

THE GOVERNMENT OF ROMANIA

EMERGENCY ORDINANCE

on the amendment and completion of the Law no. 220/2008 on establishing the promotion system for the production of energy from renewable energy sources

Having regard to the Decision of the European Commission no. 4938/13.07.2011: *State Aid SA 33134(2011/N) – Romania – “Green certificates for the promotion of producing energy from renewable energy sources”*, as well as the national objectives on the weighting of electricity from renewable sources assumed by Romania in the National Renewable Energy Action Plan (PNAER) in accordance with the provisions of art. 13 of the Law no. 220/2008 on establishing the promotion system for the production of energy from renewable energy sources, with subsequent amendments and completions:

Having regard to the effects of applying the calendar stipulated in the Roadmap for the liberalization of the electricity market according to the Memorandum concluded by the Government of Romania with the International Monetary Fund.

In order both to cease the effect of the uncontrolled increase of electricity prices at the end customers, that may result in blocking the investments in the field of producing electricity from renewable sources and implicitly the inapplicability of the Law 220/2008 and to maintain the predictability of the legal frame regarding the promotion of electricity produced from renewable sources, as well as in order to maintain the competitiveness of the main economic sectors that are large energy consumers,

Elements concerning the interests of the general public and that are emergency and extraordinary situations the regulation of which cannot be postponed

By virtue of art. 115 par. (4) of the Constitution of Romania, republished,

the Government of Romania adopts this Emergency Ordinance.

Art. I. The Law no. 220/2008 on establishing the promotion system for the production of energy from renewable energy sources, republished in the Official Gazette of Romania, Part I, no. 577 from 13th August 2010, with subsequent amendments and completions, shall be amended and completed, as follows:

1. After letter d) of paragraph (6) of art. 3, two new letters shall be inserted, namely (e) and (f) with the following content:

“(e) the electricity generated by photovoltaic power plants located on lands which, as at the date of entry into force of this emergency ordinance, were in the agricultural circuit.

(f) the quantities of electricity delivered by dispatching units in addition to the quantities of electricity from the hourly physical notifications transmitted by the producers of energy from renewable energy sources to the transportation and system operator.”

2. In article 4, paragraph (7) shall be amended and shall have the following content:

“(7) In the first decade of December, ANRE publishes on its own website the mandatory annual quota of purchasing green certificates estimated for the following year, the number of green certificates estimated to be issued based on the information on

electricity estimated to be produced from renewable energy sources for the following year and the final electricity consumption estimated for the following year.”

3. In art. 6, after paragraph (2) there shall be inserted two new paragraphs – paragraphs (2¹) and (2²) – with the following content:

“(2¹) Within the period 01.07.2013 –31.12.2016 shall be temporarily postponed the granting of a number of green certificates from such provided in par. (2), for each 1 MWh produced and delivered by the producers of electricity from renewable sources, as follows:

a) one green certificate for new hydro-electric power plants, with installed powers of maximum 10 MW;

b) one green certificate for wind power plants;

c) two green certificates for solar power plants,

(2²) The recovery of green certificates, deferred in accordance with provisions of par.(2¹) shall be made starting with 01.01.2017 for the plants provided at par.(2¹) letters a) and c), respectively as of 01.01.2018 for the plants provided at par.(2¹) letter b), staggered at the latest until 31.12.2020.

The method of staggered recovery of the number of postponed green certificates in accordance with par. (2¹) shall be established by ANRE and approved by order of the institution’s president.”

4. In article 6, paragraphs (7), (8) and (10) shall be amended and completed and shall have the following content:

“(7) By way of exception from the provisions of par. (2), (4) or (5), as the case may be, irrespective of the used renewable source type, electricity producers shall benefit of:

a) one green certificate for each 1 MWh produced and delivered from power plants throughout the probation period;

b) a number of green certificates established by ANRE by the reduction of the number of green certificates stipulated in par. (2) and par. (4) or (5), as the case may be, diminishing the reference value of the investment per MW by the value of the aid received per MW and maintaining the internal rates of return considered in the computations supplied to the European Commission under the process of authorizing the promotion system, if the power plants additionally benefit of state aids;”

“(8) Producers of electricity from renewable energy sources shall benefit from green certificates according to the provisions of the accreditation decision issued by ANRE based on the Regulation stipulated in par. (6) letter a), starting as of the issuance date thereof.”

”(10) The mechanism to reduce the number of green certificates stipulated in par. (7) letter b) shall be established by the Regulation provided in par. (6) letter a).”

5. In article 6, paragraph (7¹) shall be abrogated.

6. In article 8, paragraphs (2), (4) and (6) shall be amended and shall have the following content:

“(2) Electricity suppliers and the producers stipulated in par. (1) are under the obligation to purchase on a quarterly basis a number of green certificates equivalent to the product between the value of the annual mandatory quota of green certificates established for the concerned year, in the terms of art. 4 par. (7), and the quantity of electricity stipulated in par. (1), expressed in MWh, supplied on a quarterly basis to the final consumers.”

“(4) In the electricity invoice remitted to end consumers, the value of green certificates shall be invoiced separately from the tariffs/prices for electricity, specifying the legal grounds. This value is the product between the value of the annual mandatory quota of purchasing certificates (GC/MWh) estimated by ANRE, the quantity of invoiced electricity (MWh) and the

weighted average price of the green certificates traded on the centralized market of green certificates within the 3 most recently ended trading months. If within the previous 3 months, the cumulated quantity of green certificates traded on the centralized market of green certificates is lower than 100,000 green certificates, the computation duration of the weighted average price shall be extended to the 6 most recently ended trading months.”

“(6) By the latest on 1 September of each year, the suppliers of electricity and the producers stipulated in par. (1) shall regularize the value of the green certificates related to the previous year depending upon the annual quota established by ANRE according to the provisions from art. 4 par. (9), the invoiced electricity, and the weighted average price of the green certificates used by the supplier for the previous year.”

7. In article 8, after paragraph (6) shall be inserted par. (7), (8), and (9) with the following content:

“(7) The equivalent value of non-purchased green certificates due in the terms of art. 12 par. (2) cannot be included in the invoice issued to the final consumer.

(8) A certain percentage of the electricity supplied to the final consumers is exempted from the application of this law, by observing the incident European regulations.

(2) If from the monitoring report stipulated at par. (1), drafted on basis of the data resulting from the feasibility studies for new investment projects from Romania and on basis of monitoring the investment and operation costs /incomes of producers, it is assessed that the parameters specific to each technology significantly differ from such considered in the computation performed for the authorization of the promotion system stipulated in this law, a fact that may result in the overcompensation in aggregate for one or more of the technologies specified in art. 3 par. (1), ANRE proposes to the Government within a term of 30 days as of publishing the monitoring report, measures to reduce the number of green certificates stipulated in art. 6 par. (2), for the new beneficiaries that should adjust the internal rates of return, aggregated by technologies, where the case may be, up to the values considered in the authorization of the support scheme.

(3) The measures of reducing the number of green certificates stipulated in art. 6 par. (2) shall be approved by Government Decision within a term of 60 days as of the date when such is communicated by ANRE according to the terms of par. (2) and shall apply to the power plants/units held by producers of electricity from renewable energy sources, accredited by ANRE for the application of the promotion system by green certificates after the effective date of this Government Decision.”

Art. II.

“(1) Starting as of the effective date of this Emergency Ordinance, the accreditation by ANRE of power units/plants benefiting of the promotion system by green certificates shall be performed up to the level of the total annual values of the capacities installed in renewable generation power plants, established for each calendar year by Government Decision, based on updated data in the National Renewable Energy Action Plan (PNAER).

(2) If it is assessed that the level of the values provided in par. (1) is reached, ANRE shall cease the accreditation of power units/plants until the occurrence of the possibility to fall within the total annual value levels of the installed capacities provided in the Government Decision.”

(3) ANRE has to regulate annual quotas of energy from renewable energy sources which will be off-taken in the national energy system, with the benefit of the support scheme, on the basis of firm contracts with every accredited producer.

Art. III. “The electricity produced from renewable energy sources supported by the promotion system may be traded under regulated contracts according to the regulations issued by ANRE.”

Art. IV. Paragraph (3) of Article II and article III from the Law 134/2012 for the approval of the Government Emergency Ordinance no. 88/2011 regarding the amendment and supplementation of Law no. 220/2008 on establishing the promotion system for the production of energy from renewable energy sources, published in the Official Gazette of Romania, Part I, no. 505 of 23rd July 2012, shall be abrogated.

(2) The first monitoring report based on which are adopted the measures provided in art. I point 13 of this emergency ordinance is related to the year 2012, as a monitored period.”

Art. V This emergency ordinance comes into force on 1st July 2013.
The measures newly introduced by this emergency ordinance shall be notified to the European Commission.