

**THE ELECTRICITY LAW**  
**No. 13/2007**

**CHAPTER 1**  
**Background**

**Art. 1.** – (1) The present Law sets the regulatory framework for carrying out activities in the field of electricity and heat produced from co-generation under conditions of accessibility, availability and affordability in order to optimise the primary energy sources in compliance with the security, quality and environmental protection norms.

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

- a) batteries, mobile groups, electric installations integrated in any kind of vehicle;
- b) electricity stationary sources of direct current;
- c) energy installations on territorial sea which are not connected to the electricity grid

**Art.2.** - Activities in the sectors of electricity and heat from co-generation are meant to:

- a) Ensure a sustainable development of the national economy.
- b) Diversify the primary energy resources.
- c) Create and ensure the functioning of competitive electricity market.
- d) Ensure regulated and non-discriminatory access of all electricity market participants to public transmission and distribution networks.
- e) Ensure transparency of electricity tariffs, prices and taxes within the applicable tariff policy – with a view to increase efficiency upon electricity generation, transmission, distribution and use.
- f) Ensure safety fuel stocks for the generation of electricity as well as of heat produced from co-generation.
- g) Ensure the interconnection of the National Power System (SEN) to the national power systems of neighbouring countries and to the UCTE power systems (Union for the Co-ordination of Transmission of Electricity).
- h) Promote the use of new and renewable energy resources.
- i) Ensure environmental protection at local and global level, in accordance with the legal current regulations.
- j) Ensure security measures in order to prevent and fight against terrorist and sabotage acts upon the infrastructure of the National Power System.
- k) Ensure security for the functioning of the National Power System;
- l) Ensure security of supply for consumers;
- m) Promoting the generation of electricity made in high efficiency co-generation systems, associated to the heat energy delivered to cover a justified economic consumption

## Definition of terms and expressions

**Art. 3.** – For the purpose of this Law the terms and definitions herein have the following meanings:

1. **Access to the public electricity network** means the right of undertakings generating and/or supplying electricity and the right of electricity consumers to get connected to and use, under the provisions hereof, the transmission and distribution networks.
2. **Competent authority** means: The Romanian Energy Regulatory Authority - ANRE.
3. **Failure** means an event implying dangerous deviations from the parameters stipulated in the technical norms in force.
4. **Interconnection capacity** means the equipment by which the connection of two or several electricity systems is performed.
5. **Energy capacity** means the units generating electricity and heat from co-generation, the electric networks and other electric power equipment.
6. **Power plant** means the group of installations, constructions and equipment required in order to generate electricity.
7. **Co-generation plant** means the group of installations, constructions and equipment required for the generation of combined heat and power.
8. **Customer** means any legal or natural person with whom electricity is traded.
9. **Electricity customer** means any legal or natural person buying electricity for his own use and, possibly, for a sub-consumer connected to its installations.
10. **Eligible electricity customer** means the consumer that is free to purchase electricity from the supplier of his choice and has access to the transmission and/or distribution networks.
11. **Final client** means any legal or natural person that buys electricity for his own use.
12. **Non-residential customer** means any legal or natural person purchasing electricity which is not for their own household use and shall include producers and wholesale customers;
13. **Congestion** means the situation in which, when programming the functioning or when functioning in real time, the power flow between two nodes or system zones leads to non-observance of the security parameters for the proper operation of the SEN, requiring corrective actions from the transmission system operators.
14. **Captive customer** means the electricity consumer who, for technical economical or regulation-related reasons, is unable to purchase electricity from the supplier of his choice, as well as the eligible consumer that doesn't use his right to choose his supplier.
15. **Residential customer** means the customer purchasing electricity for their own household consumption, excluding commercial or professional activities.
16. **Electricity customer** means final customer, legal or natural person purchasing electricity for his own use.
17. **Eligible electricity customer** means electricity customer who is free to purchase electricity from the supplier of their choice and to directly contract the

necessary electricity, having access to the transmission and/or distribution network.

18. **Vulnerable customer** means residential consumer who, for reasons of illness, age, or of other nature and through decision of Government and of the local public administration benefits from facilities in connection with the electricity supply service.
19. **Control over an undertaking** - means the rights, contracts or any other methods by which, separately or together and taking into consideration the laws and the facts involved, are granted to an undertaking in order to exercise a decisive influence over another undertaking, especially through: a) a title of property or the right to use all or part of the assets of an undertaking; b) rights or contracts that confer a decisive influence upon the structure, voting rights or decisions made by the internal administrative board of an undertaking.
20. **Passageway of the electric line** means 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 and the safety zones.
21. **Electricity distribution** means the transmission of electricity through high, medium and low voltage distribution networks with a nominal tension of maximum 110kV, for the purpose of delivering it to the customers, without including supply.
22. **Commercial operation of an energy capacity** means the group of activities developed by an undertaking in the field of electricity according to a license granted under the present law.
23. **Electricity supply** means the activity of trading electricity to customers
24. **Supplier** means a legal person, holder of a supply license.
25. **Supplier of last resort** means the supplier means the supplier designated by the competent authority to deliver the service of electricity supply under specific regulated conditions
26. **Default supplier** means the supplier designated by the competent authority, which holds a distribution license as well as a concession contract for delivering the electricity supply service exclusively in an assigned area or the successor of the legal person which develops the distribution as well as the and supply activity upon the time of the entering into force of the present law;
27. **Guaranty of origin** means the document granted to electricity producers by the competent authority which certifies that the generated electricity is produced from renewable energy sources or in cogeneration;
28. **Metering unit** means an aggregate made up of a meter and the associated metering transformers and all the intermediary parts of the electricity metering circuits, including the safety-ensuring parts.
29. **Direct line** means the electricity line which connects an isolated production energy capacity to an isolated customer or the electricity line that connects an energy electricity generator and/or an energy supplier, in order to supply energy directly to their own headquarters, to their secondary headquarters, to their subsidiaries or to the eligible clients of the latter.

30. **Energy efficiency/demand-side management** means a global or integrated approach aimed at influencing the amount and timing of electricity consumption and peak loads by giving precedence to investment in energy efficiency measures, or other measures, such as interruptible supply contracts, over investment to increase generation capacity, if the former are the most effective and economical option, taking into account the positive environmental impact of reduced energy consumption and the security of supply and distribution cost aspects related to it;
31. **Congestion management** means the totality of activities, programs, actions developed by the transport and system operator in order to eliminate the congestions that occur when programming the functioning or when functioning in real time of the SEN.
32. **Natural monopoly in the energy field** means a market circumstance in which the transport and, respectively distribution services are provided, each one of them, by a single company for all the consumers across an assigned territory.
33. **Operator of the centralised electricity market** means the undertaking holder of a license that ensures the organisation and administration of a centralised electricity market.
34. **Distribution system operator (DSO)** means any person that, under any title, holds a distribution license that is operates, ensures the maintenance, and, if necessary, develops the electricity distribution network in a certain area and, where it is applicable, its interconnection with other systems, and the provide of the long term capacity of the system to answer to reasonable demands on electricity distribution.
35. **Transmission system operator (TSO)** means any legal person, holder of an electricity transmission license which ensures the operation, maintenance and, if necessary, the development of the transmission grid and, where applicable, ensures its interconnection with other power systems and ensures the long term capacity of the system to cover the reasonable demand for electricity transmission.
36. **Affiliated undertaking** means any undertaking that controls, directly or indirectly, the specified undertaking, is controlled by it or, in common with this undertaking, is subject to a control
37. **Horizontally integrated undertaking** means an undertaking performing at least one of the functions of generation for sale, or transmission, or distribution, or supply of electricity, and another non electricity activity.
38. **Vertically integrated undertaking** means an undertaking or a group of undertakings whose mutual relationship are defined in the present law, and who perform at least one of the functions of transmission or distribution and at least one of the functions of generation or supply of electricity;
39. **Merit order** means the order in which an electricity producer is taken into consideration according to the price offered to cover the National Power System (SEN) electricity demand.
40. **Wholesale electricity market** means an organised framework where suppliers purchase electricity from the generators or from other suppliers for resale purposes.

41. **Electricity market** means the organisational framework where electricity and associated services are traded.
42. **Centralised electricity market** means the organised framework in which electricity transactions are being made by different undertakings and are usually intermediated by a central counterpart, on specific norms, approved by the competent authority.
43. **Retail electricity market** means an organised framework where customers purchase electricity from the suppliers or the producers for consumption purposes;
44. **Plan for the protection of the national power system against major disturbances** means a document that comprises technical and organisational measures taken with a view to preventing extension of disturbances in the system and restraining the consequences
45. **Long-term planning** means the planning of the need for investment in generation, transmission and distribution capacity on a long-term basis, with a view to meeting the demand for electricity of the system and securing supplies to the customers.
46. **Electricity producer** means a legal or natural person holding a license for the generation of electricity, including heat in co-generation.
47. **Distributed generation** means electricity generation capacities connected directly to the electricity distribution networks;
48. **Priority production** means the electricity production produced from renewable energy sources or from efficient co-generation taken with priority on the electricity market;
49. **Rehabilitation** means the set of operations carried out in order to restore to former technical status and efficiency certain power equipment and/or capacities without altering their original technological conception.
50. **Retrofitting** means the set of operations carried out in order to replace the existing morally and/or physically obsolete equipment with state-of-the-art technologies in order to increase activity efficiency, reduce specific energy consumption, mitigate polluting emissions, etc.
51. **Electricity network** means all the electricity lines, including their support and protection elements, the sub-stations and other electric power equipment connected to each other through which electricity is transmitted from a power capacity to a user. The electricity networks can be a transmission network or a distribution network.
52. **Electricity distribution network** means an electric power network with voltage values of up to 110 kV, including.
53. **Public electricity network** means the electricity network to which at least two users can be connected.
54. **Electricity transmission network** means the electric power network of national and strategic interest with rated voltage higher than 110 kV.
55. **Electricity sector** means all the activities and the capacities involved in the generation of electricity and co-generation of heat, in the electricity transmission, in ancillary services, in distribution and supply, including the import and export of electricity and the customary and/or emergency

exchanges with the national power systems of neighbouring countries., as well as the associated facilities;

56. **Electricity distribution service** means the service provided by the transmission system operator consisting in the transmission, under efficiency and safety conditions, of a certain amount of electricity to two or several points of the distribution network, at the required quality standards.
57. **System services** mean the services provided by the transmission system operator and the distribution system operator in order to ensure the safe operation of the power system and the quality of the transmitted energy at parameters specified in the norms in force.
58. **Ancillary services** mean the service generally provided by the producers upon the request of the transmission system operator.
59. **Electricity transmission service** means the service provided by the transmission system operator consisting in the transmission, under efficiency and safety conditions, of a certain amount of electricity to two or several points of the transmission network, at the required quality standards.
60. **Electric power system** means all the interconnected electric power capacities providing the generation, transmission, dispatch, distribution and use of electricity.
61. **Isolated power system** means the local electricity generation, transmission and distribution system that is not interconnected with SEN.
62. **National Power System (SEN)** means the power system situated on Romania's territory. SEN is the basic infrastructure that is jointly used by all electricity market participants.
63. **Interconnected system** means a number of transmission and distribution systems linked together by means of one or more interconnections;
64. **Performance standards for the transmission, distribution and supply services** means the set of regulations issued by the competent authority in order to set up performance indicators for the services of transmission, distribution and supply;
65. **Electricity transmission** means the transmission of electricity from the generation capacities to the distribution equipment or to the consumer installations connected directly to the electricity transmission networks, without including the activity of supply.
66. **Electricity network user** means the producer, transmission system operator, distribution system operator, supplier, eligible consumer or captive consumer, connected to an electricity network;
67. **Protection zone** means the area, also expanded in space that is adjacent to the energy capacities in which interdictions are imposed regarding the access of people and the land use regime.
68. **Safety zone** means the area, also expanded in space that is adjacent to the energy capacities in which interdictions and restrictions are imposed in order to ensure the proper functioning of the capacities and avoid putting population, goods and environment at risk; the safety zone includes the protection zone.

## **CHAPTER II**

### **Authorities and Competencies**

#### **Energy strategy and policy**

**Art. 4. - (1)** The national energy strategy defines the energy sector targets as well as the most appropriate ways to achieve these targets, ensuring a sustainable development of the national economy on long and medium run. The energy strategy is issued by the Government, under consultation with the non-governmental organisations and is approved by law.

**(2)** The energy policy is issued on medium run by the competent ministry in compliance with the government programme and the directives set by the energy strategy and under consultation with government and non-government organisations, having in view the possible evolutions on long run and taking into consideration mainly the following:

- a) Creating the appropriate institutional framework by defining the competent bodies and authorities to implement this policy;
- b) Ensuring security of fuel supply;
- c) Ensuring import and export of fuels and energy;
- d) Ensuring protection of the environment and rehabilitation, in an environment-friendly manner, of sites affected by energy sector activities;
- e) Ensuring transparency of pricing and tariffs for fuels and energy;
- f) Increasing the efficient use of energy and fuels;
- g) Developing energy renewable sources and high efficiency cogeneration, prioritising the electricity sources for island regions;
- h) Enhancing international co-operation in the energy field.

**(3)** Financing for the implementation of the national energy strategy and of the Government energy policy is ensured through funds coming from sector undertakings, state and local budgets, loans and grants.

**(4)** Support measures of state aid nature proposed in order to implement the national energy strategy and the Government energy policy in the electricity sector and the ones provided under the present law will be approved and granted only as per specific laws in force.

#### **Energy programme**

**Art. 5. – (1)** The energy policy is described in a programme, approved through Government decision, to include the measures to be taken in order to stimulate sector investments, research and development activities, etc.

**(2)** The Government, the competent ministry and the other public administration bodies take measures to carry out the objectives given in the programme described under paragraph (1) and examine, yearly or whenever deemed necessary the progress of their fulfilment.

## **The tasks of the competent ministry**

**Art. 6. - (1)** The competent ministry issues the national energy strategy and the energy policy and ensures the fulfilment of its directives, under the present law, having the following main tasks:

- a) Draw up programmes and action plans in order to implement the Government's policy for the electricity sector, including programmes for energy efficiency and for promotion of renewable energy sources.
- b) Draw up normative acts for the electricity sector.
- c) Draw up studies based on which priorities concerning the strategically investments in electricity sector are set.
- d) Draw up the programme for fuel safety supplies and monitor the implementation of its provisions by sector undertakings.
- e) Monitor on a permanent-basis, through competent institutions and authorities, the performances and quality of sector technologies and capacities and initiate measures for improvement.
- f) Act as a concession granting authority for the electricity sector.
- g) Take steps to building electricity generating capacities to allow the use, under cost-effective conditions, of domestic low quality fuels and the use of pre-established quantities of renewable and unconventional sources.
- h) Monitor the implementation and observance, by all participants developing activities in the electricity sector, of measures set for environment protection.
- i) Draw up programmes to diversify primary energy resources and propose the Government the appropriate measures for in this respect.
- j) Implement the Government energy policy regarding the use of co-generation, as an efficient solution to covering the national heat consumption, and of renewable energy sources – solar, wind, geothermal, biomass and biogas.
- k) Co-ordinate the co-operation with similar institutions in other countries as well as with international organisations in the field.
- l) Endorse together with the Ministry of Labour, Social Solidarity and Family the labour protection norms in the energy field.
- m) Draw up and substantiate, together with the Ministry of Labour, Social Solidarity and Family, the employer associations and the trade unions, the proposals for the energy sector social policy as well as the programmes for social and medical assistance, for insurance against accidents and occupational risks and for recovery of those who have suffered labour casualties or occupational illnesses.
- n) Ensure the monitoring of the compliance with the commitments assumed under the EU accession treaty for the energy sector.
- m) Define the critical infrastructure of the SEN
- o) 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) Recommend the Government, together with other state institutions and authorities with competencies in the field, appropriate measures to ensure the

SEN fuel safety supplies for the cold season and the water level in the reservoirs.

### **The competent authority**

**Art. 7.** - (1) The competent authority in the electricity sector is the Romanian Energy Regulatory Authority (ANRE), an independent public legal person of national interest under the co-ordination of the Prime Minister, which develops its activity according to its own operation and organisation rules approved through Government decision;

(2) ANRE is entirely financed from funds outside the state budget;

(3) ANRE can establish its own territorial structures without legal personality.

### **ANRE financing**

**Art. 8.** – (1) ANRE is entirely financed from funds outside the budget through fees obtained for licenses, authorisations and other regulatory activities levied upon the regulated companies and through funds provided by international organisations, as per the legal provisions on public finances.

(2) Under the provisions hereof, fees under paragraph (1) are set by ANRE on a 4-year basis and made public, subsequently.

(3) ANRE draws up its annual budget according to the methodological norms in force.

(4) Annual balances resulting from the yearly budget execution are at ANRE disposal to be used in the following year for the same purposes.

### **ANRE management**

**Art. 9.** - (1) ANRE is managed by a president and a vice-president appointed by order of Prime Minister upon the proposal of the competent minister for a period of 5 years. The president represents ANRE in the relationship with the thirds.

(2) A Regulatory Committee made up of the president, vice-president and 3 regulators is set up in order to approve the regulations established by ANRE.

(3) The three regulators in the Regulatory Committee under par (2) are appointed by the Prime Minister at the proposal of the competent minister for a period of 5 years.

(4) The Regulatory Committee operates according to the organisation and operation rules approved by decision of ANRE President.

(5) The mandate of a Regulatory Committee member shall cease:

a) Upon termination of appointment

b) Upon resignation

c) In case of decease

d) If conclusively unable to fulfil the tasks as a result of an unavailability exceeding 60 consecutive days

e) Upon occurrence of one of the incompatibilities provided in par (5)

f) Through revocation, for failing to meet the requirements of the mandate or for criminal prosecution on the grounds of a Court's final decision.

- (6) The revocation of a Regulatory Committee member mandate is made by the appointing authority.
- (7) The position of the Regulatory Committee member is incompatible with the exertion of any trading activities and other civil servant or dignitary functions, with the exception of the academic position, according to the law.
- (8) ANRE orders and decisions are adopted within the Regulatory Committee by a majority vote.
- (9) ANRE orders are published in the Official Gazette of Romania, Part I. Orders and decisions issued by the president in exercising his duties can be appealed in the Administrative Litigation Division with the Bucharest Court of Appeal within 30 days following publication in Romania's Official Gazette, part I, respectively from the date of notification of the parties involved.
- (10) Orders and decisions mentioned in par. (10) are mandatory for parties until the final irrevocable court judgment is pronounced.
- (11) The Regulatory Committee is assisted by an Advisory Council made up of 11 members appointed by order of the relevant minister, of which:
- a) 1 member – representing the specialised department in the competent ministry
  - b) 2 members – representing the employer associations in the energy field
  - c) 2 members – representing the trade unions in the energy field
  - d) 1 member – representing the public administration associations in the energy field
  - e) 2 members – representing the professional organisations in the energy field
  - f) 3 members – representing the large electricity and heat consumer associations.
- (13) Advisory Council members have the right to settle the travel and accommodations expenses incurred if the meeting takes place in a different location than the one of their residence, by ANRE.
- (14) The Advisory Council supports the harmonization of the interests of both sector undertakings and consumers assess the impact of ANRE regulations and make suggestions for improvement as per ANRE organisation and operation rules.

### **Employment and payment of ANRE staff**

- Art. 10** – (1) ANRE personnel is employed and released from their functions as per the provisions of ANRE organisation and operation rules, of the collective labour contract and of the legal regulations in force. Incompatibilities specified under art. 9, paragraph (7) apply to ANRE personnel, as well.
- (2) Salaries of ANRE personnel are set through negotiation under the provisions of both the collective and the individual labour contracts as per the current regulations regarding public institutions entirely financed through funds coming from their own income.

## **ANRE tasks**

**Art. 11.** - (1) ANRE issues, sets up and monitors mandatory regulations to be implemented at national level with a view to ensuring the proper functioning of the electricity sector and market in terms of efficiency, competition, transparency and consumer protection.

(2) ANRE has the following tasks and competencies:

- a) Set up mandatory regulations for undertakings in electricity sector;
- b) Issue, grant, suspend or withdraw authorisations and licenses for undertakings in electricity sector, including for the producers generating heat in co-generation;
- c) Issue and approve calculation methodologies for prices and regulated tariffs;
- d) set up tariffs for captive consumers as well as the criteria and rules in order to establish the tariffs applied by the last resort supplier;
- e) Set up the prices and tariffs applicable among undertaking from the electricity sector on the regulated electricity market, tariffs for system services and for services related to electricity transmission and distribution, prices and tariffs applied to activities and services related to the production of heat from co-generation supplied for residential consumption after consulting, in order to ensure the final consumer protection.
- f) Set up framework contracts for electricity supply and framework contracts for electricity selling, purchase, transmission, dispatch and distribution operating among undertakings as well as for the sale of heat produced in co-generation;
- g) Draw up the Regulation for electricity supply to the consumers, approved through Government Decision;
- h) Approve technical and commercial norms for undertakings in the sector;
- i) Perform control activities in order to assess undertakings compliance with the existing regulations, with the pricing and tariff system in force and levy penalties for non-compliance;
- j) Set up the procedure for the resolution of pre-contractual disputes and settle possible disputes occurring among undertakings in electricity sector upon the conclusion of contracts, the electricity supply contracts and network connection as well;
- k) Set up its own monitoring and control procedures in order to assess compliance of undertakings with the existing pricing and tariff system;
- l) draw up as per the provisions of the law its own regulation for the identification, notification and penalization of violation of sector regulations;
- m) Draw up the regulation for the power engineers authorisation and undertakings certification to design, construct, verify and operate energy capacities, respectively facilities;
- n) Monitor the enforcement of the specific electricity sector regulations;

- o) Notify the competent ministry and the Competition Council with respect to the abuse of the dominant position on the market and the breach of the legal provisions referring to competition whenever non-compliance with the regulations on competition and transparency is found;
  - p) Create and implement a national data basis required for the unfolding of its own regulatory activity and for the dissemination of information to other authorities involved in the drawing up of sector development strategy as well as in connection with the international trade and practices in the field that will be transmitted to the undertakings involved;
  - q) Draw up the regulation regarding users connection to the public electricity networks, regulation that is subject to Government approval;
  - r) Publish annual reports on its activity and on the development and functioning of the electricity market.
  - s) Organise, monitor and control the procedures mentioned in Art. 24;
  - (§) Collaborates with the regulatory authorities of neighbouring countries with a view to harmonizing the regulatory framework for the development of the regional electricity market, including the cross-border exchanges of electricity and the rules regarding the management of interconnection capacities;
  - (t) Certify the undertakings and authorise the electricians which design and construct electric power facilities in power systems;
  - (t) Certify the undertakings which provide electricity metering services, as per their own regulations;
  - (u) Monitors the electricity market in order to assess its level of efficiency, of transparency and competition based on its own rules;
  - (v) Issues the rules for the electricity supplier of last resort.
- (3) ANRE monitoring activity refers mainly at:
- a) Management regulations and interconnection allocation capacity, in cooperation with regulatory authorities from the countries with which SEN is interconnected;
  - b) Congestion management in SEN;
  - c) Duration of the works for the connection to the transmission and the distribution networks by the involved operator and the duration for the re-connection after repairs;
  - d) Publication by the transmission system operator and by the distribution operator of adequate information regarding interconnection capacities, network use and allocated capacity, while preserving the confidentiality of the specific commercially sensitive information;
  - e) Effective separation of accounts, according to Art. 17, Par. (2), item b), in order to avoid cross-subsidies among electricity generation, transmission, distribution and supply;
  - f) Terms, conditions and tariffs for connection of new electricity producers, in order to guarantee that these are objective, transparent and non-discriminatory, especially taking into in consideration the costs and benefits of various

technologies related to electricity renewable sources, the supplied production and the production of heat in co-generation;

g) Methods in which the transmission system operator and the distribution operator fulfil their obligations mentioned in the current law;

h) Level of transparency and of competition related to the functioning of the electricity market.

(4) In discharging its tasks, ANRE works together with the Competition Council, the National Authority for Consumer Protection, with the ministries and other public local or central administration bodies, with the electricity consumer associations, with specialized undertakings who provide services for the sector, with the professional associations and the employer and trade union associations in the energy field.

### **Electrification of localities**

**Art. 12.** - (1) Local councils shall provide financing from local budgets, state budget or from other legally established funds for the electrification of the localities.

(2) The local public administration bodies and the competent ministry are responsible for the implementation and the development of electrification projects and programmes. .

## *CHAPTER III*

### ***Authorisations, Licenses and Concessions***

#### *SECTION 1*

### ***Authorisation and Licenses***

#### **Activities subject to authorisation**

**Art. 13.** - (1) Activities related to the establishment of new energy capacities and to the retrofitting of existing capacities are subject to establishment authorisation granted under the legal provisions in force.

(2) Generation, transmission, dispatch, distribution and supply of electricity as well as the activities of the electricity market operator and the ones related to the ancillary services are subject to licensing under the condition of the present law.

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

#### **Authorisation regime**

**Art. 14.** - (1) In order to obtain an authorisation, the applicant shall submit an application to the competent authority.

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

(3) Applicants under reorganisation or bankruptcy procedures or those from whom a license or an authorisation was withdrawn by the competent authority within a five- year period preceding the registration date of the application are not eligible for authorisation.

(4) The license/authorisation granting procedures, deadlines and conditions consisting of: criteria, power levels, certification, approvals, guarantees and alike, differentiated by category of capacities and by activities subject to authorisation, are set in the Regulation issued by the competent authority and approved by Government 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 capacities and/or for the small electricity generators shall take into considerations the limited size of the generation capacities and the impact on the functioning of the electricity distribution networks.

## **License and authorisation categories**

**Art. 15.** - (1) The competent authority issue:

1. Establishment authorisations for:

- a) The construction of new capacities for electricity generation and for heat from co-generation or for the rehabilitation of the existing capacities
- b) The construction and/or rehabilitation of electricity transmission lines and sub-stations
- c) The construction and/or rehabilitation of electricity distribution lines and sub-stations  
with 110 kV rated voltage.

2. Licenses for the:

- a) Commercial operation of electricity generating capacities and of capacities for heat from co-generation;
- b) Electricity transmission service
- c) System services
- d) Electricity distribution service
- e) Centralised markets administration activities
- f) Electricity supply activity

(2) Establishment authorisations for the construction of new capacities as specified in paragraph (1), item 1 are granted only for/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 held with other legal property title deeds.

(3) License for the commercial operation of new capacities are granted only for/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 held with other legal property title deeds.

## **Rights and obligations resulting from the establishment authorisation and from the license**

**Art. 16.** – (1) The construction and retrofitting works of the energy capacities for which authorisations are granted and the activities and services for which licenses are granted are of public interest, with the exception of the works, activities and services carried out to meet exclusively the own consumption demand of the authorisation/license holder.

(2) For the duration of the construction and of the retrofitting works, respectively of operation of the energy capacity, the license/authorisation holders have, under the terms hereof, the following rights over the land and assets in public or private ownership of natural or legal persons and over the activities the natural or legal persons carry out in the vicinity of the energy capacity:

- a) The right to use the land in order to carry out construction or retrofitting works of the energy capacity representing the object of authorisation;
- b) The right to use the land to ensure the normal operation of the capacity 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 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 goods;
- e) The right to have access to public utilities.

(3) Public utility is the object of the usage and access rights, and their legal nature and content are stipulated in art. 19; the usage and the access rights shall be exercised throughout the entire life span of the energy capacity or temporarily during retrofitting works upon an operating capacity, 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 capacities are exercised free of charge throughout the entire life span of the capacity.

(5) The usage and access rights over the private properties affected by the energy capacities that are to be erected 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, through Government Decision, upon the proposal of the competent ministry, within 6 months from the entry into force of the present law.

(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) License/authorization holders have the obligation to sign the framework-agreements specified in paragraph (7) within maximum 30 days from the date the affected owners submit the application.

(8) 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 capacity, under the current law.

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

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

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

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

(11) Holders of license/authorisation have the right to carry out 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.

(12) 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 up by the central and local public administration bodies.

### **Obligations resulting from establishment authorisations and licenses**

**Art. 17.** - (1) Holders of establishment authorisation have the following obligations:

- a) To set 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 undertakings and to draw up financial reports as per the standard format issued by the competent authority;

- c) To hold and maintain financial guarantees that 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 unfolding of the activity.

### **Public service obligations**

**Art.18.** - (1) In developing their activities, the establishment authorisation and the license holders shall observe the public service obligations regarding safety, quality, continuity of supply, energy efficiency and environment protection as well as the provisions in the direct contracts signed with the customers.

(2) The competent authority, through licenses or authorisations granted and through specific regulations, sets the public service obligations for each activity in the electricity sector

### **The rights and obligations of the holders of establishment authorisation/license over property of thirds**

**Art. 19.** - (1) The usage right over the land for the construction or the retrofiting of energy capacities is valid within the entire period required to complete the works. As per the provisions hereof, in exercising this right, authorisation/ license holders are entitled to:

- a) Store, on the private properties of the thirds, construction materials, equipment, gears and installations required for the carrying out of the works;
- b) Remove cultures or plantations or other existing developments or only restrict them inasmuch as it is strictly necessary to carrying out the works for the authorised capacity, 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, erect 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 out the works for the authorised capacity, in compliance with the legal provisions in force.

(2) The usage right under paragraph (1) ceases before the end of the period set 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 capacity, the usage right over the land shall range throughout the entire operation period of the capacity and shall be exercised whenever it is required to ensure the proper functioning of the capacity. 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 capacity;
- b) Install and operate gears;
- c) Remove cultures or plantations or other existing developments or only restrict them inasmuch as it is strictly necessary to carrying out the maintenance, repair and overhaul works to ensure the proper functioning of the capacity, 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 assets, lands and activities that are to be affected by the capacity 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 capacity site during the retrofitting, repair, overhaul and failure interventions.

(7) In order to avoid endangering persons, assets or other activities unfolding within the construction or retrofitting area of the energy capacity as well as within the zone where overhaul or repair works to the capacity under operation are performed, the holder of the license or of 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. 16 par. (2), the license or authorisation holder has the obligation to clear and restore the land to the former condition.

(9) The authorisation or license holder shall exert the right of access to public utilities stipulated in art.16 par (2), item e) in good faith and in a reasonable manner, without hindering the access of other persons to the respective public utilities.

### **Protection and safety zones**

**Art. 20.** – (1) Protection and safety areas shall be established for the protection and normal operation of the energy capacities and their annexes, as well as for avoiding endangering persons, assets and environment.

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

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

### **Expropriation**

**Art. 21.** - (1) The land required for the construction and operation of the energy capacity is the private ownership of either a third or of the holder of the authorisation or is a public property.

(2) If the land required for the construction and operation of the energy capacity is the private ownership of a third, 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 capacity's life span.

### **Modification of authorisation and licenses**

**Art. 22.** – Authorisations and licenses shall be modified if changes occur of the circumstances or of the conditions existing as of the date of the granting.

### **Suspension and withdrawal of authorisations and licenses**

**Art. 23.** - (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 tasks established in the authorisation, respectively in the license, identified by the competent authority ex officio or upon the notice of thirds 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 set period in order to remedy the situation created and to be in compliance 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) In all cases under par (1), the prejudiced persons may bring action in court against the holder in order to recover the damage caused.

(3) The competent authority shall suspend the establishment authorisation, respectively the license of the holder, if legal bankruptcy procedures start against the holder.

(4) 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 capacity or upon the sale of the capacity by the holder.

## **SECTION 2**

### **Procedures for new energy generation capacities**

#### **Tendering and other procedures**

Art. 24. - If on the basis of the authorisation procedure the generating capacity being built or the energy efficiency/demand-side management measures being taken are not sufficient to ensure security of supply for internal consumption, the competent 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 the existing generation units to place offers for the construction of new electricity generating capacities.

(2) Under paragraph (1) and in the interests of environmental protection and the promotion of infant new technologies, the competent ministry can launch a tendering procedure for the construction of new electricity generating capacities. This tender may relate to new capacity 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 procedures in Section I.

(4) The tendering procedure for the construction of new generating capacities, as well as the criteria for the selection of offers and the assignment of the contract shall be approved through Government decision, upon the proposal of the competent ministry and of the competent authority.

## **SECTION 3**

### **Concessions**

#### **The object of concession and the contracting authority**

Art. 25. - (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 be the object of the concession in the electricity sector.

(2) The competent 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 established 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 the granting, maintaining, suspension and withdrawal of the concession are set in the concession contract signed by the contracting authority and approved in compliance with the current law.

## CHAPTER V Electricity

### Electricity market

**Art. 26.** - (1) The electricity market consists of the regulated market and of the competitive market, and the electricity transactions shall be wholesale or retail transactions.

(2) The electricity market shall be gradually opened by increasing the competitive market percentage, according to the provisions of the energy sector strategy and policy and shall be approved through Government decision.

### Electricity market participants

**Art. 27.** - (1) Electricity market participants must observe the functioning rules set out by the competent authority and pay for the electricity and the services they benefit and which are derived from the transactions made in compliance with these rules.

(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, the eligible customer and the captive customer.

### Functioning of the regulated electricity market

**Art. 28.** - (1) The regulated electricity market and its associated services shall operate until the electricity market is fully opened.

(2) On the regulated electricity market, the competent authority shall establish the prices and the contracted quantities associated to the wholesale electricity transactions between the producers and the suppliers of captive customers.

(3) The electricity supply to captive customers is carried out at regulated tariffs, according to regulated contracts.

4) By exception from the provisions in paragraph (1), after the full opening of the electricity market, the prices and the contracted quantities associated to the wholesale transactions between the producers and the suppliers of the household customers can be set by the competent authority.

### The functioning of the competitive market

**Art. 29.** - (1) The competitive market operates according to regulations issued by the competent authority.

(2) Electricity transactions on the competitive market are either wholesale or retail.

**(3) Art. 27** – The competitive electricity market operates on:

- a) Bilateral contracts signed as a result of tenders held on the centralised market
- b) Bilateral contracts negotiated by the electricity suppliers with the producers;

- c) Contracts for the import and export of electricity
- d) Transactions through spot market bids;
- e) Other sector services transactions.

(4) On the competition retail market, suppliers sell electricity to their eligible customers through bilateral contracts at negotiated prices or through standard offers.

### **Transmission and distribution**

**Art. 30.** - (1) License holders and their customers have regulated access to public networks. The access to public electricity networks is a mandatory service provided, under regulated conditions, by the transmission system operator as well as by the distribution system operator.

(2) Access to the network can be restricted only if the network connection endangers the security of SEN due to the non-observance of the technical norms and of the performance standards specified in the technical regulations in force.

(3) Electricity network access disputes are settled by the competent authority.

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

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

### **The network connection contract**

**Art. 31.** – (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.

### **Generation of electricity**

**Art. 32.** – Generation of electricity and of heat from co-generation shall be ensured by license holders, according to the terms hereof.

### **Obligations of the producers**

**Art. 33.** – The electricity producers have, mainly, the following obligations to:

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

b) Offer, without discrimination, the entire quantity of electricity available and to provide ancillary services.

c) 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;

d) Operatively comply with the requirements of the transmission system operator and to set up, as adequate, their own levels of operative control.

### **The rights of the producers**

**Art. 34.** – 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 the competitive markets;

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

e) To commercialise heat produced from co-generation.

### **Electricity transmission**

**Art. 35.** - (1) Transmission of electricity is made by the transmission system operator, legal person, holder of a license.

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

(3) The land 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 expectancy of the grid.

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

### **Long term planning**

**Art. 36.** - (1) The transmission system operator has the obligation to issue long-term plans for the transmission according to the current stage and the future evolution of the energy consumption and of the resources, including the imports and exports of energy. The plans shall include the financial and investment means provided for the transmission installations, taking also into account the urban and regional planning for the area crossed by the transmission installations, in compliance with the environmental protection norms.

(2) The plans provided at paragraph (1) are subject to endorsement by the competent authority and shall be approved by the competent ministry.

### **The Transmission System Operator (TSO)**

**Art. 37** – (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 meeting the requirements hereof, in compliance with the norms and performance standards specified in technical regulations in force.

(2) The transmission system operator is allowed to take part in the trading of electricity only within the limit of the electricity quantity purchased in order to cover the electricity losses in its networks.

(3) The transmission system operator shall provide non-discriminatory system services for all SEN 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 and the co-ordination of electricity exchanges with other power systems.

(4) The transmission system operator shall carry out mainly the following activities:

a) Operate, retrofit, rehabilitate and develop: equipment in the electricity transmission networks, equipment for the metering of electricity flow in the transmission network and to the interface with the assigned electricity network users, the IT and telecommunication equipment in the SEN transmission networks;

b) Ensure the public electricity transmission service and the electricity transit on the Romanian territory, according to the contracts concluded;

c) Examine and endorse the compliance of the electricity transmission network users with the technical conditions for the connection to the network, as per the technical regulations in force;

d) Ensure the transmission of the electricity metering results to the market operator as well as the access of the transmission service beneficiaries to the metering units for verification purposes;

e) Carry out SEN operational scheduling and operative control through its dispatch centres at central and regional level based on its own forecasts according to the electricity market legal regulations in force;

f) Authorise the operative control staff according to regulations in force;

g) Collect, keep records and store statistical data regarding SEN operation;

h) exchange information with the interconnection partners and with other collaborators in the energy field, as per the UCTE regulations regarding the information exchange protocols, reports, structure and the procedures to access the databases; i) qualify the ancillary services suppliers based on in-house procedures approved by the competent authority;

j) Draw up and submit to the competent authority for approval, the technical norms and the specific regulations for the operative control activity after consultation with the electricity market participants;

k) Draw up, under the terms of the law, the plan for the protection of SEN against major disturbances; k) endorse the studies, programmes and works regarding SEN development;

l) Issue the studies, programmes and works required for the development of the SEN.

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

(6) The transmission system operator shall, in a unbiased manner, release data regarding its own activities which are required by the network users, disclosure of commercial information obtained while performing its activity being prohibited.

(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 shall be entirely allocated to the applicant generating the modification, according the regulations in force.

### **Independence of the TSO**

**Art.38.-** (1) If the transmission system operator is part of a vertically integrated undertaking, 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 addition to the requirements in 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 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 transmission system operator are taken into consideration in a manner that ensures that they are capable of acting independently;

c) The transmission 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 transmission system operator and to set global limits on the level of indebtedness of the subsidiary. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or rehabilitation of transmission lines, that do not exceed the terms of the approved financial plan or any equivalent instrument;

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

report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to ANRE. The first report shall be submitted to ANRE by December 31, 2007.

### **Interdictions**

**Art. 39.** For the protection of the transmission installations the natural or legal persons are prohibited to:

- a) Build any kind of constructions within the safety zones of the installations without the approval of the transmission system operator for the location;
- b) Make diggings of any kind or set up plantations within the safety zones of the electricity transmission networks without the transmission system operator's approval;
- c) Deposit materials on passageways and within the protection and safety zones 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 tags relating to the transmission equipment.
- 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.

### **The operator of the centralised electricity market**

**Art. 40.** - (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 allowed to disclose information related to electricity transactions it came upon while performing its activities only as per the provisions of the law.

(3) The electricity market participants shall have the obligation to transmit the operator of the centralised electricity market all the information needed in carrying out a transparent activity, according to the current regulations issued by the competent authority.

(4) Prices set on the centralised electricity markets shall be made public through the good offices of the operator of the respective market.

### **Distribution of electricity**

**Art. 41.** - (1) Electricity distribution shall be carried out by the distribution system operator, legal person and holder of a license.

(2) The distribution operator 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 land 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 the urban planning, the right of ownership, the environmental protection, the people's lives and health 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 shall be entirely allocated to the applicant generating the modification, as per the regulations in force.

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

### **The electricity distribution system operator**

**Art. 42.** - (1) The distribution system operator shall have the following main attributions:

a) Operate, retrofit, rehabilitate and develop electricity distribution networks, observing the technical regulations in force;

b) Ensure, 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 operator has not enough capacity through the transmission network to receive power injection from the electric power plants, including from co-generation plants, with a view to interconnecting with a neighbouring power system, under an existing bilateral agreement signed in this respect, in cases when SEN incidents occur and operation, maintenance or new works in the transmission network are carried out that render transmission in that zone temporarily unavailable;

c) Perform, 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) Ensure the operative control according to the distribution license;

e) Disclose, 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 carrying out its businesses;

f) Submit the repair and maintenance programme scheduled for the 110 kV to the transmission system operator for approval;

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

(2) In order to carry out the tasks 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.

### **Retransmission of electricity**

**Art. 43.** - (1) Any person 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) Connection of new users to its own distribution network shall be carried out only with the approval of the distribution operator that holds an exclusive concession contract in that respective area.

### **Limitation or interruption of the supply**

**Art. 44.** - (1) The distribution system operator is entitled to interrupt the supply of electricity in the following situations:

a) When life and health of people or the integrity of tangible assets is 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 SEN;

c) To perform operations and works that cannot be carried out without the interruption of the supply.

(2) The distribution operator has the obligation to notify, as per the conditions in 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 works.

(3) The distribution system operator shall be liable for damages caused to the consumers through his own fault.

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

### **Unbundling of distribution and supply**

**Art. 45.** – (1) Where the distribution system is part of a vertically integrated undertaking, it shall be independent at least in terms of its legal form, 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 of 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 global limits on the level of indebtedness of the subsidiary. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or rehabilitation of distribution capacities, 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 observance of it is adequately monitored. This programme shall set out the specific obligations of employees to meet this objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to ANRE. The first report shall be submitted to ANRE by December 31, 2007.

(3) Unbundling of activities and obligations defined in paragraphs.(1) and (2) shall be implemented by June 30, 2007, the latest, with the exception of the integrated electricity undertakings serving less than 100.000 connected customers or serving small isolated systems which are not compelled to implement the measures under paragraphs(1) and (2).

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

(5) The distribution system operator shall prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner.

### **Interdictions**

**Art. 46.** - For the protection of the electricity distribution networks the natural or legal persons are prohibited to:

- a) Build any kind of constructions within the safety zones 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 zones of the electricity distribution networks without the distribution system operator's approval;
- c) Store materials on passageways and within the protection and safety zones 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 tags 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.

### **Isolated systems**

**Art. 47.** - (1) Communities that, for technical or economic reasons, are not connected to the SEN networks may be supplied with electricity through isolated systems.

(2) Customers supplied through isolated systems shall pay the same price as the captive customers supplied through SEN for the consumed electricity or the local price set according to the provisions in paragraph (3).

(3) The competent authority shall establish the local price and the minimum requirements regarding the continuity and quality of the supply service.

(4) If local prices do not cover the costs related to the supply from a public electricity network, the difference shall be covered from the state budget.

### **The supply of electricity**

**Art. 48.** - (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 as per the values recorded by the metering equipment.

(3) The supplier that is also a distribution system operator has the obligation to conclude supply contracts with captive customers and with the eligible customers not exercising their eligibility right.

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

### **Obligation of the default supplier as regards the supply contracts**

**Art. 49.** – The default supplier must conclude supply contracts with the captive customers situated in the area assigned by the license.

### **Designation of the supplier of last resort**

**Art. 50.** - (1) The competent authority, on the basis of its own Regulation, shall designate the supplier of last resort for a period ranged within 1 to 5 years, starting July 1, 2007 and shall list the suppliers of last resort on its website and in the Romania's Official Gazette, part I..

(2) The supplier of last resort can be the supplier that supplies electricity to the majority of the household customers within the area assigned through license to a distribution system operator.

(3) If changes occur regarding the previous supplier following a designation under paragraph (2), the provisions in the supply contracts signed by the previous supplier with its customers shall apply under the same terms, conditions and tariffs operating at the time of the changing.

(4) The supplier of last resort shall supply electricity at tariffs set according to the regulations issued by competent authority.

### **Obligations of the supplier of last resort**

**Art. 51.** - (1) The supplier of last resort has the obligation to supply electricity to those eligible customers in its assigned area that have exercised their right to chose the supplier but whose supplier is about to lose its license in the course of carrying out its business or is unable to fulfil its supplying obligations towards its customers, the supply of the latter not being ensured by any other sources upon the time of the interruption or of the termination of the supplier's activity.

(2) The customer's transferral to the supplier of last resort is performed according to regulations issued by the competent authority.

### **Supply of electricity to household customers and to small undertakings whose maximum approved power in the technical permit for connection is up to 100 kVA, inclusive.**

**Art. 52.** – Suppliers that, at the time of the full opening of the electricity market, supply electricity to household customers and to small undertakings whose maximum approved power in the technical permit for connection is up to 100 kVA, inclusive, have the obligation to ensure the supply of electricity to the aforementioned customers and undertakings as well as to the new customers ranging within the same category, at regulated tariffs, until the latter use their eligibility right.

### **Contracting obligations**

**Art. 53.** - (1) Upon the written request of an electricity consumer, the supplier has the obligation, within no more than 30 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 as per the framework contract approved 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 customer may at any time terminate the supply contract, with a prior notification of 7 days for captive customers, respectively of 30 days for eligible customers.

(4) The supplier is entitled to terminate the contract only in the event of fraudulent consumption, repeated failure to pay the bills or in other situations provided under the current law.

#### **Payment of the supplied electricity**

**Art. 54.** - According to the provisions of the contract, customers have the obligation to pay the consumed electricity.

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#### **Responsibility of the customer**

**Art. 56.** - (1) The customer is liable for the damages caused, through its own fault, to the supplier, according to the conditions established in the supply contract.

(2) The electricity consumer's failure to observe the conditions in 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.

(4) In case of fraudulent consumption, the electricity consumer shall be disconnected from the electricity network, shall have to pay the value of the consumed electricity, and the costs related to the disconnection, assessed according to the technical norms in force.

(4) Electricity 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.

#### **The rights of the customer**

**Art. 57.** - 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 complementation 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 to take measures in order to remedy the faults and malfunctions occurring in electricity networks
- e) To request compensation from the supplier, according to the contractual provisions, if damages occur of supplier's fault or if the quality indicators are not observed.

### **The right of captive customers to choose the tariffs**

**Art. 58.** – Captive customers have the right to choose, until the full opening of the market, any type of regulated tariff, as per the conditions set in the contract.

### **Protection of vulnerable customers**

**Art. 59.** - (1) Vulnerable customers are entitled to receive state/local budget compensations in order to pay for their minimally required consumption.

(2) The categories of vulnerable customers, the aggregate of their minimal consumption and the customer protection mechanisms are set through Government decision.

### **Electricity metering**

**Art. 60.** - (1) Electricity traded on the electricity market shall be metered, by the metering operators, through metering equipment, according to the metering code issued by the competent authority.

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

- The transmission system operator, to ensure metering on the wholesale market;
- The generators
- The distribution system operators
- The customers

(3) The electricity network operator has the obligation to allow the users to additionally install metering units, upon their request and on their own expenses.

(2) In view of payment settlement, measurement transformers are ensured by the:

- Transmission system operator;
- Generators;
- Distribution system operators;
- Customers.

(3) The metering operators can be the:

- Transmission system operator

- Generators
- Distribution system operator
- Independent metering operator

(4) The transmission system operator, respectively the distribution system operator, have the obligation to provide metering services for the users of the respective electricity networks, directly or through an independent metering operator designated by the transmission or the distribution system operators, provided the costs of the said services are ranged within the costs recognised by the competent authority.

(5) Exceptionally, for the carrying out of the metering services, when the transmission or the distribution system operators fail to install metering units within the deadline and under the conditions set in the current regulations, the suppliers or their associated customers can choose, at their own expense and with the prior notification of the competent authority, an independent metering operator.

## CHAPTER V

### **Promotion of electricity produced from renewable energy sources and from high efficiency co-generation**

#### **Definition of sources**

**Art. 61.** – Under the present law, the following sources are defined as renewable energy sources:

- a) Wind
- b) Solar
- c) Tides and waves
- d) Geothermal
- e) Hydroelectric
- f) Biomass - 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;
- g) Landfill gas resulted from anaerobic digestion of waste in the landsite;
- h) Sewage treatment plant gas resulted from anaerobic digestion of the sewage in the treatment plant;
- i) Secondary gas products, obtained through anaerobic digestion of organic residual materials, forming the category of gas fuel;
- j) Alcohol fuel - liquid products obtained from the distillation of fermented organic material, forming the category of liquid fuel, referred to as alcohol fuel;
- k) Other renewable energy sources, not exploited so far.

### **The weight of electricity produced from renewable energy sources**

**Art. 62.** – The weight of electricity produced from renewable energy sources in the gross domestic electricity consumption is set through Government decision, upon the competent ministry's proposal.

### **Certification of electricity produced from renewable energy sources**

**Art. 63.** - Electricity produced from renewable energy sources is certified by the guarantees of origin issued by the competent authority.

### **The weight of electricity produced from renewable energy sources**

**Art. 62.** – The weight of electricity produced from renewable energy sources in the gross domestic electricity consumption is set through Government decision, upon the competent ministry's proposal..

### **Certification of electricity produced from renewable energy sources**

**Art. 63.** – (1) Electricity produced from renewable energy sources is certified by the guarantees of origin issued by the competent authority.

(2) The renewable energy sources and the support schemes are set through Government decision, upon the proposal of the competent ministry.

### **Co-generation technologies**

**Art. 67.** - The following co-generation technologies are defined under the present law:

- a) Combined cycle gas turbine with heat recovery;
- b) Steam back pressure turbine;
- c) Steam condensing extraction turbine;
- 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 co-generation**

**Art 68.** - With a view to promoting electricity from co-generation, the high efficiency co-generation is defined as the process that meets the following criteria:

- a) Primary energy savings of at least 10% as against the efficient reference values set through specific regulations for separate production of electricity and heat in co-generation plants with installed power of at least 1 MW
- b) Primary energy savings as against the separate production of electricity and heat in co-generation plants with installed power below 1 MW.

### **Guarantees of origin**

**Art. 69.** – Electricity produced from high efficiency co-generation is certified by means of guarantees of origin issued by the competent authority.

### **Trading electricity produced from renewable energy sources**

**Art. 70.** – The competent authority shall, through rules set out for the functioning of the electricity market, stipulate the priority takeover and the commercialisation of electricity produced from renewable sources as long as the safe operation of the SEN is not endangered.

### **Criteria to promote electricity produced from high efficiency co-generation**

**Art. 71.** – The criteria used for the promotion of electricity produced from high efficiency co-generation shall have in view the followings:

- a) Ensure the competitive access of electricity from co-generation with all the costs for high efficiency co-generation covered;
- b) The characteristics of co-generation technologies;
- c) The promotion of the efficient use of fuels;
- d) Environment protection by mitigating polluting emissions as against the separate production of electricity and heat.

### **Support scheme for the promotion of electricity produced from high efficiency co-generation**

**Art. 72.** - (1) Support schemes are applied for the promotion of electricity from high efficiency co-generation.

(2) Support schemes are set through Government decision upon the proposal of the relevant competent ministry.

### **Rules for qualification and commercialisation**

**Art. 73.** – (1) Qualification and commercialisation rules set out by the competent authority are applied to ensure access on the market of electricity produced in co-generation installations that are under operation upon the entry into force of the present law.

(2) The terms, conditions and the applicable period of the rules stipulated in paragraph (1) are set through Government decision, upon the competent ministry's proposal.

## **CHAPTER VI Prices and tariffs**

**Art. 74.** – The following prices and tariffs operate for the activities developed in the electricity sector on the electricity market for the activities developed in the electricity sector:

- a) Prices resulting from the electricity market competitive mechanisms;

- b) Regulated tariffs for the transmission, system and distribution services of electricity
- c) Regulated prices/tariffs for the supply of electricity to captive customers until the full opening of the electricity market, and for household consumers and consumers with maximum installed approved in the technical permit for connection of up to 100 kVA, after the electricity market is fully opened.
- d) Prices/tariffs applied by the supplier of last resort and the default supplier after the electricity market is fully opened;
- e) Regulated tariffs for the purchase of ancillary services until a competitive ancillary services market is created;
- f) Regulated tariffs for network connection;
- g) Regulated tariffs applied by the centralised market operators;
- h) Regulated prices for electricity generating activities, according to provisions in art. 28 paragraphs (2) and (3) and in art. 52;
- i) Regulated prices for heat supplied for residential consumption produced in co-generation installations
- j) Regulated tariffs for metering activities

### **Regulation of tariffs**

**Art. 75.** – Until the electricity market is fully opened, the same tariffs are applied to captive customers nationwide.

### **Prices and tariffs regulation methodologies**

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

(2) The competent authority shall approve the methodologies for prices and tariffs regulation, after informing and consulting the stakeholders.

### **Disclosure of costs and revenues**

**Art. 77.** – Electricity sector undertakings, holders of a license, and practicing regulated prices and tariffs shall submit the competent authority:

- a) The costs and revenues obtained separately from activities that are the object of the licenses granted under the structure set 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 the regulated costs and revenues**

**Art.78.** (1) In order to keep tariffs to captive customers under control, the competent authority shall approve the regulated cost/revenues for the selling/buying of electricity that are to be supplied to the said customers;

(2) Only exceptionally, in case of force-majeur or of changes at legislative level, the competent authority can approve that the regulated costs for selling/buying of

electricity supplied to captive customers and of the regulated costs for transmission and distribution services top the initial costs approved.

### **Principles for the substantiation of regulated prices and tariffs**

**Art. 79.** - (1) The electricity undertakings shall draft the proposals for the regulated prices and tariffs for electricity and for heat from cogeneration in compliance with the methodologies issued by the competent authority, and shall send the proposals to the competent authority, together with the substantiation documents issued in the standard format set by the latter.

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

(3) The order approving the regulated electricity prices and tariffs, applicable to 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 said prices and tariffs.

(4) The principles on which the regulated electricity prices and tariffs are established have in view the followings:

- a) Prices/tariffs must 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/tariffs must cover the economically justified costs
- c) Prices/tariffs must ensure the invested capital a reasonable rate of return set up as per the regulations issued by the competent authority.
- d) Regulated prices and tariffs for captive customers shall enable the latter to choose the most convenient type of price/tariff applied by the supplier under the conditions set by the competent authority;
- e) Connection tariffs shall include only the bare costs of the works for the connection of customers to the electricity network.

(5) Cross-subsidisation between regulated activities as well as between regulated and deregulated activities of an undertaking is prohibited.

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

### **Price/tariff cap**

**Art. 80.** – (1) The competent authority can limit the prices/tariffs by:

- a) Setting up a cap of the price/tariff proper (price-cap)
- b) Limiting the revenue obtained from the regulated activity in order to avoid the uncontrolled price hikes to the consumers.

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

### **Costs recovery**

**Art. 81** – (1) If additional conditions are imposed regarding the safety of the supply, the environment protection, including dismantling of nuclear power units or the energy efficiency, electricity market participants are entitled to recover the costs incurred with the implementation of such conditions.

(2) Costs recovery is made in compliance with the regulations issued by the competent authority.

### **Interdiction of subvention in co-generation**

**Art. 82.** – The undertakings that generate combined heat and power 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, cross-subvention between the two forms of energy being prohibited.

### **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 carried out based on contracts concluded with the beneficiaries.

## **CHAPTER VII**

### **Infractions and contraventions**

#### **Liabilities**

**Art. 84** – 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. 85** – (1) Stealing electricity is an infraction of theft and shall be punished according to the provisions of the Criminal Code.

(2) The deterioration, modification with no right or the blockage of the electricity metering equipment operation represent infractions and shall be punished with imprisonment for 6 months to 4 years.

(3) The deterioration, modification with no right or the theft of power installations components are infractions and shall be punished with imprisonment, according to the Penal Code.

(4) 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 for one to 5 years.

(5) In case the infractions provided by paragraphs (2) – (4) are committed by an employee of a license holder, the special minimum and maximum limit of the punishment shall be increased by one year.

(6) The attempt to the infractions provided by par (2) – (4) shall be punished.

## Contravention

**Art.86** – (1) The following deeds are considered contravention:

- a) The breach of the technical and commercial regulations issued by the competent authority, as well as the non-compliance with the conditions in the licenses and authorisations;
- b) influencing prices on the competitive electricity market;
- c) the unjustified refusal of producers to observe the obligations assigned to them according to art. 33;
- d) failing to take into consideration the operative decisions of the transmission system operator;
- e) the unreasonable refusal of the access of any applicant to the transmission and distribution networks;
- f) the refusal to transmit the offer regarding the conditions of electricity supply , according to Art. 53 par.(1);
- g) the refusal to allow the verifications and inspections provided in the regulations or decided by the competent authority, as well as obstructing it in meeting its attributions;
- h) failing to produce the data and information required by the competent authority or the inaccurate and incomplete provision of data and information necessary for the competent authority to carry out its activity, as well as the failing to observe the measures decided by the said authority;
- i) consumers' refusal to allow access to metering equipment;
- j) failing to observe the generation obligations and/or the offer obligations to the electricity market operator according to the legal provisions, without the confirmation of the transmission system operator;
- k) any action of the transmission system operator meant to unreasonable alter the merit order of generation capacities;
- l) the provision of false or incomplete information to external partners of SEN by the transmission system operator;
- m) the transmission of confidential data regarding commercial operations by the transmission system operator or by a centralized electricity market operator, in other ways than the ones mentioned by the law;
- n) unreasonable delay in connecting new consumers or in reconnecting them after disconnection, as well as the proposal of certain connection solutions, other than the technically optimal ones, with minimum costs, according to normative acts in force and to regulations established by the competent authority;
- o) execution of diggings or works of any kind in the equipment protection areas, without the prior consent of their holder;

- p) the interdiction by natural or legal persons of the access of the transmission system operator or the distribution operator to carrying out retrofitting, repair, failures intervention and land clearing works or for modelling cutting in order to create and maintain the set distance as against the electricity networks;
- q) using prices or tariffs for regulated activities without the approval of the competent authority.
- r) Failure of the transmission system operator to publish or up-date its own website with technical data about the interconnection capacities;
- s) failure of the transmission system operator to comply with the proceedings of interconnection capacity allocation and with the regulation of users' connection to network;
- ş) failure of the distribution operator to comply with the regulations for users' connection to network;
- t) the use, by a third party, of the components of distribution/transmission electric network for other purposes than the ones mentioned in the current law, without concluding a contract with their rightful legal owner;
- ţ) design and perform, without certification or license, works in the power installations as well as the failure to comply with the provisions in the said certification or license.

(2) Contravention stipulated by paragraph (1) items a), c), d), e), g) – l) and n) - ı) shall be sanctioned with fine from 100 lei to ROL 1.000 lei – for natural persons and with fine from 25.000 lei to 100.000 – for legal persons,

(3) Contravention stipulated by paragraph (1) items b), f) and m) shall be sanctioned with fine from 100 lei to 1.000 lei – for natural persons, and with fine from 20.000lei to 1000.000 – for legal persons.

(4) Identification of contravention cases and application of sanctions shall be made by:

- a) the mandated representatives of the competent authority – for contravention stipulated by paragraph (1), items a) - n) and q)- ı);
- b) the mandated representatives of local councils – for contravention stipulated by paragraph 1) items o) and p).

### **Legal regime of contravention**

**Art. 87** – The provisions of Government Ordinance No. 2/2001 regarding the legal regime of contravention, approved with modifications and amendments by Law No. 180/2002, as subsequently modified, shall be applied to the contravention listed under art. 86.

### **Establishment of contravention**

**Art. 65** – (1) In view of establishing the contravention cases stipulated in art 63, paragraph (1), the agents provided by art. 86 paragraph (4) are allowed to access, according to the law, 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 agents' disposal the documents and acts specific to their activity.

(2) Police authorities have the obligation to grant support to agents, upon request.

### **Sanctions for contravention**

**Art. 89.** - (1) Sanctions are applied according to the official contravention report that follows a control mission and which is drawn up by the representative of the authority that mandated the control mission.

## **CHAPTER VIII**

### **Transitory and final provisions**

#### **Entry into force**

**Art. 90** – (1) The law herein shall come into force within 30 days after the date of its publication in the Official Gazette of Romania, Part I.

(2) As of the coming into force of the law herein The Electricity Law No. 318/2003 published in the Official Gazette of Romania, No. 511 of July 16, 2003, Part I is abrogated;

(3) Within 6 months from the coming into force of the law herein, the competent ministry and the competent authority shall prepare, modify and complete the regulations to be approved by Government decisions.

The present law transposes the provisions of the Art. 2 items 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 21, 23, Art. 6 par. 3, item 7, par. 1 and 2, it.7, par 5 Thesis I and Art.23 par. 1 from The Directive 2003/54/EC concerning common rules for the internal market in electricity and repealing the Directive 96/92/EC published in the Official Journal of the European Union No. L 176/37 of July 15,2003 and the provisions of Articles 4 par. 3 of the Directive 2004/8/EC on the promotion of co-generation based on a useful heat demand in the internal energy market published in the No. L 50/52 of February 20, 2004 .