

Law of electricity and natural gas

Parliament of Romania adopts the present law.

TITLE I ELECTRICITY

CHAPTER I General provisions

Regulatory framework

Art. 1.- (1) Present law sets out the regulatory framework for performing activities in the sectors of electricity and of heat produced by cogeneration, in order to optimize the use of primary energy sources under conditions of accessibility, availability and affordability and in compliance with the security, quality and environmental protection norms.

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

- a) Batteries, mobile power units, electric installations integrated in any kind on vehicle;
- b) Electricity stationary sources of direct current, if not being connected to the National Power System -SEN through inverters;

The objectives of the activities in the sectors of electricity and of heat produced by cogeneration

Art. 2.-Activities in the sectors of electricity and heat produced by cogeneration should be performed so that to achieve the following objectives:

- a) Ensuring a sustainable development of the national economy;
- b) Diversifying the primary energy resources;
- c) Creating and ensuring the functioning of competitive electricity markets;
- d) Ensuring non-discriminatory and regulated access of all electricity market participants to public transmission and distribution networks;
- e) Ensuring transparency of electricity rates, prices and taxes within a policy rate with a view to increase efficiency upon the cycle of generation, transmission, distribution and use of electricity;
- f) Ensuring safety fuel stocks needed for generating electricity as well as heat produced by cogeneration;
- g) Ensuring interconnected functioning of the National Power System with the electric power systems of neighbouring countries and the European Network of Transmission System Operators for Electricity - ENTSO-E;
- h) Improving the competitiveness of the internal electricity market and actively participating in the formation of EU regional as well as internal energy market and in developing cross-border exchanges;
- i) Promoting the use of new and renewable energy resources;
- j) Ensuring environmental protection at local and global level, in accordance with the legal regulations in force;
- k) Ensuring security measures to prevent and fight against terrorist

and sabotage acts upon the infrastructure of the National Power System-SEN;

l) Ensuring security of the functioning of the National Power System-SEN;

m) Ensuring security of electricity supply to consumers;

n) Promoting the generation of electricity produced by high efficiency cogeneration plants, associated to the heat supplied to cover the justified economic consumption.

Definition of terms and expressions

Art. 3.-For the purpose of this law, the terms herein have the following definition:

1. *Access to public electricity network* - set of rules by which a third party shall exercise the right to connect and use, under the provisions herein, the transmission and distribution networks;

2. *Competent authority* - The Romanian Energy Regulatory Authority – ANRE;

3. *Guaranteed access to power grids* - set of rules and technical and commercial requirements based on which for certain categories of producers, that fall under the provisions of a support schemes adopted at national level, the injection into the network of some of the quantities of electricity that were contracted on the competitive market or based on purchasing obligations, is guaranteed within the present law;

4. *Priority access to power grids* - set of rules and technical and commercial requirements based on which certain categories of producers are provided the opportunity to take over, at any time, the sale of the total quantity of electricity delivered to the network, depending on the network's capacity connection and the availability of plants / resources eligible;

5. *Failure* - an event implying dangerous deviations from the functioning parameters stipulated by the technical norms in force;

6. *Interconnection capacity* - an electricity transmission line which crosses or spans a border between two states and which links the national transmission systems of those states;

7. *Energy capacity* - the plants generating electricity and/or heat by cogeneration, power grids and other power equipment;

8. *Power plant* - group of installations, constructions and equipment required to generating electricity; a power plant comprises one or more production units (equipments);

9. *Cogeneration plant (heating)* – group of installations, constructions and equipment required for the generation of combined heat and power;

10. *Customer* - wholesale or final customers of electricity;

11. *Wholesale customer* – a natural or legal person purchasing electricity for resale inside or outside the system in which it is located;

12. *Eligible customer* - the consumer that is free to purchase electricity from the supplier of his choice under the provisions of art. 33 of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC;

13. *Final customer* - any legal or natural person that buys electricity for his own use, in compliance with the present law, final customer and

consumer terms are equivalent;

14. *Non-residential customer* - any legal or natural person purchasing electricity which is not for their own residential use; this category includes also electricity producers, network operators and customers;

15. *Residential customer* - the customer purchasing electricity for their own residential consumption, excluding commercial or professional activities;

16. *Vulnerable customers* - the final customer belonging to a category of residential customers, which due to age, health or low incomes risk social marginalization and, in order to prevent this risk benefit of social protection measures, financial measures included. Social protection measures and the selection criteria are established by normative acts.

17. *Congestion* - the situation in which, when programming the functioning or when functioning in real time, the power flow between two nodes or system areas leads to the violation of the security parameters for the proper operation of an electricity system;

18. *Electricity supply contract* - contract under which the energy supplier provides to its customer a quantity of electricity for a certain period of time, but which does not include a derivative instrument from the electricity sector;

19. *Processing contract* - contract under which a quantity of fuel belonging to an undertaking is processed in an energy production unit owned by a producer, in exchange for a quantity of electricity and for paying a processing fee to the producer; the conclusion of a processing contract represents an exception from the other types of contracts and shall be concluded in transparency and non-discriminatory conditions, upon ANRE regulations;

20. *Control over an undertaking* - the rights, contracts or any other methods by which, separately or conjunctively and by taking into consideration the laws and the facts involved, is granted to an undertaking the opportunity to exercise a decisive influence over another undertaking, especially through:

a) Holding of a title of property or the right to use all or part of the assets of an undertaking;

b) The rights or contracts that confer a decisive influence upon the structure, voting rights or decisions taking by the internal bodies of an undertaking.

21. *Passageway of the electric line* - 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 area and the safety areas;

22. *Electricity distribution* - the transmission of electricity through high, medium and low voltage distribution networks with a nominal tension of maximum 110 kV, for the purpose of delivering it to the customers, without including the supply;

23. *Balance between production and consumption* – covering the expected demand of electricity without the need to reduce consumption;

24. *Commercial operation of an energy capacity* - group of

activities carried on by an undertaking in the sector of electricity based on a license granted under the terms of the present law;

25. *Electricity supply* - the activity of sale, including resale of electricity to customers, as well as electricity supply for the consumption sites located on supplier's property;

26. *Supplier* - natural and/or legal person that carries on activities in the energy supply sector;

27. *Supplier of last resort* - the supplier appointed by the competent authority to deliver the service of electricity supply under specifically regulated conditions;

28. *Guarantee of origin* – the electronic document issued by the competent authority to the electricity producers that has a unique position to provide proof to final consumer that the percentage or amount of energy was produced from renewable sources or by high efficiency cogeneration;

29. *Metering unit* - an aggregate made up of a meter and the associated metering transformers as well as all the intermediary parts that constitute the electricity metering circuit, including the safety-ensuring parts;

30. *Commercial sensitive information*- information which unauthorized disclosure could restrain, prevent or distort competition on the electricity market and/or would lead to prejudice for the market participants;

31. *Interconnection* - all sets and equipments that enable the connection of the power systems;

32. *Derivative financial instrument in electricity sector* - one of the financial tools referred to by Art. 2 paragraph (1) point 11 items d), g), h) of Law no. 297/2004 on capital market, subsequently modified and completed, combination between them as any other thus qualified by CNVM regulations;

33. *Direct line* - the electricity line which connects an isolated production energy unit to an isolated customer or the electricity line that connects an energy electricity producer and/or an energy supplier, in order to supply energy directly to their own headquarters, to their subsidiaries or to the eligible customers of the latter;

34. *Energy efficiency and demand oriented management* - the approach, global or integrated, aiming to influence the volume and programming of electricity consumption in order to reduce primary energy consumption and peak loads by granting priority to energy efficiency investments, interruptible energy supply contracts, new investments to increase production capacity, if those are the most efficient and economic options, given the positive impact that power reduction has on the environment, over the power supply's security, as well as over the distribution costs related to it;

35. *Congestion management* - the totality of activities, programs and actions carried on by the transmission system operator in order to eliminate the congestions occurring when programming the functioning or when functioning in real time of the National Power System; in order to eliminate congestions on the interconnection lines by default allocation of power capacity, where the transmission system operator shall cooperate with the electricity market operator;

36. *Line Ministry*- Ministry of Economy, Commerce and Business Environment;

37. *Natural monopoly in the energy sector* - a market circumstance, in which the transmission and, respectively the distribution services are provided, each one of them, by a single undertaking to the consumers on an assigned territory;

38. *Operator of the centralized electricity market* – the undertaking ensuring the organization and administration of the centralised electricity markets; with the exception of the balancing market, in order to provide wholesale electricity trading on short, medium and long term;

39. *Distribution system operator* - any person, natural or legal, that, under any title, owns a distribution network and is responsible for its operation, for ensuring maintenance, and, if necessary, for developing the electricity distribution network in a certain area and, where applicable, its interconnection with other systems, and for providing long term capacity of the network, in order to address a reasonable level of the electricity distribution demand;

40. *Transmission system operator* - any legal person, that, under any title, holds an electricity transmission network, ensuring the operation, maintenance and, if necessary, the development of the transmission network in a certain area and, where applicable, providing its interconnection with other power systems and long term capacity of the system to cover a reasonable level of electricity transmission demand;

41. *Affiliated operator* - any other undertaking that, directly or indirectly, controls the specified undertaking, shall be controlled by it or under joint control with that undertaking;

42. *Undertaking in the electricity sector* - any natural or legal person performing at least one of the following activities: generation, transmission, distribution, supply or purchasing of electricity and holding commercial, technical and/or maintenance responsibilities, related to these activities, which does not include final customers;

43. *Horizontally integrated undertaking* - an undertaking performing only one of the functions of generation for sale, or transmission/distribution/supply of electricity, as well as another non related electricity activity.

44. *Vertically integrated undertaking* - an undertaking or a group of undertakings in the electricity sector where the same person or the same people is (are) entitled, directly or indirectly, to exercise control, and the respective operator or group of operators is performing at least one of the functions of transmission or distribution activities and at least one the functions of generation or supply of electricity;

45. *Economic precedence* - the ranking of power supply sources based on economic criteria;

46. *Balance responsible party*- licence holder financially responsible for the imbalances arising between the notified and measured electricity values;

47. *Wholesale electricity market* - an organized framework for electricity trading and associated services with the participation of electricity producers, transmission system operator, distribution system operator or wholesale customers;

48. *Electricity market* - organizational framework where electricity and associated services are traded;

49. *Centralized electricity market* - organized framework in which electricity transactions are performed by different undertakings, usually intermediate by a central counterpart, based on specific norms, approved by the competent authority;

50. *Retail electricity market* - an organized framework where final customers purchase electricity from the suppliers or producers for own consumption purposes;

51. *Balancing market* –centralized electricity market, organized by the transmission system operator for carrying on electricity transactions between the transmission system operator on one hand, and the electricity producers that operate dispatchable production units, respectively dispatchable final customers on the other hand, to ensure real time balance between production and consumption;

52. *Intraday electricity market* - centralized market that offers market participants the opportunity to improve portfolio balance for a one day delivery through transactions conducted in sessions held after the end of the market trading for the next day and before a certain time prior to beginning supply;

53. *Day ahead market (PZU)* - centralized market for the sale and purchase of electricity on the delivery day, immediately following the trading day;

54. *Centralized market of bilateral contracts* – transparent and auction based organised framework for trading physical delivery contracts of electricity based on specific rules approved by the competent authority;

55. *International interconnection capacity allocation market* - centralized market for the interconnection capacity allocation of the National Power System, organized and administered by the transmission system operator based on specific rules, in order to achieve import/export trading and transit of electricity;

56. *National Power System's protection plan against major disturbances* - a document that comprises technical and organizational measures taken with a view to preventing extension of disturbances in the system and restraining the consequences;

57. *Development plan* - planning document for long-term investments needed for production units, transmission and distribution systems, in order to meet power demand of the system and securing the supply to customers, under applicable legislation;

58. *Tendering procedure* - the procedure by which additional consumption requirements as well as the capacity planned to be replaced, are covered by building new production units or upgrading the existing ones;

59. *Electricity producer* - legal or natural person, having as objective of activity the generation of electricity, including cogeneration;

60. *Distributed generation* - electricity generation units connected to distribution networks;

61. *Rehabilitation* - set of operations performed on energy equipment and/or facilities that, without altering their original technological conception, restore their technical and efficiency status to a

level closed to the one at the beginning of their life span;

62. *Retrofitting* - set of operations performed in order to replace existing morally and/or physically obsolete techniques with state-of-the-art technologies in order to increase activity efficiency, reduce specific energy consumption, mitigate polluting emissions, etc.;

63. *Electricity network* - all the electricity lines, including their support and protection elements, electrical stations and other electric power equipment connected to each other through which electricity is transmitted from a power unit to a user, the electricity network can be a transmission network or a distribution network;

64. *Electricity distribution network* - an electricity network with voltage values of up to 110 kV, including;

65. *Public electricity network* - the electricity network to which at least two users are connected;

66. *Electricity transmission network* - the electricity network of national and strategic interest with a rated voltage higher than 110 kV;

67. *Electricity sector* - all activities of electricity generation, including the generation of heat and power by cogeneration, of transmission, distribution and electricity supply, of delivery service system, electricity import and export, natural exchange and/or emergency exchanges with neighbouring countries power systems and their related facilities;

68. *Electricity distribution system* - the service provided by the distribution system operator consisting in ensuring the transmission, under efficiency and safety conditions, of electricity between two or several points of the distribution network, complying with the required quality standards in force;

69. *System services* - the services provided by the transmission system operator in order to ensure the safe operation of the power system as well as the quality of electricity, in accordance with the legislation in force.

70. *Ancillary services* - services provided by dispatchable producers or final customers, at the request of the transmission system operator in order to maintain the level of SEN reliability as well as the quality of electricity transmitted according to the parameters provided by the regulations in force;

71. *Transmission service* - the services provided by the transmission system operator, consisting in providing electricity's transmission in efficient and safe conditions, between two or several points of the transmission network, in compliance with the performance standards in force;

72. *Universal service* - electricity supply service guaranteed to household customers and non-household customers with less than 50 employees and an annual turnover or the value of total assets from the balance sheet, according to financial statement not exceeding 10 billion euros, at high quality level and reasonable, transparent, comparable and non discriminatory prices;

73. *Safety of power supply* - ensuring the technical capacity of the National Power System to supply electricity to the users of this system with respect to the legislation in force;

74. *Reliability of the network* - continued functioning of the transmission network and, where appropriate, of the distribution network in foreseeable circumstances;

75. *Electric power system* - all interconnected electric power units providing the generation, transmission, dispatch, distribution and use of electricity;

76. *Isolated power system* - the local electricity generation, transmission and distribution system, in compliance with the legal provision that is not interconnected with the National Power System;

77. *National Power System (SEN)* - the power system situated on national territory. The National Power System is the basic infrastructure that is jointly used by all electricity market participants;

78. *Interconnected system* - transmission and distribution systems linked together by means of one or more interconnections;

79. *Performance standards for electricity transmission, distribution and supply services* - set of regulations issued by the competent authority in order to set out performance indicators for the services of transmission/distribution/supply of electricity;

80. *Electricity transmission* - the transmission of electricity through the interconnected network of electricity transmission, in order to transmit energy to final customers or distributors, without including, also, the supply;

81. *Electricity network user* - any natural or legal person whose facilities are connected to an electric system for the delivery of electricity or a transmission system, respectively the distribution of electricity;

82. *Protection area* - the area, also expanded in space, adjacent to the energy units in which interdictions are imposed regarding the access of people and the land use regime;

83. *Safety area* - the area, also expanded in space, adjacent to the energy units in which interdictions and restrictions are imposed in order to ensure the normal functioning of the units and to avoid endangering population, assets and to put environment at risk; the safety area includes also the protection area.

CHAPTER II

Energy Strategy and Policy, Authorities and Competencies

Energy strategy and policy

Art. 4. - (1) The national energy strategy defines energy sector medium and long term targets, as well as the most appropriate ways to achieving these targets, in terms of ensuring a sustainable development of the national economy. The energy strategy is drafted by the Line Ministry and approved by the Government, in consultation with NGOs, social partners and business representatives.

(2) Energy policy, following the directions set by the energy strategy, is developed by Line Ministry, based on the Governmental Program, for a medium term, respecting long term probable developments and in consultation with NGOs, social partners and business representatives, considering, mainly:

- a) The creation of the appropriate institutional framework by defining the competent bodies and authorities to implement this policy;
 - b) Ensuring security of fuel and electricity supply;
 - c) Ensuring protection of the environment and rehabilitation, in an environment friendly manner, of sites affected by energy sector's activities;
 - d) Ensuring transparency of pricing and rates for fuels and energy;
 - e) Increasing the efficient use of energy and fuels;
 - f) Developing energy renewable sources and high efficiency cogeneration, prioritizing the electricity sources for isolated regions;
 - g) Enhancing international cooperation in the energy sector, participating at the regional and European electricity markets.
- (3) Financing used for the implementation of the national energy strategy and of the Government's policy in electricity sector is ensured through funds from own undertakings, state and local budgets, loans and grants.
- (4) Support measures of state aid nature, proposed in order to ensure the implementation of the national energy strategy and the Government's policy in the electricity sector as well as those stipulated herein, shall be approved and granted only in compliance with the legal norms.

Energy programme

- Art. 5. - (1) The energy policy effects in a programme consisting of measures to stimulate investment activities, research and development activities, sustainable development, efficient use of energy resources energy, efficiency and other activities in order to ensure security of SEN operation, approved by Government decision.
- (2) The Government, the Line Ministry and the other central and local public administration bodies take the necessary measures to fulfil the objectives given in the programme stipulated under para. (1) and examine, yearly or whenever deemed necessary, the progress of their fulfilment.
- (3) By Government decision, for safety reasons related to power supply, guaranteed access may be given to electricity produced in power plants that use fuel from domestic production, but only for annual quantities corresponding to a primary energy of maximum 15% of the total quantity of equivalent fuel required to produce the electricity associated with the final gross consumption of the country.

Competences of Line Ministry

- Art. 6. - The Line Ministry elaborates the national energy strategy and the energy policy and ensures their fulfilment, under the present law, having the following main responsibilities:
- a) To establish the institutional framework for developing in efficiency and competitiveness conditions, the activities of the undertakings subordinated or in the coordination of the Ministry, carrying activities in the electricity field.
 - b) To legislate programmes and action plans in order to implement the Government's policy in the electricity sector, including programmes for energy efficiency and for promotion of renewable energy sources.
 - c) To legislate normative acts for the electricity sector.
 - d) To ensure the development of studies based on which priorities concerning the strategically investments in electricity sector are set.
 - e) To legislate the programme for safety stocks of fuel and monitor the implementation of its provisions by sector undertakings.

f) To monitor on a permanent-basis, through institutions and authorities competent on this regard, the performances and quality of sector technologies and capacities and initiate measures for improvement.

g) To act as a concession granting authority for the electricity sector.

h) To take steps to building electricity generating units allowing the use, under cost-effective conditions, of domestic low quality fuels as well as the use of pre-established quantities of renewable and unconventional sources of energy.

i) To monitor the implementation and the observance of measures set out for environment protection, by all participants performing activities in the electricity sector, subordinated or in the coordination of the ministry.

j) To legislate programmes to diversify primary energy resources by proposing the Government the appropriate measures in this respect.

k) To implement the Government energy policy, regarding the continuous promotion of cogeneration, as an efficient solution to covering the national heat consumption and the use of renewable energy sources.

l) To coordinate cooperation actions with similar institutions in other countries as well as with international organizations in the field.

m) To ensure the monitoring of the compliance with the commitments assumed under the EU Accession Treaty for the energy sector and coordinates the transposition and implementation of those commitments by the institutions involved.

n) To define the critical infrastructure of the National Power System.

o) To monitor the fulfilment of the EU environment requirements that were assumed for the energy installations which, following the EU negotiations, have obtained a transition period for conformity.

p) To monitor and submit proposals, together with other state institutions and authorities with competencies in the field, of compulsory measures for all the undertakings in the electricity field, regardless of status and ownership, concerning the National Power System's fuel safety stocks for the cold season and the water level in the reservoirs, as well as any other measures concerning the safety and security in SEN operation, to be approved by Government Decision and establishes penalties for non compliance with the present measures.

r) To promote and facilitate together with ANRE the cooperation between wholesale market operator, transmission system operators and their correspondents at national level, including as regards cross-border aspects, with a view to create a competitive internal market of electricity. This cooperation covers the geographical areas defined in accordance with art. 12 para. 3 of the EC Regulation no. 714/2009; of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 as well as other geographical areas.

s) To collaborate with the Ministry of Labour, Social Solidarity and Family, which is responsible for establishing the national action plan in cases of energy poverty, defining the critical situations and customers that cannot be disconnected in such situations, as well as methods for recovery by the undertakings of associated costs, based on a specific procedure

proposed by ANRE and approved by Government Decision.

§) To take steps to building electricity generating units allowing the use, under cost-effective conditions, of domestic low quality fuels as well as the use of renewable sources of energy.

t) approves specifications concerning technical characteristics of installations used in SEN, in compliance with European legislation.

**Autoritatea de
Reglementare**

Art. 7. - (1) The National Energy Regulatory Authority - ANRE is organized and functions as an autonomous administrative authority with legal personality.

(2) The law establishes the organization, functioning, competences and attributions of ANRE.

CHAPTER III

Authorisations, Licenses and Concessions

SECTION 1

Authorisations and Licenses

**Activities subject to
authorisation**

Art. 8. - (1) Activities related to the establishment of new energy units and to the retrofitting of existing units are subject to establishment authorisation granted under the legal provisions in force.

(2) Generation, transmission, system service, distribution and supply of electricity as well as the administrative activities of centralized electricity markets are subject to licensing under the condition of the present law.

(3) All energy sector activities performed without authorisation or license are subject to sanctioning as per the laws in force.

Authorisation regime

Art. 9 (1) In order to obtain an authorisation, the applicant shall register the application to the competent authority.

(2) To the application, the applicant shall attach all the documents certifying his compliance with the economic, financial, technical and professional requirements by categories of energy capacity and of sector activities.

(3) Applicants having controlling shareholders or managers, persons that previously were controlling shareholders or managers of licensed undertakings that have not fulfilled their financial liabilities following transactions on the electricity market, are not eligible for authorisation.

(4) The license and authorisation granting, amendment, suspension and withdrawal procedures, granting terms and conditions consisting of: criteria, power levels, certification, and other alike, differentiated by category of units and by activities subject to authorisation, are set out in a regulation approved by ANRE decision.

(5) 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.

(6) The criteria for the distributed generation units and/or for the small electricity generators shall take into considerations the limited size of the generation units and the impact on the functioning of the electricity distribution networks.

(7) In determining the conditions for granting licenses and authorizations for new production units, the following are taken into account:

(a) Safety and security of electrical systems, installations and associated equipment;

(b) Protection of health and public safety;

(c) Environmental protection;

(d) Occupation of land and siting;

(e) Use of public domain;

(f) Energy efficiency;

(g) Nature of primary sources;

(h) Applicant's specific characteristics, such as technical, economic and financial features;

(i) Compliance with the measures adopted in relation with public service obligations and consumer protection;

(j) Contribution to capacity building for achieving the global communitarian objective, according to which the energy from renewable sources to represent at least 20% of final gross energy consumption of the EU in 2020, Romania's national objective being 24%, referred to in article 5 para. (1) of Law no. 220/2008 establishing a system for the promotion of electricity generation from renewable sources, republished and subsequently modified and completed;

(k) Contribution to creation of energy production units to reduce emissions;

(l) Efficient and rational use of energy resources in accordance with the strategic interest for sustainable development of Romania and safe operation of SEN in order to obtain national energetic independence.

Categories of licenses and authorisations

Art. 10. - (1) The competent authority issues establishment authorisations for the construction of new units for electricity generation, including energy and heat units by cogeneration or for the rehabilitation of the existing units as follows:

a) If the installed electric power of the unit exceeds 1 MW it is necessary to obtain an establishment authorization;

b) If the installed power of that unit is between 500 kWe and 1 MWe including, an authorization is not required for its establishment, but it is mandatory to notify the competent authority on the project investment and periodic reporting of progress of its implementation, according to the legal framework;

c) If the installed power of that unit is less than 500 kWe is not necessary to obtain an establishment authorization, but the obligation to notify the competent authority on the investment projects and regular reporting on progress of its implementation according to the legislation, falls under the responsibility of the electricity distribution operators.

(2) The competent authority issues licenses for:

a) Commercial operation of electricity generating units

- b) Commercial operation of units of heat by cogeneration;
- c) Performing electricity transmission service
- d) Performing system services
- e) Performing electricity distribution service
- f) Centralised markets administration-one license is granted for the operator of the electricity market and one license for the operator of the balancing market
- g) Electricity supply activity

(3) Establishment authorisations for the construction of new units as specified in para. (1), are granted only for the units sited on/in buildings found under the public/private ownership of the state or of the respective districts, under the private ownership of the applicant or held on other proprieties under another legal title.

(4) Licenses for the commercial operation of new units are granted only for units sited on/in buildings found under the public or private ownership of the state or of the respective districts, under the private ownership of the applicant or under the private propriety of a legal or natural person held with other legal property title.

(5) Commercial exploitation of energy units may take place without licensed for the activities stipulated by:

a) Para. (2) letter a), by the holder of the power generation unit that can be started without voltage from SEN / automatic start up equipments that are used by the holder for a safe supply with electricity for own equipment or facilities;

b) Para. (2) letter a) and b), by the residential customer holder of a power generation unit for electricity, respectively electricity and heating by cogeneration, connected to the network, with an installed capacity below 100kW;

c) Para. (2) letter b), by a producer of electricity and heat by cogeneration, if from the total heat produced annually, the heat produced by cogeneration that he sells, represents less than 20%;

d) Para. (2) letter e), by the holder of one/several electrical distribution networks, if issued electric grid connection permit show that the power approved for the users of this / these networks other than the owner, is totalling less than 1 MW;

e) Para. (2) letter e), by the holder of one/several electrical distribution networks, if the users of this / these networks, own exclusive consumption sites within one/several building(s) powered through that / those networks.

(6) The activity of a natural or legal person of reselling electricity to the users of an electrical network in service is performed without license under para. (2) letter g), in compliance with the regulations in the field, approved by the competent authority.

(7) In order to sell the electricity obtained from a processing contract, the undertaking part of such a contract must be licensed to supply under para. (2) letter g).

(8) Authorizations and licenses are modified if the existing circumstances and conditions at their granting date are modified.

Suspension and withdrawal of authorisations and licenses

Art. 11. - (1) In the event the holders of the establishment authorisation, respectively of the license, fail to meet their legal obligations, as well as in the event they fail to observe the conditions, limitations, restrictions, interdictions or the objectives established in the authorisation, respectively license, identified by the competent authority ex officio or upon the notice of third party 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 determined period in order to remedy the situation created and to comply 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) 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 unit or upon the sale of the unit by the holder.

Rights and obligations resulting from the establishment authorisation and licenses

Art. 12. - (1) The construction and retrofitting activities of the energy units for which authorisations are granted as well as the activities and services for which licenses granted are of public interest, with the exception of those performed in order to meet exclusively own consumption demand of the authorisation/license holder.

(2) Over the land and assets in public or private ownership of natural or legal persons and over the activities the natural or legal persons performs in the vicinity of the energy unit property rights are restricted in favour of the license/authorisation holders, who have under the terms hereof, the following rights:

a) The right to perform the necessary construction, relocation, retrofitting or decommission activities for the energy unit, subject to the authorisation;

b) The right to use the land to ensure the normal operation of the unit representing the object of authorisation, for the overhauls, repairs and other works alike;

c) The right to have access of underground surface or air with a view to assembling/disassembling 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 assets;

e) The right to access public utilities.

(3) Public utility is the object of the easement and access rights, and are exercised without registering in the Real Estate Register, their legal nature and content are stipulated in art. 14; the usage and the access rights shall be exercised throughout the entire life span of the energy unit or temporarily during retrofitting works upon an operating unit, during repairs, overhauls or emergency interventions.

(4) The usage and the access rights over the state's and the districts' properties affected by the energy units are exercised free of charge throughout the entire life span of the unit.

(5) The usage and access rights over the private properties affected by the energy units that are to be effected following the entry into force of the present law, shall be exercised as per the procedural rules for the terms and conditions referring to the duration, content and the limits of the exercise to be specified in a framework-agreement, and for determining the amount of compensations and indemnities and the way of payment, which, together with the framework-agreement, shall be approved by Government decision, upon the proposal of the Line Ministry..

(6) Landowners that are affected by the license/authorisation holders' exercise of the use and access rights can conclude agreements as per the provisions in paragraph (5).

(7) Landowners that are affected by the license/authorisation holders' exercise of the use and access rights, having, at the date of entry into force of the present law, agreements in progress for exercising these rights concluded in compliance with legal provisions, benefit from indemnities respectively, compensations.

(8) License/authorization holders have the obligation to sign the framework agreements specified in paragraph (5) within maximum 30 days from the date the affected owners submit the application.

(9) For possible damages caused during the interventions for retrofitting, repairs, overhauls and emergency interventions, license holders shall pay compensations to owners from the vicinity of the energy unit, under the current law.

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

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

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

(11) The usage and the access rights over private land, the restriction or termination of certain activities pursuant to para. (2) are set out and exercised with the observance of the justness principle, of the property right and of the minimum impact upon the latter.

(12) Holders of license and authorisation have the right to perform vegetation clearings or modelling cuttings, with the help of specialised personnel, in order to obtain and keep the appropriate distance as against

the electricity networks, in compliance with the legal provisions in force.
 (13) Holders of license and authorisation, beneficiaries of the usage and access rights over the public or private ownership of the state and of the districts are exempted from the payment of taxes, fees and other payment obligations set out by the central and local public administration bodies.

Obligations resulting from establishment authorisations and licenses

Art. 13. - (1) Holders of establishment authorisation have the following obligations:

a) To set out 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, endorsements 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 operators and to draw up financial reports as per the standard format required by the competent authority;

c) To hold and maintain financial guarantees which 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 operation of its activity.

e) To prepare, submit to audit and publish their annual accounting records at company level, without distinctly include unincorporated secondary offices, under specific legislation, adopted in accordance with the Fourth Directive 78/660/EEC of 25 July 1978.

(3) Undertakings that are not bind to publish annual accounts, keep at their headquarters a copy placed at public's disposal.

(4) The audit referred to in paragraph (2) point e) consists, in particular, in verifying the obligation to avoid discrimination and cross subsidies between the activities performed by the audited undertaking.

The rights and obligations of the holders of establishment authorisation and license over property of third parties

Art. 14. - (1) The usage right over the land for the construction/relocation/decommissioning or retrofitting of energy units is valid within the entire period required to complete the works. As per the provisions hereof, license holder for the construction/relocation/ decommissioning or retrofitting, under the legal provisions, is entitled to:

a) Store, on the lands necessary for the executions of works, construction materials, equipment, gears and installations;

b) Remove cultures or plantations or other existing developments or only restrict them inasmuch as it is strictly necessary to carrying on the works for the authorised unit, 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, build offices and site dwellings, with the prior consent of the owner;

e) Suspend or restrict activities of the owner, inasmuch as it is

strictly necessary to carry on the works for the authorised unit, in compliance with the legal provisions in force.

(2) The usage right under paragraph (1) ceases before the end of the period set out for the completion of works or before this deadline, upon beforehand 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) To ensure the proper operation of the energy unit, the usage right over the land shall range throughout the entire operation period of the unit and shall be exercised whenever it is required to ensure the proper functioning of the unit. 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 unit;

b) Install and operate gears;

c) Remove cultures or plantations or other existing developments and restrict the activities of the owner to the extent strictly necessary to carrying on the maintenance, repair and overhaul works for ensuring the proper functioning of the unit, in compliance with the legal provisions in force.

(4) The license holder shall inform in writing the owner of assets, lands or activities about the activities that are to be affected by the unit 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 unit site during the retrofitting, repair, overhaul and failure interventions.

(7) In order to avoid endangering persons, assets or other activities performed within the construction or retrofitting area of the energy unit as well as within the area where overhaul or repair works to the unit under operation are performed, the holder of the license or 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. 12 paragraph (2), the license or authorisation holder has the obligation to clear and restore the land to its former condition.

(9) The authorisation or license holder shall exert the right of access to public utilities stipulated by art. 12 paragraph (2), point e) in good faith and in a reasonable manner, without hindering the access of other persons to the respective public utilities.

Protection area and safety area

Art. 15. - (1) Protection and safety areas shall be established for the protection and normal operation of the energy units and their annexes, as well as for avoiding endangering persons, assets and put environment at risk.

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

(3) A legal right of access shall be established over the lands of third parties that are included in protection and safety areas.

Public service obligations

Art. 16. - (1) In performing their activities, the establishment authorisation and the license holders shall observe the public service obligations regarding safety, quality and price of electricity supplied, continuity of supply, energy efficiency, health and safety standards and environment protection as well as the provisions of direct contracts signed with the customers.

(2) Public service obligations for each activity in the electricity sector are set out by the Government or by ANRE regulations, in which case ANRE notifies the European Commission, through licenses or establishment authorisations.

Expropriation

Art. 17. - (1) The land required for the construction and operation of the energy unit is either under private ownership of third party or of the holder of the authorisation or a public property.

(2) If the land required for the construction and operation of the energy unit is under the private ownership of a third party, the first option of the applicant of the establishment authorisation is to buy the land from the owner or, if a public utility cause is invoked, initiate the legal procedure for the expropriation of the land, with compensation for the owner according to the law and to obtain concession over the land throughout the energy unit's life span.

SECTION 2

Procedures for new energy generation units

Tendering and other procedures

Art. 18. - (1) If on the basis of the authorisation procedure the generating unit being built or the energy efficiency/demand-side management measures being taken are not sufficient to ensure security of supply for internal consumption, the Line Ministry can launch a tendering procedure or any procedure equivalent in terms of transparency and non-discrimination, on the basis of published criteria in order to invite the new undertakings or existing generation units to bid for the construction of new electricity generating units.

(2) Under para. (1) and in the interests of environmental protection and the promotion of new technologies, the Line Ministry can launch a tendering procedure for the construction of new electricity generating units. This tender may relate to new units or energy efficiency/demand-side management measures.

(3) The winner of the tender shall be granted an establishment authorisation as well as licenses, according to the procedures in Section I.

(4) The tendering procedure for the construction of new generating units, as well as the criteria for the selection of offers and the assignment of the contract shall be approved by Government decision, upon the proposal of the Line Ministry.

(5) The procedure referred to in para. (4) shall consider at least the following principles:

a) Information regarding the tender for production units and energy efficiency measures and the compliance of the application are to be published in the Official Journal of the European Union, at least six months before the deadline for submission of tenders.

b) Specifications shall be available to any interested undertaking from another Member State, on request.

c) The specifications contain a detailed description of the contract stipulations and procedure to be followed by all bidders as well as an exhaustive list of criteria according to which the bidders are selected and the contract is granted, including incentives such as subsidies, which are covered by the offer.

d) As regards the invitations to tender related to the necessary production units, should be taken into account also the energy supply offers with long-term guarantees proposed by the existing production units, provided that they are able to cover additional demand.

(6) Organization, monitoring and controlling the tendering procedure is performed by the transport system operator.

**Concessions.
The object of
concession and the
contracting
authority**

Art. 19.- (1) The assets under public or private ownership of the state, the public activities in the electricity sector and the services of national interest can make the object of the concession in the electricity sector.

(2) The Line Ministry is the contracting authority for assets under public or private ownership of the state or for public activities or services of national interest.

(3) 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 set out by the concession granting authority and shall be approved by Government decision.

(4) The concession contract comes into force as of the date of its publication in the Official Gazette of Romania, Part 1.

(5) The conditions for granting, maintaining, suspending and withdrawing the concession are set out in the concession contract signed by the contracting authority and approved in compliance with the present law.

**CHAPTER IV
Electricity**

Electricity market

Art. 20. - (1) Electricity market consists of the regulated market and the competitive market, and the electricity transactions shall be wholesale or retail.

(2) Competitive market's percentage increase is achieved gradually by providing access on this market for as many participants, producers, suppliers and final customers in accordance with the provisions of art. 23.

(3) A Commission is established to settle disputes, as body resolving disputes on the wholesale and retail market, occurred between participants in the electricity market.

(4) Settlement Commission is formed by 5 members, appointed by ANRE

decision for a period of 3 years, among the employees of the institution with at least 8 years experience in the electricity field.

(5) Settlement Commission operates under a functioning and organisation regulation approved by the decision of ANRE President after public consultation.

Electricity market participants

Art. 21. - (1) Electricity market participants must observe the functioning rules set out by the competent authority through orders, decision, approvals and pay for the electricity and the services they benefit of and which are derived from the transactions made in compliance with these rules, meeting the deadlines set out in the contracts concluded between parties.

(2) The participants in the electricity market and the associated operational structures are: the producer, the transmission system operator, the operator of the centralised market, the distribution operator, the supplier, and the customer.

(3) Market participants are bound to assume financial responsibility for payment of the imbalances generated on the electricity market, except for the imbalances to which are applied social rules / redistribution, established by the competent authority or expressly provided by law to comply with licensing and regulations issued by the competent authority. Accounts payable are to be settled within maximum one month from the conclusion of the trading month, based on the measured quantities of electricity traded.

(4) Customers are required to pay the invoices for electricity and for services that they benefit from, according to the deadlines set out in the contracts between the parties, and also collateralize in order to avoid the risk of non-payment on the electricity market.

(5) Market participants have to notify the transmission system operator imports, exports and transits on the trading period with external partners on each border.

(6) Market participants have to notify the transmission system operator all contracted, net and reciprocal quantities.

(7) Market participants are bound to submit to the operator of the electricity and balancing market information concerning the quantities of electricity traded subject to the concluded electricity sale contracts.

Functioning of the regulated electricity market

Art. 22. - (1) Regulated electricity market operates primarily to provide electricity supply to customers referred to in art. 55, paragraph (1) until December 31st 2013 for non-residential customers, respectively until December 31st 2017 for residential customers.

(2) On the regulated electricity market, the competent authority may:

a) Impose public service obligations for producers, transmission system operator, and distribution system operators and for suppliers of last resort for providing electricity to customers referred to in art. 55, para. (1) in accordance with art. 16;

b) Require suppliers of last resort transparent procurement procedures of competitive electricity market for customers referred to in art. 55 para. (1).

c) Approve and publish the prices and quantities stipulated by the contracts between producers and suppliers for the customers referred to in art. 50 para. (1)

d) Approve suppliers' electricity rates applied to customers referred to in art. 55 para. (1), until phasing out of regulated tariffs in compliance with paragraph (1)

e) Approve the methodology for monitoring electricity purchasing costs under point b).

f) Approve and publish the prices proposed by suppliers of last resort for the electricity supplied to customers referred to in art. 55 para. (1), after phasing out of regulated tariffs

(3) To ensure safety of the National Power System's operation, the competent authority may approve the prices and quantities of procurement and delivery contracts of ancillary services;

(4) Providing electricity to customers referred to in art. 55 para. (1) is subject to regulated contracts.

(5) The competent authority shall continuously monitor the effect of electricity regulated market on the competitive market and shall take necessary measures to avoid possible distortion and to increase the transparency of commercial transactions.

(6) The competent authority shall organize within the framework of the monitoring process, a detailed annual assessment of the functioning of the electricity market, according to gradual phasing out of regulated prices for non-residential customers referred to in art. 55 para. (1) point a), in which case, at least, the following general indicators will be used:

a) Number of active suppliers in the market of electricity each year;

b) The market share of each active supplier;

c) Economic and financial capability of active suppliers and their behaviour on the market;

d) Evolution of annual changes of electricity's supplier depending on categories of customers;

e) The level and price evolution;

f) Awareness of consumers as regards the electricity market;

g) Facilities provided for vulnerable consumers and their number;

h) the number of customers receiving universal service under the present law;

i) Level of information's transparency on electricity market.

(7) Based on the monitoring referred to in para. (5) and (6), ANRE shall report every 2 years on the regulated prices as public service obligations and their impact on the electricity market.

(8) The calendar for gradually phasing out regulated prices for final customers starting with September 1st 2012 for non-residential customers, respectively July 1st 2013 for residential customers shall take into account the possible negative impact of phasing out regulated prices, in order to have the minimum impact possible upon customers.

The functioning of the competitive market

Art. 23. - (1) On the competitive market, commercial transactions of electricity are performed in a transparent, public, centralized and non-discriminatory manner.

(2) On the competitive market, commercial transactions of electricity are wholesale or retail, according to ANRE regulations; and prices are set out based on supply and demand, as result of competitive mechanisms.

(3) On the competitive energy market, the transmission system operator may

purchase ancillary services.

(4) On the competitive retail market, suppliers sell electricity to final customers by bilateral contracts at negotiated or fixed prices determined by standard offers.

(5) Relevant data such as duration, delivery and settlement rules, the amount, execution schedules, transaction prices and means of wholesale customer identification regarding all transactions in the electricity supply contracts and electricity derivatives agreements with wholesale customers and transmission system operators, are retained by the suppliers at least five years and made available to ANRE, the European Commission and other competent national authorities at their request.

(6) Obligation to retain data related to transactions of derivative financial instruments is applied in compliance with the guidelines published by the European Commission.

(7) The data provided in para. (6) may be published by ANRE in compliance with legal provisions,

(8) On the competitive market ANRE has the right to suspend the operation of the market if provisions of art. 24 are applicable.

(9) The provisions of paragraph (8) are applicable based on ANRE Order, published in The Official Gazette of Romania, Part I., within 6 months from the entry into force of this law.

Safeguarding measures

Art. 24 - (1) In case of unexpected crisis in the energy market and if physical safety or security of persons, equipments or installations or systems' integrity are threatened, the transmission system operator proposes ANRE and to the Line Ministry the adoption of safeguarding measures.

(2) The measures referred to in para. (1) shall affect as little as possible the proper functioning of the European internal market and limit strictly to remedy the crisis generated.

(3) Implementation of measures under para. (1) is made by Government Decision at the initiative of the Line Ministry.

(4) The Line Ministry shall notify, as a matter of urgency, the other EU Member States and the European Commission about the safeguarding measures adopted in each case.

(5) Within 3 months from the entry into force of the present law, the transmission system operator sets up and submits for approval, by Order of the competent authority, a set of technical and commercial regulations concerning the measures under para. (1).

Access to electricity network

Art. 25.- (1) License holder and the final customer have regulated access to public networks. The access to public electricity networks is a mandatory service provided, under regulated conditions which the transmission system operator as well as the distribution system operator shall meet.

(2) Access to the network can be restricted only if the network connection endangers the security of the National Power System due to the non-observance of the technical norms and of the performance standards specified in the technical regulations in force or if the transmission or distribution operator does not have the required capacity. Refusal shall be properly motivated and justified on technically and economically objective

criteria, in compliance with the regulations issued by the competent authority.

(3) Electricity network access disputes are settled by the competent authority by issuing a decision binding for the parties in 2 months from the receipt of the notification of complaint.

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

(5) The access prices for the electricity networks of public interest shall be regulated.

(6) Producers and suppliers of electricity can power their own offices, subsidiaries or eligible customers through direct lines. Eligible customers can be supplied by the direct lines.

(7) The supply through a direct line under para. (6) is conditioned by the absence of economically and technically reasonable offers for the access to the public electricity network.

(8) Construction of direct power lines is done in compliance with the technical and safety standards contained by the technical regulations in force.

(9) The supply through a direct line has to ensure the fulfilment of the conditions on consumer protection, according to this law.

(10) The holder of a direct electrical line is required to ensure access to that direct line according to the regulations issued by the competent authority.

(11) Interconnection capacities financed by private commercial investments shall be done observing the provisions of Regulation 714/2009/EC.

(12) The decisions concerning the carrying out of investments for the interconnection capacities shall be made following a joint analysis of the transmission system operators hereof.

(13) The stages and procedures necessary for the connection of users to the transmission and distribution networks are established by the Regulation for the connection of users to the public interest networks, approved by ANRE.

**Network
connection contract**

Art. 26.-(1) Upon the written request of a network user, new or existing, the transmission system operator or the distribution system operator, as applicable, shall communicate, in writing, within 30 days, the technical and economic conditions for network connection and to collaborate with the applicant in order to choose the most advantageous network connection solution.

(2) The network connection contract shall be concluded according to the regulations issued by the competent authority.

(3) The transmission system operator or the distribution operator shall have the right to refuse the update of the connection permit and/or the conclusion of a new contract of transmission or distribution for a pre-existing consumption site if for that site there is an electricity supply contract in progress, concluded with another final customer.

(4) In establishing the delimitation point between the facilities of the network operator and the user shall be taken into account:

a) type of facility: transmission distribution or user facilities;

b) property limit of the land, so that networks on the public domain are usually owned by the network operator and avoid as much as possible installing the facilities of the operator on the property of the user;

c) future connection to the grid of new users.

Generation of electricity

Art. 27. - (1) Generation of electricity and heat and electricity by cogeneration shall be ensured by economic operators who own power generation units, according to the terms hereof.

(2) Electricity producers can benefit from guaranteed access or priority access to electrical networks, according to ANRE regulations in force.

Obligations of the producers

Art. 28. - The electricity producers have, mainly, the following obligations to:

a) Ensure the supply of electricity, respectively of heat produced by cogeneration and of ancillary services, in compliance with the terms imposed by licenses, contractual clauses and the regulations in force;

b) As regards the dispatchable units, to bid the entire electrical power available on the balancing market, defined in accordance with the regulations issued by the competent authority;

c) Bid, without discrimination, the entire quantity of electricity available on the competitive market,

d) Bid, without discrimination, ancillary services,

e) not to submit to the transmission system operator physical notifications of negative imbalances towards concluded contracts, with the exception of producers benefiting from the support scheme, under the terms hereof.

f) 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;

g) To operatively comply with the requirements of the transmission system operator and to set out, as adequate, their own levels of operative control.

h) To submit annual progress reports to the competent authority in accordance with regulations in force, even if there is no production license or the competences are transferred to another operator.

The rights of the producers

Art. 29.- (1) Electricity producers have, mainly, the following rights:

a) To have access to the electricity networks of public interest, under the terms hereof,

b) To obtain a passageway for the electricity lines they hold, according to the law,

c) To trade electricity and ancillary services on the regulated and competitive markets, in a transparent and non-discriminatory manner;

d) To establish and maintain their own telecommunications system for the connection with their generation units, with the customers or with the levels of operative control;

e) To commercialise heat produced by cogeneration;

f) To access support schemes implemented at national level;

(2) Without affecting the safe operation of SEN, the producers of electricity can bid on the internal European ancillary services according to ANRE regulations and with the approval of the transmission system operator.

Electricity

Art. 30. - (1) Transmission of electricity is made by the transmission system

transmission

operator, legal person certified by the competent authority under the terms hereof.

(2) The electricity transmission grid is under the public ownership of the state.

(3) The lands on which the electricity transmission networks are located upon the entry into force of the present law are and shall remain under the public ownership of the state during the entire life span of the grid.

(4) Provisions at paragraphs (2) and (3) do not apply to the parts of land and to the components of the transmission electricity networks for which the transmission system operator acquired property rights, under the law.

Certification of the transmission system operator

Art. 31 - (1) The transmission system operator is organized and operates as an "independent system operator", being a legal person certified by the competent authority in the conditions stipulated by art. 34

(2) For the observance of the provisions of art.34, a Government Decision shall be issued at the proposal of the Line Ministry, nominating on the one hand, the public entity holding a majority share of the undertakings performing generation and supply activities and on the other hand, the public entity holding a majority share of the transmission system operator.

(3) Within 15 days of the adoption of measures under para. (2), the transmission system operator submits to ANRE, with the approval of the owner of the transmission network, the application for certification, accompanied by supporting documentation proving the fulfilment of the requirements stipulated by art. 34.

(4) ANRE issues a decision of preliminary certification within four months after the registration of the transmission system operator application which is notified to the European Commission and accompanied by its documentation.

(5) The procedure for certification of the transmission system operator is completed according to art. 3 of EC Regulation no. 714/2009.

(6) The selection of the transmission system operator as independent system operator is subject to the approval of the European Commission following the notification by ANRE of the certificated undertaking, after the completion of the certification procedure under para. (5).

(7) In addition to the certification decision, the competent authority is bound to notify the European Commission any request for certification of the transmission network owner or transport system operator, which is controlled by a person or several persons from one or several third party countries, as well as regarding any circumstances that would result in a person or several persons from one or several third party countries gaining control over the transmission network or the transport system operator, if applicable.

Certification of a transmission system operator which is controlled by third party countries

Art. 32-(1) Prior to certification of a transmission system operator which is controlled by one or several persons from one or more third party countries, ANRE requests the European Commission approval on:

a) The entity meets the requirements of art. 34 and

b) By granting the certification the security of energy supply to the European Union is not jeopardized.

(2) Within two months of Commission's approval, ANRE adopts the final

decision regarding the certification that will be published along with the approval of the European Commission. If within two months from the submission of the request the European Commission does not grant the approval it shall be considered that there are no objections to ANRE's request.

(3) If the final decision of ANRE differs from the one from one of the Commission, the reasoning of this decision are to be published.

(4) ANRE can refuse certification under para. (1), if:

a) The entity in question does not meet the requirements of art. 34;
 b) By granting certification the safety of electricity supply on the national territory or on the territory of the European Community may be endangered. In analyzing this aspect, ANRE takes into consideration the following:

(i) The rights and obligations of the European Union in regard to the third party country under international law, including any agreement with one or more third party countries to which the European Union is part and in which are addressed aspects of security of energy supply;

(ii) The rights and obligations of Romania in regard to third party country under agreements concluded with that third party country, provided that they comply with the communitarian law, and

(iii) Other elements specific to the case and to the third party country in concern.

Reassessment of the transmission system operator certification

Art. 33 -(1) The transmission system operator notifies ANRE regarding any planned transaction that may require a review of compliance with the requirements of art. 34, as well as any other circumstances under which a person or several persons from one or more third party countries would gain control over the transmission system or the transmission system operator.

(2) ANRE can decide a review of compliance with the requirements of art. 34 for the transmission system operator:

a) Ex officio;
 b) Upon the notification of the transmission system operator, under para. (1);
 c) Upon the reasoned request of the European Commission.

Conditions for certification of the transport system operator

Art. 34 -(1) Certification of the transmission system operator is obtained if the following requirements are met:

a) Same person or persons are not entitled:
 (i) To exercise, directly or indirectly, control over the undertaking that performs any of the activities of production or supply and, at the same time, to exercise directly or indirectly, control or exercise any rights over the transmission system operator or over a transmission network or
 (ii) To exercise, directly or indirectly, control over the transmission system operator or the transmission network and exercise, directly or indirectly, control or exercise any right over the undertaking that performs any of the activities of generation or supply;
 b) The same person or the same persons are not entitled to appoint members on the supervisory board, the management board or other bodies,

legally representing the transmission system operator, in case of a transmission system operator or in case of a transmission network and, at the same time, to exercise, directly or indirectly, control over an undertaking that performs any of the activities of generation or supply;

c) The same person is not entitled to be a member of the supervisory board, the management board or other bodies, legally representing the undertaking, both in the case of an undertaking that performs any of the activities of generation and supply as well as in case of a transmission system operator or in the case of a transmission network;

d) The transmission system operator has the financial, technical and physical as well as human resources in order to comply with the provisions of art. 36;

e) The transmission system operator is committed to comply with a 10 years development plan of the transmission network, approved by the competent authority;

f) The transmission system operator holds the necessary units to meet its obligations under EC Regulation no. 714/2009, including as regards the cooperation with other transmission system operators at European and regional level;

g) The owner of the transmission system network meets the requirements stipulated by art. 37;

(2) The rights referred to in para. (1). point a) and b) include mainly:

(i) The competence to exercise voting rights;

(ii) The competence to appoint members in the supervisory board, management board or other bodies legally representing the undertakings, or

(iii) Holding a majority share.

(3) For purposes of para. (1). point a) the term "*undertaking performing activities of generation or supply of electricity*" includes also the activities of generation and supply of gas and the terms of "*transmission system operator*" and "*transmission network*" includes also the terms used, on the same regard, for natural gas.

Development plans

Art. 35. - (1) The transmission system operator has the obligation to issue investment and development plans for a period of 10 years, according to the current stage and future developments of energy consumption and resources, including import and exports of energy.

(2) Development plans provided at paragraph (1) contain the means to finance and finalize the investments related to transmission networks, taking into account also the urban and regional planning for the areas crossed by them and in compliance with the environmental protection norms.

(3) Development plans provided at paragraph (1) are to be approved by ANRE.

Obligations of the transmission system operator

Art. 36. - (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, under the legislation, and avoiding, in particular, the discrimination favouring the affiliated undertakings, in compliance with the norms and performance

standards in the field and the technical regulations in force.

(2) The transmission system operator is allowed to take part in the trading of electricity only under the following circumstances:

a) To cover its power consumption on own networks and consumer sites;

b) To maintain production-consumption balance, by buy-sell operations on the balancing market or by buy-sale transactions with other transmission operators in neighbouring countries, according to ENTSO-E regulations and standards in force.

(3) Transmission system operator may perform buy-sale operations of ancillary services with the transmission system operators from the countries with which Romania has concluded agreements facilitating the creation and development of regional markets, with producers or customers, according to the regulations issued by the competent authority.

(4) Transactions with electricity and ancillary services shall be performed on the basis of transparent and non-competitive mechanisms, as provided by the competent authority.

(5) The transmission system operator shall provide non-discriminatory system services for all National Power System's users as well as the operative control in order to ensure the safe operation of the transmission grid, a constant frequency and voltage and the continuity of the supply to the consumers as well as the coordination of electricity exchanges with other power systems.

(6) The transmission system operator may hold shares in companies established on national territory or on other states territory, having as main activity the allocation of interconnection units and the inspection of network's security at regional level, covering the territory of two or several states.

(7) The transmission system operator performs, mainly, the following activities:

a) Ensures the long-term capacity of the transmission network to meet reasonable demands of the electricity transmission system and operates, maintains, rehabilitates and develops, in economic terms, the transmission network in order to ensure safety, reliability and efficiency and environmental compliance;

b) Guarantees the adequate resources for fulfilling public service obligations;

c) Contributes to the security of electricity supply by providing an adequate transmission capacity and maintaining its reliability;

d) Provides the management of energy flows in the transmission network taking into account the exchanges with other interconnected systems;

e) Acquires ancillary services and qualifies dispatchable producers and customers

providing ancillary services, based on own procedures, approved by the competent authority;

f) Exchanges information with other transmission and interconnected systems and other undertakings in the energy sector, complying with ENTSO-E regulations on information exchange protocols, reports, structure and access procedures to databases;

g) Ensures the allocation of interconnection capacities collects revenue from congestion and makes payments under the compensation mechanism between transmission system operators, in accordance with art. 13 of EC

Regulation no. 714/2009, granting and managing third party access and providing reasoned explanations when such access is refused, under ANRE supervision.

h) Operates, maintains and develops measurement and metering facilities of the electricity networks transfer through electricity transmission networks and, at the interface with its users, of the computer and telecommunications facilities for electricity transmission networks related to the National Power System.

i) Reviews and approves the compliance with the technical requirements for connection to electricity transmission networks of the users, in accordance with the technical regulations in force;

j) Ensures that electricity's measurements results are sent to the appropriate centralized market operator and the access of transmission system beneficiaries to verify measurement equipments;

k) Develops operational planning and management of the National Power System, at central and local level, based on its own forecasts, according to regulations in force, giving priority to generating installations using renewable energy sources that produce high efficiency electricity by cogeneration, with the extent that the safe operation of the National Power System permits it;

l) Authorizes the personnel performing the operational management according to the regulations in force;

m) Collects, records and stores statistical data on the operation of the National Power System;

n) Prepares and submits for approval, to the competent authority, the technical rules and regulations necessary for performing specific operative management, in consultation with the electricity market participants;

o) Prepares, under the law, the National Power System's defence plan against major disturbances;

p) Develops educational programs and works on the development of the National Power System.

q) Develops and submits for approval, to the competent authority, the rules for congestion management, including those related to the interconnection units as well as the rules for awarding the interconnection capacities.

r) Organizes and manages the electricity balancing market.

8) In case of extended failure that may put the safe operation of the National Power System at risk, the transmission system operator may decide to use the water reserves beyond the operation schedule, having the obligation to inform the competent water management authorities in this respect.

(9) Restrictions in electricity supply in emergency situations must comply with predefined criteria related to the management of imbalances, by the transmission system operator. Any security measure should be taken in close cooperation and consultation with other transmission system operators involved, in compliance with applicable bilateral agreements, including the information sharing agreements.

(10) The transmission system operator owner of the transmission network publishes data regarding its own activities required by the network users according to ANRE regulation, in order to ensure an efficient access to the network, an effective competition and the efficient functioning of the market, yet not being allowed to disclose sensitive commercial information obtained

while performing its activity, including those obtained from third parties while negotiating or granting network access.

(11) 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 those incurred with the clearing of certain sites are bore in accordance with the regulations in force.

(12) The transmission system operator can allocate interconnection capacities on one or more borders with other undertakings, including those registered in a Member State of the EU or the Treaty establishing the Energy Community, under the signature of a Memorandum of Understanding between the parties, approved by ANRE.

Responsibilities of the transmission network owner

Art. 37. - (1) The owner of the transmission network:

- a) Cooperates with the transmission system operator in performing its duties, by providing it all relevant information;
- b) Approves the means to finance investments in the transmission network set out by the transmission system operator and approved by ANRE;
- c) Is liable on regards to transmission systems' assets, except for liability on the functions of the transmission system operator;
- d) Provides guarantees to facilitate financing of possible network expansions, with the exception of the investments that were already approved to be funded by any interested party, including by the transmission system operator, under point b).

(2) The Competition Council in close cooperation with ANRE is empowered with the necessary competences to efficiently monitor the observance by the transmission network owner of the obligations under para. (1).

Independence of the transmission system owner

Art. 38. - (1) If the transmission system operator is part of a vertically integrated operator, it shall be independent at least in terms of its legal form, organisation and decision-making from other activities not relating to the transmission of electricity.

(2) In order to ensure the independence of the transmission system owner under paragraph (1), the following minimal criteria shall apply:

- a) The persons responsible for the management of the transmission system operator may not participate in company structures of the integrated electricity operator responsible, directly or indirectly, for the day-to-day operation of the generation, distribution and supply of electricity;
- b) The persons with leadership positions in the transmission network owner operate independently from any market interest in the performance of their duties;
- c) The transmission system operator shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and specific obligations imposed to the employees for fulfilling the independence objective.
- d) The owner of the transmission network shall appoint a person or body, called *compliance agent* who will submit to ANRE, each year, in December, a report regarding the measures taken that shall be published on the transmission system operator website.

3) Transmission network owner shall submit for ANRE approval any contracts proposed to be concluded with the transmission system operator,

including those relating to the use of the assets that constitute the transmission network.

Reporting physical flows of electricity

Art. 39. - The transmission system operator is required, according to ANRE regulations, to prepare every three months a report regarding the physical flows of electricity that were conducted in electricity imports from EU third party countries during the last 3 months, preceding the reporting date, which is to be transmitted to ANRE and the Line Ministry for the purpose of informing the European Commission.

Interdictions on holding the control over the transmission system operator

Art. 40. - Undertakings performing any of electricity generation or supply activities may not, directly or indirectly, exercise control or exercise any right on independent transmission system operators from other EU countries that apply the provisions of art. 9 para. (1) of the Directive 2009/72/EC of the European Parliament and the Council on common rules for the internal electricity market and repealing Directive 2003/54/EC.

Interdictions regarding TSO employees

Art. 41. – Those engaged in the transmission system operator management or other relevant functions under which they had access to commercially sensitive information may not hold similar positions in the undertakings of the production, distribution and / or electricity supply, a minimum of 2 years from the date the contractual relations with the transmission system operator ends, this interdiction being prohibited and regulated under the employment contract.

Interdictions

Art. 42. - For the protection of the transmission installations, the natural or legal persons are forbidden to:

- a) Build any kind of constructions within the safety areas of the installations without the establishment approval of the transmission system operator;
- b) Perform diggings of any kind of works or set up plantations within the safety areas of the electricity transmission networks without the transmission system operator's approval;
- c) Deposit materials on passageways and within the protection and safety areas of the installations without the transmission system operator's approval;
- 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 signs relating to the transmission equipments.

f) To limit or obstruct, by means of fences, constructions or in any other way, the access to the installations of the transmission system operator.

Electricity market operator

Art. 43. - (1) The operator of the centralised electricity market is the legal person, holder of a license that ensures the organisation and administration of the centralised electricity market according to the regulations issued by the competent authority.

(2) The operator of the centralised electricity market is not allowed to disclose information related to electricity transactions that it holds while performing its activities only as per the provisions of the law

(3) Prices set out on the centralised electricity markets shall be made

public in accordance with ANRE regulations.

Distribution of electricity

Art. 44. - (1) Electricity distribution shall be carried on by the distribution system operator, legal person and holder of a license.

(2) The distribution operators 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 lands on which the electricity distribution networks are located are and shall remain under the public ownership of the state.

(5) The provisions of art. (4) do not apply to the lands for which the distribution system operator, license holder, obtained the right of ownership, according to the law.

(6) The electricity distribution networks shall be developed on cost-effective principles, in compliance with urban planning, right of ownership, environmental and people's lives and health protection 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, are bore as per the regulations in force.

(8) If expenses specified in paragraph (7) are incurred by the customer, the resulting units can be taken over by the distribution system operator, subject to fair compensation.

(9) Until the entry into force of the regulations issued by the competent authority, the bearing of installations' changing cost falls under the responsibility of those who generated the modification."

(10) The distribution system operator is bound to ensure network connection for all applicants and to communicate the conditions of connection, according to regulations in force.

Distribution operator

Art. 45. - (1) The distribution operator shall have the following main attributions

a) Operates, rehabilitates and develops electricity distribution networks, observing the technical regulations in force;

b) Ensures, 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 system operator does not have enough capacity, through the transmission network to receive power injection from the electric power plants, including by cogeneration plants, with a view to interconnecting with a neighbouring power system, under an existing bilateral agreement signed in this respect, in cases when incidents occur at the National Power System and operation, maintenance or new works in the transmission network are performed rendering transmission in

that area temporarily unavailable;

c) Performs, upon consultation with the transmission system 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) Ensures the operative control according to the distribution license, prioritizing the dispatching of generating installations using renewable energy sources or those that produce high efficiency electricity by cogeneration, as far as the safe operation of the national electricity network permits it;

e) Discloses, in a non-discriminatory manner, information about its own activities that are required by the network users and must preserve the confidentiality of commercially sensitive information obtained in course of performing its activities;

f) Submits the repair and maintenance programme scheduled for the installations with a nominal voltage of 110 kV to the transmission system operator for approval;

g) Monitors the electricity distribution networks' safe operation as well as the performance indicators of the distribution service.

(2) In order to exercise the attributions 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.

(3) The distribution operator may participate in the wholesale market of electricity distribution only for the transactions necessary for covering its own technologic consumption related to electricity distribution and its own consumption sites based on transparent and non-discriminatory procedures, in accordance with the competitive mechanisms approved by the competent authority.

(4) The obligations related to the development of the distribution system under para. (1). a), point b) and c) are not applicable to the operator of a closed distribution system.

(5) The distribution system operator must work to achieve performance / upgrading / rehabilitation / modernization of power grids to increase the quality of the electricity distribution service. To this end and for the adoption of more efficient technical solutions, technical equipment can be located on public land in built-up areas in underground or above-ground construction alternatives without affecting public traffic, in compliance with applicable technical regulations and standardized technical conditions in force on location of utility networks.

(6) Circumstances at the date of entry into force of this law, contrary to paragraph. (5), shall be decided by your distribution operator within 60 days of receiving a specific request from the persons entitled.

**Obligations of the
distribution
network owner**

Art. 46. - (1) Any holder of an electricity distribution network upon the entry into force of the present law shall provide access to its network according to the regulations issued by the competent authority.

(2) If the owner of the electricity distribution network is unable to provide universal service to users connected to that network, ANRE may

impose its transfer, with fair compensation of the distribution network operator, to the concessionaire distribution operator, licensed in the area where the network is located, according to own regulations.

(3) If the electricity distribution network is not under the ownership of the distribution operator, the distribution network owner has the following obligations:

- a) To cooperate with the distribution system operator to meet its responsibilities by providing all relevant information;
- b) To cooperate with ANRE and the distribution operator to establish the investment in the distribution network, the means to finance them and to transfer the distribution service to another licensed distribution operator;
- c) Is liable as regards to distribution network assets, excluding liability for distribution operator's responsibilities;
- d) To facilitate the financing of any network expansions with the exception of investments that were already agreed to be funded by any interested party, including the distribution operator.

Limitation or interruption of the supply

Art. 47. - (1) The distribution system operator is entitled to interrupt the supply of electricity in the following situations:

- a) When people's life and health or the integrity of tangible assets are put at risk;
- b) To prevent or limit the extension of failures in the power equipment, in the electricity network areas or in the entire National Power System;
- c) To perform operations and works that cannot be done without the interruption of the supply.

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

(3) The distribution system operator is liable for damages caused to the consumers by own fault.

(4) The conditions in which, in exceptional cases, the electricity supply to the consumers can be limited or interrupted are set out by the regulations for electricity supply.

Unbundling of distribution and supply activities

Art. 48. - (1) Where the distribution system is part of a vertically integrated undertaking, it shall be independent at least in terms of its legal form, its organisation and decision-making, from other activities not relating to the distribution of electricity. This rule shall not create an obligation to separate the ownership of assets of the distribution system operator from the vertically integrated undertaking.

(2) In addition to the requirements of paragraph (1), where the distribution system operator is part of a vertically integrated undertaking, it shall be independent in terms of its organisation and decision making from other activities not related to distribution. In order to achieve this, the following minimum criteria shall apply:

- a) The persons responsible for the management of the distribution system operator may not participate in company structures of the integrated electricity undertaking responsible, directly or indirectly, for the day-to-day operation of the generation, distribution and supply of electricity;

b) Appropriate measures must be taken to ensure that the professional interests of the persons responsible for the management of the distribution system operator are taken into consideration in a manner that ensures that they are capable of acting independently;

c) The distribution system operator shall have effective decision-making rights, independent from the integrated electricity undertaking, with respect to assets necessary to operate, maintain or develop the network. This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets obtained by the subsidiary. This shall enable the parent company to approve the annual financial plan, or any equivalent instruments, of the distribution system operator and to set out global limits on the level of indebtedness of the subsidiary. It shall not be permitted to the parent company to give instructions regarding day-to-day operations, or with respect to individual decisions concerning the construction or rehabilitation of distribution units, that do not exceed the terms of the approved financial plan or any equivalent instrument;

d) The distribution system operator shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that its observance is adequately monitored. This programme shall set out specific obligations of employees to meet the independence objective.

e) The distribution operator shall appoint a person or body, called *compliance agent*, who will ensure the appropriate monitor for the observance of the compliance programme and who will submit to ANRE, each year, in December, a report regarding the measures taken, which will be published on the distribution operator website. The compliance agent of the distribution operator is fully independent and has access to all distribution operator informations or any affiliated business operators required to perform its duties.

(3) the vertically integrated electricity undertakings serving less than 100.000 connected customers or serving small isolated systems which are not compelled to implement the measures under para. (1) and (2).

(4) The distribution system operator shall preserve the confidentiality of commercially sensitive information obtained in the course of performing its activity.

(5) The distribution system operator shall prevent information about its own activities which may be commercially advantageous of being disclosed in a discriminatory manner. (6) To meet obligations under para. (2). point c) the distribution system operator must have available all necessary resources, including human, technical and financial resources.

(7) Regarding communication and publicity activities, the distribution operator shall not generate confusion regarding separate identity of the distribution operator providing the electricity supply service from the vertically integrated undertaking.

(8) ANRE monitors the activity of the distribution system which part of a vertically integrated undertaking, taking measures to avoid or eliminate any practices that may distort competition.

Interdictions

Art. 49. – For the protection of the electricity distribution networks, the

natural or legal persons are forbidden to:

- a) Build any kind of constructions within the safety areas of the installations without the distribution system operator's approval for the location;
- b) Make diggings of any kind or set up plantations within the safety areas of the electricity distribution networks without the distribution system operator's approval;
- c) Store materials on passageways and within the protection and safety areas of the installations, without the approval of the distribution system operator;
- d) Throw objects of any kind on the electricity distribution networks or to intervene on them, in any way;
- e) Deteriorate constructions, fences or identification and warning signs related to electricity distribution networks.
- f) To limit or obstruct, by means of fences, constructions or in any other way, the access to the installations of the distribution system operator.

Closed distribution system

Art. 50. - (1) Closed distribution system is the system which distributes electricity in a industrial commercial or shared services area, geographically limited and that, notwithstanding paragraph (4), does not supply domestic customers, if:

- a) For technical or specific safety reasons, the activities or the generation process performed by users of that system are integrated or
- b) The respective system distributes electricity mainly to the distribution system owner, to its operator or their affiliated undertakings.

(2) To an operator of a closed distribution system does not apply:

- a) The obligation to buy the electricity necessary to cover its own technological consumption, based on transparent and non-discriminatory procedures, under art. 36 para.(4);
- b) The requirement that connection rates or the methodologies for calculating them to be approved before their entry into force.

(3) Rates for the distribution system of a closed distribution system or the methodologies underlying their calculation can be reviewed and approved by ANRE, at the request of the closed distribution system user.

(4) The exemption provided in paragraph (2) applies also, if in the area served by a closed distribution system are located residential customers, only if their annual consumption is less than 5% of the annual consumption of the closed system and if they are in a employment relationship or in a form of association with the owner of the distribution system.

Electrification of villages and extension of electricity distribution

Art. 51. - (1) At the request of local or central public administration authorities, based on regional and urban development plans, the distribution operator is required to ensure the development and funding of distribution network for the electrification of villages or the extension of distribution network in the area covered by the concession contract, respectively the license held.

(2) If the fulfilment of the investments stipulated by para. (1) is not economically justified for the distribution operator, after informing ANRE, he can propose the fulfilment of that objective by co-participation of the applicant to finance, with funds from local budgets, state budget, structural funds, and private grants or from public-private partnership.

(3) Assessment of investment financing conditions stipulated by para. (1) and (2) is determined by the distribution operator based on a feasibility study no later than 90 days of receipt of the request, according to the methodology approved by ANRE.

(4) To develop programs for electrification of villages and extending the network electricity supply, local public administration authorities and ministries shall respond within 60 days of receipt of applications from the transmission system operator and distribution operators in order to achieve network development plans, on medium and long term.

(5) Villages that, for technical or economic reasoning, are not connected to the National Power System can be supplied with electricity by an isolated power system.

(6) ANRE will set out local prices and the minimum requirements for the continuity and quality of the supply service.

Electricity supply

Art. 52. - (1) Electricity supply means the activity through which the legal person, holder of a license trades electricity to the customers. A contract shall be concluded for the supply of electricity to final customers, according to the legal provisions in force.

(2) The electricity supplied to the final customer shall be invoiced by the supplier in accordance with ANRE regulations and the legal provisions in force.

(3) Consumption of electricity without having concluded a supply contract is forbidden, with the exception of those particular circumstances that are distinctively regulated by the competent authority.

Obligation of supplier of last resort

Art. 53. - (1) The supplier of last resort is required to ensure universal service to the customers referred to in art. 55 para. (1) letter (b).

(2) The supplier of last resort is required to supply, under regulations issued by the competent authority, electricity to final users whose supplier is in progress of withdrawal of the supply license or in any other case identified by the competent authority in which the supply of electricity from any other source is not ensured to final customers. Excepted from this case are customers disconnected for theft of electricity or bad payers, according to regulations issued by competent authority.

Designation of supplier of last resort

Art. 54. – Suppliers of last resort are designated by ANRE, from the existing suppliers in the energy market through competitive mechanisms, based on a regulated established procedure and criteria for their selection for each category of final customers that they serve .

Customers of supplier of last resort

Art. 55. - (1) Suppliers of last resort are required to ensure electricity supply in terms of quality and affordability, at transparent, easily comparable and non-discriminatory prices according to ANRE regulations art. 22 para. (1) for:

- a) Final customers that at the entry into force of this law have not exercised the right of eligibility;
- b) Residential customers and non-residential customers with an average

number of employees less than 50 and an annual turnover or total assets, in the balance sheet according to the annual fiscal reports, not exceeding 10 million euro.

(2) Identification of non-residential final customers that meet the conditions referred to in para. (1) point b) shall be made by the supplier of last resort, based on the documents provided by the legislation in the field, submitted by the consumer to the supplier of last resort. The term for finalizing the identification of the consumers is of 12 months from the date of the publication of this law.

(3) After completing the identification process, non-residential customers referred to in paragraph (2) have the obligation to submit every two years the documents referred to in para. (2) to the supplier of last resort.

Transfer of final customers to the supplier of last resort

Art. 56. - (1) The transfer of a customer in one of the situations referred to in art. 53 para. (2) to the supplier of last resort is done, ultimately, according to the regulations issued by the competent authority without being necessary to sign a supply contract.

(2) Regarding the change of the supplier according to art 53 para (2) as a result of the transfer to the supplier of last resort, the network operator to which the consumption site is connected, will ensure continuity of supply, while electricity and its related services under these circumstances will fall under the responsibility of the supplier of last resort.

(3) The delivery of electricity by the supplier of last resort is done at determined rates/ prices approved under the regulations issued by the competent authority.

Supplier obligations

Art. 57. - (1) The supplier must provide to the residential customers single points of contact according to ANRE regulations in order to inform them of their rights, the legislation in force and the means of settling disputes or complaints in case of disagreements.

(2) The supplier must make available to residential customers more payment methods for the provided energy and allow them to choose any of them.

(3) The supplier is bound to provide electricity classification according to the regulations issued by the competent authority and to regularly inform final customers on the structure, origin, and characteristics as well as on the environmental impact of the electricity supplied to them.

(4) Supplier is required to participate in activities that ensure safety and security of SEN.

Contracting obligations

Art. 58. - (1) Upon the written request of a final consumer, the supplier has the obligation, within no more than 15 working days, to place a written offer as regards the conditions for the electricity supply, which must include the price for the supply, the terms of payment and the deadline for the conclusion of the supply contract drawn up in accordance with the regulations issued by the competent authority.

(2) The supply contract shall be concluded as per the provisions of paragraph (1) for an unspecified period or as agreed by the parties.

(3) The final customer may terminate the supply contract, with a prior notification of 21 days, submitted to the supplier, in compliance with the

contractual clauses.

(4) The supplier is entitled to terminate the contract in the following circumstances:

- a) Fraudulent consumption of electricity asserted by final and irrevocable court decision;
- b) Failure to pay the bills
- c) Other situations provided hereof.

(5) The supplier is entitled to seek financial collaterals for a consumption period

equivalent to up to 1 year if asserted, as required by the legislation in force, actions aiming to distort by any means the indications of the measuring equipment or to steal electricity by bypassing the metering equipment. The method of financial collateral is provided in framework contracts for electricity supply and / or other regulations issued by ANRE.

(6) Refusal of constituting collaterals according to para (5) entitles the supplier to request the disconnection of the consumer.

Payment for the supplied electricity

Art. 59. – According to the provisions of the contract, customers have the obligation to pay the consumed electricity, at the price and under the terms stipulated by the supply contract.

Supplier's liability

Art. 60. - (1) The supplier is liable for all damages caused by its fault to the final customer in conditions set out by the supply contract.

(2) The supplier is entitled to recover damages caused to final users, and respectively to the supplier itself, from the distribution operator, the transmission system operator or producer, if proved to be caused by the fault of any of them.

Liability of the final customer

Art. 61. - (1) The final customer is liable for the proved damages caused, through its own fault, to the supplier/network operator.

(2) The electricity final consumer's failure to comply with the conditions stipulated by the electricity supply contract can have the following consequences, as adequate:

- a) Penalties;
- b) Temporary interruption of the electricity supply;
- c) Termination of the electricity supply contract.

(3) For intervention on electrical equipment by unauthorized persons, the network operator is entitled to interrupt power supply in accordance with specific rules of ANRE.

(4) In case of ascertaining, according to the legal provisions in force, of an action to distort by any means the indications of the measuring equipment or to steal electricity by bypassing the metering equipments, the final customer is compelled to provide financial collaterals according to art. 58 paragraph (5).

(5) The final customers with an installed power of at least 1000 kVA shall submit hourly consumption forecasts to the suppliers with whom they enter into a contractual relationship, in compliance with the regulations issued by the competent authority.

(6) Final customers are required to pay off final invoices for the electricity and services that they benefit from, under the deadlines set out by

the contracts signed between these parties.

(7) To guarantee payment of electricity bills, suppliers may require customers financial collateral, only in accordance with regulations issued by competent authority.

The rights of final customer

Art. 62. - (1) Final customers 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 the amendment 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 request the supplier or the distribution operator to take measures in order to remedy the faults and malfunctions occurring in electricity networks
- e) To request compensation from the supplier, network operator or other final customer, according to the contractual provisions, if damages occur of their fault or if the quality indicators are not observed.
- f) The right to voluntary association in order to represent customers' interests in accordance with ANRE regulations.
- g) To procure electricity on the basis of bilateral contracts from energy suppliers, regardless of the Member State where the supplier is registered, provided that they comply with trading and balancing rules established on Romania's territory.
- h) To change the supplier, according to procedures approved by ANRE.
- i) To conclude contracts with several suppliers of energy at the same time, for one consumption site, right exclusively designated for large sized non-residential customers, whose maximum power granted by the technical connection approval is established by ANRE regulation.
- j) To submit for resolution, to the competent authority, the divergences arising from the implementation of contracts concluded in the electricity field, based on procedures developed by the competent authority.
- k) To benefit from the services of a mediator under mediation law no. 192/2006 on the profession of mediator in the extrajudicial settlement of disputes arising on the electricity market.

l) to unilaterally terminate the supply contract in accordance with Art. 58 para. (3).

(2) The procedure referred to in para. (1) point h) sets out the main stages in the switching supplier, the terms for settling payment obligations due by the final customer to the supplier to be changed, data that may be requested by final customer or new supplier during the switching process as well as by the undertakings that are bound to present them.

(3) The procedure referred to in para. (1) point h) must guarantee to a customer wanting to switch the supplier, subject to contractual conditions, that these changes can be done within a three weeks term.

The right of final customers to choose the prices

Art. 63. - (1) Final customers mentioned in art. 55 para. (1) are entitled to opt for any of the regulated rates applicable to the category that they belong to or to benefit from the universal or public services, as determined by ANRE regulations.

(2) Residential customers are entitled to choose any method of payment that the supplier is offering.

(3) End users can not return to regulated tariffs if they have exercised their eligibility.

Protection of vulnerable customers

Art. 64. - (1) The category of customers considered as vulnerable are entitled to receive state/local budget compensations in order to pay for their minimally required consumption.

(2) Types of facilities for each of the categories of vulnerable customers, with the exception of the financial and implementation arrangements are established by ANRE.

(3) It is forbidden to disconnect from the grid vulnerable customers including cases of energy crisis.

Electricity metering

Art. 65. - (1) Electricity provided to the final customers on the electricity market shall be metered, by the metering operators, through metering equipments, according to the metering code issued by the competent authority.

(2) Measurement transformers associated to the metering units, in view of payment settlement, shall be provided, as adequate, by:

- a) The transmission system operator;
- b) The producer;
- c) The distribution operators;
- d) The final customers of electricity.

(3) Measurement transformers may be:

- a) The transmission system operator;
- b) The producer;
- c) The distribution operators.

(4) The transmission system operator, respectively the distribution system operator, has the obligation to provide metering services for all the users of the respective electricity network.

(5) The transmission system operator, respectively the distribution operator can cede the measurement service and the management of measured data to an undertaking, providing that, the costs are recognized by the competent authority and in compliance with the applicable regulations issued by it.

Smart Metering Systems

Art. 66. - (1) Up to September 3rd 2012, ANRE assesses the implementation of the intelligent metering systems in terms of long-term costs and benefits on the market, in terms of profitability and feasibility of its implementation.

(2) If the assessment under para. (1) determines that the implementation of intelligent metering systems is advantageous for the functioning of the energy market, ANRE shall approve an implementation schedule for a maximum period of 10 years for the intelligent measurement systems, so that at least 80% of customers to have an intelligent metering systems until 2020.

CHAPTER V

Promotion of electricity produced from renewable energy sources and by high efficiency cogeneration

Definition of sources

Art. 67. - Under the present law, the following sources are defined as renewable energy sources:

- a) Wind
- b) Solar energy
- c) Tides and waves
- d) Geothermal
- e) Hydroelectric
- f) 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, called biomass;
- g) Energy contained by the fermentation gas from the waste, called also landfill gas
- h) Energy contained by gas fermentation of sludge in wastewater treatment plant;
- i) Energy contained by secondary gas products, obtained through anaerobic digestion of organic residual materials, forming the category of fuel gas, called biogas;
- j) Energy contained by liquid products obtained by distillation of fermented organic material, forming the category of liquid fuel, referred to as alcohol fuel;
- k) Energy obtained from other renewable energy sources, not exploited so far.

Cogeneration technologies

Art. 68. - The following cogeneration technologies are defined under the present law:

- a) Combined cycle gas turbines with heat recovery and steam turbines;
- b) Steam back pressure turbines;
- c) Steam condensing extraction turbines;
- d) Gas turbine with heat recovery;
- e) Internal combustion engines;
- f) Micro-turbines;
- g) Stirling engines;
- h) Fuel cells;
- i) Steam engines;
- j) Organic Rankine cycles;
- k) Any other type of technology or combination which generate combined heat and power.

High efficiency cogeneration

Art. 69. - With a view to promoting electricity by cogeneration, *the high efficiency cogeneration* is defined as the process generating combined heat and electricity and that meets the following criteria:

- a) For cogeneration units with an installed power over 25 MWe:
 - i) A global annually unit of 70%, and
 - ii) Reaching primary energy savings of at least 10% as against the efficient

reference values for separate production of the same values of electricity and heat;

b) For cogeneration units with an installed power between 1 MWe and 25 MWe, reaching primary energy savings of at least 10% as against the efficient reference values for separate production of the same values of electricity and heat;

c) For cogeneration units with installed power of at least 1 MWe, reaching primary energy savings as against the values for separate production of the same values of electricity and heat.

Rules for network access of electricity produced from renewable energy sources

Art. 70. - The competent authority sets out by network access rules:

a) The guaranteed access to power grids of electricity produced from renewable energy;

b) The priority access to electricity networks of electricity produced from renewable sources in plants with an installed unit less than or equal to 1 MWe, to the extent that the safety level of the National Power System is not affected"

Criteria to promote electricity produced from renewable energy sources and by high efficiency cogeneration

Art. 71. - (1) Criteria to promote electricity produced from renewable energy sources

The criteria to promote electricity produced from renewable energy sources shall have in view the followings:

a) Reaching the national target as regards the percentage of electricity produced from renewable sources;

b) Compatibility with the competitive market principles;

c) Characteristics of different renewable energy sources and of the generation technologies used;

d) Promotion of the most efficient use of renewable energy sources.

(2) The criteria used for the promotion of electricity produced by high efficiency cogeneration shall have in view the followings:

a) To ensure access to support schemes, providing that all justificatory costs, related to the generation of electricity by high efficiency cogeneration, are covered;

b) The characteristics of different technologies for generating electricity by cogeneration;

c) The promotion of the efficient use of fuels;

d) To ensure environment protection by mitigating polluting emissions as against the separate production of electricity and heat.

**Support schemes for the promotion of electricity produced from renewable energy sources and high efficiency cogeneration
Guarantees of origin**

Art. 72. - (1) (1) For promoting electricity produced from renewable energy sources and high efficiency cogeneration, support schemes are applied in compliance with the communitarian legislation.

(2) For accessing support schemes, to promote electricity energy produced from renewable energy sources, are applicable the rules of accreditation and qualification issued by the competent authority.

Art. 73. - Electricity produced by high efficiency cogeneration or renewable sources is certified by means of guarantees of origin issued by the

competent authority.

Support scheme application

Art. 74. - Application of support schemes for promoting electricity production from renewable energy and high efficiency cogeneration is allowed after their authorization by the European Commission, under the law.

**CHAPTER VI
Prices and rates**

Types and substantiation of prices and rates

Art. 75. – (1) The following prices and rates are applicable for the activities developed in the electricity field:

- a) Prices resulting from the electricity market competitive mechanisms;
- b) Regulated rates for the transmission, system and distribution services of electricity
- c) Regulated prices/rates for the supply of electricity to the customers stipulated by art. 55 para. (1), under the terms of art. 22, until their termination.
- d) Prices/rates applied by the supplier of last resort to the customers defined by art. 53 para. (2).
- e) Regulated rates for the purchase of ancillary services until a competitive ancillary services market is created;
- f) Regulated rates for network connection;
- g) Regulated rates applied by the centralised market operators;
- h) Regulated prices applied by producers/suppliers of electricity to the customers stipulated by art. 55 para. (1), under the terms of art. 22.
- i) Regulated prices for heat supplied for residential consumption produced by cogeneration installations.
- j) Prices resulting from setting/adjustment formula stipulated by the buy-sell contracts of heat or the concession or association or partnership contracts.

(2) ANRE develops and approves rules for the correlation mechanism of the hourly price offer from the balancing market with the DAM closing price set for that time.

Prices and rates regulation methodologies

Art. 76. - (1) (1) The regulated prices and rates for the generation, transmission, distribution and supply of electricity and the generation of heat produced by cogeneration, shall be set out as per the methodologies approved and published by the competent authority. When calculating the regulated prices and rates, the justified costs of these activities, the development and environment protection costs, as well as a reasonable profit share shall be taken into consideration.

(2) The regulated prices of the electricity and heat produced by high efficiency cogeneration plants and of the electricity produced from renewable sources that benefit from support schemes are instituted at national level and established under the legal provisions through which these schemes were implemented.

(3) The competent authority shall approve the methodologies for prices and rates' regulation, after completing the procedure of public consultation.

Disclosure of costs and revenues

Art. 77. - Electricity sector undertakings, holders of a license, and practicing regulated prices and rates shall submit to the competent authority:

a) The costs and revenues obtained separately from activities that are the object of the licenses granted under the structure set out by the competent authority;

b) The way in which assets, liabilities, expenses and revenues are allocated, in compliance with the regulations issued by the competent authority.

Setting up regulated costs and revenues

Art. 78. - (1) In order to keep rates under control for the customer stipulated by art. 55 para. (1), the competent authority shall approve the methodology for setting the regulated cost/revenues for the buy-sell contracts of electricity that are to be supplied to the respective customers;

(2) Exceeding of the regulated costs for the buy-sell contract of electricity designated for the customers stipulated by art. 55 para. (1) and the regulated costs for transmission and distribution system may be possible with the approval of the competent authority, only in exceptionally circumstances, vis major or changes at legislative level.

Principles for the substantiation of regulated prices and rates

Art. 79. - (1) The proposals for the regulated prices and rates shall be drafted by the undertakings in the electricity sector, in compliance with the methodologies issued by the competent authority, and shall be submitted to the competent authority, together with the substantiation documents issued in the standard format set out by the latter.

(2) Electricity sector undertakings shall submitted to the competent authority all the necessary information used in the process of substantiating the request and shall ensure the access to these data to the representatives designated by the competent authority.

(3) The order approving the regulated electricity prices and rates as well as the order for approving their calculation methodologies, applicable to final customers and to natural monopoly activities, shall be published in the Official Gazette of Romania, Part I. The order shall contain the date of enforcement of the above mentioned prices and rates.

(4) The principles on which are established the regulated electricity prices and rates of the activities developed in the electricity field, exclusively the prices for electricity and heat produced by high efficiency cogeneration plants that benefit from support scheme, have in view the followings:

a) Prices/rates shall be non-discriminatory, based on objective criteria and determined in a transparent manner according to the methodologies approved and published by the competent authority

b) Prices/rates shall cover the economically justified costs

c) Prices/rates shall ensure the invested capital a reasonable rate of return, set out as per the regulations issued by the competent authority.

d) Regulated prices and rates for final customers shall enable the latter to choose the most convenient type of price/rate applied by the supplier under the conditions set out by the competent authority;

e) Connection rates shall include only the bare costs of the works for the

connection of customers to the electricity network.

f) Calculation methodologies of transmission and distribution rates shall contain short-term and long-term incentive elements for increasing energy efficiency, supply safety, the harmonious integration on the market and supporting research activities related to the field.

g) Transmission and distribution rates are non discriminatory and reflect the justified costs of the undertakings, taking into account the costs of external long-term avoidance, due to the distributed generation and demand management measures.

(5) Cross-subsidisation between regulated activities as well as between regulated and deregulated activities of an undertaking is forbidden. In case of electricity and heat produced by high-efficiency cogeneration or renewable sources that benefit of support schemes implemented at national level, cross-subsidization is analysed between the activity of production by cogeneration or renewable energy that benefits from the support scheme and the remaining activities of the undertaking.

(6) The justified acquisition costs and the associated costs as well as a reasonable profit share shall be fully recognised in the prices of the supplier of last resort”.

(7) The principles for determining regulated prices for electricity and heat produced by high efficiency cogeneration plants or from renewable sources that benefit from support schemes have in view the following:

a) For the electricity and heat produced by high efficiency cogeneration plants or renewable sources are applied the provisions of the support schemes approved by Government decision;

b) For the heat produced by heat generation unit located in a cogeneration power plant benefiting from support schemes, prices are determined on the basis of the methodology approved by the competent authority.

Prices/rates cap

Art. 80. - (1) In cases of major imbalances between supply and demand and the obvious failure of the electricity market, the Government, at the proposal of ANRE, and with the agreement of the Competition Council may limit the excessive growth of prices / tariffs or blocking for a period not exceeding six months, period can be extended for successive periods not exceeding 3 months, as long as the circumstances that led to adoption of this decision, by:

a) Setting out a cap of the price/rate itself on a centralised market

b) Limiting the revenue obtained from the regulated activity.

(2) Costs that are not recognised as specified in paragraph (1), point b), are fully recovered in compliance with the procedure issued by the competent authority.

Costs recovery

Art. 81. - (1) If additional requirements are imposed regarding fulfilment of universal and public service obligations, the participants on the electricity market are entitled to recover the costs incurred with the implementation of such conditions.

(2) Recovery of these costs is made in compliance with the regulations issued by the competent authority or by Government decision, according to

art.16, para. (2).

Interdiction of subvention for the combined production of electricity and heat

Art. 82. - The undertakings generating combined heat and electricity and commercialise at least one of the two, shall allocate the costs between the two forms of energy according to the regulations approved by the competent authority.

Related services

Art. 83. - Services provided to third parties by electricity undertakings generating hydroelectric power and having dams, dikes and reservoirs under administration, concession or lease, shall be performed based on contracts concluded with the beneficiaries.

CHAPTER VII

Procedures for conducting investigations

Ordering investigations

Art. 84. – The President of the competent Authority may proceed, by decision, to conduct investigations, according to Article 86, by its own staff authorized for this purpose, ex officio or in response to a complaint registered by the competent authority, submitted by a legal or natural person directly affected by real and potential violation of this law, only in areas where ANRE has the power of investigation under the law.

Request for information and documents

Art. 85. - In carrying out investigations and exercising the competences conferred under this act, the competent authority may require the undertakings the necessary information and documents, mentioning the legal basis and purpose of the request and may set out deadlines by which such information and documents to be provided.

The right to investigate

Art. 86. - (1) While investigating violations of this law and regulations related to energy sector, issued by the competent authority according to art 84, the competent authority has the following rights:

- a) To enter premises, land or means of transportation legally hold by the undertakings;
- b) To examine any documents, records, accounts and commercial documents or other obvious work-related documents of the undertakings, wherever they are stored;
- c) To take statements from the representatives and employees of the undertaking on the facts and documents deemed relevant;
- d) To pick up or obtain copies in any form or extracts from any documents, financial and accounting records and other records relating to commercial activity of the undertaking;
- e) To seal any activities site of the operator and any documents, financial and accounting records, as well as other records relating to the activity of the undertaking as necessary during the investigation.

(2) The competent authority shall carry out the actions referred to in para. (1) only if there is evidence that documents can be found or can be obtained information deemed necessary for the fulfilment of its responsibilities and the outcome of the investigation shall be recorded in

the finding inventory minutes.

(3) The competent authority may carry out unannounced inspections and may request any information or justification for completing the right of investigation, both on site as well as through convening at the headquarters of the competent authority.

Judicial authorization of investigations

Art. 87. – Under judicial authorization given by the closure, according to art. 88, ANRE staff, authorized in accordance with Art. 84, may carry out inspections in other areas, including home, land or means of transport of leaders, managers, directors and other employees of undertakings or associations of undertakings subject to investigation.

Obtaining judicial authorization

Art. 88. - (1) ANRE staff conducts inspections in accordance with Art. 87, based only on an authorised decision issued by the President of the competent authority, with judicial authority and permission given by Court of Appeal's President or a judge delegated by him. A copy of an order of authority and the judicial authorization are required to notify the person subject to inspection before it begins.

(2) Authorisation permit shall be heard in the council chamber, without summoning the parties. Judge must decide on the request for authorization within 48 hours after filing. Conclusions must be justified and the competent authority must be notified within 48 hours of delivery.

(3) If the inspection must be carried out simultaneously in several locations of the mentioned in art. 87, the competent authority will introduce a single application, the court ruling by concluding the areas where the investigations are to be conducted.

(4) An application for authorization must contain all information necessary to justify an inspection and the judge is held to determine if the application is grounded.

(5) Whatever the circumstances, the inspection takes place between 8.00 and 18.00 hours and must be performed in the presence of the person entited to inspect or his representative. The inspection may continue after 18.00 hours only if agreed by the person inspected or his representative.

(6) Inventories and rendering the seals are made in accordance with the Code of Criminal Procedure.

(7) The conclusion from paragraph. (1) may be appealed to the High Court of Cassation and Justice within 48 hours. The appeal to authority communication starts from the moment of conclusion, according to para. (2). As for the person subject to inspection, the appeal time runs from the end of communication, according to para. (1). The appeal shall not suspend the execution.

(8) The president of the Court of Appeal or judge of this court has jurisdiction to issue authorization to carry out inspection, according to art. 87. The Court may verify if the decision issued by ANRE's President is genuine and the coercive measures envisaged are neither arbitrary nor excessive having regard in particular the seriousness of the suspected actions, involving undertaking and reasonable likelihood that the business records and documents, relating to the inspection, are to be kept in the

premises for which authorization is requested. The court may request ANRE detailed explanations on those elements which are necessary to enable it to verify proportionate coercive measures envisaged.

Access to documents and information

Art. 89. - (1) Central and local public administration bodies as well as other institutions and public authorities are compelled to allow the access of the competent authority to documents, data and information held by them, without being able to oppose the character of state secret or confidentiality for such documents, data and information.

(2) The competent authority being granted access to documents, data and information referred to para. (1) is bound to observe the character of state secrecy or confidentiality, legally attributed to such documents, data and information.

Investigation procedure

Art. 90. - Investigation procedure is carried out in accordance with the regulation on organization and carrying out investigative activities approved by order of ANRE.

**CHAPTER VII
Infractions and contraventions**

Liabilities

Art. 91. - The violation of the provisions hereof entails, as the case may be, criminal, contravention and disciplinary or civil liability for the guilty persons.

Infractions

Art. 92. -(1) The deterioration, modification with no right or the blockage of the electricity metering equipment operation represent infractions and shall be punished with imprisonment from 3 months to 2 years or fine

(2) 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 from 6 months up to 3 years or fine.

(3) In case the infractions provided by paragraphs (1) – (2) are committed by an employee of a license holder, the special minimum and maximum limit of the punishment shall be increased by half

(6) The attempt to the infractions provided by par (1) – (2) shall be punished.

Contraventions

Art. 93 - The following deeds are considered contravention:

1. Conduct by individuals or legal entities of activities and / or services in electricity sector without holding a license or permit under the provisions hereof and the regulations referred to in art. 9. para. (4);
2. The design, implementation and verification of electrical installations without a certificate and/or authorization;
3. Violation of the technical regulations issued by ANRE;
4. Violations of the conditions of validity associated to licenses/certificates/authorizations issued by ANRE.

5. Infringement by electricity market participants of the technical and /or commercial regulations issued by ANRE;
6. Refusal to allow control action undertaken by ANRE and obstructing it in exercising its competences;
7. Failure to provide/present data, documents and/or information required under the terms established by ANRE or to provide/present them in an incomplete or misleading form and/or the non-compliance with the measures imposed;
8. Unjustified refusal to grant access for any applicant to the public network;
9. Providing by the distribution operator or transmission system operator of erroneous or incomplete information required for accessing the network;
10. Failure to ensure, by the distribution operator or transmission system operator, a non-discriminatory treatment between grid users;
11. Undue delay in connection/power supply to customers or in reconnecting them after breaks as well as the proposal for solving the connection, other than those technically optimal and with minimum costs, according to laws in force and the regulations issued by ANRE;
12. Application of voltage on the electrical installations without a supply contract and /or without installed metering equipment, as appropriate;
13. Failure to submit an offer concerning the conditions of electricity supply to the applicants under art. 58 para. (1);
14. Unjustified shut down of electricity supplied to customers;
15. Violation of the performance standards in the electricity field;
16. Violation of the mandatory clauses stipulated by framework contracts issued by ANRE;
17. Violation of the legal provisions on electricity supplier switching;
18. Disclosure of commercially sensitive information on commercial operations by the transmission system operator or by distribution operator or by the centralized market operator, including those related to all transactions stipulated by electricity supply contract and/or other derivative financial instruments in the sector of electricity.
19. Violation of the requirements of independence of the distribution operator or transmission system operator and/or of the regulations on the direct or indirect control over the undertakings from the field of generation, supply, distribution or transmission of electricity;
20. Violation by the supplier of last resort of the obligation to provide services to the customers, under the present law;
21. Violation by the producers of their obligations under art. 6 p) and art 28 of the present law;
22. Violation by the transmission system operator of the regulations regarding the order of merit on the balancing market as regards the dispatching of generating installations and/or the use of interconnections with other systems;
23. Failure by the transmission system operator to present ANRE for approval the development plan of the transmission network, under the deadline set out by the regulations in force;
24. Practicing prices or rates unapproved by ANRE for regulated activities,
25. Violation of the regulations issued by ANRE on pricing and rates assessment;

26. Violation of the rules on accounting separation of activities carried out by undertakings, license holders in the electricity sector;
 27. Failure to publish and update on own webpage of the technical and commercial data stipulated by the regulations, by the participants on the electricity market;
 28. Refusal of final users to allow access to measurement equipment as well as to the facilities owned and/or managed by the distribution operator or by the transmission system operator;
 29. Execution of excavation or any other works in the safety areas of plants, without prior consent of their owner;
 30. Shutout/prevention by natural or legal persons of exercising the rights under the present law, access, use and easement or restriction of activities related to retrofitting works, repairs, maintenance, damage interventions, investments, maintenance and / or connection of new users and for clearing or modelling cutting for creating and maintaining regular distance from electrical networks;
 31. Use by a third party of the component of an electricity distribution networks / transmission network for other purposes than those stipulated by the legislation in the electricity sector, without concluding a contract in this respect with their right holder;
 32. Violation by the transmission system operator of the obligations stipulated by art. 13 para. (2), (3) and (6) of EC Regulation no. 714/2009;
 33. Violation by the transmission system operator and by others participants on the electricity market of the obligations under art. 15 of EC Regulation no. 714/2009;
 34. Violation by the transmission system operator and by others participants on the electricity market of the obligations under art. 16 of EC Regulation no. 714/2009;
 35. Violation by the transmission system operator and by others participants on the electricity market of the obligations set out in Annex 1, Guidelines for the management and allocation of the available transfer unit of interconnections between national systems of EC Regulation no. 714/2009.
 36. Violation of the provisions stipulated by art. 38. (2). point c) and d) and art. 48 para. (2). point d) and e) on establishing a compliance program and appointing a compliance officer.
 37. Violation by the owner of the transmission network of its obligations under the present law.
 38. Violation by the transmission system operator of the obligations under art. 31 para. (3).
- (2) The amount of the contraventions referred to in para. (1) shall be punishable:
1. For natural persons, as follows:
 - a) A fine of 1000 lei up to 2.000 lei to those provided for by point 2, 11, 13, 26 -32;
 - b) A fine of 2.000 lei up to 4.000 lei for those referred to at point 3-7, 9, 12, 14-17, 21, 24 and 25;
 - c) A fine from 4000 lei up to 8.000 lei for those stipulated by point 8, 18 and 36.
 2. For legal persons, as follows:

- a) A fine from 8.000 lei up to 40.000 lei for those referred to by point 2, 6, 7, 9, 11-14, 16, 17, 23, 25, 27-31;
 - b) A fine from 40.000 lei up to 200.000 lei for those under point 1, 3-5, 8;10;15, 18, 20-22, 26 and 36;
 - c) A fine from 200.000 lei up to 400.000 lei for those provided by point 24; 32-35, 37 and 38;
 - d) A fine of 1 to 10% of the annual turnover for those under point 19.
- (3) Identification of contravention cases and application of sanctions shall be done by:
- a) The mandated representatives of the competent authority, for contravention stipulated by paragraph (1), point 1-27 and 32-38;
 - b) The mandated representatives of local councils, for contravention stipulated by paragraph (1) point 29 and 31.
 - c) The mandated representatives of police, for the contraventions stipulated by para. (1) point 29 and 31.
- (4) For offences under para. (1) repeatedly committed, the market participants, legal persons, can be sanctioned with a fine between 1 and 5% of the turnover. A repeatedly committed offence means the committing of the same offence at least 3 times during 1 year.
- (5) The annual turnover means the turnover of the offending person, achieved during the financial year prior to the sanctioning.
- (6) the offender can pay within 48 hours from the finding and sanctioning report for the contravention or, where applicable, from the date of its signing at half of the minimum fine provided for in paragraph. (2) and (4),as the inspector mentions in the report.
- (7) Application of the fine penalty is prescribed within two years from the date of the offense.

Legal conditions of contraventions

Art. 94. - The provisions of Government Ordinance No. 2/2001 on the legal conditions relating to contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, shall be applied to the contravention listed under art. 93 para. (1).

Sanctioning contraventions

Art. 95. - In view of ascertaining the contravention cases stipulated in art. 93 para. (1), the assessment officer provided by art. 93 para. (3) are allowed, under the law, to access 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 officer's disposal the documents and acts specific to their activity.

Transitory and final provisions

Entry into force

Art. 96. - (1) Provisions of Art. 32 enter into force on March 3, 2013

(2) At the entry into force of this law, the Electricity Law no. 13/2007, published in the Official Gazette, Part I, no. 51 of 23 January 2007, as amended and supplemented, except art. 7-11 is hereby repealed.

(3) Within 60 days of the entry into force of this Law, the competent authority shall approve regulations for energy supply.

(4) Within 6 months from the date of entry into force of the hereof law, ANRE will adapt the regulatory framework in compliance with the present law.

(5) Until adaptation of the regulatory framework, all regulations issued under the Electricity Law no. 13/2007, as amended and supplemented, shall remain valid unless otherwise provided for this title.

(6) In order to simplify the bureaucratic procedures for licensing, individuals engaged in design, verification and execution of electrical installations and related works belonging SEN shall be issued by ANRE in compliance with this title.

(7) Any other form of authorization made by other public entities for activities under par. (6) is prohibited starting with the entry into force of this law.

(8) Natural persons licensed before the effective date of this law may operate until the expiration of their permits.

Final provisions

Art. 97. - (1) The regulations in emerging expressions of "default supplier" and "supplier of last resort", they are replaced by "supplier of last resort"

(2) Line Ministry shall notify the Commission of the adoption of this law and other administrative provisions necessary to implement the provisions of Directive 2009/72/EC, including submission of these normative texts.

(3) Within 24 months after entry into force of this law, the line Ministry carries out a performance evaluation of the transmission system model based on "independent system operator" and, if appropriate, the Government proposes to adopt the separation property, according to article 9. (1) of Directive 2009/72/EC.

(4) A vertically integrated economic agent who owns a transmission network cannot be stopped from adopting necessary measures for the implementation of the unbundling model according to Art. 9 par. (1) from the EU Directive 2009/72/CE.

TITLE II
Natural gas

Chapter I
General Provisions

The regulatory framework

Art. 98. – (1) This title of Law sets out the regulatory framework for the activities related to the production, transmission, distribution, supply and storage of natural gas, the modalities regarding the organisation and operation of the natural gas sector, access to the market and the criteria and procedures applicable to the granting of authorisations/licenses in the natural gas sector.

(2) The provisions of this title of Law concerning the natural gas sector shall also apply, in a non-discriminatory manner, to biogas obtained from biomass or other types of gas, in so far as such gases can be technically and safely injected into and transported through the natural gas transmission/distribution systems or upstream supply pipelines.

The objectives of the activities of the natural gas sector

Art. 99. – The activities of the natural gas sector shall be compliant with the following fundamental objectives:

- a) ensure sustainable development of the national economy;
- b) ensure security and continuity of natural gas supply for customers;
- c) protect the lawful interests of the final customers of natural gas;
- d) promote, stimulate and ensure competition on the natural gas market;
- e) harmonize national legislation with the community legislation in the field, in accordance with the principle of subsidiarity;
- f) transparency of natural gas regulated prices and tariffs;
- g) development of the natural gas sector while ensuring economic efficiency and environmental protection;
- h) promote production and use of new and renewable gas sources;
- i) ensure the non-discriminatory access to natural gas sources;
- j) ensure security measures to prevent and fight against terrorism and sabotage acts on the infrastructure of the national natural gas transmission system;
- k) develop the interconnections of national natural gas transmission system to the similar systems of the neighboring countries and other transport infrastructures and integration of the national gas transmission system with the European Network of Transmission System Operators for Gas – ENTSO-G;
- l) ensure the conditions necessary for the good operation of the natural gas markets and integration of the national market with the internal European market of natural gas;
- m) ensure non-discriminatory access of third parties to the upstream supply pipelines, storage facilities, transmission systems, natural gas distribution systems and the LNG facilities;
- n) ensure safe and efficient operation of the above ground technological facilities, storage facilities, natural gas transmission and distribution systems of the production fields;
- o) ensure the natural gas storage capacity, both for current needs and for national energy security needs.

Definitions of terms and expressions

Art. 100. - For the purpose of this title of Law, the following terms and expressions will have the meaning assigned below:

1. access to the upstream supply pipelines - the right of a natural gas undertaking or eligible customer to use the upstream supply pipelines, except the section used in the natural gas production processes, respective in the point where the natural gas fulfill the technical quality conditions in order to be sold.
2. access to the distribution system - the right of a natural gas undertaking or customer to use the distribution system;
3. access to the storage system - the right of a natural gas undertaking or customer to use the underground storage system;
4. access to the transmission system – the right of a natural gas undertaking or customer to use the transmission system;
5. access to the LNG terminal – the right of a natural gas undertaking or customer to use the LNG terminal;
6. related activities – activities complementary to production, transmission, distribution, storage of natural gas carried out by the licensed undertaking, in accordance with the validity conditions of the licenses granted for the operation of the systems;
7. facility for use – part of the natural gas operation facility designed to use natural gas as fuel or raw material, in accordance with the legal conditions for operation;
8. authorization/license – individual administrative document issued by ANRE – The Romanian Energy Regulatory Authority to a natural/legal person in relation to a certain right;
9. competent authority – The Romanian Energy Regulatory Authority – ANRE, which is organised and functions according to law;
10. technical certificate – the document issued further to analyzing the technical documentation to certify compliance with the requirements of the current legislation;
11. biogas – mix of biogenous gas resulted from the process of fermentation, gasification or pyrolysis of organic substances.
12. biomethane – biogas adjusted in accordance with the quality parameters in order to be used in the transmission and distribution systems, in combination with natural gas;
13. assets owned by third parties - components of the transmission or distribution systems used by the licensed operators to supply transmission or distribution services and not included in their corporate assets;
14. capacity – the maximum flow expressed in volume units per time units or energy units per time units to which the user of the system is entitled in accordance with the contractual provisions;
15. contracted capacity – the capacity allocated by the user of the system to another user on the basis of a contract;
16. available capacity – the share of the technical capacity remained unallocated and still available for the system at the respective moment;
17. firm capacity – the capacity guaranteed under a contract and that the system user may not interrupt;
18. interruptible capacity – the capacity that may be discontinued by the

system operator, in compliance with the terms of the contract signed with the network user or specific regulations;

19. unused capacity – the firm capacity purchased by a system user on the basis of a contract but which the user has not nominated until the deadline specified under the contract;

20. technical capacity – the maximum firm capacity that the system operator may offer to a user, depending on the integrity and operation requirements of the system;

21. customer – the final wholesale, retail natural gas customer or a natural gas undertaking purchasing natural gas;

22. wholesale customer – legal or natural person, other than a transmission, system or distribution operator, purchasing natural gas to resell it inside or outside its system;

23. household customers – the customer purchasing natural gas for its own household consumption;

24. eligible customer – the customer that may choose its natural gas supplier;

25. final customer – the customer purchasing natural gas for its own use;

26. industrial customer – the non-household final customer whose annual gas consumption is estimated at the place of consumption, to at least 450,000 MWh, based on the type and flows of the installed gas facilities for use, with the exception of high efficiency cogeneration plants with an installed capacity exceeding 10 MW, producing heat to SACET, which are considered industrial clients, regardless of their consumption;

27. new industrial customer – the industrial customer connected for the first time to the system; the customers who are not the legal – universal successors, holding a universal and/or particular title – of certain final customers who are or have been connected to a natural gas distribution or transmission system or upstream supply pipeline shall not be considered new industrial customers;

28. non-household customer – the customer purchasing natural gas which is not intended for own household consumption;

29. vulnerable customer – final customer belonging to a category of household customers, which, for reasons related to age, medical condition or low income, run the risk to be socially sidelined and which benefit, in order to prevent that risk, from social protection measures, including of financial nature. Social protection measures, as well as underlying eligibility criteria shall be established via legal acts;

30. interruptible customer – final customer who may contribute significantly to the safe operation of the National gas transmission system and distribution systems by reducing or interrupting consumption and who has the obligation to conclude a contract for the supply of interruptible services; the obligations, rights, conditions related to the contracting, reduction or interruption shall be established by ANRE and the relevant ministry according to a specific regulation.

31. code - set of technical and/or commercial regulations issued or approved by ANRE, establishing compulsory rules and procedures for natural gas undertakings;

32. upstream supply pipeline – pipeline, including related installations, equipment and machinery ensuring circulation of natural gas, delimited

by the block valve of the exit of the conditioning system, or in the absence of the latter, by the point where the natural gas is compliant with the technical quality conditions in order to be marketed, owned by the natural gas producer and transmission system, distribution system, a LNG terminal or the final customer;

33. transmission pipeline – the pipeline, including related facilities, equipment and machinery operating mainly at high pressure levels and ensuring transmission of natural gas among the takeover points of the upstream pipelines, interconnection pipelines, import or LNG terminals to the delivery points of the distribution operators, final customers or interconnection pipelines;

34. interconnection pipeline – transmission pipeline crossing or spanning a border between two Member States of the European Union for the sole purpose of connecting the national transmission systems of these states; the interconnection pipelines with the states that are not members of the European Union are subject to the provisions of the agreements with these States;

35. technological consumption – the quantity of natural gas, certified by the methodology issued by the National Agency for Mineral Resources or ANRE, as appropriate, needed to be used by an undertaking in order to ensure the technological parameters necessary for carrying out the production, transport, storage or distribution of natural gas activities;

36. natural gas supply contract – a contract for the supply of natural gas but that does not contain a natural gas related financing instrument;

37. smart metering - metering system which provides to the final consumer and operator information on the actual consumption of electricity or natural gas, as well as on the actual moment of consumption and offers options to the consumer regarding the use of energy;

38. underground storage facility - space beneath earth's ground having natural or obtained qualities as a result of previous oil operations or mining activities, appropriate for injection into, stocking in and extraction of natural gas volumes;

39. control – any rights, contracts or other elements which individually or jointly confer the possibility to significantly influence a company, especially by:

(a) property or user rights on all or part of the assets of a company;

(b) rights or contracts conferring significant influence on the structure of the company, the votes or decisions of its management bodies;

40. dispatching - specific activity consisting in permanently and effectively balancing the amounts of the natural gas inputs and outputs at the level of the systems, in accordance with the parameters resulted from the supply obligations, including the measures limiting the effects of exceptional events, such as: very low temperatures, natural disasters, great damages etc., by using relevant means;

41. natural gas distribution – the activity of circulating natural gas through a distribution pipelines system in order to deliver it to the customers, but not including supply;

42. duration of operation – the time interval in which an objective of the natural gas sector is safely and efficiently executed, in accordance with the regulations in force;

- 43.** supply of natural gas – commercial activity of sale, including resale of natural gas, including LNG, to customers;
- 44.** supplier - legal person or natural person who supplies natural gas;
- 45.** final supplier – the supplier appointed by the relevant authority to supply gas under specific regulated conditions;
- 46.** compressed natural gas for use in vehicles (CNGV) – natural gas stored into tanks by compression, in order to be used as fuel for heat engines;
- 47.** liquefied natural gas (LNG) – natural gas liquefied and stored into special tanks through specific processes;
- 48.** natural gas - free gas from methane deposits, gas dissolved into oil, gas from the gas fields associated to oil deposits, as well as gas resulted from extraction or separation of liquid hydrocarbons;
- 49.** liquefied petroleum gas (LPG) – light hydrocarbons fractions obtained through refining processes, from petroleum stabilization installations and natural gas processing, which are naturally liquefied, by increasing their pressure or decreasing their temperature in order to be transported or stored, with a vapors' pressure that does not exceed the maximum permitted limit for commercial propane, mainly composed of the following hydrocarbons, individually or as a blend: propane, propylene, butane (n-butane and/or iso-butane) and butenes (butylens), including butadiens;
- 50.** commercially sensitive information - information whose disclosure could restrict, prevent or distort competition in the natural gas market and / or could jeopardize market participants;
- 51.** new infrastructure - an infrastructure that has not been completed until 4 August 2003;
- 52.** above-ground technological installation for the production of natural gas – facilities, accessories and pipelines, including upstream pipelines, used for the production and circulation of natural gas;
- 53.** storage facility - facility used for the storage of natural gas and owned and/or operated by a natural gas operator, including LNG facilities used for storage, but excluding the portion used for production operations and the facilities used exclusively by transmission and system operators to carry out their duties;
- 54.** utilization facility - all pipelines, facilities and accessories, including the furnace and the gas drain chimney, placed behind the pressure control and flow metering station/point, as applicable, except for the flow rate metering device which is part of the distribution system;
- 55.** gas derivative – financial instrument for goods similar to the financial instruments specified in the regulations in force on the financial instruments markets;
- 56.** storage of natural gas – the activities and operations carried out by the storage operator for or in connection to reserving storage capacity in the underground storage facilities in order to inject, store and extract from such capacities determined amounts of natural gas;
- 57.** direct line – complementary natural gas pipeline of the interconnected system;
- 58.** natural monopoly in the field of natural gas – situation in which the natural gas transmission, storage or distribution services are ensured by a

single operator for a determined area;

59. objective of the natural gas sector – upstream supply pipeline for the production of natural gas, a transmission, distribution or storage system of natural gas or a component of one of the above and for which a building permit is required;

60. LNG terminal operator – legal or natural person who carries out activities of natural gas liquefaction or importation, offloading and re-gasification of LNG and is responsible for operating the LNG facility;

61. gas market operator - legal person responsible for organizing and managing centralized markets, except for the balancing market, in order to make wholesale transactions of natural gas on short, medium and long term;

62. upstream supply pipelines operator – legal or natural person who carries out natural gas production activities and is responsible for the operation, maintenance and development, if necessary, of the upstream supply pipelines in a certain region;

63. distribution operator – legal or natural person who carries out natural gas distribution activities in one or several delimited regions and is responsible for the operation, maintenance and development of the system in that area and, if applicable, of its interconnections with other systems and ensures the long-term capacity of the system in order to reasonably satisfy natural gas distribution demands;

64. storage operator – legal or natural person who carries out storage activities and is responsible for the operation of the natural gas storage facility;

65. transmission system operator - legal or natural person who carries out natural gas transmission activities and is responsible for the operation, maintenance and, if applicable, development of the transmission system of a certain region and, if the case may be, its interconnections with other systems and ensures the long-term capacity of the system in order to reasonably satisfy natural gas distribution demands;

66. affiliated undertakings – any undertaking who controls, whether directly or indirectly, the specified undertaking, is controlled by the latter or is under joint control with such undertaking;

67. natural gas undertaking – legal or natural person, not including final customers, who carries out one of the following activities: production, transmission, distribution, supply, centralized market management, sale or storage of natural gas, including LNG and who has commercial, technical and/or maintenance responsibilities related to these activities;

68. integrated natural gas undertaking – a vertically or horizontally integrated undertaking;

69. horizontally integrated undertaking – a natural gas undertaking who carries out at least one of the functions of production, transmission, supply or storage of natural gas and a non-gas activity;

70. vertically integrated undertaking - a natural gas undertaking or a group of natural gas undertakings where the same person or persons are entitled, directly or indirectly, to exercise control over the other, and where such undertaking or group of undertakings perform at least one of the functions of transmission, distribution, LNG or storage, and at least one of the functions of production or supply of natural gas;

- 71.** natural gas market – the organized framework for the trading of natural gas and related services;
- 72.** centralized natural gas market – the organized framework for the trading of natural gas between various undertakings, with the natural gas market operator or the transmission system operator as intermediary, on the basis of specific rules approved by the competent authority;
- 73.** natural gas market balancing – the organized framework for the trading of natural gas between various undertakings, with the transmission system operator as intermediary, on the basis of specific rules approved by ANRE;
- 74.** long-term planning – planning of the supply and transmission capacity of the natural gas undertakings on a long-term basis with a view to meeting the demand of natural gas of the system, diversification of sources and ensure security of supply for customers;
- 75.** regulated price - the price for the supply to the customer under a framework contract, quality standards and/or the specific terms established by ANRE;
- 76.** connection - connection pipeline between a main line (upstream line, transmission line, distribution line for natural gas) and a measurement station or a control, measurement, transfer station for natural gas, which supplies a distribution system, a customer or a group of final customers;
- 77.** transmission and/or distribution system – interconnected pipelines, including the related gas circulation facilities and equipment, as provided under the specific technical regulations;
- 78.** reservation of capacity – maintenance of a portion of the transmission/distribution/storage capacity available to users in relation to the transmission/distribution/storage of a determined capacity of natural gas;
- 79.** natural gas sector - the activities carried out by undertakings for the production, transmission, transport, storage, distribution, supply and use of natural gas, biogas, biomethane, LPG, LNG, CNGV, as well as the facilities, equipment and machinery used for the execution of these activities;
- 80.** system service – any service necessary for the access to and operation of transmission, distribution systems, LNG and/or storage systems, including load balancing, inert gas mixing and injection devices but excluding the facilities strictly intended for the use of transmission system operators, distribution or storage operators in carrying out their duties;
- 81.** security – security of supply of natural gas and technical safety of the objectives
- 82.** system - any transmission networks, distribution networks, LNG terminal and/or storage facilities operated by a natural gas undertaking, including its facilities supplying system services such as line pack and the facilities of the affiliated undertakings necessary for providing access to the transmission and distribution system, the storage facility or LNG terminal
- 83.** transmission system - all the pipes connected to each other, including facilities and relevant equipment that assure the flow of natural gas, according to technical regulations, which ensure acquisition of natural gas extracted from the fields or coming from import and delivery to

distributors, customers direct, to storage and to beneficiaries of various countries;

84. National transmission system (NTS) – the national transmission system located on the Romanian territory and under the public property of the state;

85. interconnected system – a series of interconnected systems;

86. line pack - storage of gas by compression in gas transmission and distribution systems, but excluding the amounts of natural gas reserved by the transmission and distribution system operators to carry out their duties;

87. coastal terminal - all facilities located on the Black Sea coast where the acquisition provides natural gas from the fields from submarines, that point where natural gas meet the technical quality to be sold

88. LNG terminal – the totality of the facilities used for the liquefaction of natural gas or the importation, offloading, and re-gasification of LNG, including the related services and temporary storage facilities necessary for the re-gasification process and subsequent delivery towards the transmission system, but excluding any part of LNG terminals used for storage;

89. transmission of natural gas - transport of natural gas through a network, which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;

90. system user – natural or legal person that supplies or is supplied by the system;

91. protection area – the area bordering the objectives of the natural gas sector, extended in space, where interdictions regarding the access of persons, the regime of the activities and constructions, settled by technical standards, are instituted;

92. security area - area bordering the objectives of the natural gas sector, extended in space, where restrictions and interdictions are instituted, in order to ensure normal operation and avoid jeopardizing persons, assets and environment, settled by technical norms; the security area also covers the protection area.

Chapter II

Authorities and competence

The energy strategy and policy in the natural gas sector

Art. 101-(1) The national energy strategy establishes the mid-term and long-term objectives of the natural gas sector and the optimum modalities for their execution, in the context of a sustainable development of the national economy. The energy strategy is elaborated by the relevant ministry and approved by the Government, after consulting the non-governmental organizations, social partners and representatives of the business environment.

(2) The energy policy is elaborated by the relevant ministry on a mid-term basis, in accordance with the directions provided under the energy strategy and based on the Governing Programme, in consideration of the

expected long-term evolutions, after consultations with non-governmental organisations, social partners and representatives of the business environment, with a view to:

- a) establishing a corresponding institutional framework, by appointing the bodies and the relevant authority responsible for the implementation of such policy;
- b) ensuring security of natural gas supply;
- c) forecasting imports and exports of natural gas;
- d) elaborating development programmes for the natural gas sector;
- e) ensuring environmental protection;
- f) improving economic and/or energy efficiency in the field of the production, storage, transmission, distribution and use of natural gas;
- g) stimulating the development of storage facilities for natural gas, injection/extraction capacities of the storage facilities and constitution of strategic stocks;
- h) indicating the guidelines related to the research and development in the natural gas sector and promoting advanced technologies in the field;
- i) developing international cooperation

(3) The Government, relevant ministry and the other specialized bodies of the central public administration take measures in order to fulfill the objectives provided under the programme mentioned in paragraph (2) and analyse, on an annual basis or whenever necessary, the degree of conformity with its provisions.

**Responsibilities of
the relevant ministry**

Art. 102. - The relevant ministry elaborates the natural gas policy and ensures its implementation, in accordance with the provisions of this title, and has the following main responsibilities:

- a) implements the energy policy of the Government;
- b) elaborates programmes and action plans to enforce Government's policy in the sector of natural gas;
- c) ensures elaboration of the studies based on which the priorities regarding the investments of the natural gas sector will be established;
- d) elaborates draft legislative acts for the natural gas sector, after consulting the interested parties;
- e) has the quality of licenser for the natural gas distribution service and of concession of natural gas assets belonging to the public domain;
- f) supervises the implementation and compliance with the measures related to environmental protection by the participants in the natural gas sector;
- g) ensures harmonisation with the standards and regulations of the European Union in the field of natural gas and creates the mechanisms necessary for their implementation;
- h) ensure monitor compliance with commitments under the Treaty of Accession to the European Union for natural gas and coordinates the transposition and implementation of these commitments by the institutions involved;
- i) elaborates and substantiates, together with the Ministry of Labour, Family and Social Protection and the employers' associations and trade unions, the proposed social policies specific for the natural gas sector, the social assistance and medical care programmes, risk and accident

insurances, in order to avoid professional risks and help the persons involved in labour accidents and affected by professional diseases to recover;

j) monitors the aspects related to the security of supply, especially in order to strike a balance between supply and demand on the national market, in terms of the future expected demands and available reserves, the additional capacity considered, planned or under construction, in compliance with the quality and maintenance requirements of the networks, and the measures necessary to meet peak demands and supply deficits of one or several suppliers. For this purpose, the ministry publishes, every two years, until July the 31st, a report containing the results obtained following the monitoring of these aspects and any other measures taken or presumed in this respect and immediately submit such report to the European Commission;

k) promotes and facilitates, together with ANRE, cooperation among the transmission system operators at regional level, including as concerns cross-border aspects, with a view to creating a competitive internal market of natural gas; this cooperation covers the geographical areas defined in accordance with article 12, paragraph (3) of the (EC) Regulation no. 715/2009 and other geographical areas;

l) ensures the implementation of measures established in Regulation (EU) No. 994/2010 of the European Parliament and the Council of 20 October 2010 concerning measures to safeguard security of natural gas supply and repealing Council Directive 2004/67/EC;

m) approves, together with the Ministry of Labour, Family and Social Protection, the labour protection legislation in the sector of natural gas;

n) elaborates the national action plan in case of lack of energy, establishes critical situations and defines the customers that cannot be disconnected in such situations.

Chapter III

Concession and the regime of the rights on the property of third parties

Concession

Art. 103. - Public property assets related to natural gas transmission and storage objectives/systems, as well as natural gas transmission, storage and distribution services are subject to concession to Romanian and foreign legal persons, according to the law .

Concession of the natural gas distribution service

Art. 104. - (1) The concession of the natural gas public distribution service will be done for one or several delimited areas – administrative and territorial units (municipality, town, village); the concession is exclusive for the areas for which it was granted.

(2) The relevant ministry initiates the process of assignment following the requests received from an interested person or public authority, in accordance with the specific rules; the request shall be accompanied by a feasibility study approved by ANRE.

(3) The feasibility study provided under paragraph (2) is elaborated by an undertaking authorized by ANRE, in accordance with the methodology approved by ANRE, is approved by ANRE and constitutes an integral part of the documentation for the awarding of the concession.

(4) The favourable decision of ANRE is mandatory for initiating the awarding process of the natural gas distribution public service.

(5) The licensor, in collaboration with ANRE, will take all the necessary measures to ensure, as applicable, the assignment of several adjacent administrative-territorial units under one single contract. The relevant ministry and the relevant authority will arrange that the technical solution to supply the area assigned is usually ensured through one single connection.

(6) In justified situations, the licensor of the distribution service, with the prior approval of ANRE, may decide to extend the area assigned to one or several localities adjacent to the administrative-territorial unit, for which the distribution service has already been assigned; the licensed area may only be extended based on an addendum to the assignment contract concluded with the licensor of the respective area, defined under paragraph (1).

(7) After the assignment, the licensee requests the specific authorizations/licenses required for the execution of its activity and provided under the legislation in force.

(8) The natural gas solicitors who are not located in unassigned delimited areas may be supplied in accordance with the conditions provided under art. 152.

Ensure monitoring of the works

Art. 105.- The licensee of the natural gas distribution service supervise the works provided under the licensing contract with its own personnel, authorized according to ANRE regulations, as well as with contracted personnel authorized as per the legislation in force.

Withdrawal of the concession

Art. 106. -(1) Right concession may be withdrawn by the licensor in situations where the licensee:

a) does not execute the volume of works at the terms provided under the contract;

b) does not comply with the main contractual clauses agreed by the parties, which mandatorily include the clauses related to the payment of the royalties and environmental protection.

c) systematically violates the validity conditions of the natural gas distribution licenses or the legislation on the safe operation of the objectives.

(2) The decision to withdraw the concession issued by the licensor may be challenged within 60 days since its communication, before the relevant administrative court; the final decision is published in accordance with the legal provisions.

3) At the termination of the concession contract, ANRE shall withdraw the license associated to the concession.

Termination of the concession contract

Art. 107. - (1) Upon termination for any reason of the concession contract, public service distribution related assets owned by the licensee may be taken over in whole or in part, by the licensor or by another licensee, with the approval of the licensor, in exchange for a compensation equal to the regulated value remaining to be depreciated, as determined by ANRE.

(2) In case the concession contract is terminated by the licensee's sole fault, it cannot benefit from compensations for the licensor or other licensee, with the exception of a compensation equal to the regulated value remaining to be depreciated, as determined by ANRE.

Licensee's rights

Art. 108. - (1) In order to perform the transmission or distribution service, in case of use of the goods owned by third parties, the licensee has the following rights:

- a) to use these goods in accordance with the law;
- b) notwithstanding the right provided in letter a), the conditions related to exercising this right shall be those provided in the acceptance report and/or in the contract;
- c) to include the costs of the operation, maintenance, repairs and modernization works and of other works executed in relation to the goods in the tariffs of the service supplied, in accordance with the specific regulations of ANRE;
- d) with the consent of the owner, to include these goods in its property in exchange for a fair compensation;
- e) to develop the system;
- f) to use the entire capacity of the asset;
- g) to ensure the access of new solicitors, in accordance with one of the following conditions:
 - 1. upon submission of the owner's approval;
 - 2. upon submission of the approval of the access solicitor concerning the owner's compensation; the approval of the solicitor shall be valid if the solicitor agrees in written, under an authentic act, to compensate the owner for his investment share;
- h) to request the owner of the good to provide technical and economical documents in support of the quality of the materials and works executed and amount of the investment;
- i) to replace the goods in order to modernize or extend the capacity of the system, or as a result of increasing the degree of usage or deterioration; the licensee is obliged to replace this goods in accordance with regulations approved by ANRE for this purpose; the licensee will become the owner of the goods

(2) In conjunction with the rights provided under paragraph (1), the operators of the transmission/distribution systems undertake to:

- a) finance, at the expiry of the operation period, the investments related to the replacement of goods;
- b) operate and maintain the goods for the safe operation of the system.

(3) In order to ensure continuity and security of the supply with natural gas of the customers in case the transmission/distribution public service is performed through the goods owned by third parties, the intended purpose of these goods may not be changed.

The right of use and legal right

Art. 109. - As concerns the lands and other public or private properties of natural or legal persons and the activities executed by natural or legal persons in the surrounding area of the capacities, during the development, rehabilitation, modernization works, respectively operation and maintenance of the respective capacities, the licensees of the natural gas

sector will have the following rights, in accordance with the law:

- a) the right of use for the execution of the works necessary for the construction, rehabilitation or modernization of the objectives/systems;
- b) the right of use for ensuring normal operation of the capacity by the execution of the necessary inspections, repairs and interventions;
- c) the underground, above ground or aerial right of way for the installation of networks, pipelines, lines or other equipment related to the objectives/systems and for the access to their location;
- d) the right to obtain limitation or cessation of certain activities that may put in danger the life of persons and goods;
- e) the right of access to the public utilities.

The right of use for the execution of the works

Art. 110. - In exercising the right of use for the execution of the works necessary for the construction, rehabilitation or modernization of the objectives/systems, the licensee may:

- a) store on the privately owned lands, in an amount strictly necessary, materials, equipment, plants and facilities;
- b) remove crops or planting or other existing arrangements or limit, to an extent strictly necessary, for the purpose of the executing the works, in accordance with the law;
- c) to extract materials, collect water, in accordance with the conditions provided under the legislation in force;
- d) to install and use plants, establish site offices and housing;
- e) to stop or limit activities of the owner, to an extent strictly necessary, in order to execute the works for the respective objective/system.

The right of use for ensuring normal operation of the objective/system

Art. 111. - (1) The right of use for ensuring normal operation of the objective/system shall be valid for the entire period of operation of the latter and will be exercised whenever necessary in order to ensure normal operation of the objective/system.

(2) For the execution of this right referred to in paragraph (1), the licensee may:

- a) store materials, equipment, maintenance, inspection, repair and intervention equipment necessary to ensure normal operation of the objective/system;
- b) install and use plants;
- c) affect crops, plantations or other existing works and to restrict the activities of the owner, to the extent and duration strictly necessary for the performance of maintenance, repair, overhaul or interventions.

The legal underground, above-ground or aerial right

Art. 112. - The legal underground, above-ground or aerial right of way includes the right to install networks, pipelines, lines, poles and other equipment related to the capacity and the access to their place for interventions, maintenance, repairs, inspections, modifications and operation, in accordance with the legal provisions in force.

The rights of use and legal right

Art. 113. - (1) The rights of use and public utility easements have as their object, were lawful, and content provided in art.108 and exercised without registration on the land during the life of objective / gas system or temporarily at modernization the capacity in operation, repair, servicing,

works in case of default.

(2) Exercise of rights of use and legal right on private properties affected by objective / system, which will be made after the entry into force of this Act, shall comply with the procedural rules on the conditions and terms for the duration, content and scope of exercise these rights, provided a framework agreement and to determine the amount of benefits and compensation and their method of payment, approved, together with the Framework Convention, by Government decision, the ministry proposal .

(3) land owners affected by the exercise of rights of use and legal right by holders of licenses and of authorisations may require the conclusion of agreements in accordance with paragraph (2).

(4) Holders of licenses and authorisations are obliged to concluding agreements in accordance with paragraph (2) within 30 days of the request of affected owners.

(5) If, during interventions for development, modernization, repair, maintenance, damage, take place damage to surrounding owners objectives / systems of natural gas, licensees are required to pay compensation under the law.

(1) The compensations are being established based on the following criteria:

- a) the surface of the land affected by the works;
- b) the amounts of the estimated productions of the cultures and planting affected, as communicated by the relevant authorities and the arrangement affected by the works;
- c) the price estimate of the properties affected.

(2) the amount of the compensation is determined with the agreement of the parties or, in case the parties fail to reach an agreement, by a judge's decision.

The right to obtain limitation or cessation of activity

Art. 114. – (1)In order to prevent dangerous situations that may affect the persons, goods or activities executed in the area of the development, rehabilitation, modernization works related to the objectives/systems and of the inspection, maintenance or repair operations of the objective/system in operation, the licensee has the right to obtain limitation or cessation, to the extent necessary and during the work or operations mentioned above, the activities executed nearby other persons.

(2) the distribution system operator has right to intervene at any time the natural gas distribution networks in order to carry out repairs in an emergency, according to ANRE regulations without first obtaining necessary permits and licenses under this title, to remedy those failures that threaten safety and security of consumers.

The right of access to the public utilities

Art. 115. - The right of access to the public utilities must be exercised by the licensee in good faith and in a reasonable manner, without prejudicing the access of other persons to the respective public utilities.

Right to contract supply or adequate services

Art. 116. - For the secondary consequences that may occur following the development, rehabilitation or modernization, respectively the operation of certain objectives/systems of the natural gas sector, the licensee may conclude contracts with the interested parties, as beneficiary, for the

supply of adequate services, in accordance with the law.

Establishment of protection or safety areas

Art. 117. - ANRE will establish, under technical standards, protection and safety areas for the protection for protection and normal operation of the objectives/systems of the natural gas sector.

Chapter IV

Authorizations and licenses

Authorization regime

Art. 118. – (1) The new upstream supply pipelines for the production of natural gas and new production objectives for biogas, biomethane, LNG and GNCV or new transmission, storage and distribution systems will be established by Romanian or foreign legal persons based on authorizations for establishment.

(2) The supply of natural gas, biogas/biomethane, LNG, GNCV, LPG, operation of the upstream supply pipelines for the production or storage of natural gas, transmission and distribution systems, LNG terminals and management of centralized markets of natural gas will be carried out based on a license.

(3) The procedure and conditions related to the granting, modification, suspension, withdrawal of the authorizations and licenses will be established under the regulations elaborated by ANRE

Categories of authorizations and licenses

Art. 119. – The Relevant authority issues:

(1) Design/execution/operation/authorizations for:

- a) upstream supply pipelines;
- b) natural gas transmission systems;
- c) natural gas distribution systems;
- d) natural gas utilization facilities;
- e) facilities for the GNCV/biogas/biomethane production/storage activities;
- f) above-ground natural gas storage technological facilities.

(2) Authorizations for the establishment of:

- a) upstream supply pipelines;
- b) above-ground natural gas storage technological facilities.
- c) facilities for the biogas/biomethane production;
- d) transmission/ distribution natural gas systems, in case new systems;
- e) LNG, GNCV facilities.

(3) Licenses for the following activities:

- a) supply of natural gas, biogas/biomethane, LNG, GNCV, LPG;
- b) operation of the transmission, distribution or underground storage systems;
- c) operation of the upstream supply pipelines for the production of natural gas;
- d) operation of the LNG terminals;
- e) management of centralized markets.

Refusal to grant authorization or licence

Art. 120. - (1) ANRE may refuse to grant an authorization/license in the following cases:

- a) the applicant does not fulfil the conditions provided under the specific

regulations;

b) the applicant is under judicial reorganization or bankrupt;

c) one of the licenses/authorizations of the applicant has been withdrawn by ANRE in the past 5 years because of reasons attributable to the applicant;

d) for the construction and operation of natural gas distribution systems in a delimited area for which an authorization/license has been issued to another undertaking.

(2) The authorizations/licenses will be granted in an objective and non-discriminatory manner, their refusal being decided and motivated under a decision of the ANRE and the applicant may challenge such decision before an administrative law court, in accordance with the law.

(3) The reasons for a refusal to grant a construction authorization will be notified to the European Commission.

Design and execution of the objectives of the natural gas sector

Art. 121. – (1) For the design and execution of the objectives/systems of the natural gas sector, the legal persons have the obligation to hold an authorization issued by ANRE in accordance with a specific regulation.

(2) The objectives of the natural gas sector and the works intended for their modification, modernization or extension are designed and executed by authorized legal persons.

(3) For the design and execution of the objectives/systems of the natural gas sectors, the legal persons have the obligation to hold a plumber authorization issued by ANRE in accordance with a specific regulation

Chapter V

General provisions related to the production, transmission, distribution, underground storage and supply of natural gas

Joint obligations of license holders

Art. 122. – (1) The obligations of the license holders of the natural gas sector, irrespective of their form of property of regime, are the following:

a) keep in their internal accounting system separate accounts for each of the activities carried out and for each regulated activity, as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidization and promote competition; they shall also keep separate accounts, which may be consolidated, for other activities related to the natural gas sector or for other non-gas activities; the revenue from ownership of the transmission or distribution network shall be specified separately in analytical revenue accounts. The internal accounts shall include a balance sheet and a profit and loss account for each activity;

b) elaborate, submit for auditing and publish the annual financial statements for each undertaking, excluding their secondary offices without legal personality, in accordance with the specific legislation, adopted in accordance with the fourth Directive 78/660/EEC of the Council of July 25th, 1978, article 44, paragraph (2), letter g).

c) maintain confidentiality of the commercial information obtained from third parties;

d) not exploit commercially sensitive information obtained from third parties while ensuring their access to the system;

- e) provide the information necessary for the access of third parties to the system, in a clear, transparent and accessible manner and whenever necessary;
 - f) hold all the authorizations and licenses provided by the legislation in force;
 - g) comply with the validity conditions associated to the authorizations and licenses granted by ANRE;
 - h) use natural gas in accordance with the provisions of article 181;
 - i) make available for the ANRE, at the request of the latter, copies of the agreements for the purchase/sale and purchase/supply of natural gas and the natural gas transit contracts, if applicable.
- (2) The undertakings who are not required to publish their annual financial statements, will keep at their head office a copy of such statements in order to be consulted by the public.
- (3) The audit provided under paragraph (1) letter b) includes verification of the compliance with the obligation to avoid discrimination and cross-subsidies of the activities carried out by the audited undertaking.
- (4) The undertakings shall establish in their internal accounts the rules related to the allocation of the assets and liabilities, expenses and incomes and losses that they will apply in order to keep the separate accounts provided in paragraph (1) letter a). These rules may only be modified in exceptional cases and must be mentioned and justified correspondingly, in accordance with the regulations of the ANRE.
- (5) The undertakings indicate in explanatory notes to the regulated accounting records, any transaction of a certain size concluded with the related undertakings, in accordance with the regulations of ANRE. Related undertakings include any affiliated undertakings provided under art. 41 of the seventh Directive of the European Council 83/349/EEC of June 13, 1983, and/or associated undertakings, under art. 33, paragraph (1) of the same document and/or undertakings owned by the same shareholders.

The natural gas producer

Art. 123. - The natural gas producer is a legal or natural person who carries out natural gas, biogas/biomethane or other types of gas production activities, in accordance with the provisions of this title.

Obligations and rights of the natural gas producer

Art. 124. - (1) The main obligations of the natural gas producer are the following:

- a) hold the authorizations for the construction of the upstream supply pipelines necessary for the natural gas production activity and the licence for their operation;
- b) ensure operation of the upstream supply pipelines necessary for a safe, efficient and environmentally friendly production of natural gas;
- c) ensure the access of third parties to the upstream supply pipelines, under non-discriminatory conditions, in accordance with the specific regulations;
- d) carry out activities related to the operation of the upstream supply pipelines, in accordance with the specific regulations elaborated by ANRE, within the limits of the rights granted under the validity conditions of the license;

e) to give priority to the quantities of natural gas suppliers from production activities, needed to cover consumption regulated market in accordance with the compliance schedule ANRE price liberalization and providing gas for captive customers, with suppliers obligation to observe the use of such quantities of gas; the rest of their output, less the amount of associated natural gas technological consumption defined at the art. 100 Section 35, will be made available to the competitive market;

f) to provide natural gas odour according to regulations for natural gas delivered at the entry – exit point to customers directly connected upstream pipeline inclusive to the distribution systems.

(2) The main rights of the natural gas producer are the following:

a) to elaborate technical/commercial standards specific to its activity and submit them to ANRE for approval;

b) to market the natural gas resulted from the extraction process, within the limits provided under the marketing license;

c) to interrupt operating of the facilities as long as strictly necessary for the execution of the maintenance and repair works and in other situations provided under the law and priory notify the dispatchers of the affected systems and final customers, if applicable, with respect to such discontinuation;

d) to refuse the access of third parties to the upstream supply pipelines:

1. in case of an incompatibility of the technical specifications that cannot be reasonably settled;

2. in order to avoid difficulties that may not be reasonably settled and that may prejudice the efficient current and future production of hydrocarbons, including deposits with low economic viability;

3. in order to meet the reasonable and duly justified needs of the owner or upstream pipelines network operator, as concerns the transmission and processing of natural gas and the interests of all the other users of the upstream pipelines network or of the main processing and operation facilities that may be affected;

4. in the situations provided under art. 149;

e) to refuse connection of third parties to the upstream supply pipelines, in accordance with the provisions of art. 148.

Transmission of natural gas

Art. 125. - (1) The transmission of natural gas is a public service of national interest;

(2) The transmission of natural gas is carried out by the transmission and system operator, a legal person certified by the relevant authorities in accordance with the law.

(3) The National Transmission System is a public property of the State;

(4) The works intended for the development, rehabilitation, modernization, operation and maintenance of the natural gas transmission objectives/systems are public utility works;

(5) The delimitation points of the transmission system are represented by the valve located at the exit from the control-measurement-delivery station owned by the producers or operators of storage systems, respectively the border point in case of the pipelines interconnecting the transmission systems from the neighbouring countries until the valve located at the exit from the control-measurement-delivery station owned

by the transmission operator, respectively the border point in case of the pipelines interconnecting the transmission systems from the neighbouring countries.

(6) The transmission and system operator has the obligation to elaborate investment and development plan for the transmission system for a period of 10 years, based on the current status and the future evolution of the natural gas and sources consumption, including the natural gas imports and exports.

(7) The plans will include modalities to finance and carry out the investments for the transmission facilities, based on the management and urban plans of the territory where they are located, in accordance with the environmental protection standards.

(8) The plans provided under paragraph (6) must be approved by ANRE.

Certification of the transmission and system operator

Art. 126. - (1) The transmission system operator is organised and functions as an “independent system operator” and is a legal person certified by ANRE under the conditions provided under article 128.

(2) To comply with the requirements of Art. 128, by Government Decision carry out to the proposal of the ministry , the public entity is established representing the state as shareholder to undertakings engaged in production and supply on the one hand, and public entity representing the state as majority shareholder transmission system operator, on the other.

(3) Within 15 days since the adoption of the measures provided under paragraph (2), the transmission system operator will submit to ANRE, with the approval of the owner of the transmission system, the request for certification accompanied by the documentary evidence regarding the compliance with the requirements provided under art. 128.

(4) ANRE issues a preliminary certification decision within four months since the date of registration of the request of the transmission system operator, which will be notified to the European Commission, accompanied by the relevant documentation.

(5) The procedure for the certification of the transmission system operator will be carried out in accordance with the provisions of article 3 of the (EC) Regulation no. 715/2009.

(6) The appointment of the transmission system operator as an independent system operator is subject to approval by the European Commission, following the communication by ANRE of the certified undertaking, after the completion of the certification procedure provided under paragraph (5).

(7) Besides the certification decision, the relevant authority has the obligation to notify the European Commission about any request for certification of the owner of the transmission system or transmission system operator controlled by one or several persons of one or several third countries and about any circumstances in which one or several persons of one or several third countries acquires control over the transmission system or transmission system operator, if applicable

Certification of the transmission system

Art. 127. - (1) Before the certification of a transmission system operator controlled by one or several persons of one or several third countries,

**operators controlled
by third countries**

ANRE will ask the European Commission to ascertain the following:

- a) that the respective entity fulfils the requirements of article 128 and
- b) that the granting of the certification does not affect the safety of the natural gas supply of the European Community.

(2) ANRE may refuse certification of a certain transmission system operator controlled by one or several persons of one or several third countries, in the following cases:

- a) the entity in question does not fulfil the requirements provided under article 128;

- b) the granting of the certification may affect the safety of the natural gas supply on national territory and of the European Community. On analyzing this aspect, the ANRE will consider the following:

- (i) the rights and obligations of the European Commission towards the respective third country, as provided under the international law, including any agreement concluded with one or several third countries, to which the European Commission is a party and regulating the aspects related to the safety of the natural gas supply.

- (ii) the rights and obligations of Romania towards the respective third country, as provided under the agreements concluded with the respective country, subject that such agreements are compliant with the community law; and

- (iii) other specific elements related to this case or the third country involved.

(3) Within two months since the issuance of the approval by the European Commission, ANRE adopts the final decision regarding the certification and publishes it together with the approval of the European Commission. If the Commission does not issue an opinion within two months of receiving the request, it may be that it raised no objections to the decision ANRE

(4) In case the final decision of ANRE differs from the approval of the European Commission, the reasons of such decision will be published.

(5) ANRE may refuse, in any situation, the certification provided under paragraph (1) if its granting affects the safety of the natural gas supply on the national territory or on the territory of another Member State.

**Conditions related to
the certification of
the transmission
system operator**

Art. 128. - (1) Certification of the transmission system operator is achieved if the following conditions:

- a) one and the same person is not entitled to:

- (i) exercise control, whether directly or indirectly, over an undertaking who carries out any of the production or supply activities and, at the same time, to control, whether directly or indirectly, or have any rights on the transmission system operator or on a transmission system, or

- (ii) exercise control, whether directly or indirectly, over transmission system operator or over a transmission system to exercise and, at the same time, to control, whether directly or indirectly, or exercise any right over an undertaking who carries out any of the production or supply activities;

- b) one and the same person will not be not authorized to appoint the members of the supervisory commission, board of directors or other bodies legally representing the transmission system operator in the case of a transmission system operator or of a transmission network or exercise

control, whether directly or indirectly, or have any rights on an undertaking carrying out any of the natural gas production or supply activities;

c) one and the same person will not be authorized to be a member of the supervisory commission, board of directors or other bodies legally representing the undertaking, in the case of an undertaking carrying out any of the natural gas production or supply activities and in the case of a transmission system operator or of a transmission network;

d) the transmission system operator established the financial, technical, physical and human resources necessary to fulfil its duties;

e) the transmission system operator undertakes to comply with the 10 years transmission network development plan approved by ANRE;

f) the transmission system operator must fulfil the obligation falling within its responsibility under the (EC) Regulation no. 715/2009, including as concerns the cooperation with other European and regional transmission system operators;

g) the owner of the transmission system network fulfils the requirements provided under art. 131 .

(2) The rights mentioned in paragraph (1) letter a) and b) include, in particular:

(i) the authority to exercise vote rights;

(ii) the authority to appoint members of the supervisory commission, board of directors or other bodies legally representing the undertaking; or

(iii) hold a majority share.

(3) For the purpose of paragraph (1) letter a), the “undertaking carrying out natural gas production or supply activities” concept also includes energy production and supply activities and the terms “transmission system operator” and “transmission network” also include the terms used in the energy and having the same meaning.

Reassessment of the certification of the transmission and system operator

Art. 129. - (1) The transmission system operator notifies ANRE about any scheduled transaction that may require reassessment for conformity with the requirements of article 128 and about any other circumstances in which one or several persons of one or several third countries would acquire control over the transmission system or the transmission system operator.

(2) ANRE may decide to reassess the compliance of the transmission system operator with the requirements provided under article 128:

a) following the notification by the transmission system operator, in accordance with the provisions of paragraph (1);

b) automatically;

c) on the motivated request of the European Commission.

Obligations and rights of the transmission system operator

Art. 130. - (1) the transmission system operator has mainly the following obligations :

a) to operate the transmission system and its physical balance, and also the programming, dispatching and functioning of the transmission system in safe conditions;

b) to maintain, rehabilitate, modernise and develop of the transmission system in safe conditions, efficiently and environmentally friendly;

- c) to set up, maintain and develop an information system of monitoring, command and data acquisition allowing to monitor and operate the natural gas transmission system;
- d) to ensure access of third parties to the transmission system, in accordance with specific regulations, with no discriminations, within the limits of the transmission capacities and observing the technological regimes;
- e) to ensure connection of the third parties to the transmission system, in accordance with specific regulations, within the limits of the transmission capacities and observing the technological regimes;
- f) to perform of activities associated to the system operation activities, in accordance with the specific regulations approved by ANRE (Romanian Energy Regulatory Authority), within the limits of the rights granted by the validity conditions associated to the license;
- g) to elaborate and to apply of the optimum transmission and delivery regimes for the natural gas quantities notified by the network users, for a certain period, in accordance with the contracts concluded;
- h) to elaborate and to update of the technical exploitation agreements in the border area and their submission for indorse by ANRE, prior to their enforcement;
- i) to draw up and to follow the natural gas quantity supplied in the system and evacuated from the system, in accordance with ANRE regulations;
- j) to storage in the underground deposits of the necessary quantities for providing the physical balance of the transmission system, in accordance with the specific regulations approved by ANRE;
- k) to ensure natural gas odour out of the NTS in accordance with regulations proposed by the transmission system operator and approved by ANRE;
- l) to elaborate of the tariff methodologies for the balance services supply, on the request of ANRE and to submit for approval of ANRE;
- m) to exchange information with other interconnected transmission system operators, with LNG storage and distribution operators and with other collaborators in the energy area, observing the ENTSO-G regulations concerning the information exchange protocols, reports, structure and procedures of access to the data bases;
- n) to perform system services necessary for the access and exploitation of the transmission networks;
- o) to elaborate of the specific regulations necessary for the operative management after consulting the participants to the natural gas market it subsequently submits for the approval of ANRE;
- p) to elaborate of the studies, programs and works on the development of the natural gas transmission system;
- q) to ensure allocation of the capacities inside the interconnection pipelines observing the (CE) Regulation no.715/2009;
- r) to ensure application of the rules of the congestions management including the interconnection pipelines as well as of the norms for capacity allocation in these pipelines;
- s) to organize and manage the natural gas market balance;
- ș) to ensure operation of reception stations in upstream natural gas pipeline or storage systems in the transport system inclusive the natural

gas delivery stations to distribution systems, end users or storage systems.

(2) The transmission system operator has mainly the following rights:

- a) to perceive non-discriminatory tariffs, in accordance with the provided services, to limit and/or to interrupt the service, in accordance with the specific regulations;
- b) to refuse the access of third parties to the transmission system, under the conditions of the law;
- c) to interrupt or limit the natural gas transmission if the safety and integrity of the transmission system are compromised, in accordance with the specific regulations;
- d) to interrupt the operation of the installations for the strictly necessary time, in view of performing the maintenance and repair works, as well as for other situations stipulated by the law, with the previous notification of the affected systems dispatchers and, as the case may be, of the clients;
- e) to elaborate specific technical/commercial/operational norms for their activities and to submit them for the approval of ANRE;
- f) to elaborate objective, transparent and non-discriminatory regulations projects for the physical balance of the natural gas transmission system, including proposals for establishing the tariffs to be paid by the system users in case of physical unbalance, and to submit them for the approval of ANRE;
- g) to store natural gas in the transmission system, under the conditions of specific regulations approved by ANRE;
- h) to use free of charge the lands under public property occupied by the objectives of the transmission system, as well as the lands under public property used for execution, exploitation, maintenance and repair works;
- i) to manage the balancing market to ensure the physical balance and maintain the operational parameters of the system, with perform commercial operations; the accounting records of this kind of operations are held separately from those concerning the transmission activity.

(3) Operation of the pipelines interconnecting with the states which are not members of the European Union, as well as the distribution of the capacities inside them are performed in accordance with the stipulations of the agreements with these states.

(4) The transmission system operator and the owner of the transmission system publishes information concerning its own activities necessary for the system users in accordance with ANRE regulations, for providing efficient access to the system, effective competition and efficient functioning of the natural gas market, but it is not allowed to divulge sensitive commercial information obtained during their activities, including those obtained from third parties in the context of providing access to the network.

Attributions of the transmission system owner

Art. 131. - (1) The owner of the transmission system:

- a) cooperates with the transmission system operator for fulfilling its attributions, providing all the relevant information;
- b) agrees on the means of financing the investments in the transmission system established by the transmission system operator and approved by ANRE;
- c) is responsible for the transmission system assets, but the attributions of

the transmission system operator don't fall under its responsibility;
 d) provides guarantees for facilitating the financing of the possible system extensions, except for the investments he has agreed to be financed by any interested party, the transmission system operator, in accordance with letter b).

(2) The Competition Council in tight cooperation with ANRE has all the competences necessary to efficiently monitor whether the transmission system owner observes its obligations in accordance with paragraph (1).

Separation of the transmission system owner

Art. 132. - (1) If the transmission system owner is part of a vertically integrated undertaking, the transmission system owner is independent at least concerning its legal status, organization and decision making process as compared to other activities not related to the natural gas transmission.

(2) The following minimum criteria are applied to ensure the independence of the transmission system owner under the conditions of paragraph (1):

(a) the persons having management positions within the transmission system owner cannot be part of the structures of the integrated undertaking in the area of natural gas that is directly or indirectly responsible for the daily management of the production, distribution and supply of natural gas;

(b) the persons having management positions within the transmission system owner act independently to any market interest for fulfilling the job attributions;

(c) the transmission system owner establishes a conformity program containing the measures taken to guarantee the exclusion of the discriminatory practices and establishes the specific obligations imposed to the employees for fulfilling the independence objective;

(d) the transmission system owner appoints a person or a body named conformity agent to adequately monitor the conformity program and to submit to ANRE every December a report on the measures taken, report published on the site of the transmission system operator.

(3) The transmission system operator sends all the commercial and financial agreements concluded with the transmission network owner to be approved by ANRE.

(4) Persons who have exercised the transmission system operator management or other relevant functions under which they had access to commercially sensitive information defined by law, can not occupy similar positions in the undertakings in the production and / or natural gas supply, a minimum of 6 months from the date of the end of contract with the transmission system operator.

Interdictions on holding control over the transmission system operators

Art. 133. - The undertakings performing any of the natural gas production or supply activities are forbidden to exercise control or any right, whether directly or indirectly on the separated transmission system operators in other states of the European Union applying the stipulations of art. 9 paragraph (1) in the 2009/73/EC Directive of the European Parliament and Council on the common norms on the internal market in the natural gas area and on the abrogation of the 2003/55/EC Directive

Natural gas distribution

Art. 134. - (1) Natural gas distribution is carried out by the distribution operator.

(2) The distribution system operator provides distribution service for all users of the distribution, non-discriminatory basis, ensuring that access to any applicant who meets the requirements of this title, compliance and performance standards referred to in technical regulations.

(3) The separation of a distribution system is made, as appropriate:

- a) production sites from the valve of control-measuring station at exit point of the producer;
- b) transport system exit point of control-measuring station of the transmission operator;
- c) distribution by another station at the exit point of the control / measurement station between distribution operators;
- d) by final clients at the exit point of stations / devices for control / measurement or, if necessary, at the exit point of the connection valve for usage of their facilities

Character of the distribution activity

Art. 135. - The natural gas distribution activity, except for the distribution through the closed distribution systems represents general interest public service.

Independence of the distribution operator

Article 136. - (1) If the distribution operator is part of a vertically integrated undertaking, it must have an independent legal status, organisation and decision making process, as compared to the other activities not related to the distribution. This rule does not oblige to separate the ownership of the assets belonging to the distribution operator as compared to the vertically integrated undertaking.

(2) the following minimum criteria apply for providing the independence of the distribution operator which is part of a vertically integrated undertaking, of other activities performed by the latter:

a) the persons in charge with the management of the distribution operator cannot be part of the structures of the vertically integrated operator which are directly or indirectly responsible for the management of the production, transmission and supply of natural gas;

b) taking the appropriate measures to make sure that the professional interests of the persons responsible with the management of the distribution operator are taken into consideration so as to ensure their independence of action;

c) the distribution operator has the right to make effective decisions independent of the vertically integrated undertaking concerning the assets necessary to the exploitation, maintenance or development of the distribution system. The distribution operator disposes of the necessary resources including the human, technical, financial and physical resources to fulfill these attributions. This doesn't have to affect the existence of certain appropriate coordination mechanisms that must protect the rights of economic and management supervision of the parent company concerning the return of assets by the branch. These mechanisms will allow especially the parent

company to approve the financial plan or any other equivalent instrument of the distribution operator and to establish the branch leveraging global limits. The parent company will not be allowed to give instructions neither on the current operations nor on the individual decisions for building or modernizing the objectives of the distribution systems which don't exceed the terms established in the approved financial plan or in any other equivalent instrument;

d) the distribution operator must establish a conformity program presenting the assumed measures ensuring the exclusion of any discrimination behavior and guaranteeing that its observance is monitored appropriately. This program must also present the specific obligations of the employees for fulfilling this objective. The person or body responsible with the monitoring of the conformity program, named agent of conformity sends to ANRE a report with the measures taken and publishes it on every December. The conformity agent of the distribution operator is completely independent and has access to the information of the distribution operator or of any affiliated undertaking, necessary for fulfilling its attribution.

(3) The vertically integrated distribution operators must not create confusion in their communication and publicity activities concerning the separate identity of the supply branch within the vertically integrated undertaking.

(4) The undertakings distributing natural gas and serving at most 100.000 final clients are not subject to the provisions of paragraphs (1), (2) and (3).

Obligation to keep confidentiality

Art. 137. - (1) The distribution operator is forced to keep confidentiality on the sensitive commercial information obtained during its activity.

(2) The distribution operator is forced to prevent the discriminatory divulgation of information on its own activity that can present commercial advantage.

Obligations and rights of the distribution operator

Art. 138. - (1) The distribution operator has mainly the following obligations:

a) to operate, maintain, repair, modernize and develop the distribution system safely, economically efficient and environmentally friendly; the activities must be performed in accordance with specific authorizations for the design and execution of the natural gas distribution systems and the system will be operated in accordance with the distribution license;

b) to provide the appropriate natural gas odor level in accordance with the current regulations, based on the contracts for providing services concluded with the upstream operator and if the case may be, by supplementary odorization in the distribution system;

c) to create interconnections with other systems, if necessary, and to ensure the long term capacity of the distribution system;

d) to provide the access of third parties to the distribution systems under non-discriminatory conditions, within the limits of the

distribution capacities, observing the technological regimes in accordance with the specific regulations elaborated by ANRE;

e)) to establish and monitor the natural gas quantity admitted and evacuated from its own system;

f) to avoid the cross subsidy between the categories of final clients concerning costs allocation;;

g) to take over for a definite period of time and not more than 2 years on the request of ANRE and in accordance with its regulations the operation of a distribution system if the initial operator was withdrawn the distribution license or its concession agreement was terminated;

h) to provide the permanent balance of the operated system;

i) to ensure safe conditions for the supply of natural gas;

j) to perform activities associated to the operation of the system, in accordance with the specific regulations elaborated by ANRE, within the limits of the rights granted by the validity conditions of the license;

k) to elaborate and to send to ANRE the five years plans of investments for the systems it operates. The operator updates these plans on an annual basis by the end of December and ANRE approves them.

(2) The natural gas distribution operator has mainly the following rights:

a) to perform commercial activities connected to the natural gas distribution service;

b) to cash the tariffs of the services provided, to limit and/or to interrupt the provision of the service in accordance with the specific regulations;

c) to interrupt the working of the distribution system objectives and the supply of natural gas to the clients for the time necessary to perform the maintenance and repair works, as well as in other situations stipulated by the present Law or in case of force majeure, with the prior notification of the affected systems dispatchers, and, if the case may be, of the clients;

d) to use free of charge the lands under local public property occupied by the objectives of the distribution system, as well as for performing the execution, operation, maintenance and repair works, under the conditions of the law;

e) to have access to the installations of the final clients for the verification of the information concerning the flows installed, the modifications performed as well as for the intervention whenever necessary for maintaining their safe working;

f) to stop natural gas supply to equipment/facilities use that do not comply with current legislation and can endanger the security or integrity of persons, upon certification of the noncompliance by an operator authorized by ANRE, other than the operator of distribution;

g) to store natural gas in the distribution systems in accordance with the regulations approved by ANRE;

h) to refuse the connection to the distribution system under

the conditions of art. 150;

i) to elaborate technical/commercial norms specific to its own activity and to submit them for the approval of ANRE.

j) for intervention by unauthorized persons on control-measurement facilities on the edge of property, threatening security of supply of natural gas the distribution operator is entitled to interrupt supply in accordance with specific rules of ANRE.

Closed distribution system

Art. 139. - (1) A closed distribution system is a system distributing natural gas in an industrial, commercial or common services area geographically limited and not affecting paragraph (4), it does not supply natural gas to household clients, and for technological organization reasons, the activities performed by the users of that system must be integrated, or the respective system ensures the supply of the natural gas mainly to the owner of the system, the operator of the system or to an affiliated undertaking, as the case may be.

(2) The obligations concerning the development of the distribution system provided under art. 52 paragraph (1) letters c), g) and k) do not apply to the operator of a closed distribution system.

(3) The tariffs for the distribution service in a closed distribution system or the methodologies for their calculation are approved by ANRE, on the request of the closed distribution system operator .

(4) The derogation provided under paragraph (2) is applied also if household clients are situated in the area covered by a closed distribution system, only if they have a work agreement or if they are associated in any kind with the owner of the distribution system at the moment of the connection.

(5) A closed distribution system is established and operates based on the electric energy supplier license, namely, the license granted by ANRE.

Natural Gas Storage

Art. 140. - (1) Natural gas storage is achieved by the storage operator.

- (2) Natural gas is stored for:
- a) ensuring the safety of the natural gas supply to the final clients;
 - b) balancing the variations of the seasonal, daily and hourly consumption with the available sources of natural gas;
 - c) providing the permanent physical balance of the NTS;
 - d) performing commercial activities.

Independence of the storage operator

Art.141.- (1) A storage operator which is part of a vertically integrated undertaking must have an independent legal status, organization and decision making process as compared to other activities not related to the transmission, distribution or storage.

(2) The stipulations of paragraph (1) only apply for the storage facilities technically and/or economically necessary to ensure the efficient access to the system for the supply of the clients, in accordance with the specific regulations.

(3) The following minimum criteria apply to ensure the independence of the storage operator from the vertically integrated

operator it is part of and that performs at least one of the production or supply activities:

a)) the persons in charge with the management of the storage operator cannot be part of the vertically integrated undertaking directly or indirectly responsible with the coordination of the production and supply of natural gas;

b) appropriate measures must be taken to guarantee that the professional interests of the persons with leadership positions within the storage operator are taken into consideration, so as to ensure they have the possibility to act independently;

c) the storage operator disposes of sufficient competences for making decisions independent of the parent company concerning the assets elements necessary for the exploitation, maintenance or development of the storage facilities. This doesn't prevent the existence of appropriate coordination mechanisms to guarantee the protection of the economic surveillance rights and the management surveillance rights of the parent company over the performance of one branch' assets. The parent company has the right to approve the financial plan of the storage operator or any other equivalent document and to establish the global limits of the leveraging level of its branch; the parent company doesn't have the right to give instructions neither concerning the current management nor the individual decisions on building or modernizing the storage facilities and which don't exceed the limits in the approved financial plan or any other equivalent document;;

d) the storage operator establishes a conformity program containing the measures taken to guarantee the exclusion of the discrimination practices and the specific obligations imposed to the employees for fulfilling the independence objective;

e) The storage operator appoints a person or a body named conformity agent to adequately monitor whether the conformity program is observed and to submit every December a report to the competent authority on the measures taken, report published on the website of the storage operator.

Obligations and rights of the storage operator

Art. 142. - (1) The storage operator mainly has the following obligations:

a) to operate, to maintain, to rehabilitate and to modernize the surface technological installations of the storage deposits under safe conditions, efficiently and environmentally friendly;

b) to provide the access of the third parties to the storage deposits based on objective, transparent and non-discriminatory criteria, in accordance with the regulations of ANRE;

c) to publish the list with the storage facilities or parts of these facilities to which the third parties have access to;

d) to provide to the users of the storage system the information they need for an efficient access to the system;

e) to develop and submit to ANRE five years investment plans for systems they operate; these plans are updated annually by the end of December by the operator and approved by ANRE.

- (2) The storage operator mainly has the following rights:
- a) to cash the appropriate tariff for the service of natural gas underground storage provided, to limit and/or to interrupt the service provided in accordance with the specific regulations;
 - b) to elaborate the technical/commercial norms specific to its own activity and to submit them to the approval of ANRE;
 - c) to interrupt the working of the installations for the time necessary to perform the maintenance and repair works as well as in other situations stipulated by the law, with the prior notification of the affected systems dispatchers, and if the case may be, of the clients;
 - d) to reasonably refuse the access of third parties to the storage deposits, under the conditions of the law.
- (3) The storage operator publishes information on its own activities necessary to system users/applicants access according to ANRE regulations, to ensure effective access to the system for ensuring effective competition and efficient functioning of the natural gas market, they are not allowed to release sensitive commercial information obtained during their activities, including those from third parties in the context of providing network access.

Obligations and rights of the natural gas supplier

- Art. 143. - (1) The natural gas supplier mainly has the following obligations:
- a) to perform the natural gas supply activities based on commercial agreements concluded in accordance with the regulations of ANRE;
 - b) to observe the standards of performance for the supply service;
 - c) to ensure the storage of natural gas in accordance with the regulations of ANRE;
 - d) to conclude natural gas purchase agreements so as to cover the consumption of its clients;
 - e) to put at the disposal of the clients the relevant data on their consumption for a period covering at least the last 5 years;
 - f) to establish unique points of contact to inform the final clients on their rights, on the current legislation and on the ways to solve the litigations, in case a dispute appears;
 - g) to ensure to the clients the effective change of the natural gas supplier within 3 weeks after the demand;
 - h) to put at the disposal of the clients several means of payment for the natural gas consumption and to allow them to choose;
 - i) to pay the value of natural gas purchased under concluded contracts.
- (2) The natural gas supplier mainly has the following rights:
- a) to cash the price of the natural gas supplied in accordance with the agreements concluded with the clients;
 - b) to cash the price of the natural gas supplied in last resort supply regime, in accordance with the regulations of ANRE;
 - c) to limit and/or to stop the supply of natural gas to the clients, under the conditions mentioned in the agreements.

Obligations of the supplier of last resort

Art. 144. - (1) The supplier of last resort is obliged to provide the natural gas supply service to the final clients in accordance with the ANRE regulations at regulated prices established by ANRE.

(2) Supplier of last resort is obliged to provide, in accordance with regulations issued by ANRE, natural gas to final clients whose supplier is in a position to withdraw the license of supply in the course of or in any other case recorded by ANRE in which the end users do not have ensured the supply of gas from any other source.

Obligations and rights of the final client of natural gas

Art. 145. - (1) The final clients are obliged to pay the invoices representing the cost of the services provided by the supplier/system operator within the delay stipulated in the agreement concluded with it.

(2) If the contract obligations, other than the payment obligation of the final client are not fulfilled, the defaulting party pays damages to the other party until the prejudice is fully covered, in accordance with the stipulations of the contract.

(3) In cases of works on natural gas supply systems, excepting natural gas utilization facilities by unauthorized persons threatening security of supply, the transmission/distribution operator is entitled to interrupt supply in accordance with ANRE specific regulations. In case of finding, according to legal provisions, of actions aiming to distort any indications of the measuring equipment or avoiding metering equipment by bypassing, the client is required to provide a financial guarantee up to the equivalent of a maximum consumption for a year.

(4) The final clients of natural gas have the following rights:

a) to have access to the system under the conditions of the law and to be supplied with natural gas in accordance with the stipulations of the supply agreement concluded in accordance with approved ANRE framework contract;

b) to demand the supplier/system operator the modification and amendment of the agreement concluded with it when new elements appear or when they consider that the contractual clauses need to be detailed or amended, in accordance with the current legal stipulations;

c) to be notified appropriately concerning any intention to modify the agreement and to be informed, at notification time, on the right to terminate the agreement, if they don't accept the new conditions;

d) to ask the supplier to interrupt the natural gas supply if the interruption is connected to the safe working of the final client installations or of the system operator;

e) to demand the supplier/the system operator to take measures to remedy the damages appeared;

f) to ask for and receive the penalties supported by the supplier/system operator for not having fulfilled the obligations, in accordance with the stipulations of the performance standards;

g) to be offered at least two means of payment to allow him to fulfill the invoice payment obligations stipulated in the contract;

h) to be allowed to change free of charge its supplier within 3 weeks after the demand observing the contractual stipulations, in

accordance with the procedure approved by ANRE and which mainly establishes the steps of the supplier switching process, the means to offset the payment obligations due by the final client to the supplier to be changed, the data that can be demanded by the final client or by the new supplier in the process change, as well as the system operators obliged to provide them;

i) to receive a final detailed account on the liquidation, after the change of the natural gas supply within 6 weeks after the change of the supplier;

j) to demand and receive from the supplier/system operator all the relevant data concerning its own consumption for the last 5 years, without being asked for supplementary costs for this service.

(5) The final clients don't have the right to sale the natural gas.

Obligations and rights of the gas market operator

Art. 146. - (1) The gas market operator is the legal person owner of the licensee that provides management of natural gas centralized markets, except the balancing market, for trading natural gas on short, medium and long according to regulations issued by competent authority

(2) Gas market operator is not allowed to disclose information about natural gas transactions in its possession, obtained during its activities, other than law stipulates.

(3) Prices established on the centralized gas markets are released according to ANRE regulations.

CAPITOLUL VI

Access and connection to the network

Regime for third-party access to the network

Art. 147. - The third-parties have access to the upstream supply pipelines, the transmission systems, the storage deposits, the LNG systems and the natural gas distribution systems in accordance with a regulated regime.

Regime for connection to facilities from the natural gas sector

Art. 148. - (1) The third-parties connect to the upstream connection pipelines, the transmission systems, the storage deposits, the LNG systems and to the natural gas distribution systems in accordance with a regulated regime and based on an access agreement, in accordance with the specific regulations elaborated by ANRE.

(2) The following categories of solicitors are allowed to connect to the upstream supply pipelines and to the transmission system:

a) the owners of concession agreements for the public service of natural gas distribution, in view of fulfilling the contractual obligations they have as owners;

b) the operators of the LNG terminal;

c) the operators of the underground storage deposits of natural gas;

d) the new industrial clients;

e) the undertakings that own the distribution license;

f) the producers of natural gas;

g) other categories of clients if they don't have a distribution solution for the requested demanded flow per hour for the natural gas distribution system situated in the limited licensed area where the connection is to take place; the lack of the supply solution in the distribution system is mandatory issued in written by the distribution operator and endorsed by ANRE.

Access refusal

Art. 149. - (1) The third parties can be refused the access to the objectives/systems in the natural gas sector in the following situations:

- a) the capacity is insufficient;
- b) the access to the system prevents the fulfillment of the obligations of public service and security under exploitation;
- c) the owner of the license/authorization who is demanded the access to the system can encounter serious economic and/or financial difficulties connected to the "take-or-pay" type of contracts;
- d) the quality of the natural gas that is to be introduced into the systems and/or in the deposits doesn't comply with the requirements imposed by the current regulations.

(2) The refusal of access to the system materializes into a document named Refusal of access that must contain the reasons of the refusal.

Connection refusal

Art. 150. - The refusal to connect to the objectives/systems in the natural gas sector can take place in the following situations:

- a)) the system operator has issued a refusal of access to the system;
- b) there are no objectives/pipelines, components of the systems to connect to;
- c) if the obligation to pay the connection tariff is not fulfilled

Financing of works for objectives achievement/ connection pipelines

Art. 151. - (1) The distribution operator or the transmission and system operator cannot refuse the access to the system and is forced to finance the works if the achievement of the objectives/ necessary pipelines connection are economically justified and confirmed by ANRE.

(2) If the construction of the objectives/pipelines, other than those provided under paragraph (1) has no economic justification for the distribution operator or the transmission and system operator, the applicant can take part to the financing of the objectives/pipelines.

(3) The distribution operator or the transmission and system operator take the assets resulting under the conditions of paragraph (2) based on a contract stipulating clearly the financing conditions, based on a procedure approved by ANRE.

(4) Since the commissioning of the objective/pipeline the applicant has the right to recover the invested amount in accordance with paragraph (2), from the following consumers connected to the objectives/pipeline erected in accordance with the stipulations of paragraph (2). The investment quota is recovered in accordance with the regulations of ANRE.

(5) The conditions for ensuring the access of the applicants to the system under the conditions stipulated in paragraph (1) and (2) are assessed based on a technical-economic survey made in accordance with certain criteria approved by ANRE, based on the principle of recovering the investment costs that the operator is forced to achieve within the

following 30 days after having received the application.

(6) The survey is transmitted to the applicants free of charge at the expiration of the term stipulated in paragraph (5).

(7) The distribution operator or the transmission and system operator is forced to execute and commission the objective within nine months after the date the access agreement was issued or the date the contract was signed, as the case may be, or at most six months after having obtained the building permit.

Direct pipelines

Art. 152. - (1) In order to meet the demand of natural gas, the applicants situated in other areas than those stipulated in art. 104 paragraph (1), can request the approval of ANRE to build a direct pipeline.

(2) ANRE issues permits to build a direct pipeline only in case this is no perspective of access to the system within the next two years.

(3) The direct pipeline is fully financed by the applicants stipulated in paragraph (1) and is in their property.

(4) The transparent and non-discriminatory criteria to grant license for establishment and the conditions to operate the direct pipelines are approved by ANRE.

Settlement of the disputes on system access

Art. 153. - (1) A specialized commission is established within ANRE in order to settle in an administrative and legal way the disputes on the access to the system.

(2) The organization and functioning of the commission stipulated in paragraph (1) is established in accordance with a regulation issued by ANRE.

(3) The commission stipulated in paragraph (1) issues a decision within 60 days after having received the complaint.

(4) The decision of the commission stipulated in paragraph (3) is final and compulsory for the parties and can be challenged at the Bucharest Court of Appeal.

CHAPTER VII

General provisions on the liquefied petroleum gas (LPG), compressed natural gas for use in vehicles (CNGV) and liquefied natural gas (LNG)

Regulation of GPL usage

Art. 154. - Technical and commercial regulations on the storage, distribution and use of the LPG are elaborated/approved by ANRE after consulting the stakeholders.

Regulation of CNGV usage

Art. 155. - (1) The technical and commercial regulations on the treatment and compression of natural gas for producing the CNGV, as well as those for their storage in the tanks of the filling stations are approved by ANRE after consulting the stakeholders.

(2) ANRE establishes the Technical code of the CNGV to create the general regulation framework for the production, storage, supply and use of the CNGV.

Regulation of LNG usage

Art. 156. - ANRE establishes in the Technical Code of the LNG the general regulation framework on the LNG.

The authorization regime in LNG, CNGV and LPG sector

Art. 157. - The undertakings and/or the natural persons performing design, execution and exploitation activities in the area of the LNG, CNGV, LPG must own permits/licenses issued by ANRE based on specific regulations.

CHAPTER VIII**Quality assurance for the equipment, installations, devices, products and procedures used in the natural gas sector****The use of equipment, installations, devices, products and procedures in the natural gas sector**

Art. 158. - (1) The use of equipment, installations, devices, products and procedures in the natural gas sector is permitted after the consent of the system operator is obtained, based on its elaborated methodologies/procedures approved by ANRE.

(2) ANRE ensures the transparency of this process by the publication of the approved methodologies/procedures on its own website.

Smart metering systems

Art. 159. - (1) Up to September the 3rd, 2012 ANRE evaluates the implementation of the smart metering systems that contribute to the active participation of the consumers on the natural gas supply market, the long term costs and benefits for the market and the individual consumers, the type of smart meters and the feasible implementation terms.

(2) If the evaluation stipulated in paragraph (1) established that the implementation of the smart metering systems is advantageous for the functioning of the natural gas market, ANRE elaborates and approves an implementation schedule paying due attention to the use of appropriate standards and good practices, as well as to the importance of developing the natural gas market.

Verification of projects

Art. 160. - (1) Prior to execution of the works for the objectives/systems in the natural gas sector, the undertakings that exploit the systems are obliged to verify the execution projects through the project inspectors certified by ANRE.

(2) The projects for the execution/modification of the utilization facilities are verified by an inspector certified by the Ministry of Regional Development and Tourism.

(3) The projects on systems and utilization facilities within the natural gas sector are considered certified if the project inspector declares them compliant.

Certification of the project inspectors

Art. 161. - (1) The project inspectors provided under art. 160 paragraph (1) are certified in accordance with a regulation approved by ANRE.

(2) The project inspectors certified by other institutions whose competences are taken over by ANRE by the present regulation will be certified through equivalence, in accordance with the Regulation provided under paragraph (1).

(3) The certified project inspectors are jointly liable with the designers to insure that all the technical and quality requirements stipulated by the current legislation are met in the project in order to safely perform and exploit the designed objective, as well as for the possible modifications of the project during its execution.

Acceptance of work

Art. 162. - (1) The objectives/systems in the natural gas sector are executed by installers authorized by ANRE, employees of the licensed undertakings who have monitored their execution in accordance with the provisions of the specific technical norms.

(2) Reception of the facilities for natural gas usage belonging to the final clients is performed by the beneficiary of the works and by the specialists of the undertaking authorized by ANRE who executed the respective work, according to specific technical standards.

Expertise on the works

Art. 163. - (1) The objectives/systems in the natural gas sector are subject to the technical expertise performed by authorized experts, as the case may be, in accordance with the regulation approved by ANRE.

(2) The experts authorized by other institutions whose competences are taken over by ANRE by the present regulation will be authorized by equivalence, in accordance with the Regulation provided under paragraph (1).

CHAPTER IX

New infrastructure

Conditions for derogation in case of new infrastructure

Art. 164. - (1) The new major infrastructures for the natural gas, such as the interconnections between the member states, the LNG installations and the storage facilities can enjoy by request and for a definite time, of a derogation to the provisions of the current legislation concerning the access of the third parties to the transmission, distribution, storage systems and to the upstream supply pipelines, and they can also enjoy tariff methodologies, under the following conditions:

a) the investment has to strengthen the competition in the supply of natural gas and to improve the security of supply;

b) the risk level related to the investment is such that the investment is not be made unless a derogation is granted;

c) the infrastructure must be the property of a legal person with at least the legal status separated from the system operators in whose systems the infrastructure is being built;

d) tariffs are levied from the users of that infrastructure;

e) the derogation has no negative influence on the competition, the efficient working of the internal natural gas market or the efficient working of the regulated system the infrastructure is connected to.

(2) The provisions of paragraph (1) are also applied to the significant increases in the capacity of the existing infrastructures as well as to the modifications of these infrastructures allowing the development

of new sources of natural gas supply.

Granting derogations

Art. 165. - ANRE decides to grant the derogation provided under art. 164 by the adoption of a decision motivated accordingly; the decision of ANRE is published in the Official Journal of Romania, Part I.

Type of derogation

Art. 166. - The derogation can cover totally or partially the new infrastructure, the existing infrastructure with a significantly increased capacity or the modification of the existing infrastructure.

Conditions for granting derogation

Art. 167. - The need to impose conditions on the duration of the derogation and the non-discrimination access to the interconnection pipeline are taken into consideration, as the case may be, when making the decision to grant derogation.

Conditions for granting derogation in case of an interconnection pipeline

Art. 168. - The duration of the contracts, the supplementary capacity that will be built or the modification of the existing capacity, the duration of the project and the national conditions will be mainly taken into consideration when making the decision on the conditions stipulated in art. 170.

Rules and mechanisms for the management and allocation of the capacity

Art. 169. - ANRE can decide upon the regulations and mechanisms for the management and allocation of the capacity, when granting derogation if they don't prevent the implementation of long term contracts.

Consultation with other Member States or National Regulatory Authorities

Art. 170. - Any decision for granting derogation in the case of an interconnection pipeline is made after consultation with other Member States or as the case may be, with National the Regulatory Authorities or Agency for the Cooperation of Energy Regulators.

Sending applications for derogation

Art. 171. - The regulatory authority forwards to the European Commission without delay a copy of all derogation requests, immediately after their receipt; ANRE communicates the derogation decision to the European Commission without delay, together with all the relevant information.

Relevant information

Art. 172. - The information provided under art. 171 must mainly include:

a) the detailed reasons for which the regulatory authority or the member state granted the derogation, including the financial information that justify the necessity;

b) the analysis of the effect on the competition and efficient working of the internal natural gas market resulted because of the derogation;

c) the reasons for the period of time and part of the total capacity of the natural gas infrastructure for which the derogation was granted;

d) the result of the consultation of the respective member states or the regulatory authorities, if the derogation refers to an interconnection

pipeline;

e) the contribution of the infrastructure to the diversification of natural gas supply.

CHAPTER X Public service obligation

Public service obligation

Art. 173. - (1) The holders of licenses for storage, transmission, distribution and supply of natural gas are obliged to perform activities observing the obligations stipulated in the licenses, namely the authorizations issued by ANRE, concerning the safety, quality, continuity of the purchasing, energetic efficiency observing the health and occupational safety norms, the environment protection norms, as well as the stipulations of the direct contracts with the clients.

(2) ANRE can set through specific regulations for each activity within natural gas sector public service obligations, applicable to all holders of licenses or permits in a transparent, fair and non-discriminatory manner.

(3) Public service obligations referred to in para. (2) shall not prevent the natural gas market liberalization, to constitute a barrier for new entrants into the market or to distort competition and transparent functioning of market.

(4) Public service obligations that affect the gas market as stipulated in paragraph. (3) shall be notified to the Competition Council.

(5) Costs made by undertakings in a prudent manner to achieve public service obligations are justified costs and covered through prices or tariffs charged by them in accordance with ANRE specific regulations.

(6) ANRE analyzes every two years the necessity and means to impose the public service obligations taking into account the evolution of the natural gas sector.

(7) ANRE elaborate and send to the Prime Minister and the relevant ministry a report on the measures adopted for fulfilling the public service obligations, including consumer and environment protection, and their possible impact on the internal and international competition which will be updated every two years because of the alterations to these measures. This report will be sent to specialised commissions of the Parliament of Romania and to the European Commission, for their information.

Natural gas market

Structure of the natural gas market

Art. 174. - (1) The natural gas market is composed of the regulated market and the competitive market, where transactions with wholesale or retail natural gas take place.

(2) The competitive market share gradually increases by providing access to this market for as many participants, suppliers and final clients, in accordance with the stipulations of art. 175.

(3) The participants to the natural gas market must observe the working rules of this market, approved by ANRE.

(4) The participants to the natural gas market and the associated operational structures are: producers, suppliers, final clients, transmission and system operator/operators, natural gas centralized market operators, distribution operators and storage operators.

(5) The participants to the natural gas market are obliged to assume the financial responsibility for the payment of the unbalances they create on the natural gas market, in accordance with the regulations approved by ANRE.

(6) The natural gas final clients have the right to choose their supplier and to negotiate directly with this the sale-purchase contracts.

(7) If they have exercised their eligibility, the final clients no longer have the right to return to the regulated supply

(8) A commission to settle disputes is established, as body to solve disputes on the wholesale and retail market between participants to the natural gas market.

(9) The Commission for settling the disputes includes 5 members appointed for a period of 3 years through the decision of the ANRE's president, among ANRE employees having at least 5 years of professional experience.

(10) The Commission for settling the disputes operates in accordance with its own regulation for organization and functioning approved through the decision of the ANRE's president, after public consultation.

Functioning of the natural gas regulated market

Art. 175. - (1) The natural gas regulated market mainly operated to insure the natural gas supply for final clients stipulated under art. 179 paragraph (2), letter a)- c).

(2) Concerning the natural gas regulated market the competent authority has the following rights:

a) to impose public service obligations, in accordance with art. 173;

b) to impose to the suppliers transparent procedures for purchasing natural gas on the competitive market operating for performing the activities stipulated in art. 179 paragraph (2) lit. a)-c);

c) to set prices used for final clients by the natural gas suppliers of last resort;

d) to approve the methodologies of verification/control of the expenses for purchasing natural gas.

(3) The natural gas is supplied on the regulated market based on

framework contracts approved by ANRE.

(4) ANRE monitors permanently the effect of the regulated segment on the competitive segment of the internal natural gas and takes the necessary measures for preventing the possible distortions of the competition and for increasing the commercial transactions transparency level.

(5) ANRE organize, as part of monitoring, an assessment process of the functioning of natural gas in terms of giving up the application of regulated prices to end customers, which will be used at least the following general criteria:

- a) number of active suppliers in the natural gas market for each year;
- b) market share of each of the active suppliers;
- c) economic and financial capability of the active suppliers in the market and their behavior;
- d) the evolution of number of the annual switching of supplier in natural gas;
- e) market and price developments;
- f) number and type of vulnerable consumers.

Safeguard measures

Art. 176. - (1) In the event of unexpected crisis situations on the energy market and if the physical safety or the security of people, devices, installations or the integrity of the system is jeopardized, the transmission and system operator proposes the relevant ministry to adopt safeguard measures.

(2) The measures provided under paragraph (1) shall cause the least possible disturbance to the good functioning of the European internal market and resume strictly to the settlement of the crisis situation that generated them.

(3) The measures provided under paragraph (1) are implemented by Government decision, initiated by the relevant ministry.

(4) The relevant ministry notifies urgently the other member states of the European Union, and the European Commission on the safeguard measures adopted in each case.

Functioning of the natural gas competitive market

Art. 177. - (1) The transactions with wholesale or retail natural gas take place on the competitive market in accordance with the regulations of ANRE, and the prices are established based on the demand and offer, as a result of the competition mechanisms.

- (2) The wholesale competitive market operates based on:
- a) bilateral contracts between undertakings within the natural gas sector;
 - b) transactions on the centralized markets, administered by the natural gas market operator or balancing market operator, as appropriate;
 - c) other types of contracts or transactions.

(3) On the retail competitive market, the suppliers sell natural gas to the final clients based on contracts at negotiated prices or standard offers.

(4) The suppliers must keep for at least 5 years relevant data such as the duration, rules on the delivery and reimbursement, quantity,

execution deadlines, transaction prices, means of identifying the wholesale client, concerning the wholesale client, all the transactions within the natural gas supply contracts and derived instruments in the area of natural gas concluded with the wholesale clients and the transmission and system operators as well as the storage operators and LNG operators, which are to be put at the disposal of ANRE, the Competition Council, the European Commission and other competent national authorities, at their request.

(5) The obligation to keep the data on the transactions within the derived instruments applies only after the European Commission publishes the guidelines.

(6) Data provided under paragraph (5) can be published observing the secret of the commercial sensitive information.

CHAPTER XII Prices and tariffs

The system of prices and tariffs. Principles

Art. 178. - (1) The system of prices and tariffs for natural gas is established so as to ensure:

a) reaching the market value of alternative fuels, promoting competition in gas market, diversification of gas supply and increase security of supply;

b) the recovery of the costs prudently made for the regulated activities, providing a reasonable return rate for the capital invested in the regulated activities, stimulation of the development of the facilities for production, transmission, storage capacities, and natural gas distribution on short and long term;

c) energy saving to the final clients;

d)) improvement of the natural gas quality and of the services provided to the clients.

(2) The principles on which the elaboration of the regulation on the systems of prices and tariffs for the regulated activities is based are the following:

a) the prices/tariffs must be non-discriminatory, based on objective criteria and determined transparently, in accordance with the methodologies approved and published by the competent authority;

b) stimulation of the efficient use of natural gas, ensuring quality services, ensuring the natural gas calorific value, promotion of the competition on the natural gas market and protection of the clients' interests;

c) preventing speculations and speculative behaviours within the natural gas market;

d) encouraging the switch of the consumption in the peak period to the medium consumption periods.

(3) It is forbidden to recover the corresponding costs of service provided to a certain category of final clients from the prices and/or tariffs imposed to other categories of final clients.

(4) The cross subsidy between the regulated activities is forbidden, as well as between the regulated activities and the non-regulated activities of an undertaking.

The activities in the regulated segment

Art. 179. - (1) The systems of prices and tariffs are established by ANRE in the regulated segment of the market comprising the natural monopoly activities, the associated activities and the supply of natural gas for a regulated price and based on framework contracts.

(2) The activities in the regulated segment comprise:

a) the natural gas supply to regulated price and based on framework contracts towards all the categories of clients until December 31st, 2014, for non-household customers, except that this time there is a significant difference between prices on domestic and European import prices which could jeopardize market stability, in which the term is extended until December 31st, 2015;

b) the natural gas supply at regulated price for households and based on framework-contracts;

c) the natural gas supply of last resort at regulated price for final clients and based on framework-contracts;

d) administration of the centralized markets;

e) natural gas transmission;

f) natural gas transmission through the upstream supply pipelines, in accordance with the stipulations of the license conditions of validity;

g) natural gas underground storage;

h) distribution of natural gas and biogas/bio-methane;

i) associated activities performed by the licensed undertakings.

(3) Phasing out calendar of regulated prices to final clients starting as of December 1st, 2012 for non-household clients, respectively of July 1st, 2013 for residential clients is set by the Government, in accordance with the adjustment chart for the producer price proposed by ANRE and NAMR taking into account the possible negative effects of eliminating regulated prices so they so they have a reduced impact at customers level.

(4) Prices and tariffs are established based on the methodologies approved and published by ANRE for the activities related to regulated segment.

(5) The methodologies for the regulation of prices and tariffs are approved by ANRE, after the notification and consultation with all the stakeholders.

(6) The order for approval of the regulated prices and tariffs in the natural gas sector, as well as the order for approval of the regulation methodologies of prices and tariffs are published in the Official Journal of Romania, Part I; the order will also include their date for putting in force.

(7) ANRE monitors on annual basis the results of phasing out the regulated prices calendar to final clients and proposes to the Government, as the case could be, the capitalization of the domestic natural gas production on the internal market until the approved timetable is completed, ie December 31st, 2018.

Limitation of prices /tariffs

Art. 180. - (1) When a major imbalance between supply and demand and/or an obvious distortion of the gas market appears, the Government, at ANRE's proposal and with the endorsement of the Competition Council may limit the excessive growth of prices/tariffs or blocking them for a

maximum period 6 months which can be successively extended for periods not exceeding 3 months, as long as the circumstances determined the adoption of this decision exist, by:

- a) fixing an upper limit of the price/tariff itself;
- b) setting a cap revenue for the regulated activity.

(2) in accordance with paragraph (1) letter b), the postponed costs can be totally recovered in accordance with the procedure approved by the competent authority.

Establishment of structures for mixing natural gas

Art. 181. - (1) In order to cover the demand the final clients have the right to be supplied with mixed domestic/imported natural gas, whose structure is authorized by ANRE.

(2) The stipulations of paragraph (1) apply up to the convergence of the price of domestic natural gas with the price of imported natural gas.

(3) ANRE can establish:

a) up to 31st December, respectively 31 December 31st, 2015 under the art. 179 paragraph (2) letter a) a specific mixture structure import /domestic designed for the amount of gas consumption for residential customers and thermal energy producers, only for the amount of gas used for heat production in CHP plants and thermal plants for household consumption and a specific structure of mixed import /domestic for the amount of gas consumption for non-household clients, except heat producers for the amount of gas used for thermal energy production in CHP plants and thermal power plants for household consumption;

b) from January 1st, 2015, respectively January 1st, 2016, under art. Paragraph 179. (2) letter a), and until December 31st, 2018 a mixture structure import/domestic for the amount of gas designed for the residential clients consumption.

(4) To ensure supportability of the energy bill costs, especially those related for population heating, setting the structure of mixed import/domestic natural gas and final approval of regulated prices for household clients will take into account the terms considered at the establishment of data and assumptions considered for the elimination of regulated prices for this category of clients.

(5) The purchase price for the domestic gas on the regulated market shall be set by decision of the Government at the proposal of the relevant ministry and updated by ANRE and NAMR, in accordance with the gradually phasing out of the regulated prices for the final clients

(6) Structures are exempt from the gas mixture set/endorsed by ANRE:

- a) the natural gas quantities re-injected into deposits, excluded from the obligation to pay the royalty, under the conditions of the law;
- b) the natural gas quantities for technological consumption specific to the oil operations performed by the oil agreements owners.
- c) quantities of gas designed to balance the NTS.

(7) Exceptions to compliance structures gas mixtures set/endorsed by ANRE are determined by Government decision, at the proposal of the relevant ministry within 45 days after the entry into force of this law.

(8) based on the data provided in art.179 paragraph (2) and (3), ANRE will phase gradually out the regulated prices for natural gas supply

to final clients.

Unbundling of accounts obligation

Art. 182. - The legal persons in the natural gas sector performing regulated activities in accordance with art. 179 paragraph (2), are forced to ensure the unbundling of accounts, in accordance with legal norms and the regulations of ANRE.

CAPITOLUL XIII

The procedure for conducting investigations

Ordering investigations

Art. 183. - The President of the competent authority, under art. 185, orders through a decision the investigation by its own staff authorized for this purpose, in motion or in response to a complaint registered within the competent authority, made by a natural or legal person actually affected directly by a potential violation of this title, only in areas ANRE has the power of investigation under the law terms.

Request of information and documents

Art. 184. - The competent authority can ask the undertakings to provide the necessary information and documents, mentioning the legal basis and the aim of the request and can establish deadlines for being provided these documents and information.

Investigation rights

Art. 185. - (1) To investigate violations of this title, in accordance with Art. 183, the empowered ANRE staff has the following rights:

- a) to enter the facilities, lands or transmission means that the undertakings legally own;
- b) to analyze any documents, registry books, financial-accounting and commercial documents or other records concerning the activity of the undertakings, irrespective the place they are stored in;
- c) to interrogate the representatives and employees of the undertaking on the facts or documents considered relevant and to write down or record their answers;
- d) to take out or to obtain copies or excerpts of any format of any documents, registry books, financial-accounting and commercial documents or other records concerning the activity of the undertaking;
- e) to seal any facility the undertaking operates in and to close any documents, registry books, financial-accounting and commercial documents or other records concerning the activity of the undertaking during the investigation and if necessary for the investigation.

(2) The competent authority will perform the actions provided under paragraph (1) only if there are evidences that documents or information necessary for the fulfillment of its competences can be found, and the result of the investigation will be registered into a record of findings and.

(3) The competent authority can perform unannounced inspections and can demand any kind of information or justifications concerning the fulfillment of the investigation competences on the site and also by summons to its head office.

Judicial authorization of investigations

Art. 186. – Based on legal authorization given by the closure, according to art. 187, ANRE personnel authorized in accordance with Art. 183 may perform inspections in other areas, including home, sites or means of transport of leaders, managers, directors and other employees of undertakings or associations of undertakings subject to investigation.

Obtaining judicial authorization

Art. 187. - (1) ANRE staff conducts inspections in accordance with Art. 186 based on the decision of authorization issued by the President of the competent authority and the judicial authorization given by the conclusion by the President of Bucharest Court of Appeal or a judge delegated by him. A certified copy of the decision for empowerment is mandatory notified to the person subject to inspection before it begins.

(2) The application of authorization shall be heard in the council room, without summoning the parties. The judge is to decide on the request for authorization within 48 hours after registering the application. The conclusion is justified and communicated to the competent authority within 48 hours of its delivery.

(3) If the inspection must be carried out simultaneously in several locations of the mentioned in art. 186, the competent authority will introduce a single application, the court ruling by a conclusion indicating areas that are to be inspected.

(4) Authorization request must include all information necessary to justify an inspection and asked the judge is bound to check if the application is legal

(5) Whatever the circumstances are, the inspection takes place between 8.00 and 18.00 hours and be performed in the presence of the investigated person or his/her representative. The inspection may continue after 18.00 hours only with the consent of the investigated person undergoing inspection or his/her representative

(6) Inventories and rendering the seals are made in accordance with the Code for Criminal Procedure.

(7) The conclusion in paragraph. (1) may be appealed to the High Court of Cassation and Justice within 48 hours. The appeal to the competent authority flows since the conclusion has been communicated according to para. (2). As regards the person subject of inspection, the appeal term runs from the time of communication of conclusion, according to para. (1). The appeal shall not suspend the execution.

(8) The President of the Court of Appeal or the delegated judge of this court has jurisdiction to issue authorization to carry out inspection under art.186. The court checks if the empowered decision issued by ANRE President is genuine and that the coercive measures envisaged are neither arbitrary nor excessive having regard in particular seriousness of the suspected infringement, the importance of the found evidences, the involvement of the undertaking and reasonable likelihood that the business records and documents relating to the inspection to be kept in the premises for which authorization is requested. The court may request ANRE detailed explanations on those elements which are necessary to enable it to verify the scope of the coercive measures envisaged.

Access to documents

Art. 188. - (1) Central and local public administration bodies and any

and information

other institutions and public authorities are obliged to allow the competent authority access to documents, data and information held by them, observing the legal provisions.

(2) The competent authority having access to the documents, data and information specified in para. (1), is obliged to respect the confidentiality as state secrecy or service secrecy legally allocated to such documents, data and information.

Investigation procedure

Art. 189. – The investigation procedure shall be made in accordance with the rules on the organization and operation of investigation approved by order of ANRE’s president.

CHAPTER XIV Contraventions

Protection of objectives/systems

Art. 190. – For the protection of objectives/natural gas systems is forbidden to third parties:

a) to erect buildings of any kind in the safety area of the natural gas objectives; if it is exceptionally necessary that a building has to be erected on the land they are situated on, the applicant will bear all the expenses for the modifications, observing all the provisions for the design and execution of the works in the natural gas sector and with condition they assign the resulted good to the patrimony of the undertaking;

b) to dig or perform similar works in the protection area of natural gas objectives without prior authorization on behalf of the system operator;

c) to store materials in the access ways and in the protection areas of natural gas objectives;

d) to modify in any way the natural gas pipelines, equipment and facilities.

Prohibitions

Art. 191. - For safe operation of natural gas transmission system, is prohibited, except in cases of force majeure, interruption of power supply, phone or radio connections and railway transport.

CHAPTER XV Infringements and contraventions

Liabilities

Art. 192. - The violation of the present Title provisions draws the disciplinary, civil or criminal, where appropriate of those responsible.

Offences

Art. 193. - (1) Damage, modification or blocking the function of the metering equipment for gas supplied is an offence punishable by imprisonment from 3 months to 2 years or a fine.

(2) Execution or use of illegal facilities for direct connection to the gas supply system or to bypass the measuring equipment, is an offence punishable by imprisonment from 3 months to 2 years or a fine.

(3) If the offence provided under paragraph (1) and (2) are performed by an employee of a license holder, the special maximum limit

of the punishment is increased with a half.

(4) The attempt to offence provided under paragraph (1) and (2) is punished.

Contraventions

Art. 194. - The following facts are contraventions to the norms on the development of the activities in the natural gas sector:

1. the design, authorization, execution, acceptance, commissioning and/or exploitation of new works, modifications, extensions or revisions of the objectives in the natural gas sector by unauthorized natural or legal persons;

2. the design and/or execution of new works, modifications, extensions of the objectives in the natural gas sector without the necessary agreements, certificates and authorizations and/or without observing the restrictions/conditions they establish;

3. the design and/or execution of new works, modifications, extensions of the objectives in the natural gas sector with the violation of the technical norms issued in the area;

4. certification of the technical documentation for the execution, acceptance and/or commissioning of new works, modifications, extensions of the objectives in the natural gas sector not complying with the current technical regulations requirements;

5. the execution of new works, modifications, extensions of the objectives in the natural gas sector with the violation of the provisions of art.104, 105 and 151;

6. the execution of new works, modifications, extensions of the objectives in the natural gas sector without the verified technical execution documentation, in accordance with the legal provisions;

7. the execution of new works, modifications, extensions of the objectives in the natural gas sector, excluding any kind of utilization facilities that are not monitored by a licensed undertaking;

8. the use of equipment, installations, devices, products and procedures non-conforming with the current technical norms;

9. the use/exploitation of installations, equipment and devices that haven't been subject to the metrology verifications and/or whose technical verifications/revisions validity expired, in accordance with the current regulations;

10. the performance of any works, operations, handlings or interventions of any kind to the pipelines, devices, equipment, measuring installations and the accessories of the objectives/systems of production, storage/deposit, transmission or to the natural gas distribution systems, without the consent of the licensed undertaking;

11. the acceptance, commissioning and/or exploitation of the objectives / systems / installations / equipment in the natural gas sector that don't have the documents provided by the current regulation and/or that don't have the necessary authorizations;

12. the failure to fulfill and/or the inappropriate fulfillments of the validity conditions of the authorizations provided under art. 119 paragraph 1, other than those mentioned within present article;

13. the failure to fulfill and/or the inappropriate fulfillments of the validity conditions of the authorizations provided under art. 119 paragraph

2 and paragraph 3, other than those mentioned within present article;

14. the non-observance of the provisions of the regulations on the access and/or connection to the underground natural gas storage deposits, to the transmission/distribution systems and/or to the upstream supply pipelines;

15. the non-observance of the framework-contracts approved by ANRE;

16. the non-observance of the provisions of the performance standards in the natural gas sector;

17. the interruption or unjustified delay of the natural gas supply;

18. the unjustified refusal of the access/connection of the solicitors to the upstream supply pipelines, the transmission system, the distribution system or the natural gas storage deposits;

19. resale of natural gas by the final clients;

20. the refusal or prevention of the officials empowered by ANRE to perform verifications and/or inspections, in accordance with the legal provisions;

21. . the failure to supply or the incomplete/wrong supply of the data and information demanded by ANRE, the failure to fulfill the ordered measures and/or the refusal to respond to the summons expressed by ANRE;

22. the non-observance of the obligations/requirements provided in the regulations for the authorization and verification of the natural persons and undertakings performing design, execution and exploitation activities in the natural gas area;

23. the non-observance of the obligations/requirements provided in the regulations for granting the authorizations and licenses in the natural gas sector;

24. the non-observance of the storage program established in accordance with the current regulations;

25. the failure to create the minimum stock of natural gas that the owners of supply/transmission licenses are forced to hold in the underground storage deposits, established in accordance with the current regulations;

26. the non-observance of the norms on the protection and safety area, established in accordance with the law;

27. the non-observance of the commercial regulations elaborated by ANRE, including the methodologies on the prices and tariffs;

28. the non-observance of the regulations on the legal and/or accounts unbundling for regulated activities in the natural gas sector;

29. the performance of any commercial activities and/or services provision without the necessary license/authorization issued in accordance with the provisions of the present Title and the regulations elaborated on its basis;

30. the non-observance of the legal provisions on switching the natural gas supplier;

31. the non-observance of the legal provisions regarding measuring natural gas;

32. the non-observance of the requests to report the information provided under the current regulations including European regulations;

33. the non-observance of the provisions on notification of the natural gas consumers;
34. the non-observance of the technical regulations provisions issued/approved by ANRE;
35. the non-observance of the transmission system operator of the provisions on the conditions of access to the networks for the transmission of natural gas stipulated by the European regulations;
36. the non-observance by the transmission system operator of the provisions on the mechanisms for capacity allocation and congestion management procedures, stipulated by the European regulations;
37. the non-observance by the transmission system operator of the requirements on transparency, stipulated by the European regulations;
38. the failure to supply or the incomplete supply by the transmission system operator of the information necessary to the network users in order to timely take corrective measures to prevent unbalances;
39. the non-observance of the orders and decisions of ANRE others than those stipulated within this article;
40. the non-observance of the provisions on the confidentiality.

Penalties

Art. 195. - (1) Contraventions provided under art. 194, are punished as follows:

1. if committed by natural persons:
 - a) with a fine from 2.000 lei to 6.000 lei, those at point 9, 20 and 21;
 - b) with a fine from 4.500 lei to 10.000 lei, those at point 2, 3, 8, 22 and 34;
 - c) with a fine from 6.000 lei to 15.000 lei, those at point 4, 10, 26 and 40;
2. if committed by legal persons:
 - a) with a fine from 7.000 lei to 15.000 lei, those at point 1, 2, 9, 12, 20, 22 and 33;
 - b) with a fine from 15.000 lei to 25.000 lei, those at point 3, 6, 8, 15, 16, 19, 21, 23, 30 and 34;
 - c) with a fine from 50.000 lei to 100.000 lei, those at point 4, 5, 7, 10, 11, 13, 14, 17, 18, 24, 26, 27, 29, 31, 32, 39 and 40;
 - d) with a fine of 500.000 lei, those at point 25, 28, 36, 37 and 38;
 - e) with a fine between 1 – 10% of the annual turnover for the contravention provided under point 35.

(2) For the contraventions provided under art. 194, repeatedly committed by legal persons, the regulatory authority can apply a fine up to 5% of the annual turnover of the contravener.

(3) Repeated contravention means the same contravention is committed at least 3 times within the same calendar year, within the same organizational structure, out of those provided at art. 194 point 10, 11, 17, 21, 22, 28, 29, 36, 37, 38 and 39.

(4) The annual turnover means the turnover of the offending legal entity obtained from regulated activity for which the violation has been established in the previous financial year prior sanctioning the fact.

(5) The offender can pay immediately or within maximum 48 hours

from the minutes of finding and sanction or from the date of communication, half of the minimum fine provided in paragraph. (1) and (2), the inspector mentioning this possibility in the minutes.

(6) The fine sanction is prescribed within two years from the date of the offense.

Observation of contraventions and sanction apply

Art. 196. – The persons empowered by the president of ANRE for this purpose observe the contraventions and apply sanctions.

Updating of the fines

Art. 197. - The limits of the fines provided under art. 195 are updated by decision of the Government decision.

The legal regime of contraventions

Art. 198. – Offenses referred to in art. 194 are applicable to provisions of Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no.180/2002, with subsequent amendments

Access for observing the contraventions

Art. 199. - (1) The official examiners have access to the production sites, systems in the natural gas sector, including the related installations and equipment, as well as to the natural gas utilization facilities, under the conditions of the law in order to discover violations.

(2) The owners of the utilization facilities or those who exploit them are forced to put at the disposal of the official examiners the relevant documents, data and/or information.

(3) The police forces as well as other bodies with attributions in the area are forced to support the official examiners, by request.

CHAPTER XVI

Transitional and final provisions

Entry into force

Art. 200. - (1) Provisions of Art. 127 will enter into force on March 3, 2013.

(2) The entry into force of this law repeals:

a) Gas Law no. 351/2004, published in the Official Gazette, Part I, no. 679 of July 28, 2004, as amended and supplemented, except art. 6 -10;

b) any other contrary provisions.

(3) Within nine months from the date of entry into force of this Law, ANRE will adapt, as appropriate, the regulatory framework in accordance with this title.

(4) By adapting, as appropriate, the regulatory framework, all regulations issued under Law no. 351/2004 later on amended and supplemented, shall remain valid, except the provisions which are contrary to this law.

Final provisions

Art. 201. - (1) The relevant Ministry notifies the European Commission on the adoption of present Law and of other administrative documents necessary for the implementation of the provisions of the

Directive 2009/73/EC, including the transmission of the texts of these regulations..

(2) Within 24 months after entry into force of this law, the relevant ministry conducts an evaluation of the functioning of the transmission system operator based on "independent system operator" model and, if appropriate, proposes to the Government to adopt the model of separation property under art. Article 9. (1) of Directive 2009/73/EC. A vertically integrated business operator which owns a transmission network cannot be prevented from taking measures necessary to implement the property unbundling model provided for in art. 9 paragraph (1) of Directive 2009/73/EC.

(3) Government, with the endorsement of Competition Council may decide to set up a solidarity fund for financial support of vulnerable consumer, consisting of input and/or additional tax windfall profits of producers and suppliers of electricity and natural gas, obtained as a result of favorable situations on the market and/or incidental transactions. The way is setting up and the fund is used is established by decision of the Government.

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Title I of this law transposes Directive 2009/72/EC of the European Parliament and the Council of 13 July 2009 on common rules for the internal market in electricity and repealing Directive 2003/54/EC, published in the Official Journal of the European Union (OJ) no. L 211 of 14 August 2009, Directive 2005/89/EC of the European Parliament and the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment, published in the Official Journal (OJ) no. 33 of 4 February 2006 and the provisions of article 4. (3) of Directive 2004/8/EC of the European Parliament and the Council of 11 February 2004 on the promotion of cogeneration based on useful heat demand in the internal energy market and amending Directive 92/42/EEC, published in Official Journal European Union (OJ) no. L 52 of 21 February 2004.

Title II of this law transposes Directive 2009/73/EC of the European Parliament and the Council of 13 July 2009 on common rules for the internal market in natural gas and repealing Directive 2003/55/EC, published in the Official Journal of the European Union (OJ) no. L 211 of 14 August 2009.