

## AN ELECTRICITY SUPPLIER'S OBLIGATIONS CONNECTED WITH THE ROMANIAN MARKET UNDER THE ELECTRICITY MARKET LIBERALIZATION

Valentina STANESCU – S.C. D.F.E.E. ELECTRICA Oltenia S.A., S.D.F.E.E. Pitesti, Romania, [valentina.stanescu@electrica-oltenia.ro](mailto:valentina.stanescu@electrica-oltenia.ro)

### 1. ABSTRACT

*This work intends to be an introduction of the electricity supplier's obligations, that is the supplier operating within the 2006 – 2007 Romanian electricity market; on one hand it intends to rise the interest for the events taking place within the Romanian electric energy market, and on the other hand it intends to demonstrate the Romanian electric energy market's ability to align itself to the European legislation by showing the present evolution.*

*Organizing restructure using unbundling, that is separating electricity supply activity from the distribution activity, which is planned to start functioning on July 1, 2007, should obey the obligations settled for the electricity supplier by the specific legislation; the competent Authority plays a decisive part in enforcing new regulations or updating the older regulations so that the unbundling to become functional.*

### 2. INTRODUCTION

The Romanian electric energy system has turned from the integrated vertical pattern in which the electricity supply responsibility exclusively belonged to RENEL (the National Electric Energy Autonomous Department), to a decentralized system which is characterized by the followings: electricity producing and transportation decentralization, that is distribution activities, and from centralized programming of electricity producing and supply to obtaining the right to produce, buy and supply electricity by means of offering, the daily bidding process referring to the 24 hours of the following day.

Starting with 1998, the Romanian Government policy has focused on the electric energy system liberalization.. The liberalization process was supported by legislation and consequently the domestic legislation for the electric energy system in Romania consists at present of diversified types of instruments such as:

- primary legislation: Laws, Government Decisions (HG's), and Government Urgent Ordinances (UG's),
- secondary legislation: Transportation, Distribution, Measurement and Commercial Codes issued in accordance with HG's and UG's together with the other regulations issued by ANRE (National Authority for Energy Regulations) and with the granted licenses by ANRE.

ANRE's setting up in 1998, its organising and functioning aimed the electric energy system to function

under efficient, computational, transparent and consumers' protective conditions. ANRE issued a large number of regulations, the most important ones being related to the secondary legislation, that is making the en gross electric energy market function properly.

The electric energy law, approved in 2003, created the juridical frame to adequately regulate the electric energy producing, transportation, distribution and supply activities as well as the activities for thermal energy produced in co-generating, taking into consideration the public and private interest compliance, according to the market economy principles. When making this law they took into consideration the following facts: our country's experience in this field, the electric and thermic energy domain's restructure and development strategy, the European Community legislation provisions, the commitments concluded by Romania within foreign policy as well as the international organizations' recommendations.

Consequently at present there have been accomplished the following: the major restructure of the system, the liberalization of the segments which are fit to competing, that is electricity producing and supply, natural monopoly segments regulating, that is transportation, distribution and privatization where competing was desired.

### 3. ROMANIAN LEGISLATION REGARDING THE RIGHT TO SUPPLY ELECTRIC ENERGY

#### 3.1. Contract obligations

The holder of an electric power supply license can supply energy to a consumer only after concluding a supply contract in accordance, with the valid legal provisions. The electricity supply contract should include the consumer's right to cancel, it any time, by means of a previous announcement, and in accordance with the specific regulations.

The license holder will also take into consideration the possibility of concluding electric energy transportation contracts with the transportation/system Operator as well as the distribution contracts with the distribution Operator, unless the eligible consumer informed the license holder in written form about his duty (stipulated by law) to himself conclude such contracts.

According to the specific legislation, the license holder has the right to apply penalties, to suspend and/or temporarily interrupt the energy supply under the established contract stipulations and the valid legal

regulations if the consumer himself doesn't obey the contract stipulations.

Before exercising this right against the debtor consumers, the license holder:

- ✿ will establish whether he accepts to meet the debtors in order to clarify the way of enforcing the contract conditions,

- ✿ will pre inform the debtors on his intention of electricity supplying interruption, after 5 days,

- ✿ will ensure himself that in case of temporary interruption only the debtor consumers are disconnected.

The license holder doesn't have the right to make any proposals and/or to conclude contracts containing obligations which are not in accordance with the license duties with any consumer.

The license holder is obliged to take the responsibility of balancing to the transport and system Operator when buying, selling, importing and exporting electricity, in accordance with the commercial code of the electricity en gross market.

The license holder is obliged to yearly buy a certain number of green certificates, in accordance with the electricity yearly supplied to consumers, as well as with the share established by Government Decision, and with the applicable standards of this share; these standards are issued by the qualified authority, that is the ANRE.

### **3.2. Duties concerning the electricity supply modality**

#### **3.2.1. Access to the public electricity networks**

#### **3.2.2. Measurement for the electricity supplied to consumers**

If a consumer will ask a license holder to supply him electricity, the license holder will provide the intermediate service connected to the electricity network access, to the distribution or, if necessary, to the electricity transport network. In their turn, the transport and system Operator as well as the distribution Operators are obliged to provide the regulated access to the public electricity network to every applicant.

Concerning the providing of the electricity measurement, electricity supplied to consumers, the license holder will not supply electricity to any consumer before ensuring himself that there is a group of electricity measurement for discounting electricity to every consume place; this group of measurement must fulfil all applicable conditions in accordance with the electricity measurement code approved by the competent authority, that is the ANRE.

When a consumer informs the license holder in written form about a failing or suspected to wrongly register measurement group, the license holder will ask the transport and system or the distribution Operator, as soon as possible, to verify that measurement group and to adopt the necessary measures.

#### **3.2.3. The transmission of the electricity consume forecast**

#### **3.2.4. Sold electricity invoicing**

Every license holder must inform the transport and system Operator the consume forecast of his consumers according to the valid legislation.

The invoice issuing will be in accordance with the applicable directions/requests established by the competent authorities and it will include enough details for the consume place identification as well as for the total value justification.

The invoice will distinctly contain the value of the supplied electricity, the value of the afferent transport/distribution services (services contracted by the license holder) as well as the taxes enforced by the valid legislation (VAT, excise).

The license holder will transfer the collected taxes and duties in accordance with the valid legislation.

#### **3.2.5. Electricity labelling**

Every license holder is obliged to yearly specify the origin of the primary used electric energy (mentioning the sources); to specify the origin of the electric energy bought within the previous year and to mention the public information sources; usually these sources may be Internet site addresses, sites which provide information concerning the impact made by electricity producing on the environment in accordance with the stipulations included in "The Labelling Regulations for Electric Energy" issued by the competent Authority.

This information should be included in the invoice sent to every consumer or in an attached brochure.

### **3.3. Obligations related to clients**

#### **3.3.1. Consumers' informing**

#### **3.3.2. Answers to the claims addressed to the license holder**

The Holder of an electricity supply License will organize and maintain, as long as his license is valid, a department called "Clients' Department" which will both have specialized personnel and proper logistics in order to fulfil its duties and communication means publicly known. Consequently, by using this department the License Holder will be communicating with his consumers, and will inform them both about the new regulations connected to the electricity market and the changes occurred in the specific standard acts. This communication system will start working within the first 60 working days from the moment when the License is granted.

If ANRE requires, the License Holder will also obtain the agreement for the chosen system from the National Authority for Consumers' Protection .

The department thus settled will allow the License Holder:

- to inform his consumers about his duties in accordance with the License stipulations,

■ to inform his consumers in written forms about the new changes occurring the rights, duties or other obligations belonging to the supply contract deriving from new regulations; the informing will include the necessary details concerning these changes and will be transmitted together with the first invoice issued after making the change decision,

■ to immediately inform the consumer about the possible damage occurred to any measurement group measuring the supplied electricity amount and to recalculate the real consumed electricity amount,

■ to provide or to receive any information concerning the occurred problems or incidents which affect or can affect the security, availability and quality of the supply, distribution and transportation services,

■ to announce about any supply interruption, interruption longer than the minimum ones settled in contracts and which is due to planned works applied to the electric network,

■ to inform his consumers about his intention of ending his activities contracted in his License 90 days in advance before ending them.

The License Holder will register the requests and the claims addressed to him by consumers, claims regarding the services quality, the calculation and/or the electricity consume invoicing using the Clients' Department. This department will found and keep a register in which they will register both the requests and the claims addressed by the consumers and their way of solving.

### 3.3.3. Preventing and/or finding electricity thefts, damage or interventions made on measurement equipments

Whenever possible, the electricity supply License Holder is obliged to act for preventing and detect:

- when his consumers are stealing electricity,
- when the electricity measurement groups are damaged (that is measurement groups used to discount the electricity supplied to consumers),
- when unauthorized interventions are made upon the measurement groups used for discounting.

The License Holder will inform the distribution Operator or, if necessary, the transport and system Operator about any incident which, in his opinion, could cause damage to the electric installations exploited by them within 24 hours from finding out. The License Holder will give all the discovered details and information to the distribution Operator or to the transport and system Operator in order to allow the incident inquiry and adequate measures to be enforced.

The License Holder will inform the distribution Operator or the transport and system Operator about his own program/actions concerning the offences' prevention and will specify the conditions under which he could ask to interrupt supply for the consumers found guilty.

### 3.3.4. Providing a normal competing environment and indiscriminative consumers' treatment

A license holder will not engage himself in any kind of anti-competing activities within the electricity market and will not be an obstacle for other license holders, or intending competitors, which try to become active as electricity suppliers, obeying the legal regulations regarding competition.

Stipulations concerning the forbidding of anti-competing activities within the electricity market are also valid for the License Holder's affiliated or associated companies also working in the Romanian electric energy field.

The License Holder can not have, simultaneously, more than one electricity supply license.

According to the en gross electric power market Commercial Code, a License Holder is obliged to record himself as an operator, within the centralized electricity markets, in order to operate within these markets.

A system of collecting the claims which will also collect the claims addressed to the License Holder will be provided. These claims can be made by any company or person who have suffered from the License Holder's practices within the electric energy field.

## 3.4. Financial obligations

### 3.4.1. Accounting booking separation

A License Holder must have separate accounting bookings for the his License authorized activity, that is he must act as if that activity were performed by a separate economic agent.

The accounting bookings will show incomes, expenses, actives, passives, reserves and associated or granted provisions deriving from his license; all these will be separately shown both in the License Holder's bookings and in his associated or affiliated companies which supply electricity; all these figures will also be separated from the figures associated to other activities provided by the License Holder.

The License Holder will show when asked by the competent authorities:

- the adopted rules for actives, passives, incomes, and expenses assignation when separating the accounting bookings;
- documents which settle both the basis for dividing the mutual expenses among the activities granted by the License and the other performed activities, and the results obtained after this dividing .

The License Holder will demonstrate that the accounting records are really kept according to these requirements from the very first date of performing beginning any new activity which fits the License stipulations.

### 3.4.2. Actives' preserving and shares transactions

Except the cases mentioned by specific laws, the License Holder will inform the competent authority 30

working days in advance about his share holders' intention of concluding actions whose result would be:

- selling, associating or any other way (donation, renting, loan, withdrawal, mortgage, warranty given to/or with persons or companies) thus using the corporal actives used when providing electricity supply
- the value of the existing social capital is reduced with one part or at least 25%

When speaking of existing social capital of the License Holder according to the License this means:

- original social capital existing when the License was issued , or
- social capital existing in a certain moment, derived from increases or decreases of the original social capital performed after the License issuing, obeying this paragraph's stipulations.

The License Holder will inform the competent authorities:

- about any share transactions among share holders or third parties 30 working days in advance only when his shares are not used in the stock exchange transactions;
- changing of the share holding structure within 5 working days from the recording day at the Commerce Register Office of every such mentions record request, only when his shares are not used in the stock exchange transactions;

Transactions performed without a favourable agreement given by the competent Authority can lead to the License's suspending or cancellation.

### 3.4.3. Crossed subventions' deleting

### 3.4.4. Limitations of activity types performed in accordance with the license

The License Holder will assure himself that there is no crossed subvention among the activities authorized by his License and other activities within the energy domain.

Providing supply does not forbid the License Holder to also provide electricity producing under the following conditions:

- to be granted an electricity producing license,
- not to provide any electricity distribution activities except the one stipulated as an additional right within the license granted for electricity producing.

### 3.4.5. Settling and updating the financial warranties

The electric energy License Holder will settle and maintain the financial warranties necessary to his taking part to the en gross electric energy market and to providing his ability of fulfilling his electric energy supply obligations within the en detail market. The financial warranties will be settled according to the valid law.

Despite of the way these financial warranties were settled, their value can not be smaller, at any moment, than the amount of the funds needed to fulfil the active contracts within 30 working days.

The electric energy License Holder will settle the financial warranties before starting his electric energy supply activity and will inform the competent Authority about their form and value in order to get the approval. The competent Authority can ask the License Holder to reconsider the financial warranties form and value if the original conditions when issuing the License were changed.

The financial warranties maintaining is an essential condition of the License.

## **3.5. Obligations concerning obeying the laws and regulations**

All valid time period, the license holder will totally obey both the License Conditions stipulations and those belonging to the valid applicable laws and regulations. If, when acting under the License Conditions, the License Holder might disobey the valid laws, he will obey the laws first of all.

The License Holder is obliged to take part, according to a mutual settled program, to the revision of the regulations issued by the competent Authority, only if the competent Authority sends a written request and under the conditions specified in the written request.

### **3.5.1. Announcements for the competent authority**

The electric energy License Holder will provide all the information necessary to properly fulfil his activity to the competent Authority.

According to the obligations stipulated in his License, the License Holder will make up and transmit the Competent Authority:

- for every yearly financial exercise:
  - a copy of the company's financial situations,
  - a " financial report " for the activities allowed to be performed by his License.
- for the first six months of every yearly financial exercise: the profit and loss account (that is a copy of the act which is sent and registered to the financial minister local representative where the License Holder is registered according to the law).

The License Holder will make up and transmit the competent Authority a " Yearly activity report", which will have the shape and the content according to the competent Authority request.

The information included in these documents is considered public and the License Holder will have to publish it if the competent Authority requests it.

There are some exceptions:

- the information is declared confidential by the License Holder,
- the information is state secret.

The License Holder will make up and periodically (monthly/every three month) transmit reports to the competent Authority; these reports will allow the Authority to evaluate the License Holder's behaviour within the electric energy market. The content, shape and



transmittal frequency are settled by specific regulations/orders issued by the competent Authority.

The License Holder is obliged to inform the competent Authority about his acquisition or selling contracts concluding in order to be able to perform electric energy import/export.

The License Holder is obliged to inform the competent Authority about any disobediences of the License Conditions within 7 working days from finding out.

The License Holder will inform the competent Authority within 10 working days about:

- + statute changing by society dividing, fusion, or transforming; or activity object / social capital changing; or headquarter' address changing ,
- + general manager changing .

The License Holder is obliged to inform the competent Authority about the judicial reorganizing procedure or bankruptcy as well as about his incapacity or decay.

Minimum 30 working days from starting the legal procedure of apparition, the License Holder is obliged to inform the competent Authority about his intention of settling a new company/branch whose activity object is providing activities connected to the competent Authority regulating domain. These companies or branches may:

- ◆ totally belong to the License Holder,
- ◆ or partially (the License Holder can be a share/social part holder),
- ◆ or partially or totally belong to another company whose associate/holder is the License Holder

This obligation is also maintained even if a company whose associate/holder is the License Holder by changing its activity object is to perform activities within the electric energy domain.

The competent Authority will analyze the influence this new company will have on the consumers' interests or on other license holders and will give a written approval within 30 days from receiving the notification. This written approval will include the conditions under which the License Holder will be involved in this enterprise.

In order to provide itself that the License Conditions and all valid applicable laws are obeyed the competent Authority can request, examine and copy (in accordance and obeying the law) all information, recordings and other documents belonging to the License Holder which the Authority considers to be somehow connected to the License Holder's business or activities performed by him within the electric energy domain. The requested information can include state secret, service secrets, or business secrets. The competent Authority will use this information only for the purpose for which it was provided and will not inform any unauthorized person about its content.

### 3.5.2. The conditions for a license transferring

The total or partial transfer (cession) rights for electric energy supply, can be made by the License Holder only by concluding a contract, obeying the legal conditions and after getting the written approval from the competent Authority.

In his cession contract, the License Holder will also stipulate the obligations of the cessionary. The License Holder is solidary responsible together with the cessionary for fulfilling the License obligations.

Any transfers made without the competent Authority approval is not valid and it is considered disobeying one of the License conditions; consequently is contravenitionally sanctioned.

### 3.5.3. Confidentiality providing

The License Holder will assure himself that the confidential information, got by himself when performing commercial activities, can not be transmitted to unauthorized persons, this fact becoming contravention.

There are some exceptions, that is when:

- + he has the written consent of the person whose interests can be affected by the information transmittal
- + the information have already become public
- + the License Holder is obliged or has the permission to give the information in order to obey the License Conditions, or an order given by the competent Authority, or to obey a valid law,
- + the information must be transmitted while normally fulfilling the activities authorized by his License.

The License Holder will provide the competent Authority with the information he considers that could be publicly given in order to get the authorization from the competent Authority.

### 3.5.4. Providing qualified personnel

The electricity supplier License Holder will prove that he has qualified personnel to fulfil all the activities connected to electricity supply, for all the valid time period of his License, according to law.

## 4. TARIFFS AND CONTRIBUTIONS

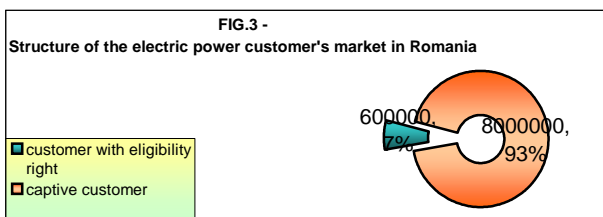
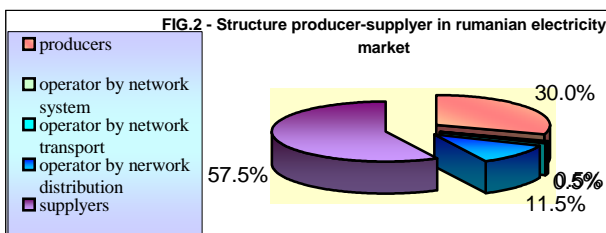
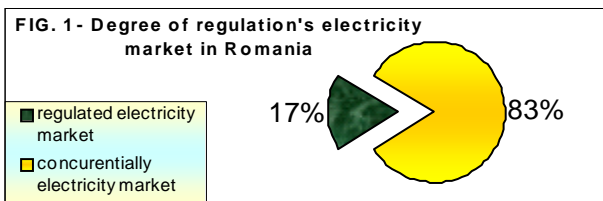
All valid time period of his license, the License Holder will pay the competent Authority both the yearly contribution and the tariffs established by the Regulation and updated by orders given by the chairman of the competent Authority, orders issued in Romanian Official journal.

Not paying the yearly contribution and tariffs under the conditions stipulated by the valid order given by the competent Authority chairman can lead to the License suspending or cancellation.

## 5. CONCLUSIONS

At present, the Romanian electricity market, 17%

regulated, and 83% competitive (fig.no.1) is formed of about 60 electrical energy producers, 1 system operator, 1 transport operator, 23 distribution operators, 115 suppliers (fig.no.2), more than 600000 eligible consumers, more than 8000000 captive consumers (fig.no. 3).

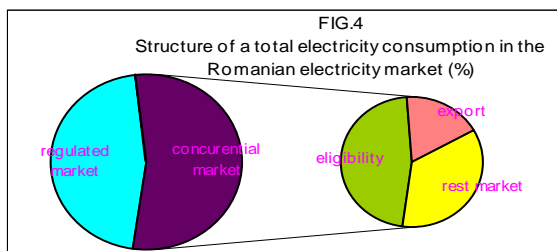


In this market, at end of 2006, for a total electricity consumption of 5.4TWh, the structure of the sale was (fig.no.4):

- in regulated market – 46.3%
- in concurential market – 53.7%,

and for concurential market :

- eligibility – 25.4 %
- export – 9.5 %
- rest market – 18.8 %.



This structure of the market impose more discipline within all the electricity supply activity domain, and a precise definition of a license holder's obligations. These obligations after being settled are regulated and monitored by the competent Authority (ANRE) which uses numerous laws and regulations; if an electricity supplier disobeys all these laws and regulations he can be penalized and he can even be taken the right of electricity supply, that is his license can be cancelled.

The Romanian electricity market reform consequences made Romania to be mentioned in the European mass-media as a leader of the European south-east electricity regional market, taking into consideration both the rhythm of reform enforcement and the level of its evolution.

In conclusion, the Romanian electricity market, after total opening, from July 1, 2007, has prepared the condition for apparition of the other electricity supplier type, such as Supplier of Last Resort, that is not clearly defined neither by U.E. nor by further documents.

It must not to ignore an important aspect: the international experiences, at European level and just world level, had developed very specific and different concepts, regarding the functioning conditions and the assumed obligations of the Supplier of Last Resort, so that, the assigning of the Supplier of Last Resort quality, in Romanian electricity market, will be sufficiently disputed.

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