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Mr. Chiriță Dumitru

President

Romanian Energy Regulatory Authority
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EFET¹ response to ANRE consultation on draft 'Order on amending, supplementing, and repealing certain provisions in the electricity sector'

Dear Mr. Chiriță,

We hereby address the Romanian Energy Regulatory Authority (ANRE) with regard to the open public consultation regarding the draft 'Order on amending, supplementing, and repealing certain provisions in the electricity sector', which amends a number of Romanian electricity market regulations in order to align terminology with Regulation 2019/943 on the internal market for electricity. However, we note that article 1 of the draft Order also aims to introduce a very specific, local definition of the term 'long-term supply contract', limiting such contracts to those 'with delivery period of more than 1 year'. **We oppose the ANRE definition of 'long-term supply contract' which would prevent over-the-counter trading for contracts with a delivery period equal to or shorter than one year.**

The local definition of 'long term' proposed by ANRE contradicts how this timeframe is already defined at the EU-level, where 'long term' refers to the forward timeframe (i.e. anything before day-ahead), in contrast to 'short term' which refers to the day-ahead, intraday and balancing timeframes. These timeframes are clearly defined in the Clean Energy Package's Regulation 2019/943 and Directive 2019/944, which specify that 'electricity markets' are "*markets for electricity, including over-the-counter markets and electricity exchanges, markets for the trading of energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intraday markets*"². Further clarification that the term 'long-term' refers to the forward timeframes is found in Regulation 2016/1719 on forward capacity allocation, which defines a long-term transmission capacity right as a transmission right acquired in forward capacity allocation, and that forward capacity allocation refers to allocation before the day-ahead timeframe³.

We understand that ANRE has already implemented a definition of timeframe segmentation compliant with EU legislation via ANRE Order 236/2019, which in article 4(1)(a) defines that the timeframes for electricity

¹ The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org.

² See article 2(9) of Directive 2019/944 and article 2(40) of Regulation 2019/944

³ See articles 2(1) and 2(2) of Regulation 2016/1719

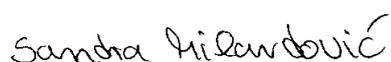
trading are, in fact, the forward, day-ahead, and intraday timeframes. Moreover, the very same ANRE Order 236/2019 enables free bilateral trading in article 4(1)(c) as trading on so-called 'non-regulated market'. We understand this terminology as referring to over-the-counter transactions, in opposition to transactions concluded on the power exchange OPCOM. By allowing both power-exchange and over-the-counter trading in the forward timeframe, ANRE Order 236/2019 ensures compliance with article 3(o) of Regulation 2019/943.

However, by defining 'long-term supply contracts' as contracts 'with delivery period of more than 1 year' in article 1 of the proposed draft Order, ANRE seems to contradict its own Order 236/2019 and circumvent the spirit of European legislation. While article 3(o) of Regulation 2019/943 indeed only requires the option to trade over the counter to be available for 'long-term supply contracts'⁴, this term which is not defined in European legislation should be read in light of the above-mentioned references, as well as of article 3(p) of Regulation 2019/943.

Limiting the definition of 'long-term supply contracts' to contracts exceeding one year only would limit the types of contracts which could be traded over the counter basis. This would place the proposed draft Order of ANRE in breach of article 3(p) of Regulation 2019/943 which requires that 'market rules shall facilitate trade of products across the Union and regulatory changes shall take into account effects on both short-term and long-term forward and futures markets and products', where 'forward market' refers to any over-the-counter transactions before the day-ahead market. The definition in article 1 of the proposed draft Order would effectively prevent the establishment of a real over-the-counter forward market, representing therefore not only a step backwards in market development but also a significant deviation from EU electricity market practice and a breach of EU legislation.

EFET therefore urges ANRE to adopt a definition of 'long-term supply contracts' which is in line with EU legislation and established market practice across the European Union. This definition should ensure that all products which are typical of the forward timeframe (i.e. any transaction concluded before the day-ahead timeframe) can be traded both over the counter and via the power exchange.

Yours sincerely,
On behalf of the European Federation of Energy Traders



Sandra Milardovic,
EFET TF Eastern Europe Electricity

⁴ The full text of article 3. o) reads as follows: "in order to allow market participants to be protected against price volatility risks on a market basis, and mitigate uncertainty on future returns on investment, long-term hedging products shall be tradable on exchanges in a transparent manner and long-term electricity supply contracts shall be negotiable over the counter, subject to compliance with Union competition law".