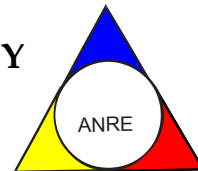




ROMANIAN ENERGY REGULATORY AUTHORITY



ANNUAL REPORT TO THE EUROPEAN COMMISSION 2007

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1. Foreword

The document is the annual report sent by the Romanian Energy Regulatory Authority (ANRE) to the European Commission in order to fulfil the reporting obligations in compliance with the provisions of the Directives 2003/54/EC and 2003/55/EC and with the commitments assumed by Romania as a new EU member state starting January 1, 2007.

According to the agreement signed by The Council of European Energy Regulators (CEER) and by the European Commission, the report contains information on electricity and gas markets for the period January 1 – December 31, 2007.

Regulatory authorities as autonomous public bodies were established in Romania for both electricity and gas sectors as follows: October 1998 – the electricity regulator (ANRE) and 2000 – the gas regulator (ANRGN).

Both ANRE and ANRGN were initially under the coordination of the energy minister, and later under the direct coordination of the Prime Minister. In April 2007, ANRE took over the attributions, budget, financing sources, staff and the rights and obligations of ANRGN, the unification of the two regulatory authorities being thus achieved.

The new Regulation for the Organisation and Functioning was approved by the Government Decision (GD) 410/04.05.2007.

Romania's energy strategy for the period 2007 – 2020 was approved through GD 1069/2007 and published in the Official Gazette of Romania (MO) 781/2007.

Consistent in their efforts to implement adequate secondary legislation for the developing of an efficient internal energy market, ANRE continued to improve and complement the regulatory framework in order to harmonize it with the Romanian and European legislation requirements and to adapt it to the developing of the electricity and gas sectors.

The new electricity law was approved by the Romanian Parliament at the end of 2006 and promulgated by the President of Romania on 23 January 2007. The law transposes the provisions of the 2003/54/EC Directive and allows the amendment of the regulatory framework with a view to meeting the conditions generated by the full opening of the electricity market.

The legal unbundling of the state-owned distribution and supply undertakings was put into effect through GD 675/2007 regarding the reorganisation through partial division of the electricity distribution and supply undertakings, branches of SC Electrica SA, published in MO 462/2007.

Starting July 1, 2007, the already privatised distribution and supply undertakings fulfilled the legal unbundling of their activities as well, with the exception of SC Electrica Muntenia Sud SA, which was under privatisation at that time.

On the grounds of GD 638/2007 the electricity and gas markets were fully opened thus allowing the consumers to choose their electricity and/or gas suppliers with effect from July 1, 2007.

The safe electricity supply to the consumers in an open electricity market is guaranteed through the Regulation regarding the supplier of last resort, approved through ANRE Order 14/2007. For the period July 2007 – June 2008, the eight default electricity suppliers have the obligation to fulfil SoLR tasks for the consumers within the distribution zone assigned to them through the license.

The Performance Standards for the transmission and system services and for the service of electricity distribution were reviewed taking into consideration the:

- Need for technical updating to be in line with the evolution of the worldwide concepts regarding the continuity of the electricity supply and the quality of the transmitted and, respectively distributed electricity.
- Alignment to the European performance indicators for electricity transmission and distribution.
- Collection of data regarding the fulfilment of performance indicators with a view to future introduction of incentives or penalties on the tariffs applied by sector operators.

The tariff methodologies for the services of electricity distribution and transmission were reviewed thus marking the move towards the second incentive regulation period of the distribution and, respectively transmission tariffs.

The transposition of the 2003/55/EC Directive provisions continued in the natural gas sector, to encourage the process of effective liberalisation as well as the legal, functional, organisational and accounting unbundling of the activities of natural gas distribution, transmission and underground storage.

In this respect, in the context of the full opening of the natural gas market for household consumers starting July 1, 2007 and with the view to encouraging this category of consumers to switching suppliers, ANRE issued the Methodology regarding the switching of the natural gas supplier to apply to household consumers (ANRE Order 47/2007).

This normative act is legislating the household consumers' right to change their natural gas supplier, without taxes, penalties or other expenses and institutes the obligation for the suppliers to provide useful information in a compacted form regarding the process of choosing and, respectively switching the gas suppliers in compliance with the provisions of the existing normative acts.

A permanent goal of the regulatory activity in the gas sector is to ensure an appropriate quality level for the services delivered.

To this purpose, the Performance Standard for natural gas supply (ANRE Order 37/2007) was issued to regulate the commercial quality criteria defined through the performance indicators for the service of natural gas supply and to set up the reporting requirements for the suppliers.

The Performance Standard for the natural gas distribution was also amended and complemented (ANRE Order 59/2007). The main reason for the amendment and complementing of the standard was the obligation of the supply, respectively the distribution license holders with over 100,000 connected consumers to accomplish the legal, functioning and organisational unbundling of their regulated activities.

A major component of the gas sector regulation in 2007 was the issuing and approval of the Network Code (ANRE Order 54/2007).

The fulfilment, on one hand, of the legal, organisational and functional unbundling of the natural gas distribution, transmission and underground storage activities and, on the other hand, of the accounting unbundling of the distribution activity by undertakings with less than 100,000 consumers in compliance with the Gas Law 351/2004 and with the Regulation for the accounting, legal, functional and organisational unbundling of the regulated activities in the natural gas sector (ANRE Decision 1139/2006) were among the key priorities pursued in the natural gas sector.

Gergely Olosz

President

2. SUMMARY / Major developments in the reported period of time

2.1. Organisational structure. Tasks and competencies of the regulator

In the first months of 2007, the regulatory activity in the field of electricity and gas unfolded separately, within the two existing regulatory authorities, namely the Romanian Energy Regulatory Authority (ANRE) and, respectively, the Romanian Gas Regulatory Authority (ANRGN). Through Government Emergency Ordinance (GEO) No. 25/2007, approved by Law No. 99/2008, ANRE took over the tasks, rights and obligations, budget, financing and staff of ANRGN and, consequently, reorganised its activity accordingly (Government Decision No. 410/2007). Through GEO No. 33/04.05.2007 the Electricity Law and, respectively, the Gas Law were also amended and complemented.

Under its new structure, ANRE is an independent public legal body of national interest financed from funds outside the state budget and under the co-ordination of the Prime Minister through the Office of the Prime Minister.

ANRE mission is to create and implement the appropriate regulatory system to ensure the proper functioning of the electricity and gas sectors in terms of efficiency, competition, transparency and protection of the customer.

Management

ANRE management consists of a President and three Vice-presidents appointed and revoked through decision of the Prime Minister. Both the President and the Vice-presidents have a 5-year mandate. The president represents ANRE in the relationship with the thirds.

A Regulatory Committee made up of the President, the three Vice-presidents and seven regulators is set up in order to approve the regulations issued. The seven regulators selected from ANRE staff upon the proposal of ANRE President are appointed through decision of the Prime Minister for a period of 5 years. The Regulatory Committee approves ANRE orders and decisions by a majority vote.

The activities developed in the electricity and gas sectors have the following objectives:

- To ensure the sustainable development of the national economy.
- To diversify the primary energy resources.
- To ensure the gas storage capacity to cover the regular and strategic demands.
- To ensure the safety fuel stocks for the generation of electricity as well as of heat produced from co-generation.
- To create and ensure the proper functioning of the competitive energy markets.
- To ensure non-discriminatory access to gas sources.
- To ensure regulated and non-discriminatory access of all parties to the energy markets and to the public electricity networks.
- To ensure non-discriminatory access of third parties to the gas upstream pipelines, storage facilities, transmission and distribution systems.
- To ensure transparency of energy tariffs, prices and taxes with a view to increasing energy efficiency in the electricity and gas sectors.
- To ensure the safety and continuity of energy supply to the customers.

- To protect the legitimate interests of the customers.
- To ensure the secure operation of the Romanian Power System (RPS) and the interconnected operation of the RPS and of the National Gas Transmission System (NTS) with the national systems of the neighbouring countries and with the European systems;
- To ensure the protection of the environment at local and global level, in accordance with the legal regulations in force.
- To promote the use of new and renewable energy sources.
- To promote electricity produced in high efficiency co-generation systems, associated to the heat energy delivered to cover a justified economic consumption.

ANRE tasks and competencies in the electricity sector:

- Set up mandatory regulations for undertakings in electricity sector.
- Issue, grant, suspend or withdraw authorisations and licenses for undertakings in electricity sector, including for the producers generating heat in co-generation.
- Issue and approve calculation methodologies for regulated prices and tariffs.
- Set up tariffs/prices for captive customers and the rules and criteria to set up the tariffs applied by the Supplier of Last Resort (SoLR).
- Issue and approve the SoLR Regulation.
- 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.
- Set up the framework contracts for electricity supply and the framework contracts for electricity selling, purchase, transmission, dispatch and distribution that operate among undertakings as well as the contracts for the sale of heat produced in co-generation.
- Issue the Regulation for electricity supply to the customers subject to Government approval.
- Approve technical and commercial norms for undertakings in the sector.
- Perform control activities in order to assess the undertakings' compliance with the existing regulations, with the pricing and tariff system in force and levy penalties for non-compliance.
- Set up the procedure for the resolution of pre-contractual disputes and settle possible disputes occurring upon the conclusion of contracts among undertakings in electricity sector, of electricity supply contracts and of network connection contracts.
- Set up its own monitoring and control procedures in order to assess compliance of undertakings with the existing pricing and tariff system.
- Issue its own regulation for the identification, notification and penalisation of violation of sector regulations.
- Draw up the regulation for the qualification of electricians and undertakings certification to design, construct, verify and operate energy capacities, respectively facilities
- Monitor the enforcement of the specific electricity sector regulations.
- Notify the competent ministry and the Competition Council with respect to the abuse of the dominant position on the market and of the breach of the legal provisions referring to competition whenever non-compliance with the regulations on competition and transparency is found.

- Create and implement, based on data transmitted by the undertakings, 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 the sector development strategy as well as in connection with the international trade and practices in the field;
- Issue the Regulation for the connection of users to public electricity networks subject to Government approval;
- Publish annual reports on its activity and on the lawful monitoring activity developed;
- Organise, monitor and control the procedures for the construction of new electricity generating capacity if the security of the supply for internal consumption is not guaranteed through the authorisation procedure.
- 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.
- Certify the electrical contracting companies and qualify the electricians that perform and design electrical works in electrical facilities.
- Certify the commercial operators that provide electricity-metering services.
- Monitor, based on its own rules, the electricity market in order to assess its level of efficiency, of transparency and of competition and present the Prime Minister quarterly monitoring reports on the problems encountered and on the solutions applied.

The monitoring activity in the electricity sector covers mainly the following domains:

- Regulations for the management and the allocation of interconnection capacity, in cooperation with regulatory authorities in countries that are interconnected with the RPS.
- Congestions management in the RPS.
- Duration of the works for the connection to the transmission and to the distribution networks by the involved operator and the duration for the re-connection after repairs.
- Publication by the transmission system operator and by the distribution operator of relevant information regarding interconnection capacities, network use and allocated capacity, while maintaining confidentiality of the commercially sensitive information.
- Actual separation of accounts to avoid cross-subsidies among electricity generation, transmission, distribution and supply;
- 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;
- Ways in which the transmission system operator and the distribution operator fulfil their obligations under the current law;
- Level of transparency and of competition related to the functioning of the electricity market.

ANRE tasks and competencies in the natural gas sector:

- Issue and submit to the Government for approval the Regulations for the granting of licenses and authorisations in the gas sector;
- Set up the conditions for the validity of the licenses and authorisations granted;
- Elaborates and approves the Regulations for authorizing and verifying the personnel and the undertakings carrying out designing, execution and exploitation activities in natural gas sector and establishes the validity conditions for granted authorizations;

- Issue and approve regulations and technical norms at national level to establish the technical safety criteria, the minimum technical requirements for the design, execution and exploitation necessary for the safe and efficient operation of the gas sector objectives;
- Elaborates and submits for approval to the Government the methodology for issuing technical certifications in natural gas sector and participates, under the law, to the authorization of the analysis and test labs in natural gas sector;
- Takes part at the elaboration and application of the regulations for attesting the design inspectors;
- Elaborates and applies the regulations for certifying the experts in natural gas sector;
- Issue and submit the Government for approval the regulations on third parties access to upstream lines, to storage facilities, to gas transmission and distribution systems;
- Issue, approve and implement the regulations for the organisation and functioning of the gas market in order to ensure continuity and security of gas supply to the consumers;
- Ensure the full liberalisation of the internal gas market;
- Approves the regulation for the programming, functioning and dispatching of the NTS and gas storage facilities at the proposals of the sector operators;
- Issues, approves and implement criteria and methods for approving the prices and for establishing regulated tariffs in the gas sector;
- Issue and approve the framework contract for gas supply, the framework contracts for performing storage, transmission and distribution services, as well as the framework contracts for ancillary activities, developed based on regulated tariffs;
- Issue, approve and monitor the implementation of compulsory technical, commercial, economic, operational regulations referring to quality service parameters for gas transmission, transit, storage, dispatching, distribution and supply;
- Endorse, under the law, the relevant clauses and conditions in concession contracts of assets, activities and services in the gas sector;
- Monitors the:
 - Gas internal market;
 - Compliance with the rules on gas market organisation and functioning;
 - Compliance with the rules regarding the access to upstream lines, to storage facilities and to the transmission and distribution systems;
 - Compliance with the criteria and the methods for approving the prices and for establishing the regulated tariffs in the gas sector;
 - Implementation of the rules regarding management and allocation of interconnection capacities, together with the regulatory authority or authorities in where interconnection exists;
 - Way for managing the over-crowded capacity item of the NTS;
 - Publication, by the transmission and distributions operators, of the relevant information regarding the interconnection pipelines, the use of the grid and the allocation of capacity to interested parties, taking into account the necessity to maintain confidentiality on commercial data;
 - Effective unbundling of accounts for the gas storage, transmission, distribution and supply activities and LNG- liquefied natural gas, LPG- liquefied petroleum gas, CNGV – compressed natural gas for vehicles, to avoid cross subsidising;
 - Compliance by the licensed operators of the validity terms of the license;
 - Activity of licensed operators for ensuring the gas supply security and continuity.
- Settles the disputes on refusal of access to the NTS/distribution systems;

- Mediates pre-contractual disputes, according to its own procedures;
- Issue, approve and implement the Regulation for the identification, notification and sanction of breaches from the regulations issued in the gas sector;
- Protects the legitimate interests of the gas consumers;
- Creates the database required to develop its activity and for providing information to other bodies involved in the issuing of the gas sector strategy and in the international gas trading activity, as well;
- Cooperates with gas regulatory authorities from other states, specialized bodies from central or local public administration, natural gas customers' associations, service operators in natural gas sector, professional associations and employers' associations in natural gas sector, from Romania and abroad;
- Issue and implement, for licensed operators, the objectives for ensuring the security and continuity of gas supply as well as the conditions and the procedures for designating the supplier of last resort;
- Endorse, for each regulatory period for which tariffs and prices are established, the investment programmes of licensed operators with a view to recognising the costs in the approved tariffs and prices;
- Amend if needed, at the end of each calendar year, the regulatory framework in order to off-set the impact of the issued regulations.

Independence of the regulator. Accountability. Reporting. Overlapping of jurisdictions (with the competent ministry, the competition council , etc. both national or supranational).

ANRE tasks and competencies are explicitly defined in the primary legislation, its activity being financed from funds outside the state budget through fees obtained for licenses, authorisations and other regulatory activities levied upon the regulated companies and through funds provided by international organisations.

The primary legislation provides distinct criteria under which the mandate of ANRE management and of the Regulatory Committee members ceases, namely:

- Upon termination of appointment
- Upon resignation
- In case of decease
- If conclusively unable to fulfill the tasks as a result of an unavailability exceeding 60 consecutive days
- Upon occurrence of one of the following incompatibilities: the exertion of trading activities in the electricity and natural gas sectors, the exertion of other civil servant or dignitary functions, with the exception of the academic position, according to the law
- Through revocation, for failing to meet the requirements of the mandate or for criminal prosecution on the grounds of a Court's final decision.

ANRE implemented consultation mechanisms and information procedures to increase the interested parties involvement in the decision making process. Regulations of general interest are approved through ANRE orders and subsequently published in the Official Gazette (MO) of Romania, Part I.

The 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 60 days

following publication in Romania's Official Gazette, part I, respectively from the date of notification of the parties involved. The orders and decisions mentioned are mandatory for the parties until a final irrevocable court judgment is pronounced.

ANRE publishes annual performance reports on its regulatory activities and on the monitoring activities developed.

In discharging its tasks, ANRE works together with the Competition Council, with the National Authority for Consumers Protection, with the ministries and other public local or central administration bodies, with the electricity consumer associations, with undertakings delivering services in the sector, with the professional associations and the employer and trade union associations in the energy field, with regulatory authorities from other countries.

2.2. Main developments in the electricity and gas markets

The Electricity Market

The electricity sector restructuring started in 1998 and progressively continued in implementing the *acquis communautaire* to reach the following configuration by January 1, 2008:

- 80 generation license holders
- 1 transmission system operator - TSO
- 1 market operator
- 8 regional distribution operators (4 state-owned undertakings and 4 undertakings with majority private shareholding) and 22 distribution operators with less than 100,000 customers.
- About 117 supply license holders.

The total net electricity production in 2007 was TWh 56.4 as compared to TWh 57.4 in 2006 (about 1.7% lower). The internal consumption was TWh 54.13 as compared to TWh 53.02 in 2006 (about 2% higher).

Five producers held more than 5% of the total installed capacity and the total weight of the installed capacity of the first three largest producers was 63.7%. Seven generating undertakings delivered more than 5% of the net electricity production in the system and the total market quota of the first three largest producers was 55.7%.

The wholesale electricity is traded through contracts (regulated, for the supply quota for customers who choose not to exercised their eligibility right in 2007 and grid losses, and negotiated for the remaining quota) and through trades on the voluntary day-ahead-market (DAM). Differences between the offer and the demand occurring in real time are ensured by the system operator by accepting the offers on the Balancing Market (BM), while the market participants accept their financial responsibility for the generated imbalances.

The Centralised Market of Bilateral Contracts (CMBC) was organised in December 2005 to ensure transparent mechanisms – auctions - for the transactions of contracts on the competitive market. The Forward-type Centralized Market of Bilateral Contracts with Continuous Negotiation (CMBC-CN) started operating in 2007 to trade higher standardized products. Also in 2007, the Romanian Stock Exchange (BRM) organised the Electricity Ring

on which non-standardized selling-buying contracts, respectively electricity supply contracts are traded.

In 2007, about 51% from electricity sold by the producers was traded on the regulated market and 49% on the competitive market.

On the **regulated market**, the producers directed their sales as follows:

- For captive customers consumption - about 37.5%;
- For network losses – 10% to cover losses in the distribution network and 1.4% to cover transmission network losses;
- The remaining energy sold by the producers on the regulated market (1.8%) between producers.

The electricity average price per the total of regulated contracts concluded by the producers with dispatchable units was about 156 RON/MWh (46.74 Euro/MWh).

On the **competitive market**, *the producers* traded about 4.7% of electricity through negotiated bilateral contracts with the eligible customers, about 2.9% with external partners (exports), 28% with the competitive suppliers or with other producers and about 1% with the distributors-suppliers of customers who choose not to exercise their eligibility right in 2007. The quotas traded with the competitive suppliers through contracts signed following the CMBC auctions amounted to about 9.2% and about 4% of energy was traded on the DAM.

Transactions on the CMBC and on the BRM Electricity Ring increased significantly during the year. The volume of trades concluded in 2007 (for different delivery periods) was about 4 times higher than the one concluded in 2006, which represents a positive evolution as regards transparency increase.

The total volume traded on DAM in 2007 showed an increase of about 23% as against 2006, reaching about 9.4% of the internal consumption. The volumes traded on other markets showed that there is potential for increasing the volumes traded on the DAM.

The average price on DAM showed a significant increasing trend in the summer months of 2007, which was mainly due to the combined conditions of extreme heat and draught. Thus, in July 2007, the maximum value of the monthly average price was about 211.1 RON/MWh; the lowest monthly average values were registered in April (129.98 RON/MWh) and in December (130.31 RON/MWh), in close connection with the hydrological conditions. The monthly average value in 2007 was 161.67RON/MWh (48.45 Euro/MWh).

The monthly volume traded on the *Balancing Market* (BM) in 2007 ranged within 5-9% of the internal consumption.

Given the high concentration degree noticed on the *system services market* (the hydro producer being dominant for the secondary and tertiary reserve), the reserves have been predominantly ensured through regulated contracts signed by the TSO with the producers for the required quantity. The remaining quantity was ensured through contracts concluded on the competition market following the negotiations/bids organised by the TSO.

The customers' (demand) active participation to the market is possible within the DAM (through the participation of the customers' suppliers) and through the increasing/decreasing offers made by the dispatchable customers on the balancing market. As no such customers

existed in 2007, a pumped storage power plant was considered to be built in order to fulfill this role in the future.

In 2007, Romania integrated its electricity market into the regional market through the bilateral export/import contracts that the producers/suppliers signed with external partners. Additionally, support exchanges between TSOs were performed through offsetting. Imports reached about 1.3 TWh and the exports about 3.4 TWh. (These values are due to commercial exchanges and do not include the transit).

Since July 1, 2005 the *allocation of interconnection capacities* through the interconnection lines of the RPS with the neighbouring power systems for electricity import/export transactions and for the electricity transit is made through explicit bids. Annual bids are organised for the following year allocation and monthly bids for the allocation of the remaining available capacities for the following month, spread on shorter intervals, depending on the forecasted variations of the ATC level throughout the month. The net interconnection capacity is determined by the TSO and is equally distributed among the neighbouring TSOs for import and export purposes.

Mainly 7 default suppliers delivered supply services to customers that choose not to exercise their eligibility right in 2007, namely: 4 state-owned undertakings, branches of SC Electrica SA and 3 undertakings with majority private shareholders; the total number of captive customers was 8,673,572 and the energy supplied to the latter was 22,611 GWh. The market quotas of the default suppliers ranged between [11%...19%]. In the first half of 2008, the privatisation process of Electrica Muntenia Sud, a branch of SC DFEE Electrica SA was completed, the number of the distribution and supply undertakings with majority private shareholders raising to 5.

Distinct undertakings for distribution and, respectively supply were established as the legal unbundling of the distribution and supply activities was completed for the 7 existing distribution and supply undertakings.

Starting July 1, 2007, according to the Government Decision (GD) No. 638/2007 regarding the increase of the electricity market opening degree (published in the Official Gazette of Romania No. 427/27.06.07) all the electricity customers are free to choose their suppliers. In order to sustain this process, ANRE joined the European Commission in the information campaign on customer rights launched at the same date.

At the end of 2007, the number of eligible customers that changed their supplier or that re-negotiated their supply contracts (by renouncing the regulated tariff) represented 50% of the internal consumption of the final customers. Customers that exercised their eligibility right were mainly industrial. The electricity supplied to the eligible customers totaled 22262 GWh.

Thirty-nine (39) independent suppliers not holding electricity networks activated on the **competitive** retail market, the HHI index being 904, which indicates a non-concentrated market.

The electricity tariff to final customers that choose not to exercised their eligibility right in 2007 increased by 3.95% on average from April 1, 2007 (ANRE Order No 6/2007). Tariff adjustments also occurred in December 2007 when 2 categories of tariffs were introduced, namely:

- **Uniform** regulated tariffs at national level for electricity delivered by the default suppliers and/or by the SoLR to households and alike.
- **Differentiated** regulated tariffs for electricity delivered by the default suppliers and/or by the SoLR to captive customers other than households and alike and the tariffs for the reactive power.

Following the price adjustments during the period under analysis (January 1 – December 31, 2007), the average electricity price to final captive customers, others than households and alike was 340.19 RON/MWh – 324.04 RON/MWh (101.9 Euro/MWh – 97.1 Euro/MWh) without VAT and to households and alike was 352.06 RON/MWh (105.5 Euro/MWh) without VAT.

From January 1, 2007, the unitary value of the electricity excise duty increased to 0.26 Euro/MWh for industrial customers and to 0.52 Euro/MWh to households, values set in the new Fiscal Code. The excise value is distinctively written in the electricity bill.

The responsibility for ensuring the demand-offer balance on medium and long run remains with the Ministry of Economy and Finance (MEF), which is the issuing body of the national energy strategy approved through GD No. 1069/2007.

According to the provisions of the Electricity Law No. 13/2007, with the subsequent modifications and amendments, the TSO issues the Prospective Plan for the Development of the Transmission Grid on medium and long run (10 years). The Plan is sanctioned by the regulator and subsequently approved by the competent ministry. The TSO responsibility on short run is to provide the operational planning and operation of the transmission grid in accordance with the standards and criteria specified in the Transmission Grid Code, issued by the TSO and approved by the regulator through ANRE Order No. 20/2004.

ANRE ensures the regulatory framework to promote sector investments by granting establishment authorisations and licenses, by issuing the tariff methodologies, the commercial and technical regulations as well as the rules for the users' access and connection to the public networks.

Despite the difficult weather conditions of 2007 (prolonged draught) the existing generation capacities covered the rising electricity demand. The commissioning of the second unit of the Cernavoda Nuclear Power Plant combined with a rainier season that started in September 2007 had a positive effect on the availability of the units and on the covering of the demand.

In 2007, 650 MW were commissioned in the nuclear plant, 29 MW in hydropower plants, 23 MW in thermal power plants, 5 MW in wind plants. 22 MW installed in thermal power plants was decommissioned.

Romania's National Energy Strategy for 2007-2020, approved through GD No. 1069/2007, considers the development of generation capacities based on renewable energy sources (hydro, wind, biomass) as well as on nuclear (works to 2 more nuclear units are set to continue based on various financing schemes and ownership organisation).

To promote the use of electricity from energy renewable sources (E-RES) based on wind, solar, geothermal, biomass, tides and waves, hydrogen and in hydropower units with up to 10 MW installed power that were commissioned or rehabilitated after 2004, a Green Certificates market was introduced and became operational in November 2004. The national target for the

percentage of E-RES was set to 33% of the final consumption for 2010, to 35% in 2015 and to 38% in 2020.

A “bonus-type” support scheme is considered to be introduced for co-generation capacities starting with the year 2008.

The Natural Gas market

The Romanian gas market comprises the competitive market, on one hand - trading of gas between suppliers and between suppliers and customers making use of their eligibility - and the regulated market - activities of natural monopolies – based on framework contracts (management of commercial contracts and of contracts for market contractual balancing, transmission, distribution, storage, transit, excepting the one through dedicated pipelines and any other activities resulting from these ones) and the supply at regulated price.

In the competitive market, prices are freely established, based on supply and demand, as a result of competition-based mechanisms. In the regulated market, tariffs and prices are set by the regulator based on the methodologies established to this purpose.

The Romanian natural gas market has been gradually liberalized from 2001 onward. The gradual liberalization came to an end on 1 July 2007, when it was fully opened for all customers that now have the possibility to choose their own supplier.

The gradual opening of the natural gas market to competition was accompanied by measures aimed at developing the Romanian natural gas market and facilitating its participation to the upcoming EU Internal market, and consisting of:

- Licensing and authorization of natural gas economic operators
- Authorization of gas specialized staff
- Drafting of specialized natural gas - related technical and commercial regulations
- Implementation of new pricing methodologies aiming at stimulating the licensees to make investments and curb operating costs
- Monitoring and surveillance of the authorized and licensed economic operators' activity

ANRE granted, in 2007, the following authorizations and licenses to the gas companies acting in the Romanian gas market:

- 26 authorizations for the setting up of natural gas distribution
- 22 authorizations for the modification of natural gas undertakings/distribution systems
- 55 authorizations for the functioning of natural gas distribution
- 1 authorization for the functioning of ground technological facilities for natural gas production
- 1 authorization for the setting up of natural gas production capacities
- 1 modified authorization for ground technological facilities for natural gas storage
- 6 licenses for natural gas distribution
- 22 licenses for natural gas supply
- 1 license for natural gas storage
- 5 temporary licenses in the natural gas sector for participating in auctions for concessioning the gas distribution service
- 1 authorization for modifying the functioning of ground technological facilities for natural gas production

- 2 authorizations for modifying the functioning of ground technological facilities for natural gas storage
- 53 modifications of authorizations for the functioning of the natural gas distribution
- 43 modifications of licenses for natural gas distribution
- 40 modifications of licenses for natural gas supply
- 1 modification of the license for natural gas storage.

The result of the above-mentioned measures is reflected in the current structure of the Romanian natural gas market, currently comprising:

- One National Transmission System Operator – SNTGN Transgaz SA Mediaş
- 7 producers: Petrom, Romgaz, Amromco, Toreador, Wintershall Mediaş, Aurelian Oil&Gas, Carpathian Energy
- 3 underground storage operators: Romgaz, Amgaz, Depomureş
- 36 companies for gas distribution and supply to captive customers - Distrigaz Sud and E.ON Gaz România are the largest ones
- 86 suppliers on the wholesale market.

With a view to implement the requirements on legal unbundling and unbundling of the accounts for regulated activities as distribution, transport and underground storage provided by licensed operators within the natural gas sector, the regulatory authority delivered technical assistance to the transport, distribution and underground storage operators.

As a result, during the year 2007 the unbundling of accounts process has been completed by all legal persons obliged to do this.

With regard to legal unbundling, this has been fulfilled during 2007 by S.C. E.ON Gas Romania, one of the two largest distribution operators and by the underground storage operator S.C. AMGAZ S.A.; the requirement is not valid for the underground storage operator S.C. DEPOMURES S.A. because of renouncing to the natural gas supply license and keeping only the underground storage activity. The status is the same for the natural gas transmission operator S.N.T.G.N. TRANSGAZ S.A., which renounced to the supply licence as well. The process for accomplishing the legal unbundling requirements of the last underground storage operator- S.N.G.N. Romgaz S.A., is underway and scheduled to be completed in 2008. The legal unbundling of the other largest distribution operator, S.C. Distrigaz Sud S.A., has been completed in April 2008.

On January 1st, 2007, the final regulated prices for captive customers were adjusted as a result of cutting the tax on domestic natural gas production, of decrease with about 12 USD/1000 m³ of the imported gas price, of the RON/USD exchange rate favorable evolution and of the implementation of new distribution tariffs for 2007. As a result, the final regulated prices in place since January 1st, 2007 were -as average- by 3 to 5% lower compared with the December 2006 ones. The formula for calculating prices in force since January 1st, 2007 has taken into consideration a domestic production gas price of 397.50/1000m³, similar to December 2006 one, namely 397.50/1000 m³.

For the 2nd and 3rd quarter of 2007, the final regulated prices at end consumers remained at the level of January 2007 approved ones.

At the beginning of the 4th quarter of 2007, the regulated prices adjustment has been achieved, as a result of unitary natural gas price increase for the 4th quarter, from 653.73 RON/1000 m³ -estimated by ANRE for the first three quarters of 2007, at 686.02 RON/1000 m³. The Order

for this adjustment has been published in the Official Gazette no. 656/26.09.2007 as Order no. 34/18.09.2007.

During 2007 three new operators entered the market:

- S.C. APOPI&BLUMEN S.R.L.,
- S.C. DESIGN PROIECT S.R.L.,
- S.C. AURAPLAST S.R.L.

and asked for regulated prices and tariffs substantiation. The authority issued “ the orders for establishing the regulated tariff for the distribution service and approval of the prices for the regulated supply of natural gas”.

For the second regulatory period it has been approved the regulated rate of return of the capital at the value of 7.88% for transport and underground storage activities.

Regarding the regulated natural gas transmission activity for 2007, a new regulatory period has started at July 1st, with a duration of 5 years. For the Natural gas Transmission System operator it has been calculated an economical efficiency increase rate of 0.91%, valid for the regulatory period established between 2007 and 2012. As a result of the analysis, for the first year of the regulatory period 2007-2012 it has been recognized as justified costs those related to the total income and total regulated income for the transmission activity and the incumbent transmission tariffs were calculated.

For the underground storage activity, the second regulatory period started on April 1st, 2007 for the following five years.

As a result, beginning with the second regulatory period 2007-2012, for S.N.G.N. Romgaz S.A. it has been calculated an economical efficiency increase rate for the underground storage activity of 0.85% . Based on the analysis, for the first year of the regulatory period 2007-2012 it has been recognized as justified costs those related to the total income and total regulated income for the underground storage activity. The regulated tariffs has been calculated such way to assure the balance between total income recognized by ANRE for the first year of the regulatory period and the estimated income for the underground storage provided services.

Also, as of 1 January 2007, the natural gas taxation system changed following the enforcement of the new Fiscal Code. The excise duty on natural gas is clearly presented in the bill, separately from the regulated price approved by the regulator for natural gas supply. The unitary value of the excise duty is Euro 0.17/GJ, and the total amount to be paid to this account is calculated based on the calorific value of the gas delivered to customer.

During the reported period Law no.346/2007 – on measures for natural gas security supply - has been adopted, to transpose within internal legislative framework the provisions of Directive 2004/67/CE. The aim of this law is to ensure a proper security level for natural gas supply through transparent and non-discriminatory measures, compatible with the existence of a competitive natural gas market.

In order to increase the security of supply and to reduce the dependency on a single import source, there are few options for new import connections as follows:

- An interconnection between the national transmission system with the Bulgarian one, in the area Giurgiu-Russe
- Completion works for the interconnector Szeged (Hungary)- Arad (Romania)
- A new import point in Negru Voda area, in order to supply Dobrogea with natural gas.

Taking into account the international context the most important interconnection issue is the Nabucco project with Romania part of it. The latest stage of the project consists of receiving the applications for exception from the legal framework provisions on third party access, according to Art.22 of the Directive 2003/55/EC (transposed within national legislation). According to legal provisions into force, in Romania, the regulator is responsible for granting this exemption. Thus, the above-mentioned request was submitted and analyzed by the competent authority in Romania. The notification of the request was done on July 2008.

Main issues dealt with the regulator

The Electricity Sector

Within January 1, 2007- December 31, 2007, ANRE brought its contribution to:

- **Promoting the draft to amend the Electricity Law 318/2003, finalised by the publication in the Romanian Official Gazette No. 51/23.01.2007, Part I, of the new Electricity Law No. 13/2007.** The modifications brought by the new electricity law aim mainly at the harmonisation of the national provisions with the provisions of the Directives 54/2003/CE and 8/2004/CE through measures that encourage competition, increase security of electricity supply and attract capital by: introducing the bidding procedure for the construction of new energy capacities, as an alternative for cases in which insufficient investments for new generation capacities are attracted by the authorisation procedure; simplifying the authorisation procedure by maintaining the authorisation procedure only for generation, transmission and distribution capacities up to 110kV; introducing the possibility for various categories of undertakings to perform metering activities; eliminating the administrative barriers and facilitating the access to the market of electricity produced in high efficiency cogeneration installations or from renewable energy sources, and introducing the support schemes to promote the latter . The social component is also addressed by: the introduction of the vulnerable customer category –residential customers who, for reasons of health, age or of other nature benefit from certain facilities regarding the electricity supply service; the introduction of the supplier of last resort – suppliers assigned by the competent authority to take over the supply of the customers if the default suppliers fail to fulfil their obligations (bankruptcy, license withdrawal, etc.); introduction of the public service obligations.
- **Encouraging competition on electricity market through:**
 - Licenses and establishment authorisations granted for electricity generation and supply. The license and authorisation conditions establish the criteria, the parameters and the obligations required for an undertaker to develop its activity in the sector. The conditions aim at protecting the public interest starting with the protection of the final customer to more general interests, at national economy level. The objective, transparent and non-discriminatory rules for the granting of licenses and authorisations set up in the *Regulation for the granting of electricity sector licenses and authorisations*, approved by GD 540/2004, with the subsequent modifications, are prerequisites for boosting the investors' confidence and for encouraging privatisation.

- The Centralized Market of Bilateral Contracts with Continuous Negotiation (CMBC-CN) introduced in order to increase the transparency of electricity prices and electricity quantities sold through negotiated bilateral contracts.
 - The full opening of the electricity market at July 1, 2007.
 - Issuing the **Regulation regarding the supplier of last resort** (ANRE Order No. 14/2007) and appointing the SoLRs for the period July 1, 2007 – June 30, 2008 (ANRE Order No. 15/2007).
 - The legal unbundling of distribution and supply activities.
 - Promoting the GD draft proposal to amend and complement the Regulation for the connection of the users to the public electricity networks.
- **Promoting the sustainable development of the sector by:**
 - Monitoring the Green Certificates market and advancing proposals for the amendment and complementing of the GD regarding the E-RES support mechanism.
 - Introducing new financial support mechanisms for the generation of electricity from high efficiency co-generation capacities to attract investors and by initiating the process of transposing into the national legislation of the Directive 2004/8/EC provisions, process that was finalised by GD 219/2007, published in the Romanian Official Gazette, Part I, no. 200/23.03.2007. According to the responsibilities that were assigned in the GD 219/2007 regarding the promotion of co-generation based on a useful heat demand, ANRE issued the “Draft GD regarding the “bonus-type” support scheme for the promotion of electricity from high efficiency co-generation. The draft proposal was issued in the 4th quarter of 2007 and sent to the MEF to be sanctioned.

The main objectives of the Draft Proposal pursues to:

- Provide support for the producers of electricity and of heat through high efficiency co-generation to ensure the continuous supply of existing customers at affordable prices.
- Provide access to the market of electricity produced from high-efficiency co-generation where the generation price for the electricity produced under such technical process exceeds the market price.
- Provide the proper conditions for the gradual replacement of the existing obsolete co-generation facilities in compliance with the market demand and with the annual heat load curve in places where the number of customers fell drastically.
- Promote new investments in high efficiency co-generation facilities in compliance with the 2004/8/EC Directive.
- Mitigate the greenhouse emissions through energy savings obtained through systems that use combined production instead of separate production of electricity and heat.

According to the provisions in Chapter II, article 4 (3) of the GD No. 219/2007 regarding the promotion of co-generation based on the useful heat demand, ANRE issued Order No. 13/2007 for the approval of the *National harmonised efficiency values for the separate production of electricity and heat and for the approval of the correction factors applicable at national level*. The reference values represent the basis for the criteria used to assess the efficiency of the co-generation processes and are to be used by ANRE in the regulations issued as per the GD No. 219/2007. A Draft Proposal was also initiated for the issuing of a new GD for the approval of the “Procedure to issuing the guarantees of origin for the electricity produced from high-efficiency co-generation”.

- **The development of commercial exchanges with the neighbouring countries** by introducing regulations to support the creation of the regional Southeast European energy market (regulations regarding the transit of electricity through the RPS).

Natural Gas sector

In the reporting period, the process of transposing the provisions of the Directive 2003/55/EC in the Romanian legislation and of preparing the gas market for the full liberalisation continued.

In 2007, new regulations were added to the regulatory framework by the regulatory authority as follows:

- Regulation on changing the supplier by the household consumers (ANRE Order 47/2007). The regulation is legislating the household consumers' right to change their natural gas supplier, without taxes, penalties or other expenses and institutes the obligation for the suppliers to provide useful information in a compacted form regarding the process of choosing and, respectively switching the gas suppliers in compliance with the provisions of the existing normative acts.
- Quality performance standard for natural gas supply (ANRE Order 37/2007) for the establishment of commercial quality criteria, defined by the performance indicators for natural gas supply, as well as for the setting-up of reporting requirements for suppliers.
- Modification and completion of the Quality performance standard for natural gas distribution (ANRE Order 59/2007), having regard to the liabilities of the suppliers, in their relation with the customers, in the same time imposing to the distribution operators some commitments towards the natural gas suppliers. The modification and completion of the performance standard for gas distribution was also determined by the liability of the supply, respectively distribution license holders, with more than 100,000 consumers to provide the legal, functional and organisational separation of the regulated activities.

Regarding the legal unbundling and unbundling of accounts, the regulatory authority provided support for the transmission, distribution and storage operators in order to comply with the unbundling requirements. Based on this, all DSOs bound in this regard completed the unbundling of accounts. Also, legal unbundling was completed for the most part (see page 16).

The legal unbundling of the storage operator SNGN Romgaz S.A. is to be accomplished in 2008 and the unbundling of the distribution operator SC Distrigaz Sud S.A. was finalized in April 2008.

The gradual liberalisation of the Romanian natural gas market reached its peak on July 1st 2007 when it became fully opened. Thus, all the consumers have the right to choose their gas suppliers from the ones licensed by the regulator and to directly negotiate the clauses and prices for the gas supply. The consumer is able to exercise its eligible right directly, without any other administrative formalities whatsoever.

Taking into consideration the fact that the second regulatory period started in 2007, for transmission and storage, respectively in 2008 for distribution and supply, it was considered appropriate to modify, complete and develop the regulatory framework on regulated tariffs establishment and approval of the regulated prices for the gas supplied to non-eligible customers, on the basis of regulations as it follows:

- ANRE order 57/2007- to modifying and completing the Decision of ANRGN president No 1078/2003 on the approval of Criteria and methods for price approval and establishment of regulated tariffs in the natural gas sector,
- ANRE order 58/2007- to modifying and completing the Decision of ANRGN president No 311/2005 on the approval of additional documents regarding the Criteria and methods for price approval and establishment of regulated tariffs in the natural gas sector, approved through Decision of ANRGN president No 1078/2003,
- ANRE order 31/2007- regarding the establishment of the rate of the return on capital in the second regulatory period
- ANRE order 32/2007- regarding the establishment of the efficiency economic growth rate in the second regulatory period.

ANRGN, respectively ANRE, after the institutional reorganization, continued to grant natural gas supply licenses, so that, currently, on the natural gas market in Romania 86 undertakings are licensed for natural gas supply activity.

Therewith, in 2007, a new undertaking, Carpathian Energy, was granted an authorization for the functioning of the ground technological devices for production, respectively for gas-well pumping of new gas fields.

In the context of the liberalisation of the **electricity and natural gas markets** at July 1, 2007 in Romania and in other 13 European countries, the European Commission together with the European Regulators' Group for Electricity and Gas (ERGEG) and in collaboration with the regulatory and consumer protection authorities of that respective countries launched the "**You Choose**" awareness campaign in order to encourage the small industrial and household customers to make use of the opportunities offered by the opening of these markets.

ANRE was invited by the European Commission to take part in this campaign as a Campaign Associate and in this capacity it carried out specific information actions in order to highlight to consumers the opportunity to choose their electricity and/or gas suppliers and to inform them about their rights in open energy markets.

Concurrently with the "You choose" campaign, ANRE drafted and released the leaflet entitled "*The full opening of the electricity and natural gas markets*" with useful information regarding the opening of the energy markets, the process of switching the energy supplier as well as the provisions of the European directives in the field. The leaflet was freely disseminated to consumer associations as well as to electricity and gas suppliers in order to be distributed to their customers by means of their Customer Service Offices.

As all over Europe the competition in the electricity and natural gas sectors widens, the efficient interaction of the national markets becomes ever more important and the ERGEG enterprise to launch the Regional Initiatives is welcome in this respect. As for the Romanian regulator participation to this initiative, mention should be made that ANRE is a member of the South-Eastern European Initiative for natural gas. In the electricity field, the European Commission proposal to integrate the two new member states, Romania and Bulgaria, in the regional initiative consisted in the creation of an 8th region to include Bulgaria, Greece, Hungary, Romania and Slovenia to be joined by the other seven Energy Community Treaty signing states.

The Energy Committee Regulatory Board was established in December 2006, organisation which, alongside the Ministerial Council and the Group of High Officials pursue to

harmonising the legislative framework of the region with the community acquis in order to promote commercial trades in the region. ANRE participated in the Committee's Working Groups through its designated representatives who attended the meetings of the SEE regulators and of the Athens and Maribor Forums and brought their contributions to the clarification of certain aspects regarding the model of the future regional market, the mechanism of congestion settlement, the tariffs for cross-border commercial trades and the mechanisms for the allocation of transfer capacities. Several viewpoints were made during 2007 as regards the activities developed and the working documents received from the Energy Community Treaty Secretariat.

The 2nd Meeting of the ECRB Customers Working Group (CWG) was held in Bucharest, on September 10, 2007. The event brought together representatives of regulatory authorities from Austria (E-Control), Croatia (CERA) and Albania (ERE) to tackle topics referring mainly to:

- The document prepared by the CWG regarding the best practice guidelines on the protection of vulnerable household customers to be adopted by the ECRB and its implementation in line with the provisions of Art. 33 in the Energy Community Treaty.
- The Action Plan of the working group for the year 2008.
- The current stage of the vulnerable customer protection at national level.

3 Regulation and performance of the electricity market

3.1. Regulatory issues [Article 23(1) except “h”]

3.1.1 General

The market opening degree in Romania is set through Government Decision (GD). The evolution of the market liberalisation is given in Table 3.1.1.1.

Table 3.1.1.1

Opening of electricity market

| Year | Eligibility [GWh/year] | Official opening degree % | Real opening degree % | Government Decision |
|---------------|-----------------------------------|---------------------------|-----------------------|---|
| February 2000 | ≥ 100 GWh/year | 10 | 5 | GD 122 /2000, published in the Romanian Official Gazette No. 77/21.02.2000, Part I |
| October 2000 | ≥ 100 GWh/year | 15 | 6 | GD 982 /2000, published in the Romanian Official Gazette 529/ 27.10.2000, Part I |
| 2001 | ≥ 40 GWh/year | 25 | 7 | GD 1272 /2001, published in the Romanian Official Gazette No. 832/ 21.12.2001, Part I |
| February 2002 | ≥ 40 GWh/year | 33 | 9 | GD 48 /2002, published in the Romanian Official Gazette No. 71/31.01.2002, Part I |
| December 2003 | ≥ 20 GWh/year | 40 | 15 | GD 1563 /2003, published in the Romanian Official Gazette No. 22/12.01.2004, Part I |
| November 2004 | ≥ 1 GWh/year | 55 | 20 | GD 1823 /2004, published in the Romanian Official Gazette No. 1062/16.11.2004, Part I |
| July 2005 | All customers except householders | 83.5% | 34 | GD 644 /2005, published in the Romanian Official Gazette No. 684 /29.07.2005, Part I |
| July 2007 | All customers | 100 | 47 | GD 638/2007, published in the Romanian Official Gazette No. 427/27.06.2007, Part I |

3.1.2 Management and allocation of interconnection capacity and mechanisms to deal with the congestions

Congestion management and allocation of interconnection capacity are performed in accordance with the *Methodology to setting up the monthly net firm interconnection capacity* and the procedure entitled *Allocation of the Romanian Power System (RPS) Transfer Capacity to the Neighbouring Power Systems* that was issued by the Romanian Transmission System Operator – TSO and approved by ANRE.

The methodology used by the TSO to calculate the net transfer capacity (NTC) is published on the TSO website www.ope.ro, under the heading: *Other markets/ATC allocation procedure*.

The fourth review of the allocation procedure was endorsed by ANRE in November 2006. The revised procedure is published in both Romanian and English on the same website heading, along with the ATC Allocation Framework Contract between the TSO (CN Transelectrica SA) and the capacity contracting party.

Starting July 1 2005, the right to use interconnection capacities for import/export transactions and for the transit of electricity is allocated through explicit bids. The bids are generally organised on monthly or yearly basis or whenever necessary, but not for shorter than a week periods; the period for which the monthly-bided allocation take place can be from 1 day to 1 month, depending on the duration of the maintenance works scheduled for various interconnections.

The RPS includes the following sections:

1. the Romania – Bulgaria section:
 - LEA 400 kV Isaccea – Dobrudja
 - LEA d.c. 400 kV Țânțăreni – Kozlodui
 - LEA 750 kV Isaccea – Varna (following the commissioning at 400 kV)
2. the Romania – Serbia 400 kV section:
 - LEA 400 kV Porțile de Fier – Djerdap
3. the Romania – Serbia 110 kV section:
 - LEA 110 kV Ostrovul Mare – Kusjak
 - LEA 110 kV Gura Văii – Șip
 - LEA 110 kV Jimbolia – Kikinda
4. the Romania – Hungary section:
 - LEA 400 kV Arad – Sandorfalva
5. the Romania – Ukraine section:
 - LEA 400 kV Roșiori – Mukacevo
6. the Romania – Republic of Moldova section:
 - LEA 400 kV Isaccea – Vulcănești (the line allows only imports through passive consumption island schemes with the consent of the distribution operator within that respective island or through tie lines under UCTE conditions)
 - LEA 110 kV Stâncă – Costești
 - LEA 110 kV Cioara – Huși
 - LEA 110 kV Țuțora – Ungheni

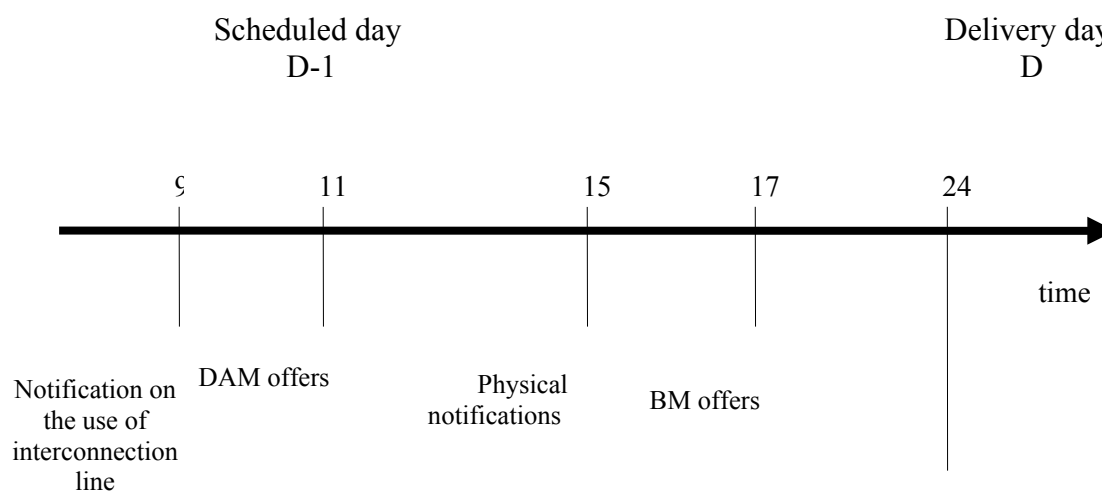
TSO defines the interconnection line groups, determines and publishes the values of the NTC for the interconnection line groups, taking into consideration the safety criteria when verifying the operation regimes of the RPS (thermal, voltage and steadiness limits, the N-1 criterion, the safety margin of the international interconnection – TSM, the capacity already allocated – AAC).

The TSO together with the peer operators from the neighbouring countries agree upon the NTC, which is equally distributed for import and export among the neighbouring TSOs.

Before each auction associated to an allocation period, the TSO determines the available interconnection capacities and identifies any possible congestion in compliance with the provisions of the Transmission Grid Code approved through ANRE Order 20/2004, with the subsequent amendments and complementing, and with the UCTE rules and the ETSO practices.

The TSO publishes, before each auction, the values of the TTC, TRM, NTC, AAC and ATC, in compliance with the aforementioned procedure. Following the bid, TSO publishes, for each border and direction, the codes and names of the winning participants, the value of the capacity allocated to each participant and the allocation price within that respective auction.

Any participant with rights to use the interconnection capacity from the Romanian TSO or from the neighbouring TSOs and which intends to use these rights shall send TSO, with at the most 5 days prior to the starting of the allocation period, a notification of the capacities obtained from the neighbouring TSOs and/or from the external partners that obtained capacities from the neighbouring TSOs for the Romanian participant. The holder of the right to use the interconnection capacities shall send TSO a notification to include the interconnection line groups within a section, the direction of the exchange (import or export) and the delivery chart for the day D by 8:00 CET of the preceding day (D-1) at the latest.



Note: Reference hours - Romanian time

Figure 3.1.2.1 Electricity market operation time-chart

The cross-border transactions carried out according to the allocated transfer capacity are also notified as block exchanges, thus being integrated in mechanisms that are associated to the balancing market. Considering the fact that one bid per month was the maximum frequency with which auctions were held, this market does not reflect the wholesale market trends occurred on shorter terms, certain participants reserving their transfer capacities to be used should other market opportunities arise.

The TSO has to keep separate evidence of the income obtained from the capacity bidding. These proceeds are included in the regulated income of the TSO diminishing the unitary transmission tariffs.

Analyses performed on the results of the annually and the monthly interconnection capacity auctions for 2007 showed:

- a certain uncertainty, initially, as to the level of the available cross-border capacities which determined a cautious approach on behalf of CN Tranelectrica SA, by putting at the beginning a minimum capacities up for auction followed by some additional capacities after some clarifications regarding the operation of the Kozlodui – Bulgarian nuclear power plant – were obtained;
- high prices for export interconnections on the Serbian and Bulgarian borders (10-15 Euro/MWh/h).

The number of days per month and the yearly total in which congestions occurred for each interconnection line and on each direction are given in Table 3.1.2.1.

Table.3.1.2.1.

| 2007 | Hungary | | Bulgaria | | Serbia | | Ukraine | |
|---|---------|--------|----------|--------|--------|--------|---------|--------|
| | export | import | export | import | export | import | export | import |
| Number of congestion days | 337 | 318 | 365 | 347 | 356 | 365 | 0 | 136 |
| Number of withdrawal days for interconnection lines (on borders with a single interconnection line) | 54 | 54 | - | - | 3 | 3 | 6 | 6 |
| Annual frequency of any congestion (%) | 91,00 | 84,89 | 100,00 | 95,07 | 97,51 | 100,00 | 0,00 | 36,21 |
| Annual severity index | 4 | 4 | 5 | 4 | 4 | 5 | 0 | 2 |

The annual severity index is defined as in the Table below:

| Severity index | 0 | 1 | 2 | 3 | 4 | 5 |
|--|----|-------|--------|--------|--------|------|
| Annual frequency of any congestion – it is considered that there is a congestion on an interconnection border when access have not been granted to all the actors who requested it (UCTE definition in the System Adequacy Retrospect Report 2007) | 0% | 1-25% | 26-50% | 51-75% | 76-99% | 100% |

The formula below was used for the calculation of the Annual Frequency Index (FaC):

$$\text{FaC (\%)} = \text{NzC} * 100 / (365 - \text{NzR})$$

where: - NzC is the number of congestion days

- NzR is the number where NTC value is zero and corresponds to the withdrawal from operation on the borders with a single interconnection line (Hungary, Serbia and Ukraine).

The annual frequency index was calculated in relation to only half of the NTC value that was agreed upon with the neighbouring TSOs.

One can notice that in export direction, the Bulgarian border was the most congested border (100%), the Serbian and Hungarian borders had approximately the same values in relation to the whole 2007 level (91-97%). In import direction, the Serbian border was the most congested border (100%).

From a commercial viewpoint, one can say that all the RPS interconnections with other power systems were extremely congested, in both directions, with the exception of the Ukraine interconnection.

Provisos are stipulated in the *Commercial Code of the Wholesale Electricity Market* to enable the implicit allocation of the interconnection capacity with other power systems through the “market splitting” mechanism, if a regional market develops.

The NTC aggregated import/export values agreed with the external partners and the exchange scheduled for each direction in 2007 are given in Figure 3.1.2.2

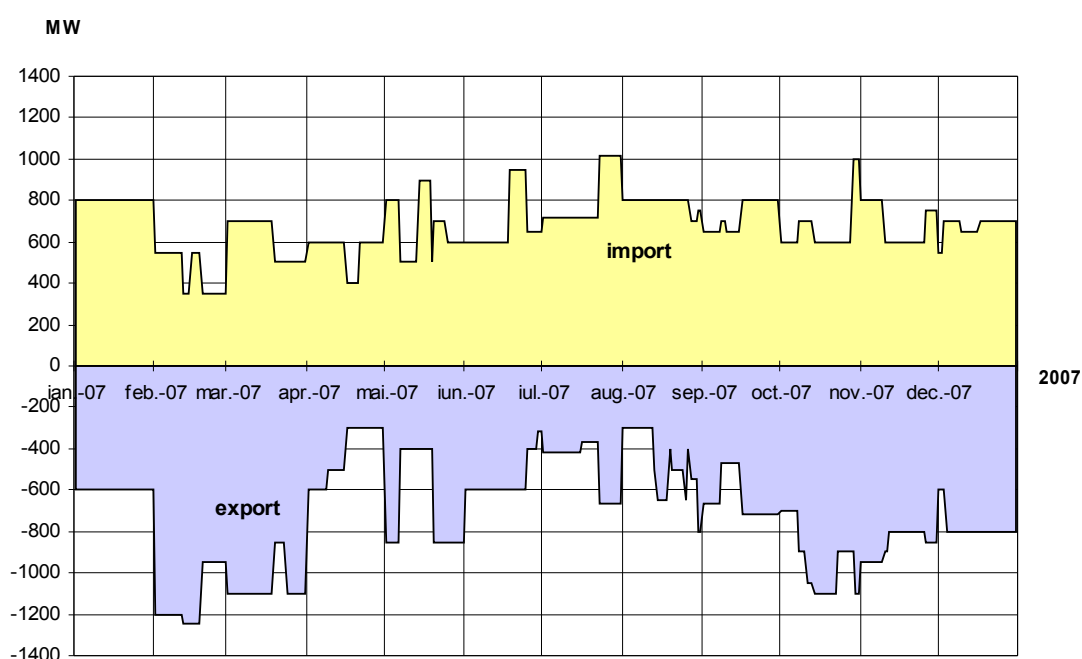


Figure 3.1.2.2

The monthly average values on each interconnection border and direction are given in the Table below:

| 2007 | | ian | feb | mar | apr | mai | iun | iul | aug | sep | oct | nov | dec | media |
|---------------------|------|------------|-------------|-------------|------------|------------|------------|-------------|------------|------------|------------|------------|------------|------------|
| EXPORT in | HU | 100 | 300 | 100 | 200 | 358 | 200 | 200 | 161 | 220 | 268 | 300 | 100 | 209 |
| | UA W | 0 | 0 | 0 | 0 | 0 | 0 | 20 | 0 | 20 | 50 | 50 | 0 | 12 |
| | BG | 100 | 450 | 476 | 100 | 100 | 200 | 265 | 208 | 180 | 255 | 133 | 281 | 229 |
| | MD | - | - | - | - | - | - | - | - | - | - | - | - | - |
| | RS | 400 | 479 | 542 | 127 | 187 | 195 | 139 | 111 | 238 | 400 | 400 | 400 | 301 |
| EXPORT TOTAL | | 600 | 1229 | 1118 | 427 | 645 | 595 | 623 | 480 | 658 | 973 | 883 | 781 | |
| IMPORT din | HU | 200 | 175 | 150 | 200 | 250 | 229 | 300 | 300 | 150 | 223 | 200 | 250 | 219 |
| | UA W | 400 | 95 | 253 | 200 | 240 | 258 | 500 | 297 | 285 | 168 | 185 | 229 | 259 |
| | BG | 100 | 100 | 100 | 100 | 119 | 100 | 120 | 100 | 200 | 200 | 200 | 100 | 128 |
| | MD | - | - | - | - | - | - | - | - | - | - | - | - | - |
| | RS | 100 | 150 | 150 | 100 | 100 | 150 | 100 | 100 | 100 | 100 | 100 | 100 | 113 |
| IMPORT TOTAL | | 800 | 520 | 653 | 600 | 710 | 738 | 1020 | 797 | 735 | 691 | 685 | 679 | 719 |

The total amount of NTC import values, calculated as the weighted mean of the NTC values on each border with the time duration within which these values were valid was 719 MW.

The NTC values in 2007 were influenced by:

a) Common factors:

- Withdrawal of certain interconnection and internal lines that influence the NTC values.
- Seasonal temperature differences that determined:
 - About 25% reduction of summer controls for overload protections in Serbia from April through October
 - Different values for the thermal limit electrical currents for 20°C on various RPS lines that influence the NTC values in January – February and in November – December.
- Production of Portile de Fier and Djerdap hydropower plants, especially in summer.

b) Specific factors in 2007:

- Limits imposed by the difficulties in ensuring the RPS balancing energy in January
- Reduction of Bulgaria exports following the closing of certain units in Kozlodui NPP (forecast 100-150 MW in January, February and June, maximum 500 MW in December), which led to the :
 - Increase by 100-200 MW of the parallel circulations from North to South, generated by transactions in the rest of UCTE affected both the import NTC on the borders with Ukraine and Hungary and the NTC export on the borders with Hungary, Serbia and Bulgaria.
 - Reduction of Bulgaria export towards Greece to result in an increased export quota from Romania towards Greece and from transits through Romania, with concentration of export circulations on the Romanian borders with Serbia and Bulgaria.
- Operation with 2 nuclear power units in Cernavoda NPP in November –December, which increased the contribution of the 400 kV Isaccea-Dobrudja line for the carrying out of the export with positive effects on the export NTC.

The analysis of the NTC values variation in 2007 on each border shows that:

- The border with the lowest summer NTC export values was the Romanian border with Serbia, with about 80% lower than the winter NTC export values.
- Export towards Hungary reached the lowest values in March and August (about 25% of the May NTC values), excluding the period when the 400 kV Arad-Sandorfalva line was withdrawn from operation when the value was zero.
- On the border with Bulgaria, the NTC export value in April and May was approx. 80% lower than that in the months of February and March.

The monthly physical flows (MW) registered on each border and direction are given in the table below:

| 2007 | | ian | feb | mar | apr | mai | iun | iul | aug | sep | oct | nov | dec | media |
|--------------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|
| EXPORT in | HU | 7 | 5 | 0 | 4 | 39 | 80 | 52 | 3 | 36 | 47 | 75 | 44 | 33 |
| | UA W | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | BG | 454 | 557 | 573 | 161 | 118 | 249 | 383 | 293 | 303 | 313 | 335 | 458 | 350 |
| | MD | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | RS | 382 | 376 | 377 | 286 | 172 | 243 | 267 | 217 | 351 | 364 | 389 | 386 | 318 |
| EXPORT TOTAL | | 843 | 938 | 950 | 451 | 329 | 572 | 703 | 513 | 690 | 723 | 799 | 888 | 700 |
| IMPORT din | HU | 66 | 56 | 196 | 97 | 31 | 12 | 9 | 101 | 25 | 32 | 8 | 24 | 55 |
| | UA W | 379 | 348 | 370 | 388 | 302 | 264 | 264 | 376 | 344 | 306 | 272 | 341 | 330 |
| | BG | 0 | 1 | 0 | 6 | 15 | 99 | 171 | 114 | 71 | 85 | 4 | 0 | 47 |
| | MD | 0 | 0 | 0 | 0 | 0 | 0 | 50 | 79 | 75 | 83 | 51 | 89 | 36 |
| | RS | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 12 | 0 | 0 | 0 | 0 | 1 |
| IMPORT TOTAL | | 445 | 405 | 566 | 490 | 349 | 376 | 495 | 683 | 515 | 506 | 336 | 454 | 468 |

The annual value of the import physical flows (including transits) was 3954 GWh and the values of the export physical flows (including transits) was 6052 GWh .

The values of these flows on each border are given in Figure 3.1.2.3.

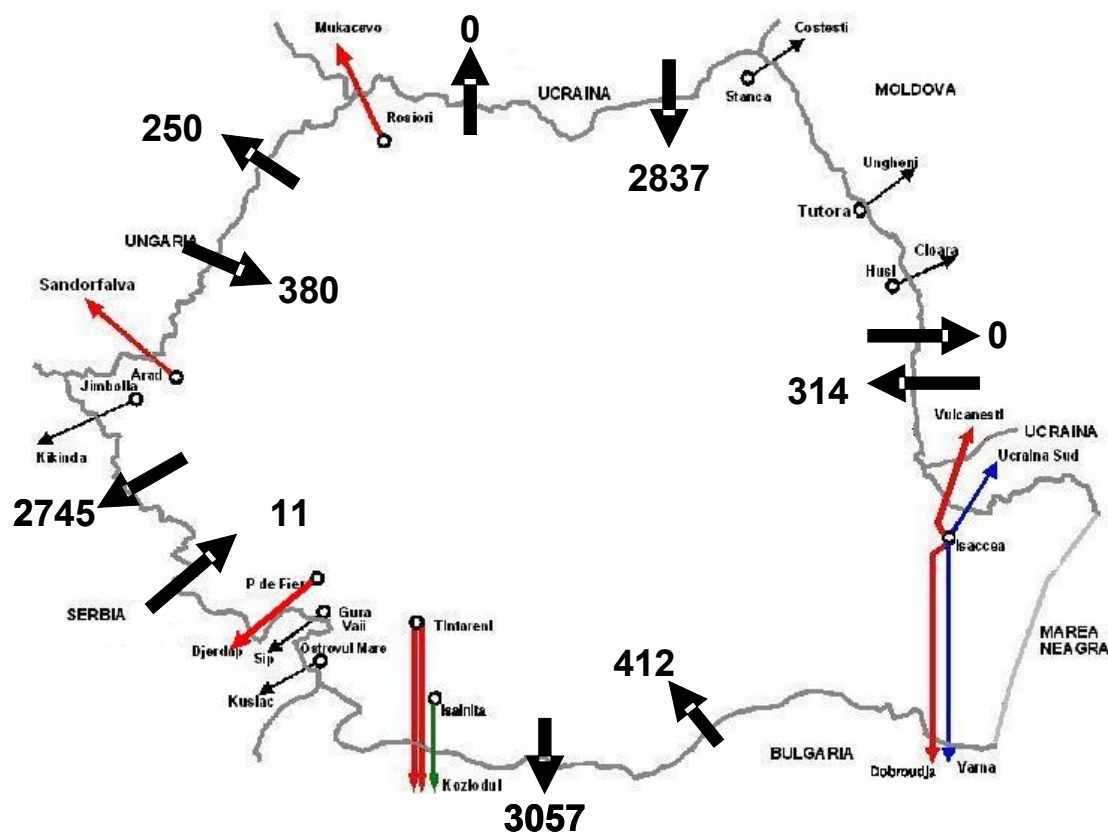


Figure 3.1.2.3.

Congestions on the internal lines are, generally, of a lesser magnitude and are solved on the balancing market: TSO orders the up-ward and/or down-ward regulation of the dispatchable units other than the ones that would follow in the merit order (if the operation of the latter leads to internal congestion) and the costs associated to these modifications are covered by the TSO and are not included in the imbalances price.

The monthly electricity levels that TSO engages for the internal congestions management together with its associated c/value for the year 2007 are given in Figure 3.1.2.4.

In 2007, recurrent congestions occurred around Romania's capital Bucharest in periods with high summer temperatures due to increased electricity consumption, to the reduced power notified by the generator holding generation units in the area and to the limited possibilities of the networks elements to sustain the energy transfer from other zones.

Monthly evolution of the volume and value of the electricity delivered for the congestion management

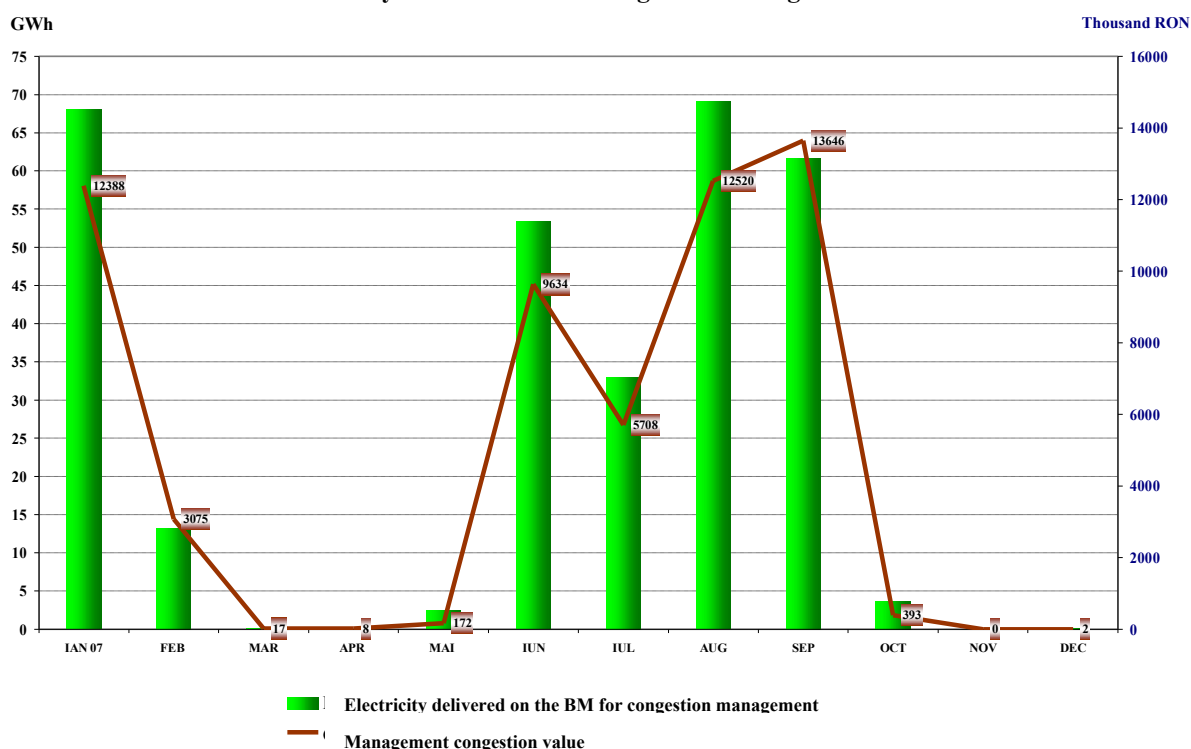


Figura 3.1.2.4

The congestions were solved mainly within the balancing market, but, as the producer Electrocentrale Bucuresti held a dominant position in solving this situation, the re-dispatching of its production towards TSO was accepted for a strictly limited period, the cost differences being recovered through the regulated price set for this producer.

3.1.3 The regulation of the tasks of the transmission and distribution companies

The legal unbundling of electricity generation, transmission, distribution/supply activities in Romania was made according to GD 627/2000 and, as a result, the following undertakings were established: CN Transelectrica SA – Romania's sole transmission system operator; SC Electrica SA – distribution and supply operator; SC Termoelectrica SA and SC Hidroelectrica SA – generation companies. Added to these is SNN Nuclearelectrica SA, which was set up according to GD 365/1998.

The subsequent restructuring process of CN Transelectrica SA consolidated the company's position as the unbiased independent transmission system operator. In its capacity of TSO, the company: is the concessionaire of the transmission system service and of the public assets associated to the electricity transmission grid; ensures the safe and stable functioning of the RPS at the required quality standards; and, at the same time, ensures, in a transparent, non-discriminatory and impartial manner, the regulated access of all market participants to the public electricity network. CN Transelectrica SA is a member of UCTE since May 2003 and of ETSO since November 2004. The length of the transmission grid is 8920 km.

According to the provisions of the Electricity Law, the TSO performs the following activities, mainly:

- 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, transmission networks IT and telecommunication equipment relating to RPS
- ensure the public electricity transmission service and the electricity transit on the Romanian territory, according to the contracts concluded;
- examine and endorse the compliance of the electricity transmission network users with the network connection technical conditions, as per the technical regulations in force;
- ensure the transmission of the electricity metering results to the operator of the corresponding centralised market and the access of the transmission service beneficiaries to verify the metering units;
- carry out RPS 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;
- authorise the operative control staff according to regulations in force;
- collect, keep records and store statistical data regarding RPS operation;
- 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 access procedures to databases;
- qualify the ancillary services suppliers according to its own procedure that shall be subsequently approved by the competent authority;
- 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;
- draw up, under the terms of the law, the plan for the protection of RPS against major disturbances;
- draw up the studies, programmes and works regarding RPS development;

Through GD 1342/2001, SC Electrica SA was restructured into eight distribution and supply entities, branches of SC Electrica SA, with the obligation stipulated in the license conditions to ensure the separation of accounts, of the distribution and the supply activities. The eight distribution and supply undertakings became fully operational in 2003, five of them (Enel Electrica Banat, Enel Electrica Dobrogea, E.ON Moldova, CEZ-Electrica Oltenia, Electrica Muntenia Sud) being privatised in the period 2004-2008.

In 2007, 30 distributors operated on the Romanian electricity market, 8 of which having over 100.000 customers each.

The 8 main electricity distribution operators are:

1. SC FDEE Electrica Distribuție Muntenia Nord SA, full state-owned capital
2. SC FDEE Electrica Distribuție Transilvania Sud SA, full state-owned capital
3. SC FDEE Electrica Distribuție Transilvania Nord SA, full state-owned capital
4. SC E.ON Moldova Distribuție SA, majority private ownership
5. SC CEZ Distribuție SA, majority private ownership
6. SC Enel Distribuție Banat SA, majority private ownership
7. SC Enel Distribuție Dobrogea SA, majority private ownership
8. SC FDFEE Electrica Muntenia Sud SA, majority private ownership

With the exception of SC FDFEE Electrica Muntenia Sud SA, which is to complete the legal unbundling of its distribution and supply activities in the second half of 2008, all the other 7 undertakings concluded this process in 2007.

The 8 main distribution undertakings operate 296,693 km of distribution networks (387927 km with connections) and deliver electricity to 7,266,286 customers connected to their distribution networks.

The distribution operators deliver distribution services for all electricity distribution network users, in a non-discriminatory manner, and ensure the access to its distribution networks of every applicant meeting the lawful requirements and observing the existing performance norms and standards.

The distribution operator has the following main tasks:

- operate, retrofit, rehabilitate and develop electricity distribution networks, observing the technical regulations in force;
- ensure, upon the request of and by informing the TSO, the transit of electricity through the electricity distribution networks to areas where the transmission operator has not enough network capacity to receive power injection from the power plants, respectively 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 RPS incidents occur and operation, maintenance or new works in the transmission network are carried out that render transmission in that zone temporarily unavailable;
- perform, upon consultation with the transmission operator, as adequate, works for the development of the electricity distribution networks through optimal development programmes according to long term studies and through specific modernisation programmes for installations;
- ensure the operative control according to the distribution license;
- disseminate, in a non-discriminatory manner, information on the unfolding of their distribution activities required by the network users while maintaining the confidentiality of the commercially sensitive data;
- submit, to the transmission system operator for approval, the repair and maintenance programme scheduled for the 110 kV;
- monitor the electricity distribution networks safe operation as well as the performance indicators of the distribution service.

Network tariffs

The Methodology to setting up tariffs for the electricity transmission service that was approved through ANRE Order 60 /2007, sets up the method to determining the income and to calculating the electricity transmission tariffs.

Transmission tariffs are determined based on a revenue-cap methodology, which was implemented with a view to ensuring:

- fair allocation, between the TSO and the transmission service beneficiaries, of the proceeds obtained from the increase in efficiency beyond the target set by the competent authority;
- efficient operation of the transmission company, prevention of any possible benefits the transmission system operator may gain from its monopolistic position
- promotion of efficient investments in the electricity transmission grid;

- promotion of efficient maintenance and operation practices;
- efficient use of the existing infrastructure, continuous improvement of the transmission service quality
- financial viability of the transmission company
- public and transparent information on the regulatory process.

The methodology is used by the TSO Transelectrica in order to calculate the regulated income and the transmission tariffs within a certain regulatory period, transmission tariffs that are to be applied to all the beneficiaries of the electricity transmission service: generators, customers, suppliers, distributors.

The regulated income for the transmission service is ex-ante determined by ANRE for a regulatory period of 5 years, with the exception of the first regulatory period of 3 years. The impact of inflation over costs is covered through the annual retail price index applied to tariffs in real terms.

Transmission tariffs differ by nodes (zones) depending on the impact of the injection or extraction of electricity into/from the nodes of the transmission grid. This impact is expressed as the transmission nodal marginal cost.

Transmission tariffs are approved annually by ANRE and come into force at the beginning of each fiscal year.

The following data are requested by the regulator to justify the TSO costs:

- regulated assets base;
- controllable and uncontrollable operation and maintenance costs;
- depreciation of the existing assets and of the investments commissioned annually;
- acquisition costs to cover electricity losses;
- acquisition of electricity costs associated to congestion elimination through re-dispatching;
- costs with the electricity cross-border exchanges.

Regulated revenue cap for the transmission service is ensured taking into consideration the:

- provisions stipulated in the performance quality standards imposed to the TSO through the Transmission Grid Code, the Romanian legislation or the contracts signed with the transmission service beneficiaries;
- evolution of the transmitted electricity quantity, estimated by the TSO;
- modification of losses level in the transmission grid;
- profitability of the regulated assets base.
- tariffs evolution, expressed in a smooth manner, within a regulatory period;
- all the transmission service fees paid by the TSO;
- financial viability of the TSO.

No internal comparison with other similar operators can be performed in order to determine the efficiency factor applied to controllable costs as there is only one TSO in Romania. In order to determine the efficiency factor the regulator takes into consideration the improvement of TSO productivity; the modification of initial data regarding costs; the investment programmes approved by the competent authority and the regulated assets base and the smooth revenues within the regulatory period.

In terms of quality of the regulated service, the *Methodology to setting up tariffs for the electricity transmission service* considers a correction factor with respect to the compliance with the minimum performance parameters for the second regulatory period (2008-2012). This factor will be introduced in the calculation formula for the yearly revenues. The level of revenues associated to the penalty-bonus risk due to non-compliance with the quality indicator, will not exceed 2% of the revenues.

For the 4th quarter of 2007, TSO reported the following indicators regarding the continuity of the transmission service:

- Unscheduled interruptions due to others
ENS (kWh) = 0
- Unscheduled interruption due to internal causes
ENS (kWh) = 210.796
- Total duration of interruptions
D (minutes) = 426

where ENS is the non-delivered electricity (interrupted to the customers/non-generated in power plants).

The performance standard for the electricity transmission service was reviewed in 2007 and was approved by ANRE Order 17/2007.

The TSO provides the market participants information regarding the average transmission tariff, zone tariffs for the injection (Generation) and extraction (Load) of the electricity in the transmission network (see figures 3.1.3.1 and 3.1.3.2), regulations for the connection of users to public electricity transmission network.

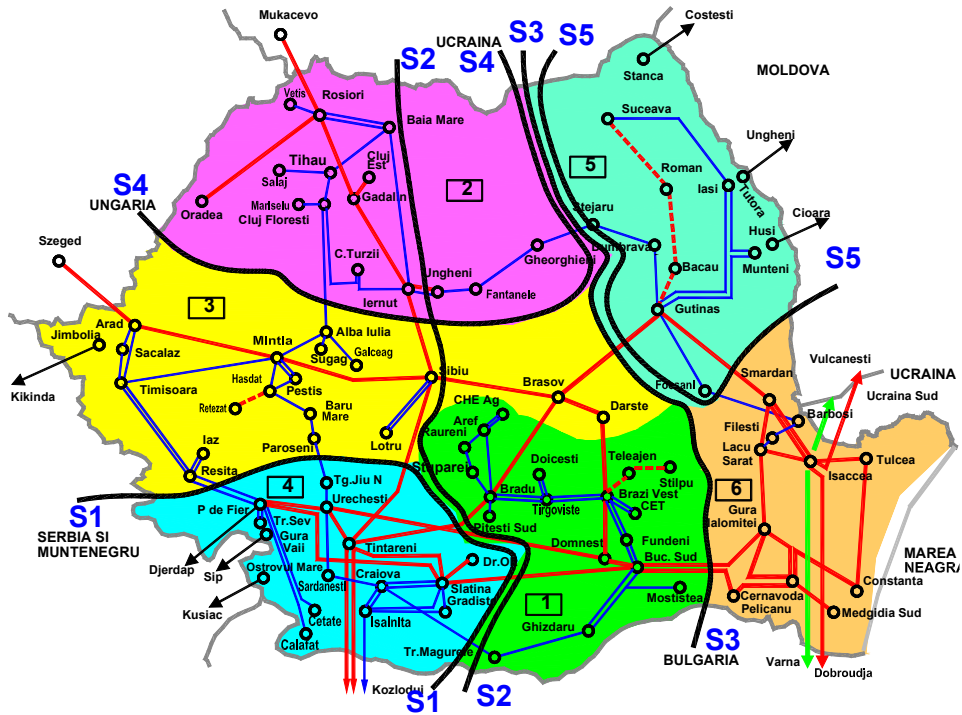


Figure 3.1.3.1. Zone tariffs for injection (Generation) of electricity in the transmission network.

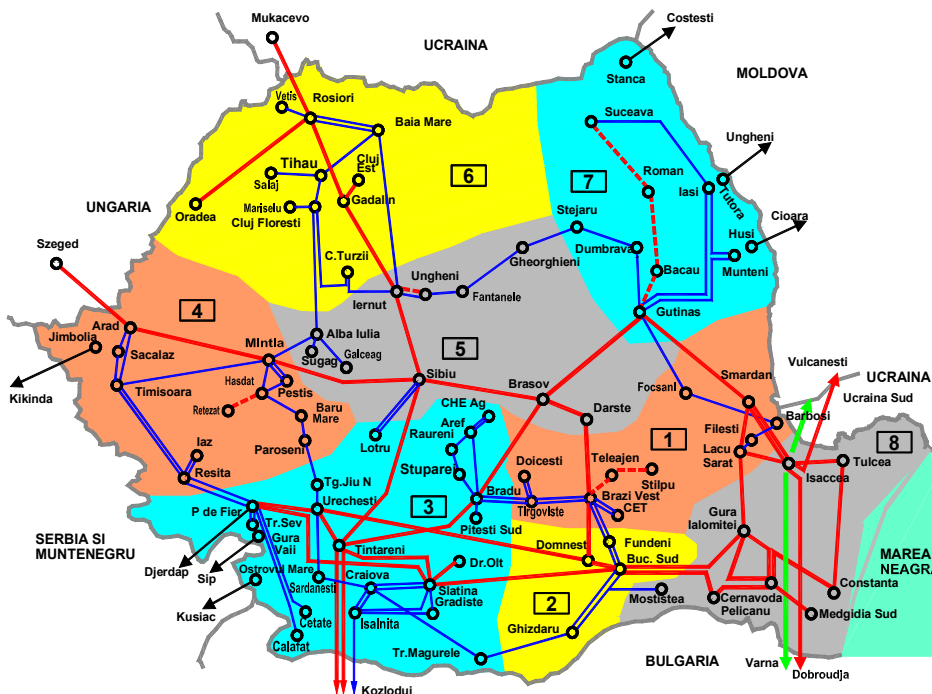


Figure 3.1.3.2. Zone tariffs for extraction (Load) of electricity from the transmission network

According to ANRE Order 43/2006, modified by ANRE Orders 7/2007 and 26/2007, the average transmission tariff in 2007 is 14.85 RON/MWh and the average injection tariff (T_G) is 7.40 RON/MWh (2.217 Euro/MWh). The T_G value for the six injection zones is ranged within [4.63 ... 8.67] RON/MWh, respectively [1.387...2.598] Euro/MWh. The average extraction value (T_L) for the 8 extraction zones is 7.45 RON/MWh (2.232 Euro/MWh) with values ranged within [5.92 ... 10.79] RON/MWh, respectively [1.774...3.233] Euro/MWh. Producers pay about 50% of the network costs while the customers pay the remaining 50%.

Distribution tariffs (RON/MWh) are of monomial type and are differentiated by three voltage levels: high voltage (110 kV), medium voltage, low voltage and by distribution operators. The regulator sets up distribution tariffs for each distribution operator.

Distribution tariffs are calculated according to a tariff basket - price-cap methodology, issued in compliance with the GD 890/2003 regarding the "Romanian energy sector road map". Based on this regulation, the regulatory periods are of 5 years, with the exception of the first regulatory period, which was of 3 years (2005 – 2007).

The *Methodology to setting up tariffs for the electricity distribution service* was revised and approved by ANRE Order 39/2007 taking into consideration the fact that second regulatory period began in 2008.

The following justified costs are considered when setting up the distribution tariffs:

- Operation and maintenance of the distribution network
- Purchase of electricity to cover network losses
- Depreciation of assets composing the regulated asset base (BAR)
- Return of assets
- Necessary working capital

The tariff cap for the first regulatory period was 18% and 12% for the second regulatory period, respectively. Additionally, distribution tariff caps may be imposed by the regulator for each voltage level.

This type of incentive regulation was implemented in order to:

- a) Ensure an efficient regulatory environment;
- b) Ensure fair allocation of revenues obtained from the increase of the efficiency beyond the targets set by the competent authority between the distribution operator and the distribution service beneficiaries.
- c) Ensure financial viability of the distribution companies;
- d) Ensure efficient operation of the distribution companies;
- e) Prevent the distribution operator's abuse of dominant position;
- f) Promote efficient investments in the electricity distribution network;
- g) Promote efficient practices for the electricity distribution network operation and maintenance;
- h) Ensure the efficient use of the existing infrastructure;
- i) Ensure the distribution network safe operation;
- j) Improve the quality of the distribution service;
- k) Ensure a transparent approach regarding the regulatory process.

For the first and the second regulatory period, the value of the efficiency factor X applicable to the controllable operation and maintenance costs was set by the regulator to 1%.

The regulated rate of return (RRR) is calculated in real terms based on the average weighted cost of capital before tax. For the distribution operators with majority private capital, in accordance with the privatization commitments, the RRR value in real values before tax was 12% for each year of the first regulatory period (2005–2007) and is 10% for each year of the second regulatory period (2008-2012). For distribution operators with full state-owned capital, the RRR value may be decreased by the country risk component and by the private investor's risk.

The distribution network investment programme is assigned by voltage levels and by three types of categories for investment works as follows : essential fixed assets, required fixed assets and justifiable fixed assets.

The essential fixed assets are related to the safe operation of the distribution network and the continuity of electricity supply. The required assets are necessary for the development and the modernizing of the distribution system to ensure a distribution service that is in compliance with the performance and quality ratios laid down in the existing legislation. The justified assets are those assets for which analyses are performed considering the benefit to the customer.

An annual investments forecast is taken into consideration when calculating the distribution tariffs, a reconciliation of the forecasted and the real investments being made at the end of the regulatory period.

Losses reduction programmes have been assumed by the main electricity distribution operators so that by the year 2012 the level of losses may be lowered to 9.5% of the electricity injected into the network. Only losses associated to the reduction programme are covered through the distribution tariffs.

Before the beginning of a new regulatory period, the distribution operators submit ANRE, by October 1st of the last year of the preceding regulatory period, the followings:

- a) Tariff approval application specifying the exact values that are requested and observing the cap imposed to the tariff basket
- b) General data on the distribution operator
- c) Regulated costs and revenues for the following 5 years
- d) Investments plan for the following 5 years detailing the estimated costs, the financial sources and the depreciation associated to the new investments
- e) Energy balance for the following 5 years
- f) Data related to the electricity networks
- g) Investment programme detailing the investment goals for the following 2 years
- h) Description and justification of the methods used for costs allocation and the associated support documentation
- i) A notification signed by the manager consenting to the publication of the submitted data or specifying which data are classified according to the existing legislation.

For the annual approval of the distribution tariffs, the distribution operator submits ANRE, by October 1 of the current year, the followings:

- a) Data required for the correction of the quantities of distributed electricity, of the regulated network losses (quantity and price)

- b) Data required for the correction of the uncontrollable operation and maintenance costs
- c) Other data requested by ANRE

The activity developed by the main distribution operators are monitored on monthly basis according to ANRE Decision 570/2008 for the approval of the templates to monitoring the distribution operators' activity and of the associated guidelines.

For the distribution operators with less than 100,000 customers, the tariffs for the service of electricity distribution is calculated according to the *Methodology to setting up electricity distribution tariffs for legal persons, other than the main electricity distribution operators, and the conditions for the retransmission of electricity* (ANRE Order 3/2007). The adopted type of regulation is the "cost plus" method; a maximum rate of return of 5% is considered upon the total justified costs.

The Performance Standard for the service of electricity distribution (ANRE Order 28/2007) enters into force starting January 1, 2008. The continuity of the electricity supply is monitored through the SAIFI and SAIDI indicators calculated for each voltage level for urban and rural regions separately. The SAIFI and SAIDI indicators are also categorized as follows:

- Scheduled interruptions
- Unscheduled interruption due to Force Majeure
- Unscheduled interruption caused by the users
- Unscheduled interruptions excluding the ones due to both Force Majeure and the users.

The year 2008 is the year where the indicators set by the performance standard for the service of electricity distribution are monitored while 2009 is the year when penalties/bonuses will be applied to the distribution operations.

The average values of the network tariffs (transmission, distribution) for the three main consumer categories are given in Table 3.1.3.1 .

Table 3.1.3.1.

| | Euro/MWh |
|--|------------------------|
| Consumer | Network tariffs |
| Dc: household customer with and annual consumption ranged between 2500 and 5000 KWh/year | 59,06 |
| Ib: commercial customer with and annual consumption ranged within 20 and 500 MWh/year | 48,04 |
| Ig: industrial customers with and annual consumption of over 150000 MWh/year | n.a. |

The data in the above table correspond to the 2nd semester of 2007, the currency exchange rate being the arithmetic mean of the average monthly rates of the 2nd semester of 2007.

Starting July 1, 2007, the data monitoring procedure was changed to observe the provisions of the 2007/394/EC Decision so that the values of the first semester cannot be compared to the ones of the 2nd semester mainly due to the large differences between consumer categories. Thus, the data corresponding to the 2nd semester of 2007 were considered in order to correctly reflect the reality. Taking into consideration that there are no more than 3 final consumers

within the Ig category, the data corresponding to this category are not reported as per the provisions of the 2007/394/Decision.

Because the transmission and the distribution tariffs differ throughout the country, the minimum and maximum values by category of consumers are the followings:

| | Euro/MWh | Euro/MWh |
|--|---|---|
| Consumer | Network tariffs - minimum values | Network tariffs - maximum values |
| Dc: household customer with and annual consumption ranged between 2500 and 5000 KWh/year | 52.05 | 62.52 |
| Ib: commercial customer with and annual consumption ranged within 20 and 500 MWh/year | 42.45 | 58.15 |
| Ig: industrial customers with and annual consumption of over 150000 MWh/year | n.a. | n.a. |

The network connection procedure, stages and tariff are regulated through the *Regulation for the Connection of Users to the Public Electricity Networks*, approved by GD 867/2003 and by the secondary legislation issued by ANRE. The costs with the construction of the facility proper and the costs with the enhancement of the network are considered upon calculating the connection tariffs. The conditions for connection to the networks are stipulated in the network codes and the terms for issuing the technical permits for connection are set through regulations. The Regulation was modified in 2008 to meet the provisions of the Electricity Law No. 13/2007, with its subsequent amendments and complements.

The *Methodology to setting up the system service tariff* lays down the rules to determining the income used by C.N. Transelectrica S.A. for the procurement of resources in order to carry out system services and provides the calculation method for the tariff associated to this service.

In 2007, through the *Methodology to setting up, implementing and use of capacity reserve*, an extra ancillary service was added to the power reserves already ensured by the qualified suppliers (secondary regulation, fast tertiary regulation, slow tertiary regulation).

The annual income required to ensure appropriate system services is assessed according to the principle of avoiding costs in RPS and to the customers and is made up of: the annual revenue for services provided by the system operator itself and the annual revenue for the procurement of ancillary services.

The annual income required to provide services by the system operator is determined by C.N. Transelectrica S.A. based on the justified costs associated to dispatching activities (operational control, scheduling and operational planning) and to the management of the balancing market, to congestions management, protections and of the safety works. The activities performed are the ones specific to the system operator. ANRE recognises as justified costs the followings: operation and maintenance costs, depreciation of the existing assets and of the new investments, profitability of the regulated assets base.

The annual income that CN Transelectrica SA requires for the ancillary services procurement is destined to the acquisition of the following resources: secondary regulation, spinning reserve, fast tertiary regulation, slow tertiary regulation, power reserve ensured by the efficient generation capacities of the co-generation units, reactive power required for the voltage control of the electricity transmission network. The required quantities of ancillary services are determined and contracted by CN Transelectrica SA. .

Balancing Market (BM), Balance Responsible Party (BRP)

On the Balancing Market, TSO performs in real time the balancing between the electricity production and consumption, on commercial bases.

In order to ensure sufficient energy for the system balancing, TSO contracts reserves (ancillary services market) for periods of maximum one year (regulated contracts or concluded on the ancillary services market). Each transaction concluded on the BM establishes the obligation of the respective BM participant to supply the adequate service hourly to the TSO and make the corresponding balancing energy available on BM.

BM starts in the previous day, after TSO approves the physical notifications for the delivery day and ends when the delivery day is over. BM is a mandatory market, meaning that each BM participant holding dispatchable units must offer on the BM all the production capacities and dispatchable loads available. The balancing energy related to secondary regulation, fast tertiary regulation and slow tertiary regulation is traded on the BM.

The balancing energy is ensured through:

- a)** Up-ward regulation, by increasing the production of a dispatchable unit or by decreasing the consumption of a dispatchable load or a pumping storage plant which is registered as a dispatchable load;
- b)** Down-ward regulation, by decreasing the production of a dispatchable unit or by increasing the consumption of a dispatchable load or a pumping storage plant which is registered as a dispatchable load.

The BM participants must submit daily offers for each dispatch interval (60 minutes) corresponding to the balancing energy which they can make available for up-ward regulation and down-ward regulation. Each daily offer may contain up to ten (10) price-quantity pairs to be submitted by 5:00 p.m. (BM closing time) on the trading day that precede the delivery day with maximum one (1) week before the respective delivery day.

All the validated offers on BM establish the BM participant obligation to delivery the offered quantity on BM corresponding to the dispatch instructions issued by TSO.

On BM only the actually delivered energy is remunerated. Secondary regulation is paid at the offers marginal price and the tertiary regulation is paid to the offer. Each licensed party must take financial responsibilities towards TSO in order that the physical balance between metered production, scheduled purchases and electricity imports, on one hand and the metered consumption, scheduled sales and electricity exports, on the other hand, for one or more connection points and/or for one or more transactions may be ensured.

The licensed parties taking the balance responsibility towards TSO must register as Balance Responsible Party (BRP) or is allowed to transfer the balance responsibility to a licensed party registered as a BRP.

When a BRP is in negative imbalance, the respective BRP will pay the balancing energy which was purchased from TSO for system balancing at the hourly imbalance deficit price and when a BRP is in positive imbalance, the respective BRP will sell to TSO the surplus energy at the hourly imbalance surplus price.

The imbalance surplus price is calculated for each dispatch interval as a ratio between the incomes resulted from the system balancing and the actually delivered balancing energy for downward regulation in that dispatch interval. The imbalance deficit price is calculated for each dispatch interval as a ratio between the payments for the system balancing and the actually delivered balancing energy for upward regulation in that dispatch interval.

The settlement of the BRP imbalances is performed after the determination of the meter values for all the metering points of the market participants, appealing/solving the appeals/approval of meter values and aggregation of meter values by BRP, according to the aggregation algorithm communicated to the Metering Operator; in these circumstances, the settlement of the imbalances is made two (2) months after the delivery month. Taking into account that the market model leads to residual income/costs for TSO resulted from the balancing system, the calculation of the residual income/costs and their redistribution to the suppliers in ratio according to the consumption supplied by each one of them, are made at the same date.

There is only one balancing zone defined for Romania, operated by a single licensed system operator/ Balancing Market Operator (BMO) - CN Transelectrica SA. The interactions with other control zones is made through the mutual aid exchanges inter – TSO, not by accepting offers to be included in a common merit order.

At this stage of electricity market developing an intra-day market was not considered necessary; although, bilateral transactions intra-day are allowed, concluded before the BM closing time. On the day-ahead-market the transactions are concluded on hourly basis, the same with the transactions on BM.

Representative prices applied to the market participants for the registered imbalances

A comparison between the monthly evolutions of the average settlement prices (the imbalance surplus price and the imbalance deficit price) for 2007 is shown in Figure 3.1.3.3. The annual average values of the settlement prices for 2007 were: imbalance deficit price 213.45 RON/MWh (63,96 EURO/MWh), and the imbalance surplus price 62,66 RON/MWh (18,78 EURO/MWh).

The monthly average values for the whole operation period are in a normal structure (imbalance surplus price < average price DAM < imbalance deficit price) and the trend is the improving of this structure especially by imbalance surplus price increasing.

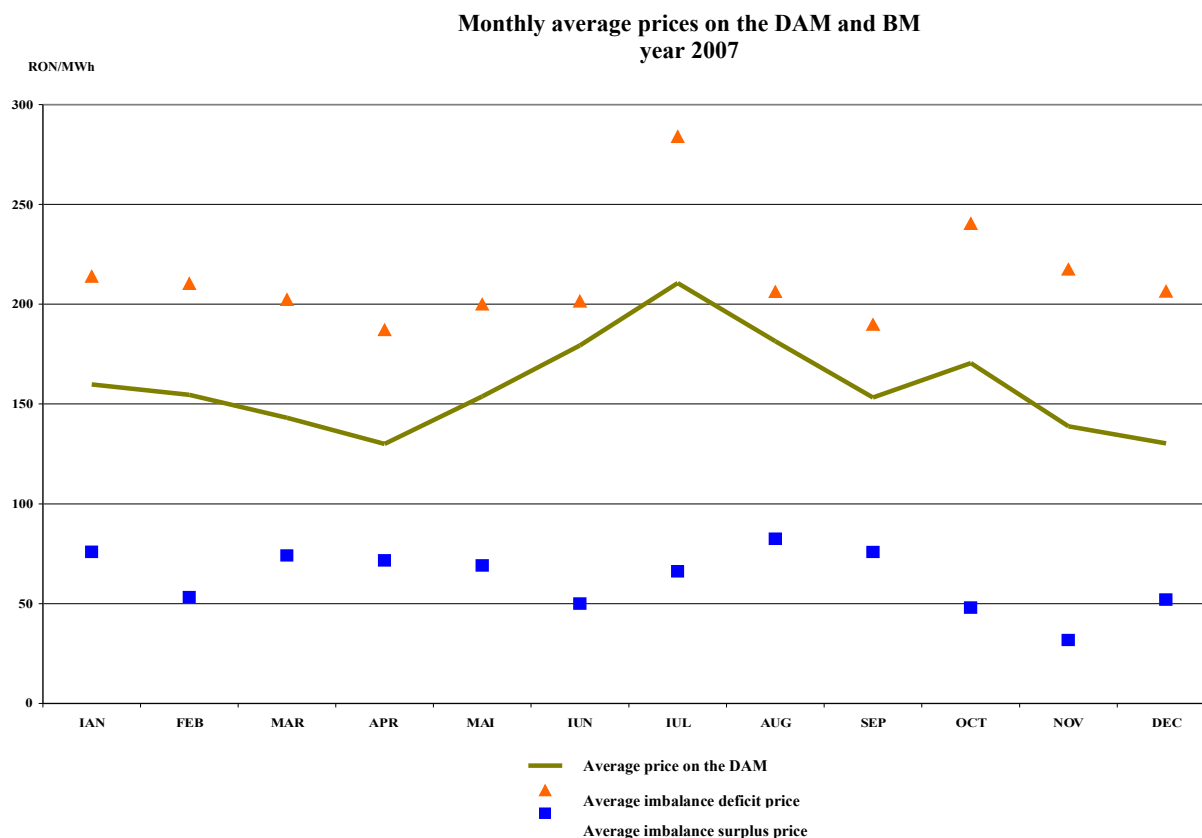


Figure 3.1.3.3

Information regarding the balancing mechanism to be put by the TSO at the market participants' disposal:

According to the provision of the *Commercial Code of the Electricity Wholesale Market*, the TSO should disclose if possible in real time the following information regarding the balancing mechanism:

1. Total (aggregated) notified electricity production.
2. Total national electricity consumption:
 - corresponding to the physical notifications made by the suppliers;
 - corresponding to the TSO forecast;
3. Net export in each borderline transaction zone.
4. Net import in each borderline transaction zone.
5. Necessary reserve, for secondary, fast tertiary and slow tertiary regulation.
6. Available band for the secondary regulation.
7. Available balancing amount corresponding to the fast and slow tertiary regulation.
8. Total amount of balancing energy, by types of balancing, in every dispatchable interval, for the system balancing.
9. Total amount of balancing energy, by types of balancing, in every dispatchable interval, for congestions management.
10. Marginal price of the total balancing energy corresponding to the upward (downward) power regulation.
11. Highest/lowest accepted price for the balancing energy corresponding to the fast tertiary upward (downward) regulation.

12. Highest/lowest accepted price for the balancing energy corresponding to the slow tertiary upward (downward) regulation.

The TSO sends on monthly basis to every balancing market participant:

- The total amount of the balancing energy, by types and sense of balancing, which the market participant should have submitted in every dispatchable interval, from every dispatchable unit.
- The total amount of the balancing energy, by types and sense of balancing, which the market participant effectively submitted in every dispatchable interval, from every dispatchable unit.

After finishing the settlement of the balancing market, every BRP and balancing market participant is sent by the Settlement Operator SC OPCOM SA (different from TSO) all the needed information about the hourly remuneration for the participation in the balancing market, their positive and negative imbalances in every dispatchable interval, the imbalance surplus price and the imbalance deficit price, and information regarding the penalties applied on account of the dispatchable units' un-notified deviations from the notified production schedules (de-notification imbalances) and the penalties for the non-fulfilment of the Dispatcher Orders (the latter were not required in 2007).

The Settlement Operator publishes a monthly settlement statement regarding the residual incomes, comprising the balance account corresponding to every BRP, and the balance settlement of all BM participants, the balancing additional costs or incomes, respectively.

In 2007, the system balancing additional costs/ incomes resulting from the system balancing were allocated to the BRPs that assumed the balancing responsibility; the TSO kept no quota from this mechanism.

The year 2007 was characterised by a frequent occurrence of certain negative values for these balances with negative effects on the participants' costs while in the previous periods the characteristics of these balances were particularly income-like. The regulator's analysis performed upon the request and with the participation of the operators, showed that at least the following factors led to this situation:

- The participants' excessive use of the support mechanism for the uncontrollable priority production specified in the Commercial Code of the Wholesale Market, namely the exemption of the BRPs with uncontrollable production from the payment of the imbalances induced by this production.
- The operators' incorrect understanding of the mechanisms for the integration into the balancing market of the cross-border mutual-aid exchanges between the TSO and the other transmission system operators, concurrently with the increase of such exchanges.

Both problems were subject of ANRE analysis in order to clarify these mechanisms to the participants, to give the participants a warning against any potential misconduct and to amend the existing regulations in order to prevent and discourage similar circumstances.

3.1.4 Effective unbundling

As mentioned before, the legal unbundling of electricity generation, transmission, distribution/supply in Romania was completed in 2000 and by July 2007 the functional separation and the separation of accounts between the activities of distribution and supply was also achieved. The legal unbundling of the distribution and supply activities of seven of the

exiting distribution/supply operators was completed in July 2007 by the establishment of distinct distribution and supply undertakings. The unbundling of the 8th distribution operator (the recently privatised Electrica Muntenia Sud) is estimated to be complete in 2008.

The 100000-customer rule also applies in Romania, as the distribution undertakings falling under this rule are not compelled to carry out the unbundling of their activities. Currently, 22 such distribution operators are holders of distribution licenses.

CN Transelectrica SA is the concessionaire of the transmission service and of the public assets associated to the electricity transmission grid (>110 kV) while the eight distribution undertakings are the concessionaires of the distribution service and of the public assets of the distribution network (\leq 110 kV).

CN Transelectrica SA ownership structure is as follows: 76.5% of the social capital – the Ministry of Economy and Finance, 13.5% - The Property Fund, 10 % - private ownership. Since August 2006, the company is also listed to the Stock Exchange.

The ownership structure for the distribution operators following the legal unbundling of the distribution and supply activities is as follows:

1. SC CEZ Distribution SA: CEZ a.s : 51.0062 % S.C. Electrica S.A. ; 36.99378 % the Property Fund ; 11.9999 % Severomoravská energetika a.s. ; Východočeská energetika a.s. and Západočeská energetika a.s. hold one share each, representing 0.0000014 % of the social capital.

2. SC Enel Distribution Banat SA și SC Enel Distribuție Dobrogea SA: Enel Distribuzione SpA, holder of 51.003 % of the shares, S.C. Electrica S.A., holder of 36.9970 % of the shares, the Property Fund S.A., holder of 12 % of the shares.

3. SC E.ON MOLDOVA DISTRIBUTION SA: 50.97 % - E.ON Energie Romania S.A.; 37.05 % S.C. Electrica S.A.; 11.95 % the Property Fund SA ; 0.03% the companies within the E.ON Group holding one share each, whose weight in the social capital is 0.01% (E-ON Sales & Trading GmbH, E-ON Energie 31. Beteiligung GmbH, E-ON Energie 21. Beteiligung GmbH).

4. SC FDFEE Electrica Transilvania Sud SA, SC FDFEE Electrica Transilvania Nord SA, și SC FDFEE Electrica Muntenia Nord SA, have the following shareholding structure: 88 % S.C. Electrica S.A.; 12 % the Property Fund S.A.

5. After privatisation, ENEL will hold 67.5% of the shares of SC FDFEE Electrica Muntenia Sud SA.

Both the TSO and the distribution/supply operators have their own offices, logos and internet websites. The new undertakings that followed the legal unbundling of the distribution and supply activities are in the process of creating their own logos and internet websites.

The TSO and DSOs financial reports are published separately.

The regulator set up detailed rules on the separation of costs. These rules are included in the conditions of the transmission and distribution licenses and in the methodologies for network tariffs calculation. Penalties for non-compliance with the unbundling requirements are laid down in the Electricity Law.

3.2. Competition issues (Article 23(8) and 23 (1)(h))

3.2.1 Description of the wholesale market

Structure of the electricity generation sector

At the end of 2007, there were 80 electricity generation license holders.

The most important electricity producers are:

- SC HIDROELECTRICA SA, the hydro producer that in 2007 sold a large number of their micro hydro power plants (<10MW),
- SN NUCLEARELECTRICA SA, the nuclear power producer,
- SC CE TURCENI SA, SC CE ROVINARI SA and SC CE CRAIOVA SA, three major electricity producers holding condensing turbines and boilers using the local lignite from their own mines
- SC ELECTROCENTRALE DEVA SA, a producer with pit coal fired condensing turbines and units
- SC ELECTROCENTRALE BUCURESTI SA – producing electricity either from cogeneration or through hydrocarbon-fired condensing units
- SC TERMOELECTRICA SA, that holds condensing and cogeneration units; this operator is the owner of SC ELECTROCENTRALE BUCURESTI and of one of the local cogen producers
- 13 producers with dispatchable units have only cogeneration units; the heat is used for the towns in which they are located via the district heating pipes. These producers, municipalities-owned, are confronted with non-optimal operating regimes, high operating costs, because the industry heat consumption has continuously decreased since 1990, and because of people heat savings and disconnections.

Different restructuring scenarios of power generation were considered in time (taking into account the current disproportion between producers in terms of size, technology and costs) and numerous pros and cons still exist. The current Government advanced the idea to join the majority of the large producers (Hidroelectrica, Nuclearelectrica, 2 energy holdings) together with the 3 distributors and 3 default suppliers owned by the state under one company to increase the investment capacity of the participants.

The present situation reflects the successive reorganisations that took place during 2000-2004 with the consequence of gradual reduction of the electricity wholesale market concentration, as indicated by the Herfindahl-Hirschman (HHI) index evolution. The value of HHI, computed based on installed capacity, was in 2007 of **1813**, very close to the threshold between the moderately concentrated and highly concentrated markets, due to the commissioning of the second nuclear unit at SN Nuclearelectrica, which balanced the market shares. The values of the concentration index take into account the participations of the operators in the shares of others, for instance TERMOELECTRICA's full ownership of the SC ELECTROCENTRALE BUCURESTI SA and SC Electrocentrale Galati SA.

The maximum net generating capacity was 18.4 GW (corresponding to the existing capacities at 31.12.2007). The maximum peak demand was 8.7 GW.

The national gross consumption was in 2007 of 54.1 TWh (including the losses in the transmission and distribution networks).

The number of producers that hold, as installed capacity, more than 5% of the total capacity, was 5, and the percentage of the installed capacities of the first three largest producers was 63.7% (the calculus respects the dominance principle previously explained).

The structure of the net electricity generation (delivered in the network) in 2007 (only for the producers with dispatchable units) is shown in Table 3.2.1.1

Table 3.2.1.1.

Net electricity generation

| Producător | Net electricity generation | |
|---------------------------------------|----------------------------|--------------|
| | TJ | GWh |
| S.C. „Termoelectrica” S.A. | 7135 | 1982 |
| S.C. „Electrocentrale București” S.A. | 21609 | 6003 |
| S.C. „CE Rovinari” S.A. | 19753 | 5487 |
| S.C. „CE Turceni” S.A. | 22434 | 6232 |
| S.C. „CE Craiova” S.A. | 15207 | 4224 |
| S.C. „Electrocentrale Deva” S.A. | 13348 | 3708 |
| S.C. „Hidroelectrica” S.A. | 55612 | 15448 |
| S.N. „Nuclearelectrica” S.A. | 25115 | 6976 |
| Self producers | 6907 | 1919 |
| Other producers | 12496 | 3471 |
| TOTAL | 199616 | 55449 |

Under the same conditions specified in the computation of the market concentration indicators, 7 generating companies delivered more than 5% of total national net generation, while the cumulative market shares of the first 3 largest producers was 55.7%.

Table 3.2.1.2 presents the annual average values of structure indicators C1 and HHI calculated based on electricity delivered into grids by generators with dispatchable units.

Table 3.2.1.2

| Year | C1 | HHI |
|------|----|------|
| 2007 | 28 | 1404 |

The presented data show a moderate electricity market concentration.

The gross values representing the covering of load demand in peak and off-peak days of the year are given in Figure 3.2.1.1.

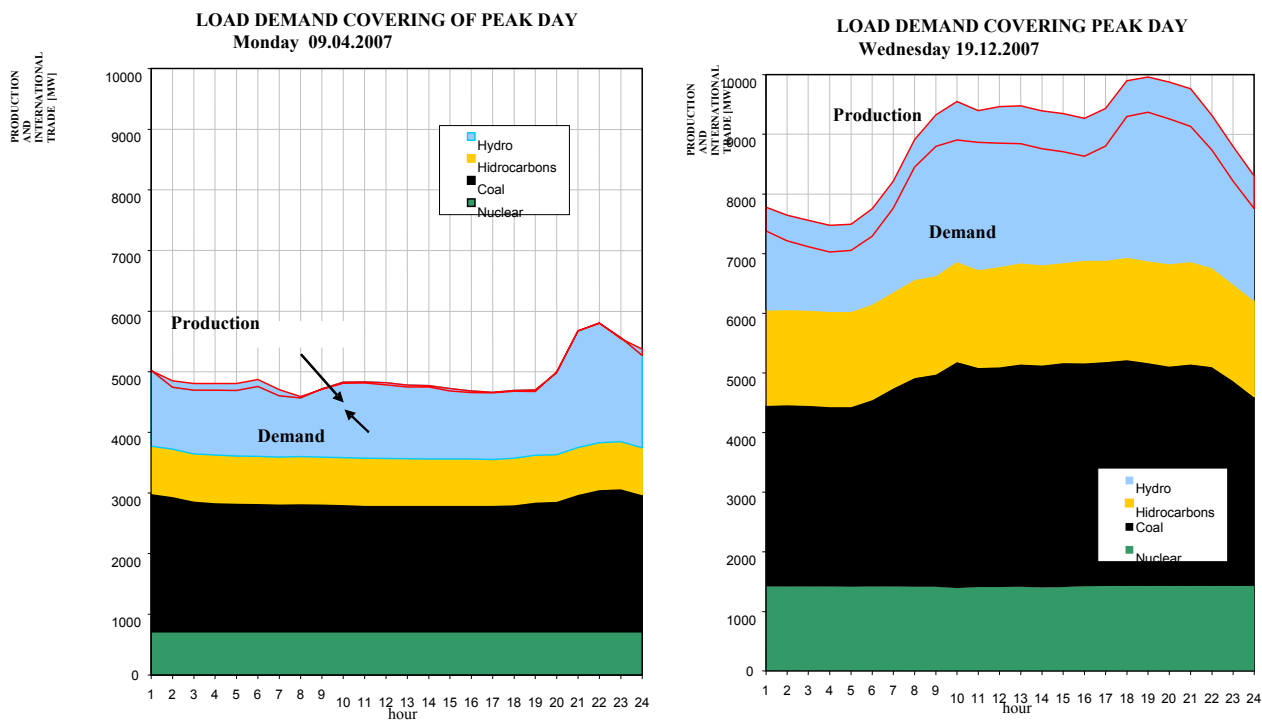


Figure 3.2.1.1.

Description of wholesale electricity market

The new market model was launched on July 1, 2005. According to this model, the electricity is traded through:

1. contracts, which may be:
 - a. **regulated**, still in use for captive customers (until the 1st of July 2007) or for consumers who did not switch suppliers and for the transmission and distribution network losses
 - b. **negotiated** though market mechanisms (bilateral negotiations or concluded on the centralised markets)
2. transactions concluded on a voluntary day-ahead market - **DAM** (with both side offers and bilateral settlement).

The real time differences between the demand and the offer are covered by the TSO, by accepting offers on the balancing market – BM. The participants are financially responsible for the imbalances they created. The balance responsibility is assumed by the Balance Responsible Parties registered with the TSO upon the licence holders' requests.

In order to use transparent mechanisms for contract transactions on the competitive market, starting with December 2005 a new mechanism was put in place – the centralized market for bilateral contracts (CMBC). The prices of the transactions on this market, the framework contracts suggested by the participants and the contracting partners are published by SC Opcom SA, in order to increase the transparency and fairness of the wholesale energy market.

There is no market for standardized contracts in Romania with the exception of the DAM transactions made on each hourly intervals; on CMBC the participants offer their own

framework contracts, the daily delivery intervals, the quantities on each interval, the start and the end of the intervals.

In 2007, SC Opcom SA organised another market, called Centralized Market for Bilateral Contracts with continuous trading (CMBC – CT), where the traded contracts have a higher level of standardization (1MWh contracts concluded for a period of one week/month/trimester, for a constant power delivery at peak or idle hours). But the liquidity on this market was extremely reduced, as the participants preferred CMBC on which they launched offers for constant, idle or two-hour intervals power delivery with the possibility of variations in the initial contracted powers, upon the buyer's request and with the seller's consent.

Electricity was also traded on the Electricity Ring organised by Romanian Stock Exchange (BRM) on which non-standardized selling-buying contracts, respectively electricity supply contracts are traded.

As resulting from the table below, the most used transactions in 2007 were those on bilateral contracts, representing approx. 117% from the internal consumption (approx. 51% from the internal consumption were traded based on bilateral negotiated contracts, approx. 55% on regulated contracts and approx. 11% on contracts concluded through auctions, on CMBC).

| Wholesale market components | Traded volume in 2007 - GWh - | Evolution compared to 2006 - % - | Weight of internal consumption for 2007 - % - |
|------------------------------------|----------------------------------|-------------------------------------|--|
| Bilateral contracts: -regulated | 29395 | +1.8 | 55.1 |
| negociated | 27174 | -35.8 | 50.9 |
| CMC (CMBC, CMBC-CT, BRM) | 5876 | +585.0 | 11.0 |
| DAM | 5043 | +22.8 | 9.5 |
| BE | 3492 | -16.2 | 6.5 |

Concerning the length of the contracts on which electricity was transacted, the situation present itself as follows:

| Traded electricity - GWh - | (1day – 1year) | (1 year - 5 years) | >=5years | TOTAL |
|-------------------------------|----------------|--------------------|--------------|--------------|
| DAM | 5043 | 0 | 0 | 5043 |
| CMBC | 4309 | 1394 | 0 | 5703 |
| CMBC-CT | 23 | 0 | 0 | 23 |
| BRM | 150 | 0 | 0 | 150 |
| Bilateral contracts | 11940 | 34106 | 10523 | 56569 |
| Of which regulated | 0 | 29395 | 0 | 29395 |
| TOTAL | 21465 | 35500 | 10523 | 67488 |

A comparative analysis for 2006 and 2007 of the traded volumes on the components of the wholesale market shows a positive evolution, namely:

- the increase of the traded volume on centralized markets (mainly CMBC and DAM) as compared to the one transacted on negotiated bilateral contracts, this leading to an increased transparency of the transactions;
- the decrease of the traded volume on the balancing market, by using it more and more to subtle adjustments between demand and offer and less for closing the contractual position of the participants.

A positive evolution is also seen from the comparative analysis of the average prices resulted from the transactions concluded on the components of the wholesale market in 2006 and 2007, materialized in the decrease of the differences between the average annual prices on components; however, some differences continue to be substantial.

| Average price on the wholesale market components | Year 2007 RON/MWh | Year 2006 RON/MWh | Evolution against 2006 % |
|--|-------------------|-------------------|--------------------------|
| Negotiated bilateral contracts market | 125.93 | 107.53 | +17 |
| Regulated bilateral contracts market | 157.17 | 154.40 | +2 |
| Centralized Contracts Markets | 166.99 | 127.81 | +31 |
| DAM | 161.70 | 161.06 | +0.4 |
| BM (deficit price) | 222.51 | 248.77 | -11 |

Specifications:

The average prices do not include VAT, excise or other taxes and were determined through weighting the prices by the amounts corresponding to the selling transactions reported monthly by the participants.

The average prices of the negotiated bilateral contracts market are calculated based on 89% of the total amount traded in 2006 (excluding the contracts with eligible consumers and the export ones) corresponding to the amount for which the participants reported the transactions prices as well, and respectively 99% for 2007.

The annual average DAM and BM prices were determined through the monthly amounts traded on those respective markets weighted by the average monthly prices resulting from the arithmetical mean of the hourly quantities corresponding to one month; the average deficit prices are given for the balancing market.

Regulated bilateral contracts market

In 2007, the *regulated component* of the wholesale market continued to function for customers who choose not to exercised their eligibility right and also for covering the losses of the transmission and distribution networks. It mainly includes the transactions on prices and amounts regulated between producers and the default electricity suppliers/distributors, respectively between the producers and the transmission operator, but also transactions at

regulated prices between producers. The thermal power producers covered approx. 71% of this market (of which 14% for the distribution network losses and approx. 3% for the transmission network losses), the nuclear producer approx. 17% (of which approx. 4% for distribution network losses) and hydro producer approx. 9% (of which 2% for distribution network losses). The difference of 3% was covered through contracts with regulated prices for mutual-aid between the producers.

In 2007, approx. 51% from the electricity sold by generators was traded on the market with regulated prices and quantities and 49% on the competitive market.

In 2007, for the default suppliers/distributors, the acquisitions on the regulated market represented approx. 97% of the total, the rest of the amount of energy necessary for regulated customers and distribution network losses being traded on the competitive market. In total, in 2007, they bought from the wholesale market 104472 TJ (29020 GWh). The structure on contract types is presented in figure 3.2.1.2. The average acquisition price was 157.39 RON/MWh (47.16 Euro/MWh).

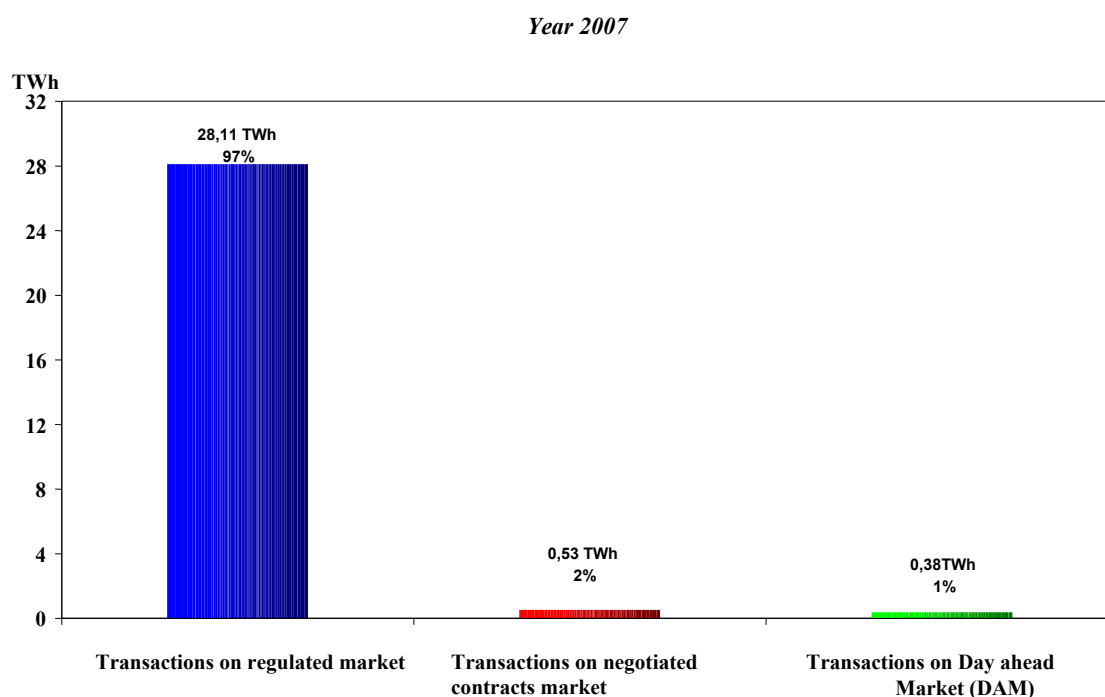


Figure 3.2.1.2. Structure of electricity transactions for default suppliers and distributors on regulated market

Competitive market

The competitive market contains all transactions concluded on bilateral negotiated contracts (including successive re-sales), as well as transactions closed on centralized markets (CMBC, CMBC – CT, DAM, BRM ring for electricity) that function on mechanisms such as auctions.

The volume of transactions concluded on the competitive market showed a decreasing trend compared to 2006, mainly because the successive transactions between suppliers, before the purchase of electricity by the final consumer, represented only approx. 18% of the internal

consumption, as compared to 2006 when they represented approx. 29% of the internal consumption.

From the generators point of view, the competitive market consisted of:

- Transactions concluded on bilateral negotiated contracts (approx. 73% of the electricity sold competitively by them), the structure of this category of contracting partners being as follows:
 - with eligible customers, approx. 10%;
 - with external partners, approx. 6%;
 - with competitive suppliers, approx. 52%;
 - with other generators, approx. 4%;
 - with default distributors/suppliers for captive customers, approx. 1%.
- Transactions concluded through auctions on *centralized markets* (approx. 19% of their competitive sales), that had the following destination:
 - competitive suppliers, approx. 16%
 - default electricity suppliers/distributors, approx. 3%.
- Transactions on DAM (representing the rest, approx. 8%, of the electricity sold by generators through market mechanisms).

The average transaction prices on the competitive market (that usually include transmission, system services and, if the case, distribution prices) were approx. 155 RON/MWh for selling to eligible customers, 115 RON/MWh for negotiated sale to competitive suppliers, 89 RON/MWh on export, 153 RON/MWh to other producers. For deliveries on contracts concluded on centralized markets by producers, the average prices were of approx. 165 RON/MWh for sales to competitive suppliers and approx. 175 RON/MWh for sales to default suppliers/distributors. The average selling price on DAM was approx. 171 RON/MWh.

Centralized markets of contracts

Consistent increases of transactions on the centralized market of contracts were recorded in 2007, the volume of quantities delivered on these contracts being approx. 11% of the internal consumption (comparing to 2% in 2006); the volume of the transactions concluded in 2007 (for different periods of delivery) was approx. 4 times larger than the ones closed in 2006.

The contributor to this favourable evolution were the Board of Directors' decisions made as per the Ministry of Economy and Trade Order no. 408/2006 (concerning the complete transaction of available electricity of state-owned generators on centralized markets), as well as the increase transparency of CMBC, by publication of the transactions clearing price.

In 2007, there were also transactions on the BRM's ring for electricity, through mechanisms and at a level of transparency that was similar to the markets organized by SC Opcom SA.

The volume of transactions on CMBC had an increasing tendency throughout the year, especially in September-October and December, mainly for delivery in 2008. The level of transactions of products with higher degrees of standardization recommended to be transacted

on CMBC – CT was relatively low, as the participants did not realize the advantages of the standardization, both in terms of re-selling and of establishing substantial price references.

In 2007, the weighted average price on contracts concluded on CMBC was approx. 167 RON/MWh, about 32% higher than the similar average in 2006.

The convergence of this average with the average of the DAM price can be seen as an element of efficiency of this market and of the auction mechanisms used.

Day-Ahead Market – DAM

DAM is a voluntary market with both sides' offers, opened to all licensed participants in order to sell the additional electricity and adjust, with a day ahead the delivery, the contractual position as against the possibilities/ necessity of generation /consumption.

Total DAM volume traded in 2007 exceeded 9% from the internal consumption, an increase of approx. 23% against 2006. This figure signifies an acceptable liquidity of DAM, considering that this is a voluntary market. As compared with the volumes traded on other markets, this market has an important growth potential. It is considered that SC Opcom SA acting as counterpart will have a positive effect and will increase the liquidities of this market. Substantial increase of the volumes transacted on DAM was noticed in July, due to draught and extreme heat, the hourly average of the transactions that month being approx. 700 MWh/h.

Figure 3.2.1.3 presents the evolution of DAM traded volumes, as compared with BM traded volumes, as percentages from internal consumption.

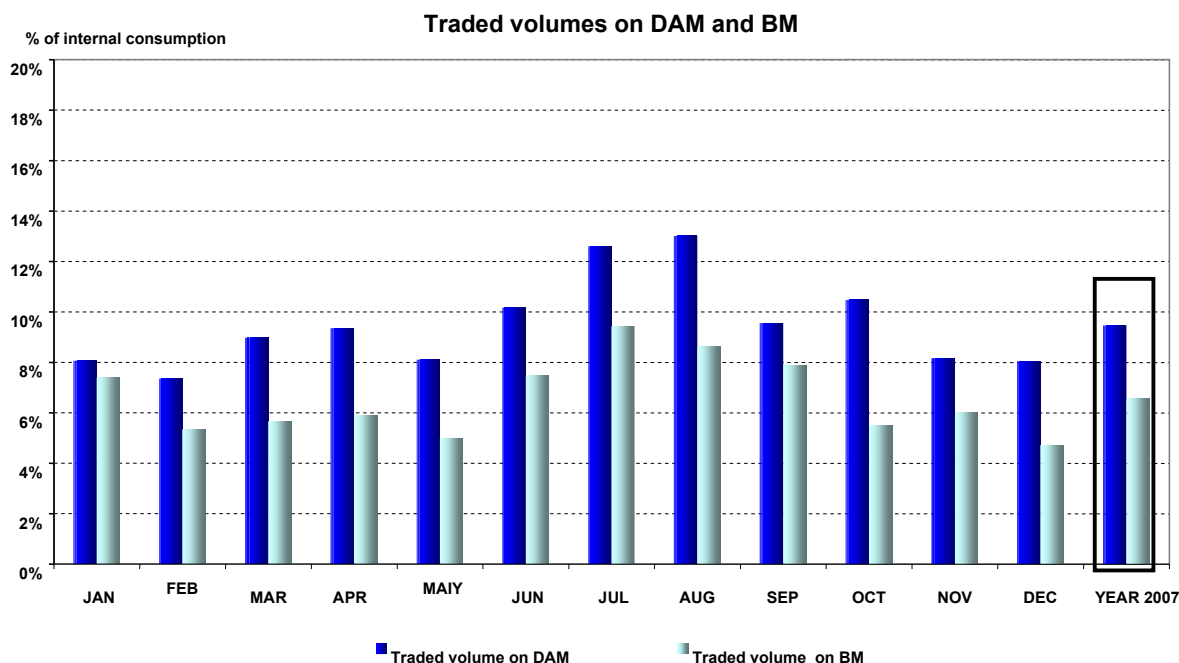


Figure 3.2.1.3

The monthly average price on DAM increased noticeable in the summer of 2007, reaching its maximum value in July, approx. 211.1 RON/MWh, the second value after the one in December 2006 (215 RON/MWh); the lowest values were obtained in April (129.98

RON/MWh) and December (130.31 RON/MWh), periods with high hydrological volumes. The yearly closing average price on DAM (both the one weighted by the transacted amounts and its arithmetical mean) increased with less than 1% as compared to 2006. This reflects a certain stability of this market despite increased volatility (hourly price on DAM varied between 20 RON/MWh in December and 400 RON/MWh in October).

Figure 3.2.1.4 presents the evolution of daily average values of spot price in 2007.

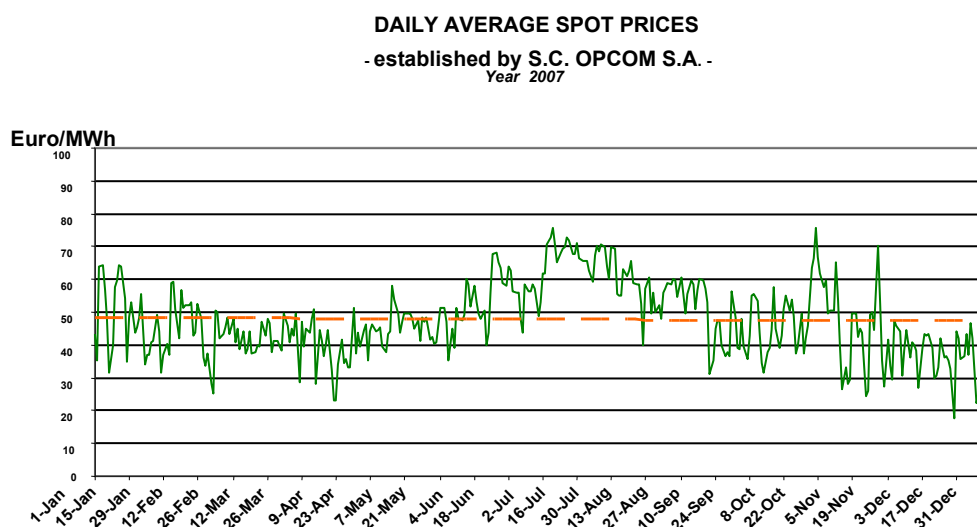


Figure 3.2.1.4

It is considered that DAM gave the right signal on the market, integrating the available information regarding the level of resources and the electricity demand.

Balancing Market – BM

The way the Balancing market works is described in Section 3.1.3.

The Balancing market became operational in July 2005. In December 2007, 93 BRP were active and 20 generators with 137 dispatchable units operated on BM.

The monthly volume traded on BM in 2007 (see figure 3.2.1.3) ranged between 5 and 9% from the internal consumption. The overall evolution of the BM traded volumes and of the imbalance shows that BM is actually in the process of reaching maturity.

The values of the concentration indicators, determined based on the electricity that was actually delivered by generators on BM during 2007, indicates a participant with a dominant position for the secondary and fast tertiary regulations.

| Structure/concentration indicators of BM – Year 2007 | Regulations | | | | | |
|---|-------------|-------------|---------------|-------------|---------------|-------------|
| | Secondary | | Fast tertiary | | Slow tertiary | |
| | increase | decrease | increase | decrease | increase | decrease |
| C1 % | 60 | 56 | 51 | 30 | 29 | 19 |
| C3 % | 81 | 79 | 74 | 60 | 65 | 50 |
| HHI | 3915 | 3538 | 2979 | 1590 | 1769 | 1276 |

Ancillary services market

The ancillary services market ensures that in every moment, TSO has at its disposal certain generation capacities capable of ensuring the required regulation. This market is designed to work on reserve types: secondary, fast tertiary and slow tertiary; the generators are paid, on this market for keeping the contracted reserves at TSO disposal, having the obligation to offer that capacity on the BM. Within the BM, they are paid for the electricity delivered for the regulations performed by TSO. From the technical viewpoint, participants have to be qualified by the TSO in order to participate on the ancillary services market.

Due to the high concentration of this market (for 2007, for secondary regulation C3 was 98.4% and HHI was 6820, for fast tertiary regulation: C3 – 89.3%; HHI – 6549, and for slow tertiary regulation: C3 – 92%; HHI – 3197), the reserves on this market were ensured both through regulated contracts concluded between generators and the TSO for a portion of the required quantity and through the competitive market, following bid/negotiation procedures performed by TSO.

Figure 3.2.1.5 presents the market shares of participants for ensuring the regulation reserves.

The clearing prices on different types of reserves for competitive contracts ranged between 86.51 – 118.40 RON/MWh (against 61.2 RON/hMW regulated) for secondary regulation, 35.34 – 58.23 RON/MWh (against 30.60 RON/hMW regulated) for fast tertiary regulation while the price for slow tertiary regulation was between 10 – 25.94 RON/hMW (against 22.44 RON/hMW regulated). In 2007, the values at biddings were relatively high, fact that made CN Transelectrica SA exhaust its allocated funds before the end of the year and to limit to the regulated amounts, in the final month.

The capacity reserve market became operational in 2007, November being the first month when it actually functioned. Starting with this month, SC Termoelectrica SA made available for the system a capacity of 178 MW, at a regulated price (according to the Methodology approved by ANRE).

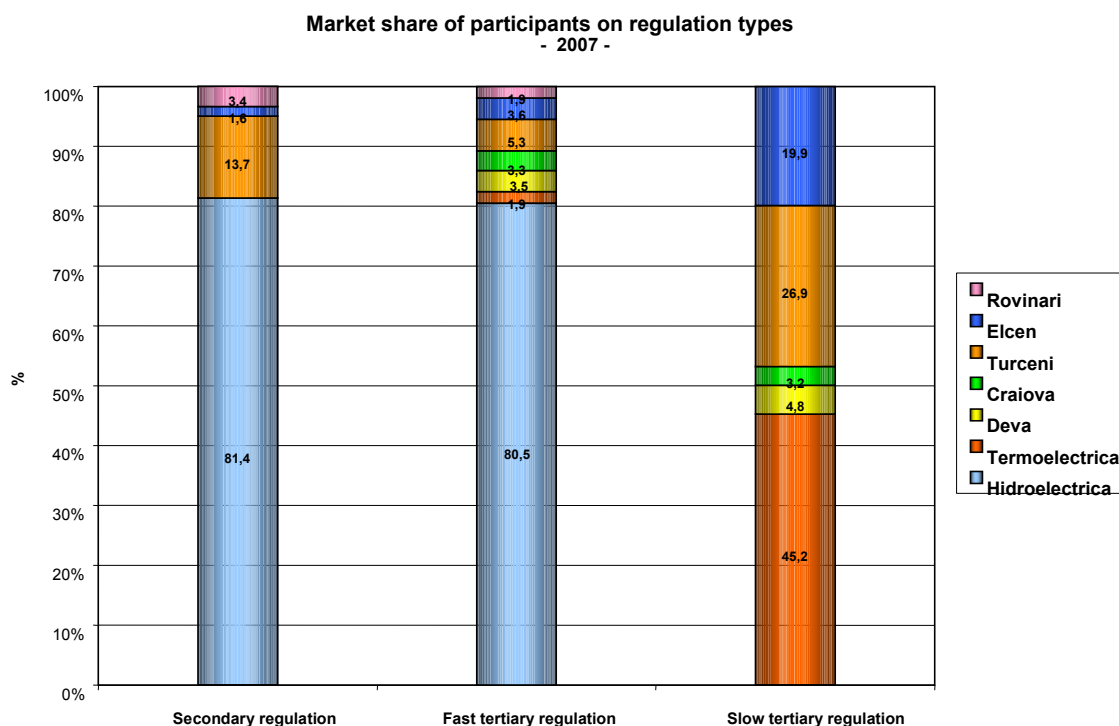


Figure 3.2.1.5

The active participation of demand to the wholesale electricity market

The active participation of customers (demand) is possible within DAM (due to the suppliers which deliver to customers and participate at DAM) and through up-ward/down-ward offers on BM made by dispatchable customers. Even if no such dispatchable customers existed in 2007, a pumping-storage power plant is envisaged to be build in the near future.

In 2007, the integration of the Romanian electricity market within the regional electricity market was made only through bilateral export/import contracts concluded between Romanian generators/suppliers and external partners; these contracts follow the allocation of interconnection capacities through mechanisms described in section 3.2.1. In addition to these contracts, flows-exchanges between TSOs are carried out based on offset mechanisms.

In 2007, 1301 GWh were imported and 3381 GWh were exported. According to the TSO reports, these values are the result of commercial exchanges without the transits rather than the result of the physical flows. As physical flows, the export was 6052 GWh and the import 3954 GWh.

As neither of Romania's neighbouring countries holds spot markets, no correlation between the prices on the Romanian spot market and the prices on the spot markets of these neighbouring countries can be made.

3.2.2 Description of the retail market

Supplying electricity to customers consists in supplying on the *regulated* market (which includes all the small customers and eligible customers that choose to be supplied at regulated tariffs) and in supplying on *competitive* market (which includes the customers other than householders that switched their supplier or that negotiated supply contracts with the suppliers of captive customers).

In Romania, about 117 suppliers are holders of supply licenses. The monthly evolution of the structure and of the number of commercial operators that developed supply activities for 2005, 2006 and 2007 is given in Figure 3.2.2.1. The total includes the suppliers on the competitive market, the default suppliers and the producers that hold a supply license.

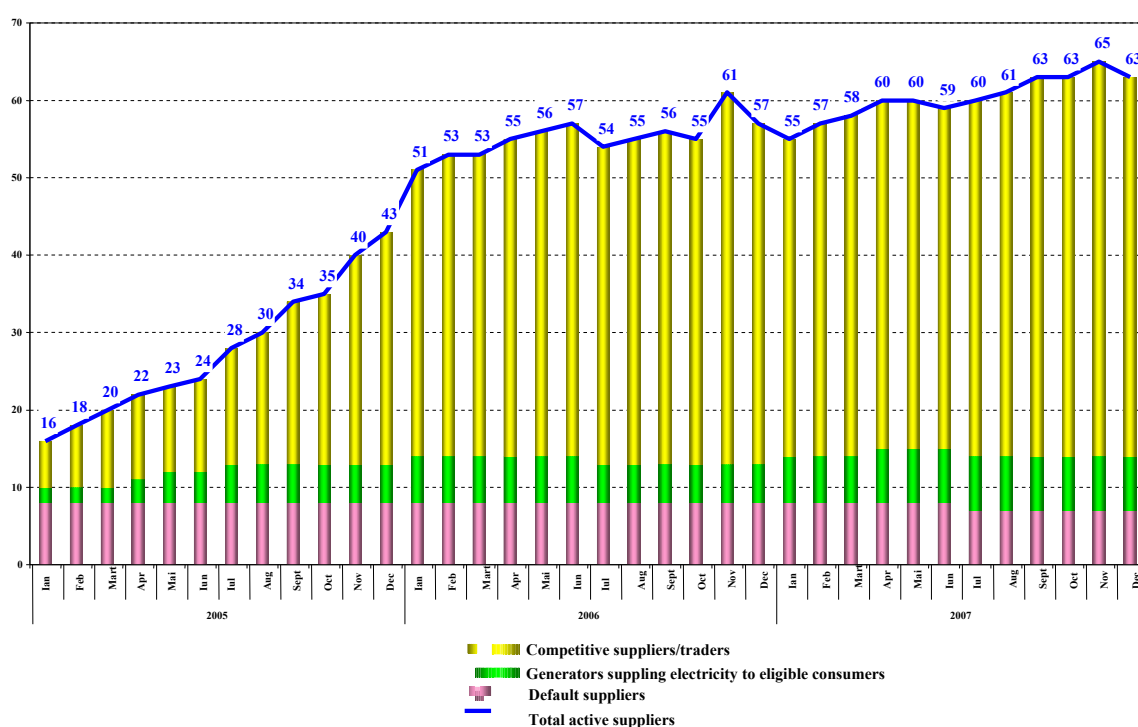


Figure 3.2.2.1. The evolution of the number and structure of electricity suppliers in 2005, 2006 and 2007

Figure 3.2.2.2 shows the annual evolution of the consumption weight of customers who switched their supplier or who negotiated their contracts (by renouncing the regulated tariff) as against the market opening degree set through Government decision

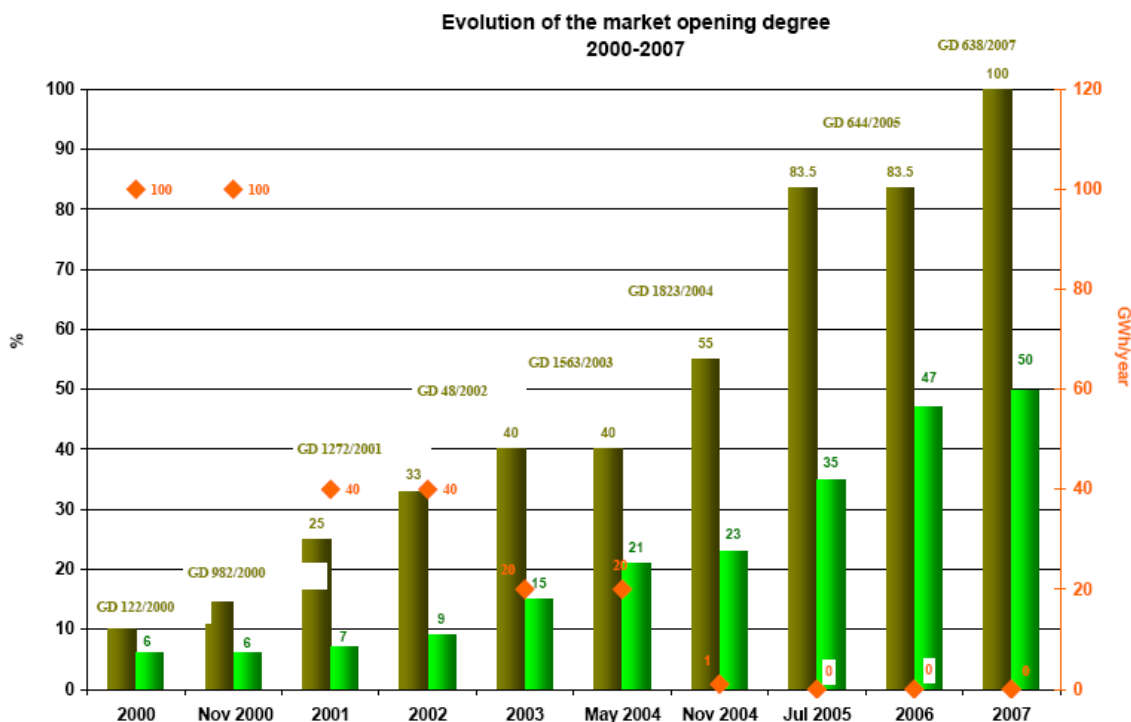


Figure 3.2.2.2

In the year 2007, on the **regulated market**, the customers had mainly 7 suppliers; the total number of customers was 8.673.572 and the supplied electricity was approximately 22.611 GWh.

The market shares owned on this market by the customers' suppliers are shown in table 3.2.2.1.

Table 3.2.2.1

| Supplier / Distributor | Market share regulated (%) | Total <u>regulated</u> consumption GWh |
|--|----------------------------|---|
| S.C. ENEL Energie S.A. | 19 | 22.611 ff which household consumption 9552 |
| S.C. E.ON Moldova Furnizare S.A | 12 | |
| S.C. FFEE Electrica Muntenia Nord S.A. | 13 | |
| S.C. FDFEE Electrica Muntenia Sud S.A. | 19 | |
| S.C. CEZ Vanzare S.A. | 13 | |
| S.C. FFEE Electrica Transilvania Nord S.A. | 11 | |
| S.C. FFEE Electrica Transilvania Sud S.A. | 13 | |

The market shares of the customers' suppliers depending on the type of ownership are shown in table 3.2.2.2.

Tabel 3.2.2.2.

| Supplier / Distributor | Market share regulated (%) | Total <u>regulated</u> consumption GWh |
|---------------------------------|----------------------------|--|
| S.C. Electrica S.A. | 56 | 22611 |
| S.C. ENEL Energie S.A. | 19* | |
| S.C. CEZ Vanzare S.A. | 13 | |
| S.C. E.ON Moldova Furnizare S.A | 12 | |

*By purchasing of SC FDFEE Muntenia Sud SA by ENEL, the market share of ENEL will raise with about 18% to Electrica's market share detriment, the two companies becoming comparable.

The monthly evolution of the cumulative value of the number of customers that used their eligibility starting January 2007 is presented in Fig. 3.2.2.3.

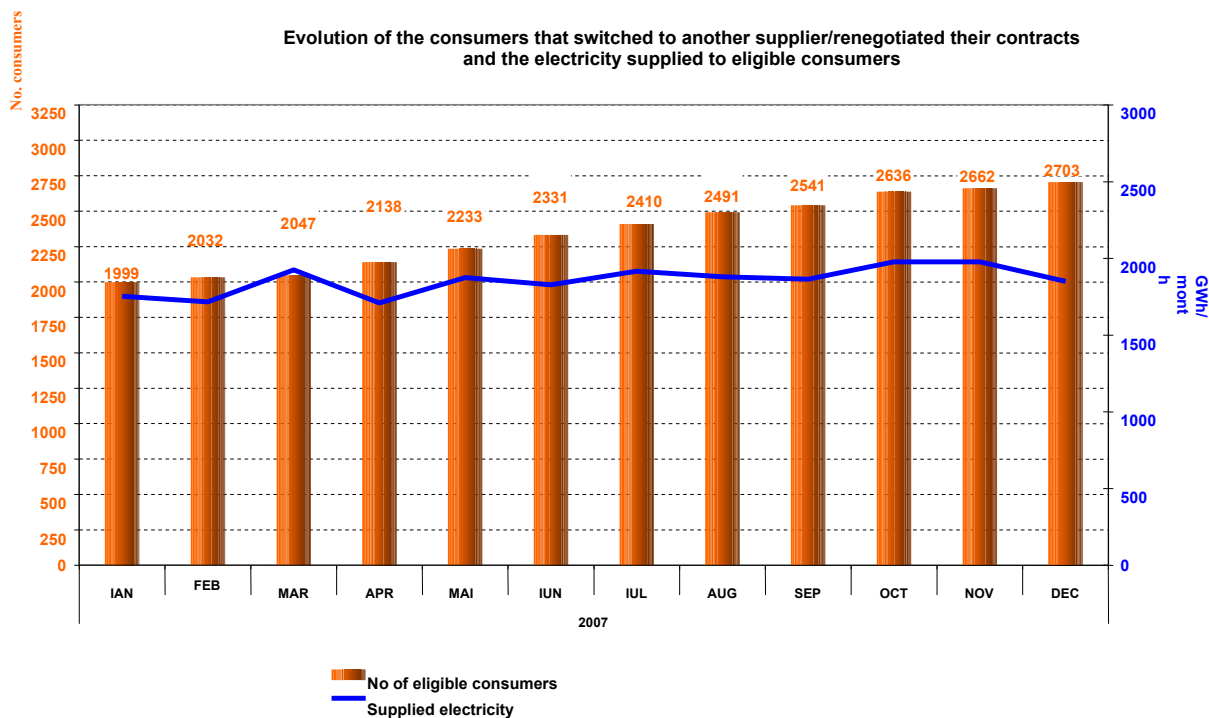


Figure 3.2.2.3.

In December 2007, the consumption of eligible customers who switched their supplier or who renegotiated their contracts (i.e. renouncing the regulated tariff) had the value of 50% of the internal consumption of the final customers. The customers that used their eligibility rights are mostly industrial customers. There were no recordings of switching suppliers in the household segment.

On the **competitive** segment of the retail market activated 39 independent suppliers that do not own networks. The value of 904 of the HHI structure index determined for this market segment shows a non-concentrated market. Table 3.2.2.3. shows the eligible customers' suppliers whose market shares are higher than 5%, one of them being also a producer (S.C. Hidroelectrica S.A.).

Table 3.2.2.3

| Supplier | Market share competitive (%) | Total competitive consumption GWh |
|--------------------------|------------------------------|-----------------------------------|
| S.C. Energy Holding S.A. | 19 | 22262 |
| S.C. Alro S.A.* | 18 | |
| S.C. Petprod S.A. | 7 | |
| S.C. Hidroelectrica S.A. | 6 | |
| S.C. Electrica S.A. | 5 | |

* It is also the largest eligible consumer

The market shares of the final customers' suppliers (the residential ones included) that own more than 5% are presented in table 3.2.2.4:

Tabel 3.2.2.4

| Supplier | Market share regulated + competitive (%) | Own a network | Total final consumption GWh |
|--|--|---------------|-----------------------------|
| S.C. FDFEE Electrica Muntenia Sud S.A. | 11 | DA | 44873 |
| S.C. ENEL Energie S.A. | 11 | NU | |
| S.C. Energy Holding S.A. | 10 | NU | |
| S.C. Alro S.A. | 9 | NU | |
| S.C. FFEE Muntenia Nord S.A. | 8 | NU | |
| S.C. CEZ Vanzare S.A. | 8 | NU | |
| S.C. FFEE Transilvania Sud S.A. | 8 | NU | |
| S.C. EON Moldova Furnizare S.A. | 7 | NU | |
| S.C. FFEE Transilvania Nord S.A. | 7 | NU | |

Table 3.2.2.5 shows the number of suppliers with market shares higher than 5% for household and industrial customers (small, medium and large), as well as the quota of the first three suppliers for each category. The values refer to the 2nd half of 2007 and were determined in compliance with the changes brought by the July 2007 EC Decision to the EC Directive 377/90 regarding the reporting obligations to Eurostat.

Tabel 3.2.2.5

| Item | Type of customers | No. of suppliers with market share higher than 5% | Shares for the first three suppliers |
|------|---|---|--------------------------------------|
| 1 | Household + Small industrial (< 20 MWh/an) | 8 | 1. 19,4% 2. 13,1% 3. 12,6% |
| 2 | Medium industrial (> 20 MWh/an și < 2 GWh/an) | 8 | 1. 22,8% 2. 11,7% 3. 11,3% |
| 3 | Large and very large industrial (> 2 GWh/an) | 5 | 1. 17,4% 2. 15,6% 3. 6,6% |

According to the *Regulation to switching the electricity supplier*, approved by ANRE Order 21/2005, with the subsequent amendments and complements, the period for switching the supplier ranges normally from 30 to 60 days and is free of charge, provided there are no debts due to the current supplier.

The tariffs for the captive final customers were revised by ANRE twice in 2007.

For the categories of customers mentioned at 3.1.3, the value of the electricity selling price is specified in table 3.2.2.6.

The selling price for the Ib category of industrial customers was determined by analyzing the data of the eligible and the captive customers.

The reported data are for the 2nd half of 2007, the exchange rate being the arithmetical mean of the monthly exchange rates of the 2nd half of 2007, taking into account the considerations on page 38.

The average price for the transmission activity was calculated taking into account the 6 zonal tariffs for injection (generation) and the 8 zonal tariffs for extraction (load). The average price for the distribution activity was calculated taking into account the 3 tariffs that are associated to the three voltage levels (HV, MV and LV) for each of the 8 distribution operators.

Tabel 3.2.2.6

| Type of customer | Euro/MWh | | | | |
|--|-----------------|----------------------------------|----------------------|-------------------|-------------|
| | Network tariffs | Taxes applied to network tariffs | Taxes VAT and excize | Electricity price | Total price |
| Dc: residential customer with an annual consumption between 2500 and 5000 KWh/year | 59.06 | 0 | 18.17 | 33.58 | 110.81 |
| Ib: commercial customer with annual consumption between 20 and 500 MWh/year | 48.04 | 0 | 20.01 | 55.63 | 123.68 |
| Ig: industrial customer with an annual consumption of over 150000 MWh/year | n.a. | n.a. | n.a. | n.a. | n.a. |

Regarding the resolution of complaints in 2007, ANRE processed and solved 413 complaints sent by legal and natural persons in the sectors of electricity and heat. Of the 413 complaints, 79 were sent via the Romanian President's Office, the Prime Minister's Office, the ministries, government control bodies, consumer protection bodies, the Competition Council and others.

The main topics of the complaints were: billing – 16%, connection to public electricity networks – 13%, the supply quality parameters – 8%, contracts – 6%, prices and tariffs – 5.5%, switching suppliers – 3%, metering – 2.5%. Others topics cover the difference to 100%.

Regarding the freedom of information, the requests for information of public interest were made either orally (by phone or by Telveer free-toll line) or electronically (by e-mail) or on paper. In total, there were 1147 requests for information, the main topics being: qualification of electricians/certification of undertakings – 34.3%, renewable energy sources – 13.06%, prices and tariffs – 6%, billing and commercial practices – 6.5%, network connecting – 3%.

3.2.3 Measures to avoid the abuse of dominance

In 2002, ANRE established an in-house specialised department with a view to permanently monitoring the functioning of the wholesale and the retail electricity markets by means of technical, commercial and accounting data and information that all the electricity sector

participants, including the operators of the centralised markets are reporting periodically to ANRE.

The activity of centralised electricity markets is monitored through the competent departments of ANRE, of SC Opcom SA (the electricity market operator) and of CN Transelectrica SA (the balancing market operator).

The Methodology for the monitoring of the wholesale electricity market with a view to assessing the level of competition on the market and preventing the abuse of dominance (ANRE Order 57/2005) was issued in order to establish the methods for the monitoring and the assessment of the electricity markets in order to estimate the level of efficiency, competition and transparency and to prevent/discourage anti-competition practices and practices that may affect the safe operation of the national power system. The methodology was reviewed under the technical consultancy of Kema Consulting, through a Phare Programme financed by the European Union and was approved through ANRE Order 35/7.12.2006.

The results of the monitoring activity are registered in reports, analyses or informative bulletins that are issued periodically by ANRE competent department, to include, as appropriate:

- a) Assessments on the structure and performances of the electricity markets under monitoring, based on the above mentioned indicators
- b) Identification of cases where markets functioned inadequately and the possible reasons that caused the malfunction;
- c) analysis of abnormal, inadequate or anti-competitive behaviour of the market participants, together with the actions taken/information gathered in order to evaluate the situation, until the report is issued;
- d) Possible solutions for correcting the faulty circumstances
- e) Analyses performed on electricity markets issues, in a specific context.

If the analyses confirm that there are serious reasons to suspect a possible infringement, by one or more market participants of the legal provisions on competition and transparency or the existence of an abuse of dominant position, ANRE inform the Competition Council.

Data on the availability/unavailability of generation units were not published in 2007 as no parties were explicitly appointed in the Commercial Code to have this responsibility and because of the controversy on the confidentiality of this type of information. Given the situation, ANRE intends to introduce in the Commercial Code currently under review, explicit obligations and clearly defined responsibilities regarding the information to be made public by the producers and the TSO.

So far, SC Opcom SA, which is the administrator and the supervisor of the electricity DAM made no reports regarding the infringement by any market participants of the competition rules during the periods when the market had high concentration levels that might have led the market participants to exercise their market power.

ANRE requested explanations from some of the DAM and CMBC participants when it thought that the actions carried out by these participants might have been tried to influence the results of these markets or an erroneous understanding of the applicable rules.

Regarding the participants behaviour on the BM, where the concentration level is high, ANRE took actions in order to prevent the exercise of the dominant position by imposing cap and floor on prices offered by various categories of producers. As this method determined the transfer of the aforementioned limits on the DAM, thus causing imbalances regarding the use of resources, it has been decided that the difference between the maximum and minimum price of each producer's daily offer for a unit be capped to 60 RON/MWh, concurrently with the raising of the established cap to 350 RON/MWh.

As mentioned before, the prevention of the dominant position and of the collusions on the ancillary services market, which is also a highly concentrated market, was achieved predominantly through regulated contracts signed by the generators with the TSO for a significant part of the necessary reserves.

There were no restrictions on the Romanian electricity market for the duration of the negotiated bilateral contracts; the only existing limitation related to the duration of the regulated contracts (a 2.5-year period for the recent ones) with the possibility of extension through ANRE Order depending on the evolution of the opening degree of the market. Every year the prices and quantities are analysed so that the significant discrepancies between in-data and prognosis-data (fuel price, hydrological conditions, real opening degree of retail electricity market) may be identified.

The increase in the number and volumes of the contracts concluded through transparent bids on CMBC determined a high degree of convergence between bilateral contracts prices and DAM prices, which indicates an increase of efficiency in the functioning of electricity market and in eliminating disturbances.

The *Methodology for the retail electricity market monitoring* was issued in 2007 and is currently subject of public debate in view of its subsequent approval.

4. Regulations and performances on natural gas market

4.1. Regulatory Issues [Article 25(1)]

4.1.1 Generalities

Natural gas market development for the next years aims toward:

- Development of competition between natural gas suppliers;
- Continuously implementation of „cap” type tariff methodologies;
- Stimulation of setting and/or rehabilitation of some natural gas deposits in order to increase the internal production and to limit the import dependence;
- Granting new supply licenses to companies trading on wholesale market, targeting to diversify the import sources.

Starting from July 1st, 2007, the market is entirely open for all consumers, they being free to choose a natural gas supplier from those licensed by the regulatory authority and directly to negotiate the clauses and the price for natural gas supply. The consumer may exercise its position as an eligible consumer directly, without any administrative formalities.

The evolution of the opening degree of the natural gas market in Romania and the eligibility threshold, related to the liberalization steps, are presented below:

| <i>Steps of natural gas market opening in Romania</i> | | |
|---|------------------------------|--------------------------------------|
| Year | Eligibility threshold | Market opening degree |
| 2001 | 5 million c.m./year | 10% |
| 2002 | 5 million c.m./year | 25% |
| 2003 | 4 million c.m./year | 30% |
| 2004 | 3 million c.m./year | 40% |
| 2005 | 3 million c.m./year | 50% |
| 1 January 2006 | 124,000 c.m./year | 65% |
| 1 July 2006 | 12,400 c.m./year | 75% |
| 1 January 2007 | All non-household customers | 100% for all non-household customers |
| 1 July 2007 | All customers | 100% for all customers |

At the end of 2007, there were 1,027 eligible consumers on the natural gas free market, having a consumption of 9,162,155 thousand c.m., meaning a 56% real market opening degree.

4.1.2 Management and allocation of interconnection capacity and mechanisms to deal with congestion

The Romanian natural gas National Transmission System (NTS) has the following features:

- 12,990 km main Transmission pipelines and gas connections;
- 21 control valves stations and/or technological stations;
- 961 adjusting and/or measuring stations for the natural gas operated by NTS;

- 2 measuring stations for the imported natural gas;
- 6 measuring stations placed on the transit pipelines;
- 6 compression stations;
- 857 cathodical protection stations;
- 575 gas odorization facilities.

There also are three transit pipelines, having a total length of 553 km, pressures up to 55 Bars and diameters of 1,000 mm and 1,200 mm. The total capacity of these dedicated main pipelines is 28 billion c.m./year.

The total available capacity of NTS is more than 27 billion c.m./year.

The 6 natural gas compression stations are placed on the main transmission routs and their installed power is about 65,000 HP, being able to compress 5.5 billion c.m./year.

All these components of NTS ensure the taking over of natural gas from producers/suppliers and its transmission toward consumers/distributors or storage deposits.

The Interconnection Strategy of the natural gas National Transmission System with the neighboring systems has been structured into 4 directions, as it follows:

a) Strategic interconnections of NTS with the neighboring transmission systems:

- Interconnection with Hungary –Szeged - Arad pipeline;
- Interconnection with Bulgaria –Russe - Giurgiu pipeline;
- Interconnection with Serbia.

b) Interconnections in order to diversify the natural gas sources from import:

- Interconnection with Bulgaria at Negru Vodă;
- Interconnection with Ukraine at Siret- Bucecea.

c) Interconnections dedicated for developing new storage capacities:

- Interconnection with Moldova – Margineni storage;

d) Interconnection with Nabucco pipeline (natural gas transmission corridor from Caspian Sea region to Western Europe).

The Network Code, approved by ANRE Order no. 54/2007, settles the conditions and rules for using the natural gas National Transmission System in Romania, as well as transparent and non-discriminatory access of third parties. The network code is to be applied starting with the natural gas year 2009-2010.

The network code of the natural gas National Transmission System establishes rules and procedures regarding the access to NTS, among them the most important are:

- a) Procedures for balancing the natural gas system, nominalizations and communication;
- b) Mechanisms for allocate capacities;
- c) Procedures for operating the system in emergency situations.

By introducing penalties for non-observing the provisions of the Network Code, it will introduce discipline among the network users.

According to the provisions of the Network Code, the users may request the capacity of the NTS:

- a) Before May 15, every year, for a natural gas year or a multiple of a natural gas years;

- b) After May 15, every year, for periods less than a natural gas year and only until the end of the current natural gas year.

The network users request the booking of NTS capacity by filling in and transmitting toward the NTS Operator (TSO) the „Capacity request” form together with the proposal of Transmission schedule.

TSO is obliged, within maximum 30 days period, to answer the network user regarding the access to NTS or to communicate the reasons for refusal (total or partial), as well as some observations on the proposed Transmission schedule.

TSO grants the available capacity from NTS to the network users (Transmission agents) based on the principle „first come, first served”. Priority shall be granted for the capacities requested in order to fulfill the public service obligations.

In order to settle the congestions, approved but unused capacity may make up the object of:

- a) Voluntary return to the TSO;
- b) Capacity transfer facility (CTF);
- c) Mandatory transfer from one network user to another by the TSO.

In order to transport natural gas under safe conditions through NTS and to allocate the natural gas quantities to the network users, TSO defines some activities and procedures for balancing NTS (physically and commercially).

4.2.2 Regulation of TSO and DO activities

In Romania there is a sole **operator for the natural gas National Transmission System**, which is also system operator. By the government decision no. 334/2000, SNTGN Transgaz - S.A. Mediaş has been designed as the operator of the national transmission system and is responsible by its operation under quality, safe, economic efficiency and environmental protection conditions.

According to the Gas Law No. 351/2004, with subsequent amendments, the NTS operator shall ensure:

- a) NTS operation and physical balancing, namely programming, dispatching and safe functioning of the NTS;
- b) Maintenance, rehabilitation, upgrading and development of NTS whilst observing the principles of safety, efficiency and environmental protection;
- c) Setting up, maintenance and development of an IT system for surveillance, control and acquisition of data, that will allow for the monitoring and real time management of the functioning of the gas transmission system;
- d) Third party access to the NTS in compliance with the specific regulations, in a non-discriminatory manner, in the limits of the transmission capacities and observing the technological regimes;
- e) Elaboration and implementation of optimal transmission and delivery regimes for the volumes of gas notified by producers, suppliers, storage operators and/or customers, for a certain period, in accordance with signed contracts;
- f) Elaboration and update of the technical agreements for exploitation at the border, in case the supplier is an exporter or beneficiary of the transit of gas through Romanian territory;

- g) Drafting and surveillance of the balance of the gas that got in and out of the system;
- h) Drafting of NTS's own development program – for the undertakings not mentioned in the concession agreement, in relation with the actual level of the consumption and taking into consideration the development of new consumption areas and the evolution of the existing ones under safe and economically efficient conditions;
- i) Storage in the underground storages of the volumes of natural gas needed to secure NTS permanent physical balance, as per specific regulations issued by regulatory authority;
- j) The level of odorization of gas in compliance with the regulations in force.

Also, the regulator drafted and approved in 2006 the Conditions on validity of the license for gas transmission (ANRGN Decision No. 1362/2006), detailing the rights and obligations of the transmission system operator. Transmission licensee's obligations mainly refer to:

- Operation of the natural gas National Transmission System
- Contracting of the gas transmission service in a non-discriminatory manner to all market participants, on the basis of the framework-contracts issued by the regulator
- Access to the natural gas National Transmission System, under equal and non-discriminatory terms
- Development of the natural gas National Transmission System, according to the clauses and terms of the concession agreement, and to NTS's own development program
- Measurement of natural gas volumes
- Delivery of information to applicants/users with a view to efficient development of access process to the system
- Observance of the transparency requirements in compliance with Regulation 1775/2005/EC
 - Observance of the Performance Standard for gas transmission
 - Ensuring of a competitive environment and non-discriminatory treatment of system users
 - Unbundling of the financial-accounting registers, as well as legal, functional and organizational unbundling
 - Ensuring the confidentiality of the information gathered during the performance of activity.

Distribution operators are titular of distribution licenses, having as a main activity natural gas distribution, in one or more limited areas. At present, 36 companies own distribution licenses on natural gas in Romania.

The total length of the distribution networks is about of 32,000 km. The operation of distribution networks in Romania is as it follows:

| No. | Distribution network operated by: | Distribution network length (km) | Property |
|-----|-----------------------------------|----------------------------------|----------|
| 1. | Amarad | 11 | Private |
| 2. | Apopi&Blumen | 12 | Private |
| 3. | Auraplast | 7 | Private |
| 4. | Ben & Ben | 37 | Private |
| 5. | Berg Sistem Gaz | 23 | Private |
| 6. | Congaz | 542 | Private |

| | | | |
|-----|------------------------------------|--------|------------------------|
| 7. | Contract P&G | 14 | Private |
| 8. | Cordun Gaz | 24 | Private |
| 9. | Coviconstruct 2000 | 94 | Private |
| 10. | CPL Concordia Filiala Cluj Romania | 710 | Private |
| 11. | Design Proiect | 2 | Private |
| 12. | Distrigaz Sud | 14,252 | Mainly private capital |
| 13. | Distrigaz Vest | 49 | Private |
| 14. | EON Gaz Romania | 17,572 | Mainly private capital |
| 15. | Euroseven Industry | 13 | Private |
| 16. | Gaz Est | 106 | Private |
| 17. | Gaz Nord Est | 29 | Private |
| 18. | Gaz Sud | 231 | Private |
| 19. | Gaz Vest | 644 | Private |
| 20. | Grup Dezvoltare Retele (GDR) | 111 | Private |
| 21. | Hargita Gaz | 222 | Private |
| 22. | Intergaz | 1 | Private |
| 23. | MM DATA | 29 | Private |
| 24. | Megaconstruct | 57 | Private |
| 25. | Nord Gaz | 3 | Private |
| 26. | Oligopol Brasov | 20 | Private |
| 27. | Ottogaz | 23 | Private |
| 28. | Petrom | 1,553 | Mainly private capital |
| 29. | Progaz Distribution | 78 | Private |
| 30. | Romgaz | 3 | State owned |
| 31. | Salgaz | 55 | Private |
| 32. | Timgaz | 38 | Private |
| 33. | Tulcea Gaz | 3 | Private |
| 34. | Vega 93 | 67 | Private |
| 35. | Vital gaz | 282 | Private |
| 36. | Wirom | 51 | Private |

As per Gas Law No. 351/2004, with subsequent amendments, the natural gas distribution system operators have mainly the following obligations:

- a) To operate, maintain, repair, upgrade and develop the distribution system, whilst observing the principles of safety, economic efficiency and environmental protection. The activities shall be performed on the basis of specific authorizations for the design and execution of gas supply systems, and the operation on the basis of the distribution license;
- b) To ensure the gas odorization level according to regulations in force, on the basis of service rendering contracts, signed with NTS operator, and, where appropriate, by additional odorization in gas adjusting stations;
- c) To perform interconnections with other systems, as the case may be, and ensure the long term capacity of the distribution system;
- d) To ensure third party access to the distribution systems, under non-discriminatory terms, within the limits of the distribution capacities, observing the technological regimes, in compliance with the specific regulations issued by the regulatory authority;
- e) To draft and oversee the balance between the gas that got into and out of the system;
- f) To avoid cross subsidization between categories of customers with regard to the division of costs for the booking of distribution capacity;

- g) To take over, for an undetermined period, upon request and in compliance with regulations, the operation of a certain distribution system, whose initial operator was penalized with withdrawal of the license;
- h) To ensure the permanent balancing of the system operated;
- i) To ensure the conditions for security of natural gas supply.

According to the provisions of the Gas Law No. 351/2004, with subsequent amendments, the regulatory authority elaborates, approves and applies criteria and methods for approval the prices and for setting the regulated tariffs setting in natural gas sector, including transmission and distribution tariffs.

For the setting of regulated tariffs, ANRGN drafted in 2003 a new methodology on calculation of gas prices and regulated tariffs - „Criteria and methods for approval of gas prices and setting of gas regulated tariffs”, approved by ANRGN Decision No. 1078/2003.

The mechanisms for calculation of prices and regulated tariffs are of „revenue-cap” type for regulated underground storage, and „price-cap” for regulated distribution and supply.

The regulatory period for any of the regulated activities is 5 years, except for the first regulatory period (transitory stage), which was established for 3 years.

The pricing system for transmission comprises a set of *revenue cap* tariffs, establishing a overall regulated revenue covering the overall costs of one year of the regulated period.

For the first regulatory period, the tariff for transmission through the national transmission system is unique and has a two-part structure as follows:

$$T_t = RC_t + V_t$$

where:

T_t – transmission tariff

RC_t – fixed component for booking of capacity in the transmission system, expressed in RON/ 1,000 cm

V_t – volume-related component for the use of the transmission system, expressed in RON/1,000 cm.

The fixed component for the booking of capacity in the transmission system (RC_t) covers fixed costs, related to the development of the transmission system capacity. The volume-related component for the use of the transmission system (V_t) covers the costs generated by the use of the system, including the costs generated by the performance of services ancillary to the use of the system.

For the second regulatory period, until the “entry-exit” pricing system shall be introduced, the tariff for the transmission through the national transmission system is unique and has the same binomial structure as above.

Afterwards, the transmission activity shall contain a set of “entry-exit” tariffs, established for the delimitation points at the inlet of the transmission system where the capacity is booked and also at the outlet of the transmission system where the capacity is booked, as well as for using the system. The structure of this kind of tariff shall be as it follows:

$$T(t) = RC(ti) + RC(te) + V(t),$$

where:

T(t) – transmission tariff;

RC(ti) - fixed component for booking of capacity in the inlet priced points

RC(te) - fixed component for booking of capacity in the outlet priced points

V(t) - volume-related component for the use of the transmission system

The pricing system for storage contains a set of “revenue cap” tariffs, through which a total regulated revenue is established that covers all the costs related to a year activity of the regulatory period.

In the first, as well as in the second regulatory period, the tariffs for storage shall be established for each underground storage and have the following structure:

$$T(ds) = RC(ds) + I(ds) + E(ds)$$

where :

T(ds) – storage tariff

RC(ds) – fix component for booking the capacity into the underground storage, in RON/1,000 c.m./complete storage cycle

I(ds) – volume component for natural gas injection into the underground storage, in RON/1,000 c.m.;

E(ds) – volume component for natural gas extraction from the underground storage, in RON/1,000 c.m.

The fix component for booking the capacity into the underground storage RC(ds) quantifies the fix costs, generated by booking the capacity into the underground storage for a complete storage cycle.

The volume component for natural gas injection into the underground storage I(ds) quantifies the variable costs generated by natural gas taking over, measurement, treatment and circulation through the surface facilities and put into the underground storage.

The volume component for natural gas extraction from the underground storage E(ds) quantifies the costs generated by natural gas extraction from the underground storage, its treatment, circulation and measurement through surface facilities and its deliver to transporter and/or beneficiary .

The pricing system for distribution comprises tariffs that are differentiated on categories of customers and homogeneous distribution systems, in relation with the technical characteristics and exploitation regime of each distribution system.

Unitary regulated revenue is established for distribution, covering the unitary costs of one year of the regulated period.

Distribution tariffs are “single-part” kind and quantify fix and variable costs related to the distribution activity. Distribution tariffs apply to the delivered volumes of gas.

The efficiency increase rate of the regulated activity reflects regulator’s estimations with regard to the improvement over time of operators’ economic performance. The X term of the adjusting formula reflects the estimated annual efficiency increase rate and ensures the transfer of economic efficiency raise achieved by each operator towards customers.

The efficiency increase rate of the regulated activity is established in the beginning of each regulatory period, for each regulated activity and for each operator. The rate remains unchanged over the regulatory period.

Economic efficiency returns related to the regulated activity are determined separately for each operator using the methods described below:

- a) Extrapolation of the increase rate of efficiency resulted from the long-term gas sector productivity, plus an elasticity factor reflecting each operator’s specific situation;
- b) Detailed technical analysis of operators’ operation and capital costs, highlighting additional savings that may be achieved by the operator.

When establishing regulated activity’s efficiency increase rate - X, for each operator, the following are considered:

- a) Economic efficiency raise highlighted by the methods presented and generated by the increase in the performance of operator’s management;
- b) Efficiency increase rate of the related industry and national economy;
- c) Full deduction by the operator of economic efficiency raise from investments.

For the first regulatory period, regulated activity’s efficiency increase rate is null for all activities and operators.

The substantiation of the regulated revenue in the first regulatory period requires the assessment of operation and capital costs generated by the performance of the regulated activity. From this point of view, the regulator’s methodology aims to ensure the recovery of invested funds, including associated capital costs, prudently accomplished and within an optimal financing structure.

The assessment of the cost of capital and the establishment of the regulated rate of return - RoR, recognized by ANRE for each regulated activity, uses the “weighted average cost of capital” (WACC) methodology. WACC is determined in nominal terms, after the tax on profits, and RoR in real terms, prior to the tax on profit. RoR (real, prior to taxation) was determined as equivalent to WACC (nominal, after taxation) using a equivalent formula, ensuring the equality between invested capital and cash flow (in present values), available for the period of regulated depreciation of tangible and intangible assets, discounted with WACC.

For the second regulatory period, certain calculation elements taken into consideration for the first regulatory period remain unchanged. Because the companies performing regulated activities in Romania are not quoted on the stock exchange, WACC is calculated using the information available for other companies used as buyers. These companies are selected from the ones quoted on the international markets, that perform as main activity a regulated activity and that operate under a regulatory regime similar to the Romanian one.

The mechanisms for calculation of the distribution tariffs and the regulated supply rates are “price-cap” kind.

The value of the distribution services for a user of the distribution system is monthly billed and is determined with the following formula:

$$VT^d = T_d * Q$$

where:

VT^d – total value of the bill, without VAT, representing the distribution service value, in RON;

T_d – regulated distribution tariff, in RON/1,000 c.m.

Q – distributed quantity, in 1,000 c.m.

The value of regulated supply services for a final consumer is monthly billed and is determined with the following formula:

$$VT^f = P_f * Q$$

where:

VT^f – total value of the bill, without VAT, representing the regulated supply service value, in RON;

Q – supplied quantity, in 1,000 c.m;

P_f – final regulated price, in RON/1,000 c.m.

The regulator is entitled to refuse the operators the recognition of some costs or parts of them, which have not been prudently generated, considering the conditions and information available at the time they were accomplished.

The categories of consumers for which they establish the final regulated differentiated prices and distribution tariffs are the following:

A. Final consumers directly connected to the transmission system

A.1 final consumers having a yearly consumption no more than 124,000 c.m

A.2 final consumers having a yearly consumption between 124,000 c.m and 1,240,000 c.m

A.3 final consumers having a yearly consumption between 1,240,000 c.m and 12,400,000 c.m

A.4 final consumers having a yearly consumption between 12,400,000 c.m and 124,000,000 c.m

A.5 final consumers having a yearly consumption more than 124,000,000 c.m

B. Final consumers connected to the distribution system

B.1 final consumers having a yearly consumption no more than 2,400 c.m

B.2 final consumers having a yearly consumption between 2,400 c.m and 12,400 c.m

B.3 final consumers having a yearly consumption between 12,400 c.m and 124,000 c.m

B.4 final consumers having a yearly consumption between 124,000 c.m and 1,240,000 c.m

B.5 final consumers having a yearly consumption between 1,240,000 c.m and 12,400,000 c.m

B.6 final consumers having a yearly consumption more than 12,400,000 c.m

The regulatory authority drafted and approved Performance Standards for natural gas distribution and transmission (ANRGN Decision No. 1361/2006).

The performance standards regulate the commercial quality criteria, defined by performance indicators, for the transmission and distribution services and other affiliated services performed by the transmission and distribution operators.

For **natural gas transmission**, the Performance Standard sets performance indicators for quality of service, and safety of service.

The performance indicators regarding the quality of service refer to:

- Handling of access applications with a view to connection to the NTS
- Connection to the NTS of access applicants
- Notification regarding restoring of service
- Notification of scheduled interruptions and of service restoration following scheduled interruption
- Handling of NTS users' complaints regarding the measurement of natural gas
- Handling of complaints regarding the integrity and functioning of the NTS under safety conditions
- TSO obligation to inform applicants/users arising from other regulations issued by the regulatory authority

The safety indicators established for the natural gas transmission operator system performance standards regarding the of service are as follows:

- Annual percentage of network subject to control using gas leakages detecting devices
- Annual number of failings causing losses localized per one kilometer of checked network
- Annual number of failings causing losses signaled by third parties per one kilometer of active network
- Annual number of failings causing losses generated by third party actions signaled by third parties per one kilometer of active network

In performing the service, the transmission system operator shall carry out its activity so that the performance indicators regarding the quality of service fall within the percentages set up in the Standard, and the safety indicators under the limits set in the regulation.

For natural gas distribution, the Performance Standard sets guaranteed and overall performance indicators.

The guaranteed performance indicators set minimum performance levels in delivering the service. In case of non-observance of these standards, the distribution system operator shall pay to the affected customer penalties in amount and within the terms specified in the regulation, starting with January 1st, 2008.

The guaranteed performance indicators refer to:

- Handling of access applications with a view to connection to the distribution system
- Connection of access applicants to the distribution system
- Reinstatement of locations affected by the works performed on distribution system undertakings
- Obligation to notify about the service resumption date and time
- Service resumption following unscheduled interruption
- Notification of unscheduled interruption
- Service resumption following scheduled interruption
- Payment of the penalties due under the Performance Standard

The general performance indicators relating to natural gas distribution, mentioned in the Performance Standard, refer to the quality of service and safety of service, respectively.

The safety indicators set for the quality of the natural gas distribution service refer to:

- Handling of access applications with a view to connection to the distribution system
- Obligation to notify customers about scheduled or unscheduled interruptions of the service
- Obligation of the distribution system operator to inform applicants/customers arising from other regulations issued by the regulatory authority
- Information on the Performance Standards

The safety indicators set for the natural gas distribution system operator are as follows:

- Annual percentage of network subject to control using gas leakages detecting devices
- Annual number of failings causing losses placed per one kilometer of checked network
- Annual number of failings causing losses signaled by third parties per one kilometer of network
- Annual number of failings causing losses generated by third party actions signaled by third parties per one kilometer of network

In performing the service, the distribution system operator shall carry out its activity so that the performance indicators regarding the quality of service fall within the percentages set in the Standard, and the safety standards are below the values set in the regulation.

At the end of 2007, the Performance Standard for the distribution service has been modified and completed by ANRE Order no. 59/2007, considering the obligations of suppliers toward natural consumers, also being necessary to impose some obligations of the natural gas distributors toward natural gas suppliers. The modification and completion of the Performance Standard for natural gas distribution service was also needed because of the obligation of the supply licensees, and distribution licensees, respectively, who serve more than 100,000 consumers, to ensure the legal, functional and organizational unbundling of the regulated activities.

For **natural gas supply activity**, the Performance Standard sets the commercial quality criteria, defined by performance indicators for ensuring the natural gas supply service, as well as for establishing the reporting needs for the suppliers (ANRE Order no. 37/2007).

The standard sets two categories of indicators, as it follows:

- Guaranteed indicators – indicators that establish the minimal performance levels for performing the service by the supplier and for whose un-observance the supplier shall pay penalties to the affected consumer, as the standard sets;
- Yearly performance indicators – performance indicators that establish the yearly performance levels for natural gas supply service.

The guaranteed performance indicators refer to:

- Handling the applications of applicants/customers, referring to completion /modification of a contract regarding regulated/negotiated natural gas supply;
- Handling the billing items of the consumers;

- Handling the information regarding the supplied natural gas quality;
- Handling the information regarding the natural gas measurement.

The yearly performance indicators refer to:

- Processing the contract applications;
- Handling the consumers' requests;
- resumption of supply in case of limitation/interruption due to non-payment.

In order to make aware the customers of their rights regarding the quality of the services the suppliers get the obligation to draft and publish a synthesis of these obligations. Thus, suppliers are obliged to publish on their web page, as well as, if the case, at their call-centers, a summary of their obligations and to notify it to each of customer they have.

Transmission and distribution tariffs for the most relevant categories of customers are as follows:

| Cons Tariff | I4 – annual consumption 418.6 TJ | | I1 – annual consumption 418.6 GJ | | D3 – annual consumption 8.37 GJ | | Typical household | |
|------------------------|--|---------------------|--|---------------------|---------------------------------------|---------------------|---------------------|---------------------|
| | RON/ 1000 c.m | EUR/ 1000 c.m | RON/ 1000 c.m | EUR/ 1000 c.m | RON/ 1000 c.m | EUR/ 1000 c.m | RON/ 1000 c.m | EUR/ 1000 c.m |
| Transmission Tariff | 50.53 | 15.14 | 50.53 | 15.14 | 50.53 | 15.14 | 50.53 | 15.14 |
| Distribution Tariff | 149.30 | 44.74 | 182.87 | 54.80 | 186.90 | 56.00 | 187.41 | 56.16 |

In 2007, the average storage tariff was 81.39 RON/1000 c.m.

At present, no imbalance charges are applied on the Romanian gas market. Imbalance charges shall be put by implementation of the NTS Network Code.

The NTS Network Code will comprise requirements and rules on access to the natural gas National Transmission System, with particular focus on:

- Detailed description and regulation of the TSO, DSOs, SSOs functions, differentiating between normal operation and emergency operation
- Description of services delivered by infrastructure operators
- Establishment of mechanisms on capacity allocation
- Establishment of communication and nomination procedures
- Elaboration of manuals and procedural norms on management of potential crisis in the market
- Elaboration of procedures on gas system balancing (A high profile will have the setting up of the Gas Balancing Operator – independent body, that will manage in a non-discriminatory and impartial manner the interests of all market participants, observing the competitive rules, applied through regulations issued by the regulatory authority, based on mandatory framework-contracts on balancing)

- Elaboration of procedures to be applied for the communication between TSO, other operators and users
- Elaboration of detailed rules on the exchange of information between suppliers and distribution companies with regard to customer migration.

As regards the balancing of the gas system, it is envisaged the introduction of weekly balancing, with daily tolerance margins.

4.1.4 Effective unbundling

As per Gas Law No. 351/2004, with subsequent amendments, corroborated with the provisions of the Rules regarding the accounting, legal, functional and organizational unbundling of the regulated activities in natural gas sector, approved by ANRGN Decision no. 1139/2006, gas operators performing regulated activities (transmission, storage, distribution) shall ensure accounting, legal, functional and organizational unbundling of these activities. Distribution companies serving less than 100,000 customers are exempted from the provisions on legal unbundling.

Also, in accordance with the legal provisions in force (Gas Law No. 351/2004, with subsequent amendments), in order to ensure the independence of the transmission system operator and distribution system operator, minimum criteria shall apply, as provided by EU legislation. Thus, for the transmission operator:

- a) Those persons responsible for the management of the transmission system operator may not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the supply of natural gas;
- b) The transmission system operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the transmission network.
- c) The NTS operator shall establish a compliance program, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored.

For the distribution operator:

- a) those persons responsible for the management of the distribution system operator may not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;
- b) the distribution operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the distribution network.
- c) the distribution operator shall establish a compliance program, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored.

The transmission system operator, S.N.T.G.N. Transgaz S.A., according to the above legal provisions, as a licensee for both natural gas transmission and supply, was obliged to ensure accounting, legal, functional and organizational unbundling between transmission and supply. As the company gave up the supply license, the unbundling was not necessary anymore.

The two big distribution system operators, S.C. E.ON Gaz România S.A and S.C. Distrigaz Sud S.A. were obliged to ensure accounting, legal, functional and organizational unbundling between distribution and supply. Following the legal unbundling of E.ON Gaz România, two legally independent companies are currently operating - E.ON Gaz România S.A., specialized in the supply of natural gas and E.ON Gaz Distribuție S.A., specialized in the distribution of natural gas, as well as operation and maintenance of the distribution network. The two new companies have separate headquarters. The procedures on the legal unbundling of the other large distribution operator, Distrigaz Sud, have been finalized in April 2008.

Regarding the obligation of legal unbundling of the underground storage activity, it was accomplished in 2007 by the storage operator S.C. AMGAZ S.A.; for the storage operator S.C. DEPOMUREȘ S.A, the legal unbundling was not necessary anymore, as it gave up the natural gas supply license, developing only underground storage activity. The legal unbundling of the last storage operator – S.N.G.N. Romgaz S.A. shall be finished during 2008.

The other 34 distribution system operators, who serve less than 100,000 consumers connected to the network, which, according to the legal norms, have been except from the obligation of legal unbundling, accomplished the accounting unbundling for the regulated activities they develop during 2007.

The property structure of S.N.T.G.N. Transgaz S.A is: 75.01237 % from its nominal share capital – Minister of Economy and Finances, 14.98762 % from its nominal share capital - Property Fund, 9.9999 % from its nominal share capital – natural and legal person shareholders.

The two large distribution system operators, E.ON Gaz Romania and Distrigaz Sud, are mostly (51%) private companies, with E.On Ruhrgas Germany and, respectively, Gaz de France, as main shareholders, the Romanian State holding the rest of shares through the Authority for State Assets Recovery (AVAS) – 37% and the Property Fund – 12%. With the exception of Romgaz, entirely state owned, the other small distribution companies are entirely or mostly private.

Transmission and distribution licensed operators annually submit, to the authority, financial reports and regulated accounting records for the regulated activities they develop in natural gas sector.

The regulatory authority has not established detailed guidelines regarding the organization of the unbundled accounting records.

Prior to submission to the regulatory authority, requested registers are audited/checked in compliance with the legal provisions in force, mainly observing the obligation on avoiding cross subsidies between activities performed is particularly monitored.

4.2. Competition Issues [Article 25(1)(h)]

4.2.1 Description of the wholesale market (any transaction between market participants, excepting final consumers)

In 2007, natural gas consumption was 173.4 TWh (16.36 billion c.m), from which 70.84% (122.86 TWh, respectively, 11.59 billion c.m) from internal production and 29.16% (50.56

TWh, respectively, 4.77 billion c.m) from import. The sole import source is the Russian Federation.

The average calorific power at country level is 10.6 KWh/c.m.

Four companies account for shares above 5% from the gas available on the market.

In the Romanian gas market, all foreign companies acting in the natural gas sector are registered in Romania's Trade Register.

4.66 billion c.m. of gas are supplied to the Romanian market through long-term contracts (for more than 1 year).

The peak of maximum consumption is 74 million c.m./day and the daily production amounts to 32.044 million c.m.

The share of top 3 suppliers, calculated on the basis of the number of transactions on the wholesale market, is 83% and on the retail market it is 55.82%. There are 26 independent suppliers, separated on the property basis from other activities in the field.

The status of the companies supplying gas to the most relevant categories of customers is presented below:

| Suppliers Customers | Number of companies with a share of above 5% | Shares of top 3 companies (%) |
|--------------------------------|---|--|
| Gas fired power plants | 6 | 66.53 |
| Large industrial customers | 6 | 60.73 |
| Commercial customers | 3 | 86.18 |
| Household customers | 2 | 95.03 |

The Romanian gas market is a national market.

In order to ensure an appropriate basis for a fair and non-discriminatory allocation of natural gas from domestic production and import, the Market Operator has been set up within the Gas Dispatching Center located in Bucharest, as part of SNTGN Transgaz SA Mediaş. In this regard, the current Market Operator:

- Establishes on a monthly basis the domestic production - import quota for all licensed suppliers/distributors, as well as for eligible customers
- Monitors on a daily basis the gas domestic/import purchases/consumptions
- Draws up on a monthly basis the report on gas purchases from domestic production and import of each Romanian gas operator and of each eligible customer, and sends them the import/total consumption quota for gas invoicing purposes

Natural gas production programs originate in the energy strategy and the conditions under which this production is accomplished are stipulated in the licenses granted to producers by the National Agency of Mineral Resources.

The regulatory authority drew up and approved the Methodology on monitoring the domestic natural gas market (ANRGN Decision No. 183/2007), establishing the following objectives:

- a) To monitor and control the observance by natural gas licensees of the criteria and methods for prices and regulated tariffs calculation;
- b) To secure that natural gas licensees observe the security, continuity and balance in the supply of gas to customers;
- c) To apply an equal and non-discriminatory treatment to all gas customers;
- d) To promote and secure competition on the domestic natural gas market;
- e) To secure the transparency of gas prices and tariffs;
- f) To set up a database and to submit information on the domestic market and natural gas foreign trade.

Also, the methodology establishes the unitary system based on which natural gas licensees report the following information:

1. the structure of natural gas customers, the volumes of supplied natural gas to different categories of customers and applicable prices;
2. system-related services provided to users of natural gas transmission, transit, storage and/or distribution systems;
3. fulfillment of obligations concerning third party access to natural gas transmission, distribution networks and/or underground storages;
4. the volumes of gas stored in underground storages and variations of linepack.

The procedure is applied in the relation between gas licensees and the regulatory authority with regard to submitting data on customer structure, prices and volumes of gas contracted according to the contracts for purchase, supply and/or sale-purchase, as well as data on the breakdown of beneficiaries of transmission, transit, storage and/or distribution, and data on services provided and tariffs applied.

4.2.2 Description of the retail market

The main suppliers and their shares in total demand are presented below:

| <i>Cr. No.</i> | <i>Supplier</i> | <i>Share in total demand (%)</i> |
|----------------|--------------------|----------------------------------|
| 1. | Romgaz | 40.87 |
| 2. | Petrom | 33.13 |
| 3. | Distrigaz Sud | 7.33 |
| 4. | E.ON Gaz România | 6.14 |
| 5. | Wiee | 4.48 |
| 6. | Electrocentrale | 4.97 |
| 7. | Amromco Ploiesti | 0.83 |
| 8. | Amromco New York | 0.09 |
| 9. | Transgaz | 0.95 |
| 10. | Termoelectrica | 0.81 |
| 11. | Conef Gaz | 1.56 |
| 12. | EGL Gas&Power | 0.09 |
| 13. | Alpha Metal | 0.19 |
| 14. | Toreador | 0.12 |
| 15. | Aurelian Oil&Gas | 0.26 |
| 16. | Wintershall Medias | 0.07 |

At present, 26 independent suppliers are active on the Romanian gas market.

7 companies perform at least one of the following activities: production, supply:

- Romgaz – production, import, supply
- Petrom, Amromco Ploiesti, Amromco New York, Aurelian Oil&Gas, Toreador, Wintershall Mediaş – production and supply.

The annual consumption in 2007 of the most important final consumers are:

| Categories of consumers | Thousand c.m |
|--|---------------|
| Household | 2,489,673.615 |
| Others non-household | 529,473.652 |
| Commercial | 710,891.235 |
| Electric and/or thermal power generation | 4,676,637.402 |
| Others industrial | 3,449,137.053 |
| Chemistry | 2,954,914.666 |

As regards the customer-switching rate, given the recent full liberalization of the market, on July 1st, 2007, relevant data is currently collected and processed.

Final prices applied to the most relevant categories of customers are presented below:

| Custo mer Tariff | I4 – yearly consumption 418.6 TJ | | I1 – yearly consumption 418.6 GJ | | D3 – yearly consumption 8.3 GJ | | Typical household | |
|---|--|---------------------|--|---------------------|--------------------------------------|---------------------|---------------------|---------------------|
| | RON/ 1000 c.m | EUR/ 1000 c.m | RON/ 1000 c.m | EUR/ 1000 c.m | RON/ 1000 c.m | EUR/ 1000 c.m | RON/ 1000 c.m | EUR/ 1000 c.m |
| Regulated price (VAT not included) | 873.36 | 261.70 | 879.50 | 263.54 | 884.85 | 265.14 | 886.07 | 265.50 |
| Transmission Tariff | 50.53 | 15.14 | 50.53 | 15.14 | 50.53 | 15.14 | 50.53 | 15.14 |
| Distribution Tariff | 149.30 | 44.74 | 182.87 | 54.80 | 186.90 | 56.00 | 187.41 | 56.16 |
| Regulated price (including VAT 19%) | 1039.30 | 311.42 | 1046.61 | 313.61 | 1052.97 | 315.52 | 1054.42 | 315.95 |

Natural gas consumers are entitled to choose the type of supply contract and, according to it, the natural gas supplier for each consumption place. Natural gas consumers are not entitled to simultaneously develop a regulated supply contract and a negotiated supply contract for the same consumption place.

The supplier receiving an application for the signing of a regulated supply contract is not allowed to turn down the signing of the contract, except where the signing of the contract

significantly impedes on the fulfillment of obligations arising from the already signed regulated supply contracts. Any refusal of the signing of a regulated supply contract shall be justified to the non-household customer in maximum 10 days from the receipt of the application. Within the same timeframe, the supplier shall inform the regulatory authority about the refusal, as well as the justification submitted to the applicant.

In 2007, ANRE received 509 complaints from natural and legal persons, regarding the natural gas sector. From these, 415 were sent directly to ANRE and 94 were directed to ANRE from the Romanian presidency, Parliament and Govern, Association for Citizen Protection, ministers, National Authority for Consumers Protection, Competition Council.

The main items of the complaints were related to: dissatisfaction regarding services provided by the licensed companies in natural gas sector (16%), dissatisfaction regarding the services provided by natural gas distribution operators (10%), non-observing the legal provisions (10%), items regarding connection to the distribution/transmission systems/access rejection from network (9.8%), natural gas supply interruption (5.1%), prices and tariffs (4.7%), contracts (4.7%), billing (4.1%).

Applications on public information regarded mainly prices and tariffs in natural gas sector and connection to the network.

1.2.2.3 Measures to avoid the abuse of dominance

Dominant position abuse is defined by art. 6 in the Competition Law no. 21/1996 republished, with subsequent amendments, which forbids: „the abusive use of a dominant position by one or more companies on Romanian market or on a great part of it, through anti-competition deeds which aim to alter or could affect the economic activity or prejudice consumers”.

The Competition Council is the entitled institution to investigate the infringement of the Competition Law. ANRE is obliged to notify the Competition Law regarding dominant position abuse on the market and the infringement of competition legal provisions, as many times as the legal provisions on competition and transparency are non-observed.

As regards the dominant position abuse prevention, ANRE concerns about it by the regulations it issues. Therefore, ANRGN decision no. 62/2004 approves the “Norms regarding the dominant position abuse prevention”.

5. Security of supply

5.1. Electricity [Article 4]

The responsibility to ensure the generation/system adequacy on medium and long run stays with the Ministry of Economy and Finance, which is the issuing body of the national energy strategy (approved through GD 1069/2007). The strategy creates the appropriate framework for strategic investments in electricity generation and in networks and provides energy efficiency and demand-side-management actions with a view to ensuring the security of supply.

According to the Electricity Law 13/2007, the TSO issues the Development Transmission Plan on medium and long – run (10 years). The Development Transmission Plan is sanctioned by the regulator and approved by the competent ministry. On short run, the TSO is also responsible for the transmission networks operational planning and running while meeting the criteria set in the Transmission Grid Code, which is issued by the TSO and approved by the regulator (ANRE Order 20/2004, with the subsequent amendments and complements).

Through the licenses and authorisations granted, though the tariff & prices methodologies issued or approved, through its commercial and technical regulations and through its rules for network connection and access, the Romanian Energy Regulatory Authority (ANRE) provide the necessary framework to promote investments in the sector.

The total electricity generation in 2007 was 61.39 TWh, with about 1.7% lower than in 2006. The gross domestic electricity consumption was 54.13 TWh, with about 2% higher than in 2006.

Despite the difficult weather conditions encountered in the summer of 2007 (prolonged draught) the existing generation capacities managed to cover the rising electricity demand. The commissioning of the second unit of the Cernavoda Nuclear Plant combined with a rainier season that started in September 2007 had a positive effect on the availability of the units and on the covering of the demand.

These data shows that the Romanian power system still has enough available generation capacities. The evolution of the total electricity consumption and of the peak consumption in the past years are given in Table 5.1.1.

Table 5.1.1

| | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|--|--------|--------|--------|--------|-------|-------|
| Total electricity consumption, without pumping (GWh) | 47524* | 49443* | 50746* | 51889* | 53020 | 54126 |
| Pumping storage (GWh) | n.a. | n.a. | n.a. | n.a. | 154 | 150 |
| Peak power (in MW) | 7641 | 7542 | 8016 | 8102 | 8151 | 8681 |

| | | | | | | |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Date and hour of the registered peak power (CET) | 11.12.2002, 17:00H | 17.12.2003, 17:00H | 15.12.2004, 17:00H | 15.12.2005, 17:00H | 13.12.2006, 17:00H | 19.12.2007, 17:00H |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|

*) These values include pumping

The forecast of the net generation capacity and of the consumption as per the specifications of the UCTE study regarding the system adequacy forecast (System Adequacy Forecast 2008-2020) is given in Table 5.1.2.

Table 5.1.2

| | 2008 | | | 2010 | | | 2013 | | | 2015 | | |
|-------------------------------------|-------------------------------|-------------------|--------------------|-------------------------------|-------------------|--------------------|-------------------------------|-------------------|--------------------|-------------------------------|-------------------|--------------------|
| | The 3 rd Wednesday | | | The 3 rd Wednesday | | | The 3 rd Wednesday | | | The 3 rd Wednesday | | |
| | Jan 11.0 0 am | Jan 7.00 pm | Jul 11.00 am | Jan 11.0 0 am | Jan 7.00 pm | Jul 11.00 am | Jan 11.00 am | Jan 7.00 pm | Jul 11.00 am | Jan 11.00 am | Jan 7.00 pm | Jul 11.00 am |
| Net generation capacity (GW) | | | | | | | | | | | | |
| -pessimistic scenario | 18.5 | 18.5 | 18.6 | 18.8 | 18.8 | 18.8 | 18.9 | 18.9 | 18.9 | 20.1 | 20.1 | 20.5 |
| -optimistic scenario | 18.5 | 18.5 | 18.6 | 18.8 | 18.8 | 18.8 | 20.4 | 20.4 | 20.5 | 22.0 | 22.0 | 22.4 |
| Consumption (GW) | | | | | | | | | | | | |
| | 8.1 | 8.6 | 7.0 | 8.8 | 9.3 | 7.8 | 9.6 | 10.2 | 8.6 | 10.3 | 10.9 | 9.1 |

Two additional nuclear power units (650 MW) are estimated to be commissioned by 2015, namely one pumping storage power plant (1000 MW), hydro units (300 - 400 MW), units on fossil fuels for which the balance rehabilitation-closing-new units is constant, renewable units others than hydro. The performed analysis shows that new power units need to be installed after 2010, requisite met under the optimistic scenario. One can noticed a generation capacity deficit at regional level (Bosnia-Herzegovina, Bulgaria, FYROM, Greece, Montenegro, Romania, Serbia) by 2013, deficit mitigated following that year by the contributions of both Romania and Bulgaria.

The structure by types of fuels for electricity injected in the networks by the Romanian producers in 2007 is given in Figure 5.1.1.

The hydropower contribution was 28%, with 3% lower than in 2007 due to the draughty summer of 2007. The commissioning of the 2nd nuclear power unit in August 2007 deterined a 4% increase of electricity production from nuclear power sources as compared to 2007.

In 2007, 650 MW were put into operation in the nuclear power plant, 29 MW in hydropower plants, 23 MW in thermal power plants and 5 MW in wind power plants. An installed power of 160 MW in thermal power plants was withdrawn from operation.

Romania's energy strategy for 2007 – 2020, approved through GD 1069/2007 envisages the development of generation capacities based on renewable energy sources (hydro, wind, biomass) as well as on nuclear sources (works to another 2 nuclear units are to be continued, under various financing and ownership systems).

Electricity structure by primary sources (delivered by generators with dispatchable units)
- 2007 -

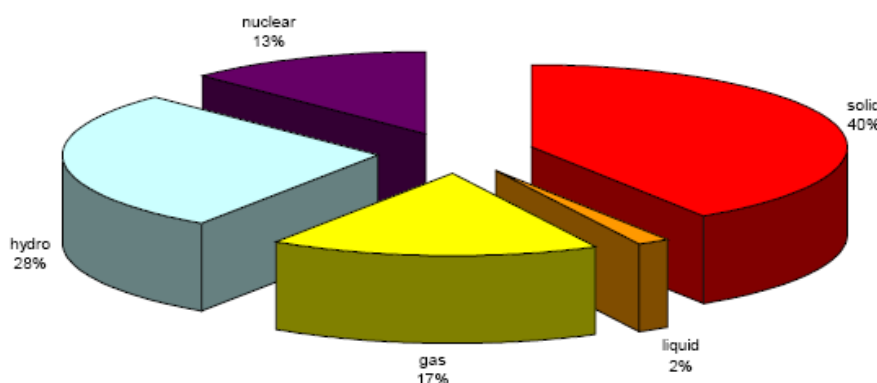


Figura 5.1.1

Establishment of new capacities and the retrofitting of the existing capacities are carried out based on establishment authorisations issued by ANRE. The granting procedure as well as the conditions of the establishment authorisations (criteria, power levels, approvals, differentiated by categories of powers and by activities) are stipulated in the *Regulation for the granting of authorisations and licenses in the electricity sector*, issued by the regulator and approved by the Government (GD 540/2004, amended and complemented by GD 1823/2004 and GD 553/2007). Refusal to grant an authorisation, lack of response within deadline and any ruling of the regulatory authority judged illegal and prejudicial by the applicant, can be appealed in the Bucharest Court of Appeal, according to the law.

In developing their activities, the holders of establishment authorisations shall observe the public service obligations regarding safety, quality, continuity of supply, energy efficiency and environment protection as well as the conditions of the contracted services.

If, following the authorisation procedure, the generation capacities under construction or the actions taken in terms of energy efficiency/demand side management are not enough to ensure the security of supply for the internal consumption, the competent ministry can initiate a tender procedure or any other contract granting procedures that are transparent and non-discriminatory and based on published criteria, through which new commercial operators or incumbent license holders may place offers for the construction of new generation capacities.

The *Methodology to setting up, implementing and use of capacity reserve* was approved through ANRE Order 19/2007. The capacity reserve is the additional power reserve ensured upon the TSO's request by generating units with start-up and load take-over times lower than 72 hours in order to cover the consumption under extraordinary conditions. The capacity reserve demand is set by the TSO, and during the period ranged July 2007-June 2008, the maximum price and the necessary quantities for the capacity reserve are set through ANRE

decision based on the data provided by the TSO and by the participants on the Romanian electricity market. The units selected to ensure the capacity reserve are listed on monthly basis on the TSO website. The methodology will operate until the market mechanism for ensuring the capacity reserve is defined and implemented.

To promote energy produced from renewable energy sources (E-RES) such as wind, solar, geothermal, biomass, waves, hydrogen and in hydropower units with installed powers of 10 MW or below, put into operation or modernised after 2004, a green certificates market was introduced that became operational in November 2005.

Through GD 443/2003, that was amended and complemented by GD 958/2005, Romania transposed the provisions of the EC/2001/77 Directive into the national legislation. The national target representing the E-RES ratio in the final consumption was set to 33% of the final consumption for the year 2010. E-RES producers can sell the produced energy on the market and the difference between the selling price and the total costs of the generation is covered through the commercialisation of the green certificates either through bilateral contracts or on the green certificates market organised and administrated by SC Opcom SA. The suppliers purchase a mandatory E-RES quota, the compliance with this quota being reflected in the number of the green certificates they acquired.

A “bonus-type” support mechanism is intended to be introduced for co-generation capacities starting with 2008.

The planning for the development of the electricity transmission grid (ETG) is based on the provisions of the Transmission Grid Code. The Code details the tasks, competencies and responsibilities of CN Transelectrica SA and determines the principles, the criteria and the obligations regarding the unfolding of the transmission service. CN Transelectrica SA shall provide the transmission service so that it may comply with the technical conditions required for the synchronous interconnected operation under UCTE requirements by endowing the electricity transmission grid with protection, automation, transmission and primary switching facilities in order to allow the fast and efficient isolation of the network hazards and avoid spreading.

The transmission grid development planning seeks to:

- Ensure the appropriate sizing of the transmission grid for the transmission of the generated, imported, exported or transited electricity and determine the prospective development plan;
- Ensure the safe operation of the RPS and the transmission of electricity at high quality standards in compliance with the Grid Code requirements;
- Ensure the development planning activities by: initiating the procedures required for the promotion of new investments in the transmission networks, estimating the marginal costs on long run for each node of the transmission network, providing information for the design of the transmission tariff systems.

The works & modernisation programme is a major factor in the company’s investment policy. The hierarchical order of the power stations rehabilitation works is based on multi-criteria analyses having in view the: interconnection with the neighbouring power systems under UCTE requirements, technical state of the power stations with a view to increasing the quality of the delivered service and of the operation efficiency, significance of the stations, volume of the transmitted electricity, etc.

Every two years, CN Transelectrica SA issues the prospective development plan of the transmission grid for the following 10 successive years. Following the endorsement and the approval of ANRE and, respectively of the competent ministry, the plan becomes a public document to ensure the followings:

- Covering of safe and cost-effective electricity consumption by observing the national energy policy.
- Correlation of the activities of the TSO and of the electricity market participants with respect to any requested service that may affect the safe operation of the RPS.
- Zone opportunities for the electricity transmission network connection and use depending on the consumption forecast and on the need for new installed capacities required for an efficient and safe operation.
- Setting up the reserve level in RPS for electricity generation and transmission under peak load conditions according to the sizing requirements.

Other technical sizing criteria are the steady-state stability criterion and the technical criteria for the verification of the sizing from the point of view of the RPS stability and the verification and determining of the short-circuit ceiling and of the rated equipment current.

The TSO planning process has to take into account congestion solving through new investments considered in a hierarchical order to depend on the equipment life expectancy and the contribution to the safe operation of the RPS.

The ETG is sized in compliance with the requirements of the N-1 criterion. Verification of the N-1 criterion is performed for the maximum forecasted power transfer through the ETG. For the transmission grid (400, 220 kV), the N-1 criterion is applied to the sizing of the RPS sections for a time interval corresponding to the most difficult operating conditions, by taking into consideration: the unplanned outage of the largest generating unit in an area with power deficit and the maximum power generated in an excess area. The N-2 criterion is used upon the sizing of the NPP power eviction.

System or zone studies, pre-feasibility, feasibility studies and technical projects are carried out for each identified objective.

In determining the technical and organisational solutions for investment in new transmission capacities one must take into consideration the system restrictions that may occur in order to be avoided.

Yearly analysis are also performed to consist of:

- Simulated specific regimes of the optimal functioning of the generation units through the running of the PowrSym3™ software;
- An annual planning of both the transmission grid lines and the power plants' units according to the Transmission Grid Code requirements.

Finally, through scheduling based on the prospective plan and on the yearly or quarterly plans, solutions are found in order to spread out the works to avoid system congestion. Deviations from the initial schedules may however occur with respect to the functioning of the network elements as well as to the functioning of the generators, deviations that cannot be

accurately identified and which can lead to congestions that are solved by using the existing reserves activated through the balancing market.

The main investments in the transmission infrastructure envisaged for the period 2008-2015 are given in Table 5.1.3.

Table 5.1.3.

| Overhead Electric Lines - LEA | Voltage level (kV) | Commissioning year | km |
|--|--------------------|--------------------|-----|
| Upgrading to 400 kV of 220kV LEA Gutinaş - Bacău * | 400 | 2010 | 55 |
| Upgrading to 400 kV of 220kV LEA Bacău – Roman * | 400 | 2010 | 59 |
| Upgrading to 400 kV of the 220kV LEA Roman – Suceava* | 400 | 2010 | 99 |
| LEA Oradea- Nadab(RO) – Bekescsaba (HU) | 400 | 2008 | 85 |
| | 400 | 2008 | 60 |
| LEA Nadab – Arad | 400 | 2008 | 30 |
| LEA Portile de Fier II - Cetate | 220 | 2010 | 30 |
| LEA Portile de Fier I- Cetate | 220 | 2010 | 71 |
| LEA Portile de Fier I- Portile de Fier II | 220 | 2010 | 92 |
| LEA Portile de Fier I – Resita | 400 | 2010 | 117 |
| LEA Resita – Timisoara - Arad (double-circuit line currently operating at 220kV) | 400 | 2010 | 73 |
| LEA Timisoara (double-circuit line currently operating at 220kV) | 400 | 2010 | 54 |
| LEA (RO) – (Serbia Montenegro) | 400 | 2015 | 60 |
| LEA Suceava (RO) – Bălți (MO) | 400 | 2015 | 150 |
| LEA Suceava – Gădălin | 400 | 2015 | 260 |

* - including power stations rehabilitation

A submarine cable to be built between Romania and Turkey (600 MW) is currently under study. Important investments in the transmission grid are required in Dobrogea (SE Romania) to evict the power generated in the new generating capacities that are to be developed within 2008 – 2020 (nuclear units 3 and 4 from Cernavoda NPP, wind units and thermal-power units)

5.2. Natural Gas [Article 5]

Total gas consumption in 2007 amounted to 14.9 Mtoe (16.366 billion cm), out of which 2.27 Mtoe (2.49 billion cm) was household consumption (15.7%). Domestic gas production in 2007 was 10.56 Mtoe (11.59 billion cm), and import 4.35 Mtoe (4.77 billion cm, 29.16% of the total consumption).

In May 2008, there were 2,737,765 gas customers, out of which 2,593,652 were households.

The evolution of the national gas consumption, national production and import is presented below:

| Year | 2008 | 2009 |
|--|-------------|------------|
| Consumption (billion cm)/Mtoe | 17.9 / 16.3 | 18 / 16.4 |
| Domestic production (billion cm)/Mtoe | 11.3 / 10.3 | 11 / 10.02 |
| Import (billion cm)/Mtoe | 6.6 / 6.01 | 7 / 6.38 |

During the reported period Law no.346/2007 – regarding measures for

security of natural gas supply - has been adopted, to transpose within national legislation the provisions of Directive 2004/67/CE. The aim of this law is to ensure a proper safety level for natural gas supply through transparent, non-discriminatory and compatible measures in compliance with the existence of a competitive natural gas market.

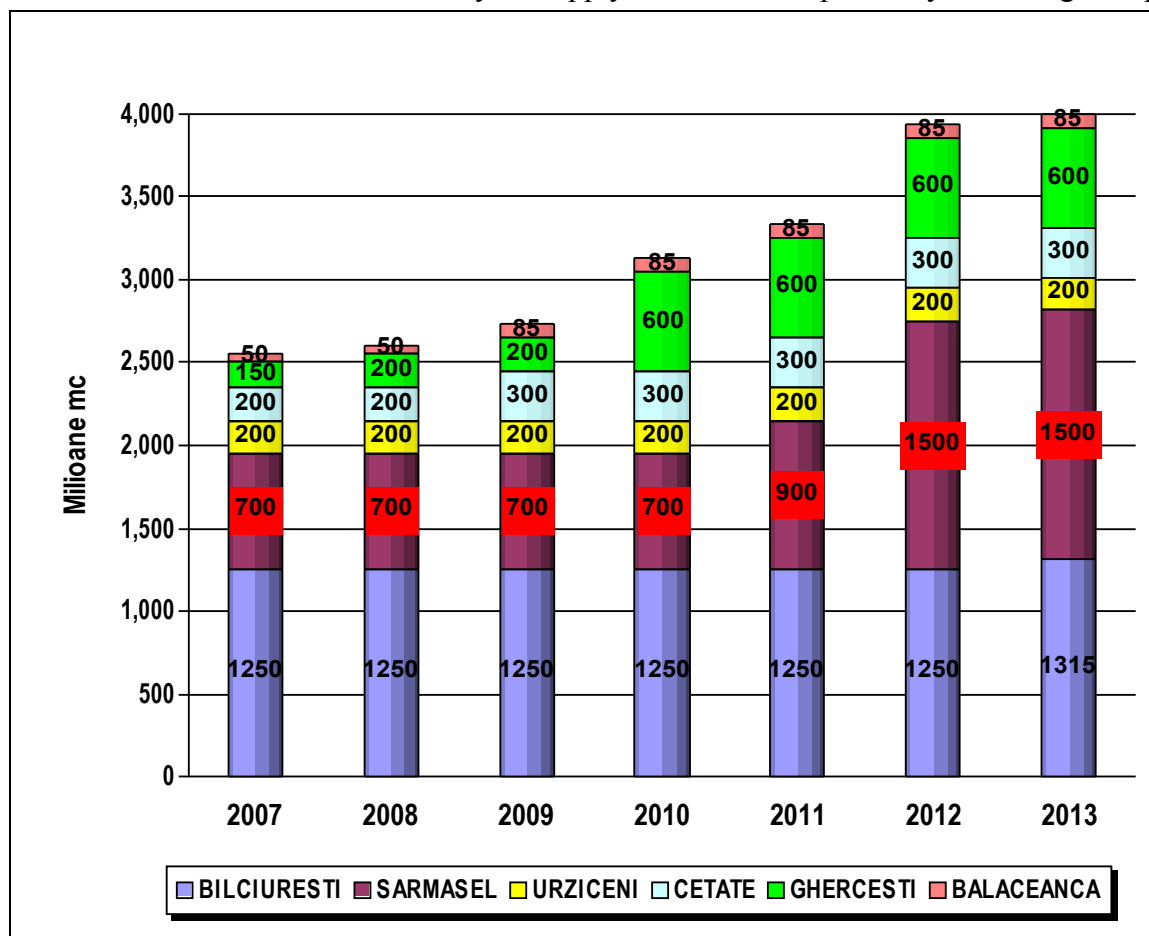
In this way, the law sets up the role and responsibilities of authorities and operators acting on natural gas market and the implementation of special measures taken in order to ensure a proper safety level for natural gas supply. A Coordination Commission has been established with the objective to elaborate an annual Action Plan for emergency cases and to endorse and to monitor the implementation of the required measures for ensuring the security of natural gas supply.

In Romania there are 8 underground storages with a total capacity, in 2007, of 2.85 billion cm. Their situation is presented below:

| No. | Storage | Capacity (million cm) |
|-----|------------------|-----------------------|
| 1. | Bălăceanca | 50 |
| 2. | Bîlcuiurești | 1,250 |
| 3. | Cetatea de Baltă | 150 |
| 4. | Ghercești | 150 |
| 5. | Sărmășel | 700 |
| 6. | Târgu Mureș | 300 |
| 7. | Urziceni | 200 |
| 8. | Nadeș | 50 |

The forecast of the gas underground storage capacity evolution is presented below:

Moreover in order to increase security of supply and reduce dependency on a single import



source of natural gas, new import connections are to be materialized as follows:

- An interconnection pipeline between the national transmission system with the Bulgarian one, in Giurgiu-Russe area
- Completion works for the interconnector Szeged (Hungary)- Arad (Romania)
- A new import point in Negru Voda area, in order to supply Dobrogea with natural gas.

Medium-term development of gas interconnection capacities (2007 – 2013)

| Objective | Physical dimension | Monetary dimension | Deadline |
|--|--------------------|---------------------|-------------------------------|
| | Km | Million RON | Year of putting into function |
| Romania-Bulgaria, Russe-Giurgiu interconnection pipeline | 8 | 3.40 | 2008 |
| Nădlac-Arad transmission pipeline | 27 | 35.00 | 2008 |
| Romania-Ukraine interconnection pipeline | 41 | 36.20 | 2009 |
| Negru-Vodă IV measuring station | - | 5.50 | 2008 |
| Total | | 80 (Eur 25 million) | |

Given the security of supply goal and Directive 2004/67/CE, with a view to ensuring the consumption of all categories of customers and removing the malfunctioning in the gas

market that occurred during 2005-2006 winter, the interruptible customer concept was promoted. The interruptible customer has a significant contribution towards maintaining the safe functioning of the natural gas National Transmission System and distribution systems, by accepting a decrease in consumption up to full stop.

The regulatory authority elaborated and approved (ANRGN Decision No. 1000/2006), with a view to ensuring the security and continuity in natural gas supply, as per the Gas Law No. 351/2004, with subsequent amendments, and Directive 2003/55/CE, a Regulation regarding the conditions and procedures on the appointment of the supplier of last resort. The Regulation is applicable to gas supply and distribution licensees, as well as to gas customers.

The supply of last resort represents the supply of natural gas by a gas supply licensee, appointed or selected under the terms of this Regulation, with a view to supplying a customer entered into a gas supply negotiated contract, whose current supplier is about to have its license withdrawn by the regulator.

Mandatory supply of last resort represents the supply of natural gas by a gas supply licensee, appointed under this Regulation, with a view to supplying gas to customers falling into the following categories:

- Household customers;
- Hospitals, schools, kindergartens;
- Public institutions;
- Non-household customers, other than the ones above-mentioned, with a consumption of up to 12,400 cm³/year/consumption site.

The mandatory supply of last resort shall not prevail over current contractual obligations of the appointed supplier of last resort.

Voluntary supply of last resort represents the supply of natural gas by a gas supply licensee, selected under this Regulation, with a view to supplying gas to non-household customers with a consumption of above 12,401 cm³/year/consumption site.

Public service obligations apply correspondingly to the mandatory supply of last resort.

Distribution operators shall keep track of all customer switchings in their distribution area and submit to regulatory authority, on a quarterly basis, a report in this respect, drafted in compliance with the template included in the Regulation. The data included in the report is public information.

In the context of ensuring the volumes of gas needed to fulfill the public service obligation, in accordance with the energy programme for the cold season (October current year – March the following year), suppliers performing regulated supply shall store in underground storages, until the end of the injection cycle, a minimum stock of gas. The minimum gas stock is determined by the Market Operator of the Gas National Dispatcher, for each supplier, so that it covers about 12.5% of the volume of gas to be supplied to captive customers.

The volume of gas to be yearly supplied by each supplier, underlying the calculation of the minimum stock, is the one taken into consideration when establishing the unitary regulated revenue and the unitary overall revenue related to gas regulated supply, and that is included in the individual Orders on the setting of the regulated tariffs for gas regulated supply.

The suppliers compelled to set up minimum stocks shall send the data needed by the Market Operator. Also, in order to ensure the security of the gas national transmission system functioning, SNTGN "Transgaz" S.A. Mediaş shall undertake the necessary measures so that, during the cold season, it has free and operative access to a minimum volume of gas meant to ensure NTS physical balance.

Internationally, the most important interconnection project Romania is participating in is the Nabucco project. The latest stage in the development of this project consisted in the submission of the request for exemption from the provisions on third party access, as per article 22 of Directive 2003/55/EC (transposed into national legislation). According to legal provisions in force, in Romania, the regulatory authority is the responsible body for granting the exemption. Thus, the above-mentioned request was submitted and analyzed by the regulatory authority in Romania. The notification of the request was done on July 2008.

The Ministry of Economy and Finance is responsible for establishing the priority gas-related investments.

ANRE provides for the regulatory framework needed to promote investments by issuing authorizations and licenses, issuing and approving methodologies on prices and tariffs setting, issuing commercial and technical regulations, elaborating rules on network access and connection of users.

In the gas sector, the regulator approves, for each regulatory period for which regulated tariffs and prices are established, licensees' investment programmes, with a view to recognizing the costs and framing them into approved tariffs and prices.

In 2007, a new company, Carpathian Energy, received authorization for the functioning of ground technological facilities related to gas production, as well as authorization for the setting up of gas production capacity for the exploitation of new gas reserves.

6. Aspects regarding the public service [Article 3(9) electricity and 3(6) natural gas]

6.1. Electricity

According to the provisions of the Directive 54/2003/CE, the Romanian primary and secondary legislation imposes the electricity market participants to observe the public service obligations. The public service obligations are set in the Electricity Law 13/2007, in the *Regulation for electricity supply*, approved by GD 1007/2004, in the electricity supply framework contracts, in the conditions of electricity supply licenses and in the *Methodology for setting up tariffs to residential customers*, approved by ANRE Order 11/2005. The applicants go through rigorous verification procedures within the license granting process and, after obtaining the license, ANRE monitors the compliance with the conditions of licenses and with the system of regulations.

The Electricity Law defines the default electricity supplier who has the obligation to deliver supply services at regulated tariffs to the residential or to the final customers with less than 100 kVA contracted power that are within their assigned area, until the customer first turns to the free market. The costs of the default supplier incurred with the obligation of supply

services to residential and to small customers are recognized in the tariffs, in a pass-through system.

Provisos are also stipulated in the Electricity Law on the Supplier of Last Resort (SoLR) obligation to supply the eligible customers whose supplier is unable to fulfil its supply obligations and on the regulator's responsibility to issue the Regulation to appoint the supplier of last resort (ANRE Orders 14/2007 and 15/2007).

Estimations show that 98% of the customers benefit from the service of electricity supply. For the remaining 2%, representing the remote and difficult to reach areas, the Romanian Government, together with the Minister of Economy and Finance, has developed an electrification plan for the next 5 years.

According to the Electricity Law, the regulator has the obligations to set up minimum requirements regarding the continuity and quality of electricity supply for customers supplied through isolated power systems and to establish local prices where regulated prices to captive customers supplied from RPS are not applicable.

Residential customers and the customers that choose not to exercise their right to change the supplier are supplied with electricity at regulated tariffs. Once the full opening of the electricity market is achieved (GD 638/2007), all the customers are free to choose their supplier. Household customers and customers with contracted power of less than 100 kVA continue to benefit from regulated tariffs until the first supplier switching.

ANRE sets up regulated tariffs based on its methodologies and on the data transmitted by the suppliers of captive customers. *The Methodology to setting up regulated tariffs to captive customers*, approved by ANRE Order 11/2005 stipulates:

- the passing-through in the final customers' tariffs of the justifiable costs of the acquisition, transmission, distribution, of the system services, market operation and the supply of electricity
- the acquisition of electricity for captive customers through regulated bilateral contracts and through DAM and BM transactions
- the ex-post adjustment of tariffs every 6 months;
- the regulated quantities reduction if captive customers exercise their eligibility right.

Of the total amount of supplied electricity in 2007, about 43% was delivered to residential customers and about 57% to other customer categories.

The full opening of the electricity market requires hourly meters for the customers, wide internet access and the introduction of standard consumption profiles. It also involved the review of the rules to switching the supplier in order to meet the household customers' specific needs.

Electricity supply for residential customers and for small commercial/industrial customers is supplied based on framework contracts. The contracts are issued by the regulator for every category of customers and contain minimum required clauses regarding the: duration of the contract; conditions for renewal or for termination of the contract; applicable tariff; date of reading; billing period and payment conditions; methods of payments: at the customer's premises (in case of householders) to the supplier's representative; at the supplier pay-offices, at banks or post offices); compensations if the quality levels of the contracted service are not met; obligation of the supplier to inform the customer on the scheduled interruptions.

Vulnerable customers needing financial aid for the payment of their electricity bills (i.e. customers with an average income per family member that is less than the national minimum income) also benefited in 2007 from a sub-category of regulated tariffs for residential customers – the social tariffs. Thus, in 2007, 15.63% of residential customers were invoiced on social tariffs.

ANRE regulations stipulate that if the customer fails to pay the electricity bill within 30 days from the due date, the supplier charges a percentage of the sum due as a penalty. If the dues are not paid within 45 days from the date of payment, the supplier is entitled to cut the electricity supply of the said customer, after sending a 5 days' notice prior to the disconnection date.

In 2007, 261811 customers, representing 3.01% from the total number of customers, were disconnected for non-payment, as follows: 233719 residential and 28092 industrial and small commercial.

The network operator re-connects the customer disconnected for non-payment the next working day following the full payment of the sums due to the supplier. In addition, the disconnected customer shall pay the network operator for the connection-disconnection works performed.

The suppliers must have their own internet site so that customers may find general information regarding the supply activity. Likewise, the license conditions for supply stipulate the suppliers' obligation to organise meetings with the representatives of the main customer associations/organisations. The number of summons cannot exceed 6 per year. If no such summonses occur, the license holders will organise a meeting with the representatives of the customer associations/organisations at least one a year.

The customers' right to information is also addressed in the obligation imposed to the active electricity suppliers who must send their clients, by 15th of April of every year, a label containing information on the electricity structure and on the environmental impact of the electricity supplied in the year before.

ANRE monitors and publishes the CO₂ emissions resulting from the electricity generated by the large electricity producers.

The customers play an active role in the regulation issuing process. Prior to the regulatory committee approval, ANRE submits all the draft regulations to the attention of the Advisory Council members who are representatives of both the license holders and the customer association/organisations. The draft regulations of general interest are then published on ANRE web site for public debate.

Provisos regarding the customer complaints management are stipulated in the conditions of the license, in the framework contracts and in the *Standard for electricity supply at regulated tariffs*.

The supply license holders must register, investigate and solve all the customer complaints relating to the quality of the delivered service, the calculation and/or the billing of the electricity consumption. To this purpose, each license holder must organise a Customer Service in order to register all the complaints of the customers who deem that the actions of

the said license holder are prejudicial to him/her. The Customer Service keeps records of all the complaints, petitions and requests submitted by the customers and of the way in which they were solved.

Through the control activities it develops, the regulator must ensure that license holders comply with the conditions set in the licenses. If a customer is not satisfied with the answer received from the commercial operator, he can petition ANRE on the grounds of GD 27/2002.

6.2. Natural Gas

A minimum set of public service obligations was provided for in the Gas Law No. 351/2004, with subsequent amendments.

Natural gas storage, transmission, distribution and supply licensees have the following public service obligations:

- a) to ensure the security and continuity of supply, in compliance with the legal provisions in force;
- b) to deliver the service observing the principles of energy efficiency and environmental protection;
- c) to observe the Performance Standards;
- d) to ensure third party access to the system.

Apart from the above-mentioned legal provisions, the public service obligation is provided for in the Framework Conditions on the validity of distribution and supply licenses, in the Framework Conditions on the validity of the authorization for the functioning of gas distribution undertakings/systems (ANRGN Decision No. 1271/2004), as well as in the Conditions on validity of gas transmission license (ANRGN Decision No. 1362/2006).

Law no.346/2007 – regarding measures to ensure the security of natural gas supply – which transposes within national legislation the provisions of Directive 2004/67/CE stipulates mandatory public service obligation also, for all licences holders within the natural gas sector and for all gas producers, having the target to satisfy the general interest of consumers taking into account:

- The exploitation of facilities and equipment from this sector in conditions of integrity protection for persons and their goods, environmental protection and energy efficiency;
- During the cold season to ensure the security and continuity of natural gas supply for the following categories of consumers:
 - Household consumers
 - Entities which provide medical service care and educational units, social protection units dedicated to children, old or people with different disabilities
 - Generators for thermal energy supply which do not have possibility to use alternate fuels
 - Public institutions of central and local interest, cultural and worship institutions, non-governmental organizations of public interest

For these categories of consumers the law stipulates that in emergency cases the suppliers and domestic natural gas producers have the obligation to make available

natural gas amounts in order to cover their consumption in the above mentioned order. Also, to these categories of consumers and to the beneficiaries of social protection programmes or disabled people the the suppliers of natural gas will not cut the supply during the emergency cases, and during the cold season as well, from October to March.

The mechanisms for calculation of regulated final prices are „price-cap”.

The value of the distribution services delivered for a distribution system user, are invoiced on a monthly basis, using the following formula:

$$VT^d = T_d * Q$$

where:

VT^d – total value of the bill, VAT not included, representing the value of the distribution service, expressed in RON;

T_d – regulated distribution tariff, expressed in RON/1,000 cm.

Q – distributed volume, expressed in 1,000 cm.

The value of the regulated supply services, delivered to an end customer, is invoiced on a monthly basis, using the following formula:

$$VT^f = Pf * Q$$

where:

VT^f – total value of the bill, VAT not included, representing the value of the regulated supply service, expressed in RON;

Q – supplied volume, expressed in 1,000 cm;

Pf – regulated final price, expressed in RON/1,000 cm.

The regulator is entitled to refuse to operators the recognition of certain costs or of part of these costs in case the costs are not incurred in a cautious manner, given the conditions and the information available at the time the costs were incurred.

For 2008, the categories of customers for which differentiated regulated final prices and distribution tariffs are set are the following:

A. Final customers connected directly to the transmission system

A.1 Annual consumption of up to 1 162.78 MWh

A.2 Annual consumption between 1 162.79 MWh and 11 627.78 MWh

A.3 Annual consumption between 11 627.79 MWh and 116 277.79 MWh

A.4 Annual consumption between 116 277.80 MWh and 1 162 777.87 MWh

A.5 Annual consumption of above 1 162 777.87 MWh

B. Final customers connected to the distribution system

B.1 Annual consumption of up to 23.25 MWh

B.2 Annual consumption between 23.26 MWh and 116.28 MWh

B.3 Annual consumption between 116.29 MWh and 1 162.78 MWh

B.4 Annual consumption between 1 162.79 MWh and 11 627.78 MWh

B.5 Annual consumption between 11 627.79 MWh and 116 277.79 MWh

B.6 Annual consumption of above 116 277.79 MWh

With regard to the transparency of contractual terms, in the regulated market, contracts are concluded in compliance with the Framework-contracts, elaborated and approved by the regulatory authority, published in Romania's Monitorul Oficial, as follows:

- ANRGN Decision No. 182/2005 approving the Framework-contract for natural gas regulated supply to captive customers, with subsequent amendments and ANRGN Decision No. 308/2005 approving the General Contracting Conditions for natural gas captive customers, with subsequent amendments
- ANRGN Decision No. 183/2005 approving the Framework-contract for natural gas distribution, with subsequent amendments and ANRGN Decision No. 309/2005 approving the General Contracting Conditions for natural gas distribution, with subsequent amendments
- ANRGN Decision No. 460/2006 approving the Framework-contract for natural gas transmission with booking of capacity in the National Transmission System, with subsequent amendments and ANRGN Decision No. 528/2006 approving the Framework-contract for natural gas interruptible transmission services through the National Transmission System, with subsequent amendments
- ANRGN Decision Nos. 480/2004 approving the Framework-contract for natural gas underground storage, with subsequent amendments

The above-mentioned regulations include mainly provisions regarding: regulated final price, length of the contract, rights and liabilities, contractual responsibility.