

ANRE
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CC: Florian Ermacora, DG Energy

10 July 2020

**Subject: EFET¹ response to ANRE consultation on the draft Order
implementing Emergency Ordinance 106/2020**

General Comments

We write to you regarding the draft Order (hereafter the “Order”) implementing the provisions of the recently adopted Emergency Ordinance 106/2020 (the “Ordinance”). While we appreciate that ANRE seeks to improve liquidity and price formation in the Romanian gas market, we must point out that the proposed action will in practice introduce barriers and additional risks and this will deter international market participants from trading. In order to minimise the harmful effect, the Order and the resulting Secondary Legislation should be withdrawn or amended substantially to address the points described below.

The Order places an obligation on market participants of all sizes who are active on the wholesale market of Romania to tender for purchase and to tender for sale on the centralised markets of Romania a minimum of 40% of their annual transaction volumes with starting prices for bids and offers capped by a formula. This is a severe intervention into demand and supply based price formation in the gas market as it creates a risk that market participants will be forced to sell gas at a price below their purchase cost and hence at a loss. This risk will deter gas from being made available, when the calculated price does not reflect market conditions, leading to potential shortages.

Under the proposed restrictions, market participants are likely to withdraw from the Romanian market and trade at other hubs based on functioning market rules in the region. The freedom to transact bilaterally is in fact extremely important, in order to allow participants to manage risks and gain confidence in market operation and reliability. Conversely, mandating

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 enable the transition to a carbon neutral economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org.

transactions through the electronic platforms will discourage rather than encourage liquidity and it will reduce competitiveness.

Comments on specific articles and provisions

1. We understand that according to article 4 of the draft Order, all market participants would be obliged to place their offers under the obligation exclusively on the “double competitive” platform, which we understand to include BRM’s non-cleared “double-competitive” segment for forward trading. If this is the case, this would represent another unnecessary restriction imposed on market participants and it would be in direct contravention of good compliance and credit management principles. Notably, trading parties have to verify in advance who they are trading with, through KYC (Know Your Counterparty) processes, and establish appropriate credit arrangements with them. However, this would not be possible on the non-cleared “double competitive” segment with the consequence that responsible market participants will simply not permit their traders to engage outside these terms. In its current form therefore, the Order will drive away precisely those parties it should be seeking to attract. As a remedy to this issue any obligation should, at least, be fulfillable via all segments of Romanian trading venues.
2. The provisions of article 5 of the draft Order are particularly distortive and damaging to trading activities in Romania. The introduction of a maximum starting offer price may effectively force market participants to sell the gas at a loss. Any restriction on the free formation of prices will automatically limit the Romanian gas market ability to optimize the cost of the commodity and will threaten the gas supply and demand equilibrium in the short and long-term. No price floor or cap can bring any lasting benefits to the consumers, while they are bound to damage the attractiveness and competitiveness of the gas market in Romania.
3. We see no benefit in predefining the obligation to trade at the level of 40% upfront until the end of 2022 (as per article 2 of the draft Order) applied to all market participants. While some requirement placed on a historical dominant player may be helpful as a means of transitioning to a competitive market, the application of such an obligation to all participants without exception, including new entrants, will have the opposite effect. Additionally, we suggest that where restrictions are placed on the market, they should be reviewed regularly and removed at the earliest possible time when they are not needed to achieve the policy objective.

EFET remains committed to helping the Romanian authorities to understand how experienced international traders will respond to proposed legislation, such that unintended effects that are harmful to Romanian producers and consumers can be avoided. A transparent and time

sufficient consultation process (ideally with documents also available in English language) is an essential part of ensuring that changes help the market to develop. It will also give market participants more confidence and encourage them to increase their trading activities rather than to cease trading or delay market entry.

We hope you find our arguments helpful and propose to explain our concerns on short notice via telephone call.

Kind Regards,



Davide Rubini,
Chairman of EFET TF CSEE-G



Doug Wood
Chair of EFET Gas Committee
Member of EFET Board