

## **Changes to the subsidies scheme for electricity and natural gas bills and other amendments to embrace the energy crisis**

Iancu Monica, Macovei Ionel, Soltan Vasile

On 13 December 2022, *Law No. 357/2022 (“Law 357/2022”) on the approval of Emergency Ordinance No. 119/2022 amending Emergency Ordinance No. 27/2022 (“GEO 27/2022”) on measures applicable to final customers in the electricity and natural gas market in the period between 1 April 2022 and 31 March 2023, as well as for amending certain regulatory acts in the energy field (“GEO 119/2022”)* was published in the Official Gazette of Romania no. 1198. Law 357/2022 entered into force on 16 December 2022, except for certain provisions which will enter into force at a later date. Below is a selection of some of the more relevant provisions set forth under Law 357/2022.

### **1. Amendments concerning household electricity customers**

With respect to household costumers, the final price cap invoiced by electricity suppliers is:

- (a) of maximum **0.68 RON/kWh (approx. EUR 0.14)**, VAT included, for the consumption from **1 September 2022 to 31 December 2022** of the household customers whose average monthly consumption at the place of consumption in 2021 is between 0-100 kWh inclusive.
- (b) of maximum **0.68 RON/kWh (approx. EUR 0.14)**, VAT included, for the consumption **from 1 January 2023 to 31 March 2025** of the following categories of customers:
  - (i) household customers whose monthly consumption is between 0-100 kWh inclusive.
  - (ii) household customers using medical devices or equipment required for treatment, on the basis of an application and an affidavit.
  - (iii) household customers who have at least 3 dependent children up to the age of 18, or 26 if they are in education, on the basis of an application and an affidavit.
  - (iv) single-parent households with at least one dependent child up to the age of 18, or 26 if in education, on the basis of an application and an affidavit.
- (c) of maximum **0.80 RON/kWh (approx. EUR 0.16)**, VAT included, for the consumption from **1 September 2022 to 31 December 2022** of the household customers whose average monthly consumption at the place of consumption in 2021 was between 100,01-300 kWh for a monthly consumption of maximum 255 kWh;
- (d) of maximum **0.80 RON/kWh (approx. EUR 0.16)**, VAT included, for the consumption from **1 January 2023 to 31 March 2025** of the household customers whose monthly consumption at the place of consumption is between 100.01 and 255 kWh; electricity consumption between 255 and 300 kWh/month is invoiced at a maximum price of **1.3 RON/kWh (approx. EUR 0.26)**, VAT included, and if consumption exceeds 300 kWh/month the entire consumption shall be invoiced at a maximum price of **1.3 RON/kWh (approx. EUR 0.26)**.

- (e) of maximum **1.3 RON/kWh (approx. EUR 0.26)**, VAT included, for household consumers other than those referred to in (a) to (d) above.

In the case of household customers, the final invoiced price applies only to their domicile/residence consumption places. A household customer who has both a residence address and a domicile address may benefit from the capped price either at the domicile address or at the residence address, on the basis of an affidavit submitted to the supplier that it does not benefit from the capped price for another consumption place.

## **2. Amendments concerning non-household electricity customers**

With respect to non-household costumers, the final price cap invoiced by electricity suppliers is:

- (a) of maximum **1 RON/kWh (approx. EUR 0.20)**, VAT included, for 85% of the monthly consumption at the place of consumption, while the difference in the monthly electricity consumption shall be invoiced at a maximum price of **1.3 RON/kWh (approx. EUR 0.26)**, VAT included, on the basis of the affidavit of the legal representative for the following categories of consumers:
  - (i) small and medium-sized enterprises.
  - (ii) providers/ regional providers of certain public utility services (*e.g.*, water supply), as well as Metrorex S.A.
  - (iii) undertakings operating in the food industry identified by NACE Code 10 as well as those operating in agriculture and fisheries industry identified by NACE Codes 01 and 03.
  - (iv) local public authorities and institutions, deconcentrated public services of ministries and other central bodies, companies and corporations of county, municipal or local interest, autonomous companies and all public and private entities providing a public service under the law, if they are established or organized at the level of communes, towns, municipalities, counties, Bucharest municipality and, where appropriate, at the level of administrative-territorial subdivisions of municipalities or at the level of inter-community development associations, under the direction, coordination, control and responsibility of local public administration authorities.
  - (v) national research and development institutes.
- (b) of maximum **1 RON/kWh (approx. EUR 0.20)**, VAT included, for the entire consumption of public and private hospitals, public and private educational establishments, as well as nurseries, public and private providers of social services as listed in the Nomenclature of social services. The cap referred to in this paragraph shall also apply to situations where one of the above entities is the final beneficiary of the electricity consumption and/or to all buildings that have been constructed and authorized for use as hospitals.
- (c) of maximum **1 RON/kWh (approx. EUR 0.20)**, VAT included, for 85% of the monthly consumption at the place of consumption, for public institutions, other than those referred to in point b) above, as well as for those belonging to officially recognized cults in Romania; the difference in the monthly electricity consumption

shall be invoiced at a maximum price of **1.3 RON/kWh (approx. EUR 0.26)**, VAT included.

- (d) of maximum **1.3 RON/kWh (approx. EUR 0.26)**, VAT included, for non-household consumers other than those referred to in (a) to (c) above.

### **3. Final price invoiced by electricity suppliers**

For electricity customers (household or non-household), **the final price invoiced** by each electricity supplier shall be *the minimum value of*: (i) the maximum final price set out in Sections 1 and 2 above (applicable on a case-by-case basis), and (ii) the contract price.

### **4. Amendments concerning gas customers**

For consumption between 1 April 2022 and 31 March 2025, the final price invoiced by gas suppliers shall be:

- (a) of maximum **0.31 RON/kWh (approx. EUR 0.06)**, VAT included, for household customers.
- (b) of maximum **0.37 RON/kWh (approx. EUR 0.08)**, VAT included, for non-household customers whose annual consumption of natural gas at the place of consumption in the preceding year is of 50,000 MWh or less, and for heat producers; from **1 January 2023**, the price of maximum **0.37 RON/kWh (approx. EUR 0.08)**, VAT included, shall also apply to non-household customers in industrial parks and in closed distribution systems.
- (c) of maximum **0.37 RON/kWh (approx. EUR 0.08)**, VAT included, for the non-household customers' consumption places connected to the grid in that year, up to an annual consumption of 50,000 MWh.

### **5. Final price invoiced by natural gas suppliers**

For natural gas customers (household or non-household), **the final price invoiced** by each natural gas supplier shall be *the minimum value of*: (i) the maximum final price set out in Section 4 above (applicable on a case-by-case basis); (ii) the contract price; and (iii) the final price calculated in accordance with the provisions of articles 5 and 6 of GEO 27/2022 (point (iii) refers specifically to the non-household customers excluded from the application of the price caps set out in Section 4 above).

### **6. Amendments concerning the obligations of natural gas producers carrying out onshore and/or offshore extraction activities**

Natural gas producers carrying out both onshore and/or offshore extraction activities, irrespective of the date of commencement of such activities, and natural gas sales activities are required:

- (a) during the period **1 April 2022 - 31 March 2025**, *to sell* at a price of **150 RON/MWh (approx. EUR 30)** the necessary quantities of natural gas resulting from the current domestic production activity to the suppliers of household customers, in order to ensure for the period 1 April 2022 - 31 March 2025 the consumption needs of household customers from the current production and from the underground gas storage facilities

as well as the natural gas requirements for constituting the minimum necessary stock for the period 1 November 2024 - 31 March 2025.

- (b) during the period **1 September 2022 - 31 March 2025, to sell** at a price of **150 RON/MWh (approx. EUR 30)** the necessary quantities of natural gas resulting from the current domestic production activity to suppliers of heat producers or directly to heat producers, as the case may be, only for the quantity of natural gas used in the production of heat in cogeneration plants and in thermal power stations for consumption by the population, in order to ensure the consumption needs of these customers from current production and underground gas storage facility for the periods 1 November 2022 - 31 March 2023, 1 November 2023 - 31 March 2024 and 1 November 2024 - 31 March 2025.
- (c) during the period **1 April 2023 - 31 March 2025, to sell** at a price of **150 RON/MWh (approx. EUR 30)** the necessary quantities of natural gas resulting from the current domestic production activity to the transmission system operator and to distribution concession operators holding an operating license – network operators in order to ensure 75% of the natural gas intended for technological consumption.

In addition, during the period from **1 September 2022 to 31 March 2025**, in the case of natural gas producers carrying out both onshore and/or offshore extraction activities, irrespective of the date of commencement of such activity, and electricity generation activities using natural gas, the transfer price of natural gas used for electricity generation shall not exceed **100 RON/MWh (approx. EUR 20)**.

## **7. Requirements concerning the content of standard offers of suppliers**

During the period from **1 January 2023 to 31 March 2025**, the price in the standard offers for customers benefiting from the electricity price cap and/or customers benefiting from the natural gas price cap, drawn up and published by suppliers, may not exceed the value of the final invoiced price set out in GEO 27/2022.

Suppliers are also required to break down the end-customer price in the standard electricity/natural gas supply offers into the following components: (i) the electricity/natural gas price, which includes the electricity/natural gas purchase component (including the transmission tariff - the component for discharging electricity/natural gas into the network/system, the storage cost, where applicable, and the supply component), (ii) the network/system component established on the basis of regulated tariffs for network/system services (distribution, transmission), (iii) charges, taxes, contributions established in accordance with the legal provisions in force.

## **8. Suppliers' compensation mechanism**

The payment of the amounts representing the value of the compensation for consumption made after 1 January 2023 will be carried out by the National Agency for Payments and Social Inspection (as regards consumption by household consumers) and the Ministry of Energy (as regards consumption by non-household consumers), as follows:

- (a) 40 % of the amount claimed within 10 business days of the date of submission of the settlement request by suppliers, and

- (b) the difference between the amount of the compensation and the amount referred to in point (a) above within 10 business days from the date of receipt of the compensation amount from ANRE.

If the amount of the compensation is smaller than the amount settled according to point (a) above, suppliers must refund the difference between the two values within 2 business days from the date of communication of the amount determined by ANRE.

## **9. Energy transition fund**

According to the new amendments, the scope of the subjects who owe the contribution to the Energy Transition Fund (ETF Contribution) has been extended to the partners of the electricity producers in hedging contracts. For this purpose, a new annex has been included (Annex 6.2 to GEO 27/2022) which regulates the calculation of the ETF contribution from the income of resident/non-resident entities earned under hedging contracts.

Several amendments have also been made to (i) Annex 6 to GEO 27/2022, which regulates the calculation of the ETF contribution due by electricity generators for generation activity and by aggregated entities and (ii) Annex 6.1 of GEO 27/2022, which regulates the calculation of the FTE contribution due by electricity and gas generating entities, aggregated electricity generating entities, electricity and gas traders and independent electricity aggregators for trading activity.

Also, the commissioning date of the generation capacities exempted from the obligation to pay the FTE Contribution has been modified, *i.e.*, 1 April 2022 compared to 1 September 2022 in the previous version of the relevant legal provisions.

## **10. Introduction of new sanctions**

In addition to other changes concerning sanctions, Law 357/2022 introduces the sanction of fine related to the turnover (up to 5%) of the offender in case of breach of certain obligations provided for in GEO 119/2022, *e.g.*, failure of electricity suppliers or natural gas suppliers to comply with the legal provisions regarding the final price cap invoiced applicable to final customers.