

DECISION No. 540 / April 7th, 2004

On approving the Rules for electricity sector licensing and authorizing

Issued by: Government of Romania

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According to Art.108 of the republished Romanian Constitution, and to Art.14 (5) of the Law of Electricity No. 318 / 2003

The Romanian Government issues the present decision:

Art.1 – We approve the Rules for electricity sector licensing and authorizing, hereby presented in Appendix which is constituent part of the present decision.

Art.2 – When the present decision comes into force the former Government Decision No. 567/1999 on Rules for electricity and thermal sector (published by *Monitorul Oficial al Romaniei*, Part. I, No. 368 of August 2nd, 1999 and its subsequent upgradings, are abolished.

Prime Minister
Adrian Năstase

Signature:

President on Romanian Heat and Electricity Regulatory Authority
Ion Lungu

Minister of State & Minister of Trade and Economy
Dan Ioan Popescu

Minister of Public Finance
Mihai Nicolae Tanasescu

Bucharest, April 7th, 2004

APPENDIX

RULES

For electricity sector licensing and authorizing

CHAPTER I

General provisions

Art.1. – (1) The present Rules are issued on the base of Art. 14 (5) in the Law of electricity No. 318/2003.

(2) As a Competent Authority The Romanian Energy Regulatory Authority is entitled to grant, modify, suspend or withdraw authorisations and licenses governed by Law No. 318/2003

Scope

Art. 2. – The present Rules are intended to be used by:

- a) The Romanian Energy Regulatory Authority for fulfilling its tasks as specified by Art.1 (2);
- b) Legal and private entities applying to the Romanian Energy Regulatory Authority for granting, updating or withdrawal of the authorisations stipulated by the law for certain investments within the electricity sector and co-gen thermal power sectors;
- c) Legal and private entities applying to the Romanian Energy Regulatory Authority for granting, updating or withdrawal of the authorisations stipulated by the law for trading the output of power sector entities or for providing services within the electricity sector and co-gen thermal power sectors.

Purpose

Art. 3. – The present Rules establish:

- a) the general conditions for authorisations and licenses granted by the Romanian Energy Regulatory Authority, according to its competencies;
- b) the procedure to be observed when applying for authorisations and licenses;
- c) The conditions under which an authorisation or a license is to be updated;
- d) The situations when the Romanian Energy Regulatory Authority can decide temporary suspending or the cease of validity of the granted authorisations and licenses;
- e) The tariffs for obtaining authorisations and licenses, as well as the yearly taxes to be paid by applicants

Abbreviations

Art. 4. – The Rules utilise the following abbreviations:

- a) km – kilometre;
- b) MVA - megavoltampere;
- c) MW - megawatt;
- d) MWe - megawatt (electric);
- e) MWt - megawatt (thermal);
- f) SEN – National Grid;
- g) UM – measuring unit.

Definitions

Art. 5. – The terms used throughout the present Rules have the following meaning:

- a) Competent Authority – Romanian Energy Regulatory Authority;
- b) Selfproducer of electricity – Legal or private entity which apart from its main activities is also generating electricity and co-gen thermal power mainly for own purposes; within this category are included, by assimilation, any economic entity possessing and using on its premises generating units (co-gen or not) that produce electricity and thermal power for own purposes, in case those units comply to the following conditions:
 - Are built, financed, developed and operated by investors for a certain period of time and subsequently are commissioned, operational and free of any duties and debts, to the consuming economic entity, according to the pattern “build, operate and transfer”, and
 - Are connected to the national grid via networks owned by the consuming economic entity;
- c) Authorisation / Set-up authorisation (establishment) – technical and legal document, issued by the Competent Authority, which, as a result of the application formulated by a Romanian or foreign private/legal entity grants it the permit to develop or refurbish and to operate installation for generating, transport and distribution of electricity or co-gen electricity and thermal power;
- d) Dispatchable generating unit – electricity generating unit, which can be individually programmed on the electricity wholesale market;
- e) License -- technical and legal document, issued by the Competent Authority, that grants to a Romanian or foreign private / legal entity the permit to trade the electricity and co-gen electricity, or to deliver services needed by the coordinated operation of the National Grid and of the electricity market, respectively;
- f) Authorisation/ license updating – issuing by the Competent Authority of a decision that modifies the previously granted authorisation/ license or the associated conditions are adjusted as a result of changes in circumstances or conditions at the date of the previous document issuing;
- g) Commissioning– the ensemble of activities stipulated by the design technical documentation and the regulations in force developed in order to prove that the equipment and its associated systems of an electric installation is able to operate according to the project, when they are about to be labelled as appropriate for trading operation;
- h) Transforming / connecting services – performing voltage level modification and/or creating the conditions for transmitting electricity to the beneficiary, via installations pertaining to the provider;
- i) Case study – technical and economical documentation which, starting from the data and conditions specific to developing or

refurbishing a power installation, identifies, analyses and recommend rational alternatives, technically and economically feasible for the project under investigation;

- j) Authorisation/ license suspending – issuing by Competent Authority of a decision stating that to one owner of authorisation/ license the rights granted by that document are partially or totally suspended for a certain time period; the Competent Authority is entitled to consent that the activity could be resumed under its supervision, so that the interests of electricity and thermal power consumers should not be affected;
- k) Authorisation/ license owner – Private / legal entity who owns an authorisation/ license issued by the Competent Authority.

General conditions for issuing authorisations/licenses

Art. 6. – (1) Competent Authority issues setting-up authorisations for:

- a) Development of a new power entity set up of one or more units generating electricity / co-gen electricity and thermal power, for an overall installed power of more than 10 MW;
- b) Refurbishment of a power entity set up of one or more units generating electricity / co-gen electricity and thermal power, for an overall installed power of more than 10 MW;
- c) Development of a new high voltage line or substation having a nominal voltage of at least 110 kV;
- d) Refurbishment of a high voltage line or substation having a nominal voltage of at least 110 kV.

(2) The setting-up authorisation is not needed for the cases listed under (1)b and (1)d, in case the respective works are solely directed to the refurbishment of the monitoring/control systems of the power units or of their telecommunication systems.

(3) The validity of the setting-up authorisation is decided by the Competent Authority, considering the duration of the erecting and mounting the installation, as well as its setting into operation, according to the schedule included in applicant's documentation.

Art.7. – (1) With the aim of developing or refurbishing power entities partially or totally founded out of public money, and according to the legal requirements, the investment owner will hand over to the Competent Authority the technical and economical performance indicators of the project, 30 to 60 days before their approval. The investment owner would also hand over to the Competent Authority the feasibility study, and – when appropriate – the study of the variant solutions for that project.

(2) Having received the documents mentioned under (1), the Competent Authority would inform within 30 days the investment owner about the result of the assessment of the project conformity and compatibility.

Art.8. – (1) The activities developed on the basis of a license issued by the Competent Authority are:

- a) Commercial operating of electricity generating units;
- b) Delivery of technological ancillary services

- c) Commercial operating of electric power transmission installations and delivery of system services / National Grid monitoring and control;
 - d) Monitoring electricity market;
 - e) Commercial operating of electric power distribution;
 - f) Electric power supply
 - g) Commercial operating of co-gen electric power and thermal power units;
- (2) No license is needed for commercial operating the power installation used for:
- a) Electric power distribution, less than 3 MW, to entities that sell it to third parties;
 - b) Electric power generation in units that can be started without assistance of the National Grid or automatic starting units, used by electricity producers or consumers as stand-by units for their own installations and equipment;
 - c) Co-generating thermal power by a co-gen self-producer of electrical power, when the traded thermal power generated is less than 20% of its yearly generated thermal power.
- (3) The validity of a license can not be more than:
- a) 8 years, for supplying electricity according to (1) f;
 - b) 25 years, for the other licenses issued by the Competent Authority, mentioned under (1) a...e, and (1) g.

Art. 9. – (1) Legal entities, Romanian or foreign, are liable to apply for authorisations/licenses.

(2) A foreign entity may apply for an authorisation/license only in case it detains on the Romanian territory a branch for the entire validity period of the authorisation/license implied by own activities.

(3) Private entities may apply for licenses issued by the Competent Authority only for commercial operating unit for electricity generation or co-generation of electricity and thermal power, when the installed power ranges from 250 kW to 1 MW.

(4) The applicants mentioned under (3) may be natives or foreign citizens, according to Law No. 507 / 2002 on economic activities developed by private entities, with all its subsequent amendments.

Art. 10. – The Competent Authority is not issuing authorisations/ licenses for the following categories of applicants:

- a) Entities under the jurisdiction of restructuring or bankruptcy;
- b) Applicants that within the last 5 years prior to their application registration have been sanctioned by the Competent Authority by withdrawing their authorisation/license.

Art. 11. – (1) The Competent Authority issues and updates authorisations/ licenses using specific tariffs, according to the provisions of Appendix 1.

(2) Within the validity period of a license, its owner reimburses the Competent Authority on a yearly basis, a tax that corresponds to its commercial activities within the sector of co-gen electricity and thermal power, according to Appendix 1.

Art. 12. – (1) When issuing or updating authorisations/ licenses the Competent Authority issues and invoice the applicant for the sums mentioned under Art.11; the applicant will provide the Competent Authority with the proof that those sums have been paid no later than 5 working days since the invoice has been received.

(2) The applicant's paying in due time of the sums invoiced by the Competent Authority is a prerequisite for issuing or updating the authorisation/ license that was applied for.

Art. 13. – (1) The Competent Authority issues the decision for granting the authorisation/ license for which the application was registered, no later than 60 days since the following conditions are met:

- a) The application includes a documentation that is complete and according to the present Rules, and
- b) The sums invoiced according to Art.12 have been paid and the applicant provided the duplicate of the payment document.

(2) In order to stimulate the power generation through renewable sources, when set-up authorisations are requested for developing/ refurbishing such units, or when licenses are requested for their commercial operating, the time interval mentioned under (1) would be halved in case the appropriate conditions are met.

CHAPTER II

The procedure of applying for and of issuing of authorisations / licenses

The procedure of applying for authorisations / licenses

Art. 14. – (1) In order to obtain an authorisation/ license, the applicant forwards a written request to the Competent Authority using the form presented in Appendix 2.

(2) When registering the written request, the applicant should provide the proof that the tariff for documentation assessment has been paid, according to the provisions of the Appendix 1.

(3) When the above mentioned proof is not provided by the applicant, the Competent Authority will reject the written request and the application documentation.

Art. 15. – When the applicant is a legal entity, the following documents are also necessary:

- a) The document certifying the founding of the entity (duplicate);
- b) Originals (or notary public certified duplicates) of the document certifying the entity registration and the financial report of the applying entity, issued by the Trade Register not earlier than 10 days than the day when the application is handed over to the Competent Authority;
- c) The fiscal certificate (original or notary certified duplicate) of the applying legal entity, issued by the County department for Public finance, Bucharest department for Public finance or Department of administration of large size contributors within Bucharest an Ilfov county area, respectively.
- d) Environment authorisation or agreement, respectively;

- e) Photocopies of the previous year financial report (in compliance to the republished Law No. 82/1991) of the applicant's entity; entities founded as branches within the year they apply for authorisation/ license, should provide the financial report of the mother-entity, but not when the mother-entity is already authorised/ licensed; when the applicant is a trade entity owned by or founded by foreign company, the financial report of that company should be provided as a translation formally certified by a Romanian notary public office;
- f) Curriculum vitae for the general manager of the applying entity, describing his or her managerial training and experience in that field;
- g) Curriculum vitae for the manager of the applying entity that is responsible for the activity that is to be authorised/licensed, describing his or her experience in that field.

(2) When the applicant is already the owner of a license issued by the Competent Authority, the written request would not be accompanied by the documents mentioned under (1)a and (1)e.

Documents describing the activity to be authorised/ licensed

Art. 16. – In order to obtain a set-up authorisation, an applicant that is a legal entity, apart of the documents mentioned under Art. 15 should append the following documents:

- a) Photocopies of the documents proving the applicant's rights of ownership or conessor or user of the land(s) implied in the development or refurbishment of the power unit;
- b) Photocopies of the notifications handed over to the private or legal entities whose assets, lands or activities are to be affected by the legal rights stipulated under Art.16 and Art.18 of the Law No. 318 / 2003, during the development and commissioning of the installations and components of the power unit.
- c) The list of facilities needed, according to Art.16 and Art.18 of the Law No. 318 / 2003, during the activities of development / refurbishment and commissioning of the power unit;
- d) Feasibility study, draw up by an accredited designer, according to the legislation in force; when the set-up authorisation is requested for the development/refurbishment of a power unit, using financial resources entirely provided from abroad, the feasibility study could be draw up by a foreign company, and subsequently translated into Romanian.
- e) Documents confirming the availability of the financial resources for the development or the refurbishment of the power unit.
- f) Technical agreement for connection to a public electric or thermal network within the National Grid, issued by Transmission System Operator or a Distribution Operator, as appropriate, and by the Thermal power transmission Operator, for the co-gen thermal power units that are to be connected to the network;
- g) Technical agreement of the Transmission System Operator on the design solution for integrating within the National Grid, in case of transmission lines or substation for which the technical agreement for connecting to the National Grid as stipulated by entry *f* is not necessary;

- h) Environment agreement;
- i) Location project for the power unit, clearly showing the protection and safety zones, as established according to the legislation in force;
- j) The limits, determined according to the technical legislation in force, for the protection and safety zones;
- k) Notification regarding the compliance with the conditions stipulated by the technical agreement for connecting of the power unit to the public electric network, and to the thermal power transmission network, where appropriate;
- l) Schedule of the stages of the activities that are to be developed as a result of the set-up authorisation;
- m) List of the appropriate measures for avoiding electricity unavailability or other incidents that could affect the activity of the network users during the activity of developing or refurbishing the power unit, when the applicant is the Transmission System Operator or a Distribution Operator;
- n) The explanatory report that includes all the data estimated by the applicant as necessary regarding the options and actions mentioned by any of the above documents ;
- o) The list of own personnel implied in the activities that are to be authorised, describing the staff structure for each speciality and the specific training.

Art. 17. – In order to obtain a license for commercial operation of power units, a legal entity applicant will attach to the written request, apart from the documents listed under Art. 15, the following documents:

- a) A list, for each headquarter, of the power units producing electricity / co-gen electricity and thermal power (with the due power installation circuit diagram) and, where appropriate, of the installations for electricity transmission (substations and transformer substations used to deliver transforming or connection services for Transmission System Operator or for a Distribution Operator, and lines for final consumer supply included, together with their single wire diagrams);
- b) The organisational chart describing the organisation's structure at the moment of application, pointing out the responsible department for the activity to be licensed;
- c) A staffing report, describing the staff structure, for each speciality and proving the staff training for the activity to be licensed;
- d) The Organisation and Operation Rules or the Quality Assurance manual (whole document or excerpts only) to describe the responsibilities of the departments implied in the activity to be licensed, connected with quality indicators of the generated electricity, the staff commitment and training;
- e) A business plan for the activity to be licensed, for the application year and for the next two years.

Art. 18. – In order to obtain a license for providing technological ancillary services, a legal entity applicant will attach to the written request, apart from the documents listed under Art. 15, the following documents:

- a) A list, for each headquarter, of the installations/power units used in the activity to be licensed and the type of the

provided services: assuring the power reserve, of the spinning reserve, of the power-frequency, of the voltage control and alike;

- b) Documents to certify that the applicant is qualifying by the Transmission System Operator as an ancillary services provider for those installations/power units.

Art. 19. – (1) In order to obtain a license for commercial operation of the electricity transmission facilities and for providing system services, a legal entity applicant will attach to the written request, apart from the documents listed under Art. 15, a description of the existent framework for these activities.

(2) According to (1), the description of the technical framework should include:

- a) A table comprising all the implied transmission lines and substations of the transmission network;
- b) Installed power of the transformers within the substations of the transmission network;
- c) Single wire diagrams for indicating the separation points between transmission network operated by the applicant and the installations owned by transmission System Operators of the neighbouring countries, or of the electricity producers, Distribution Operators or supplied consumers, respectively;
- d) Site maps for the electricity transmission facilities;
- e) Data about the operated dispatching centres.

(3) According to (1) the organisational and human resources frameworks description should include:

- a) The organisational chart of the applicant, describing the organisation's structure at the moment of application;
- b) A staffing report, describing the staff structure, for each speciality and proving the staff training for the activity to be licensed;
- c) The Organisation and Operation Rules or the Quality Assurance manual (whole document or excerpts only) to describe the responsibilities of the departments involved in the activity to be licensed, connected with quality indicators of the generated electricity, the staff commitment and training;
- d) According to (1) the applicant's documents should also include a business plan for the activity to be licensed, for the application year and for the next two years

Art. 20. – In order to obtain a license for electricity market operator, a legal entity applicant should attach to the written request, apart from the documents listed under Art. 15, the following documents:

- a) The organisational chart of the applicant, describing the organisation's structure at the moment of application;
- b) The Organisation and Operation Rules Code or the Quality Assurance manual (whole document or excerpts only) to describe the responsibilities of the

- departments involved in the activity to be licensed, connected with quality indicators for electricity market, the staff commitment and training;
- c) A staffing report, describing the staff structure, for each speciality and proving the staff training for the activity to be licensed;
 - d) The list of the main software resources routinely used by the applicant in providing the electricity market operator services and proving that the due copyright rules have been observed;
 - e) A business plan for the activity to be licensed, for the application year and for the next two years.

Art. 21. – (1) In order to obtain a license for commercial operation of the electricity distribution installations, a legal entity applicant should attach to the written request, apart from the documents listed under Art. 15, a description of the framework of this activity.

(2) According to (1), the description of the technical framework should include:

- a) A table comprising all the implied transmission lines and substations and high voltage and medium voltage transformer substations;
- b) Installed power of the transformers within the substations of the distribution network;
- c) Single wire diagrams for high voltage side and medium voltage side, indicating the separation points between distribution network installations operated by the applicant and the installations owned by Transmission System Operators of the neighbouring countries, or of the electricity producers, Distribution Operators, respectively;
- d) Maps at a suitable scale for the geographical zone(s) covered by the distribution activity; the maps should show the location of the high voltage and medium voltage distribution facilities;

(3) According to (1), the description of the organisational and human resources framework should also include:

- a) The organisational chart of the applicant, describing the organisation's structure at the moment of application;
- b) A staffing report, describing the staff structure, for each speciality and proving the staff training for the activity to be licensed;
- c) The Organisation and Operation Rules or the Quality Assurance manual (whole document or excerpts only) to describe the responsibilities of the departments involved in the activity to be licensed, connected with quality indicators for electricity distribution, the staff commitment and training

(4) According to (1), the applicant's document should also include a business plan for the activity to be licensed, for the application year and for the next two years.

Art. 22. – (1) In order to obtain a license for electricity supply, a legal entity applicant should attach to the written request, apart from the documents listed under Art. 15, a description of the framework of this activity.

(2) According to (1) the description of the organisational and human resources framework should include:

- a) A list of applicant's headquarters where the activity of electricity supply takes place;
- b) The organisational chart of the applicant, describing the organisation's structure at the moment of application;
- c) A staffing report, describing the staff structure, for each speciality and proving the staff training for the activity to be licensed;
- d) The Organisation and Operation Rules or the Quality manual (whole document or excerpts only) to describe the responsibilities of the departments implied in the activity to be licensed, connected with quality indicators for electricity supply, the staff commitment and training.

(3) According to (1), the applicant's document should also include a business plan for the activity to be licensed, for the application year and for the next two years as well as a proof that the applicant has the financial resources required by the electricity supply activity according to the regulation in force. To this aim, the applicant should append to the written request documents stating:

- a) The value of social capital and of the assets (in case of independent companies; and/or
- b) The amount of bank deposits;
- c) The value of credit lines of at least € 100,000, using the exchange rate established by the National Bank of Romania for the application registration day.

Art. 23. – In order to obtain a license for commercial operation of co-gen thermal power unit, a legal entity applicant should attach to the written request, apart from the documents listed under Art. 15, the following documentation:

- a) A list of applicant's headquarters where the activity of thermal power and electricity co-generation takes place;
- b) The organisational chart of the applicant, describing the organisation's structure at the moment of application;
- c) A staffing report, describing the staff structure, for each speciality and proving the staff training for the activity to be licensed;
- d) The Organisation and Operation Rules or the Quality Assurance manual (whole document or excerpts only) to describe the responsibilities of the departments implied in the activity to be licensed, connected with quality indicators for thermal power generation, the commitment and training of the staff involved in the activity to be licensed;
- e) A business plan for the activity to be licensed, for the application year and for the next two years.

Art. 24. – (1) For the commercial operation of a power unit, new or refurbished, the owning entity should apply to the Competent Authority for:

- a) a license for that specific activity, in case such a license does not exist or the exempting conditions mentioned under Art. 8 (2) are not met; or
- b) up-dating the license conditions for that activity so as to describe the actual situation.

(2) Under the circumstances in (1), the written request for a new license or for updating the former one, apart from the additional documents requested by the present Rules, should be accompanied by:

- a) the minutes certifying the end of the works;
- b) the minutes certifying the setting into operation, for the work in progress on the operational power unit, according to the Governmental Decision No. 51/1996 regarding the technological works acceptance rules and their putting into operation.

Art. 25. – When applying for a license for electricity generation a private entity should append the written request with:

- a) Duplicate of the identity card (for a Romanian person) or duplicates of the passport and the documents certifying the Romanian residence;
- b) Criminal record (original document) issued not earlier than 90 days prior to application registration;
- c) Documents (formal duplicates), certifying the professional training;
- d) Curriculum vitae ;
- e) Certificate stating that the private entity is registered as such for an independent economic activity ; it should be issued by the Trade Register, not earlier than 10 days prior to handing it over to the Competent Authority (original or formal duplicate);
- f) authorisation for generating electricity / co-generating electricity and thermal power, issued by the mayor of an administrative unit, according to the law No. 507 / 2002 and its subsequent amendments.
- g) data regarding the location of the power unit
- h) technical characteristics of the power unit;
- i) technical approval for connecting the power unit to the distribution network, issued by the Distribution Operator
- j) Business value estimated for the application year as a result of the activities to be licensed.

Analysis of the authorisation/ license applicant's documents

Art. 26. – (1) The Competent Authority analyses the documents attached by the applicant to the written request for authorisation/ license and, when appropriate, sends a letter informing the applicant – no later than 15 days after the request registration – on the necessity of completing the documentation, correcting it or supplementing it.

(2) Where appropriate, considering the quality and complexity of the data provided by the applicant, the Competent Authority may decide:

- a) the convocation, at the Competent Authority's headquarter, of the applicant's authorised representatives to clarify certain aspects that are not clearly described by the provided documents;
- b) on-site verification of the accuracy of data presented by the applicant; the findings of the verification are written in a Minute to be signed by both sides

(3) In case that within 60 working days starting with the registration day of the written request for authorisation/ license, the applicant fails to provide to the Competent

Authority the appropriate documentation required by the present Rules, the additionally require data included, the Competent Authority rejects the applicant's documentation and removes the request registration from its work schedule.

Art. 27. – (1) The granting or the rejection of an authorisation/ license request is the result of the quality of the applicant's documentation, the Competent Authority considering the following:

- a) the possibility that the applicant should obtain the authorisation/ license under the circumstances described under Art. 9 and Art. 10.
- b) the authenticity of the data included in the documentation;
- c) the existence of an organisational frame that should permit the applicant to comply with the conditions stipulated by the authorisation/ license;
- d) provision of the due financial resources required by the activity to be authorised/ licensed;
- e) provision of the trained personnel, with professional and management experience;
- f) the safety/security conditions for personnel, assets and environment, according to the legislation in force;
- g) power efficiency of the power units to be authorised/licensed, correlated to the limit values set forth by the Competent Authority.

(2) In case of a request for a set up authorisation, apart from the criteria listed under (1) the following should also be observed:

- a) the investment project is already part of an approved development plan;
- b) technical and economical feasibility of the project for which a set-up authorisation is requested;
- c) compliance with the legal conditions for the location of the power unit for which a set-up authorisation is requested;
- d) compliance with the conditions stipulated by the technical approval, according to Art. 16, letter f or Art. 16, g as appropriate;
- e) the impact of the activity to be authorized on other legal or private entities' activity.

(3) For each distinct case and after examining the applicant's documentation, the Competent Authority sets up a report that presents the justified decision to issue / to refuse the issuing of the authorisation/license; when it is appreciated that the issuing is feasible, the report would also indicate the validity period.

(4) The report is presented to the Regulatory Committee of the Competent Authority, which decides – within a public meeting – the solution to be used for the analysed appliance. The place and date of the public meeting are communicated 5 days in advance by updating the Public meeting schedule on the Competent Authority's Web page and via letters addressed to the applicant and to other interested parties.

Meanwhile the Competent Authority makes available to the applicant or any other interested party the report on the applicant's request which also includes the terms associated to the authorisation/ license in the variant that should be forwarded for approval to the Regulatory Committee.

(5) When the granting of the authorisation/ license is approved, the Competent Authority draws up the due terms, which become constituent part of the authorisation/ license; the

terms are forwarded to the Regulatory Committee which could recommend amendments. Without being restricted to the following aspects, the terms refer to:

- a) the power units whose setting-up or refurbishment constitutes the object of the authorisation/ license;
- b) the geographical area within which the license owner is entitled to carry out the licensed activity, in the situations described under Art. 8 (1)c, e or f;
- c) the authorisation/ license validity period;
- d) the rights of the authorisation/ license owner;
- e) the electricity generation authorisation/ license owner's duty to assure the fuel/water resources implied by the contractual responsibilities, and technical responsibilities, respectively, implied by the National Grid operation;
- f) the owner's responsibility for the license mentioned under Art. 8 (1) c or e to permit the users' regulated access to the networks operated according to the license terms;
- g) the license owner's responsibility for an equal treatment of the clients and for avoiding any discriminatory behaviour;
- h) the restrictions and duties for the license owner to stimulate a normal competitive environment, to avoid any market imbalance and anticompetitive practices;
- i) the license owner's responsibility to notify in due time the clients, according to the Competent Authority regulation, on the intent to close down the licensed activity;
- j) the license owner's responsibility to keep distinct financial records for each licensed activity;
- k) the license owner's responsibility to have and maintain financial warranties capable of sustaining the uninterrupted course of the licensed activity;
- l) interdictions and responsibilities for the impact of the authorised/ licensed activity on legal/private entity activities or rights;
- m) the obligation of the authorisation/ license owner to set up and hand over to the Competent Authority technical financial reports on the authorised/ licensed activity;
- n) the obligation of the authorisation/ license owner to inform the Competent Authority about own organisational and technical changes;
- o) the obligation of the authorisation/ license owner to provide the Competent Authority with any data requested for its own normal activity, monitoring and control of the authorised/ licensed owner included;
- p) the stipulations on monitoring and control of the Competent Authority of the authorised/ licensed owner regarding the compliance to the authorisation/ license terms and to other regulations of the Competent Authority;
- q) the conditions for authorisation/ license updating, suspending or withdrawal;
- r) the situations that justify the authorisation/ license owner penalising by the Competent Authority.

Authorisation/license issuing/non-issuing

Art. 28. – (1) The report on the authorisation/ license application and the due terms are discussed in the public meeting of the Regulatory Committee. The meeting is recorded on a CD to be archived and kept for at least 5 years.

(2) The Regulatory Committee decides by a majority ballot on the issuing of the authorisation/ license applied for.

(3) Depending of the result of the ballot, the President of the Competent Authority issued the decision regarding the authorisation/ license issuing or non-issuing, which will be forwarded to the applicant no later than 5 working days.

(4) When the authorisation/license is issued, the Competent Authority informs the applicant on the following:

- a) Decision of the Competent Authority President on authorisation/license issuing;
- b) The formal document of the authorisation/license; its content is presented in Appendix 2;
- c) The authorisation/license terms, that are constituent part of the formal document;
- d) Minutes of the public meeting of the Regulatory Committee.

(5) When the decision is for non-issuing the authorisation/license, the Competent Authority informs the applicant on the following:

- a) Decision of the Competent Authority President's on authorisation/license non-issuing;
- b) Minutes of the public meeting of the Regulatory Committee, with an explicit justification of the non-issuing decision.

Art. 29. – (1) The decision of issuing or non-issuing the authorisation/license is registered with the Competent Authority on the President's decisions list, which is available in the Competent Authority Web page.

(2) The decision of issuing or non-issuing the authorisation/license can be appealed at the Competent Authority by the applicant, no later than 15 days starting from its passing. The applicant should be informed about the Regulatory Committee decision on the appeal no later than 15 days starting from its registration.

(3) President's decision can be appealed, according to Art. 9 (8) of the Law No. 318 / 2003 at the Bucharest Court of Appeal, Administrative Dispute Division, no later than 30 days starting from:

- a) The day of applicant's being informed on the granting of the authorisation/license, by the applicant;
- b) The day the decision is published on the Web page of the Competent Authority, by any interested party.

CHAPTER III

The circumstances for authorisations and licenses modification

Art. 30. (1) According to the legal provisions, if the authorisation and license holders submit a request or if considers necessary, the Competent Authority may decide the modification of the issued authorisations/ licenses, under the following circumstances:

- a) if any modifications of the circumstances existent at the time of authorisations/ licenses issuing (legislation changes, final court decisions and others) or any event that substantially affects the electricity generation, transmission or distribution or the electricity market or leads to the impossibility to fulfil entirely or partially the conditions associated to the granted authorisations /licenses;
- b) if any changes happened to the authorisations/ licenses holders (modifications of the legal statue, modifications of the patrimony, splitting, merging, converting, activity)

or due to the modification of some technical characteristics (commissioning/ de-commissioning or conservation of some capacities, the geographical limits of the area used to carry out the activity) with respect to the situation existent at the time the authorisations/ licenses are issued, for which it becomes necessary the up-date of the conditions associated to that authorisations/ licenses.

(2) For the situations in the par. (1) a. the authorisations/ licenses modification is made at the Competent Authority initiative, to comply with the new situation, pursuant to the principle of holders non-discrimination and to that of proportionality. The Competent Authority will transmit in writing to the authorisation/ license holders the modifications to the authorisation/ license conditions.

(3) The authorisation/ license holders should notify any of the situations mentioned at par. (1) b. to the Competent Authority in 30 days, appended by the application for the authorisations/ licenses modification. When receiving such applications, the Competent Authority examines the case and decides, if the applications are reasonable, one of the following:

- a) the withdrawal of the initial authorisations/ licenses and granting of new authorisations/ licenses,
- b) the modification of the conditions associated to the issued authorisations/ licenses.

CHAPTER IV

The procedure of suspending or withdrawing authorisations and licenses

Art. 31. Under the situations mentioned in the authorisation/ license conditions or in other regulations issued by the Competent Authority or if any authorisation/ license holder breach any legal obligation, found by the Competent Authority, by third parties, or by the authorisation/ license holder itself, the Competent Authority takes the following decisions:

(1) If the obligations not fulfilled can not be imputed to the authorisation/ license holder, the Competent Authority decides:

- a) to give the authorisation/ license holder a 6-month compliance time, if the respective situation can be fixed, the sanction consists in suspending the authorisation/ license, and in case of a further non-compliance:
- b) the authorisation/ license withdrawal, if the situations can not be fixed;

(2) If the obligations not fulfilled can be imputed to the authorisation/ license holder, the Competent Authority decides, by situation, to penalise the authorisation/ license holder pursuant to the provisions of the present rules and:

- a) authorisation/ license suspension for a specified period, to fix the situation, if it can be fixed or
- b) authorisation/ license withdrawal, if the situation can not be fixed.

Art. 32. (1) The Competent Authority suspends the authorisation and/or the license in the situations mentioned under art. 31 (2) a), and also if there is a pending process of a judiciary reorganisation or bankruptcy.

(2) The authorisation/ license holder must notify the Competent Authority of any pending process of judiciary reorganisation or bankruptcy upon him, in 8 days since the final Court Decision.

Art. 33. (1) The Competent Authority withdraws the authorisation and/or license:

- a) in the situations mentioned under art. 31 (1) b) and (2) b),
- b) in the situation of the holder's decline, incapacity or bankruptcy,
- c) in the situation of the operated capacity/ capacities concession or location expiring or in the situation of capacity/ capacities sale.

(2) The authorisation/ license holder must notify the Competent Authority of the situations mentioned under (1) b) and c), in 8 days since their confirmation through final Court Decision, and also the registration with the Trade Register Office, the notary public certification, the cancellation or conclusion of the contracts and others.

**Art. 34. (1) To ensure the continuity of the public interest activity
subject of a license that was:**

- a) suppressed, as a consequence of a process of judiciary reorganisation or bankruptcy starting upon the license holder, pursuant to art. 32 (1),
 - b) withdrawn, in the circumstances mentioned under the art. 33 (1),
- the Competent Authority imposes to the license holder or to another license holder to still fulfil the activities of the suspended license, respectively of the withdrawn license.

(2) The Competent Authority will draw up a procedure regarding the modality through which a license holder is designated to assume the responsibility and compelled to carry out the activities that were subject of a withdrawn/suspended license.

**CHAPTER V
Sanctions**

Art. 35. – The Competent Authority may sanction the authorisation/license owner, observing the Art. 63 ...65 of the Law No. 318 / 2003.

**CHAPTER VI
Final provisions**

Art. 36. – (1) The Competent Authority is responsible for the public availability of all documents referring to the application for an authorisation/license issuing, updating, suspending or withdrawing. The access to these documents is obtained upon a written request.

(2) There is no public access to the documents containing:

- a) state secret data;
- b) confidential data;
- c) data liable to endanger or prevent an investment under progress.

Art. 37. – Within one year since the coming into force of the present Rules and according to a schedule made available to interested parties, the Competent Authority shall amend

the licenses issued before the implementation of Law No. 318 / 2003 so that they may be in line with the provisions of the latter.

Art. 38. – The rights granted to owners via their authorisation/ license terms are neither entirely nor partially transferable without the consent of the Competent Authority. Any transfer without this consent is void and represents a violation of the provisions of the authorisation/ license, and is subject to sanctions according to Art. 35.

Art. 39. – Appendices 1 and 2 are constituent part of the present Rules.

Appendix no 1.

Tariffs to grant/modify authorisations and licenses, annual contribution

1. When the present regulation comes into force, The Competent Authority requires the following tariffs * (see tables 1, 2 and 3) to grant or modify authorisations and licenses; these tariffs are subject to annual recalculation depending on the consumer price index, by Order of the Competent Authority President.

2. The license/ authorisation holders and applicants pay to the Competent Authority an annual contribution representing a percentage of 0,035% of the turnover they obtain from the commercial activities in the electricity sector and in the co-gen thermal power sector.

3. The annual contribution collected from every license/ license holder/ applicant cannot be less than 11.400.000 ROL, this value is subject to annual recalculation depending on the consumer price index.

4. During the entire validity period, the license/ license holders/ applicants pay the annual contribution calculated in relation to the turnover gained in the previous year from the commercial activities in the electricity sector and from co-gen thermal power sector.

5. The license/ license holders will submit annually to the Competent Authority, by January 30 , the value of the turnover of the previous year, in order to invoice the contribution; if the Competent Authority does not receive this figure in due time, the Competent Authority will invoice the contribution based on its own estimation.

6. The license/ licenses applicants, that are not license holders yet, will pay for the year of the granting a contribution based of an estimation of the turnover in that year, for the commercial activities in the electricity sector and in the co-gen thermal power sector.

7. The annual contribution can be paid quarterly in equal portions, each portion being paid in the first month of each quarter.

*

*) In the situation an authorisation/ license is not granted but tariffs calculated according to tables no. 1 or 2 were entirely paid, the Competent Authority reimburses to the applicant the difference between the amount of money paid and the tariff for analysing the documents enclosed to the authorisation/ license written request, as stipulated in table no. 3.

Table no. 1. Tariffs for authorisations granting *)

	ACTIVITY Item; the object of the requested authorisation; <i>the item determinant for the tariff</i>	Measuring Unit (MU) <i>of the value determinant for the tariff</i>	TARIFF	
			ROL/MU	ROL
1		2	3	4
	ENERGY GENERATION			
1.	Set-up Authorisation for:			
	1.1. Set-up a new capacity to generate electricity/ Energy in co-generation; <i>installed electric power/ installed thermal and electric power</i>	MWe MWt	738.000 147.000	
	1.2. Refurbishing an electricity/ Energy in co-generation generating capacity ; <i>installed electric power/ installed thermal and electric power</i>	MWe MWt	738.000 147.000	
	ELECTRICITY TRANSMISSION			
1.	Set-up Authorisation for:			
	1. Building a new electric line; <i>the electric line length</i>	km	738.000	
	1.2. Building a new electric substation; <i>the installed electric power of the transformers in the substation</i>	MVA	147.000	
	1.3. Refurbishing an electric line; <i>the electric line length</i>	km	738.000	
	1.4. Refurbishing an electric substation; <i>the installed electric power of the transformers in the substation</i>	MVA	147.000	
	ELECTRICITY DISTRIBUTION			
1.	Set-up Authorisation for:			
	1. Building a new 110 kV electric line; <i>the electric line length</i>	km	300.000	
	1.2. Building a new 110 kV electric substation (including connection substations)			14.750.000
	1.3. Refurbishing a 110 kV electric line; <i>the electric line length</i>	km	300.000	
	1.4. Refurbishing a 110 kV electric substation (including connection substations)			14.750.000

*) Tariff (T) is given in the column (4) of the table no. 1 or it is computed based on the formula:

$$T = \Sigma \{ (\text{the item determinant of the tariff}) \times (\text{the corresponding value of the col. 3 of the table no. 1}) \}$$

If the computed value is less than 11.400.000 ROL, then to T is assigned the minimum value of 11.400.000 ROL.

Table no. 2. Tariffs for licenses granting^{*)}

ACTIVITY Item; the object of the requested authorisation; <i>the item determinant for the tariff</i>	Measuring Unit (MU) <i>of the item determinant for the tariff</i>	TARIFF	
		ROL/MU	ROL
1	2	3	4
ELECTRICITY AND HEAT GENERATION			
1. License for:			
1.1. Electricity generation; <i>the installed power of the operated capacities</i>	MWe	147.000	
1.2. Heat generation (in co-generation); <i>the installed power of the operated capacities</i>	MWt	89.000	
ANCILLARY SERVICES PROVISION			
1. License to provide ancillary services; <i>power ensured for reserve and control</i>	MW	60.000	
ELECTRICITY TRANSMISSION AND PROVISION OF THE SYSTEM SERVICES/ DISPATCHING			
1. License for the electricity transmission and system services provision; - <i>the installed power of the transformers in the transmission substations,</i> - <i>number of the dispatched generating units</i>	MVA -	60.000 300.000 ^{**)}	
ELECTRICITY MARKET OPERATION			
1. License for the electricity market operation			13.950.000
ELECTRICITY DISTRIBUTION			
1. License for electricity distribution; <i>the installed power of the electric substations</i>	MVA	60.000	
ELECTRICITY SUPPLY			
1. License for electricity supply			11.400.000

*) Tariff (T) is given in the column (4) of the table no. 2 or it is computed based on the formula:

$$T = \Sigma \{ (\text{the item determinant of the tariff}) \times (\text{the corresponding value of the col. 3 of the table no. 2}) \}$$
If the computed value is less than 11.400.000 ROL, then to T is assigned the minimum value of 11.400.000 ROL.

***) ROL for every electricity dispatch-able unit

Table no. 3. Tariffs for documentation analysis/ authorisations and licenses modification

Item	ACTIVITY	TARIFF (ROL)
1	ANALYSIS OF THE ENCLOSED DOCUMENTATION OF THE AUTHORISATION/ LICENSE WRITTEN REQUEST	11.400.000 ¹⁾
2	AUTHORISATION/ LICENSE MODIFICATION	11.400.000

1) This amount of money represents the part of the authorisation/ license granting tariff that is paid in advance; in the situation the Competent Authority refuses the authorisation/ license granting or decides to remove the specific request from its working plan, the documentation analysis tariff is not reimbursed to the applicant.

APPENDIX no. 2

MODEL No. 1.1

Mister President,

The undersigned [name and surname], as [general manager/ single administrator] of the company registered with the Trade Register Office under the name [name of the national company/ company/ autonomous regie], with legal statue of [C.N./ S.A./ S.R.L./ R.A.], with headquarter in [town/ city, street, no., district], telephone no. [telephone no.], fax no. [fax no.] and account [specification/ account number/ ROL], opened with the bank [name of the bank], branch [name/ the localisation of the branch where the account is open for the national company/ company/ autonomous regie],

apply for [granting a set-up authorisation/ modifying the set-up authorisation] for

⁽¹⁾building the new capacity ["name of the capacity for which the authorisation is requested to accomplish the erection - mounting works", the emplacement],

⁽²⁾refurbishing the capacity ["name of the capacity for which the authorisation is requested to accomplish the refurbishing works", the emplacement]

I hereby inform you that I can be contacted for a further collaboration with the Competent Authority, by phone/ fax at the following number. [telephone no. / fax no.]

You may find enclosed to my request the specific documents and a list of the enclosed documents.

Signature

(1), (2) – only one line is to be posted in accordance to the specific situation.

MODEL No. 1.2

Mister President,

The undersigned [name and surname], as [general manager/ unique administrator] of the company registered with the Trade Register Office under the name [name of the national company/ company/ autonomous regie],

with legal statue of [C.N./ S.A./ S.R.L./ R.A.],
with headquarter in [town/ city/street no., district], telephone no. [telephone no.], fax no.
[fax no.]
and account [specification/ account number/ ROL], opened in the bank [name of the
bank], branch [name/ the localisation of the branch where the account is open for the
national company/ company/ autonomous regie],

apply for [granting a license/ modifying the license] for [type of the license, pursuant to
art. 8 par. (1)]

I hereby inform you that I can be contacted for a further collaboration with the Competent
Authority by phone/fax at the following number [telephone no./ fax no.]

You may find enclosed to my request the specific documents and a list of the appended
documents.

Signature

MODEL No. 1.3

Mister President,

The undersigned [name and surname],
apply for [granting a license/ modifying license] for electricity generation,
being registered with the Trade Register Office as private entity according to the provisions
of the law no. 507/2002, with the subsequent upgradings and having the address/ residence ⁽¹⁾
in [town/ city/ street no., district].

I hereby inform you that I can be contacted for a further collaboration with the Competent
Authority by phone/fax at the following number [telephone no./ fax no.].

⁽²⁾to my name there is open the account [specification/ account no./ ROL], in the bank [name
of the bank], branch [name/ localisation of the branch].

The written request is appended by the specific documents listed enclosed.

Signature

(1) - for private entities that are foreign citizens;

(2) – to be posted only if applicable.

MODEL No. 2.1

Set-up Authorisation Framework

ANRE
Romanian Energy Regulatory Authority No....of...

granted according to the provisions of the Electricity Law no. 318/2003,

SET-UP AUTHORISATION

for [building/ refurbishing] [name of the objective/ capacity] in [complete address of the emplacement of the objective or capacity subject to authorisation],
having the technical characteristics specified in the associated conditions,

[company name],
with headquarter in [complete address of the company headquarter], represented by
[name and surname of the general manager/ unique administrator],
based on the written request registered with ANRE under [record no.] of [record date]
and on the enclosed documentation.

The present authorisation is valid according to the associated conditions.

Date of issuing

President,
.....

MODEL No. 2.2

LICENSE FRAMEWORK

ANRE
Romanian Energy Regulatory Authority No....of...

granted according to the provisions of the Electricity Law no. 318/2003,

LICENSE

for [activity to be licensed]

[company name/ name and surname ^{(2),(3)} of the holder],
with headquarter ⁽¹⁾/ address⁽²⁾/residence⁽³⁾ in [complete name of the headquarter⁽¹⁾/
address⁽²⁾/residence⁽³⁾],
⁽¹⁾represented by[name and surname of the general manager/ unique administrator],
based on the written request registered with ANRE under [record no.] of [record date]
and on the enclosed documentation.

The present license is valid according to the associated conditions.

Date of issuing

President,

-
- (1) - applicable to national companies, companies and autonomous regies;
 - (2) – applicable to private entities that are Romanian citizens;
 - (3) - applicable to private entities that are foreign citizens.