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EFET comments to the Draft Order for the approval of Natural Gas Market Monitoring Methodology

EFET welcomes the opportunity to comment on the proposed amendments to the reporting requirements in Romania. Amendments to the reporting requirements have been long awaited by the market participants and we believe that this consultation can bring many improvements to the existing gas market monitoring methodology. In this spirit, we would like to make the following comments:

1. First and foremost, we are convinced that the monitoring methodology should only refer to market activities taking place in Romania. These are the activities that fall under the jurisdiction of ANRE, hence ones that the regulatory authority can act on.
2. We further note that the reporting scope largely duplicates the reporting requirements for the market participants, as many of the information requested is already being reported under REMIT. This results in Romania having among the most cumbersome and costly reporting requirements in the EU.
To improve the attractiveness of the market, we believe that the reporting scope should be narrowed down to avoid duplication and outdated requirements, such as submission of contract copies, should be removed.
3. We do not see a need for re-establishing the definitions for the terms describing inappropriate market behaviour, as these are already defined under EU legislation. Duplication of these established definitions can result in differences in interpretation.

Following these comments, we have also prepared more specific rewording proposals to the Draft Order – these can be found in the annex to this letter.

Finally, we take the opportunity to reiterate that the intention to expand the reporting scope onto transactions outside Romania will be counterproductive for ANRE on one hand and harmful to the market participants on the other. For the regulatory authority, this would either mean receiving a lot of additional information or facing legal challenges questioning the grounds on which such information should be reported in the first place. For the market participants, this creates a tremendous burden and compliance exposure that may be difficult to accept.

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Annex: article-specific rewording proposals.

Note: new wording proposals are provided in *italics*.

Art. 8: revision of definitions introduced

Reason for revision: some terms used in the proposed Draft duplicate those already provided under REMIT. To avoid introducing conflicting definitions, we consider that for terms as “market abuse”, “abuse of dominant position”, “abnormal market behaviour” or “inappropriate market behaviour” we suggest maintaining definitions already in force as provided by EU and national legislation governing energy markets and competition rules.

Art. 13: rewording as following:

~~„Art. 13 – In order to fulfil the monitoring obligations of ANRE, market participants and associated operational structures defined in art. 7 have the obligation to complete and transmit, correctly, completely and on time, the requested data and information, according to the forms in the annexes to this methodology, through a web application, made available to the market, by ANRE, based on the username and the password. »~~

„Art. 13. – To comply with the monitoring obligations of ANRE, market participants and associated operational structures defined in art. 7 have the possibility to upload the data in the web application made available by ANRE by means of standard excel files, prepared on the basis of templates presented in the annexes to this methodology. These templates can be downloaded from the web application made available by ANRE.

To fulfil the above-mentioned scope as well for preventing erroneous reports as a result of the existence of different legislative interpretations, market participants can request ANRE in writing (address/e-mail) for additional information/clarifications regarding the reporting process. In this case, the ANRE monitoring entities have the obligation to respond to market participants' requests, in writing, within 10 working days.”

Reason for rewording: introducing a reasonable deadline for replying to the request.

Art. 14: rewording as following:

“Art. 14 – In addition to the data obtained through the monthly collection process using the web application, ANRE may request other data and information regarding market participant's own activity on the Romanian the natural gas market. Such request should be issued in writing, specifying the type of information needed and the format requested, as well as justifying the need for the additional reporting requirement. Market participants have the obligation to respond to ANRE's formal request within 10 working days.

Reason for rewording: avoiding double reporting and introducing a reasonable deadline for replying to ANRE's request.

Art. 16: rewording as following:

„Art. 16 – The activity carried out by the monitoring entities within the holders of the centralized markets administration license and the TSO license, refers to the monitoring of the centralized natural gas markets under administration, both for the bidding stage, during the trading sessions, and for the stage after the conclusion of the transactions. By virtue of

this role, starting from the set of indicators provided for in this methodology, the monitoring entities within the holders of the license to administer the centralized markets and of the TSO license:

- a) evaluates, by means of sets of indicators established by its own internal procedures, the functioning of the administered markets. *Both the indicators and the procedures based on which they are established are published on ANRE's website.*
- b) identifies dysfunctional situations and their causes, including possible inappropriate, abnormal market behaviour, or suspicion of abuse of dominant position. *These will all be defined under the EU and national regulations in matter of market conduct and competition.*
- c) detect any other situations or actions that could affect competition on the analysed market.

Art 17- idem

Reason for rewording art 16 and 17: through this Methodology, a new set of rights and obligations is introduced for the TSO and centralized market operators (BRM, OPCOM), which in the end are granted the power to suspend trading market participants.

Art. 23: rewording as following:

„**Art. 23** – The activity of monitoring the natural gas market carried out by ANRE is mainly based on the collection of data and information specific to the activity carried out by the market participants and the associated operational structures, defined in art. 7, on the components of the *Romanian* natural gas market. »

Reason for rewording art 23: clear defining the market which is under the scope of this Methodology.

Art. 25, para (2): rewording as following:

(2) At ANRE's written and justified request, *other data and other information that have not been previously sent to ANRE by market participants* can be collected punctually, depending on the reporting or analysis requests sent by various national and/or European institutions or their own regulatory/monitoring/reporting needs. *Market participant will have the obligation to reply to ANRE's request in 10 working days from the written request.*

Reason for rewording art 25, para (2): avoiding double reporting as well introducing a reasonable deadline for replies.

Art. 25, para (3): rewording as following:

Art. 23, para (3): The monthly reporting obligation to ANRE is fulfilled, only if the verification keys have been validated, in which case it is considered that the data uploaded in the ANRE web application are correct. In the event that, at the time of data transmission, one or more warning messages appear regarding the non-validation of one/some verification keys, the license holder has the obligation to verify the reported data and correct them, so that each verification key is validated and the reporting to be considered fulfilled.

In the situation in which the verification keys cannot be validated by the licensee, it will notify ANRE about this specific situation, in which case the reporting obligation is considered as fulfilled from the moment of such notification sent to ANRE.

Reason for rewording art 25, para (3): avoiding the situation in which the market participant has diligently collected and filled in all the data regarding its activity, but

is unable to timely submit these information due to a technical issue or any other event beyond its control.

Art. 25, para (6): rewording as following:

“(6) Data reported by the two contract partners *for deliveries in Romania VTP* must match on the forms that they are obliged to report, namely, those on the "Natural gas purchases form" and those on the "*Natural gas sales form to other traders/ suppliers/ distributors/ transporter*", *as applicable.*”

Reason for rewording art 25, para (6): as per example, external partners for deliveries outside Romanian VTP do not have to report in this platform, so such verification key cannot be applied.

Art. 25, para (7): rewording as following:

“Art. 25 para(7) : In addition to the specific data reported by each license holder provided for in art. 7, ANRE can ask them for other documents, *which have not been previously submitted/reported by the market participant until the moment of the request*, e.g. purchase/sale-purchase contracts of natural gas *with delivery in Romania VTP* concluded with other ANRE-licensed suppliers, invoices, minutes of delivery-receipt, etc. without, however, being limited to these. *Market participants have the obligations to reply within 10 working days from the date of the request.*”

Reason for rewording art 25, para (7): avoiding double reporting as well introducing a reasonable deadline to reply.

Art. 26: pct. (2) rewording as following:

“Art. 26 – Economic operators holding licenses issued by ANRE have the obligation to complete the forms according to the type of license, as follows:

(...)

(2) Licensees as trader:

a). "Form regarding Natural Gas Purchases", Table A - Natural Gas from suppliers that do not hold a supply /trader license issued by ANRE , if it has purchased natural gas from an external partner that does not hold a license issued by ANRE , *with delivery point at the interconnection point, after neighbouring country transmission system's exit, before Romania transmission system entry*, as well as table C - Natural gas from internal suppliers, if it has purchased natural gas from a supplier that holds license issued by ANRE, according to the model provided in annex no. 1; *(note) similar rewording to be done on Art 26, point (3), letter a)*

b). "Form regarding sales of natural gas *with delivery point in Romania VTP* to other traders / suppliers/ distributors/ transporters, holders of the license issued by ANRE", according to the model provided in annex no. 3; *(note) similar rewording to be done on Art 26, point (3), letter c).*

c). "Form regarding sales of natural gas to export *with delivery point at the interconnection point, after Romania transmission system exit, before neighbouring country transmission system entry*", in this case to other suppliers/traders who do not hold licenses issued by ANRE/end customers who do not have their registered office/domicile in Romania and

implicitly do not consume natural gas in Romania, according to the model provided in annex no. 4; (*note*) similar rewording to be done on Art 26, point (3), letter d).

Reason for rewording art 26, pct. (2) and (3): making clear that scope of this methodology is reporting and monitoring transactions concluded with delivery in the Romanian gas market.

Art. 26: pct. (1) letter i) - proposed for removal:

~~i) "Form regarding Storage", the tables regarding injection, respectively withdrawal, the table regarding Swaps of natural gases in storages belonging to of the same supplier/ trader, as well as the tables Purchases in warehouses, respectively Sales from warehouses, according to the models provided in annex no. 8.~~

~~(Note): similar removing to be done on Art 26, point (3), letter h).~~

Reason for removing Art 26, pct (1) let. i) and Art 26, pct (3) let. h): avoiding double reporting.

Art. 28: pct. (1) letter a). - rewording as following:

"Art. 28 – (1) letter a). In the "Form regarding Natural gas purchases", provided in annex no. 1, the buyer reports:

a). each purchase transaction *with delivery point in Romania VTP and / or at the interconnection point (after neighbouring transmission system, before Romania transmission system entry)*, carried out on the basis of purchase / sale-purchase contracts, with delivery during the respective month, regardless of whether the natural gas purchased is intended for sale for national consumption, for export, for own consumption in the same reporting month or if it is stored in underground storage warehouses for later consumption or resale, as well as storage for gas exchange;

Reason for rewording: making clear that scope of this methodology is reporting and monitoring transactions concluded with delivery in the Romanian gas market.

Art. 28: pct. (1) letter b)- proposed for removal:

~~"Art 28. Para (1) letter b). the information resulting from the services contracts concluded by the buyer with the services providers (transport/storage/distribution), related to the quantities purchased, except for those purchased under a contract concluded with a supplier that does not hold a supply/ trader license issued by ANRE."~~

Reason for removing Art 28, pct 1) let. b): market participants are concluding wholesale buy/sale contracts for commodities, without separate cost specification for transport services.

Art.28, para (4)- proposed for removal:

~~"Art 28 para (4) License holders, as well as the final customers mentioned in para. (3) have the obligation to send to ANRE, within 15 days from the date of signing the contract/additional act, both scanned copies of the purchase/sale-purchase contracts of natural gas from external sources, concluded with suppliers who do not hold a license of supply/ trader issued by ANRE, as well as scanned copies of the purchase/sale-purchase contracts of natural gas concluded with internal suppliers, as well as all additional~~

~~documents concluded subsequently and which bring changes and/or additions to the original contract.”~~

Reason for removing paragraph: introducing the obligation regarding transactions concluded outside Romania gas market, would be out of scope of this Methodology, which is referring to collecting data regarding Romanian gas market. This request would also pose serious legal issues (jurisdiction of ANRE). Furthermore, EFET requests ANRE to remove the existing obligation to send copies of the contracts concluded for deliveries in Romanian gas market, while market participants are already reporting in various formats, latest being introduced by GEO 119/2022 for bilateral contracts. Furthermore, EFET reminds ANRE that, all market participants shall anyhow report all contracts info to under REMIT regulation.

Introduction of a new art.28, para (2) letter h):

“Art 28 para (2) letter h:) if the quantities of natural gas that are imported form part of a transaction carried out outside the territory of Romania, these will be subject to reporting only with respect to the fields regarding imported quantity, confirmed by the TSO as having entered the Romanian National Transmission System, as well as the estimated price expressed in the condition of INCOTERMS 2010- DAP Romanian border.”

Reason for introducing: the source of these volumes relates to an external market transaction, hence reporting other data (such as contract number, counterparties name etc.) are out of scope of this Methodology.

Art. 33: pct. (5) – proposed for removal:

~~“5) If the price related to the quantities of natural gas is provided in the purchase/sale-purchase contract, without clearly specifying the tariffs related to the services provided, the seller has the obligation to report the respective rates, as it results from the development contracts concluded with service providers and to communicate these rates to the buyer.”~~

Reason for removing market participants are concluding wholesale buy/sale contracts for commodities, without separate cost specification for transport services.

Art. 34: pct. (1) rewording as following:

“Art. 34 - (1) In the "Form regarding sales of natural gas to export", provided in annex no. 4, the seller reports each sales transaction *with delivery point at the interconnection point, after Romania transmission system exit, before neighbouring country transmission system's entry*", concluded with other suppliers who do not hold licenses issued by ANRE and /or with end customers who do not have their registered office/domicile in Romania and implicitly do not consume gas in Romania, with delivery during the respective month, regardless of whether the natural gas sold is from current purchases or from inventories already stored in underground storage warehouses.”

Reason for rewording: making clear that scope of this methodology is reporting, and monitoring transactions concluded with delivery within the Romanian gas market.

Art. 34. Point (2), rewording as following:

“Art 34. Point (2). The following elements are reported for each transaction:

- a). number and date of the contract/additional act, as the case may be;
- b). name of the buyer;
- c). physical interconnection points;
- d). destination, for export or for transit, corroborated with the provisions of art. 28, paragraph (2), letter d);
- e). quantity sold;
- f). the price of natural gas sold, as it results from the execution of the contract, ~~without the tariffs related to the provision of transport or storage services~~; in the case of receiving the consideration for natural gas in a currency other than the national one, the conversion of the prices into lei is carried out at the exchange rate of the export customs declaration and, in its absence, at the exchange rate of the BNR from the date of the invoice;
- g). tariffs backgrounds related provision transport services and / or storage, as the case may be.”

Reason for rewording art 34 point 2): market participants are concluding wholesale buy/sale contracts for commodities, without broken-down costs for transport services

Art. 43, para (3): proposed for removal:

~~“Art 43, para (3): In order to draw up correctly and in accordance with the supporting documents, the monthly report regarding the balance sheet sources – consumption of the month of delivery, by the entity mentioned in paragraph (1), market participants mentioned in art. 7, have the obligation to report to this entity, by the 15th of month M+1 for month M, situations detailed regarding the quantities produced / purchased , imported , delivered to end customer, delivered to own branches of natural gas producers , exported , injected / extracted , sales in the deposits , swaps realized in the storages , quantities related consumptions technological , on the reporting model sent by the TSO, to everyone market participants. These situations are transmitted by market participants as statements on its own responsibility, by which it certifies correctness data sent to the TSO.~~

Reason for removing: TSOs are service operators which are receiving from the other service operators (TSOs, storages, DSO) all the data they need regarding the flows, allocations, and counterparties on these flows. The existence of an extra “loop” in the monthly reporting would create for market participants unnecessary burdens.