

**ORDER no. 72 of 2 October 2013 (\*updated\*)**

For approval of Methodology for establishing the tariffs for electricity distribution service

**ISSUING AUTHORITY:** ROMANIAN ENERGY REGULATORY AUTHORITY

**PUBLISHED IN:** OFFICIAL GAZETTE no. 623 of 8 October 2013

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\*) Note CTCE:

The updated form of this normative act of 21 November 2016 is made by the Legal Department of S.C. "Centrul Teritorial de Calcul Electronic" S.A. Piatra-Neamț by inclusion of all amendments and supplementations brought by: [ORDER no. 112 of 29 October 2014](#); [ORDER no. 146 of 10 December 2014](#); [ORDER no. 165 of 7 December 2015](#).

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Whereas the provisions of art. 75 para. (1) let. b), of art. 76 paragraphs (1) and (3) and [art. 79 para. \(3\) of Electricity and Natural Gases Law no. 123/2012](#),

By virtue of the provisions of art. 5 para. (1) let. b) and paragraph (5) and [art. 9 para. \(1\) let. b\) of Government Emergency Ordinance no. 33/2007](#) for organization and functioning of National Energy Regulatory Authority, approved with amendments and supplementations by [Law no. 160/2012](#),

The President of National Energy Regulatory Authority issues this order.

**ART. 1**

We approve the Methodology for establishing tariffs for electricity distribution service, set out by annex which is part of this order.

**ART. 2**

The economic operators from electricity sector fulfill the provisions of this order and the organizational entities from the National Energy Regulatory Authority follow the observance of provisions of this order.

**ART. 3**

This order is published in Official Gazette of Romania, Part I and comes into force on 15 October 2013.

**ART. 4**

On the date of coming into force of this order we repeal:

- a) [Order of President of National Energy Regulatory Authority no. 39/2007](#) for approval of Methodology for establishing the tariffs for the electricity distribution service - Revision 1, published in Official Gazette of Romania, Part I, no. 722 of 25 October 2007, further supplemented;
- b) [Order of President of National Energy Regulatory Authority no. 10/2005](#) for approval of Procedure of adjustment/revision of distribution tariffs during the year 2005, published in Official Gazette of Romania, Part I, no. 213 of 14 March 2005;
- c) [Order of President of National Energy Regulatory Authority no. 25/2005](#) for regulation of electricity acquisition for own technological consumption in transmission and distribution grids, published in Official Gazette of Romania, Part I, no. 533 of 23 June 2005;
- d) [Order of President of National Energy Regulatory Authority no. 58/2005](#) for approval of Methodology of recognition by the National Energy Regulatory Authority of value of losses from receivables and sundry debtors, for establishing the distribution tariffs, published in Official Gazette of Romania, Part I, no. 21 of 10 January 2006;
- e) [Order of President of National Energy Regulatory Authority no. 10/2006](#) for approval of Procedure for establishing the difference of regulated incomes, in conditions of regulated limitation of tariffs for electricity distribution service, published in Official Gazette of Romania, Part I, no. 441 of 22 May 2006, further amended.

President of  
National Energy Regulatory Authority

Niculae Havrilet

Bucharest, 2 October 2013.

No. 72.

ANNEX

METHODOLOGY

For establishing tariffs for electricity distribution service

1. Purpose and objectives of methodology

**ART. 1**

(1) This methodology for establishing the tariffs for electricity distribution service (hereinafter referred to as methodology) establishes the method of determination of regulated tariffs for distribution service provided by the distribution operator and their method of control.

(2) The regulatory method adopted is "tariff basket cap".

**ART. 2**

The application of this type of stimulative regulation assures:

- a) an efficient regulatory environment;
- b) a fair allocation of earnings resulted by increasing the efficiency above the targets established by the competent authority, between the distribution operator and the beneficiaries of distribution service;
- c) financial viability of distribution companies;
- d) effective and efficient functioning of distribution companies;
- e) prevention of dominant position abuse of distribution operator;
- f) promotion of efficient investments in electricity distribution grid;
- g) promotion of efficient practices of exploitation and maintenance of electricity distribution grid;
- h) efficient use of existing infrastructure;
- i) operation in safe conditions of distribution grid;
- j) improvement of quality of distribution service;
- k) a transparent approach regarding the regulatory process.

2. Field of application

ART. 3

The Methodology is used by:

- a) electricity distribution operators for substantiation, establishing and application of distribution tariffs from each regulatory period;
- b) the National Energy Regulatory Authority (hereinafter referred to as ANRE), in the process of analysis of data and information transmitted by distribution operators, in view of approving the tariffs for electricity distribution service.

ART. 4

The distribution tariffs apply based on a distribution contract to all the users connected to the electricity distribution grid of distribution operator, in accordance with the voltage level in/from which electricity is introduced/extracted.

3. Definitions and abbreviations

ART. 5

The terms and abbreviations from this methodology have the following meanings:

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regulated activity	Activity carried out by a natural/legal persons, which represents the object of regulations issued by ANRE
Regulated amortization	Amortization recognized by ANRE, for the plant assets which contribute to the provision of distribution service, considered in the calculation of distribution tariffs
Reference year	Year prior to the beginning of a regulatory period
Year t	Year t is the current year, during which we perform the analyses for establishing the regulated incomes and approval of distribution tariffs for the year t+1.
Competent authority	National Energy Regulatory Authority - ANRE
Regulated Assets Base (BAR)	Net value of plant assets which contribute to the provision of distribution service, recognized by ANRE
Initial BAR	BAR on 1 January 2005 or considered at privatization date
Category of users	Group of users with common characteristics of electricity demand
Financial contribution	Contribution in cash of beneficiaries of distribution service or a third party (for example, funds from domestic or international bodies subsidies, development tax, connection fee etc.) given with free title to distribution operators
Regulated cost of distribution service	Total costs justified and recognized by the competent authority, distributed to electricity distribution service, out of total costs of distribution operator, based on which the regulated tariffs of distribution are established
Average Weighted capital cost	Weighted average of capital costs used NOTE: Capital structure is made of long-term bank loans and own capitals. The average weighted capital cost is calculated as a weighted sum of capital costs used, taking into account their weight. Capital cost reflects the net earnings which are obtained by the shareholders after the coverage of all related costs. The competent authority can use different methods for determination of an adequate equity cost.
Regulated costs which represent special expenses	Costs owing to unique events (for example, separation of distribution activity from the supply of electricity) or very rare events which happen in a few years (for example, studies regarding evaluation or revaluation of assets, studies of amortization or assimilated studies, whose effect can be divided by several periods), other extraordinary causes or appearance of new legislative provisions, respectively the amendment of legislative provisions (for example, improvement of quality of electricity distribution service

	<p>or other supplementary obligations to the existing ones at the beginning of period) with implications in increase of operation costs and initial maintenance costs approved</p> <p>NOTE: These costs can be postponed and depreciated for the period in which they produce their effects. In these cases, the amortization period has to correspond to the benefits realization period.</p>
Tariffs Basket Cap	Upper limit imposed on the weighted average of tariffs structure of distribution operator. The weighting is made by the quantities of electricity distributed by distribution operator by categories of end customers and voltage levels
Regulated CPT	Own technological consumption considered by ANRE in the calculation of distribution tariffs
Distributed electricity	Active electric energy for which we assure the distribution service, measured and/or determined in the exit/entry points from/in distribution grids and for which the distribution tariff or a component of it is applied
Performance indicators for distribution service	Indicators established according to the performance standard of distribution service for maintenance of a minimum level of quality of distribution service
High Voltage - IT	voltage equal to 110 kV
Low voltage - JT	Lower voltage or equal to 1 kV; standard value for three-phased grids is 0,4 kV.
Law	Electricity and Natural Gases Law no. <a href="#">123/2012</a>
Medium voltage - MT	Voltage ranging between 1-110 kV exclusively, respectively 6 kV, 10 kV, 20 kV, 30 kV, 35 kV
Plant asset	Any tangible or intangible asset owned to be used in the provision of electricity distribution service, in order to be rented to third parties or for administrative purposes, which has a normal life of use higher than a year and except for measuring groups, a higher value than the limit established by Government Decision.
Working capital necessary (NFRR)	Amount of money for financing the short-term loans contracted for carrying out the electricity distribution service.
Distribution Operator (OD)	Legal person, holder of electricity distribution license, which owns a distribution grid which it operates, maintains, modernizes, develops and which holds the concession of electricity distribution service. The concessionaire distribution operator distributes electricity to more than 100,000 end customers.
OTS	Transmission system operator
Regulatory period (p)	Definite period of 5 years in which we apply a regulation method such as tariffs basket cap. The regulatory period p represents the current period in which analyses are performed for establishing the regulated incomes and distribution tariffs for regulatory period p+1.
Inflation rate (RI)	Regulated inflation rate expressed in percentages, determined according to the provisions of this methodology, based on the growth index of consumer prices
Government bonds rate (RTS)	Interest rate of government bonds, in real terms, with maturity in one year, expressed in percentages. If no government bonds were issued with maturity of one year, ANRE establishes and communicates to distribution operators which issue of government bonds is used, based on the data provided by competent institutions.
Regulated assets base rate of return (RBAR)	Value recognized by ANRE of the regulated yield of BAR, expressed in monetary units
RRR	Regulated rate of return, expressed in percentages
Distribution service	Service assured by distribution operator, which consists of assurance of transmission of electricity in safe and efficient conditions between two or more points of distribution grid, by observing the performance standards in force
Electricity distribution tariff	Fee related to electricity distribution service, which can have one or more components for each voltage level
Specific distribution tariff	Tariff approved by ANRE, for the electricity distribution service on a certain voltage level

Electricity grid user	Any natural or legal person whose installations are connected to electricity distribution grid for the delivery of electricity in or from the grid; electricity users are: producer, transmission system operator, distribution operator, supplier, end consumer of electricity.
Regulated income	Linear income in nominal terms, to which are added the annual corrections, considered by competent authority in determination of distribution tariffs for the year t+1
Initial target income	Annual income in real terms, calculated based on the forecast regulated costs of distribution service for each year of regulatory period, obtained after the application of efficiency factor X (initial) on operation and maintenance controllable costs of the previous year
Linearized incomes	Incomes which lead to the net present equivalent value of initial target incomes, by application of linearization factor X(final) to tariffs in force in the last year, before the beginning of regulatory period and quantities of distributed forecast electricity
X(final)	Variation percentage without inflation, from one year to another, of distribution tariff, before the application of corrections
X(initial)	Reduction percentage from one year to another of controllable operation and maintenance costs, established for increasing the efficiency of electricity distribution service

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#### 4. Principles

##### ART. 6

(1) In the establishment of distribution tariffs we consider the costs and incomes associated to the distribution service.

(2) The distribution service consists of assuring the distribution of electricity, including reactive energy and the measuring activity of distributed energy according to the conditions associated to the distribution license.

(3) In substantiation of distribution tariffs we have in view the costs and incomes associated to other regulated activities, provided in the conditions associated to distribution license as follows:

- a) issue of localization permits and technical connections permits;
- b) realization of connection works to electricity distribution grids;
- c) issue of solution studies for the connection of users to electricity distribution grids;
- d) other regulated activities, and other non-regulated activities.

##### ART. 7

The distribution operators have the obligation to send the competent authority in deadlines and formats established, the data and information necessary for establishing the regulated incomes, respectively the distribution tariffs.

##### ART. 8

In the calculation of distribution tariffs, any cost and justified income associated to distribution activity is taken into account only once.

##### ART. 9

(1) The distribution tariffs are approved by the competent authority for each distribution operator.

(2) Every year, until 31 December, the distribution tariffs established for the year t+1 are approved by order of President of ANRE and are published in the Official Gazette of Romania, Part I.

##### ART. 10

The distribution tariffs approved for each distribution operator are unique for the distribution grid owned by the distribution operator.

##### ART. 11

For each year of regulatory period, the regulated income for distribution service must observe the condition set out by art. 98.

##### ART. 12

(1) All the data necessary for determination of incomes which are transmitted by the distribution operator are expressed in real terms, respectively in monetary values related to the reference year of each regulatory period.

(2) The inflation effect on costs is covered by RI applied to tariffs every year.

##### ART. 13

In the application of this type of regulation the competent authority checks the substantiation of distribution tariffs for each year of regulatory period.

##### ART. 14

In checking process, the competent authority takes into account the request sent by the distribution operator for the regulatory period p+1 taking into account:

- a) the justified quantity of electricity forecast to be distributed, by taking into account the economic growth index forecast by the National Prognosis Commission for that period;
- b) performance standards and other requirements imposed to distribution operator according to the legislation in force;
- c) stability of tariffs;
- d) CPT regulated by voltage levels according to the reduction plan approved by ANRE;
- e) optimal development of electricity distribution grids;
- f) regulated rate of return applied to the regulated assets base of distribution grid;
- g) taxes established by the central or local authorities for the distribution service ;
- h) financial viability of distribution operator.

##### ART. 15

(1) The competent authority has the right to correct the projection of distribution tariffs for a regulatory period or for one year, with the prior announcement of distribution operator if it acknowledges that:

- a) the determination of tariffs was made based on information which turned out to be incorrect or incomplete, provided by the distribution operator;
- b) there are calculation errors in determination of distribution tariffs or errors/omissions in establishing the regulated incomes;
- c) a justified cost associated to distribution service was included several times;
- d) major legislative changes occurred which led to the change of distribution service costs.

(2) In exceptional situations which lead to the need of significant change of investment plans such as : important changes of primary legislation, change of control on distribution operator from majority state shareholder to private majority shareholder, reorganization made by merger (amalgamation, absorption) or split-off (total or partial), distribution operators have the right to request the competent authority in the first year of a regulatory period the correction of projection of distribution tariffs for that regulatory period or for one year.

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Para. (2) of art. 15 was introduced by point 1 of [art. I of ORDER no. 112 of 29 October 2014](#), published in Official Gazette no. 805 of 5 November 2014.

(3) The competent authority analyses the request of distribution operators and can correct the projection of distribution tariffs, by observing the principles of this methodology.

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Paragraph (3) of art. 15 was introduced by point 1 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

#### ART. 16

The situation set out by art. 15 requires the correction of regulated incomes and as applicable, the invalidation of tariffs previously approved, correction of wrong information, recalculation and approval of the new tariffs applied by the distribution operator in question.

#### ART. 17

The distribution operator is obliged to organize and keep separate accounting statements according to the conditions associated to distribution license.

#### ART. 18

(1) The accounting statements mentioned in art. 17 must allow ANRE to know each element of income and cost for the regulated activities and for non-regulated activities.

(2) ANRE has the right to request the details of any cost or income element included in the accounting statements transmitted by the distribution operator.

#### ART. 19

The distribution operator allots the common costs of regulated/non-regulated distribution activities by using an allocation method which observes the following principles:

- a) economic causality - attribution of costs to those activities which determine them;
- b) objectivity - attribution of costs without the following of an interest or obtaining an undeserved benefit of the company;
- c) transparency - attribution based on definite rules;
- d) continuity - attribution based on rules which are kept in time; rules can be changed only in necessary justified cases.

#### ART. 20

(1) For the purpose of approving the distribution tariffs, for each year of regulatory period, the distribution operator classifies and allots incomes and costs by types of activities, according to this methodology.

(2) The distribution operator provides detailed explanations and justifications for the method of allocation of costs.

#### ART. 21

(1) The competent authority controls the accuracy of allocation of costs and incomes in order to avoid the cross subsidies between the distribution service and other regulated/non-regulated activities.

(2) If it acknowledges an incorrect allocation of costs by activities, ANRE makes the necessary corrections, with notification of distribution operator.

#### ART. 22

In determination of regulated income, we do not include the following costs:

- a) costs incurred by other companies which belong to the same mother company/holding company or the mother/holding company;
- b) costs for connection of new users, which are covered by third parties by application of connection tariffs;
- c) the costs with non-regulated activities carried out by distribution operator for which the distribution grid is used or the employees involved in provision of distribution service;
- d) costs with indemnification paid to users for failure to observe the provisions of performance standard for electricity distribution service or for deterioration of electric receivers by the fault of distribution operator;
- e) costs with fines and penalties applied to distribution operator.
- f) costs with indemnification paid for the damages or accidents caused to natural or legal persons if the court of law establishes that they were caused by the fault of distribution operator.

### 5. Establishment of regulated incomes for electricity distribution service

#### 5.1. Initial target income of distribution activity

#### ART. 23

The initial target income for one year t of a regulatory period p is determined by the following formula:

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$$V(\text{target}, \text{initial}, t) = CC(\text{reference}) \times [1 - X(\text{initial})]^t + CNC + CPT(t) + NFRR(t) + AM(rt) + RBAR(t) - V(t) \quad (ER) \quad (lei) \quad (1),$$

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where:

- a)  $CC(\text{reference}) \times [1 - X(\text{initial})]^t$  - controllable operation and maintenance costs established according to the provisions of subchapter 5.2 and obtained after the application of efficiency factor  $X(\text{initial})$  to controllable operation and maintenance costs of reference of the regulatory period  $p$ ;
- b)  $CNC(t)$  - uncontrollable operation and maintenance costs established according to the provisions of subchapter 5.4.;
- c)  $CPT(t)$  - cost with electricity for covering the own technological consumption approved by competent authority, according to the provisions of subchapter 5.5.;
- d)  $NFRR$  - necessity of working capital established according to the provisions of subchapter 5.6;
- e)  $AM(rt)$  - regulated amortization for existing assets and new efficient investments, approved by the competent authority according to the provisions of subchapter 5.7;
- f)  $RBAR(t)$  - rate of return of existing assets and new efficient investments approved by the competent authority according to the provisions of subchapter 5.8;
- g)  $V(t)$  (ER) - incomes from application of regulated tariff of reactive energy.

## 5.2. Controllable operation and maintenance costs

### ART. 24

The operation and maintenance costs recognized by the competent authority include the following elements:

- a) controllable operation and maintenance costs;
- b) uncontrollable operation and maintenance costs.

### ART. 25

Controllable operation and maintenance costs include mainly without limitation to:

- a) costs with raw materials and consumables;
- b) costs with water, electricity (overhead costs) and other utilities;
- c) other costs with materials, including measuring devices recorded as inventory items ;
- d) costs with maintenance and repair works executed by third parties;
- e) costs with leasing and rents;
- f) costs with insurance premiums;
- g) costs with studies and research;
- h) costs with other services provided by third parties (including courses for perfection of staff, collaborators, commissions and fees, protocol, advertising and publicity, travels, secondments and transfers, postal expenses and telecommunication taxes);
- i) costs with staff (salaries, daily allowances, bonuses);
- j) costs with indemnification paid by distribution operator to third parties for the performance of maintenance works established by agreement of the Parties.

### ART. 26

(1) Controllable operation and maintenance costs are analysed by the competent authority for avoiding the unjustified costs.

(2) The competent authority can use benchmark analysis techniques which can be defined after a consultation process with distribution operators.

### ART. 27

(1) In the reference year of period  $p+1$ , the competent authority analyses the level of controllable operation and maintenance costs incurred in each year of regulatory period  $p$ .

(2) The controllable operation and maintenance costs taken into account as reference point at the beginning of regulatory period  $p+1$  are equal to the controllable operation and maintenance costs approved for the last year of regulatory period  $p$ , from which we deduct half of average of efficiency earnings earned in the period  $p$ , values expressed in real terms of reference year  $p+1$ .

(3) The competent authority has the right to adjust the level of controllable operation and maintenance costs taken into account for the reference year of regulatory period  $p+1$ , determined according to paragraph (2) following the results of benchmark analysis between the distribution operators regarding: the volume of installations, number of users of electric distribution grid, quantity of distributed electricity etc.

### ART. 28

(1) In the reference year of period  $p+1$ , the competent authority analyses the efficiency level of controllable operation and maintenance costs forecast to be reached in regulatory period  $p$ , compared to the effective level achieved.

(2) In the calculation of initial target income for the first year of regulatory period  $p+1$ , the competent authority determines the sum of efficiency earnings above the values approved for regulatory period  $p$  and allots 50 % of it to the users (mechanism of splitting the earnings).

## 5.3. Regulated efficiency factor $X(\text{initial})$

### ART. 29

The (initial) factor  $X$  of annual increase of efficiency, established by the competent authority, is applied to controllable operation and maintenance costs of distribution operator, compared to the previous year, since the first year of the first regulatory period.

### ART. 30

The competent authority imposes the gradual reduction of controllable operation and maintenance costs and constant absorption of inefficiency by annual growth of efficiency targets.

### ART. 31

The efficiency improvement target, the factor  $X$  (initial), is established considering the established and achieved level of controllable operation and maintenance costs for regulatory period  $p$ .

### ART. 32

During a regulatory period, ANRE can change  $X(\text{initial})$  based on a study conducted by an independent consultant for evaluation of efficiency, which uses an analysis method agreed by the distribution operators such as:

- a) method of global productivity factors;
- b) method of main performance indicators;
- c) regressive analysis method;
- d) linear analysis programmes;
- e) other.

### ART. 33

(1) Since the third regulatory period, for each distribution operator, in establishing the factor X(initial), the competent authority can consider an efficiency growth which does not exceed 80% of the arithmetic mean of achievements for the previous regulatory period.

(2) For the distribution operators who did not record efficiency growth in the second regulatory period, the value of efficiency factor is considered at least equal to 1.5%.

#### 5.4. Uncontrollable operation and maintenance costs

##### ART. 34

The following operation and maintenance costs are considered uncontrollable:

- a) costs resulted from payment of taxes, royalties, taxes and similar payments, established according to the legal regulations in force or by the central and local authorities;
- b) regulated costs regarding special expenses;
- c) contributions to health fund, to special funds, other contributions of the same kind for salaries fund, according to obligations and in the limit of values/percentages established by the primary legislation in force;
- d) regulated distribution costs generated by the use of distribution grid, property of other economic operators;
- e) extraordinary costs determined by force majeure;
- f) costs generated by impossibility of interrupting the supply with electricity of companies, based on a primary legislation act; we recognize only that part of distribution service that is uncovered by bank guarantees;
- g) costs with indemnification paid by distribution operator to third parties for performance of maintenance works established by court judgment, according to art. 12 paragraph (10) of the Law.

#### 5.5. Cost with electricity for coverage of CPT

##### ART. 35

The programme for reduction of CPT is proposed by distribution operators and is substantiated on the following elements: structure of electric distribution grids, volume of installations, structure of electricity distributed by voltage levels, transit of electricity through distribution grids, estimated cost of investments etc.

##### ART. 36

(1) In the reference year of regulatory period p+1, until 1 October, distribution operators send to ANRE a programme of annual reduction of CPT by voltage levels, correlated with the annual investment programmes related to the regulatory period p+1.

(2) The programme from paragraph (1) contains for each year of regulatory period p+1 and each voltage level, the percentages of CPT which OD commit to achieve, called targets CPT.

##### ART. 37

(1) In the programme of annual reduction of CPT, distribution operators have in view that the target CPT for each voltage level for the first year of any regulatory period p+1 must be lower than the percentage of CPT achieved for voltage level respectively in the reference year of period p+1.

(2) In the programme of annual reduction of regulated CPT, distribution operators have in view that the target CPT by voltage levels for each year of any regulatory period, since the second year, must be lower than the one established for the previous year.

(3) Distribution operators evaluate the technical CPT and the commercial CPT by a method which they communicate to the competent authority.

##### ART. 38

(1) ANRE analyses the programmes of annual reduction of CPT mentioned in art. 36 and establishes the targets CPT for each distribution operator.

(2) The targets CPT established are used both in forecast of regulated costs with CPT and for the performance of annual corrections of incomes due to change of quantities of electricity related to regulated CPT.

(3) ANRE has the right to impose the changing of annual reduction programme of CPT proposed by the distribution operator, based on a benchmark analysis between distribution operators and having in view the target CPT for the reference year of regulatory period p+1.

(4) For the approval of programme of CPT reduction on voltage levels, ANRE has in view the reduction with priority of CPT on the low voltage level.

##### ART. 39

The efficiency gain obtained by distribution operator for each voltage level from the realization of a lower CPT than the target approved is up to the distribution operators at the end of regulatory period in proportion of 25% for the levels of high and medium voltage, respectively 50% for the low voltage level, if the achieved CPT is lower than the target of CPT for each voltage level and for each year of regulatory period."

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Art. 39 was amended by point 2 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

##### ART. 40

(1) If in the annual investment programme investments are not approved by the competent authority for the reduction of quantity of CPT, distribution operators have the right to request the competent authority to revise the annual reduction programme of regulated CPT.

(2) The competent authority cannot reject without justification the revision request, and the new programme will be in accordance with investment programmes for the reduction of quantity of CPT approved.

##### ART. 41

The cost with electricity for covering regulated CPT for the distribution service is estimated by using the acquisition cost of electricity and cost of transmission service, system services and market administration services.

#### 5.6. Necessity of working capital

##### ART. 42

For the calculation of necessity of working capital (NFRR) we use the following formula:

$$\text{NFRR} = 1/12 \times \text{C(OM)} \times \text{RRR} \quad (\text{lei}) \quad (2),$$

where:

NFRR - necessity of working capital;

C(OM) - controllable and uncontrollable operation and maintenance costs;

RRR - regulated rate of return.

## 5.7. Costs with amortization

### ART. 43

(1) The annual regulated amortization is calculated only by using the straight-line method, based on the regulated running lives of plant assets, presented in annex no. 2 to this methodology.

(2) For other categories of plant assets, not included in annex no. 2, we use the maximum running lives established by Catalogue for classification and normal running lives of plant assets, approved by Government Decision or larger periods approved by decisions/resolutions of management of distribution company.

### ART. 44

(1) Cost with regulated forecast/achieved amortization is determined as sum of initial BAR amortization and amortization of plant assets recorded in accounting system every year, after 1st January 2005/privatization date, which are used for distribution service, according to the following formula:

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$$AM(rt) = AM(BAR \text{ initial}) + AM(\text{existente}) + AM(\text{inv}) \quad (\text{lei}) \quad (3),$$

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where:

AM(rt) - regulated amortization for a generic year t;

AM(BAR initial) - initial BAR amortization established by straight-line method for a normal life of 25 years;

AM(existing) - total annual amortization of plant assets for each year, recorded on the list of plant assets of the company between 1<sup>st</sup> January 2005/privatization date and 31<sup>st</sup> December of the year t-1;

AM(inv) - amortization of plant assets forecast to be commissioned/commissioned during the year t.

(2) In the forecast costs with regulated amortization, envisaged for determination of target income for one year t of regulatory period p+1, for the plant assets commissioned during the year t, we take into account half of the annual value of amortization of investments forecast to be made in that year.

(3) In the costs achieved with regulated amortization, for the plant assets commissioned in the year t, the value of amortization is determined by the commissioning month.

### ART. 45

Both in drawing up the investment programmes, and for their realization, the distribution operators have in view that the average amortization period of plant assets forecast/made in that year is higher than 18 years. The average amortization period is calculated as weighted average of running lives compared to forecast/achieved values of those categories of plant assets out of total forecast/achieved value in the analysed year.

### ART. 46

The amortization of plant assets made of financial contributions, received with free title, from donations or purchased from other non-refundable funds, including those obtained by application of connection tariffs of new users of electric distribution grid is not included in justified costs with regulated amortization.

### ART. 47

Costs with regulated amortization determined according to the provisions of this chapter are used for the calculation of BAR according to the provisions of this methodology.

## 5.8. Rate of return of regulated assets base

### ART. 48

(1) For determination of forecast RBAR we use the formula:

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$$RBAR(t) = RRR \times \frac{BAR(t \text{ 1 ian}) + BAR(t \text{ 31 dec})}{2} \quad (\text{lei}) \quad (4),$$

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where:

RRR - represents the regulated rate of return;

BAR(t 1 ian) - BAR on 1 January in year t;

BAR(t 31dec) - BAR on 31 December in year t;]

t - one generic year of regulatory period.

(2) For determination of achieved RBAR we take into account the entries/exits of plant assets effectively made in that year:

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$$BAR(t) = RRR \times [BAR(t \text{ 1 ian}) - AM(INVt) + IA(t) - \frac{EA(t)}{2} - \frac{AM(\text{existente})}{2}] \quad (\text{lei}) \quad (5),$$

\*ST\*

where:

RRR - represents the regulated rate of return;

BAR(t 1 ian) - BAR on 1 January in the year t;

t - one generic year of regulatory period;

AM(INVt) - amortization of plant assets commissioned during year t;

IA(t) - entries of plant assets during year t, recognized and approved by the competent authority for which amortization is recorded (weighted by commissioning month);

EA(t) - exits of plant assets during the year t by sale operations, discarding, assignment etc. from the plant assets commissioned after 1 January 2005/privatization date; as value they are equal to the value of their amortization left;

AM(existente) - amortization of existing plant assets (initial BAR and plant assets commissioned after 1 January 2005 or after privatization date).

5.9. Regulated assets base (BAR)

ART. 49

(1) BAR forecast for the regulatory period p+1 includes:

a) the net regulated value of initial BAR;

b) the net regulated value of plant assets resulted from prudent investments approved by the competent authority, commissioned after 1<sup>st</sup> January 2005 or privatization date, included on the list of plant assets of the company until 31 December of the reference year of regulatory period p+1;

c) the investments forecast to be included on the list of plant assets of the company and approved by ANRE, for regulatory period p+1.

(2) BAR forecast for regulatory period p+1 is expressed in real terms of reference year of regulatory period p+1.

ART. 50

(1) BAR includes only the plant assets used by the distribution operator for the provision of distribution service.

(2) BAR does not include the lands, current assets (except for licenses and patents), assets under preservation or stocks and plant assets financed from financial contributions, regardless of their source.

(3) Distribution operator keeps separate records of all financial contributions received every year. The value of these contributions is transmitted to the competent authority, according to monitoring models.

ART. 51

(1) For the calculation of distribution tariffs, the regulated base of assets forecast and made in any year of regulatory period, is calculated by the following formula:

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$$\text{BAR}(t \text{ 31 dec}) = \text{BAR}(t \text{ 1 jan}) + \text{IA}(t) - \text{EA}(t) - \text{AM}(rt) \quad (\text{lei}) \quad (6)$$

\*ST\*

where:

BAR(t 31 dec) - represents the regulated base of assets on 31 December of the year t;

BAR(t 1 jan) - regulated base of assets that exist on 1 January of the year t;

AM(rt) - regulated amortization for year t, calculated according to art. 44;

IA(t) - entries of plant assets during the year t, recognized and approved by the competent authority for which amortization is recorded;

EA(t) - exits of plant assets during the year t by sales operations, discarding, assignment etc., commissioned after 1<sup>st</sup> January 2005/privatization date; in value they are equal to their value left to be depreciated;

$$\text{BAR}(t \text{ 1 jan}) = \text{BAR}(t-1 \text{ 31 dec})$$

(2) The value of BAR forecast/made is brought in nominal terms of the year in which we make the correction calculations or BAR, with corrected inflations, used in the calculation of distribution tariffs.

ART. 52

(1) Complex investment objectives which are carried out for a period higher than one year are included in stages in the value of BAR, to the extent that plant assets resulted are included on the list of plant assets of the company and their amortization is recorded in accounting. The annual value of plant assets included in BAR is justified to the competent authority by the inclusion documents on the list of plant assets of the company.

(2) For the commissioning of the whole objective we prove the competent authority that the sum of values included in the value of BAR at partial commissioning does not exceed the total investment value.

ART. 53

(1) In the reference year of regulatory period p+1, the distribution operator can request the competent authority to recognize the reevaluation of assets commissioned after 1<sup>st</sup> January 2005 or after privatization date, based on the reevaluation studies made according to primary legislation.

(2) The maximum value of reevaluation accepted by the competent authority does not exceed the value of assets commissioned after 1<sup>st</sup> January 2005 or after privatization date, discounted by inflation rate cumulated for that period.

ART. 54

(1) The value of BAR made on 31 December of the reference year of period p+1 (BAR<sub>p</sub>), in real terms, is calculated by taking into account the entries/exits of plant assets, effectively made and accepted by ANRE and corrected RI used in the calculation of distribution tariffs, according to the formula (in which k represents the number of years of regulatory period):

\*T\*

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$$\text{BAR}(p) = \text{BAR}(p-1) \times \prod_{i=1}^k [1+\text{RI}(i)] + \sum_{t=1}^{k-1} ([\text{IA}(t)-\text{EA}(t)-\text{AM}(t)] \times \prod_{i=t+1}^k [1+\text{RI}(i)]) + \text{IA}(k) - \text{EA}(k) - \text{AM}(k) \quad (\text{lei}) \quad (7)$$

\*ST\*

(1<sup>^</sup>1) Since the fourth regulatory period, the value of BAR<sub>p</sub> on 31 December of the reference year of a regulatory period p+1 is not discounted by RI.

Paragraph (1<sup>^</sup>1) of art. 54 was introduced by point 3 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

(2) For the last year of a regulatory period p we consider the entries/exits of plant assets effectively made in the first 8 months of the year and those estimated to be made in the last 4 months of the year.

(3) The correction of incomes related to investments made and exits from the last 4 months of the reference year of a regulatory period p compared to those estimated to be made are made in the first year of regulatory period p+1, with the making of annual corrections.

#### 5.10. Investments

##### ART. 55

In the meaning of this methodology, by investments made we understand those investments which are finalized; the resulted plant assets are included on the list of plant assets of the company and we record amortization for them.

##### ART. 56

(1) In the category of investments we include the expenses incurred for realization of new plant assets and for reconstruction, modernization and revamping of existing plant assets and are executed based on specific documentation : feasibility studies, technical projects etc.

##### (2) Repealed.

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Paragraph (2) of art. 56 was repealed by point 4 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

##### ART. 57

(1) The distribution operator has the obligation to transmit for approval to competent authority the investment programme for regulatory period p+1, until 1 April of the reference year of the regulatory period p+1, according to annex no. 5, with specification of planned investment objectives, according to annex no. 10.

(2) Until 15 January of each year, the distribution operators transmit the investment programmes for the current year and the following year, detailed by objectives/investment works/plant assets and voltage levels, with integration in the annual values approved by ANRE.

(3) If the distribution operator transmitted the investment programmes according to the provisions of this methodology, if the competent authority does not notify the distribution operator until 15th February of the same year, that it rejects the programmes mentioned, the programmes will be considered as approved.

(4) Until 1<sup>st</sup> October of each year distribution operators can request the change of investment programme for the current year, with observance of the total value approved previously for that year.

(5) By exception from the provisions of paragraph (4), the investments made as a result of force majeure, accepted following the analysis performed by the competent authority and those set out by art. 65 are recognized in achievements of investments of one year with the possibility of exceeding the annual plan value previously approved.

(6) The value of investment programme initially transmitted or details and subsequent changes is expressed in monetary units considered in nominal terms of reference year of regulatory period.

(7) The investment programme is established based on an internal procedure of planning and management of investments of distribution operators and must be correlated with the perspective plan, the CPT reduction programme and the quality plan.

##### ART. 58

(1) The competent authority can reject the investment programme if the investments proposed are not considered prudent.

(2) Prudent investments are in agreement with the good practice of similar electricity distribution companies from Europe.

(3) We consider prudent investments the investments which prove to be necessary, opportune, efficient and reflect the market conditions respectively:

- necessary - determined by the guarantee of safety in operation of distribution system;
- opportune - their postponement causes prejudices to distribution operator and/or user ;
- efficient - they bring benefits to distribution operator and the user;
- market conditions - costs made reflect the best conditions of the market that exist at execution date.

(4) The forecast investment programme for the whole regulatory period transmitted according to art. 57 paragraph (1), as soon as approved, is included in BAR.

##### ART. 59

(1) The investment programme in distribution grid is broken down by 3 types of categories with demonstration of efficiency gain resulted as follows:

- a) essential investments;
- b) necessary investments;
- c) justified investments.

(2) Essential investments are the investments which have as purpose the assurance of safety in operation of distribution grid and continuity in supply of electricity. They include without limitation to:

a) technological upgrading and modernization of lines/stations and existing substations which are overloaded, considered workplaces with special conditions from work safety point of view, which have inadequate technical parameters according to the norms in force (for example: switches which have outdated short-circuit powers because of development of distribution grid);

b) replacement of current equipment worn out physically and morally for which there are no spare parts and for which no adequate maintenance works can be executed, replacement of equipment to observe the environmental conditions;

c) acquisition of equipment for assurance of work safety;

d) installations for compensation of power factor.

(3) The necessary investments are the investments which have as purpose the development, modernization and increase of efficiency of distribution grid for assurance of a distribution service at quality indicators set out by performance standards in force. They include without limitation to:

a) replacement of existing depreciated equipment whose technical parameters do not correspond to the normative acts in force and which do not assure the observance of performance and quality parameters set out in legislation;

b) replacement of equipment, technological upgrading and modernization works for reduction of CPT, replacement of measuring groups;

c) improvement of quality of distribution service (for example, works for increasing the voltage level);

d) realization of new capacities, extension of existing grid for supply of new users;

e) implementation of smart metering systems;

f) new connections, including those imposed by primary legislation, strengthening of grid for the new connections and quota uncovered by the connection tariff.

(4) Justified investments are the investments for which the related expenses must be analysed compared to the benefit they bring to users. They include, without being limited to:

- a) acquisition of work equipment (toolkits and tools);
- b) improvement of work conditions (modernization of administrative buildings, equipping administrative offices, purchase of cars etc.);
- c) takeovers of electricity distribution capacities from third parties.
- d) replacement of components of plant assets.

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Let. d) of paragraph (4) of art. 59 was introduced by point 5 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

#### ART. 60

(1) The competent authority has the right to analyse at any moment any investment made previously approved from the point of view of necessity and opportunity of investment, documentation related to promotion of investment, efficiency obtained, observance of performance standards, regulations and specific legislation and associated costs.

(2) Based on analysis from paragraph (1), ANRE may not recognize the investments which do not fulfil the conditions mentioned.

#### ART. 61

The value of realization of an investment recognized by ANRE does not exceed by more than 10% its value set out in the programme approved according to art. 58 paragraph (4).

#### ART. 61<sup>1</sup>

(1) Distribution operators have the right to integrate in the category of investments the expenses with replacement of components of plant assets which have as result the improvement of technical parameters or are indispensable at regular intervals to assure the continuity of operation of plant assets at normal parameters.

(2) The investments set out by paragraph (1) are included in the annual investment programme and represent maximum 10% of its total value previously approved.

(3) The value of annual investments from paragraph (1) reduces the value of controllable operation and maintenance costs recognized in the regulated income for that year.

(4) For investments set out by paragraph (1) we apply a regulated rate of return reduced by 3 percentage points compared to the regulated rate of return specified in art. 122.

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Art. 61<sup>1</sup> was introduced by point 6 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

#### ART. 62

Repealed.

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Art. 62 was repealed by point 7 of [art. I of Order no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

#### ART. 63

At the end of each regulatory period the competent authority establishes the value of BAR necessary for the calculation of tariffs for the next regulatory period, based on the achievements of investment programmes previously approved and makes the necessary corrections.

#### ART. 64

(1) The investments set out in an annual programme which are commissioned in the following year are introduced in BAR in commissioning year, with the possibility of exceeding the value of the annual programme.

(2) For investments from paragraph (1) we determine the annual correction according to art. 66.

#### ART. 65

The investments made in addition, because of exceptional conditions, compared to the approved programme for a certain regulatory period p can be introduced in BAR at the beginning of the regulatory period p+1, at the value left to be depreciated, only if they were approved by ANRE before their realization.

#### ART. 66

(1) The incomes of DELTA V(I) resulted from not achieving/exceeding in any year of regulatory period p of investments approved by the competent authority are reduced from/added to the incomes of regulatory period p+1.

(2) The value DELTA V(I) is calculated by the formula:

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$$\begin{aligned} \text{DELTA V(I)} = & \sum_{t=1}^n \text{RRR} \times [\text{BAR}(\text{realiz}, t) - \text{BAR}(\text{prognoz}, t)] \times \sum_{i=t}^n \text{Pi} [1 + \text{RTS}(t)] + \\ & + \sum_{t=1}^n [\text{AM}(\text{realiz}, t) - \text{AM}(\text{prognoz}, t)] \times \sum_{i=t}^n \text{Pi} [1 + \text{RTS}(t)] - \sum_{t=1}^n \text{DELTA VI}(l, t) \times \sum_{i=t}^n \text{Pi} [1 + \text{RTS}(t)] \quad (\text{lei}) \end{aligned} \quad (8),$$

\*ST\*

where:

[BAR(realiz,t)-BAR(prognoz,t)] - represents the difference of value between the forecast regulated base of assets which contains the investments forecast to be made in year t and achieved regulated base of assets which contains the investments made in the year t,

[AM(realiz,t)-AM(prognoz,t)]- the difference between the regulated value of forecast amortization for the year t and regulated value of amortization made in the year t, expressed in nominal terms of the year t;

RTS(t) - interest rate of government bonds considered for the year t, in real terms;

DELTA VI(1,t) - correction of income due to not accomplishing the investments of year t, applied during regulatory period, expressed in nominal terms of the year t.

#### 5.11. Regulated rate of return

##### ART. 67

Regulated rate of return is calculated in real terms based on the average weighted capital cost before taxation.

##### ART. 68

(1) Since the third regulatory period, the regulated rate of return (RRR) is the same for all distribution operators.

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Paragraph (1) of art. 68 was amended by point 8 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

##### (2) Repealed.

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Paragraph (2) of art. 68 was repealed by point 9 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

(3) Regulated rate of return is established by ANRE according to the provisions of this methodology and is approved by order of president of ANRE at least 3 months before the start of a new regulatory period.

(4) For avoiding the recognition of excessive capital costs in the structure of regulated distribution tariffs, since the second year of the regulatory period, ANRE has the right to revise the value of RRR from paragraph (1) depending on the evolution of parameters values taken into account at its determination.

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Paragraph (4) of art. 68 was introduced by point 10 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

#### 5.12. Average weighted capital cost

##### ART. 69

Capital cost in real terms can be established based on the average weighted capital cost before taxation according to the following formula:

$$RRR = CCP \times Kp / (1-T) + XXI \times Ki \quad (\%) \quad (9),$$

where:

CCP - equity cost in real terms calculated after taxation, recognized by the competent authority (%);

CCI - borrowed capital cost in real terms, calculated before taxation, recognized by the competent authority (%);

Kp - weight of equity in total capital established by the competent authority;

Ki - weight of borrowed capital in total capital, established by the competent authority.  $Ki = (1-Kp)$ ;

T - profit tax rate.

##### 5.12.1. Model for determination of capital value (CAPM)

##### ART. 70

Since the third regulatory period, the competent authority can use CAPM - Capital Asset Pricing Model to quantify the rate of return of assets for regulated distribution operators.

##### ART. 71

Equity cost can be expressed by the formula:

$$CCP = R(f) + [R(m) - R(f)] * B \quad (10),$$

where;

CCP represents the equity cost in real terms, calculated after taxation, recognized by the competent authority (%);

R(f) - rate of return of investments without risk (for example, interest to government bonds/T-notes);

R(m) - rate of return on shares market (incomes expected from market portfolio) [R(m) - R(f)] is the market risk premium;

B - coefficient which expresses the correlation between the income resulted from the market portfolio and individual income of company which represents a comparison of market risk;

[R(m) - R(f)] \* B - expression of risk premium in percentage value.

##### 5.12.2. Borrowed capital cost

##### ART. 72

Borrowed capital cost is calculated based on the current interest of an efficient and well-managed loan on a relevant national or international capital market, with similar characteristics with domestic financial market.

##### ART. 73

If the real cost of borrowed capital exceeds the level of current interest on an internal or external capital market, the competent authority requests additional information on the reasons for appearance of this difference. If the distribution operator does not provide the documents required by the competent authority or provides incomplete documents, the competent authority establishes the value of borrowed capital cost without the consultation of distribution operators.

##### ART. 74

The competent authority can decide to calculate the borrowed capital cost by summing up the rate of investments without risk with risk premium specific to the company (risk premium of loans or scope of loans).

ART. 75

During the last year of a regulatory period the competent authority initiates a consultation process for establishing the capital structure which is taken into account in the establishment of regulated rate of return. The distribution operators can propose and the competent authority can decide a capital structure taking into account the standard structure of international companies with similar activities, and the conditions and risk of domestic electricity market.

6. Determination of factor X(final)

ART. 76

In determination of factor X(final) the competent authority takes into account:

- a) the forecast improvement of productivity made by distribution operators;
- b) forecast changes of costs;
- c) investment programme and regulated assets base;
- d) forecast quantities of distributed electricity;
- e) any requirement of linearization of approved income.

ART. 77

Factor X(final) is determined based on the following equation:

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$$\begin{aligned}
 & \sum_{t=1}^n \left( \frac{1}{(1+RRR)^t} \times [1-X(\text{final})]^t \times \sum_{i=1}^n \sum_{j=1}^m p_{(oij)} q_{(tij)} \right) = \\
 & \sum_{t=1}^n \left[ \frac{1}{(1+RRR)^t} \times V(t, \text{initial target}) \right] \quad (1e) \quad (11),
 \end{aligned}$$

\*ST\*

where:

(1+RRR)^t - discounting factor used for the calculation of net discounted incomes for generic year t;  
V(t, initial target) - initial target income for generic year t;

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$$[1-X(\text{final})]^t * \sum_{i=1}^n \sum_{j=1}^m p_{(oij)} q_{(tij)} - \text{annual incomes calculated with the tariffs of reference year and quantities of year t;}$$

\*ST\*

- i - voltage level;
- j - category of users connected to the voltage level i;
- n - number of voltage levels;
- m - number of categories of users.

ART. 78

The annual linearized incomes are those which lead to net present equivalent value of initial target incomes, by application of linearization factor X(final) on tariffs in force in the reference year of the regulatory period p+1 and forecast quantities.

7. Formula for regulating the tariffs basket cap

7.1. Definition of regulatory formula

ART. 79

The determination of annual tariffs, annual regulated income which contains the corrections of the previous year in each year of regulatory period is made by the tariffs basket cap formula:

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$$1 + RI(t+1) - X(\text{final}) \pm S \geq \frac{\sum_{i=1}^n \sum_{j=1}^m p_{ij}^{t+1} q_{ij}^t}{\sum_{i=1}^n \sum_{j=1}^m p_{ij}^t q_{ij}^t} \quad (12),$$

where:

$p_{ij}^t$  - prices used in year t for component j of tariff i;

$p_{ij}^{t+1}$  - price proposed for component j of tariff i in year t+1;

$q_{ij}^t$  - are the quantities of electricity for component j of tariff i, recorded in year t, determined according to the provisions of art. 83;

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RI(t+1) - regulated inflation rate considered by ANRE in determination of distribution tariffs;  
S - represents the stimulation factor correlated with the quality level of distribution service.

## 7.2. Inflation rate

### ART. 80

For approval of distribution tariffs, the competent authority uses RI established based on the data provided by the competent institutions.

### ART. 81

If the inflation growth exceeds 5% in a quarter the distribution operator can request the quarterly increase of distribution tariffs.

### ART. 82

(1) Value RI corrected for year t+1 is determined based on the value RI forecast in year t by the National Forecast Commission for the year t+1, to which we add algebraically the difference between the RI achieved (and communicated by INSSE) in year t-1 and RI initially forecast for the year t-1, if this difference was higher than 1%.

(2) Cumulated corrected RI are used both in the calculation of corrections and in determination of annual regulated income.

## 7.3. Annual corrections

### ART. 83

(1) Every year ANRE makes the correction of incomes due to:

- a) change of quantities of distributed electricity against the forecast quantities;
- b) change of quantities and acquisition price for regulated CPT compared to the forecast ones;
- c) annual change of uncontrollable operation and maintenance costs compared to the forecast ones;
- d) changes of incomes from reactive energy compared to the forecast ones ;
- e) non-realization / exceeding of investment programme approved;
- f) incomes from other activities carried out by the distribution operator.

(2) The competent authority establishes the regulated income and tariffs for the next year taking into account the justified corrections, with observance of limitation from art. 98.

(3) The corrections listed in paragraph (1) are discounted by RTS and as applicable by RI corrected, in nominal terms of the year when corrections were made.

### ART. 84

The competent authority checks the data and documents transmitted by distribution operators for justification of corrections required.

### ART. 85

(1) The distribution operators transmit until 1<sup>st</sup> October (registration date with ANRE) of each year t of a regulatory period p the quantities of distributed electricity, made for the first 8 months of the year t, and the forecast for the last 4 months of the same year, according to annex no. 8.

(2) For each voltage level, the quantity of electricity forecast to be distributed during the last 4 months of the year t is equal to the quantity of electricity distributed during the last 4 months of the year t-1 multiplied by the increase/decrease index of quantity of electricity distributed in the first 8 months of the year t compared to the quantity of electricity distributed in the first 8 months of the year t-1.

(3) Exception from paragraph (2) is the case in which for the last 4 months of the year t the distribution operator has knowledge of the significant increase/decrease of consumption of electricity, which must be proven by supporting documents, in this case we will not apply the increase index defined previously.

(4) The correction of quantities made in the last 4 months of the year t is made in year t+1 by comparison with the quantities forecast in the year t for the last 4 months of the year t.

### ART. 86

(1) The variation of annual quantities of distributed electricity is taken into account in the calculation of correction of regulated incomes for the year t+1.

(2) The quantitative differences are turned into differences of incomes by taking into account the tariffs of the year in which electricity was distributed.

(3) If the distributed quantity of electricity made is higher than the quantity of distributed forecast electricity, we determine a negative difference of incomes, which generates an adjustment in minus of the regulated income for the year t+1.

(4) If the quantity of distributed electricity made is lower than the quantity of distributed forecast electricity, we determine a positive difference of incomes, which generates an adjustment in plus of regulated income for the year t+1.

### ART. 87

(1) The increase/decrease of annual quantity of electricity distributed by more than  $\pm 20\%$  compared to the forecast quantity at the beginning of regulatory period is reported to the competent authority by the distribution operator within 30 days from observation.

(2) The competent authority determines the period of recovery of these income differences by the distribution operator or the period of repayment to users.

### ART. 88

(1) In the annual correction related to regulated CPT we take into account:

a) differences of quantities of regulated CPT forecast compared to the quantities made because of change of quantities of distributed electricity considered as percentage of regulated CPT applied to the electricity entered in distribution grid, for each voltage level;

b) the differences between the average acquisition price of electricity for coverage of regulated CPT forecast and actually made (including costs with transmission, system and market operation services ).

(2) the average acquisition price of electricity for coverage of regulated CPT recognized by the competent authority for year t is made, if it does not exceed a reference price determined by taking into account the average price established on the Centralized Market of Bilateral Contracts in proportion of 80% and the price established on Day-Ahead Market in proportion of 20%, for the year t.

(3) If the average acquisition price of electricity for coverage of regulated CPT achieved exceeds the reference price from paragraph (2), the average acquisition price of electricity for coverage of CPT recognized is determined based on the reference price and a cost of imbalances recognized as  $\pm 10\%$  of the quantity of electricity for coverage of CPT, in the limit of an increase by 2% of reference price.

(4) According to the evolution of prices on electricity market, ANRE can revise the proportion of increasing the reference price mentioned in paragraph (3).

(5) The average acquisition price of electricity for coverage of regulated CPT taken into account for the correction for one year t (8 months achieved + 4 months forecast) is a price determined according to paragraphs (2) and (3), for the first 6 months of the year t.

**ART. 89**

(1) If the distribution operator assures for OTS the transit of electricity at 110 kV, OD can request in the annual correction of a regulated CPT the consideration of another proportion of reduction at 110 kV compared to the one undertaken by the reduction programme of regulated CPT.

(2) The request of distribution operator must be accompanied by documents which show that the transit was made and was due to insufficient capacity of the transmission grid in that area.

**ART. 90**

(1) Distribution operators transmit until 1st October (registration date with ANRE) of each year t of a regulatory period the uncontrollable operation and maintenance costs for the distribution service, incurred in the first 8 months of year t and the last 4 months of the year t-1, according to annex no. 9.

(2) For the last 4 months of the year t we use the values obtained by division by 3 of the annual value of uncontrollable operation and maintenance costs for the year t, forecast at the beginning of regulatory period.

(3) For the correction of uncontrollable operation and maintenance costs for the year t we use the value of costs incurred in the first 8 months of the year t and the costs forecast in the reference year for the last 4 months of the year t, calculated according to the provisions of paragraph (2).

(4) The correction of uncontrollable operation and maintenance costs for the last 4 months of the year t is made in the year t+1.

**ART. 91**

(1) For a force majeure event, certified by the competent institutions of Romania, OD can request a compensation of force majeure costs after the realization of force majeure event.

(2) For force majeure events, the distribution operator has the obligation to draw up and keep all the documents established by ANRE by the Guidelines for completion of models for monitoring of distribution service.

(3) ANRE has the right to check by survey the documents from paragraph (2).

**ART. 92**

(1) For the setting of correction value we compare the values achieved with the forecast values, in nominal terms of the year for which the correction is made.

(2) The difference resulted (expressed in lei) is discounted by RTS and is added algebraically to the income for the following year.

**ART. 93**

(1) Every year t, the competent authority checks the realization of investment programme previously approved for the year t-1, including the investments made in addition and communicates to DO the accepted value of investments and the related amortization.

(2) According to investments made and checked according to paragraph (1), if the annual value achieved is lower than 80% of the annual value previously approved, ANRE makes in that year the corrections of amortization and profitability for those investments, by application of formula from art. 94.

(3) The investments made approved during a regulatory period are included in the calculation of BAR, according to the formula from art. 54.

**ART. 94**

(1) The correction DELTA V(I<sub>t+1</sub>) of regulated income of the year t+1 with the value of investments made in the year t-1 is calculated by the following formula:

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$$\begin{aligned} \text{DELTA } V(I_{t+1}) = & \text{RRR} \times [I(\text{realiz}, t-1) - I(\text{prognoz}, t-1)] \times \prod_{i=t-1}^t [1 + \text{RTS}(t)] + \\ & + [AM(\text{realiz}, t-1) - AM(\text{prognoz}, t-1)] \times \prod_{i=t-1}^t [1 + \text{RTS}(t)] \quad (\text{lei}) \quad (13), \end{aligned}$$

\*ST\*

where:

DELTA V(I<sub>t+1</sub>) - income correction applied in the year t+1 due to investments of the year t-1;

I(realiz, t-1) - value of investments made in the year t-1, in nominal terms of the year t-1;

I(prog, t-1) - value of investments forecast to be made in the year t-1, in nominal terms of the year t-1;

AM(realiz, t-1) - amortization of investments made in the year t-1, in nominal terms of the year t-1;

AM(prog, t-1) - amortization of all investments forecast to be made in the year t-1, in nominal terms of the year t-1;

RTS(t) - interest rate of government bonds considered for year t, in real terms;

RRR - regulated rate of return.

(2) The provisions of paragraph (1) do not apply for investments made in the last 2 years of a regulatory period.

**ART. 95**

(1) The income correction DELTA V(I<sub>t+1</sub>) resulted from the non-realization in any year t-1 of regulatory period p of investments approved by the competent authority is reduced from the regulated income of the year t+1, in nominal terms of the year t+1.

(2) For each year t of a regulatory period p, ANRE applies an income correction resulted from the application of provisions of art. 61<sup>1</sup> paragraph (4).

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Paragraph (2) of art. 95 was introduced by point 11 of [art. I of ORDER no. 112 of 29 October 2014](#), published in OFFICIAL GAZETTE no. 805 of 5 November 2014.

**ART. 96**

(1) Distribution operators transmit until 1st October (registration date with ANRE) of each year t of a regulatory period the incomes from reactive energy earned in the first 8 months of the year t and the last 4 months of the year t-1, according to annex no. 7.

(2) For the last 4 months of the year t we use the values obtained by division by 3 of the annual value of income from reactive energy for the year t, forecast at the beginning of regulatory period.

(3) For the correction of income from reactive energy for year t we use the value of income earned in the first 8 months of the year t and the income forecast in the reference year for the last 4 months of the year t, calculated according to the provisions of paragraph (2).

(4) The correction of income from reactive energy for the last 4 months of the year t is made in the year t+1.

#### ART. 97

Every year ANRE allots to users 50% of the gross profit obtained by distribution operators from other regulated and non-regulated activities for which assets are used and included in BAR.

#### ART. 98

The regulated income is limited by using the following formula:

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$$[1 + RI(t+1) - X(\text{final}) \pm S] \times \left( \prod_{i=1}^n \prod_{j=1}^m \prod_{ij}^t \frac{p_{ij}}{q_{ij}} \right) + \text{DELTA } V(t) = \prod_{i=1}^n \prod_{j=1}^m \prod_{ij}^{t+1} \frac{p_{ij}}{q_{ij}} \quad (\text{lei}) \quad (14),$$

\*ST\*

where:

DELTA V(t) represents the difference of income determined according to art. 83.

### 7.4. Quality of distribution service

#### ART. 99

The performance indicators of distribution service are established and monitored according to performance standard.

#### ART. 100

(1) Since the second year of the third regulatory period ANRE has introduced in the calculation of distribution tariffs a correction factor S regarding the observance of the minimum quality level imposed by the performance standard of electricity distribution service. By factor S we apply the prize/penalty to OD for exceeding/not observing the quality of distribution service provided compared to the quality established by performance standard.

(2) Factor S is determined according to a calculation methodology elaborated by ANRE.

#### ART. 101

The annual level of income volume associated to the prize/penalty for exceeding/not observing the quality indicators does not exceed 4% of the regulated income and is established by a consultative process.

### 8. Distribution tariffs

#### ART. 102

The tariffs of distribution activity cover the efficient costs of OD associated with the realization of electricity distribution service.

#### ART. 103

The tariffs for distribution service can be monomial or binomial and are differentiated by OD and voltage levels.

#### ART. 104

The specific distribution tariff is calculated for each voltage level as ratio between the regulated income and the quantity of electricity distributed at this voltage level for the calculation period.

#### ART. 105

(1) Since the third regulatory period, the distribution tariffs will not increase from one year to another in real terms by more than 10% for each of the specific distribution tariffs and by more than 7% for the average weighted tariff.

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Paragraph (1) of art. 105 was amended by [art. I of ORDER no. 165 of 7 December 2015](#), published in the OFFICIAL GAZETTE no. 908 of 8 December 2015.

(2) The competent authority can impose limitations in value of prices/tariffs which compose the tariffs basket cap.

(3) For the limitation of tariffs according to paragraph (1) and (2), the difference of income is settled in the next year/years in the limit of ceiling established for increase of tariffs.

#### ART. 106

The competent authority can impose additional ceilings of prices/regulated tariffs for avoidance of subsidies between different voltage levels.

### 8.1. Allocation of costs and application of tariffs for distribution service

#### ART. 107

The allocation of costs and establishment of tariffs for distribution service are made according to annex no. 1.

### 9. Transmission of data and information to competent authority for approval of tariffs for distribution service

#### ART. 108

(1) The information transmitted by OD to the competent authority is based on internal procedures for registration and keeping of data and is accompanied by explanation of hypotheses based on which the data transmitted is obtained.

(2) This information is compliant with:

a) accounting legislation in force in Romania;

- b) rules and internal accounting practices of OD;
- c) any other regulation issued by the competent authority.

#### ART. 109

Before the start of a new regulatory period p+1, OD transmits to ANRE, until 1 October (registration date with ANRE) of the last year of the regulatory period p, the following documents and information:

- a) request for approval of tariffs with accurate specification of required values, by observing the limitation imposed by the tariffs basket cap;
- b) general data, according to annex no. 3;
- c) costs and regulated incomes, according to annex no. 4;
- d) investment programme with details of estimated cost, financing sources and amortization related to new investments, according to annex 5;
- e) energy balance, according to annex no. 6;
- f) the reasons which were at the basis of substantiation of distributed electricity forecast and the forecast method used;
- g) other data, according to annex no. 7;
- h) detailed investment programme, according to annex no. 10;
- i) description and justification of methods used for allocation of costs, depending on the type of distribution tariff applied, respectively the structure of tariff basket cap, including other relevant documents;
- j) a letter of consent signed by the manager of the company regarding possible publication of data transmitted with specification of data which has confidential character or job secret, according to the legislation in force.

#### ART. 110

For the annual approval of tariffs, the distribution operator provides the competent authority the latest until 1 October (registration date with ANRE) of the current year t:

- a) the data necessary for the correction of quantities of distributed electricity, regulated CPT (quantity and price), according to annex no. 8;
- b) data necessary for the correction of uncontrollable operation and maintenance costs, incomes from reactive energy and profit from other activities, according to annex no. 9;
- c) data necessary for the correction of incomes for non-realization of investment plan;
- d) other data which ANRE considers necessary for approval of tariffs.

#### ART. 111

The annexes set out by art. 109 and 110 cannot be published in Official Gazette of Romania, Part I for technical editorial reasons and will be published on ANRE website, [www.anre.ro](http://www.anre.ro), at the date of coming into force of this methodology.

#### ART. 112

The competent authority can request or make independent checks and/or audit for any of the information it requested or which was provided to it according to the provisions of this methodology.

#### ART. 113

(1) The distribution operator has the obligation to transmit the competent authority any information or additional documents which the competent authority considers necessary for approval of distribution tariffs.

(2) The deadlines established by the competent authority (as entry date to ANRE) for transmission of data and information are compulsory, any information or documents transmitted after the deadline specified by ANRE are not taken into account.

(3) The competent authority monitors the costs and incomes of distribution operator according to the regulations in force.

(4) The information provided every year or for a regulatory period will be considered accepted if the competent authority did not request in writing any addition or change within 30 days from the date of registration with ANRE of the last data and/or information from the distribution operators.

#### ART. 114

After each regulatory period the competent authority initiates a consultation process with the distribution operators regarding the level of costs and incomes incurred/earned in the previous regulatory period and the proposals for the next period.

#### ART. 115

Based on the analysis conducted for setting tariffs, in the period 15 November-1 December of each year talks take place at the competent authority with each distribution operator, for the purpose of presenting the results of analysis conducted for setting the level of distribution tariffs for the next year.

### 10. Final provisions

#### ART. 116

The year 2013 represents a passage year from the second regulatory period to the third regulatory period.

#### ART. 117

For determination of income correction for the year 2013 we apply the [Order of President of National Energy Regulatory Authority no. 51/2012](#) for approval of specific tariffs for electricity distribution service provided by the main electricity distribution operators and we will add the corrections set out at art. 83 paragraph (1) letters d) and f).

#### ART. 118

In determination of the reference point for the controllable operation and maintenance cost mentioned in art. 27 paragraph (2) for the third regulatory period, the reference year is the year 2013.

#### ART. 119

In establishing the regulated base of forecast assets for the third regulatory period we take into consideration the value of the new investments made and recognized by ANRE in the year 2013 and their related amortization.

#### ART. 120

The difference of income resulted from the determination of corrections for the second regulatory period, and the corrections for the year 2013 will be distributed evenly in the third regulatory period.

#### ART. 121

In the calculation of profitability of regulated base of forecast assets for the third regulatory period we consider the regulated assets base calculated according to art. 119.

#### ART. 122

Repealed.

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Art. 122 was repealed by [art. 5 of ORDER no. 146 of 10 December 2014](#), published in OFFICIAL GAZETTE OF ROMANIA no. 903 of 12 December 2014.

[ART. 123](#)

The reference year for the CPT reduction programme for the third regulatory period is the year 2013.

[ART. 124](#)

(1) In the year 2014, ANRE is conducting a study through a consultant regarding the evaluation of CPT for electric distribution grids from each license area, correlated with its specific conditions.

(2) Since 2015, following the results of the study mentioned in paragraph (1), ANRE can change the annual reduction programmes of regulated CPT established according to art. 38.

[ART. 125](#)

Annexes no. 1-10 fac are part of this methodology.

[ANNEX 1](#)

To methodology

Allocation of costs and establishment of tariffs  
For distribution service

1. a) The distribution operator makes the structure and level of tariffs which form the tariff basket cap.

b) The competent authority has the responsibility of control of costs allocation and calculation of tariffs, transmitted by distribution operator according to the provisions of methodology.

2. In establishing the structure and level of distribution tariffs the distribution operator has in view the technical and economic conditions of distribution grid and the supportability degree of consumers according to the provisions of art. 79 and 105 of methodology.

3. a) The costs allocation method adopted by distribution operator must be made available to the competent authority and explained in the documentation transmitted for approval of tariffs.

b) The costs allocation method remains unchanged for a regulatory period. Any change of costs allocation method can be made only for the following regulatory period, after the explicit approval of regulatory authority.

4. The justified costs are allotted by distribution operators according to the established structure of distribution tariffs.

5. a) The value of plant assets which by their nature cannot be allotted directly to a voltage level is distributed by voltage levels by using as allocation key the weight of category of installations on voltage level out of total categories of distribution installations.

b) The competent authority has the right to analyse and check whether the legal provisions are observed regarding the avoidance of cross subsidy.

6. In determination of CPT by voltage levels, the losses in power transformers are attributed to CPT for the lower voltage level.

7. For each voltage level (specified by index "J") we determine the electricity distributed by it  $E(J)$ , for the distribution service provided, except for the energy transited towards the other distribution operators and/or OTS.

$$E(J) = E(CE, J) + E(F, J) + E(T, J) \quad (\text{MWh}) \quad (15),$$

8. a) In the reference year of any regulatory period, distribution operators are obliged to propose the competent authority a methodology for allocation of operation and maintenance costs, amortization recognized by the competent authority and the profitability of regulated assets base by voltage levels.

b) In the absence of proposal, the competent authority will impose such a methodology without the consultation of distribution companies.

9. The cost of electricity for covering own regulated technological consumption is allotted by voltage levels by using as breakdown key the weight of CPT (MWh) by voltage level in total CPT (MWh).

10. a) The distribution tariffs for the year  $t+1$  are obtained from the regulated income for the year  $t+1$ , which includes the corrections for the year  $t$  and the difference of incomes from year  $t$  resulted from the application of limitation in year  $t$  of distribution tariffs, by the following formula:

$$TD(t+1) = TD(t) * [1 + RI(t+1) - X(\text{final}) \pm S] \quad (\text{lei}) \quad (16),$$

where:

$TD(t+1)$  - average weighted tariff for the year  $t+1$ ;

$TD(t)$  - average weighted tariff in force in the year  $t$ .

b) The increase of average weighted tariff (expressed in real terms) cannot exceed the limits imposed by ANRE from one year to another, according to the provisions of methodology.

11. The distribution tariff applies to the voltage level related to the delimitation point between the distribution operator and the user, by summing up the tariff for the voltage level, with the specific tariffs for the higher voltage levels, with observance of the provisions of regulations in force.

12. Since the third regulatory period, distribution tariffs can be binomial including a term expressed in lei/MW and a term expressed in lei/MWh.

[ANNEX 2](#)

To methodology

Classification and regulated minimum running lives of plant assets

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Code of plant asset	Name of plant asset	DNF regulated [years]
	Constructions	
1.1.3.	Hydroelectric power plants, power stations and substations, switching substations, apart from:	50
1.1.3.1.	special metallic constructions	40
1.1.3.2.	special concrete constructions	30
	Constructions for the transmission of electricity	
1.7.1.1.	air lines on wooden pillars	15
1.7.1.2.	air lines on metallic pillars or reinforced concrete pillars	40
1.7.1.3.	underground	30
	Electric force installations	
1.7.2.1.	air or apparent	12
1.7.2.2.	buried	12
1.7.2.3.	in tube, channel or protection tunnel	30
	Machines and energy machinery	
2.1.16.3.1.	Transformers and self-transformers	24
2.1.16.3.3.	Batteries of accumulators; installations for compensation of reactive power	12
2.1.16.5.	Devices for electric stations and substations Equipment for thermal, electric and nuclear plants	15
	Devices and installations for measuring electric sizes	
2.2.3.2.	Other devices and installations for measuring electric sizes electromagnetic and radiometric installations not found in class 2.2.3.	15
2.2.3.1.	Waston Elements; portable devices	6
	Electronic equipment	
2.2.9.	Electronic computers and peripheral equipment . Cash, control and invoicing machines	6
	Means of transport	
2.3.2.1.1.	cars apart from:	8
2.3.2.2.9.3.	other vehicles with special destination	10
3.1.1.	Furniture (including the commercial and hotel furniture)	15
3.2.2.	Telecommunication devices for office: telephone devices, telefax devices, telex devices, radio command devices, person searching devices etc.	8
3.3.5.	Systems for identification and control of access, surveillance and anti-burglary alarm	12
2.1.17.3.1.	Air conditioning devices	10
2.1.17.3.	Ventilators, forced convection air heaters and mini thermal power plants on wall or floors	10
	Licenses and software systems	6

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