

Requirements for Access to the Romanian Electricity Trading Market

This is a summary of the requirements for access to the Romanian electricity trading market.

I. The electricity trading market

The Romanian electricity trading market is structured as follows:

1. The Wholesale Electricity Market includes the following specific markets:
 - a. the Centralized Market for Bilateral Contracts (“CMBC”), with the following subdivisions:
 - (i) the Centralized Market for Bilateral Contracts awarded by Public Auction (“CMBC Auction”);
 - (ii) the Centralized Market for Bilateral Contracts with Continuous Negotiation (Forward) (“CMBC Forward”) (there are physical transactions with forward delivery).
 - b. the Day-Ahead Market (“DAM”);
 - c. the Balancing Market (“BM”);
 - d. the Ancillary Services Market, on which the TSO and the distribution operators purchase primary and secondary reserves, voltage and reactive power control, other ancillary services regulated by the Grid Code, and electricity for covering the network losses.
2. There are also centralized markets for transfer capacities and green certificates, as follows:
 - a. the Market for Allocation of the Available Transfer Capacities (“ATC Market”), for the allocation of available transfer capacities for interconnection with the national grids of the neighbouring countries.
 - b. the Green Certificates Market (“GCM”).

The wholesale electricity market is regulated by the Commercial Code of Wholesale Electricity Market of 2004 and by a series of other rules, regulations and procedures issued by the national regulatory authority, i.e. ANRE, the transmission system operator, i.e. Transelectrica, and the market operator.

The market operator is OPERATORUL PIETEI DE ENERGIE ELECTRICA OPCOM S.A. (“OPCOM”), a state-owned company.

3. The Retail Energy Market (delivery to end-users/consumers).

II. Requirements for the issuance of an electricity trading license

In order to carry out physical power transactions on the Romanian electricity market it is necessary to obtain an electricity trading license.

The applicant must indicate in the application the type of activities which will be conducted under the license, i.e. trading, or delivery.

1. Local presence

A foreign legal person must establish a physical presence in Romania in the form of a subsidiary, or a branch in order to obtain an electricity trading license from the Romanian Energy Regulatory Authority ("ANRE").

This is a requirement provided by the Government Decision no. 540 of 2004 regarding the approval of the Regulation for Granting the Licenses and Permits in the Electricity Field, as subsequently amended ("License Regulation").

The License Regulation also provides that a foreign legal person may carry out electricity trading without obtaining a license from ANRE, if the following requirements are cumulatively met:

- (i) the foreign legal person holds an electricity trading license granted in such other state; and
- (ii) there is an agreement Romania and the state where the legal person is registered as a license owner for the mutual recognition of the validity of the electricity trading licenses granted by each of the said states - currently, there is no such agreement signed between Romania and any other foreign state.

2. Minimum capitalisation requirements

The funds of the branch or subsidiary which applies for an electricity trading license together with funds available from credit facilities must be of at least EUR 500,000. Such funds must be maintained for the entire duration of the license.

3. Employee requirements

There is no statutory requirement for having employees with local language capability.

However, given the day-to-day activity, and the fact that not all the operational procedures to be followed for trading on the market are available at this moment in English, the officials of the market operator, and of the transmission system operator usually recommend the licensee to have a contact person involved in the trading activity (balancing, interconnection capacities, transit, import, export, trading on the wholesale market platform) with local language capability.

The regulatory authority requests the submission of the CVs of the manager of the applicant (of the manager of the branch, in case of setting-up a branch), of the manager of the electricity trading department, and of the persons who will perform the trading operations on the market.

III. Grid access

1. Contracts to be signed with C.N. Transelectrica S.A. (“Transelectrica”), i.e. the operator of the national electricity transmission system (“NTS”):
 - (i) Metering and Aggregation Agreement – to be signed with the branch of Transelectrica which is in charge with the metering of the electricity and aggregation of the metered values.
 - (ii) Balancing Agreement – to be signed with the branch of Transelectrica which is the operator of the balancing market (if the license owner wants to register as a balancing responsible party).
 - (iii) Agreement for Allocation of Available Transfer Capacities (ATC) – to be concluded with Transelectrica; allows participation in the auctions for cross border capacity on the interconnection lines.
 - (iv) Import Agreement – to be concluded with Transelectrica; concerns the transmission services to be rendered by Transelectrica which will allow the licensee to import energy and sell it to the other traders or on the day-ahead market.
 - (v) Export – to be concluded with Transelectrica; concerns the transmission services to be rendered by Transelectrica which will allow the licensee to buy energy from the other traders/producers or from day ahead market and export it.
 - (vi) Transit – to be concluded with Transelectrica; concerns the transmission services to be rendered by Transelectrica which will allow transiting electricity through the Romanian grid.
 - (vii) Transmission – to be concluded with Transelectrica; concerns the services to be rendered by Transelectrica which will allow the licensee to buy energy directly from the producers and sell this energy directly to the end users in Romania.
2. Contracts to be signed with the operator of the wholesale electricity market, i.e. Operatorul Pietei de Energie Electrica - OPCOM S.A. (“OPCOM”):
 - (i) Protocol of Accession to the Wholesale Market – is the framework agreement to be signed with OPCOM re participation on the wholesale electricity market operated by OPCOM.
 - (ii) Participation Agreement to Day-Ahead Market (“DAM”) – is the agreement for the participation on the Day-Ahead Market, a segment of the electricity market operated by OPCOM.
 - (iii) Mandate Agreement for Direct Debit - is an agreement to be signed between the participant to the DAM and its bank (from a list of the Romanian banks agreed by

OPCOM) regarding the direct debit scheme concerning the payments to be ordered from the account of the participant to DAM which submits electricity purchase offers on the DAM.

- (iv) Participation Agreement to the Centralized Market for Bilateral Contracts awarded by Public Auction (“CMBC Auction”) – is the agreement to be concluded between the participant and OPCOM re participation re this segment of the wholesale market.
- (v) Participation Agreement to the Centralized Market for Bilateral Contracts with Continuous Negotiation (Forward) (“CMBC Forward”) – is the contract to be signed between the participant and OPCOM re participation on this segment of the market.
- (vi) Gratuitous Use Agreements re connecting devices re DAM and CMBC Forward.

IV. Reporting requirements

1. Transaction reporting to ANRE

There are transaction reporting requirements to the Romanian regulator, i.e. ANRE. Such transaction reporting will be also included in the License Conditions attached to the electricity trading license.

The transaction reporting requirements are regulated according to Art. 16 (a) of the Methodology Regarding the Monitoring of the Wholesale Electricity Market for the Purpose of Assessment of the Competition on the Market and Preventing the Abuse of Dominant Position which was approved by Order no. 35 of 2006 issued by ANRE.

Such transaction reports must be sent to ANRE, in a template format, until the 25th day of the month following the month which is subject to reporting, by e-mail, and also by sending an original of the report, signed and stamped, together with a signed and stamped cover letter.

2. Other obligations of reporting to ANRE

The License Conditions further provide for other reporting requirements such like:

- (i) the annual activity report - whereby it presents technical data and information with respect to the activity performed within the sector of electricity;
- (ii) the annual financial report - whereby it presents the performance of the obligations undertook under the license, with respect to financial and accounting records;
- (iii) the financial statements at June 30;
- (iv) transfer of shares and/or assets of the license owner;
- (v) changes regarding the share capital of the license owner.

There are special procedures issued by ANRE regarding the execution and submitting of the annual activity report and of the annual financial report.

157 electricity trading licenses were currently granted in Romania according to the information provided by the regulatory authority. That shows that the Romanian electricity trading market is indeed the key regional market in the Balkans area.

Adrian Tomescu
Attorney-at-law

Buzescu Ca