

October 30, 2012

Dear Sir,

Page | 1

First of all, we would like to thank you again for the availability and openness showed in the meeting held on October 19<sup>th</sup>, as regards the difficulties currently faced by the Romanian electricity market, following the adoption of the new Energy Law by the parliament, and the urgent need to provide market participants with appropriate tools to trade energy.

The provisions of the articles 23 and 28 of the new Energy Law exclude the possibility for energy producers to conclude any kind of bilaterally negotiated Power Purchase Agreement (PPA). The fair and good objective is to bring transparency into electricity transactions. But this results in severe, negative and probably unintended consequences:

- The aforementioned articles have been introduced in the law in order to address the troubles generated by the low standards of corporate governance of state owned enterprises (SOEs), which have had in the past a significant negative impact on the development of a competitive electricity market since the generation sector has been a monopoly of SOEs. However, the decision to address this deficiency through an embargo on direct bilateral contracts is an ill-conceived measure which harms now mainly the growing private sector, which is the sole investor in investment dynamic sectors such as the wind industry.
- As a consequence, Renewable Energy producers cannot conclude PPAs, which in the current context of domestic credit market represent essential instruments to obtain financing from local or international financial institutions. This obstacle to the RES industry risks jeopardizing Romania's efforts to achieve its 2020 renewable energy target, even though so far the development of the RES (especially wind) industry in Romania has been robust.
- In the current context of centralized market, there is a serious difficulty for electricity suppliers to source sufficient peak electricity in order to supply electricity to final consumers in line with their consumption patterns. Also, since the centralized platforms operate with standard contracts, the current instruments on the market lack sufficient flexibility to allow electricity suppliers to meet in time the different patterns of consumption existing in their portfolios. Furthermore, suppliers are in the impossibility to purchase electricity in order to ensure a stability of the electricity sale price to end consumers under the conditions of complying with consumers' rights "to unilaterally denounce the supply contract, by notification sent to the electricity supplier at least 21 days in advance". Mechanisms currently available at OPCOM induce additional risks for suppliers (very long terms of auction organization that are not in line with the aforementioned right of end customers), which will be finally reflected in the price to the end customer.
- Considering that companies within the same group have to transact through the central market on OPCOM under the conditions of this law, this leads to a loss of potential synergies and an artificial increase of electricity costs and bureaucracy.
- Under the current stipulations of the law, contracts of import/export are impossible to conclude since the counterparty is not registered on Opcom, which puts the supply security at risk especially in the context of low hydropower production, affected by the severe drought that the region is currently facing;

As our previous discussions with industry associations revealed, there is a widespread opinion that the law has to be amended in order to find solutions to the difficulties induced by the new law and to better signal the commitment to a functional and transparent market. Although the industry welcomes the desire of authorities to increase the transparency of electricity trading, we also wish to highlight the importance of restoring the possibility to conclude direct bilateral contracts and PPAs, with adequate transparency criteria, for a well-functioning electricity market. Therefore we would like to take this opportunity to submit to you a draft proposal of Emergency Ordinance aimed at resolving the severe consequences triggered by the Energy Law that we mentioned above. The draft has already been agreed by all relevant market participants and authorities (ANRE, MECMA, OPCOM, RWEA, AFEER and The Photovoltaic Association).

Our proposal is to:

- eliminate paragraph (3) of Article 23
- and to amend paragraph (7) as follows:
  - o (i) the participants on the power market have the obligation to provide to ANRE and to the operator of the power market information on the quantities and prices of the bilateral agreements concluded through direct negotiations in view of being published by the recipients on the web sites thereof and
  - o (ii) ANRE will establish the rules of submission of the data and of publication of the aggregate information (directly or through the market operator). Currently, ANRE publishes market reports based on monthly information provided by market participants (see <http://www.anre.ro/documente.php?id=988> –report for June 2012 ).

In conclusion, we would like to stress that we express our flexibility and readiness to reach a solution which is beneficial to the Romanian electricity market and which would encourage further investments in the power sector.

We thank you again for the interest you expressed in these issues and we trust that we provided you with a better representation of the difficulties currently encountered in the local electricity market. In this context, we would like to kindly ask for your support to find, together with other stakeholders, a solution to the current issues which will ensure both transparency and the well-functioning of the electricity market.

Kind regards,

**Ionel David** – President of Romanian Wind Energy Association

**Eric Stab** - Vice-President of Foreign Investors Council, Chairman & CEO GDF SUEZ Energy România & GDF SUEZ Energy Eastern Europe,