

**ORDER no. 41/15.03.2019**

**On the approval of the Methodology for setting the regulated tariffs for gas transmission services**

Considering the provisions of art. 7 of Regulation (EU) 2017/460 of the Commission dated 16 March 2017 for the establishment of a Network Code on the gas transmission harmonized tariff structures, of art. 179 paragraph (4) and (5) of the Power and Gas Law no. 123/2012, as amended, and the provisions of art. 5 paragraph (1) (b) of the Government Emergency Ordinance no. 33/2007 on the organization and functioning of the National Energy Regulatory Authority (ANRE) approved as amended by Law no. 160/2012, as amended,

Pursuant to art. 10 paragraph (1) letter l of the Government Emergency Ordinance no. 33/2007 on the organization and functioning of the National Energy Regulatory Authority approved as amended by Law no. 160/2012, as amended,

**The president of the National Energy Regulatory Authority** issues this order

**Art. 1** – The Methodology for setting the regulated tariffs for gas transmission service under the annex which is integral part hereof is approved.

**Art. 2** – For the forth regulatory period, the annual economic efficiency increase rate related to the gas transmission activity is equal with maximum 2 % / year for each transmission system operator holder of the license for the operation of the gas transmission system.

**Art. 3** – For the forth regulatory period, the regulated rate of return on the capital invested in the tangible and intangible assets related to the gas transmission activity is as approved by ANRE Order no. 168/2018 on the establishment of the regulated rate of return applied upon the approval of the tariffs related to the power distribution services provided by the concessionaire distribution operators as of 1 January 2019 in respect of the power distribution activity for the forth regulatory period.

**Art. 4** – For the capital invested in the tangible and intangible assets – representing gas transmission system objectives – commissioned / accepted within the forth regulatory period an incentive amounting to 1 percentage point over the regulated rate of invested capital return provided for in art. 3.

**Art. 5** – The substantiation of the regulated revenue, of the corrected regulated revenue and of the gas transmission tariffs related to the first year of the forth regulatory period is

submitted by the TSO at least 90 days before the start of the auction for the booking of the long-term capacity at the point/group of points of interconnection with other gas transmission systems, established according to the provisions of art. 11 paragraph 4 of the Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013.

**Art. 6** – As at the date this Order becomes effective, Order no. 32/2014 of ANRE President on the approval of the Methodology Methodology for setting the regulated revenue, the total revenue and the regulated tariffs for gas transmission activity is repealed.

**Art. 7** – The National Energy Regulatory Authority and the holders of the gas transmission system operation license will execute the provisions hereof.

**Art. 8** – This order shall be published in Romania's Official Journal, Part I and shall become effective as of 18 March 2019.

**Dumitru CHIRIȚĂ**

**The President of the National Energy Regulatory Authority**

**METHODOLOGY****For the establishment of the regulated tariffs related to the gas transmission services****CHAPTER I – Background principles**

**Art. 1** – (1) This methodology regulates the means of the substantiation and establishment of the regulated revenue, the corrected regulated revenue and the regulated tariffs for the gas transmission activity conducted by a gas transmission system located on the territory of Romania.

(2) The connection of third parties to the gas transmission system and the activities related Third party connection to the transmission system and the activities related to the operation of the transmission system, carried out in accordance with the specific regulations prepared by the National Energy Regulatory Authority, as well as other activities provided by the transmission system operator, the holder of the gas transmission system operation license are not subject of this methodology.

(3) The provisions of this methodology do not apply to Isaccea II and III - Negru Voda II and III gas transmission pipelines, for which the establishment of regulated revenues and tariffs is based on the regulations approved by ANRE.

**Art. 2** – (1) The following abbreviations are used herein:

- a) ANRE – the National Energy Regulatory Authority,
- b) AR (RD) – Regulated Depreciation,
- c) BAR (RAB) – Regulated Asset Base,
- d) CT (TC) – Tehnologic Consumption,
- e) ECR (RAR) – Regulated Accounting Records
- f) GNL (LNG) – Liquefied Natural Gas,
- g) OTS (TSO) – Transmission System Operator, holder of the gas transmission system operation license,
- h) RRR – Regulated rate of invested capital return,
- i) UR (NU) – Gas transmission network user
- j) SNT (NTS) – the Romanian National Gas Transmission System,
- k) ST (TS) – Gas Transmission System.

(2) In respect of this methodology, the terms below shall mean as follows:

- a) Regulated depreciation – the value of the depreciation related to the regulated asset base, calculated by using the linear method based on the regulated depreciation lives of tangible and intangible assets.
- b) Year of the regulatory period – a continuous period of 12 calendar months in between 1 October of the calendar year (i) and 30 September of the calendar year (i+1),
- c) Regulated asset base – the total tangible and intangible assets recognized by ANRE as being required for a TSO to conduct transmission activity,
- d) Default RAB – regulated asset base as at 30.06.2004 of the National Gas Transmission Company “Transgaz” SA Mediaş,
- e) The Network Code for the NTS – the network code for the national gas transmission system approved by Order no. 16/2013 of ANRE President, as amended,
- f) Technological consumption – the amount of gas representing the technological consumption of the gas transmission system calculated based on the Methodology for the calculation of the technological consumption of the gas transmission system approved by Order no. 115/2018 of ANRE President,
- g) Law – Power and gas law no. 123/2012, as amended,
- h) Regulation (UE) 2017/459 – Regulation (UE) 2017/459 of the Commission of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation 984/2013,
- i) Regulation (UE) 2017/460 – Regulation (UE) 2017/460 of the Commission of 16 March 2017 establishing a network code on the harmonized transmission tariff structures for gas.

(3) The terms under paragraph (2) shall be supplemented by the terms and phrases defined in the Law and in the legislation applicable in the gas field.

**Art. 3** – (1) The regulated tariffs hereinafter referred to as transmission tariffs represent the amount in consideration of the provided gas transmission services for the booking of the gas transmission capacity at entry/exit points and for the use of the gas transmission system for a gas quantity with energy contents equivalent with 1 MWh, natural gas under the standard pressure, temperature and quality conditions provided for in the applicable legal regulations.

(2) The transmission tariffs are established distinctly in respect of each TSO and each transmission system operated by the TSO based on the technical characteristics and operating conditions relevant for each transmission system.

(3) Upon the establishment of the transmission tariffs, any cost/revenue related to the gas transmission activity is factored in only once.

(4) The transmission tariffs do not include the costs related to the gas purchased for removing the gas transmission system imbalances caused by the NU.

(5) The transmission tariffs do not include the costs generated by the TSO's failure to meet the contract conditions.

(6) The transmission tariffs are VAT exclusive.

**Art. 4** – The activities and operations performed by the TSO for or in relation with the gas transmission services under art. 3 paragraph (1) are as follows:

- a) The operation of the transmission capacities refers to the operations and activities performed by the TSO for and/or in relation with the NTS operation and maintenance and for ensuring its safe and effective operation, including the replacement of the pipelines and related equipment.
- b) The development of the gas transmission capacities refers to the operations and activities performed by the TSO for and in relation with the increase in the transmission capacity either by enhancing the transmission capacity of the existing pipelines or by extending the TS.
- c) The use of the TS refers to the set of activities and operations performed by the TSO for or in relation with:
  - i. taking over of gas from the production fields, from the LNG terminals and from the equipment for the production of biogas or other gas in compliance with the quality conditions necessary in order to be delivered/transmitted to/through the gas transmission system, from the interconnection with other gas transmission systems and from the underground gas storage facilities;
  - ii. circulation of the gas by means of the TS, in between its delineation points;
  - iii. gas delivery at the delivery points;
  - iv. measuring gas amounts at the delineation points;
  - v. reading the meters/metering equipment and/or systems;
  - vi. checking the compliance with the minimum gas quality requirements of the gas delivered/taken over according to the applicable legal regulations.

- d) The activities and operations performed by the TSO for or in respect of the commercial relations in terms of the conclusion and execution of contracts on the provision of gas transmission services.

**Art. 5** – The regulatory period represents the period of time during which ANRE establishes the regulated revenue/corrected regulated revenue a TSO is entitled to achieve in relation with the gas transmission activity so as to cover the allowed costs for each year of the regulatory period.

**Art. 6** – (1) The regulatory period shall last for 5 years.

(2) The forth regulatory period shall start on 1 October 2019.

(3) For the economic operators licensed after the beginning of a regulatory period, the regulatory period shall start at the date the regulated activities begin and shall end upon the completion of the regulatory period related to the other license holders.

## **CHAPTER II – Regulated revenue and corrected regulated revenue**

### **SECTION 1 – Definition of the regulated revenue and of the corrected regulated revenue**

**Art. 7** – (1) The regulated revenue represents the revenue related to one year of the regulatory period which is recognized by ANRE in order for a TSO to cover justified costs as necessary for the conduct of the gas transmission activity.

(2) The TSO regulated revenue is substantiated for the first year of the regulatory period and is adjusted/corrected during the following years based on the formulas relevant for the gas transmission activity hereunder.

**Art. 8** – (1) The corrected regulated revenue represents the annual revenue allowed by ANRE for a TSO, which is determined as the sum of the regulated revenue and the adjustment/correction elements hereunder.

(2) The corrected regulated revenue related to each year of the regulatory period underlies the determination of the transmission tariffs.

### **SECTION 2 – Determination of the regulated revenues recognised for each year of the regulatory period**

#### **Subsection 2.1. – Regulated revenue**

**Art. 9** – The regulated revenue is determined each year of the regulatory period based on the following general formula:

$$VR(i) = OPEX(i) + CAPEX(i) + CPD(i),$$

where:

VR(i) – the regulated revenue related to the performance of the gas transmission activity during year (i);

OPEX(i) – controllable operating expenses recognized by ANRE during year (i);

CAPEX(i) – capital expenses recognized by ANRE during year (i);

CPD(i) – pass through costs recognized during year (i).

### **Subsection 2.2. – The Controllable operating expenses (OPEX) and their determination**

**Art. 10** – OPEX represents operating expenses, fiscally deductible to the extent provided for in the applicable laws, the level and appropriateness of which could be controlled by management decisions or upon which the TSO may act directly to increase the efficiency of the activity for gas transmission service provision.

**Art. 11** – OPEX includes costs related to:

- a) raw materials, materials, including inventory items type, packaging,
- b) energy and water,
- c) technological consumption,
- d) maintenance, checks and repair works according to the applicable laws,
- e) commercial leasings and rents, other than the ones related to the public central or local state administration bodies
- f) insurance premiums,
- g) compulsory studies and research according to the applicable laws,
- h) fees, rates and collaborators,
- i) advertising and publicity for information sessions regarding the NTS security, within the limit of deductibility upon the calculation of the corporate tax,
- j) transportation of goods and personnel, business trips, secondment and transfers,
- k) mail and tele-communication fees, banking and related services,
- l) third party services,

- m) personnel – salaries, premiums and other rights granted according to the applicable laws or to the applicable collective labour contract within the limits of the fiscal deductibility
- n) insurance, social protection and other social actions
- o) indemnities, pursuant to the applicable legal provisions, with respect to the exercise of the easement and use rights to the private properties impacted by the transmission facility / system and to the damage caused to the owners in the vicinity of the gas facilities / systems as a result of the works performed to such facilities / systems in order for them to be developed, upgraded, repaired, checked and remedied in terms of defects.
- p) Commercial discounts received after invoicing in relation to the operating expenses;
- q) Expenses related to the operation of the gas transmission pipelines owned by third parties having the same nature as the ones provided for at letters a) – p);
- r) Expenses related to the procurement of uncounted for gas meant to ensure the NTS operational balancing as a consequence of:
  - i. errors in the metering of the NTS intake-offtake gas amounts, expressed in energy units,
  - ii. errors in the metering / calculation / estimation of gas amounts related to the technological consumption located – determined/undetermined and to the loss located in the NTS, expressed in energy units,
  - iii. errors in the estimation of the variation of the gas amounts stored in the pipelines which are parts of the NTS, expressed in energy units.

**Art. 12** – The following are not included in the OPEX:

- a) expense related to the asset depreciation, adjustments for depreciation and any kind of provisions;
- b) operating expenses incurred for the in-house achievement of tangible/intangible assets or inventory items to be recognized in the appropriate cost category;
- c) operating expenses related to tangible/intangible assets, materials or inventory items in progress;
- d) fines and penalties for the late payment of the obligations to the state budget, social insurance budget, special funds, local budgets and associated expenses;
- e) fines and penalties for the late repayment of the loans and other associated expenses;



- f) expenses related to indemnities, penalties or other similar resulting from the performance standard and other related expenses;
- g) penalties, delayed payment increases and/or damages for the breach of the contractual clauses in respect of the suppliers and other related expenses;
- h) expenses related to indemnities paid on account of the damages or accidents caused to natural or legal entities when the court of law resolves that they were caused by the TSO;
- i) expenses related to salaries/allowances/compensations granted under the law, to executive officers, management employees and members of the board of directors / supervisory board / directorates and management boards upon the termination of the individual employment contract, tenure or mandate, except for the salaries / indemnities / compensations granted when there is an approved restructuring program or in case of retirement;
- j) amounts granted to directors / general directors and members of the board of directors / supervisory board / directorates and advisory committees as a bonus, premia, etc. for the fulfilment of the individual performance indicators as well as other facilities resulted from the execution of the mandate contracts / employment contracts exceeding 20% of the annual allowance value thereunder;
- k) expenses related to the recovered and reused materials for gas transmission activity;
- l) expenses funded from non-reimbursable sources (e.g. amounts due to the Romanian state, natural and / or legal entities in the form of dividends which they waived, grants and non-reimbursable loans from state or other entities' aids and other similar);
- m) inventory surplus;
- n) any court charges and other associated expenses;
- o) expenses related to the decommissioned / disposed assets and other capital operations;
- p) amounts related to the gas transmission activity, not cashed in by the TSO, recorded as operating expenses representing loss from receivables and various debtors removed from the patrimonial records;
- q) expenses related to the assets the use of which is fully and/or partially leased to third parties under a lease contract;

- r) operating expenses incurred in relation to the gas transmission activity as a result of damages found to be caused by third parties;
- s) expenses related to TSO's donations;
- t) any value which was included in the CAPEX upon the establishment of the regulated revenue, but was registered as an operating expense in the TSO financial accounting records.

**Art. 13** – (1) the gas amount, representing the forecasted TC and taken into account upon the substantiation of the regulated revenue, shall not exceed the annual TC amount achieved in the last completed calendar year of the previous regulatory period.

(2) for the first year of the regulatory period, in order to determine the expenses related to the forecasted TC, the TSO proposes a estimated and justified procurement price.

(3) the gas amount, representing the achieved TC, recognized in the transmission tariffs, is the minimum amount between the annual TC amount calculated according to the Methodology for the calculation of the NTS technological consumption and the amount requested by the TSO.

(4) the expense related to the achieved TC is determined as a product between the procurement weighted average price achieved annually and cautiously by the TSO and the gas amount representing the achieved TC.

**Art. 14** – (1) for the first year of the regulatory period, the TSO substantiates, in this year's real terms, the OPEX necessary for the performance of the gas transmission activity.

(2) the costs which, during the regulatory period, are incurred on a more than one year regular basis, will be distinctly presented by the TSO, upon the substantiation, in order to be linearized over the entire regulatory period.

(3) during the following years of the regulatory period, OPEX is adjusted based on the following formula:

$$\begin{aligned} \text{OPEX}_{(i)} = & (\text{OPEX}_{(i-1)} - \text{C}_{\text{PERS}(i-1)} - \text{CT}_{(i-1)}) \times (1 + \text{RI}_{r(i-1)} - \text{RI}_{e(i-1)}) \times (1 + \text{RI}_{e(i)} - X) + \text{CT}_{(i)} + \\ & + \text{C}_{\text{PERS}(i)} + \text{CNP}_{(i-1)} \times (1 + \text{RI}_{e(i)}), \end{aligned}$$

where:

$\text{OPEX}_{(i-1)}$  – controllable operational costs allowed in year (i-1);

$\text{C}_{\text{PERS}(i-1)}$  – personnel costs estimated in real terms of year (i-1);

$\text{CT}_{(i-1)}$  – expenses related to the technological consumption allowed in year (i-1);

$\text{RI}_{r(i-1)}$  – inflation rate achieved achieved in year (i-1);

$RI_{e(i-1)}$  – inflation rate estimated for year (i-1);

X – annual rate of economic efficiency increase related to OPEX, established for the TSO for the performance of the gas transmission activity;

$CT_{(i)}$  – the expenses related to TC allowed for year (i) at the extent recognized in (i-1);

$C_{PERS(i)}$  – personnel costs estimated in rela terms for the year (i);

$CNP_{(i-1)}$  – unforeseen permanent OPEX of the year (i-1) recognized by ANRE and included in OPEX starting with year (i);

$RI_{e(i)}$  – estimated inflation rate for (i).

(4) for the second year of each regulatory period, the term „ $1+RI_{r(i-1)} - RI_{e(i-1)}$ ” of the formula provided for at paragraph 1 shall not be applied.

### **Subsection 2.3. – Capital costs (CAPEX) and their determination**

**Art. 15** – (1) CAPEX represents the costs recognized by ANRE in relation to the regulated depreciation and the return on the capital invested in tangible and intangible assets related to the gas transmission activity.

(2) the values of the received concessions being reflected as tangible/intangible assets when the concession contract establishes the concession duration and value are assimilated in the invested capital.

(3) upon the establishment of the regulated revenue and of the adjusted regulated revenue, ANRE may factor in the value of the investment projects estimated to be achieved in each year of the regulatory period out of the categories under point 2 of annex II of Regulation (EU) no. 347/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009, included in the gas transmission network development and investment plan approved by ANRE.

**Art. 16** – The costs related to the following are not considered to be CAPEX:

- a) tangible/intangible assets achieved by non-reimbursable loans and funds, by aids received from the state or other entity, by inventory surplus and similar;
- b) tangible/intangible assets for which the TSO does not pay any financial equivalent;
- c) fully or partially leased tangible/intangible assets for which the company collects rent, lands taken over under concession contracts contemplating the payment of a royalty/rent and not a depreciable value, as well as any value which was included into

- the OPEX upon the substantiation/adjustment of the regulated revenue, but was recorded as a tangible/intangible asset;
- d) advance payments, tangible/intangible assets in progress;
  - e) financial assets;
  - f) undepreciated regulated value of the tangible and intangible assets, decommissioned or disposed of or transferred to the TSO non-regulated activity, calculated according to the ANRE rules;
  - g) any type of provisions;
  - h) the investments in TS objectives representing assets part of the state public/private domain or local authorities, legal and/or natural entity third parties, except for the ones having legal grounds (agreements and/or contracts for the concession, lease or asset taking offer for operation, etc.);
  - i) tangible and intangible assets achieved out of the amounts due to the Romanian state, to the natural and/or legal entities in the form of dividends waived by the latter;
  - j) tangible and intangible assets achieved for the gas transmission activity as a result of damage found as being caused by third parties;
  - k) the amounts spent over the period of achieving accepted, commissioned or put into operation tangible/intangible assets which were not included by the TSO in the asset initial acceptance value recognized in RAB; such expenses as well as the ones previously made in relation with the asset are considered to be OPEX costs or pass-through costs, as appropriate.

**Art. 17 – (1)** For each year of the regulatory period, forecasted CAPEX included in the calculation of the regulated revenue is determined by the following general formula:

$$\text{CAPEX}_{\text{forecasted}(i)} = \text{RRR} \times (\text{BAR}_{1\text{oct}(i)} + \text{INVP}_{(i)}) + \text{SI} \times \text{VRINV}_{(i-1)} + \text{AR}_{\text{BAR}1\text{oct}(i)}$$

$\text{CAPEX}_{\text{forecasted}(i)}$  – the value of the regulated depreciation and of the estimated regulated rate of return on the invested capital to be recovered by the regulated revenue allowed for year (i) of the regulatory period;

RRR – the regulated rate of return on invested capital;

$\text{BAR}_{1\text{oct}(i)}$  – the RAB value at the beginning of the year (i) of the regulatory period, including the value of the tangible and intangible assets estimated to be commissioned or accepted/delivered

to be used as well as the value estimated for asset outputs by the end of the year (i-1), recognized by ANRE for the gas transmission activity;

INVP<sub>(i)</sub> – the value related to the estimated investment projects under art. 15 (3) for year (i) of the regulatory period;

SI – incentive exceeding the regulated rate of return on the invested capital;

VRINV<sub>(i-1)</sub> – the remaining regulated value for the year (i-1) of the regulatory period of the tangible and intangible assets commissioned or accepted/delivered to be used, recognized by ANRE for which an incentive exceeding the regulated rate of return on the invested capital is granted;

RA<sub>BAR1oct(i)</sub> – Regulated asset related to BAR<sub>1oct(i)</sub>.

(2) achieved CAPEX related to each year of the regulatory period is determined by the following general formula:

$$\text{CAPEX}_{\text{achieved}(i)} = \text{RRR} \times \text{BAR}_{30\text{sept}(i)} + \text{SI} \times \text{VRINV}_{(i)} + \text{AR}_{\text{BAR}30\text{sept}(i)}$$

where:

CAPEX<sub>achieved(i)</sub> – the value of the regulated depreciation and of the achieved regulated rate of return on the invested capital related to year (i) of the regulatory period;

RRR – regulated rate of return on the invested capital;

BAR<sub>30sept(i)</sub> – RAB value at the end of year (i) of the regulatory period, including the value of the tangible and intangible assets estimated to be commissioned or accepted/delivered to be used as well as the estimated value of the asset outputs, by the end of year (i);

SI – incentive exceeding the regulated rate of return on the invested capital;

VRINV<sub>(i)</sub> – the remaining regulated value for the year (i-1) of the regulatory period of the tangible and intangible assets commissioned or accepted/delivered to be used, recognized by ANRE for which an incentive exceeding the regulated rate of return on the invested capital is granted;

AR<sub>BAR30sept(i)</sub> – AR related BAR<sub>30sept(i)</sub>.

(3) RAB value for the first year of the fourth regulatory period included in the time frame 1 October 2019 – 30 September 2020 is determined as follows:

a) at the beginning of the year it is calculated based on the formula:

$$\text{BAR}_{1\text{oct}(2019)} = \left\{ \begin{aligned} & \text{BAR}_{30\text{sept}(2012)} \times \prod_{i=1}^n (1 + \text{RI}_{r(i)}) - \sum_{i=1}^n \left[ \text{AR}_{(i)} \times \prod_{i=1}^n (1 + \text{RI}_{r(i)}) \right] + \sum_{i=1}^{n-1} \left[ \text{INVI}_{(i)} \times \prod_{i=1}^{n-1} (1 + \text{RI}_{r(i+1)}) \right] \\ & - \sum_{i=1}^{n-1} \left[ \text{INVE}_{(i)} \times \prod_{i=1}^{n-1} (1 + \text{RI}_{r(i+1)}) \right] + \text{INVI}_{(n)} - \text{INVE}_{(n)} \end{aligned} \right\} * (1 + \text{RI}_{e(2019 - 2020)})$$

where:

$n$  – represents the number of years of the third regulatory period;

$BAR_{30iun(2012)}$  – RAB value at the end of the last year of the second regulatory period;

$AR_{(i)}$  – RA related to  $BAR_{30sept(i-1)}$  and recognized by ANRE in year (i) of the regulatory period;

$INVI_{(i)}$  – the regulated value of the tangible and intangible assets commissioned or accepted/put in operation, recognized by ANRE for year (i) of the third regulatory period;

$INVE_{(i)}$  – the remained undepreciated regulated value of the tangible and intangible assets resulted from RAB in year (i) of the third regulatory period;

$RI_{r(i)}$  – the rate of inflation achieved in the regulatory year (i) of the third regulatory period;

$RI_{e(2019-2020)}$  – the rate of inflation estimated for the first year of the fourth regulatory period;

$INVI_{(n)}$  – the regulated value recognized by ANRE related to the tangible and intangible assets commissioned and accepted/put in operation for year (n) of the third regulatory period;

$INVE_{(n)}$  – the remained undepreciated regulated value of the tangible and intangible assets resulted from RAB in the last year (n) of the third regulatory period;

b) for the end of the year, it is calculated by the formula:

$$BAR_{30sept(2020)} = \left\{ \begin{aligned} & BAR_{30iun(2012)} \times \prod_{i=1}^n (1 + RI_{r(i)}) - \sum_{i=1}^n \left[ AR_{(i)} \times \prod_{i=1}^n (1 + RI_{r(i)}) \right] + \sum_{i=1}^{n-1} \left[ INVI_{(i)} \times \prod_{i=1}^{n-1} (1 + RI_{r(i+1)}) \right] \\ & - \sum_{i=1}^{n-1} \left[ INVE_{(i)} \times \prod_{i=1}^{n-1} (1 + RI_{r(i+1)}) \right] - AR_{(2019-2020)} + INVI_{(n)} - INVE_{(n)} \end{aligned} \right\} * (1 + RI_{e(2019-2020)})$$

+  $INVI_{(2019-2020)} - INVE_{(2019-2020)}$

where:

$RI_{r(2019-2020)}$  – the rate of inflation achieved in the first year of the fourth regulatory period;

$AR_{(2019-2020)}$  – the value of the depreciation recognized by ANRE in the first year of the fourth regulatory period corresponding to RAB calculated as at 30 September 2019;

$INVI_{(2019-2020)}$  – the regulated value recognized by ANRE of the tangible and intangible assets commissioned and accepted/put in operation for the first year of the fourth regulatory period, including the value of the tangible and intangible assets estimated to be commissioned or accepted / put in operation by the end of the year;

$INVE_{(2019-2020)}$  – the remained undepreciated regulatory value of the tangible and intangible assets resulted from RAB during the first year of the fourth regulatory period.

(4) starting with the second year of the fourth regulatory period, the RAB value shall be determined as follows:

- a) at the beginning of each regulatory year the estimated RAB value shall be calculated by the formula:

$$BAR_{1oct(i)} = BAR_{30sept(i-1)} \times (1 + RI_{e(i)})$$

where:

$BAR_{1oct(i)}$  – the RAB value at the beginning of year (i) of the regulatory period, including the value of the tangible and intangible assets estimated to be commissioned or accepted/put in operation as well as the asset output estimated value, by the end of the year (i-1) recognized by ANRE in respect of the gas transmission activity;

$BAR_{30sept(i-1)}$  – the value of the tangible and intangible assets included in the RAB at the end of the year (i-1) of the regulatory period, including of the ones estimated to be commissioned or accepted/put in operation by the end of the year (i-1) allowed by ANRE in respect of the gas transmission activity;

$RI_{e(i)}$  – inflation rate estimated for regulatory year (i);

- b) for the end of the regulatory year, the RAB achieved value is calculated by the formula:

$$BAR_{30sept(i)} = BAR_{30sept(i-1)} \times (1 + RI_{r(i)}) - AR_{(i)} + INVI_{r(i)} - INVE_{r(i)}$$

where:

$BAR_{30sept(i)}$  – the value of the tangible and intangible assets included in the RAB at the end of the year (i) of the regulatory period, including of the ones estimated to be commissioned or accepted/put in operation by the end of the year (i-1) recognized by ANRE in respect of the gas transmission activity;

$BAR_{30sept(i-1)}$  – the value of the tangible and intangible assets included in the RAB at the end of the year (i-1) of the regulatory period, recognized by ANRE in respect of the gas transmission activity;

$RI_{r(i)}$  – inflation rate achieved for regulatory year (i);

$AR_{(i)}$  – RA related to  $BAR_{30sept(i-1)}$  and recognized by ANRE in year (i) of the regulatory period;

$INVI_{r(i)}$  – the regulated value recognized by ANRE for the year (i) of the tangible and intangible assets commissioned and accepted/put in operation, including, as appropriate, the value of the tangible and intangible assets estimated to be commissioned or accepted / put in operation by the end of the year (i);

$INVE_{r(i)}$  – the remained undepreciated regulatory value of the tangible and intangible assets outcoming from RAB during the year, including of the ones estimated to be commissioned or accepted / put in operation by the end of the year (i);

#### **Subsection 2.4. Pass-through costs**

**Art. 18** – The Pass-through costs are operating costs, fiscally deductible within the limit of the applicable legal provisions, related to the gas transmission activity which are beyond the control of the TSO's management and which cannot be directly acted upon by the latter so as to increase the efficiency of the gas transmission activity, recognized by ANRE during a year of the regulatory period, as follows:

- a) royalties for the concession of assets part of the state public property;
- b) royalties contemplated in the contract on the concession of gas transmission services and/or of the related assets included in the public property of the state or of a territorial administrative unit, as well as the local tax established by authorities in relation with the performance of the transmission services.
- c) Tax, fees and similar established according to the applicable laws;
- d) Tax and fees - established according to the applicable laws - provided for in the contracts for the lease of TS objectives, generated by the right to use the leased tangible and intangible assets;
- e) Contributions related to the salary fund recognized by ANRE as well as contributions to special funds payable by the TSO according to the applicable legal provisions;
- f) Contributions related to the value recognized by ANRE of the mandate contract of the persons functioning in management positions and of the ones acting as members of the boards of administration / supervisory boards / directorates and other management councils;
- g) Other costs beyond the control of the TSO, recognized by ANRE;
- h) The rent related to the contract on the lease of the TSO's objectives; it will be recognized, no less than at the level of the accounting depreciation;
- i) The TSO's uncollected amounts related to the gas transmission activity representing trade receivables – which could not be recovered because of the client's bankruptcy, based on a court decision which remained final – receivables generated from the TSO's obligation to interrupt the provision of services to a client undergoing an insolvency procedure, during the observation and the reorganization periods respectively, according to the applicable legal provisions.



- j) The interests which were not capitalized in compliance with the legal provisions related to the contracted bank loans for funding tangible assets intended for the establishment or extension of the TS;

**Art. 19** – The following are not recognized as Pass-through costs related to the gas transmission activity:

- a) Pass-through cost expenses related to the materials, inventory objectives and tangible and intangible assets achieved in-house or being in progress and any value which, upon the substantiation of the transmission tariffs was included in investments, but in the TSO's financial accounting was recorded as an operating expense;
- b) Any pass-through cost expenses generated by other activities performed by the TSO;
- c) Any court fees and other associated expenses;
- d) Any pass-through cost expenses incurred in respect of the gas transmission activity as a result of damages caused by third parties to be recovered from the latter.
- e) The contribution related to the salaries/allowances/severance payments granted to employees with executive positions, senior management employees and members of the board of directors / supervision / directorates and other management boards, upon termination of the individual employment contract, of the labour relationship or mandate, except for salaries / allowances / severance granted to employees under a company restructuring program approved in compliance with the applicable legal provisions or in case of retirement;

**Art. 20** – (1) For the first year of the regulatory period, the pass-through costs are the ones substantiated by the TSO, in real terms and allowed by ANRE.

(2) For the following years of the regulatory period, the allowed pass-through costs are established based on the following general formula:

$$CPD_{(i)} = CPD_{(i-1)} + CPD_{e(i)}$$

where:

$CPD_{(i)}$  – pass-through costs related to the year (i);

$CPD_{(i-1)}$  – pass-through costs recognized by ANRE for year (i-1);

$CPD_{e(i)}$  – pass-through costs estimated for year (i) generated by the introduction or actual amendment of legal provisions applicable in year (i).

### SECTION 3 – Determination of the corrected regulatory revenue allowed for each year of the regulatory period

**Art. 21** – For each year of the regulatory period, the corrected regulatory revenue shall be determined by the following formula:

$$\begin{aligned} \text{VRC}_{(i)} = & \text{VR}_{(i)} + \\ & (\text{Delta})\text{VRC}_{(i-1)} \times (1 + \text{RI}_{e(i)}) + \\ & (\text{Delta})\text{CPD}_{(i-1)} \times (1 + \text{RI}_{e(i)}) + \\ & (\text{Delta})\text{CT}_{(i-1)} \times (1 + \text{RI}_{e(i)}) + \\ & (\text{Delta})\text{CAPEX}_{(i-2)} \times (1 + \text{RI}_{r(i-1)}) \times (1 + \text{RI}_{e(i)}) + \\ & (\text{Delta})\text{RIVRC}_{(i-1)} \times (1 + \text{RI}_{e(i)}) + \\ & \text{CN}_{(i-1)} \times (1 + \text{RI}_{e(i)}) + \\ & \text{RSE}_{(i)} + \\ & \text{SR}_{(i)} + \\ & (\text{Delta})\text{C}_{\text{PERS}(i-1)} \times (1 + \text{RI}_{e(i)}) - \\ & \text{VI}_{(i-1)} \times (1 + \text{RI}_{e(i)}) \end{aligned}$$

where:

$\text{VRC}_{(i)}$  – the corrected regulatory revenue allowed by ANRE in year (i);

$\text{VR}_{(i)}$  – the regulatory revenue allowed by ANRE in year (i);

$(\text{Delta})\text{VRC}_{(i-1)}$  – the correction component related to the corrected regulatory revenue for year (i-1), in the first year of the fourth regulatory period, the value of this correction component is equal with zero;

$(\text{Delta})\text{CPD}_{(i-1)}$  – the correction component of the pass-through costs for year (i-1);

$(\text{Delta})\text{CT}_{(i-1)}$  – the correction component related to the technological consumption for year (i-1)'

$(\text{Delta})\text{CAPEX}_{(i-2)}$  – the correction component related to CAPEX for year (i-2);

$(\text{Delta})\text{RIVRC}_{(i-1)}$  – the correction component related to the value of the corrected regulatory revenue due to the difference between the estimated inflation rate for year (i-1) and the inflation rate achieved for year (i-1);

$\text{CN}_{(i-1)}$  – the correction component representing the unforecasted operational costs of non-permanent nature for the year (i-1);

$\text{RSE}_{(i)}$  – the component for the re-distribution of the economic efficiency increase achieved during the previous regulatory period and included in the corrected regulatory revenue for the year (i);

$SR_{(i)}$  – the component for the correction of other amounts to be regulated of the previous regulatory periods included in the corrected regulated revenue for year (i);

$(\Delta)C_{PERS(i-1)}$  – the component for the correction of personnel costs for the year (i-1);

$VI_{(i-1)}$  – revenues achieved in the year (i-1) from the lease of building type tangible assets used as head offices and work sites for the gas transmission activity included in the default RAB, including the revenues for covering the controllable and uncontrollable operating expenses related to the relevant assets;

$RI_{e(i)}$  – estimated inflation rate for the year (i),

$RI_{r(i-1)}$  – achieved inflation rate for the year (i-1).

**Art. 22** – (1) upon the calculation of the corrected regulated revenue adjustment elements for the previous year, ANRE also performs the closing of the previous years based on the achieved financial data, reported by the TSO.

(2) the potential differences occurred as a result of the previous years' closing based on the financial data shall be included within each corrected regulated revenue adjustment element, as appropriate.

**Art. 23** – if the level of the corrected regulated revenue triggers a change in the transmission tariffs by over 10% as opposed to the transmission tariffs approved for the previous regulatory year, ANRE may decide, based on consultations with the TSO, that part of this revenue shall be recovered during the previous year/years, as appropriate and the the discount shall be based on the rate of inflation related to the period when the recovery is made.

## **SECTION 4 – Elements for the correction and/or adjustment of the regulated revenue**

### **Subsection 4.1. – General presentation of the correction and/or adjustment elements**

**Art. 24** – the elements for the correction and/or adjustment of the regulated revenue are as follows:

- a) Inflation rate – RI;
- b) Annual gas transmission efficiency increase rate – X;
- c) Unforecasted operating costs – CN;
- d) Pass-through cost correction component –  $(\Delta)CPD$ ;
- e) Invested capital correction component –  $(\Delta)CAPEX$ ;
- f) Economic efficiency increase redistribution component during the previous regulatory period – RSE;

- g) corrected regulated revenue adjustment component –  $(\Delta)VRC$ ;
- h) technological consumption correction component –  $(\Delta)CT$ ;
- i) personnel cost correction component –  $(\Delta)C_{PERS(i-1)}$ ;
- j) correction component related to the amounts to be regulated for the previous years of the current or previous regulatory periods – SR.

#### **Subsection 4.2 – Inflation rate - RI**

**Art. 25** – (1) the inflation rate for one year of the regulatory period is determined based on the consumption price indices.

(2) The inflation rate estimated for one year of the regulatory period shall be determined based on the consumption price indices estimated by the National Forecast Commission pro-rata with the number of months of the calendar years comprised in the regulatory year for which the regulated revenue is established.

(3) The inflation rate for one year of the regulatory period shall be determined based on the consumption price indices published on the webpage of the National Institute for Statistics and on the ones estimated by the National Forecast Commission in relation with the regulatory year for which the regulated revenue is established.

The use of the two categories of indices upon the determination of the inflation rate is based on the availability of the data upon the establishment of the regulated revenues.

#### **Subsection 4.3 – the annual efficiency increase of the gas transmission activity – X**

**Art. 26** – (1) The annual efficiency increase rate related to the gas transmission activity reflects potential OPEX savings, exclusive of the costs related to the technological consumption and personnel costs which may a TSO may incur during one year of the regulatory period in order to improve economic performance.

(2) The annual gas transmission efficiency increase rate ensures a surrender of economic efficiency to the clients.

(3) The annual gas transmission efficiency increase rate is established by ANRE at the beginning of each regulatory period for each year of the regulatory period and for each TSO.

(4) In exceptional events occurring during the conduct / development of the transmission activity, upon the annual regulated revenue adjustment, ANRE may modify the annual gas transmission efficiency increase rate at the TSO's reasoned request.

- (5) Upon the establishment of the economic efficiency increase the following are envisaged:
- a) The TSO's justified proposal;
  - b) The efficiency increase achieved during the previous regulatory period and the TSO's possibilities to further decrease costs in order for the activity to be further and safely developed.
  - c) Benchmarking of the efficiency increase factors achieved by other TSOs performing gas transmission activity.

#### **Subsection 4.4 – Contingency costs**

**Art. 27** – (1) The contingency costs are the OPEX unestimated upon the substantiation of the regulated revenue related to the first year of the regulatory period and are determined by unpredictable factors such as force majeure, unforeseeable circumstances, issue of legislative acts or TSO development.

(2) The application for the recognition of the contingency costs determined by force majeure will be accompanied at least by the following documents:

- a) The documents issued by the relevant authorities according to the applicable legal provisions certifying the force majeure event, as appropriate;
- b) The reports for finding damages recorded in respect of the relevant objective, issued by the local authorities in the the jurisdiction of which the force majeure events were recorded;
- c) Supporting documents illustrating the value of of the actually performed repair works.

(3) Considering the recurring nature of the permanent contingency costs, they are recognized both in the regulated revenue, by the component  $CNP(i-1)$  to allow for such cost type to be covered during the following regulatory years and in the corrected regulated revenue by the component  $CN(i-1)$  to ensure the recovery of the costs incurred during the previous regulatory year according to the formula hereunder.

(4) If the contingency costs generate significant increases in the level of the regulatory revenue, ANRE may decide to split their recovery over more than a year and the split values shall be discounted with the inflation rate corresponding to the period when the recovery is made.

#### **Subsection 4.5 – The regulated rate of return– RRR**

**Art. 28** – RRR is determined for a regulatory period and it reflects the estimate of the profit to be generated by the capital invested by the TSO for the conduct of the gas transmission activity considering the current capital market conditions.

**Art. 29** – (1) The value of the RRR for the gas transmission activity is considered the WACC value in real terms, before tax, approved by ANRE.

(2) For the new tangible and intangible assets related to the transmission activity, commissioned, ANRE may set the granting of an incentive above the value of the RRR.

**Art. 30** – (1) RRR is set in real terms, before tax on profit and it is equal to the weighted average of the capital cost (WACC), determined in real terms, before tax on profit.

(2) WACC reflects the capital cost for a reference operator who carries out solely the regulated activity.

(3) For the calculation of the WACC provided for in para (1), ANRE uses the following formula:

$$RRR = CCP \times K_p / (1 - T) + CCI \times K_i (\%)$$

where:

CCP – the cost of equity in real terms, calculated after tax, recognized by ANRE (%);

CCI – the cost of the borrowed capital in real terms, calculated before tax, recognized by ANRE (%);

$K_i = (1 - K_p)$ ;

$K_i$  – the share of the borrowed capital in total equity, recognized by ANRE;

$K_p$  – equity share in the total capital, recognized by ANRE;

T – the rate of profit tax.

**Art. 31** – (1) The cost of equity for the regulatory period, estimated in real terms, after tax, is determined using the model for the calculation of the asset return on the capital market (CAPM).

(2) The cost of equity reflects the gains generated by investments in assets with no risks, traded on the capital markets.

(3) The cost of equity is calculated using the following formula:

$$CCP = R_{fR} + (R_m - R_{fR}) \times \beta,$$

where:

CCP – the cost of equity in real terms (%), calculated after tax, recognized by ANRE;

$R_{fR}$  – the real rate of return on no risks investments calculated as follows:

$$R_{fR} = (1 + R_f) / (1 + R_{Ip}) - 1$$

where:

$R_f$  – the interest to securities with at least ten years due date and

$R_{I_p}$  – the average rate of the annual inflation determined based on the annual forecast inflation rate published by the National Forecasting Commission for the regulatory period.

$R_m$  – the rate of return on the stock market (the revenue expected for the market portfolio);

$(R_m - R_f)$  is the market risk premium;

$\beta$  - the coefficient expressing the correlation between the revenue from the market portfolio and the individual revenue of the company representing a comparison of the market risk;

$(R_m - R_f) \times \beta$  – expressing the risk premium in percentages.

**Art. 32** – (1) The cost of the borrowed capital for the regulatory period, estimated in real terms, before tax, reflects the gains generated by the investments in no risk related assets and the risk premiums specific to the regulatory activity, noticed with the comparators.

(2) For the calculation of the borrowed capital cost the bonds issued by the Romanian state on the capital market are considered to be assets without a risk.

(3) The cost of the borrowed capital is calculated based on the current interest to an efficient and well managed loan on a relevant national or international capital market with similar characteristics on the internal financial market.

**Art. 33** – (1) The estimation of the financial structure of the reference operator takes into account the financial structure of the companies from the gas market carrying out similar activities and the streamlining of this structure to reduce the capital costs.

(2) Upon the estimation of the financial structure of the reference operator the financial structure of some foreign companies are analysed, used as comparators fulfilling the following conditions:

a) are publicly traded;

b) the regulated activity is their core activity;

c) they operate in a regulatory system similar to the Romanian one.

(3) Throughout the last year of a regulatory period, ANRE initiates a consultation process for setting the capital structure to be taken into account upon the setting of the regulated rate of return. The TSOs may propose and ANRE may decide on a capital structure also taking into account the standard structure of some international companies with similar activities and the conditions and the risk of the internal gas market.

#### **Subsection 4.6 – The correction component of the pass through costs – (Delta)CPD**

**Art. 34** – (Delta)CPD represents the difference between the pass through costs considered achieved in the previous year and the ones included in the regulated revenue in that same year and it is determined as follows:

$$(\text{Delta})\text{CPD}_{(i)} = \text{CPD}_{\text{realizat}(i-1)} - \text{CPD}_{\text{permis}(i-1)}$$

where:

(Delta)CPD<sub>(i)</sub> – the correction component of the pass through costs related to the year (i) of the regulatory period;

CPD<sub>realizat(i-1)</sub> – the capital costs achieved in the year (i-1) of the regulatory period;

CPD<sub>permis(i-1)</sub> – the capital costs included in the tariffs in the year (i-1) of the regulatory period.

#### **Sub-section 4.7 – The correction component for CAPEX - (Delta)CAPEX**

**Art. 35** – (1) (Delta) shall be calculated as follows:

$$(\text{Delta})\text{CAPEX}_{(i)} = \text{CAPEX}_{\text{achieved}(i-2)} - \text{CAPEX}_{\text{forecast}(i-2)} + [\text{INVP}_{(i-2)} - \text{INVPR}_{(i)}] \times \text{RRR}$$

where:

(Delta)CAPEX<sub>(i)</sub> – the correction component for the capital expense of year (i) of the regulatory period;

CAPEX<sub>achieved(i-2)</sub> – the capital expense achieved in year (i-2) of the regulatory period;

CAPEX<sub>forecast(i-2)</sub> – the forecast capital expense, included in the calculation of the regulated revenue in year (i-2) of the regulatory period;

INVP<sub>(i-2)</sub> – the value of investments projects estimated under Art. 15 (3), for year (i-2) of the regulatory period;

INVPR<sub>(i)</sub> – the share of the total estimated annual values discounted with the inflation rate of the investment projects under Art. 15 (3), for which it was granted the RRR, which is returned in year (i) of the regulatory period;

RRR – regulated rate of return on invested capital.

(2) The correction component for the capital expense shall be applied starting from the third year of the regulatory period.

#### **Sub-section 4.8 – Adjusted regulated revenue correction – (Delta)VRC**



**Art. 36** – (1) (Delta)VRC is the difference between the adjusted regulated revenue obtained in the previous years and the adjusted regulated revenue allowed in the same previous years.

(2) For the first year of the fourth regulatory period, the correction component value in paragraph (1) is equal to zero.

#### **Sub-section 4.9 – Efficiency increase redistribution component – RSE**

**Art. 37** – RSE is the sum broken down annually into the adjusted regulated revenue for the transfer to the clients of the gas transmission economic efficiency increase calculated for the previous regulatory period.

**Art. 38** – (1) The gas transmission economic efficiency increase reflects the economic efficiency increase obtained over annual rate of the economic efficiency increase established by ANRE.

(2) During the regulatory period, the economic efficiency increase shall be calculated annually by the TSO.

(3) The TSO shall annually send to ANRE the calculation of the efficiency increase together with the ECR situations.

**Art. 39** – (1) The economic efficiency increase factor is calculated as a positive difference between the level of the OPEX allowed by ANRE in a year of the regulatory period and the level of the OPEX achieved by the TSO in the same year.

(2) The level of the OPEX allowed by ANRE in a year of the regulatory period, used for the determination of the efficiency increase factor also includes the difference between the OPEX resulted from the regulation of the estimated inflation included in the regulated revenue by its achieved amount, related to the year for which the efficiency increase factor is calculated in the nominal terms of such year.

(3) Upon the determination of the efficiency increase factor the costs related to the technological consumption, personnel costs and costs achieved in a time span higher than one year, provided for in art 14, para (2) allowed in the regulated revenue of each year of the regulatory period are not taken into account

(4) In the case of the costs provided for in art 14 para (2) the economic efficiency increase factor is calculated at the end of the regulatory period as a positive difference between the cumulated level of those costs allowed by ANRE throughout the regulatory period and the one achieved by the TSO in the same period in updated amounts.

(5) Upon the determination of the efficiency increase factor the contingencies achieved by the TSO are not taken into account in the OPEX, irrespective of their nature, permanent or non-permanent.

**Art. 40** – (1) The annual economic efficiency increase factors related to a regulatory period are cumulated at the end of the regulatory period and are surrendered to the clients, by linearity, throughout the following regulatory period.

(2) The annual economic efficiency increase factors is surrendered in the amount discounted by the inflation rate.

(3) The efficiency increase factor achieved by the TSO starting from the fourth regulatory period will be surrendered 60% to gas consumers and 40% will be kept by the TSO.

(4) The provisions of para (1) and para (2) are also applied to efficiency increase factors calculated for the third regulatory period.

(5) The efficiency increase factor achieved in the third regulatory period are surrendered in whole, by linearity, on the entire duration of the fourth regulatory period.

#### **Subsection 4.10 – Correction component of the technological consumption – (Delta) CT**

**Art. 41** – (Delta)CT is determined according to the following formula:

$$(\text{Delta})CT_{(i)} = CT_{r(i-1)} - CT_{p(i-1)},$$

where:

$CT_{r(i-1)}$  – the expense related to the technological consumption recognized for the year (i-1) based on the regulations drawn up by ANRE;

$CT_{p(i-1)}$  – the expense related to the technological consumption allowed in the year (i-1).

#### **Subsection 4.11 – Correction component of the personnel costs - (Delta)C<sub>PERS(i-1)</sub>**

**Art. 42** – (1) (Delta)C<sub>PERS(i-1)</sub> is calculated as a difference between the achieved amount and the forecasted amount of the personnel expenses in the nominal terms of the year for which the correction is calculated.

(2) The achieved amount of the personnel expenses is analysed and set by ANRE in line with the provisions of this Methodology.

(3) If the achieved and set amount following the analysis performed by ANRE is higher than the forecasted amount the achieved amount used in the calculation (Delta)C<sub>PERS(i-1)</sub> is limited to the forecasted amount.

## **Subsection 4.12 – Correction component related to the amounts to be regulated in the previous regulatory periods – SR**

**Art. 43** – (1) SR includes all of the amounts to be regulated from the previous regulatory periods, like achieved costs/revenues recognized as to be recovered/surrendered in discounted amounts until the year when they will be included in the VRC.

(2) The setting in view of recognizing costs and/or revenues in the SR component is achieved based on the rules and methodological principles applicable upon their achievement.

## **CHAPTER III – Allocation and substantiation of costs/revenues**

### **SECTION 1 – Cost allocation principles**

**Art. 44** – The TSO shall allocate costs between the regulated, non-regulated activities in the sector and/or outside of the gas sector in compliance with the specific obligations stipulated in the laws in force and based on the following principles:

- a) causality – costs are awarded in accordance with the activity that determines them;
- b) objectivity – costs are awarded based on objectives, without pursuing an interest or gaining an undeserved benefit;
- c) transparency – the rules by which costs are attributed by activity, are transparent and allow identification of the costs attributed to each activity
- d) continuity – the rules by which costs are attributed by activity are constantly applied over time; the rules may be amended only where such modification is absolutely necessary and justified.

**Art. 45** – The following methods are used to allocate costs for each activity carried out by the TSO:

- a) direct allocation – through which the costs generated by an activity are allocated directly to the activity in question;
- b) indirect allocation - the allocation of costs is made according to certain criteria established by the TSO, in compliance with the allocation principles.

### **SECTION 2 – Cost allocation into fixed costs and variable costs**

**Art. 46** – The total costs recognized by ANRE for the calculation of the VR/VRC (Regulated revenue/Adjusted regulated revenue) for the natural gas transmission activity are allocated in fixed costs and variable costs based on the substantiated proposal of the TSO.

**Art. 47** – (1) Fixed costs reflect transmission-related costs, which do not depend on the transmitted quantities and which cover TS costs, costs directly related to operation, continuity in operation and maintaining the security of the TS, as well as part of the overhead costs related to its management.

(2) Fixed costs are allocated equally per group of entry points and per group of exit points respectively.

**Art. 48** – (1) Variable costs reflect expenditure on the use and operation of the transmission system which depend on the quantities actually transmitted.

(2) Variable costs shall be allocated to the entire quantity of transmitted gas, regardless of the entry/exit point in/out of the transmission system.

### **SECTION 3 – Costs substantiation**

**Art. 49** – (1) TSO has the obligation to demonstrate that these are justified costs when forwarding the achieved/estimated costs for recognition in the transmission tariffs.

(2) Costs deemed to be substantiated are those costs that prove to be necessary, timely, effective and reflecting market conditions, namely:

- a) necessary – the objective need of the operator to achieve a cost in view of ensuring the operation of the TS;
- b) appropriate – cost delays are likely to cause damage to the operator and / or customer;
- c) efficient – the realization of the cost is likely to bring future benefits to the operator and the client;
- d) market conditions – the cost incurred by the operator in relation to the best market conditions existing at the date of implementation and in accordance with the relevant Romanian legislation.

(3) ANRE has the right to reasonably refuse recognition of costs or parts of them, if the TSO has not demonstrated that they are substantiated costs, according to the provisions of para. (2).

### **SECTION 4 – Allocation of the regulated revenue and of the adjusted regulated revenue in fixed component and commodity charge**

**Art. 50** – (1) In order to determine the transmission tariffs, respectively the capacity booking tariffs and the commodity tariff, the regulated revenue/ the adjusted regulated revenue is allocated in the fixed component and the commodity component.

(2) The fixed component includes the fixed costs and the amounts resulting from the application of the correction and/or adjustment of regulated income/adjusted regulated income and is allocated equally to the group of entry points and the group of exit points respectively.

(3) The commodity component comprises variable costs and it is allocated in whole to the transmitted gas quantity.

(4) As of 1 October 2019 the fixed component of the regulated revenue increases by 5% each year, as compared to the current level of 70% used for setting capacity booking tariffs up to the level of 85% of the regulated revenue.

#### **CHAPTER IV – Rules for the calculation of the regulated asset base**

**Art. 51** – The value of the RAB represents the net regulated value, recognized by ANRE, of the tangible and intangible assets necessary for a TSO to carry out the gas transmission activity.

**Art. 52** – For a newly licensed TSO the initial value of the RAB used for the determination of the regulated revenue related to the first year of the regulatory period is determined based on the net accounting value of the tangible and intangible assets related to the gas transmission activity.

**Art. 53** – (1) The regulated annual depreciation is calculated using the linear method, based on the duration of the regulatory periods for depreciation of tangible and intangible assets, as set out in Annex no. 1.

(2) For other categories of tangible and intangible assets, not included in Annex no. 1, the maximum operating durations established by the Catalogue on the classification and the normal operating durations of the fixed assets approved by the Government Decision are used.

(3) For tangible and intangible assets commissioned/taken over to be used until the beginning of the fourth regulatory period, the depreciation value is determined annually taking into account the year of commissioning.

(4) For tangible and intangible assets commissioned/taken over to be used as of the fourth regulatory period, the amount of the annual depreciation is determined as the monthly amortization amount, taking into account the month of commissioning.

**Art. 54** – Upon the determination of the RAB related to the gas transmission activity, in the beginning of the regulatory period, the Additional rules on the determination of the remained

regulated amount of the regulated asset base related to the gas transmission activity for the beginning of the forth regulatory period, provided for in Annex no 2.

## **CHAPTER V – Transmission tariffs system**

### **SECTION 1 – General Principles**

**Art. 55** – The transmission tariffs system for gas transmission comprises a set of entry/exit type tariffs set for the NTS entry points group in which capacity is booked, for the NTS exit point groups in which capacity is booked, as well as a commodity tariff for using the system determined as a postal stamp tariff.

**Art. 56** – The transmission tariffs that the TSO is entitled to practice in transmission service contracts shall be set for a regulatory year based on the adjusted regulated revenue for each year so as to ensure the realization of this revenue.

**Art. 57** – The grouping of the physical points into groups of TS entry points and groups of TS exit points, in which capacity is booked, ensures that the same transmission tariffs are applied to each physical point within the group, regardless of the location of the physical point within the group.

**Art. 58** – For the calculation of the transmission tariffs based on this methodology, the physical entry points and the physical exit points into/out of the gas transmission system provided for in the Network Code, are grouped as follows:

- a) the TS entry points group of natural gas from production fields, from LNG terminals and biogas or other gas production facilities that meet the quality requirements for delivery/transmission in/through the gas transmission system and from the interconnection with other gas transmission systems;
- b) the group of TS entry points of the natural gas from the underground storage facilities;
- c) the group of TS exit points of natural gas to direct consumers, distribution systems, upstream pipelines and other interconnected transmission systems.
- d) the group of TS exit points of natural gas towards the underground storage facilities.

**Art. 59** – The capacity booking transmission tariff, hereinafter referred to as the Capacity Booking Tariff, is set separately for each group and it represents the capacity booking tariff applicable for each point within that particular group.

**Art. 60** – (1) The capacity booking tariff is expressed in lei/MWh/h for the duration of the capacity product offered and quantifies the fixed costs related to the operation, use and development of the capacity in the entry/exit points.

(2) For the interconnection points with other gas transmission systems, provided for in art 58 point a) and c) the capacity booking tariff stipulated in para 1) is expressed in lei/kWh/h for the duration of the capacity product offered.

**Art. 61** – The commodity tariff is the tariff for the use of the transmission system and it is set per MWh transmitted through the TS and it quantifies the variable costs generated by the use of the system taking into account the gas flows through the TS including the ones related to the gas exchange and reverse flows.

**Art. 62** – (1) The types of gas transmission services, for which transmission tariffs are set, are the ones related to the capacity products stipulated in the Network Code for the NTS, namely:

a) long term capacity products:

i) firm capacity products contracted for a gas year or multiple gas years;

ii) interruptible capacity products contracted for a gas year;

b) short term capacity products:

i) firm/interruptible capacity products contracted for a quarter or multiple quarters within a gas year;

ii) firm/interruptible capacity products contracted for a month or multiple months, within a quarter;

iii) firm/interruptible capacity products contracted for a gas day or multiple gas days within a month;

iv) withinday firm/interruptible capacity products contracted for a gas hour or multiple hours within a gas day.

(2) The interruptible services also include the backhaul type transmission service..

## **SECTION 2 – Setting transmission tariffs**

### **Subsection 2.1. – Necessary data for the calculation of the entry/exit tariffs**

**Art. 63** – (1) The necessary data for the calculation of the entry/exit tariffs are the following:

a) the allocation of the total costs underlying the setting of the adjusted regulated revenue proposed by the TSO, into fixed and variable costs;

b) the allocation of the adjusted regulated revenue proposed by the TSO and of its basic elements, namely OPEX, CAPEX and pass through costs, in the fixed component and the commodity component and the fixed component split per each group of entry/exit points according to art 50 para (2);

c) the capacities booked for the previous gas year to the one for which transmission tariffs are set, separately per each group of entry/exit points and type of service;

d) the capacity estimated to be booked in the gas year for which transmission tariffs are set, per each group and entry/exit points and type of service;

e) the gas quantity transmitted monthly through the TS and the estimates for the months which were not closed, for the previous year to the one for which transmission tariffs are set;

f) the quantity estimated to be transmitted monthly through the TS in the year for which the transmission tariffs are set;

g) the maximum daily flow of each group of entry/exit points in the past three years;

h) the multipliers and/or the seasonal factors used for setting tariffs for the short term firm/interruptible capacity booking services;

(2) For the primary estimated data substantiations will be presented on the premises taken into account and the methods used for their determination.

### **Subsection 2.2. – Setting capacity booking tariffs for long term firm services**

**Art. 64** – The capacity booking tariff for long-term transmission services is determined for the group of entry/exit points (gr), expressed in lei/MWh/h, according to the following formula:

$$TC_{(gr)tl} = \frac{CF_{(gr)}}{CR_{e(gr)tl} \times N_{(tl)} + \sum [CR_{e(gr)ts} \times N_{(ts)} \times K_{(ts)}] + \sum [CR_{e(gr)ts\_dep} \times N_{(ts\_dep)} \times K_{(ts\_dep)}]}$$

where:

$TC_{(gr)tl}$  – is the long-term firm capacity booking tariff for the group of entry/exit points (gr) expressed in lei/MWh/h;

$CF_{(gr)}$  – is the amount related to the fixed component of the regulated revenue allocated to the group of entry/exit points (gr);

$CR_{e(gr)tl}$  – is the capacity estimated to be booked on long term in the period for which transmission tariffs are set per group of entry/exit points (gr);

$CR_{e(gr)ts}$  – is the capacity estimated to be booked on short in the period for which transmission tariffs are set, per group of entry/exit points (gr);



$CR_{e(gr)ts\_dep}$  – is the capacity estimated to be booked at the interface with the underground storage facilities in the period for which transmission tariffs are set per group of entry/exit points (gr)dep;

$N_{(tl),(ts),(ts\_dep)}$  – is the number of hours related to each type of service;

$K_{(ts)}$  – is the multiplier related to the short term firm services except for the services for underground storage;

$K_{(ts\_dep)}$  – is the multiplier related to the firm short term services for underground storage facilities, representing 50% of  $K_{(ts)}$ .

### **Subsection 2.3. – Setting capacity booking tariffs for short term firm services**

**Art. 65** – (1) The capacity booking tariffs for short term firm services, and respectively quarterly, monthly, daily and within day, for the group of entry/exit points (gr) is determined based on the capacity booking tariffs for the firm long term services set according to art 64 adjusted by the multipliers and/or seasonal factors related to the type of service, according to the following formula:

$$TC_{(gr)ts} = TC_{(gr)tl} \times K_{(ts/ts\_dep)}$$

where:

$TC_{(gr)ts}$  – is the capacity booking tariff for firm short term services at the interface with the storage facilities for the group of entry/exit points (gr), expressed in lei/MWh/h;

$TC_{(gr)tl}$  - is the capacity booking tariff for firm long term services for the group of entry/exit points (gr);

$K_{(ts)}$  – is the multiplier related to the firm short term services, except for the underground gas storage facility related services;

$K_{(ts\_dep)}$  – is the multiplier related to the firm short term services for the underground gas storage facility, representing 50% of  $K_{(ts)}$ .

(2) The TSO submits to ANRE a proposal regarding the multiplier factors and/or seasonal factors used for setting short term capacity booking tariffs, together with the annual proposal for setting the regulated revenue, the adjusted regulated revenue and the transmission tariffs.

(3) the multiplier factors and/or seasonal factors are determined by the TSO in line with the provisions of art 13 and 14 of Regulation (EU) 2017/460.

### **Subaction 2.4. – Setting capacity booking tariffs for interruptible services**

**Art. 66** – (1) Capacity booking tariffs for interruptible services are determined based on the tariffs related to the firm transmission services for the group of entry/exit points (gr) by applying an ex-ante and an ex-post discount in the conditions provided for in para (3).

(2) In the situation of the application of an ex-ante discount the capacity booking tariffs related to interruptible services are calculated by multiplying the tariffs related to the firm transmission services for the entry/exit points group (gr) with the difference between 100% and the level of the ex-ante discount calculated in line with art 67 para 1.

(3) the ex-post discount may be applied, provided ANRE approves so, only in the entry/exit points group (gr) in which, within the previous gas year, there was no capacity interruption caused by physical congestion.

**Art. 67** – (1) The ex-ante discount is calculated based on the following formula:

$$D_{i_{ex-ante}} = Pro \times A \times 100\%$$

where:

$D_{i_{ex-ante}}$  – the value of the ex-ante discount.

Pro – interruption probability set by the transmission system operator and approved by ANRE, for each transmission service, calculated according to the formula:

$$Pro = \frac{N \times D_{int}}{D} \times \frac{CAP_{av. int}}{CAP}$$

where:

N – number of interruption estimated throughout the duration D;

$D_{int}$  – average duration of the estimated interruptions, expressed in hours;

D – total duration of the transmission service, expressed in hours;

$CAP_{av. int}$  – estimated average capacity of the interruption associated with the transmission service;

CAP – total estimated interruptible capacity associated with the transmission service.

A – the adjustment factor established by the transmission system operator and approved by ANRE, applied to reflect the estimated economic value of the interruptible transmission services calculated for the entry/exit point group (gr), and which must be at least 1.

(2) The ex-post discount is the compensation of the network users following the actual interruptions incurred calculated based on the formula:

$$D_{\text{ex-post}} = 3 \times TC_{(\text{gr})\text{ts}} \times (I \times D)$$

where:

$D_{\text{ex-post}}$  – the ex-post discount level.

$TC_{(\text{gr})\text{ts}}$  – the capacity booking tariff for the firm short term daily services/ firm short term daily services at the interface with the underground storage facilities, for the group of entry/exit points (gr);

I – interrupted capacity;

D – interruption duration:

### **Subsection 2.5 – the capacity booking tariff in the point/group of interconnection points with other gas transmission systems**

**Art. 68** – (1) In all the auctions for firm/interruptible capacity products in the point/group of interconnection points with other gas transmission systems the firm/interruptible capacity booking tariff set based on this methodology is used as a reserve tariff and it represents the minimum tariff admissible in auctions.

(2) The reserve tariff used within an auction on capacity booking shall be the firm/interruptible capacity booking tariff in force when the auction takes place, valid for the regulatory year starting after the date of the auction on long term capacity booking, set according to the provisions of art 11 para (4) of Regulation (EU) 2017/459.

(3) The tariff to be paid for the transmission services awarded following a capacity booking auction is the firm/interruptible capacity booking tariff in force when the booked capacity may be used to which the auction premium shall be added.

**Art. 69** – The revenues obtained from the application of the final tariff resulted after the auction which is paid for the booked firm/interruptible capacity are revenues from the gas transmission activity.

### **Subsection 2.6. – Setting the commodity tariff**

**Art. 70** – The commodity tariff for the use of the transmission system is determined according to the following formula:

$$TV_{(i)} = CV_{(i)} / Q_{\text{tr}(i)}$$

where:

$TV_{(i)}$  – it is the commodity tariff determined for 1MWh transmitted in the year (i), expressed in lei/Mwh/h;

$CV_{(i)}$  – it is the commodity charge of the total revenue of the year (i);

$Q_{tr(i)}$  – it is the gas quantity estimated by the TSO to be transmitted in the year (i), expressed in MWh.

## **CHAPTER VI – Substantiation/adjustment procedures and approval of the regulated revenues and approval of the transmission tariffs**

**Art. 71** – (1) The regulated revenue, the adjusted regulated revenue and the transmission tariffs are approved by an order of ANRE President before the regulatory period/year, for each TSO carrying out the gas transmission activity.

(2) Before the commencement of the regulatory period/year, the TSO has to publish on its web page at least the information provided for in Annex no 3.

(3) The economic operators licensed subsequent to the commencement of the regulatory period shall send the documentation related to setting the regulated revenue and the adjusted regulated revenue as well as of the transmission tariffs for the first year of the regulatory period.

### ***SECTION 1 – Procedure for the substantiation and approval of the regulated revenue and of the adjusted regulated revenue***

**Art. 72** – (1) The TSO who performs the gas transmission activity has the obligation to send to ANRE a proposal on the substantiation of the regulated revenue on the adjusted regulated revenue and on the transmission tariffs related to the first year of the regulatory period, at least 150 days before the date of commencement of the auction on long term capacity booking in the point/group of interconnection points with other gas transmission systems, set according to the provisions of art 11 para (4) of Regulation (EU) 2017/459.

(2) The economic operators who request licenses for the operation of a transmission system, submit to ANRE proposals for the substantiation of the regulated revenue, of the adjusted regulated revenue and of the transmission tariffs for the first year of the regulatory period once the necessary documents for granting such license are submitted.

(3) The proposals are sent both in hard copy signed by the legal representative of the company and in the soft copy posted by ANRE on its webpage.

**Art. 73** – (1) The substantiation of the regulated revenue, of the adjusted regulated revenue and of the transmission tariff related to the first year of the regulatory period shall be accompanied by all the data, information and documents necessary for the justification of the substantiation

elements as well as the premises considered and the methods used upon their determination and refer mainly to:

- a) the gas quantities transmitted through the transmission system and the capacities booked per each type of gas transmission service considering the contracts concluded for the last year of the regulatory period;
- b) the estimates of the gas quantities transmitted through the transmission system and the capacities booked per each type of gas transmission service for the first year of the new regulatory period;
- c) the data, in ECR annexes format, based on which the regulated revenue and the adjusted regulated revenue is substantiated;
- d) the situation of the costs and the proposal for their allocation per regulated/non-regulated activities and for the gas transmission activity the allocation of costs in OPEX, CAPEX and pass through costs, respectively in fixed and variable;
- e) the proposal for the allocation of the adjusted regulated revenue for the gas transmission activity into the fixed component per each group and the commodity component;
- f) the proposal on the annual economic efficiency increase rate related to the gas transmission activity for the regulatory period;
- g) other data or information necessary for setting the regulated revenue, the adjusted regulated revenue and the transmission tariffs generated by the application of the legal acts in force;
- h) the report related to the accounting separation of the regulated activities in line with the legal provisions in force structured by:
  1. Regulated activities from the sector, detailed by:
    - i. Activities and operations carried out by the license holder for or in connection with the construction, operation and development of the transmission capacities and their use as defined in this Methodology;
    - ii. The connection of third parties to transmission systems for the investment works which were not included in the Investments and Gas transmission development Plan of the license holder, approved by ANRE;
    - iii. Activities related to the operation of the transmission systems;
    - iv. Other regulated activities from the sector, out of which the gas transmission activity related to the Isaccea II and III pipelines – Negru Vodă II and III;

2. Non-regulated activities from the sector;
  3. Activities outside the sector.
- i) Data on the achievements from the previous years necessary for the calculation of the correction component of the revenues.

(2) These substantiation elements are based both on the achievements and the estimates related to the months of the previous year to the one for which the substantiation is achieved, as well as the estimates for the other years of the regulatory period.

(3) OPEX and pass through costs estimated for the first year of the regulatory period can be evaluated and accepted by ANRE taking into account:

- a. expenditures incurred in the previous years by the license holder;
- b. annual change in cost elements over the new regulatory period;
- c. increase work productivity and efficiency of the TSO activity;
- d. development of the gas transmission activity;
- e. the comparative analysis of the expenses incurred in previous years by the TSO for each TS operated by it, as well as those made by other TSOs for the operation of the TS;
- f. the evolution of the economic and financial indicators achieved by the TSO in the previous years.

## ***SECTION 2 – Procedure for the adjustment and approval of the regulated revenue and of the adjusted regulated revenue***

**Art. 74** – (1) The TSO who performs the gas transmission activity has the obligation to request ANRE to adjust and approve the regulated revenue, the adjusted regulated revenue and the approval of the related transmission tariffs at least 120 days before the commencement date of the auction for long term capacity booking, set according to the provisions of art 11 para (4) of Regulation (EU) 2017/459.

(2) The request stipulated in para (1) is sent both in hard copy, signed by the legal representative of the company and in soft copy published on ANRE website, accompanied by the detailed substantiations for each adjustment element.

**Art. 75** – (1) The request for the adjustment and approval of the regulated revenue, adjusted regulated revenue and the approval of the transmission tariffs shall be accompanied by all the data, information and documents necessary for the justification of such proposal as well as the premises taken into account and the methods used upon its determination and it contains mainly:

- a) The gas quantities transmitted through the TS and the capacities booked per each type of gas transmission tariff considering the contracts concluded in the year of the regulatory period for which the adjustment is requested;
- b) The estimates related to the gas quantities transmitted through the TS and the capacities booked per each type of gas transmission service, for the year for which transmission tariffs are set;
- c) The revenues achieved from the gas transmission activity in the year for which the adjustment is requested;
- d) The adjustment elements requested by the TSO allocated by regulated/non-regulated activities and for the gas transmission activity the allocation in costs/fixed and variable components;
- e) The proposal for the allocation of the adjusted regulated revenue for the gas transmission activity into fixed component, per each group and the commodity component;
- f) Other data or information necessary for setting the regulated revenue, the adjusted regulated revenue and the transmission tariffs, generated by the application of the legal regulations in force.

(2) The data and adjustment elements refer to:

- a) achievements of the closed year preceding that for which the adjustment is made;
- b) the achievements and estimates of the months of the year for which the adjustment is made;
- c) estimates for the year for which the transmission tariffs are set.

***SECTION 3 – Common provisions regarding the procedures for the substantiation/adjustment of the regulated revenues and tariffs approval***

**Art. 76 –** (1) If the documentation for the substantiation/adjustment of the regulated revenue, of the adjusted regulated revenue and for the approval of the transmission tariffs is incomplete and/or erroneous, ANRE shall request its supplementing within 15 business days from submission, the TSO has the obligation to answer no later than in 10 business days.

(2) In the event that the TSO does not submit the documentation on the substantiation/adjustment of the regulated revenues and/or the information for its supplementing or correction, or it sends less than 100 or 70 days before the start date of the capacity booking auction on long term capacity in the point/group of interconnection points with other natural gas transmission systems, established according to the provisions of art. 11 par. (4)

of Regulation (EU) 2017/459, ANRE shall calculate and approve the transmission tariffs for the new regulatory year on the basis of the data and information it holds.

(3) The correction elements of the regulated revenue that imply a reduction in the regulated revenue and which could not be reflected as a result of the situation under para. (2) shall be taken into account in the following adjustment of the regulated revenue, after the entry into the possession of ANRE of the documentation for substantiation / adjustment of the regulated income.

**Art. 77 –** (1) In case the TSO requests costs which were not presented, upon the adjustment of the regulated revenue, in the time span provided for in art 74 para (1), they will be considered starting from the following adjustment or substantiation of the regulated revenue, as applicable.

(2) ANRE does not take into account requests for the recognition of some costs in view of the adjustment of the regulated revenue if between the moment of the occurrence or cost modification and the moment of the request a 3 years period has elapsed.

(3) The costs requested according to para (1) and (2) will not be discounted/adjusted with the RI elements and/or ROR.

**Art. 78 –** (1) Based on the presented elements ANRE will analyse and evaluate the corrected and/or supplemented proposal submitted.

(2) In the analysis period, for the correction, clarification and substantiation of the submitted documents ANRE has the right to request any data, information and documents, the TSO has the obligation to answer within 5 business days. The aspects for which data, information and documents were requested will not be taken into account if the TSO does not respond to ANRE's request within the deadline set.

**Art. 79 –** (1) Following the analysis of the proposal on the adjustment/substantiation of the regulated revenues and transmission tariffs the specialized unit within ANRE prepares a report contemplating the results of the analysis and the level of the regulated revenue, the adjusted regulated revenue, the annual increase rate of the economic efficiency of the gas transmission, as applicable, as well as the transmission tariffs to be approved.

(2) The report provided in para (1) is sent to the TSO for the preparation of an opinion to be sent to ANRE within 5 days.

**Art. 80 –** The specialised unit submits for approval to ANRE's Regulatory Committee the draft order on the approval of the regulated revenue, the adjusted regulated revenue, the annual economic



efficiency increase rate of the gas transmission activity, as applicable, as well as the transmission tariffs accompanied by the report provided in art 79 and the opinion expressed by the TSO.

**Art. 81** – (1) Following the approval by the Regulatory Committee of the draft order provided in art 80, in the proposed form or with the amendments approved within the meeting, ANRE President issues the order on the approval of the regulated revenue, the adjusted regulated revenue, the annual economic efficiency increase rate of the gas transmission activity, as applicable, as well as the gas transmission tariffs

(2) The Order of ANRE President provided for in para (1) is published in the Official Gazette of Romania, Part I.

**Art. 82** – (1) If the draft order provided for in art 80 was not approved within 5 business days from the date of the meeting of the Regulatory Committee and based on the information made available by its Secretariate the specialized unit sends to the TSO the decision of the Regulatory Committee related to the rejection/postponement of the report accompanied by the relevant justification.

(2) Within 20 business days from the communication by the Secretariate of the Regulatory Committee of the rejection/postponement decision or receipt of the possible additional data requested from the operators, the specialized unit shall prepare a new report, as applicable, if the Regulatory Committee did not set another deadline within such time span.

(3) If the order of ANRE President provided for in art 80 is not issued at least 30 days before the commencement of the auction on long term capacity booking in the point/group of interconnection points with other gas transmission systems set according to the provisions of art 11 para (4) of Regulation (EU) 2017/459, the transmission tariffs approved for the previous regulatory year remain in force throughout the duration of the new regulatory year, the differences in revenues due to such situation will be regulated.

## **CHAPTER VII – Final provisions**

**Art. 83** – (1) The failure to comply with the deadline for the submission of the proposal for the substantiation/adjustment of the regulated revenue, the adjusted regulated revenue and the transmission tariff is a contravention and is sanctioned according to the legal provisions in force.

(2) If the TSO, for duly justified reasons, cannot present in time the proposal for the substantiation/adjustment of the regulated revenue, the adjusted regulated revenue and the transmission tariff, it shall send, 15 days before the expiry of the deadline for submission of such

proposal, a request for the postponement of the deadline which includes the justification for not having sent it in time and it shall propose a new deadline in view of its approval by ANRE.

(3) ANRE shall respond promptly to the request of the TSO provided in paragraph (2) and in the case of the approval of the new deadline, the procedure for substantiation/adjustment of the regulated revenue, adjusted regulated revenue and the approval of the transmission tariffs provided for in this Methodology shall apply considering the new deadline for submission.

**Art. 84** – If after the approval of the regulated revenues and the transmission tariffs it is found that this was done based on erroneous / false information provided by the license holder or that there are calculation errors, ANRE will proceed to the recalculation of the regulated revenues and transmission tariffs , and the resulting differences are taken into account in discounted values for the next approval of the regulated revenues and transmission tariffs.

**Art. 85** – Annexes no. 1 – 3 are integral part of this methodology.

### Regulated durations for the depreciation of tangible and intangible assets

- 1) The remaining regulated duration for the regulated depreciation of the tangible and intangible asset that were the default RAB at the beginning of the first regulatory period for the transmission activity is 30 years.
- 2) The regulated duration a imobilizărilor of the tangible and intangible asset commissioned after the beginning of the first regulatory period:

Group 1 Constructions	
Subgroup 1.1 Buildings	50 years
Subgroup 1.2 Lightweight construction (barges, sheds etc.)	10 years
Subgroup 1.3 Manifolds and main pipelines (including the technological installations, the related equipment and facilities)	40 years
Subgroup 1.4 The facilities for injecting/withdrawing natural gas from underground storages (including auxiliary facilities, technological facilities, and related equipment)	25 years
Subgroup 1.5 The steel distribution pipelines (including the technological installations, the facilities and related equipment)	30 years
Subgroup 1.6 Polyethylene distribution pipelines (including technological installations, facilities and related equipment)	40 years
Subgroup 1.7 Other constructions	10 years
Grupa 2 Technological equipment, machines, tools and working equipment	10 years
Group 3 Metering, control and regulation devices and equipment	
Subgroup 3.1 Membrane volumetric meters, ultrasonic meters, other systems with an orifice plate	20 years
Subgroup 3.2 Rotary gas meters, turbine meters	15 years
Subgroup 3.3 Electronic converters, flow computers, other metering, control and regulation devices and equipment	10 years
Grupa 4 Means of transport	7 years
Grupa 5 Other tangible and intangible assets	7 years

- 3) By way of derogation from point 2) other depreciation durations may be set for the tangible and intangible assets achieved based on an incremental transmission system capacity project included in the investment plan for the development of the NTS for the following 10 years to reflect the substantiated decision of the TSO to efficiently recover the achieved investment amount in the facilities of the transmission system and of the economic benefits created, taking into account, but without limitation to:
- the duration of use of the facilities,
  - the estimated physical wear and tear,
  - the mode of operation of the objectives,
  - the estimated physical production, the production capacity and the operation regime of the correlative fixed assets that generated the need for incremental capacity,
  - the duration of commitments regarding the possibility of using these transmission system facilities.

**Additional rules on setting the regulated amount remained from the regulated asset base related to the gas transmission activity**

**Art. 1** – (1) The tangible/intangible assets used for carrying out several regulated, non-regulated activities or activities outside of the sector are included in the RAB by a regulated amount calculated depending on the allocation principles approved by the report on the accounting separation of the activities performed by the TSO, allocation which is modified only if the operator requests it and the amendment of the allocation principles is approved.

(2) They are not considered entries of tangible/intangible assets and they will not be taken into account when setting the amount of the RAB the tangible/intangible assets for which the company did not pay a financial equivalent the excess inventory, the tangible/intangible assets for which the company receives rents, the lands taken over by the concession contracts which are not subject to depreciation from an accounting point of view, the revaluations and any amount which upon the substantiation of the revenues was included in the category of operational costs but which was recorded in the accounting as tangible/intangible asset.

**Art. 2** – (1) The tangible/intangible assets are considered outputs upon their exit during the first period, the second period and throughout the third period irrespective of the moment they were entered into the RAB.

(2) The tangible/intangible assets subject to a selling operation, to decommissioning or transfer in the category of inventory objects are considered outputs of tangible/intangible assets related to the period.

(3) The remained regulated amount related to an output of tangible/intangible assets from a regulatory year is equal to the regulated entered amount of the asset, discounted by the cumulated inflation rate, including the one of the calculation year from which the discounted value of the depreciations related to each regulatory year was subtracted.

**Art. 3** – The annual regulated depreciation of the tangible/intangible assets used to carry out a regulatory/non-regulatory activity from the sector or outside of the sector and which during a regulatory year are taken over in the gas transmission activity by the procurement from an economic operator or by transfer from another activity carried out by the TSO is determined based on the regulated depreciation duration related to the group/subgroup to which they belong, decreased pro rata with the elapsed duration of use, expressed in whole years or fractions, as applicable, and the regulated amount entered into the RAB related to such assets will be the procurement amount, respectively the outstanding book value.

**Art. 4** – The tangible/intangible assets sold, decommissioned, inventory deficits transferred in the category of inventory objects or in other activities carried out by the license holder are considered outputs of tangible/intangible assets.

**Art. 5** – (1) If, within a regulatory period, some tangible/intangible assets are reclassified in other groups/sub-groups than the ones reported and taken into account upon the adjustment of the regulated revenues, such assets shall be taken into account upon the calculation of the RAB value first as an output from the group/subgroup in which they were initially reported, at the remaining regulated amount and then as a new entry in the reconsidered group/subgroup at the same remaining regulated amount. Any reconsideration of the group/subgroup or the classification of fixed assets shall be performed only with a justified reason and such tangible/intangible assets will be presented both in the regulated asset base and detailed in a distinct report from the one of the regulated asset base.

(2) In the situation provided for in para (1) as well as in the situation of the modification of regulated depreciation duration related to a tangible/intangible asset from a group/subgroup the remaining regulated amount is recovered as follows:

- a) in the event that the new depreciation period is longer than the original depreciation period, the remaining regulated amount is recovered over a period calculated as the difference between the new depreciation period and the depreciation period used;
- b) if the new depreciation period is less than or equal to the original depreciation period, the remaining regulated amount shall be recovered in the first year of setting the transmission tariffs.

**Art. 6** – If replacements of tangible/intangible assets are made that have not been fully depreciated according to the regulated periods established by the Methodology, they will be recorded as outputs from RAB at the remaining regulated amount, and the new

tangible/intangible assets will be recorded in RAB as entries, at the regulated value, in the appropriate group/subgroup.

### **Annex no. 3 to the methodology**

#### **Information published before the commencement of the regulatory period/year**

The TSO publishes on its webpage, at least 30 days before the date of commencement of the auction on long term capacity booking, set according to the provisions of art 11 para (4) of Regulation (EU) 2017/459, both in Romanian and English, the following information used for setting the regulated revenue, the adjusted regulated revenue and the regulated tariffs approved by ANRE for the gas transmission activity:

- (1) information on the parameters used within the methodology applied for the establishment of the regulated revenue, the adjusted regulated revenue and the regulated tariffs for the gas transmission activity which are connected to technical characteristics of the TS, as follows:
  - a) the technical capacity in each entry exit point and the related assumptions;
  - b) the contracted capacity estimated in each entry exit point and the related assumptions;
  - c) the gas flow direction and quantity per each entry exit point and the related assumptions as the supply and demand scenarios for the gas flow in the peak period;
  - d) the structural representation of the transmission network at an appropriate level of detail;
  - e) additional technical information related to the transmission network as the pipeline diameter and length and the power of the gas compressor stations.
- (2) Information on the regulated revenue and the adjusted regulated revenue:

- a) the regulated revenue and the adjusted regulated revenue approved according to this methodology;
  - b) information on the amendments, from one year to another, of the revenues provided for in point a);
  - c) the following parameters:
    - i. Types of assets included in the RAB and their aggregate value according to annex no 1 to the methodology;
    - ii. CAPEX, including: the regulated rate of return of the capital costs rata (RRR) and the methodology for its calculation, the methodologies for setting the initial value of the assets, the methodologies for the revaluation of the assets, explanations on the evolution of the asset value, depreciation periods and depreciation value according to Annex no 1 to the methodology;
    - iii. OPEX;
    - iv. CPD;
    - v. The simulation mechanisms and efficiency targets;
    - vi. Inflation indices.
- (3) The following indicators on the revenues provided for in para (2) point a):
- a) raportul între venitul generat de tarifele de transport de rezervare de capacitate și venitul generat de tarifele de transport volumetric;
  - b) the ratio between the revenue generated by the transmission tariffs for capacity booking in all the entry points and the revenue generated by the transmission tariffs for capacity booking in all the exit points;
  - c) the ratio between the revenue generated by the use of the network inside the system both in the entry and exit points and the revenue generated by the use of the network between transmission systems both in the entry and exit points.
- (4) The following information on the transmission tariffs accompanied by relevant information connected to their determination:
- a) capacity booking transmission tariffs;



- b) commodity transmission tariffs;
  - c) tariffs related to other services provided by the TSO besides the gas transmission tariff, as defined in art 3 point 15 of regulation (EU) 2017/460.
- (5) A simplified model to allow network users to estimate the possible evolution of the regulated revenue, the adjusted regulated revenue and the transmission tariffs, updated regularly, accompanied by the explanation of its usage.
- (6) The following explanations regarding:
- a) the difference in the level of the transmission tariffs for the same type of transmission service, applicable in the current regulatory year and in the regulatory year for which the information is published;
  - b) the estimated difference in the level of the transmission tariffs for the same type of transmission service, applicable in the regulatory year for which the information is published and every regulatory year from the regulatory period.