation to grant support to agents, upon request.

## **CHAPTER VIII**

### **Transitory and final provisions**

#### **Coming into force**

**Art. 66** – (1) The law herein shall come into force within 30 days after the date of its publication in the Official Gazette of Romania, Part I.

(2) As of the coming into force of the law herein the following Ordinances are abrogated:

- a) Government Emergency Ordinance no. 63/1998 on electricity and heat, published in the Official Gazette of Romania, Part I, no. 519 of December 30, 1998, with subsequent amendments;
- b) Government Emergency Ordinance no. 29/1998 on the establishment, organisation and operation of the Romanian Electricity and Heat Regulatory Authority – ANRE, approved by Law no. 99/2000, with the subsequent amendments and modifications.

(3) Within 6 months from the coming into force of the law herein, the relevant ministry and the competent authority shall prepare the regulations to be approved by Government decisions.

Law 318

Bucharest, 8 July 2003