

Draft of Emergency Ordinance concerning the amendment of Law no. 123/2012

Government of Romania adopts the present Emergency Ordinance.

Unique article - The energy and gas Law no. 123/2012 published in the Official Gazette of Romania, Part I, no. 485 on July 16th 2012 is modified as follows:

1. Par. (7) of Article 21 is abrogated.

2. 1. Article 23 is modified and will have the following content:

"Art. 23. - (1) On the competitive market, electricity commercial transactions are wholesale or retail, in accordance with ANRE regulations, and the prices are formed based on demand and supply, as result of competitive mechanisms.

(2) On the competitive wholesale market, there can be concluded at least the following types of contracts and transactions:

- a) Bilateral contracts concluded subsequent to auction performed on the centralized market of bilateral contracts;
- b) Transactions concluded subsequent to auctions performed on other centralized markets mediated by the electricity market operator or by the transport system operator;
- c) Directly negotiated bilateral contracts;
- d) Directly negotiated electricity import and export contracts;
- e) Transactions on international platforms for electricity trading;
- f) Processing contracts;
- g) Contracts of purchasing ancillary services by the transport system operator;
- h) Directly negotiated bilateral contracts for the electricity produced in the trial period;
- i) Other types of contracts and transactions in compliance with ANRE regulations.

~~(3) Economic operators that hold license for commercial exploitation of capacities for electricity production are obligated to disclose information on price, quantity and duration of the directly negotiated bilateral contracts within 3 months since termination of the contracts, in accordance with ANRE regulations.~~

~~(3) By way of derogation from para. (2), on the competitive wholesale market, fully state-owned or state-controlled companies incorporated in Romania, as well as the companies whose majority shareholders are fully state-owned or state-controlled companies incorporated in Romania, carrying out electricity generation activities, may perform transactions solely on the centralized markets.~~

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(4) Participants in the wholesale market that perform electricity transactions on Romania's territory are obligated to elaborate and display on the webpages transparent procedures for electricity trading.

(5) On the competitive retail market suppliers sell electricity to end customers by bilateral contracts, at negotiated prices or prices established through standard offers.

(6) Monitoring of transactions on the competitive electricity market is made by ANRE that publishes monthly reports with aggregated relevant data concerning the functioning of the market.

(7) Participants in the electricity market have the obligation to submit to ANRE and to the electricity market operator information on quantities for the electricity related to the directly negotiated bilateral contracts concluded on the wholesale electricity market, in order for ~~the electricity market~~the latter operator to publish on ~~its~~their own websites aggregated and anonymous relevant data to ensure the trading transparency. ANRE sets forth the rules on the transmission of the information by the market participants and on the publishing of the information thus submitted.

(8) Relevant data as duration, rules concerning delivery and settlement, quantity, execution terms, transaction price, means to identify the wholesale customer, as concerns all transactions within the electricity supply contracts and derivative instruments in the electricity sector concluded with wholesale customers and transport system operators is

kept by suppliers at least 5 years and made available to ANRE, European Commission and other competent national authorities on request.

(9) The obligation to keep the data concerning the transactions within the financial derivative instruments applies in accordance with the guidelines published by the European Commission.

(10) Data mentioned under par (8) can be published by ANRE in accordance with the law.

(11) ANRE has the right to suspend the functioning of the competitive market, if provisions of art. 24 apply.

(12) Provisions under par (11) are applied based on a regulation approved by Order of ANRE President, published in the Official Gazette of Romania, Part I, within 6 months since entry into force of the present law.

3. Letter b) of Article 28 is modified and will have the following content:

b) In case of dispatchable units, to offer the available capacity on the balancing market, in accordance with the regulations issued by the competent authority;

4. Letter c) of Article 28 is modified and will have the following content:

“c) To trade on the competitive market the entire available electricity“

5. Letter e) of Article 28 is abrogated.

6. The terms under points 1 and 32 of art 100 are modified and will have the following content:

„1. Access to upstream supply pipelines – the right of an economic operator from the natural gas sector or of an eligible client to use the upstream supply pipelines;

„32. Upstream supply pipeline – assembly of pipes, including installations, equipment and related facilities, through which there is ensured the natural gas transportation, from the production installations belonging to the natural gas producer towards the transportation system, distribution system, a LNG terminal or an end customer.”