

Dear Mrs. Hofer,

Thank you for your comments on the draft proposals for the possible amendment of Energy and Natural Gas Law No. 123/2011 (“Energy Law”).

We already incorporated some of your comments in the draft of government emergency ordinance which we attached hereto. In addition, please find below certain comments on the issues stressed in your email.

(i) Possibility to solve the issues raised by the Energy Law by means of secondary legislation adopted by ANRE

According to the Romanian legislative technique norms, ANRE may not issue secondary legislation which contradicts to the provisions of the laws adopted by the Parliament.

By providing that all power transactions should be concluded in a “centralized” manner, Article 23 of the Energy Law eliminates the possibility of concluding contracts by direct negotiations on the competitive wholesale market. Consequently, ANRE cannot grant the participants on such market, through the secondary legislation, the right to conclude contracts through direct negotiation as such would infringe the above legislative technique principles. Hence, the only possible legal solution would be to amend the Energy Law.

(ii) Potential damage of the investors’ confidence in the Romanian energy market triggered by an amendment of the Energy Law

Although, in principle, the frequent change of the legislative framework indeed damages legal stability and predictability of the business environment and, thus, affects the investors’ confidence in the Romanian energy market, in this particular case, the change of the Energy Law is highly expected both by the participants on the market, as well as by the potential investors. Such is explained by the severe consequences caused by the power trading restrictions set out by the Energy Law on the market, on the import/export activities, on the financing and development of new projects etc. Further to the above, for the case at hand, we believe that the beneficial effects triggered by the amendment of the Energy Law are more important than ensuring the stability of the legislation.

(iii) Trading rules applicable to SOE

We agree to your proposal. Please refer to the newly inserted paragraph (3) under Article 23.

(iv) Form of paragraph Article 23(2)

As regards the wording of paragraph (2) we prefer to use the wording proposed in the attached draft for the reasons below:

a) An in principle agreement on such wording was already reached between important players on the market (such as ANRE, OPCOM, Ministry of Economy, Trade and Business Environment, professional associations and so on) during the meeting held at the Government on 2 October 2012. Consequently, changing again the wording would trigger the re-initiation of the discussions and, consequently, would delay the process;

b) The wording used in the draft attached is not new and it is in full compliance with the terms defined in the Energy Law;

c) The wording used in the draft as it was before the final vote is not very accurate and complete; hence, although it is a good approach to list separately (i) the markets on which the power transactions can be concluded and (ii) the types of contracts/transactions which can be concluded, neither the markets list (paragraph (2)), nor the transactions/contract list (paragraph (3)) is complete. Thus, the markets list does not include the market corresponding to the international trading platforms, or to the import/export activities and the transactions list does not

include the transactions on the international trading platforms or the contracts for the acquisition of technological system services. In addition, the “market of bilateral agreements” (paragraph (2)a)) is not defined by the Energy Law and, thus, can trigger interpretation controversies.

(v) Disclosure of relevant data by the market participants (Article 23(3))

In order to manifest our commitment to the transparency principle, we are open to eliminate paragraph (3) of Article 23 and to amend paragraph (7) as per the draft attached.

According to these amendments (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 (ii) ANRE will establish the rules based on which such data will be submitted by the market participants and will be published by ANRE and the power 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 June2012).

If the aspects mentioned above are not sufficient to align with a relevant transparency principle could you please suggest us an appropriate legal content in this respect?

(vi) Regarding the fact that the text of Law 123/2012 did not preclude bilateral deals signed on a centralized platform, e.g. on an OTC-platform like Trayport or similar.

Our initial interpretation of the law was similar to yours, however we inform you that in September, subsequent to the approval of the Law, ANRE sent to all the market participants a notification informing them that performance of electricity transactions in the wholesale market was permitted only on centralized markets, namely OPCOM platforms. In this respect please find attached the letter sent by ANRE.

We would like to stress that, considering the severe consequences triggered by the Energy Law, we express our flexibility and readiness to reach a solution which is beneficial for the Romanian power market and which would encourage the investments in the power field.

With kind regards,

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