

Briefing

22 March 2022

Emergency Government Ordinance regarding the measures applicable to final customers of the electricity and natural gas market for the period 1 April 2022 - 31 March 2023, and amending other normative acts in the energy sector

On 18 March 2022, after much anticipation the Romanian Government approved Emergency Government Ordinance no. 27/2022 regarding the measures applicable to final customers of the electricity and natural gas market for the period 1 April 2022 - 31 March 2023, and amending other normative acts in the energy sector ("**New EGO**"). The New EGO was published in the Romanian Official Gazette on Tuesday, 22 March 2022. Given that the previous normative act dealing with these measures, Emergency Government Ordinance no. 118/2021 ("**EGO 118/2021**") was enacted for a limited period, being in effect only until 31 March 2022, the Government was short on time to implement new measures for the following period.

Building on the measures implemented earlier through EGO 118/2021, the Government also made some other substantial changes. We summarize the most relevant measures brought by the New EGO, as follows:

- **Price cap:** For the period 1 April 2022 - 31 March 2023 the final price that will be invoiced by the electricity suppliers/distribution operators and natural gas suppliers ensuring the resale of electricity/natural gas will be capped, as follows:

Electricity:

- a) Maximum RON 0.68/kWh, VAT included, for household customers with a monthly average consumption in 2021 of less or equal to 100kWh;
- b) Maximum RON 0.8/kWh, VAT included, for household customers with a monthly average consumption between 100kWh and 300 kWh.
- c) Maximum RON 1/kWh, VAT included, for non-household customers.

Natural gas:

- a) Maximum RON 0.31/kWh, VAT included, for household customers;
- b) Maximum RON 0.37/kWh, VAT included, for non-household customers whom did not exceed 50,000 MWh in consumption in 2021, as well as, for producers of thermal energy which is not intended for household customers;

- **Compensation:** To compensate the price cap provided above, suppliers and distribution operators will be reimbursed from the State budget. The Ministry of Employment and Social Solidarity will ensure reimbursement for the services provided to household customers and the Ministry of Energy for those of non-household customers, based on the calculations of National Authority for Regulating Energy ("ANRE").
- **Additional tax on revenues:** The New EGO also maintains the provisions of Law no. 259/2021 approving EGO 118/2021 which introduced a new tax on additional revenue for electricity producers. During the period the New EGO is in force, the additional revenue of electricity producers will be subject to an 80% tax. Capacities commissioned after the New EGO becomes enforceable are exempted from this tax.

Annex 6 of the New EGO provides the methodology based on which the additional revenue will be calculated. In order to establish the tax that electricity producers will pay, two values are important: a) the monthly electricity selling price and b) the additional monthly revenue.



The monthly selling price of electricity represents the monthly net revenue divided by the monthly quantity of electricity physically delivered on the electricity markets, where the monthly net revenue means monthly revenues minus expenses. The additional monthly revenue is determined in case the monthly electricity selling price is higher than RON 450/MWh and is established as the difference between the electricity selling price and 450, multiplied by the monthly quantity of electricity physically delivered.

For producers selling electricity destined to cover the network losses of transmission and distribution networks, the additional revenue is established as the difference between the electricity selling price and 450, multiplied by the difference between the quantity of electricity physically delivered and the quantity delivered for network losses.

- **Stocks of natural gas:** Between 1 April – 31 October 2022, natural gas suppliers/producers of thermal energy produced in cogeneration power plants and thermal power plants for the consumption of mass population, known as *direct clients of natural gas producers*, have the obligation to establish underground stocks on natural gas of minimum 30% to ensure the continuity and security of supply to their portfolio clients/ to ensure their own supply and affordability of the price.
- **Price cap for natural gas producers:** Between 1 April 2022 – 31 March 2023, natural gas producers, that carry out both offshore and/or onshore extraction and sale of natural gas, irrespective on when such activity commenced, are obliged to sell: a) **at the price of RON 150/MWh** to suppliers of household customers and b) **at the price of RON 250/MWh** to suppliers of thermal energy producers or directly to thermal energy producers, but only with respect to the natural gas quantity required for the production of thermal energy in cogeneration power plants and in thermal energy power plants that is intended for population consumption, with the aim to ensure the required natural gas quantity for household customers from current production and storage facilities.

During the time this provision is in force, the royalty owed by natural gas producers for the quantity sold to cover the consumption of household customers and thermal energy producers, as well as for covering the network losses from the transmission and distribution systems, will be established based on the price above, by order of the National Agency for Mineral Resources, which should be issued 10 days after this New EGO enters into force.

According to the New EGO, the natural gas required for ensuring supply for (i) household customers, (ii) producers of thermal energy and (iii) the natural gas sold by the offshore/onshore titleholders of petroleum agreements to transmission and distribution operators for covering network losses, are exempted from the provisions of the following: a) Government Ordinance no. 7/2013 regarding the establishment of a tax on additional revenues obtained as a result of deregulating prices in the natural gas sector, approved by Law no. 73/2018 and b) article 19 of Law no. 256/2018 regarding certain measures for the implementation of petroleum operations by the titleholders of petroleum agreements related to offshore petroleum blocks, as further amended;

- **Amendment of transmission and distribution tariffs:** In order to cover the additional costs incurred by the network operators with network losses, generated by the price increase on the wholesale market, ANRE will amend the transmission and distribution tariffs starting with 1 April 2022. Such amended tariffs are said to remain unchanged for the entire period of 1 April 2022 - 31 March 2023.

The New EGO also provides that ANRE will include the costs of electricity and natural gas for covering network losses which have been generated after the entry into force of the New EGO in the regulated tariffs, according to ANRE's methodologies. The regulated tariffs for distribution and transmission of both



electricity and natural gas will be amended according to the costs registered by the operators until 31 March 2023, for a period of 5 years, after 31 March 2023.

The New EGO was approved by the Government on 18 March 2022 and was published in the Official Gazette on 22 March 2022, as it will start to apply from 1 April 2022. However, it can still undergo changes, or even be repealed by the Parliament, as any Government ordinance must be approved by law following a legislative procedure in the Parliament.

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