

10 August 2018

Legal Bulletin



Energy

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1. Amendment and supplementation of Electricity and Gas Law No. 123/2012

Intro

Law No. 167/2018 (“**Law No. 167/2018**”) amending and supplementing Electricity and Gas Law No. 123/2012 (the “**Electricity and Gas Law**”) was published in the Official Gazette of Romania, Part I, No. 604 of 16 July 2018. The main goal for the amendment of the Electricity and Gas Law is to impose an obligation for gas distribution operators and/or for the gas transmission and system operator to allow access to the gas grid in a more rapid manner.

Law No. 167/2018 also implements other amendments to the Electricity and Gas Law, the most important ones being summarized below.

Amendments to the Electricity and Gas Law

Electricity

1. *Co-finance of economically unjustified investments by own funds of the individuals and legal entities applying for connection to the electricity distribution grid*

If the investments in the development of the distribution grid intended for the electrification of municipalities or for the expansion of the distribution grid in the area covered by the concession agreement are not economically justified for the distribution operator, they shall be co-financed out of the distributor’s own funds, out of funds from the local budget and/or from the national budget, as well as out of funds of the individuals and legal entities that applied for connection to the grid in that particular area.

2. *New obligations and restrictions for suppliers*

Law No. 167/2018 sets forth new obligations and restrictions for suppliers, namely:

- The obligation to purchase electricity as to ensure the required consumption of the supplier’s consumers, with due regard to the priority of the consumers in the supplier’s portfolio that are beneficiaries of the universal service.

Failure to comply with this obligation qualifies as minor offence and is sanctioned with a fine ranging from 5% to 10% of the annual turnover.

- Express interdiction for suppliers to unilaterally terminate electricity supply contracts concluded with the final consumers.

3. *Amendment of the provisions related to smart metering systems*

As of the coming into force of Law No. 167/2018, the regulations concerning smart metering systems are amended. Such smart metering systems will be implemented in accordance with the calendar approved by the Romanian Energy Regulatory Authority (“ANRE”) as per the implementation drafts for smart metering systems prepared by the distribution operators based on a cost-benefit analysis.

4. *Change of the concept of repeatedly committed minor offence*

In accordance with Article 93 (4) of the Electricity and Gas Law, as amended, **repeatedly committed minor offence** means previously committing the same minor offence at least two times within 12 consecutive months.

Gas

1. *Change of regulatory area in the gas sector*

As of the coming into force of Law No. 167/2018, Article 98 of the Electricity and Gas Law, which sets forth the regulatory area for the gas-related activities, is amended by excluding liquefied petroleum gas (LPG), compressed natural gas (CNG) and compressed natural gas for vehicles (CNGV) from the scope thereof.

2. *Interdiction for gas suppliers to unilaterally terminate contracts with final customers*

Symmetrically to the amendment in the electricity sector, Law No. 167/2018 regulates an interdiction for gas suppliers to unilaterally terminate gas supply contracts concluded with final consumers.

3. *Regulating new concepts*

Law No. 167/2018 introduces new concepts applicable in the gas sector, namely:

- Virtual trading point (VTP) - “*an abstract, single point in the National Transmission System, between the entry point in the National Transmission System and the exit point from the National Transmission System, where the transfer of the ownership right over gas from one participant to another is allowed on the gas market; VTP is used by the participants to the gas market both for business purposes and for an individual balancing of their own portfolios, in accordance with ANRE regulations*”;
- Gas trader - “*licensed individual or legal entity that purchases and sells gas solely on the wholesale gas market*”; The gas trader will operate based on a special license issued by ANRE.

- Grid user - *“any customer of a transmission and system operator, as well as the transmission and system operators themselves, if so required for the fulfilment of their transmission functions, based on the ANRE regulations and the specific European Union legislation”*.

4. *Regulating the obligations of virtual trading point operators*

Along with the new concept of virtual trading point (VTP), Law No. 167/2018 regulates the obligations incumbent on the operator of a virtual trading point. Consequently, the new Article 130¹ of the Electricity and Gas Law sets forth the duties and responsibilities of gas transmission and system operator, as VTP operator, such as:

- a) Offers the participants, including those on the gas market, transparent and non-discriminating services of transfer of the ownership right over gas in the VTP;*
- b) Continuously records and processes the notices in the VTP related to the transactions concluded by the participants on the gas market registered as users of VTP;*
- c) Provides the connection of the VTP electronic platform to the gas trading platforms;*
- d) Ensures protection and keeps confidentiality of the information and data supplied to it or that it had access to during its activity, except for the cases expressly provided by the laws in force.*

5. *Regulating the obligations of the gas trader*

Law No. 167/2018 sets forth the concept of gas trader and regulates the latter's obligations under Article 1441 of the Electricity and Gas Law, such as the following:

- To carry out sale/purchase activities solely on the gas wholesale market, in accordance with the provisions hereof, based on business contracts concluded transparently, non-discriminatingly and competitively, on import/export contracts, in observance of the trading rules applicable as per the ANRE regulations;
- To submit reports concerning the sale/purchase of gas, in accordance with the legal provisions in force;
- To submit reports to ANRE as per the regulations in force;
- If the gas trader also carries out other activities on the gas market, it shall keep separate accounting records in accordance with the legal provisions and ANRE regulations.

6. *Obligation of participants to the gas wholesale market to enter into contracts on centralised markets*

Starting 1 January 2019, all participants to the gas market that sell gas on the wholesale market have an obligation to enter, as sellers, into sale contracts on the centralised markets for a minimum quantity of gas that shall not be lower than 50% of the volume of gas contracted and deliverable during that calendar year.

Starting from the same date, gas purchasers on the wholesale market shall conclude contracts on the centralised markets for the purchase of a minimum quantity of 40% of the volume contracted in a calendar year; the suppliers that have access to only one source of gas, as per the connection solution, are exempted from this obligation.

The percentages above may be subject to annual increases under ANRE decisions.

7. *Others*

The changes brought by Law No. 167/2018 also include an obligation for the gas transmission and system operator to amend the Grid Code within 6 months as of the coming into force of Law No. 167/2018, so as to reflect the new regulations accordingly.

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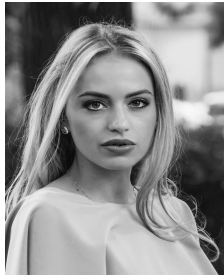
Editors

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