

Letter on Romanian electricity market situation

To:

- Ditte Juul Jørgensen, Director-General, DG Energy, European Commission
- Olivier Guersent, Director-General, DG Competition, European Commission
- Kerstin Jorna, Director-General, DG Internal Market, Industry, Entrepreneurship and SMEs, European Commission

From: Eurelectric, WindEurope, EFET

Date: September 22nd, 2023

Subject: Concerns about Regulatory Obstacles in the Romanian Electricity Market

We are writing to express our concerns about the regulatory obstacles that prevent the proper functioning of the Romanian electricity market and impede the development of the renewable energy sector in Romania. We call on the European Commission to initiate a dialogue with the Romanian Government on the matter, and take action if need be.

On 11 November 2022, the Romanian Government adopted the Government Emergency Ordinance (GEO) 153/2022 amending both GEO 27/2022 and GEO 119/2022, and establishing an even higher degree of regulatory control over the energy market. We believe that these rules contravene the Electricity Regulation (2019/943), the Electricity Directive (944/2019) and the Emergency Regulation to tackle high energy prices (2022/1854). Moreover, they have a negative impact on investment and prevent Romania from meeting its renewable and climate targets.

Specifically, we are concerned about the following:

- The withholding mechanism for the Contribution to the Energy Transition Fund, which unfairly shifts the fiscal burden onto renewable producers.
- The calculation method for the Contribution to the Energy Transition Fund, which does not take into account the balancing costs and load profiling.
- The obligation for producers to trade at least 40% of their annual electricity production through physical contracts on forward electricity markets.
- The establishment of the Centralized Electricity Acquisition Mechanism between 1 January 2023 and 31 March 2025, together with the introduction of taxation on trading activity, which is causing the disappearance of Over-The-Counter transactions in the electricity market.

In Romania, the cap on inframarginal technologies is being too strictly and even incorrectly applied in conjunction with Power Purchase Agreements (PPAs). This has unintended consequences on the viability of renewable energy projects as well as on the development of new ones.

Renewable power plant operators heavily rely on PPAs to secure long-term investments and ensure the financial viability of our projects. PPAs provide stable revenue streams and attract private investment in renewable energy infrastructure, which is essential for achieving the EU's ambitious climate and energy targets. However, the application of the revenue cap to wind power projects in Romania undermines the financial certainty and attractiveness of PPAs – in particular financial PPAs. This poses significant challenges to

the development and expansion of power production capacity, in particular renewables, and hinders the transition to a clean energy future.

The execution of such hedging contracts provides a measure of income predictability, a necessity for producers in markets characterized by low liquidity, such as Romania. However, in response to the surging power prices, the Romanian state has implemented a drastic revenue clawback and introduced a Contribution to the Transition Fund. Under this policy, 100% of the revenues obtained from energy sales priced above 450 lei/MWh (90 EUR/MWh) are remitted to the state. This arrangement is coupled with the withholding mechanism of the Contribution to the Energy Transition Fund which mandates that the producer withholds, declares, and pays the Contribution for income earned by resident or non-resident entities from hedging contracts.

Beyond the Emergency Regulation, these measures also infringe the Electricity Regulation (Art. 3a and b) which specifies that "*the prices shall be formed in the basis of demand and supply*" and "*market rules shall encourage free price formation and shall avoid actions which prevent price formation on the basis of demand and supply*".

These obstacles make it difficult for any market participant, and renewable energy producers, in particular, to operate profitably. This situation has prompted many to leave the Romanian market altogether and discourage market re-entry as well as investment in new projects.

We urge the European Commission to take action to address these concerns and to ensure that the Romanian energy market is supportive of the transition to a clean energy future in a manner compatible with the Electricity Regulation and Directive. We believe that a dialogue between the European Commission and the Romanian government is crucial to address these concerns effectively and to find appropriate solutions that support both vulnerable consumers and the energy transition in Romania.

Thank you for your time and consideration.

Sincerely,

Kristian Ruby, Secretary General, Eurelectric



Giles Dickson, CEO, WindEurope



Mark Copley, CEO, European Federation of Energy Traders

