

## energy - legal changes published in March 2017

**Emergency Ordinance no. 24/2017 amending and supplementing Law no. 220/2008 on the system for promoting energy production from renewable energy sources and amending certain acts** was published in the Official Gazette of Romania, Part I, no. 224 of March 31, 2017, the date on which entered into force.

The Emergency Ordinance brings several changes to Law no. 220/2008 for establishing the system for promoting electricity production from renewable energy sources, relevant being the following:

- it provides that the green certificate is not a financial instrument;
- it introduces definitions of terms such as: annual static amount of green certificates, anonymous centralized market of green certificates, centralized market for electricity from renewable sources supported by green certificates, average impact of green certificates to the final consumer;
- it provides that starting 2018, NRAE calculates the annual static amount of green certificates, every two years, based on a methodology, published on its website and informs the Government by June 30 on the annual static amount of green certificates for the next two year period;
- also from 2018, NRAE establishes by order, by March 1<sup>st</sup> of each year, the annual mandatory quota of green certificates for the previous year, based on the static amount of green certificates and final consumption of electricity in the previous year, but without exceeding the average consumer impact of 11.1 EUR/ MWh established considering the weighted average price of transactions in the anonymous centralized spot market for green certificates during the previous year. The RON value is calculated at the average exchange rate set by the National Bank of Romania for the previous year.
- it provides that NRAE will draft until September 1, 2017 the regulatory framework for the functioning of the anonymous centralized market of green certificates and centralized electricity market supported by state aid scheme

The Ordinance also provides that no later than March 1, 2018, NRAE shall determine by order the mandatory annual quota of green certificates for the year 2017. The green certificates issued by the transmission system operator from the first day of the month of May 2017 and the green certificates postponed to trading from July 1, 2013, are available and can be traded until March 31, 2032. However, upon the entry into force of the emergency ordinance, the bilateral agreements to be concluded on the bilateral agreements market for green certificates can have a maximum validity period up to august 31, 2017. Bilateral SPAs for green certificates concluded before the entry into force of the Ordinance are in effect until their expiry, without possibility of extension.

**Order no. 14/2017 repealing NRAE Order no. 9/2013 on the establishment of the Technical Commission for approval of feasibility studies prepared for concession for natural gas distribution service and issuing compliance permits for business operators in the gas industry** was published in the Official Gazette of Romania, Part I, no. 175 of March 10, 2017, the date on which it entered into force.

The new Order repeals *NRAE President Order no. 9/2013 on the establishment of the Technical Commission for approval of feasibility studies prepared for concession of natural gas distribution service and issuing compliance permits for business operators in the gas industry*, mentioning also that under all NRAE regulations, any reference to the "technical Commission for approval of feasibility studies prepared for the concession of natural gas distribution

*service and granting compliance permission for operators in natural gas" are deemed to be made to "technical Commission for concession of natural gas distribution service and issuing compliance permits for business operators in the gas industry within NRAE".*

**Decision no. 284/2017 repealing Decision NRAE no. 2.340 / 2013 regarding the appointment of the Commission for reviewing the design verifiers and technical experts for objectives / systems in the natural gas sector** was published in the Official Gazette of Romania, Part I, no. 175 of March 10, 2017, and entered into force on the same date.

The new Decision repeals the Decision of NRAE President no. 2.340 / 2013 regarding the appointment of the Commission for reviewing the design inspectors and technical experts for objectives / systems in natural gas sector, published in the Official Gazette of Romania, Part I, no. 538 of August 26, 2013, as amended and supplemented.

**Senate Decision no. 15/2017 on the Proposal for a Regulation of the European Parliament and of the Council on preparation for risks in electricity and repealing Directive 2005/89 EC - COM (2016) 862 final** was published in the Official Gazette of Romania, Part I, no. 176 of March 10, 2017 and entered into force on the same date.

The Decision shows that the proposal for a regulation of the European Parliament and of the Council on preparation for risks in electricity and repealing Directive 2005/89 EC - COM (2016) 862 final observes the principles of subsidiarity and proportionality.

**Order no. 15/2017 amending section. II sub point. 8 Annex. 4 of NRAE Order no. 178/2015 on the approval of tariffs and money contributions collected by NRAE in 2016** was published in the Official Gazette of Romania, Part I, no. 184 of March 15, 2017, and entered into force on the same date.

Annex 4 of NRAE Order no. 178/2015 on the approval of tariffs and money contributions collected by NRAE in 2016, point II, paragraph 8, is amended as follows: the stipulation that "the adjustment period for the value of the cash contribution / fee for 2016 is from March 1 to March 15, 2017, given that reporting for December is made in accordance with art. 6 para. (1) of the Methodology for monitoring the natural gas market, approved by NRAE president Order no. 5/2013 ", and the following are added: "except the licensees of natural gas supply, transportation and distribution for whom the adjustment period of the financial contribution / fee is between May 1 - May 15, 2017. For licensees for the upstream pipeline operation and the holders of supply licenses for LPG, LNG, biogas / biomethane or CNG / GNCV, the adjustment period for the contribution is between March 1 and March 15, 2017, taking into account quantities made in 2016, declared until 31 January 2017. The statement is sent by e-mail at NRAE@NRAE.ro, fax no. 021-312.43.65 or mailed to str. Constantin Nacu. 3, Bucharest, District 2, postal code 020995".

**Government Decision no. 129/2017 supplementing Art. 8 of Government Decision no. 1215/2009 laying down the criteria and conditions for the implementation of the support scheme to promote high efficiency cogeneration based on useful heat demand** has been published in the Official Gazette of Romania, Part I, no. 192 of March 17, 2017, and entered into force on the same date.

Government Decision amends GD. 1215/2009 laying down the criteria and conditions for the implementation of the support scheme to promote high efficiency cogeneration based on useful heat demand.

According to the normative act amended, producers of electricity and heat in cogeneration benefit from the support scheme for a period exceeding 11 consecutive years without exceeding 2023.

**Law no. 34/2017 regarding the installation of infrastructure for alternative fuels** was published in the Official Gazette of Romania, Part I, no. 214 of March 29, 2017, entering into force on May 28, 2017.

The new law regulates measures for installing infrastructure for alternative fuels in order to minimize dependence on oil and to mitigate the environmental impact of transport. It provides the following:

- the minimum requirements on the creation of an infrastructure for alternative fuels, including charging stations for electric vehicles and refueling points with compressed natural gas, liquefied natural gas and hydrogen, which are to be implemented through the national policy frameworks;
- the technical specifications for such refueling and charging stations;
- requirements on the information of users (the habilitated institutions take the relevant measures necessary to ensure that users are supplied with relevant, consistent and clear information on vehicles that can be refueled with various fuels introduced on the market or recharged at the charging stations; this information is provided to the public in the user manuals of the vehicles, at the refueling and charging stations, and aboard motor vehicles and the vehicle traders; the requirement applies to all motor vehicles and their operating manuals placed on the market after May 1, 2017).

Within 180 days from the date of publication of the Law, the Government will issue the necessary regulations to implement it.

**Order no. 17/2017 amending NRAE president Order no. 145/2014 on the deployment of smart metering of electricity** was published in the Official Gazette of Romania, Part I, no. 216 of March 29, 2017, and entered into force on the same date.

The new Order provides that based on the outcome of cost-benefit analysis in art. 51 para. (1) and proposals of distribution operators lessees, NRAE approves until April 30, 2017, by order of the President, the framework conditions for drawing up the national plan for implementing intelligent metering systems for electricity in Romania and the timing of implementation.

Department for Energy Efficiency and specialty directorates in the NRAE will follow the fulfillment of the provisions of the new order.

**Order no. 16/2017 amending and supplementing the methodology for setting tariffs for electricity transmission service, approved by NRAE President Order no. 53/2013** was published in the Official Gazette of Romania, Part I, no. 217 of March 30, 2017, and entered into force on the same date.

The Order amends and supplements the methodology for setting tariffs for electricity transmission, approved by NRAE President Order no. 53/2013.

The changes include:

- defining the regulated provision / reserve and repealing the definitions of regional transmission for electricity and the tariff zone;
- the transmission system operator (TSO) will no longer require quarterly growth increase of tariffs if the inflation rate exceeds 5% quarterly;

- Phase V (setting average transmission tariff) no longer requires the allocation by network nodes of the electrical network transmission service costs, but establishing the input and output components of electricity in/and out of the grid;
- in case of decrease in power consumption by up to 3%, TSO is obliged to reduce controllable operating and maintenance costs proportionately previously established by the competent authority for tariff period t, which does not represent efficiency gains;
- the efficiency gain resulting from the reduction of controllable operation and maintenance costs which register a decrease in electricity use from the forecast will be established in relation to the controllable operation and maintenance costs reduced by no more than 3% below the controllable operation and maintenance costs previously established by the competent authority and it will not be reduced proportionally with the reduced electricity use;
- costs of redundancy payments are no longer considered uncontrollable costs.

**Order no. 18/2017 amending and supplementing the methodology for establishing unitary income for the regulated supply activity held in a regulatory year and approval of regulated natural gas prices since 2016, approved by NRAE President Order no. 182/2015** was published in the Official Gazette of Romania, Part I, no. 217 of March 30, 2017, and entered into force on the same date.

The Order aims to amend the methodology for establishing unitary income for the regulated supply activity held in a regulatory year and approval of regulated natural gas prices since 2016, approved by NRAE Order no. 182/2015.

Order brings important changes to the methodology, among them we mention:

- the regulated supply of natural gas will comprise the conclusion of contracts for purchasing gas for enduring regulated natural gas supply, in the context of minimizing the cost of resources allocated by suppliers, based on transparent procedures, enduring at the same time equal and non-discriminatory treatment for participants in the procedure of purchasing natural gas as bidders, for ensuring continuity of supply gas, in accordance with legal provisions in force, and for covering consumption of its clients;
- at the end of every regulatory year (December 31), the value of the active regulatory base afferent to regulated supply shall be adjusted in relation to the migration of clients from the regulated market towards the free competition market;
- the regulated price formulas are changed;
- changes to the procedures for estimating the fixed amount per unit to cover the cost of purchasing of natural gas;
- the fixed amount per unit for covering purchasing of natural gas shall be determined quarterly/half-yearly/annually and not just annually for another period.

**Order no. 24/2017 amending NRAE president orders establishing regulated tariffs for distribution service and approval of the prices for the regulated supply of natural gas** was published in the Official Gazette of Romania, Part I, no. 221 of March 31, 2017 and entered into force on April 1, 2017.

The new order sets regulated prices for natural gas supply regulated for a number of operators in the gas sector, namely: AMARAD DISTRIBUȚIE S.R.L., B.E.R.G. SISTEM GAZ S.A., CORDUN GAZ S.A., COVI CONSTRUCT 2000 S.R.L., CPL CONCORDIA FILIALA CLUJ ROMÂNIA S.R.L., DESIGN PROIECT S.R.L., DISTRIGAZ VEST S.A., EURO SEVEN INDUSTRY S.R.L., GAZ EST S.A., GAZMIR IAȘI S.R.L., GAZ NORD EST S.A., GAZ SUD S.A., GAZ VEST S.A., GRUP DEZVOLTARE REȚELE S.A., HARGAZ HARGHITA GAZ S.A., INSTANT CONSTRUCT COMPANY S.A., M.M. DATA S.R.L., MĂCIN GAZ S.R.L., MEGAconstruct S.A., MEHEDINȚI GAZ S.A., S.C. MIHOC OIL S.R.L., NORD GAZ S.R.L., NOVA POWER & GAS S.R.L., OLIGOPOL S.R.L., OTTO GAZ S.R.L., PREMIER ENERGY S.R.L., PRISMA SERV COMPANY S.R.L., PROGAZ P&D S.A., ROMGAZ S.A., SALGAZ S.A., TEHNOLOGICA RADION S.R.L., TIMGAZ S.A., TULCEA GAZ S.A., VEGA 93 S.R.L., WIROM GAS S.A., CONI S.R.L.

**Emergency Ordinance no. 25/2017 for amending the Annex to Government Ordinance no. 7/2013 on the establishment of taxes on additional revenues as a result of deregulation of natural gas prices** was published in the Official Gazette of Romania, Part I, no. 224 of March 31, 2017 and entered into force on April 1, 2017.

The New Ordinance replaces the Annex to Government Ordinance no. 7/2013 on the establishment of taxes on additional revenues as a result of deregulation of natural gas prices. The Annex provides the additional revenue calculation formula.

**Order no. 26/2017 to repeal art. 1 and art. 2 letter b) of NRAE Order no. 8/2017 on the approval of cap values for trading green certificates and the value of a green certificate not acquired** was published in the Official Gazette of Romania, Part I, no. 224 of March 31, 2017 and entered into force on April 1, 2017.

The Order repeals the provisions stipulating the cap values for trading green certificates on the green certificates market (a minimum value of 133.0611 lei / green certificate or maximum value of 271.0624 lei / green certificate).

It also repeals, the provision whereby the value of a green certificate not acquired by operators who have annual obligation of green certificates, in case of failure to fulfill the mandatory quota of green certificates is 542.1198 lei / green certificate not acquired (ie 120.0097 euro / green certificate not acquired) for the year of analysis 2017.

**Order no. 27/2017 establishing mandatory estimated quota of green certificates, for the period April-December 2017** was published in the Official Gazette of Romania, Part I, no. 224 of March 31, 2017 and entered into force on April 1, 2017.

The Order governing mandatory estimated quota of green certificates by economic operators who have the obligation to acquire green certificates for the period from April to December 2017. The rate is set at EUR 0.358 green certificates / MWh, corresponding to final consumption of electricity exempt from payment of 5.048 GWh green certificates, according to annex part of the Order.

Upon the entry into force of the new Order, NRAE Order no. 119/2016 laying down mandatory estimated quota of green certificates for the year 2017 shall cease to apply.

For additional details on this material, please do not hesitate to contact us.

**Voicu & Filipescu SCA**

31 General Ernest Brosteanu Street

010527, Bucharest, Romania

Tel: +40 21 314-02-00

Fax: +40 21 314-02-90

E-mail: [office@vf.ro](mailto:office@vf.ro)

Web: [www.vf.ro](http://www.vf.ro)

