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ANRE  
Strada Constantin Nacu 3  
Bucuresti 030167, Romania

3 December 2018

**Subject: EFET<sup>1</sup> reaction to ANRE's draft order on the obligation of gas market participants to trade on centralized markets in Romania**

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EFET notes the publication of the draft order regarding the Central Gas Markets trading obligations (CMOs) and the opportunity for comments. We are still of the position that the market participants should have the freedom to conclude bilateral transactions at the trading venue of their choice, and that the compulsory obligations described are in direct contravention to this. We additionally highlight a number of inconsistencies we have identified when trying to interpret the draft order.

Most importantly, the application of CMOs to Romanian-produced gas but not to production from elsewhere in EU or from Third Countries will be against Romania's economic interest, and against the development of the gas market. The order applies the obligation to Romanian production – whether it is supplied in Romania or exported. It does not apply to imports – whether they are supplied to Romania or are re-exported (transit). In this way, not only will the Order discourage current and future investment in Romanian gas market, but it will also increase the isolation of Romania and reduce its regional connectivity by constraining the fungibility and tradability of gas, thereby discouraging cross-border trade. In consequence, this will also negatively affect regional supply security.

The successful development of a traded market for gas arises more from increased fungibility of gas from different sources and taken to different demand centres. The imposition of selective obligations on some gas is not helpful in this regard.

With regard to re-exports of gas, we believe the order should explicitly mention that gas which is purchased and sold outside Romania but which passes through the Romanian transmission system is exempted from any central market trading obligations, on the basis that no transaction is concluded on the Romanian wholesale market as described under Article 8. This exemption could also be extended to deals that are concluded for re-export, but which take place on the Romanian wholesale market (i.e. involving two counterparties instead of a single company re-exporting), as a means of increasing liquidity there rather than on neighbouring markets.

In terms of legal inconsistency, we first note that ANRE appears to introduce obligations which go beyond or deviate from those required by primary legislation as done e.g. in Articles

<sup>1</sup> 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](http://www.efet.org).

2, 3, and 11. Such additional market interventions are questionable from a legal perspective and in most cases have the potential to lead to unintended, negative consequences for the Romanian natural gas market.

We also highlight the complex outline of the calculation procedure of the obligation for the year 2018, the years that follow, as well as multi-annual contracts. The procedures essentially follow the same logic but are described in different wording that makes it difficult to identify obligations imposed on onshore and offshore producers respectively. We believe that this ambiguity in several cases leads to unintended overlaps between articles (e.g. Art. 5 (1) & Art. 6 (2), Art. 5 (2) & 6 (3)), whereas the broader approach taken in Art. 6 could be used to cover all the calculation cases under Art. 3, 4 and 5, helping to avoid any risk of misinterpretation. More importantly, we note that despite the fact that the provisions of Art.6 essentially refer to the same business operations as Art. 3, 4 and 5, they no longer envisage the obligation exemption for gas purchases from “foreign entities”. While we believe that this is an omission, we also believe that the same exemption from CMOs should apply to gas sales to “foreign entities” to maintain a level playing field between gas imports and exports. Otherwise the principles of free cross-border trade between EU member states is conflicted. Also in this context, Art 7.1.c) is ambiguous and should be clarified.

In the context of trading relations with “foreign entities” that are not active on the Romanian market, we would also welcome clarification on how import and export activities will be defined. For example, if the title transfer is done at a non-Romanian VTP and then brought into Romania’s gas system using the buyer’s transmission capacity, then ANRE must specify clearly the circumstances where an exemption would not be available. Such provisions only add to the complexity of operations on the Romanian VTP and will detract liquidity.

We also reiterate our concerns about the lack of clarity and corresponding exposures of market parties to ANRE rulings regarding the obligation to publish the “procedures” under Art. 2 and 11 – we neither understand the goal such reporting is to serve, nor the desired publication scope, which can be very broad and include commercially-sensitive information.

Finally, in view of the arguments presented, we stress the complexity, operational risks and the arbitrary nature of many provisions, exposing market participants to significant fines that the imposition of CMOs will bring upon Romanian gas market participants. We remain of the view that these requirements will be counterproductive, will result in increased costs for end consumers, and discourage market participation thereby hampering the development of liquidity. That said, we urge the Romanian authorities to abandon this project, or at the very least improve it to the extent, that it does not bring about additional compliance risks for the companies engaged in trading in Romania. We recommend that Romanian authorities focus on the effective implementation of the EU Network Codes, specifically with regard to the establishment of a fully functioning daily balancing regime and a virtual trading point. This will better create a framework and a level playing field for market parties and facilitate competition, liquidity and the formation of demand / supply based price signals.

We remain at your disposal, should any of our remarks require further clarification.