**Emergency Ordinance for the amendment and completion of Government Emergency Ordinance no. 27/2022 regarding the measures applicable to final customers in the electricity and natural gas market in the period April 1, 2022-March 31, 2023, as well as for the modification and completion of some normative acts in the field of Energy**

Considering that by the Government's Emergency Ordinance no. 27/2022 regarding the measures applicable to end customers in the electricity and natural gas market in the period April 1, 2022-March 31, 2023, as well as for the amendment and completion of some normative acts in the field of energy, a support scheme for end customers in the market was approved of electricity and natural gas, support scheme that applies starting from April 1, 2022,

In order to reconsider some elements of the support scheme in order to ensure its application at a unitary level by all operators in the energy market with the direct consequence of a better functionality of the energy market and an adequate level of consumer protection,

taking into account the public benefit generated by the correlated implementation of targeted support measures, in parallel with the optimization of the legal framework necessary for economic operators in the energy field to be discouraged from resorting to incorrect practices,

whereas the proposed rules aim to ensure a rigorous discipline of the energy market and a high level of protection for end customers, consumers of electricity and natural gas,

considering that the non-adoption of the regulations proposed by this draft normative act creates major difficulties in obtaining the expected results regarding the application of support measures,

considering the fact that these elements are aimed at the general public interest and constitute an extraordinary situation, the regulation of which cannot be postponed,

Art. I. Government Emergency Ordinance no. 27/2022 regarding the measures applicable to final customers in the electricity and natural gas market in the period April 1, 2022-March 31, 2023, as well as for the modification and completion of some normative acts in the field of energy,

published in the Official Gazette of Romania, Part I, no. 274 of March 22, 2022, with subsequent amendments and additions, is amended and supplemented as follows:

**1**. Article 1 is amended and will have the following content:

" (1) By derogation from the provisions of art. 80 para. (2) from the Electricity and Natural Gas Law no. 123/2012, with subsequent amendments and additions, for consumption between September 1, 2022 and August 31, 2023, the final billed price capped by electricity suppliers is:

a) a maximum of 0.68 lei/kWh, including VAT, in the case of household customers whose average monthly consumption at the place of consumption in 2021 is between 0 - 100 KWh inclusive;

b) a maximum of 0.80 lei/kWh, including VAT, in the case of household customers whose average monthly consumption at the place of consumption in 2021 was between 100.01 - 300 kWh, for a monthly consumption of a maximum of 255 kWh . Electricity consumption exceeding 255KWh/month is invoiced according to the provisions of art. 5 paragraph (1).

c) a maximum of 1 leu/kWh, including VAT, for 85% of the average monthly consumption at the place of consumption in 2021, in the case of small and medium-sized enterprises, as defined in Law no. 346/2004 regarding the stimulation of the establishment and development of small and medium-sized enterprises, with subsequent amendments and additions, hereinafter referred to as SMEs, of economic operators in the field of the food industry, based on the declaration on the personal responsibility of the legal representative. The difference in monthly electricity consumption is invoiced according to the provisions of art. 5 paragraph (1); d) maximum 1 leu/kWh, including VAT, for the full consumption of public and private hospitals defined according to Law no. 95/2006 regarding the reform in the field of health, republished, with subsequent amendments and additions, of public and private educational units, defined according to the National Education Law no. 1/2011, with subsequent amendments and additions, as well as nurseries, public and private providers of social services provided in the Nomenclature of social services, approved by Government Decision no. 867/2015 for the approval of the Nomenclature of social services, as well as the framework regulations for the organization and operation of social services, with subsequent amendments and additions,

e) a maximum of 1 leu/kWh, including VAT, for 85% of the average monthly consumption, achieved at the place of consumption in 2021, for public institutions, other than those provided for in letter d). The difference in monthly electricity consumption is billed according to the provisions of art. 5 paragraph (1);"

f) for the beneficiaries provided for in letter c) and e) who have no consumption history in 2021, the percentage of 85% is applied to the monthly consumption.

(2) By derogation from the provisions of art. 180 para. (1) from Law no. 123/2012, with subsequent amendments and additions, for consumption between April 1, 2022 and August 31, 2023, the final price invoiced by natural gas suppliers is:

a) maximum 0.31 lei/kWh, including VAT, in the case of domestic customers;

b) a maximum of 0.37 lei/kWh, including VAT, in the case of non-domestic customers whose annual consumption of natural gas achieved in 2021 at the place of consumption is no more than 50,000 MWh, as well as in the case of thermal energy producers.

(3) The final invoiced price provided for in para. (1) lit. a) and b) also apply to the consumption places of domestic customers connected starting from January 1, 2022 or for domestic customers who have no history with the supplier in 2021, by referring to the monthly consumption achieved.

(4) The final invoiced price provided for in para. (2) lit. b) it also applies to the consumption places of non-domestic customers connected starting from January 1, 2022.

(5) By way of exception to the provisions of para. (1), in the case of the consumption places of household customers in a condominium, connected through a common installation with a single metering meter, for inclusion in the consumption tranches provided for in paragraph (1) lit. a) and b), the consumption of each owner is determined by dividing the total consumption of the association of owners/tenants registered in the year 2021, respectively 2022 in the situation provided for in para. (8), to 12, respectively to the number of months of consumption and to the number of residential spaces that are part of the respective condominium.

(6) For the calculation of each residential space in the condominium, the consumption of natural gas/electricity is determined by dividing the total annual consumption of the association of owners/tenants by the number of residential spaces that are part of the respective condominium.

(7) In the case of residential neighborhoods for which the suppliers have concluded supply contracts with the town halls, respectively the real estate developers/owners' associations of the real estate developments, and the places of consumption of the domestic customers are jointly invoiced through a single invoice, to determine the consumption related to the respective contracts and the division at the level of household consumer beneficiaries, the provisions of para. (5) and (6).

(8) In the case of household customers who cannot benefit from the provisions of para. (1) lit. a) and b) depending on the consumption of 2021, but whose consumption recorded in 2022 falls within any of the consumption tranches provided for in paragraph (1) lit. a) and b), as well as in the case of domestic and non-domestic customers connected starting from January 1, 2022, the suppliers issue invoices in February 2023 for the regularization of the previously invoiced consumption related to the period of application of this emergency ordinance, using the final price according to the related consumption tranche, and invoices the consumption recorded after the reclassification date at the final price corresponding to the consumption tranche. In the case of a change of supplier during the period of application of the provisions of this emergency ordinance, the regularization is done by the current supplier only for the period of application of the supply contract concluded with him.

(9) The values and installments provided for in para. (1) and (2) may be modified by a decision of the Government, initiated in accordance with the provisions of art. 80 and 180 of the Electricity and Natural Gas Law no. 123/2012, with subsequent amendments and additions, depending on the developments recorded on the domestic and international electricity and natural gas markets and the geopolitical evolution in the vicinity of Romania.

**2.** In article 3, para. (2) lit. a) is modified and will have the following content:

” a) the counter value of electricity/natural gas purchased through all forward contracts and from the day-ahead market/intraday market, including the counter value of natural gas extracted from underground natural gas storage facilities - excluding the counter value of the quantities purchased in the month of analysis and intended for storage in underground storage facilities, as well as the transfer value between the production activity and the supply activity in the case of producers who supply electricity/natural gas to final customers;"

**3**. In article 3, par. (3) lit. a) is modified and will have the following content:

a) the value of electricity/natural gas purchased, through forward contracts and from the next-day market/intraday market, including the value of natural gas extracted from underground natural gas storage facilities - excluding the value of quantities purchased in the month of analysis and intended for storage in underground storage deposits, as well as the transfer value between the production activity and the supply activity in the case of producers who supply electricity/natural gas, to ensure the consumption of customers taken over as a last resort;

**4**. In article 4, para. (1) is amended and will have the following content:

" (1) The component of supplying electricity and natural gas respectively is 73 lei/MWh for the activity of supplying electricity, respectively 12 lei/MWh for the activity of supplying natural gas.".

**5.** In article 5, para. (1) is amended and will have the following content:

" Between September 1, 2022 - August 31, 2023, for domestic electricity customers, except for those provided for in art. 1 paragraph (1) lit. a) and b), for non-domestic electricity customers, with the exception of those provided in art. 1 paragraph (1) lit. c), d) and e) and for non-domestic natural gas customers, except for those provided for in art. 1 paragraph (2) lit. b), the final invoiced price is set by each supplier as the sum of the following components, as the case may be:

a) the acquisition component established under the conditions provided for in art. 6;

b) the supply component established under the conditions provided for in art. 4;

c) the components represented by the tariffs regulated/established according to the regulations of the National Energy Regulatory Authority in force during the period of application of the provisions of this emergency ordinance, for the services provided by the operators of the electricity/natural gas distribution and transmission networks/systems , including for the services provided by operators of underground natural gas storage facilities;

d) the components represented by VAT, excise duties, the contribution related to the support scheme for the promotion of high-efficiency cogeneration based on the demand for useful thermal energy, the counter value of the green certificates related to the system for promoting the production of energy from renewable sources".

**6**. After article 7, a new article is inserted, art. 71, with the following content:

"Art. 71. Starting from September 1, 2022, the resulting value as a product between the amount of electricity billed to final customers, beneficiaries of the support scheme established by this emergency ordinance, in each month of the period of application of the provisions of this emergency ordinance and the difference positive between the average purchase price achieved determined according to the provisions of art. 3 paragraph (2) whose value is less than or at most equal to the value established in art. VI and art. 3 paragraph (3) and the value of the purchase component determined according to the provisions of art. 3 paragraph (1), related to the invoiced month, will be compensated to suppliers from the state budget, through the budget of the Ministry of Labor and Social Solidarity, for household customers, and through the budget of the Ministry of Energy,

for non-domestic customers, in accordance with the values ​​calculated by the National Energy Regulatory Authority.

**7**. In article 8, par. (1) is amended and will have the following content:

" (1) The values ​​related to the compensation provided for in art. 7 para. (1) for each supplier it is determined by the National Energy Regulatory Authority, within 30 days from the date of receipt of settlement requests, the model of which is provided in annexes no. 1 and 2, submitted and registered to the National Agency for Payments and Social Inspection, respectively the Ministry of Energy and, in copy, to the National Energy Regulatory Authority at the e-mail address: plafonare@anre.ro, by the suppliers."

**8**. In article 9, para. (5) is amended and will have the following content:

(5) Based on the invoices issued each month during the application period, the suppliers submit to the National Agency for Payments and Social Inspection at the e-mail address: plafonare.casnici@mmanpis.ro, respectively the Ministry of Energy at the e-mail address : plafonare@energie.gov.ro and, in copy, to the National Energy Regulatory Authority at the e-mail address: plafonare@anre.ro, by uploading to the IT platform at the address www.spv.anre.ro, the request of monthly settlement of the amounts related to the compensation, differently for domestic and non-domestic customers provided for in art. 1, separately for electricity and/or natural gas, according to annex no. 1 or annex no. 2.

**9**. In article 11, para. (1) is amended and will have the following content:

” During the period April 1, 2022 - October 31, 2023, natural gas suppliers/thermal energy producers in cogeneration plants and in thermal plants for consumption intended for the population as direct customers of natural gas producers, hereinafter referred to as direct customer PET, have the obligation to establish a minimum stock of natural gas in the underground natural gas storage facilities to ensure the continuity and safety of supplying its final customers/ensuring their own consumption and affordability of the price; the quantities of natural gas representing the minimum stocks to be stored by each supplier/PET will represent at least 30% of the amount of natural gas required for the consumption of final customers from their own portfolio/own consumption."

**10**. In article 11, par. (2) lit. b) is modified and will have the following content:

"b) the conclusion, by October 31 of each year, of sales-purchase contracts whose object is quantities of natural gas originating from the

underground storage of natural gas, stored by another natural gas supplier; ".

**11**. Art. 12 is amended and will have the following content:

" Art. 12. - (1) During the period September 1, 2022-August 31, 2023, natural gas producers who carry out both onshore and/or offshore extraction activities, regardless of the start date of this activity, as well as natural gas sales activities have the obligation to sell, at the price of 150 lei/MWh, the necessary quantities of natural gas resulting from the current internal production activity to the suppliers of domestic customers, in order to ensure the consumption needs of domestic customers from current production and storage warehouses during the respective period underground of natural gas established according to annex no. 5.

(2) During the period September 1, 2022- August 31, 2023, natural gas producers who carry out both onshore and/or offshore extraction activities, regardless of the start date of this activity, and natural gas sales activities are obliged to sell, with the price of 150 lei/MWh, the necessary quantities of natural gas resulting from the current internal production activity to the suppliers of the thermal energy producers or directly to the thermal energy producers, as the case may be, only for the amount of natural gas used for the production of thermal energy in the plants of cogeneration and in the thermal power plants intended for the consumption of the population, hereinafter referred to as PET, in order to ensure, during the period November 1, 2022-March 31, 2023, the consumption needs of these customers from the current production and from the underground natural gas storage depots established according to annex no. 5.

(3) In the category of household customers, hereinafter referred to as CC, provided for in para. (1), also includes domestic customers from condominiums, owners' associations, tenants' associations and residential neighborhoods.

(4) Depending on the subsequent developments on the natural gas market, the National Energy Regulatory Authority will update the way of calculating the quantities of natural gas intended for CC and PET consumption for the period April 1, 2022- October 31, 2023, as established in annex no. 5.

(5) During the period of application of the provisions of this emergency ordinance, the royalty owed by the natural gas producers for the quantities of natural gas sold according to para. (1) and (2) to cover the consumption of CC and PET and to cover the technological consumption in the gas transport and distribution systems will be established based on the price provided in paragraph (1) and (2) by order of the president of the National Agency for Mineral Resources, issued within 10 days of the entry into force of this emergency ordinance.

(6) In the period September 1, 2022-October 31, 2023, in the case of natural gas producers who carry out both onshore and/or offshore extraction activities, regardless of the start date of this activity, as well as electricity production activities using natural gas, the transfer price of natural gas used for electricity production is a maximum of 100 lei/MWh. "

**12**. Art. 14 is amended and will have the following content:

" Art. 14. - (1) To cover additional costs related to own technological consumption, respectively technological consumption, generated by the increase in prices on the wholesale market above the value taken into account by the regulatory authority when calculating electricity and gas transport and distribution tariffs natural from the year 2021, the National Energy Regulatory Authority modifies the regulated tariffs, with applicability starting from April 1, 2022.

(2) The tariffs resulting from the application of the provisions of para. (1) does not change during the period April 1, 2022-March 31, 2023. The National Energy Regulatory Authority will establish regulated electricity and natural gas distribution tariffs, as well as regulated electricity transmission tariffs, applicable starting from of April 1, 2023, according to the regulatory framework and the provisions of this emergency ordinance.

(3) Electricity producers in the portfolio of the Romanian state, which are subject to the provisions of the Government's Emergency Ordinance no. 109/2011 on the corporate governance of public enterprises, approved with amendments by Law no. 111/2016, with subsequent amendments and additions, and the holders of petroleum agreements that produce electricity respond within a maximum of 5 working days with partial or total sales offers to the electricity purchase requests addressed by the transmission and system operator and the operators of distribution concessionaires, individually or aggregated, directly or through dedicated platforms in the organized market. The transactions concluded under the terms of this paragraph are taken into account when fulfilling the obligation provided for in art. 28 para. (2) from Law no. 123/2012, with subsequent amendments and additions, regardless of the form of trading.

(4) Electricity producers, other than those provided for in para. (3), they can offer electricity under the same conditions.

(5) Holders of onshore and offshore oil agreements, producers of natural gas, respond within a maximum of 5 working days with partial or total sales offers to requests for the purchase of natural gas intended for technological consumption addressed by the transport and system operator and the operators of distribution concessionaires, individually or aggregated, directly or through the platforms of the centralized market.".

**13**. Art. 15 is amended and will have the following content:

"Art. 15. - (1) Starting from September 1, 2022, during the period of application of the provisions of this emergency ordinance, electricity producers, aggregated electricity production entities, traders, suppliers carrying out trading activity and aggregators trading quantities of electricity and/or natural gas on the wholesale market pay a contribution to the Energy Transition Fund, established in accordance with the provisions of the methodologies provided in annex no. 6 and annex 6.1.

(2) The provisions of para. (1).

(3) Bilateral contracts concluded on the wholesale market through direct negotiation are reported to ANRE by the contracting parties within 2 working days from the date of conclusion.

(4) The contribution to the Energy Transition Fund is calculated, declared and paid by the seller monthly, up to and including the 25th of the month following the one for which it is due.

5) The sums representing the counter value of the contribution to the Energy Transition Fund are paid in a separate account available in lei opened at the State Treasury units within the competent central fiscal bodies, coded with the fiscal identification code of the payer

(6) During the first 3 working days of each month, the amounts collected in the account provided for in para. (5) is transferred by the State Treasury units to a separate account available in lei opened in the name of the Ministry of Finance opened at the Treasury and Public Accounting Activity of the Municipality of Bucharest, named "Energy Transition Fund".

(7) At the request of the Ministry of Energy and the Ministry of Labor and Social Solidarity, the Ministry of Finance is authorized to increase the revenues of the state budget to a separate position, as well as the commitment credits and budget credits provided for in their budgets, within the limits of the amounts available in the balance the account provided for in para. (6), for the payment of the compensations provided for in this article.

(8) The amounts by which the revenues of the state budget were increased according to the provisions of para. (6) is transferred by the Ministry of Finance from the account provided for in para. (5) in the budget revenue accounts provided for in para. (6) coded with the fiscal identity code of the Ministry of Energy and the Ministry of Labor and Social Solidarity, as the case may be.

(9) The Ministry of Energy and the Ministry of Labor and Social Solidarity are authorized to detail the influences approved according to para. (7) in the budget and in its annexes and to communicate them to the Ministry of Finance, within 5 working days of the budget increase.

(10) Until December 22 of the budget year, the amounts remaining unused determined as the difference between the revenues collected according to para. (7) and the payments made are transferred by the Ministry of Energy and the Ministry of Labor and Social Solidarity from the revenue account of the state budget in which they were collected to the available account provided for in paragraph. (6).

(11) The amounts remaining available at the end of the year in the account provided for in para. (6), including the amounts transferred according to par. (10), is used in the following year based on the mechanism provided for in para. (7).

(12) The amounts in the accounts provided for in para. (5) and para. (6) are not interest-bearing and are not subject to enforcement.

(13) For any type of electricity sale transactions for export or intra-community delivery from the territory of Romania, the persons provided for in art. 15 para. (1) the contribution to the Energy Transition Fund (C) is determined as follows:

C= (Pmt – Pa ) x Qt x 100%

Where

Qt – the amount of energy traded for export or delivered intra-community

Pmt - the average trading price of energy per PZU from the day before the transaction

Pa - the purchase price.

**14.** In article 16, para. (7) is amended and will have the following content:

(7) Failure to comply with the obligations provided for in art. 15 para. (4) by the producers of electricity is ascertained and sanctioned by the National Agency for Fiscal Administration.

**15.** In art. 16, a new paragraph is introduced, para. (74 ), with the following content:

"The successive sale of quantities of electricity or natural gas by traders and/or suppliers with trading activities, with the apparent purpose of increasing the price, is sanctioned by ANRE, with a fine of 5% of the turnover.".

**16**. Annex no. 5 and 6 is amended and replaced by annex no. 1 to this emergency ordinance.

**17**. A new annex is introduced, annex no. 6.1, having the content provided in annex no. 3 to this emergency ordinance.

Art. II.

(1) In order to benefit from the facilities provided by this emergency ordinance of the Government starting from September 1, 2022, the beneficiaries provided for in art. 1 paragraph (1), lit. c) - e) from Government Emergency Ordinance no. 27/2022 regarding the measures applicable to end customers in the electricity and natural gas market in the period April 1, 2022-March 31, 2023, as well as for the amendment and completion of some normative acts in the field of energy, with subsequent amendments and additions, are required to submit to the electricity supplier a request accompanied by a self-responsible declaration, within a maximum of 30 days from the date of entry into force of this emergency ordinance. The models for the request and for the self-responsible declaration are provided in annexes no. 4 and 5.

(2) Beneficiaries who fall under the provisions of art. 1 paragraph (1) lit. c) - e), but who did not submit the request accompanied by a self-responsible declaration within the term provided for in paragraph. (1), as well as those newly established after September 1, 2022, benefit from the provisions of this emergency ordinance starting from the 1st of the month following the submission of the request accompanied by a self-responsible declaration to the supplier.

Art. III

(1) For licensed economic operators, providers of electricity and natural gas transport and distribution services, the additional costs of purchasing electricity and natural gas, made between January 1, 2022 and August 31, 2023, in order to cover consumption own technological and, respectively, technological consumption, compared to the costs included in the regulated tariffs, are capitalized quarterly.

(2) The capitalized costs provided for in para. (1) are recognized in the regulated tariffs in compliance with the cost recognition criteria provided in the methodologies of the Energy Regulatory Authority.

(3) Capitalized costs recognized according to para. (2) are amortized over a period of 5 years from the date of capitalization and are remunerated with 50% of the regulated rate of return approved by ANRE, applicable during the amortization period of the respective costs and are recognized as a distinct component.

(4) The assets resulting from the application of the provisions of para. (3) are recognized in the accounting records and in the annual financial statements of the distribution operators, according to the instructions developed by the Ministry of Finance.

Art. IV.

(1) In order to pay the solidarity contribution, starting from September 1, 2022, non-residents carrying out transactions on the energy market in Romania are obliged to calculate, declare and pay the solidarity contribution directly or appoint a representative to fulfill the obligations return to him based on this emergency ordinance. (2) The non-resident persons referred to in para. (1) have the obligation to submit to the National Fiscal Administration Agency a declaration on their own responsibility regarding the method of payment of the solidarity contribution. The declaration model and the submission deadline are established by the order of the president of the National Fiscal Administration Agency provided for in paragraph (4).

(3) The representative must have domicile/headquarters in Romania and is jointly and severally liable with the non-resident for the declaration and payment of the solidarity contribution.

(4) The procedure and registration conditions of the representative are approved by Order of the president of the National Fiscal Administration Agency within 10 days from the date of entry into force of this emergency ordinance.

(5) The persons provided for in para. (1) are required to constitute a guarantee in the form of a letter of bank guarantee or cash collateral, in the amount of 1 million Euros, equivalent in lei (payment and execution conditions to be determined).

(5) Non-compliance with the obligations of this article automatically results in the suspension of the right to operate on the Romanian markets.

(6) The procedure and registration conditions of the representative, as well as the fulfillment of the payment and guarantee execution obligations are approved by Order of the President of the National Fiscal Administration Agency within 10 days from the date of entry into force of this emergency ordinance.

Art. V.

(1) The Ministry of Energy is authorized to empower its representatives in the General Meeting of Shareholders of electricity production companies where it is the majority shareholder, to request economic operators to elaborate and approve, within the Meetings

General shareholders, until November 1, 2022, of the electricity production sales strategy for the next 4 years.

(2) The Ministry of Energy is authorized to empower its representatives in the General Meeting of Shareholders of the electricity production companies in which it is a shareholder to request economic operators to develop and propose for approval, by November 1, 2022, the sales strategy of electricity production for the next 4 years.

Art. VI.

The maximum value of the weighted average price of electricity, at which ANRE calculates the amounts to be settled from the state budget for electricity suppliers, is 1300 lei/MWh.

Art. VII.

(1) Through direct negotiated bilateral contracts starting on September 1, 2022, electricity producers are obliged to sell directly the electricity available for delivery until December 31, 2022, only to electricity suppliers that have final customers in their portfolio, destined exclusively for their consumption, electricity distributors, the national system operator Compania Naționala de Transport Energie Electrica Transelectrica S.A., as well as consumers who have benefited from the provisions of GEO 81/2019 for the amendment and completion of Government Emergency Ordinance no. 115/2011 regarding the establishment of the institutional framework and the authorization of the Government, through the Ministry of Finance, to auction the greenhouse gas emission certificates assigned to Romania at the level of the European Union, as well as for the establishment of a state aid scheme regarding the support of enterprises in sectors and sub-sectors exposed to a significant risk of relocation as a result of the transfer of the cost of greenhouse gas emissions in the price of electricity.

Art. VIII.

(1) Application of the provisions of art. 177 para. (315) para. (316) and (317) from the Electricity and Natural Gas Law no. 123/2012, with subsequent amendments and additions, is extended until December 31, 2024.

(2) During the period of application of the provisions of this emergency ordinance, the quantities related to the fulfillment by natural gas producers of the obligations related to the provisions of art. 177 para. (315) (316) from the Electricity and Natural Gas Law no. 123/2012, with subsequent amendments and additions, will be sold according to art. 12 of the Government Emergency Ordinance no. 27/2022, in accordance with Annex 5 hereto.

Art. IX. — The model and content of the contribution declaration to the Energy Transition Fund provided for in art. 15 para. (4) of Emergency Government Ordinance no. 27/2022, approved with amendments and additions by Law no. 206/2022, as amended and subsequent additions, made by energy producers electricity, the aggregate entities of electricity production, traders, suppliers who carry out the activity of trading and aggregators that trade quantities of energy electricity/natural gas on the wholesale market is approved by order of to the president of the National Fiscal Administration Agency in term of maximum 10 days from the date of entry into force a of this emergency ordinance.

**PRIM-MINISTRU**

**Nicolae-Ionel CIUCĂ**

**Appendix no. 2**

**(APPENDIX 6 to Emergency Ordinance no. 27/2022)**

 **CALCULATION MODE**

**OF THE SOLIDARITY CONTRIBUTION DUE BY ELECTRICITY PRODUCERS**

Art. 1. - The purpose of this methodology is to establish the way in which electricity producers who are subject to the provisions of art. 15 of the emergency ordinance calculates the solidarity contribution to be paid according to the aforementioned provisions.

(2) This methodology establishes:

a) the categories of economic operators with the obligation to submit to the payment of the solidarity contribution provided for in art. 15 of the emergency ordinance;

b) definition of the monthly income from the sale of electricity on the electricity markets by the economic operators provided for in letter a);

c) defining the monthly expenses resulting from the transactions carried out on the electricity markets in order to cover the concluded contracts/production notifications of the economic operators provided for in letter a);

d) how to calculate the monthly net income;

e) the calculation method of the monthly electricity sale price;

f) the method of calculating the additional monthly income.

Art. 2. -

The monthly selling price of electricity and the value of the additional monthly income are used to calculate the value of the solidarity contribution provided for in art. 15 of the emergency ordinance.

**SECTION 2**

**Aplication domain**

Art. 3. -

The present methodology creates the procedural framework for calculating the solidarity contribution and is used as a working tool in the activity of electricity producers who are subject to the provisions of art. 15 of the emergency ordinance.

Art. 4. -

The present methodology is applied by all electricity producers who are subject to the provisions of art. 15 of the emergency ordinance, during the period September 1, 2022 - August 31, 2023.

**SECTION 3**

**Terms used**

Art. 5. - The specific terms used in this methodology are:

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | Electricity markets | According to the definition of the Electricity and Natural Gas Law no. 123/2012, with subsequent amendments and additions |
|  | Reference price |  450 lei/MWh  |
|  | Monthly sold quantity - Cl (MWh) | The quantity delivered monthly to the electricity markets by the electricity producer from its own production and/or purchased or transferred from the production portfolio to the supply portfolio (the monthly quantity sold may be different from the quantity produced monthly by the respective producer) |
|  | Monthly income - Vl (lei) | Revenues obtained from the sale of electricity with physical delivery from own production, from its transfer from the production portfolio to the supply and/or purchased portfolio and from the financial transactions carried out in the month prior to the tax declaration |
|  | Monthly expenses - Chel (lei) | The expenses for the purchase of electricity for physical delivery transactions, including those on the balancing market, are included, as well as the expenses related to access to the energy markets: injection tariff (TG), market administration expenses, trading tariff and the cost of certificates of CO2. Actual production costs for obtaining one MWh of electricity are not included. |
|  | Monthly net income - Vnl (lei) | The difference between monthly income and monthly expenses |
|  | The monthly selling price of electricity - Plv (lei/MWh) | The price resulting from the difference between monthly income and monthly expenses related to the total amount of energy physically delivered in the respective month |
|  | Solidarity contribution - Cs (lei) | The difference between the monthly selling price and the reference price multiplied by the monthly physical delivered quantity |

**SECTION 4**

**Calculation of the monthly electricity sales price and the solidarity contribution**

Art. 6. -

The monthly electricity sales price - Plv is calculated as the ratio between the monthly net income and the quantity physically delivered monthly on the electricity markets:



where:



Art. 7. – The solidarity contribution - Cs is determined in the conditions where Plv > 450 lei/MWh and is calculated as the product between the difference between the monthly selling price and 450 lei/MWh and the monthly quantity physically delivered - Cl.

Cs= (Plv – 450)\* Cl

Art. 8. - The calculation provided for in art. 6 and 7 are performed monthly by the electricity producers provided for in art. 15 of this emergency ordinance.

Art. 9. - Electricity producers can submit rectification statements, without additional calculation of fiscal accessories, 15 days after the publication by OPCOM of the final prices related to the balancing market for the settlement month.

#### ANNEX Nr. 3

#### (Appendix no. 6.1 to Emergency Ordinance no. 27/2022)

**CALCULATION MODE**

**the solidarity contribution owed by the aggregate electricity production entities, electricity and natural gas traders, suppliers and aggregators that trade quantities of electricity on the wholesale market**

**SECTION 1**

**Purpose**

Art. 1. - (1) The purpose of this methodology is to establish the way in which electricity and natural gas producing entities, aggregated electricity producing entities, electricity and natural gas traders, electricity and natural gas suppliers and independent electricity aggregators that are subject to the provisions of art. 15 of the emergency ordinance calculates the contribution to the Energy Transition Fund to be paid according to the aforementioned provisions.

(2) This methodology establishes:

a) definition of the weighted average monthly sales price

b) defining the weighted average monthly purchase price;

c) how to calculate the contribution to the energy transition.

Art. 2. – The sale and purchase prices of electricity and natural gas are used to calculate the value of the contribution to the Energy Transition Fund provided for in art. 15 paragraph (1) of the emergency ordinance.

**SECTION 2**

**Aplication domain**

Art. 3. - The present methodology creates the procedural framework for calculating the contribution to the energy transition and is used as a working tool in the activity of aggregated electricity production entities, electricity and natural gas traders, suppliers and aggregators that are subject to the provisions of art. . 15 of the emergency ordinance.

Art. 4. - The present methodology is applied by the aggregated electricity production entities, electricity and natural gas traders, suppliers and aggregators that are subject to the provisions of art. 15 of the emergency ordinance, during the period September 1, 2022 - August 31, 2023.

**SECTION 3**

: Art. 5. - The specific terms used in this methodology are:

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  | Reference price | The purchase price of electricity, natural gas to which a profit share of 2% is added |
|  | Wholesale electricity market | According to the definition of the Electricity and Natural Gas Law no. 123/2012, with subsequent amendments and additions |
|  | Q livrată lunar  | The quantity delivered on the wholesale market of electricity, natural gas, by all economic agents carrying out trading activity. When calculating the delivered quantity, all the transacted quantities with delivery in the reference month are taken into account, regardless of the date of conclusion of the contract. |
|  | Preț mediu – vz  | The weighted average monthly sale price of electricity/natural gas delivered in the reference month |
|  | Preț mediu acz  | The weighted average monthly purchase price of electricity/natural gas delivered in the reference month |

**SECTION 4**

**Solidarity contribution calculation**

Art. 6. – The contribution to the Energy Transition Fund (CTE) is determined as follows:

CTE= (Preț mediu – vz – Preț mediu acz x 1,02) x Q livrata lunar

Art. 7. – The contribution to the Energy Transition Fund (CTE) is determined under conditions where the trading price is higher than the reference price.

Art. 8. - The calculation provided for in art. 6 is carried out monthly by electricity and natural gas producing entities, aggregated electricity producing entities, electricity and natural gas traders, electricity and natural gas suppliers and independent electricity aggregators that are subject to the provisions of art. 15 of the emergency ordinance.

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