

ORDER no. 32 of 21 May 2014 (*updated*)

For the approval of Methodology for setting the regulated income, total income and regulated tariffs for the activity of transmission of natural gases

ISSUER: ROMANIAN ENERGY REGULATORY AUTHORITY

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*) Note CTCE:

The consolidated form of [ORDER no. 32/2014](#), published in Official Gazette no. 386 of 26 May 2014, on 21 November 2016 is made by inclusion of amendments and supplementations brought by [ORDER no. 69 of 22 July 2014](#); [ORDER no. 31 of 6 July 2016](#) .

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Whereas the provisions of [art. 5 para. \(1\) point b\) of Government Emergency Ordinance no. 33/2007](#) for organization and functioning of the National Energy Regulatory Authority, approved as amended and supplemented by [Law no. 160/2012](#),

By virtue of the provisions of art. 179 para. (4) and (5) of [Electricity and natural gases Law no. 123/2012](#), further amended and supplemented,

The President of the Romanian Energy Regulatory Authority issues this order.

ART. 1

We approve the Methodology for setting regulated income, total income and regulated tariffs for the activity of transmission of natural gases, set out in annex which is part of this order.

ART. 2

The annual growth rate of economic efficiency for the activity of transmission of natural gases is established at the value 3.5% for each year of the third regulatory period during the period July 2014 - September 2017.

ART. 3

At the coming into force of this order, we repeal the provisions regarding the transmission of natural gases of [Order of President of Romanian Energy Regulatory Authority no. 22/2012](#) for approval of Methodology for approval of prices and setting regulated tariffs in the sector of natural gases, published in Official Gazette of Romania, Part I, no. 379 of 6 June 2012, further amended.

ART. 4

The Romanian Energy Regulatory Authority and the holders of licence for operation of transmission system will fulfil the provisions of this order.

ART. 5

This order is published in Official Gazette of Romania Part I and comes into force since 26 May 2014.

President of Romanian Energy Regulatory Authority
Niculae Havrileț

Bucharest, 21 May 2014.

No. 32.

ANNEX

METHODOLOGY

For setting the regulated income, the total income and regulated tariffs for the activity of transmission of natural gases

CHAPTER I

General principles

ART. 1

(1) This methodology regulates the method of substantiation and setting of regulated income, total income and regulated tariffs for the activity of transmission of natural gases by a transmission system of natural gases on the territory of Romania.

(2) The connection of third parties to the transmission system and related activities of operation of transport system, carried out according to the specific regulations elaborated by the National Energy Regulatory Authority, hereinafter referred to as ANRE, or other competent institutions and other activities provided by the licence holder do not make the object of this methodology.

ART. 2

(1) The regulated tariffs, hereinafter referred to as transmission tariffs represent the counter value of transmission services of natural gases provided for the reservation of transmission capacity on entry/exit points and for the use of the transmission system for a quantity of natural gases with an energetic content equivalent to 1MWh, natural gases in standard conditions of pressure, temperature and quality of natural gases set out in the legal regulations in force.

(2) The transmission tariffs are set differently for each holder of the operation licence of transmission system, hereinafter referred to as licence holder and for each transmission system operated by the licence holder, depending on the technical characteristics and the operating regime of each transmission system.

(3) In the setting of transmission tariffs, any cost/income associated to the transmission of natural gases is taken into account only once.

(4) The transmission tariffs do not include the counter value of execution works of installations for connection to the transmission system which were not included in the investments and development plan of transmission system of the licence holder, approved by ANRE, according to the regulations in force. The incomes earned by the licence holder from the connection tariffs to the transmission system and related costs are not the object of this methodology. In this case, we will take into account exclusively the costs with the operation of connection installations, costs which are recognized and permitted to the licence holder in total income for the transmission of natural gases.

(5) The transmission tariffs include the costs generated by the activities and operations carried out by the transporter for assurance of physical balance of the transmission system, but do not include the costs of natural gases purchased for elimination of imbalances from transmission system.

(6) The transmission tariffs do not include costs generated by the non-observance of contractual conditions by the licence holder.

(7) The transmission tariffs do not include VAT.

ART. 3

The activities and operations made by the licence holder for or in connection with the transmission services mentioned in art. 2 para. (1) are:

a) exploitation of transmission capacities - refers to the operations and activities carried out by the licence holder for and/or in connection with the operation and maintenance of the transmission system and for assurance of its functioning in safe and efficient conditions, including the replacing of pipelines and installations and related equipment;

b) development of transmission capacities - refers to the operations and activities carried out by the licence holder for and/or in connection with the increase of transmission capacity, either by increasing the transmission capacity on the pipelines or by extension of transmission pipelines network;

c) use of transmission system - refers to the assembly of activities and operations carried out by the licence holder for or in connection with:

(i) collection of natural gases from the production perimeters, from the GNL terminals and from the installations for production of biogas or other gases which fulfil the quality conditions to be delivered/transported in/by the transmission system of natural gases, from the interconnection with other transmission systems of natural gases and from the underground storage deposits of natural gases;

Pt. (i) of letter c) of art. 3 was amended by point 1 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

(ii) transmission of natural gases through the transmission system between the delimitation points of the transmission system;

(iii) delivery of natural gases in delivery points;

(iv) measurement of quantities of natural gases in delimitation points;

(v) reading of meters/equipment and/or measurement systems;

(vi) checking the observance of minimum quality conditions of natural gases collected/delivered according to the legal regulations in force;

d) activities and operations carried out by the licence holder for or in connection with the commercial relations regarding the conclusion and carrying out of contracts for provision of transmission services of natural gases.

ART. 4

The regulatory period represents the interval of time when ANRE establishes the regulated income and the total income which a licence holder is entitled to earn for the transmission activity of natural gases at the level of covering the costs permitted for each year of regulatory period.

ART. 5

(1) The regulatory period has 5 years.

(2) The third regulatory period started on 1 July 2012 and by exception from para. (1), it will end on 30 September 2017, and the third year of the third regulatory period starts on 1 July 2014 and ends on 30 September 2015.

(3) Since the fourth year of the third regulatory period the start date of the year from the periods is 1 October.

(4) For the licensed economic operators after the coming into force of this methodology, the regulatory period will end with the end of regulatory period of the other licence holders.

(5) In view of setting the total income and regulated income, and the transmission tariffs for the first year of regulatory period, the economic operators mentioned in paragraph (4) will transmit the documentation with the submission of documents necessary for the operation licence of transmission system.

CHAPTER II

Total income and regulated income

SECTION 1

Total income

ART. 6

(1) For each year of regulatory period we determine the total income which represents the income recognized and permitted by ANRE to a licence holder for covering the costs recognized for carrying out the activity of transmission of natural gases in one year of regulatory period.

(2) The total income is established for each transmission system operated by the licence holder, depending on the technical characteristics and the operating regime of each transmission system.

(3) The total income includes the regulated income and the directly incurred costs and has the following general formula:

$$VT=VR+CPD,$$

where:

VR - regulated income recognized and permitted by ANRE in one year of regulatory period;

CPD - directly incurred costs recognized by ANRE for one year of regulatory period.

SECTION 2
Regulated income

ART. 7

(1) The regulated income represents the income recognized and permitted by ANRE to a licence holder for covering the costs under the control of management of licence holder, necessary for the carrying out of transmission activity of natural gases and recognized in one year of regulatory period.

(2) The general formula for the calculation of regulated income mentioned in paragraph (1) is:

$$VR=OPEX+CAPEX,$$

where:

OPEX - operating costs of the licence holder recognized by ANRE for one year of regulatory period;

CAPEX - capital costs and rate of return which is recovered by the regulated income permitted in one year of regulatory period and are determined by the following formula:

$$CAPEX=ROR*RAB+AR+ROR*CLP,$$

where:

ROR - regulated rate of return of capital costs, established by ANRE for the activity of transmission of natural gases;

RAB - base of regulated assets, representing the regulated value of tangible and intangible assets, recognized by ANRE for the activity of transmission of natural gases;

AR - regulated amortisation for tangible and intangible assets recognized by ANRE in the base of regulated assets for the activity of transmission of natural gases;

CLP - work capital established for each year of regulatory period, determined as the 12th part of the value of total income which does not include the value ROR*CLP.

SECTION 3

Allocation of costs in operating costs (OPEX), capital costs (CAPEX) and directly incurred costs (CPD)

3.1. Operating costs

ART. 8

(1) The operating costs (OPEX) represent operating expenses (defined according to the accounting regulations in force), recognized by ANRE for one year of regulatory period taking into account the fiscal deduction limits established by the normative acts in force, expenses generated by the carrying out of transmission of natural gases and under the control of licence holder as follows:

- a) expenses with raw materials, materials, including those of the nature of inventory items, packaging;
- b) expenses of energy and water;
- c) expenses with technological consumption determined according to the legal provisions in force;
- d) expenses with maintenance and repairs according to the legal provisions in force;
- e) expenses with leasing and rents, other than costs with public institutions of central or local state administration;
- f) expenses with the compulsory insurance premiums according to the legal provisions in force;
- g) expenses with studies and compulsory research according to the legal provisions in force and those for which the technical feasibility and commercial viability are demonstrated for carrying out the activity of transmission of natural gases;
- h) expenses with commissions, fees and collaborators;
- i) expenses with donations, protocol, advertising and publicity;
- j) expenses with transport of goods and staff, travels, secondments and transfers;
- k) postal expenses and telecommunication taxes, banking services and similar services;
- l) other expenses with the services executed by third parties;
- m) expenses with staff - salaries, bonuses and other rights awarded according to the legal provisions in force;
- n) expenses with insurances, social protection and other social actions under the control of licence holder;
- o) other operating costs with indemnification according to the legal provisions in force, in relation to the exercise of rights of use and easement over the private properties affected by the objective/transmission system, and in connection with the damages caused to the owners from the vicinity of objectives/systems in the field of natural gases as a result of interventions made on them for development, modernization, repairs, revisions and damages;
- p) commercial discounts received after invoicing, related to operating costs;
- q) expenses for exploitation of transmission pipelines which are the property of third parties, set out by points a)-p).

(2) For operating costs which are incurred in a regular interval higher than one year of regulatory period, the licence holder will determine the value equivalent to one year of regulatory period which will be recovered by the total annual income permitted for the activity of transmission of natural gases.

ART. 9

According to the object of this methodology, the following are not recognized as operating costs (OPEX) for the activity of transmission of natural gases:

- a) operating costs for reconnection and disconnection of customers and costs with execution works of installations for connection to transmission system;
- b) costs with amortisation of fixed assets, provisions and adjustments for depreciation;
- c) operating costs related to materials, inventory items and tangible and intangible assets made in own management or in progress of execution;
- d) fines, penalties and delay penalties for the non-payment in deadline of obligations to the state budget, social insurances budget, special funds, local budgets and other similar expenses;
- e) penalties, increases and/or delay damages for the non-repayment on time of loans and other similar expenses;

f) expenses with indemnification, penalties or other similar expenses resulting from the performance standard and other related expenses;

g) Penalties, delay penalties and/or damages for failure to observe the contractual clauses to suppliers and other similar expenses;

h) Provisions of any nature;

i) expenses with compensatory payments made to employees on the occasion of termination of employment contract or the work relation without being based on a restructuring and reorganization programme of the company approved by the management of licence holder, except for the case when employees retire;

j) expenses representing salaries/indemnities/compensatory amounts granted in the conditions of the law on the occasion of termination of employment contract, work relation or mandate, to the employees with management positions and to persons who are appointed as member in boards of directors and management boards, except for salaries/compensatory amounts granted to employees in management positions on the occasion of retirement according to the provisions of collective employment contract and when there is a restructuring programme approved;

k) Expenses with materials recovered and reusable for the activity of transmission of natural gases;

l) Operating expenses from non-refundable funds and loans, from state aids or aids from another entity, from inventory pluses and other similar expenses from other non-refundable sources;

m) Operating expenses incurred from the amounts owed to the Romanian state to the natural and/or legal persons under the form of dividends to which they renounced;

n) Any value which at substantiation/adjustment of total income was included in CAPEX, but in the financial accounting system of the licence holder it was recorded as operating expense;

o) Any court costs and other similar expenses;

p) Expenses with the discarded/assigned assets and other capital operations;

q) Amounts not received by the licence holder for the activity of transmission of natural gases, recorded as operating expenses, which represent losses from receivables and sundry debtors written off the patrimonial records.

3.2. Capital costs

ART. 10

(1) Capital costs (CAPEX) for the transmission of natural gases include the costs with the capital invested in tangible and intangible assets commissioned or received/given in use, according to the legal provisions in force.

(2) Capital costs are also considered the following:

a) interests, bank charges and exchange rate differences for loans for financing of tangible and intangible assets commissioned or received/given in use, if they were not included in their initial value;

b) Concessions received which are reflected as tangible/intangible assets when the concession contract establishes a duration and value determined for concession; amortization of concession will be recorded for the duration of use, established according to the provisions of concession contract;

c) Working capital established for each year of regulatory period.

(3) ANRE can take into account, in the setting of total regulated income, respectively total income, the investments estimated to be made every year of regulatory period, based on the plan of investments and development of transmission system, approved by ANRE.

(4) The licence holder has to prove that the investments mentioned in paragraph (3) are strategic and will substantially contribute to the increase in safety of transmission system of natural gases or to the development of domestic market or unique European market of natural gases.

ART. 11

According to the object of this methodology, the following are not recognized as capital costs (CAPEX) for the activity of transmission of natural gases:

a) Capital expenditure with tangible/intangible assets from non-refundable funds and loans, from aids received from the state or from other entity, from inventory pluses and other similar capital expenditure from other non-refundable sources;

b) the value or a part of it related to tangible/intangible assets for which the company receives rent, the lands taken over by concession contracts which provide the payment of a royalty/rent and not an amortizable value and any value which in substantiation/adjustment of total income was included in OPEX, but in accounting system it was recorded as tangible/intangible asset;

c) advances, tangible and intangible assets under execution;

d) financial assets;

e) non-depreciated regulated value of tangible and intangible assets, discarded or assigned to third parties or to the non-regulated activities of the licence holder, calculated according to the rules of ANRE;

f) provisions of any nature;

g) expenses of the nature of capital costs (CAPEX) incurred for the goods which belong to the public/private domain of the state or local authorities, third parties natural and/or legal persons, if for these expenses there are no legal virtues, agreements and/or contracts for concession, rental or taking in exploitation of capacities;

h) expenses with tangible and intangible assets incurred from the amounts owed to the Romanian state, to the natural and/or legal persons under the form of dividends to which they renounce;

i) expenses with tangible and intangible assets incurred for the activity of transmission of natural gases as a result of damages caused by employees or third parties and which are recovered from them.

3.3. Directly incurred costs

ART. 12

(1) Directly incurred costs represent operating expenses fiscally deductible in the limit of the legal provisions in force, which cannot be controlled by the management of the licence holder and on which the management of the licence holder cannot act directly for increasing the efficiency of transmission of natural gases, recognized by ANRE in one year of regulatory period as follows:

a) expenses with royalties, leasing and rents for the commercial agreements signed with the public institutions of the central or local state administration;

b) expenses with taxes, duties, contributions to special funds, other similar expenses established according to the legal regulations in force;

c) expenses with other taxes established by the public institutions of the local state administration;

d) expenses with contributions to the health fund, to special funds, other similar expenses for the salaries fund, according to the legal regulations in force.

(2) There are also considered directly incurred costs the amounts not received by the licence holder for the activity of transmission of natural gases, representing commercial receivables which could not be recovered because of bankruptcy of customer, based on a final court decision, receivables which come from the obligation of the licence holder not to interrupt the provision of service to a customer under insolvency proceedings or a customer in observation period and reorganization period, according to the legal provisions in force.

ART. 13

According to the object of this methodology, the following costs are not recognized as directly incurred costs (CPD) for the activity of transmission of natural gases:

a) expenses with materials, inventory items and tangible and intangible assets made in own management or under execution;

b) any expenses of the nature of directly incurred costs generated by other activities, including related activities;

c) any court costs and other similar expenses;

d) any expenses of the nature of directly incurred costs incurred for the activity of transmission of natural gases as a result of damages caused by third parties and which are recovered from them.

SECTION 4

Determination of the total income and regulated income for each year of regulatory period

4.1. Determination of total income

ART. 14

(1) For the first year of regulatory period, the total income is established based on the regulated income and directly incurred costs, substantiated by each licence holder according to the provisions of this methodology and based on the adjustment elements corresponding to the total incomes from the previous years, as applicable.

(2) For the newly licensed economic operators, the total income for the first year of carrying out the activity of transmission of natural gases does not include adjustment elements.

(3) For the following years of regulatory period, the total income is determined based on the regulated income established in the previous year, directly incurred costs considered incurred in the previous year, and based on the adjustment elements of the total income.

(4) The formula for determination of total income for each year of regulatory period is:

$$VT(i) = VR(i) + CPD(i) + (\Delta)CPD(i) * (1 + ROR) + (\Delta)VT(i) * (1 + RI(i)) + (\Delta)VA(i) * (1 + RI(i)) - DV(i) + (\Delta)CT(i) * (1 + RI(i)),$$

where:

VT(i) - total income established in year (i) of regulatory period;

VR(i) - regulated income adjusted in year (i) of regulatory period, except for the first year when it is established based on the substantiated and recognized costs under the control of the management of licence holder;

CPD(i) - directly incurred costs in year (i), established at the level of those considered incurred in the previous year (i-1), except for the first year when they are established based on the costs substantiated by the licence holder and recognized by ANRE;

DV(i) - redistribution component of economic efficiency increment in year (i) of regulatory period from the licence holder to customers, established according to the provisions of this methodology;

(Delta)VT(i) - correction component of total income for the previous years;

RI(i) - inflation rate for the year (i) of regulatory period;

ROR - regulated rate of return of capital costs, established by ANRE for the activity of transmission of natural gases;

(Delta)CPD(i) - correction component of directly incurred costs for the previous years;

(Delta)VA(i) - value permitted to be recovered in the year (i) from the value approved by the Regulatory Committee of ANRE, determined according to the legal provisions in force by setting off the unearned incomes recognized by ANRE for the second regulatory period with the cumulated value of efficiency increments obtained from carrying out the activity of transmission of natural gases determined for each year of the second regulatory period;

(Delta)CT(i) - correction component of technological consumption for the previous years.

4.2. Determination of regulated income

ART. 15

(1) The regulated income is substantiated in the first year, is adjusted in the following years of regulatory period and has the following formula of determination:

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

where:

VR(i) - regulated income for the year (i) for the activity of transmission of natural gases;

OPEX(i) - operating costs in the year (i);

CAPEX(i) - capital costs and rate of return which is recovered by the regulated income permitted in one year of regulatory period.

(2) Operating costs (OPEX) are determined as follows:

a) for the first year of regulatory period, the operating costs are substantiated by the licence holder and recognized by ANRE, to which we add the unforeseen costs from the previous years and whose recovery was established to be made in one year or more years;

b) for the following years of regulatory period, the operating costs are adjusted by the following general formula:

$$OPEX(i) = [OPEX(i-1) - CT(i-1)] * [1 + RI(i) - X(i)] + CT(i) + CN(i) * (1 + ROR),$$

where:

OPEX(i-1) - operating costs for the year (i-1) to which are added the unforeseen costs with permanent nature required and recognized in the year (i-1), but which do not include the value of ROR by which they were adjusted in the year (i-1). These costs do not include the unforeseen costs which do not have a permanent nature, permitted in the year (i-1);

RI(i) - inflation rate for the year (i) of regulatory period;

ROR - regulated rate of return of capital costs established by ANRE for the activity of transmission of natural gases;

X(i) - annual growth rate of economic efficiency related to OPEX, established for the licence holder for carrying out the activity of transmission of natural gases in the year (i) of regulatory period;

CN(i) - unforeseen costs permitted to be recovered in the year (i);

CT(i-1) - represents the technological consumption permitted in the year (i-1);

CT(i) - represents the value of technological consumption related to the year (i) determined as product between the quantity of natural gases related to the technological consumption established according to the legal provisions in force for the year (i-1) and procurement costs for the year (i).

(3) Capital costs (CAPEX) and return on capital are recovered by the regulated income permitted in one year of regulatory period and are determined as follows:

$$\text{CAPEX}(i) = [\text{CAPEX}(i-1) - \text{ROR} \cdot \text{CLP}(i-1)] \cdot [1 + \text{RI}(i)] + \text{ROR} \cdot \text{CLP}(i) + (\text{Delta}) \text{INV}(i),$$

where:

CAPEX(i-1) - capital costs and return on capital permitted to be recovered in the year(i-1);

ROR - regulated rate of return of capital costs, established by ANRE for the activity of transmission of natural gases;

RI(i) - inflation rate for the year (i) of regulatory period;

CLP(i-1) - working capital determined for the year (i-1);

CLP(i) - working capital determined for the year (i);

(Delta) INV(i) - correction component for the capital invested in the previous years.

4.3. Adjustment elements of regulated income and total income

4.3.1. Inflation rate (RI)

ART. 16

The inflation rate for one year of regulatory period is determined based on the consumer price indices estimated by the National Forecast Commission.

4.3.2. Annual growth rate of efficiency of transmission of natural gases (X)

ART. 17

(1) The annual growth rate of efficiency of transmission of natural gases reflects the estimates of ANRE for potential savings of operating costs (OPEX), exclusively the costs related to technological consumption which can be incurred in one year of regulatory period for the improvement of economic performances of licence holder and is determined depending on the efficiency target established for a regulatory period.

(2) The annual growth rate of efficiency of the transmission activity of natural gases assures an assignment of economic efficiency in favour of consumers.

(3) The annual growth rate of efficiency of transmission activity of natural gases is determined for each year of regulatory period and for each licence holder.

(4) For determining the growth rate of economic efficiency we have in view:

a) extrapolation of growth rate of economic efficiency obtained in the account of productivity earned on long term in economy;

b) benchmarking analysis for other companies which carry out the activity of transmission of natural gases in similar conditions;

c) justified proposal of licence holder.

(5) In particular situations which intervene in the carrying out/development of transmission activity of natural gases, at the annual adjustment of incomes from the activity of transmission of natural gases, ANRE can change the annual growth rate of efficiency of natural gases transmission, at the motivated request of the licence holder.

4.3.3. Unforeseen costs (CN)

ART. 18

(1) Unforeseen costs are the operating costs which were not estimated in the substantiation of regulated incomes for the first year of regulatory period and are determined by unpredictable factors such as force majeure, fortuitous case or issue of normative acts.

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

a) documents issued by the competent authorities according to the legal provisions in force by which the force majeure event is attested;

b) the reports of acknowledgement of damages recorded in the objective, issued by the local authorities in the radius of which the force majeure events were recorded;

c) legal documents which show the value of repair work effectively made.

(3) unforeseen costs are not considered:

a) the investment works made after unpredictable events, which will be reported distinctly in the annex regarding the base of regulated assets and the related amortisation, with observance of regulations in force;

b) taxes, duties and other similar costs of the nature of those taken directly resulted from unpredictable events ; they will be reported in the annual statement of directly incurred costs for the adjustment of total income.

(4) If the unforeseen costs induce significant increases in the level of total incomes, ANRE can decide to schedule their recovery for more than one year, and the scheduled values are discounted by inflation rate corresponding to the period when the recovery is made.

4.3.4. Regulated rate of return on capital a (ROR)

ART. 19

The regulated rate of return on capital (ROR) is determined for a regulatory period and reflects the estimation of ANRE regarding the profit which will be generated by the capital costs incurred by the

licence holder for carrying out the activity of natural gases transmission, having in view the current conditions of the capital market.

ART. 20

(1) The regulated rate of return on capital (ROR) is established in real terms before the profit tax. Its calculation starts from the weighted average capital cost (WACC), determined in nominal terms after the profit tax.

(2) The formula used by ANRE by which WACC, calculated in nominal terms after the profit tax is turned into ROR, established in real terms before taxation assures the full recovery of invested capital.

(3) The transformation of nominal WACC after taxation into real ROR before taxation is made by the following formula:

T

$$ROR = \frac{\frac{1+WACC}{1+pi} - 1}{(1-T)},$$

ST

where,

ROR - represents the regulated rate of return on capital;

WACC - represents the weighted average capital cost, determined in nominal terms after taxation, calculated based on the formula set out by art. 21;

pi - represents the average inflation rate in regulatory period;

T - represents the profit tax rate in regulatory period.

ART. 21

The Formula for calculation of weighted average capital cost (WACC) is the following:

T

$$WACC = \frac{D}{CP+D} * C(d) * (1-TP) + (1 - \frac{D}{CP+D}) * C(cp),$$

ST

where:

D/(CP+D) - represents the estimated weight of debts in financial structure;

D - represents the debts which bear interests, delay penalties, penalties or similar debts at the market value;

CP - represents the equity estimated at market value;

C(d) - represents the debt cost estimated in nominal terms before taxation;

C(cp) - represents the equity cost estimated in nominal terms after taxation;

TP - represents the estimated profit tax rate for the activity of natural gases transmission.

ART. 22

WACC reflects the capital cost for a reference operator who carries out exclusively the activity of transmission of natural gases in market conditions and regulatory conditions in Romania.

ART. 23

(1) The estimation of financial structure of reference operator has in view the financial structure of companies that exist on natural gases market, which carry out similar activities and optimization of this structure in order to reduce the capital costs.

(2) In the estimation of financial structure of the reference operator financial structures of foreign companies are analysed, used as comparators, which fulfil the following conditions:

a) they are publicly listed;

b) have the activity of transmission of natural gases as main activity;

c) function in a regulatory system similar to the Romanian system.

ART. 24

(1) The debt cost for regulatory period, estimated in nominal terms, before taxation, reflects the earnings generated by investments in assets without risk and risk premiums specific to the activity of transmission of natural gases, noticed in comparators. For the calculation of debt cost the assets without risk are considered the debentures issued by the Romanian state on the capital markets.

(2) The equity cost for regulatory period, estimated in nominal terms, after taxation, is determined by using the model of calculation of profitability of an asset on the capital market (CAPM). The equity cost reflects the earnings generated by the investments in assets without risk traded on the capital markets and the risk premiums specific to Romanian market.

ART. 25

The formulas for calculation and equivalence and the assets without risk considered in determination of WACC are made public by ANRE at least 3 months before each regulatory period.

4.3.5. Correction components for CAPEX ((Delta)INV)

ART. 26

The correction component for capital costs is determined as follows:

$$(\text{Delta})\text{INV}(i) = \text{INVI}(i-1) * \text{RI}(i) + \text{INV}(i-1) * \text{ROR} + [\text{INVI}(S)](i-1) * S(\text{INV}) + \text{AR}(i-1) - \text{INVE}(i-1),$$

where:

INVI(i-1) - regulated value recognized by ANRE for the year (i-1) of tangible and intangible assets commissioned or received/given in use, as applicable, including those estimated to be commissioned or received/given in use by the end of the year (i-1), and the difference between the value effectively made and recognized for the previous years and the value considered made and recognized in the previous years;

[INVI(S)](i-1) - regulated value recognized by ANRE for the year (i-1) of tangible and intangible assets for which the incentive is given according to the legal provisions in force;

S(INV) - represents the value of incentive given to tangible and intangible assets according to the legal provisions in force;

INVE(i-1) - represents:

a) for the regulated assets which exist in RAB at the beginning of regulatory period and decommissioned during the period, value of ROR * RAB and if applicable, the value resulted by application of incentive (S(INV)) to tangible and intangible assets according to the legal provisions in force, which exist in RAB at the beginning of regulatory period and the value of amortization for the first year of regulatory period, discounted by the same elements by which they were adjusted until the year (i);

b) for regulated assets exited from those entered during the current regulatory period, the value resulted by application of ROR to the regulated assets decommissioned during the period and if applicable, the value resulted by application of incentive (S(INV)) to tangible and intangible assets according to the legal provisions in force and the value of amortization discounted by the same elements by which they were adjusted until the year (i);

ROR - regulated rate of return on capital costs, established by ANRE for the activity of transmission of natural gases;

AR(i-1) - regulated amortization for tangible and intangible assets recognized by ANRE for the year (i-1) for the activity of transmission of natural gases, determined as follows:

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$$AR(i-1) = \frac{INVI(i-1)}{n} + (\Delta)AR(i)$$

ST

where:

n - regulated duration of amortization of tangible and intangible assets commissioned or received/given in use, as applicable, expressed in years;

(Delta)AR(i) - difference of regulated amortization between the value effectively made and recognized for the previous years and the value considered made and recognized in the previous years.

4.3.6. Correction component for CPD ((Delta)CPD)

ART. 27

The correction component for CPD represents the difference between the directly incurred costs considered incurred in the year "i-1" and the costs included in the total permitted income in the year "i-1", including the differences resulted from the closure of previous years.

4.3.7. Correction component of total income ((Delta)VT)

ART. 28

(1) The correct component of total income represents: the difference between the total income earned for the year "i-1" and the income considered permitted in the year "i-1", including the differences resulted from the closure of previous years and the income differences recognized, but not included in the total incomes permitted in the previous years, as applicable.

(2) If the correction component induces a significant change in the level of total incomes, ANRE can decide the scheduling of recovery/assignment of difference for more than one year and the discounting will be made by inflation rate corresponding to the period when the recovery/assignment is made.

4.3.8. Redistribution component of efficiency increment (DV)

ART. 29

(1) The economic efficiency increment of the transmission activity of natural gases reflects the growth of economic efficiency above the annual growth rate of economic efficiency established by ANRE.

(2) In the regulatory period, the economic efficiency increment is determined every year by each licence holder.

(3) The economic efficiency increment of activity of natural gases transmission represents the positive difference between the level of operating costs under the control of licence holder, permitted by ANRE in that year of regulatory period and the level of operating costs effectively incurred by the licence holder in the same year.

(4) In the determination of efficiency increment the costs of technological consumption are not taken into account.

(5) In the determination of efficiency increment, regarding the unforeseen costs incurred by the licence holder only those with permanent nature will be taken into account in the year in which they are included in permitted OPEX, respectively in the total income permitted by ANRE.

(6) The licence holder is obliged to present ANRE every year with the statement of calculation of efficiency increment with the statements required by art. 59 para. (1).

ART. 30

(1) The annual economic efficiency increment will be kept by the licence holder for a period of 5 years since the year when it was obtained. After this period the increment will be assigned to customers.

(2) If the assignment of efficiency increment to customers disturbs the carrying out and/or economic development of the transmission activity of natural gases, the licence holder can request its gradual assignment for a period agreed upon with ANRE.

(3) The economic efficiency increment gradually assigned according to paragraph (2) will be discounted by inflation rate corresponding to the period when the assignment is made.

(4) The provisions of paragraph (1) do not apply to efficiency increments obtained from carrying out the transmission activity of natural gases determined for each year of the second regulatory period.

4.3.9. Correction component of technological consumption ((Delta)CT)

ART. 31

The correct component of technological consumption is determined by the following formula:

$$(\Delta)CT(i) = CT(i-1, made) - CT(i-1),$$

where:

CT(i-1, made) - represents the value of technological consumption considered made in the year (i-1), determined as product between the quantity of natural gases for the technological consumption established according to the legal provisions in force and the procurement cost incurred by the licence holder;
CT(i-1) - represents the value of technological consumption permitted in the year (i-1).

SECTION 5

Allocation of total income in fixed component and volumetric component

ART. 32

(1) For determination of transmission tariffs, respectively capacity booking tariffs and volumetric tariff, the total income is allocated in fixed component and volumetric component.

(2) The fixed component includes fixed costs and the following elements of adjustment of total income:

- a) the redistribution component of economic efficiency increment - DV;
- b) correction component of total income - (Delta)VT;
- c) correction component for directly incurred costs - (Delta)CPD;
- d) the value permitted to be recovered from the value determined by setting off the incomes unearned recognized by ANRE for the second regulatory period with the cumulated value of efficiency increments obtained from the carrying out of transmission activity of natural gases determined for each year of the second regulatory period - (Delta)VA;
- e) correction component of technological consumption - (Delta)CT.

(3) The volumetric component includes variable costs.

(4) Having in view the impact generated by the application of this methodology on the end customers, in the setting of capacity booking tariff and volumetric tariff, ANRE can reconsider the proposal of licence holder for allocation of total income in fixed component and volumetric component.

SECTION 6

Allocation of costs in fixed and variable costs

ART. 33

The total costs taken into account in the determination of total income for the activity of natural gases transmission are allotted in fixed costs and variable costs.

ART. 34

(1) The fixed costs reflect expenses with the transmission capacity, which do not depend on the transported quantities and cover the amortization of tangible and intangible assets of transmission system, expenses directly related to the exploitation, continuity in functioning and maintenance of security and efficiency in operation of transmission system and general expenses with its administration.

(2) The fixed costs are allotted equally by entry points group and exit points group.

Paragraph (2) of art. 34 was amended by point 2 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 35

(1) The variable costs reflect expenses with the use and exploitation of transmission system which depend on the effectively transported quantities.

(2) The variable costs are allocated to the whole quantities of transported natural gases, regardless of the entry point and exit point of transmission system.

ART. 36

The method of allocation in fixed and variable costs is made and justified by the licence holder.

Art. 36 was amended by point 3 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

CHAPTER III

Transmission tariffs system

SECTION 1

General principles

ART. 37

The transmission tariffs system for the activity of transmission of natural gases comprises a set of tariffs such as "entry/exit" established for the group of delimitation points at entry in the transmission system in which the capacity is booked, hereinafter referred to as the entry points group, for the group of delimitation points at the exit from the transmission system in which capacity is booked, hereinafter referred to as exit points group and a volumetric tariff for use of system determined as a stamp duty tariff.

Art. 37 was amended by point 4 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 38

The tariff system for the transmission pipelines of natural gases Isaccea - Negru Vodă is established based on the methodology elaborated by the licensed operator and approved by ANRE.

Art. 38 was amended by point 5 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 39

An entry/exit area gives the network user the opportunity to deliver natural gases by any entry point in the transmission system and to collect natural gases by any exit point of the transmission system.

ART. 40

The entry points, respectively the exit points in/from the transmission system of natural gases are grouped as follows:

a) The group of entry points in the transmission system of natural gases from the production perimeters, from the GNL terminals and from the installations for production of biogas or other gases which fulfil the quality conditions to be delivered/transported in/through the transmission system of natural gases, from the interconnection with other transmission systems of natural gases and from the underground storage deposits of natural gases;

b) the group of exit points from the transmission system of natural gases to direct consumers, distribution systems, underground storage deposits, supply pipelines from upstream and other interconnected transmission systems.

Art. 40 was amended by point 6 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 41

(1) The capacity booking transmission tariff hereinafter referred to as capacity booking tariff is established separately for each group and represents the capacity booking tariff applicable for each point of the group.

(2) Repealed.

Paragraph (2) of art. 41 was repealed by point 7 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 42

The capacity booking tariff is established per MWh/h and quantifies the fixed costs with the exploitation, use and development of capacity in entry/exit points.

ART. 43

The volumetric tariff represents the tariff for use of transmission system, is established per MWh transported by the transmission system and quantifies the variable costs generated by the use of system, having in view the physical flows of natural gases from the transmission system, including those regarding the gas exchanges and transmission in counterdirection of natural gases.

ART. 44

(1) The types of services for the transmission of natural gases, for which transmission tariffs are established, are provided in the Network Code for the national transmission system of natural gases are:

a) Long-term transmission services of natural gases:

(i) Firm transmission services contracted for one gas year or multiple of gas years;

(ii) Interruptible services of transmission contracted for one gas year;

b) Short-term transmission services of natural gases:

(i) firm/interruptible transmission services contracted for one quarter or multiple of quarters, with integration in gas year;

(ii) firm/interruptible transmission services contracted for one month or multiple of months, with integration in quarter;

(iii) firm/interruptible transmission services contracted for one gas day or multiple of gas days, with integration in month.

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

SECTION 2

Setting transmission tariffs

2.1. Data necessary in the calculation process of entry/exit tariffs

ART. 45

(1) The data necessary in the calculation process of entry/exit tariffs is:

a) Allocation of total costs which underlay the determination of total income proposed by the licence holder in fixed and variable costs;

b) allocation of total income proposed by the licence holder and its structure elements, respectively OPEX, CAPEX and CPD, in fixed component and in volumetric component, and the fixed component broken down by each group of entry/exit points according to art. 34 paragraph (2);

Point b) of paragraph (1) of art. 45 was amended by point 8 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

c) capacities booked for the previous gas year to the year for which transmission tariffs are established, separately by each group of entry/exit points;

d) capacity estimated to be booked in the gas year for which transmission tariffs are established by each group and entry/exit point;

e) quantity of natural gases transported every month by the transmission system and estimates for the months which were not closed for the previous year to the year for which transmission tariffs are set;

f) quantity estimated to be transported every month by the transmission system in the year for which transmission tariffs are set;

g) the daily maximum flow of each entry/exit points group for the last 3 years.

h) long-term and short-term booked capacity, after the approval of capacity booking before the start of the gas year for the situation set out by art. 47 para. (2).

Point h) of paragraph (1) of art. 45 was introduced by point 9 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

(2) For the primary data estimated justifications will be presented regarding the premises considered and the methods used in their determination.

2.2. Repealed

Subsection 2.2 of section 2 was repealed by point 10 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 46
Repealed

Art. 46 was repealed by point 10 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

2.3. Setting capacity booking tariffs for long-term firm services

ART. 47

(1) We determine the capacity booking tariff for the long-term firm transmission services for the group of entry/exit points (gr), expressed in lei/MWh/hour, by the following formula:

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$$TC(gr)_{tl} = \frac{CF(gr)}{CRe(gr)_{tl} \times N(tl) + \sum_{ts} = 1 [CRe(gr)_{ts} \times N(ts) \times K(ts)]} \text{ [lei/MWh/hour],}$$

where:

$TC(gr)_{tl}$ - represents the firm long-term capacity booking tariff for the group of entry/exit points (gr);

$CF(gr)$ - represents the value corresponding to fixed component of total income, allocated to the group of entry/exit points (gr);

$CRe(gr)_{tl}$ - represents the capacity estimated to be booked for long term in the period for which transmission tariffs are established, by group of entry/exit points (gr);

$CRe(gr)_{ts}$ - represents the capacity estimated to be booked for short term in the period for which transmission tariffs are established, by group of entry/exit points (gr);

$N(tl), (ts)$ - represents the number of hours for each type of service ;

$K(ts)$ - represents the multiplication coefficient of capacity booking tariff for the type of short-term firm service.

ST

(2) In the period between the finalization of approval process of transmission capacity booking and the start date of regulatory year, if we can note a recovery/non-recovery of fixed component from the total income of regulatory year for which transmission tariffs are set by more than 5%, the licence holder requests the approval of new capacity booking tariffs for long-term firm transmission services.

(3) The determination of recovered/unrecovered value of the fixed component of the total income of the gas year for which transmission tariffs are set is made based on the booking capacity approved/estimated as applicable, for firm long-term and short-term transmission services.

(4) Determination of transmission tariffs set out by para. (2) is made as follows:

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$$TC (gr)_{tl} = \frac{CF(gr)}{CR(gr)_{tl} \times N(tl) + \sum_{ts} = 1 [CR(gr)_{ts} \times N(ts) \times K(ts)]} \text{ [lei/MWh/hour],}$$

where:

$TC (gr)_{tl}$ - represents the recalculated firm capacity booking tariff for long term for the group of entry/exit points (gr);

$CF(gr)$ - represents the value corresponding to the fixed component of total income, allocated to the group of entry/exit points (gr);

$CR(gr)_{tl}$ - represents the booked capacity approved for long term in the period for which transmission tariffs are set, per group of entry/exit points (gr);

$CR(gr)_{ts}$ - represents the booked capacity approved/estimated for short term in the period for which transmission tariffs are set, by group of entry/exit points (gr);

$N(tl), (ts)$ - number of hours for each type of service;

$K(ts)$ - represents the multiplication coefficient of capacity booking tariff for type of firm service for short term.

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Art. 47 was amended by point 11 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

2.4. Setting the capacity booking tariffs for firm short-term services

ART. 48

(1) The capacity booking tariffs for firm short-term services, respectively quarterly, monthly and daily services, for the group of entry/exit points (gr), is determined based on the capacity booking tariffs for firm long-term services established according to art. 47 para. (1), adjusted by multiplication coefficients corresponding to the type of service, by the following formula:

T
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$$TC(gr)ts = TC(gr)tl \times K(ts),$$

where:

TC(gr) - represents the capacity booking tariff for the firm short-term service
ts for the group of entry/exist points (gr);

TC(gr) - represents the capacity booking tariff for the firm long-term services for the group of
tl entry/exit points (gr);

K(ts) - represents the multiplication coefficient of capacity booking tariff for the type of firm short-term service.

ST

(2) In the situation set out by art. 47 para. (2), the determination of capacity booking tariffs for the firm short-term services is made based on the capacity booking tariffs for firm long-term services established according to art. 47 para. (4)."

Art. 48 was amended by point 12 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

2.5. Setting the capacity booking tariffs for interruptible services

ART. 49

(1) The capacity booking tariffs for interruptible services are established at the level of capacity booking tariff corresponding to the type of firm service for one group "gr".

(2) If there appears an interruption of transmission service of natural gases, the value of interruptible capacity booking service will be determined according to the booked capacity effectively uninterrupted.

(3) The interruptible capacities are not taken into account in determination of capacity booking tariffs, and the incomes for interruptible services represent incomes from the activity of transmission of natural gases.

ART. 50

(1) The licence holder will present for approval by the President ANRE, the multiplication coefficients for setting the capacity booking tariffs, 30 days before the start of long-term capacity booking period established according to the legal provisions in force.

(2) After approval the multiplication coefficients will be published on the webpage of the licence holder and ANRE.

2.6. The capacity booking tariff in the point/group of interconnection points with other transmission systems of natural gases

The title of paragraph 2.6., section 2, chapter III was amended by point 3 of [art. I of ORDER no. 69 of 22 July 2014](#), published in OFFICIAL GAZETTE no. 551 of 25 July 2014.

ART. 51

(1) In all the auctions for transmission services with firm/interruptible capacity booking in the point/group of interconnection points with other transmission systems of natural gases, the firm/interruptible capacity booking tariff established based on this methodology is used as spare tariff and represents the minimum tariff admitted in auction.

Para. (1) of art. 51 was amended by point 4 of [art. I of ORDER no. 69 of ORDER no. 69 of 22 July 2014](#), published in OFFICIAL GAZETTE no. 551 of 25 July 2014.

(2) The spare tariff used in an auction regarding the capacity booking will be the firm/interruptible capacity booking tariff in force at the auction time. The tariff payable for the transmission services adjudicated after an auction regarding the capacity booking will be the firm/interruptible capacity booking tariff in force at the moment when the booked capacity can be used to which we add the auction premium.

Para. (2) of art. 51 was amended by point 13 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 52

The incomes obtained from the application of final tariff resulted from auction, which will be paid for the firm/interruptible booked capacity represent incomes of transmission activity of natural gases.

2.7. Setting the volumetric tariff

ART. 53

The volumetric tariff for use of transmission system is determined by the following formula:

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$$TV(i) = \frac{CV(i)}{Qtr(i)},$$

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where:
TV(i) - represents the volumetric tariff determined for 1 MWh transported in the year (i);
CV(i) - represents the volumetric component of total income in the year (i);
Qtr(i) - represents the quantity of natural gases estimated by the licence holder to be transported in the year (i), expressed in MWh.

CHAPTER IV

Allocation of costs between the regulated/unregulated activities and their justification

ART. 54

The allocation of costs between the regulated activities and between regulated activities and unregulated activities in/outside the sector is made according to the legal provisions in force and is based on the following principles:

- a) causality - costs are allocated according to the activity which determines them;
- b) objectivity - costs are allocated on objective bases, without pursuing an interest or an undue benefit;
- c) transparency - the rules by which costs are allocated by activities are transparent and allow for identification of costs allotted to each activity;
- d) continuity - the rules by which costs are allocated by activities are applied constantly in time; the rules can be changed only if this change is absolutely necessary and justified.

ART. 55

(1) For the costs necessary for carrying out the activity of transmission of natural gases, in view of recognition in transmission tariffs, the licence holder has the obligation to justify that they are prudent.

(2) We consider prudent costs the costs which are proven to be necessary, opportune, efficient and which reflect the market conditions respectively:

- a) necessary - the objective need of the licence holder to make a cost for the assurance of exploitation, development and safe use of transmission system of natural gases;
- b) opportune - the postponement of the cost can bring prejudice to the licence holder and/or the customer;
- c) efficient - the realization of cost can bring future benefits to the licence holder and the customer;
- d) market conditions - cost incurred by the licence holder related to the best market conditions, which exist at realization date and according to the legislation in the field.

(3) ANRE has the right to refuse with motivation the recognition of costs or parts of them which were not made in a prudent manner, having in view the justifications presented by the licence holder regarding the conditions and information which existed when they were made.

(4) The expenses made for the activity of transmission of natural gases as a result of damages imputable to employees of licence holder and/or third parties and which were not recovered or will be recovered from them, in the meaning of this methodology, do not represent costs for the transmission of natural gases.

CHAPTER V

Regulated accounting records

SECTION 1

General rules

ART. 56

The licence holders of operation of transmission system are obliged to organize and run accounting records of incomes, costs and tangible and intangible assets for each of the regulated activities they carry out, hereinafter referred to as regulated accounting records - ECR, according to the principles and rules established by ANRE.

ART. 57

(1) ECR, organized and run according to the principles and rules established by ANRE, are different from the statutory accounting records organized and run according to the legal regulations in force in the field and are used exclusively by the licence holders and ANRE.

(2) If the rules and principles established by ANRE for the organization and running of ECR do not contain specific provisions, the provisions of accounting and fiscal regulations in force shall apply to the licence holder.

ART. 58

ECR must have a detail degree which allows ANRE to know exactly the incomes and elements of costs for each regulated activity. If it is necessary, ANRE has the right to ask for the details of any element included in ECR.

ART. 59

(1) The licence holders are obliged to forward to ANRE every year the statements ECR elaborated according to the provisions of this methodology.

(2) The formats of statements ECR are established by ANRE and are published on the website www.anre.ro

ART. 60

At the forwarding of ECR to ANRE, the licence holders have the obligation to present also an audit report of financial statements, report drawn up by an external auditor.

ART. 61

ANRE has the right to ask for at his own expense an audit of ECR, and the licence holder is obliged to assure the auditor chosen by ANRE access to all data, records and necessary information. A copy of the report drawn up by the auditor appointed by ANRE belongs by law to the licence holder.

SECTION 2

Rules for the calculation of regulated assets base (RAB)

ART. 62

The regulated assets base (RAB) reflects the capital costs for the tangible and intangible assets prudently made, necessary for carrying out the transmission activity of natural gases.

ART. 63

For the newly-licensed holders, the initial value of RAB, used in determination of the total income and regulated income for the first year of regulatory period is determined based on the net accounting value of tangible and intangible assets for the activity of transmission of natural gases.

ART. 64

(1) The value RAB, used in determination of the total income and regulated income for the first year of regulatory period is determined by the following formula:

$$RAB(x) = RAB(x-1) + (\Delta)RAB(x-1) - YAR(x-1) + YINV(x-1) - VIE(x-1),$$

where:

RAB(x) - value RAB at the beginning of regulatory period (x);

RAB(x-1) - value RAB at the beginning of regulatory period (x-1);

(Delta)RAB(x-1) - difference between the value of RAB recognized at the beginning of regulatory period (x-1) and the value of RAB effectively made at the beginning of regulatory period (x-1), difference resulted from the closure of years of regulatory period (x-1);

YAR(x-1) - regulated amortization cumulated in regulatory period (x-1);

YINV(x-1) - the cumulated regulated value of investments commissioned in regulatory period (x-1);

VIE(x-1) - cumulated regulated value left for tangible and intangible assets decommissioned in regulatory period (x-1).

(2) In determination of regulated assets base we will have in view the provisions of annexes no. 1 and 2 which are part of this methodology.

CHAPTER VI

The procedure for substantiation/adjustment and approval of regulated income, total income and transmission tariffs

ART. 65

The total income, regulated income and transmission tariffs are approved by order of President ANRE for regulatory period, for each licence holder who carries out the activity of transmission of natural gases.

SECTION 1

Procedure of substantiation and approval of regulated income, total income and transmission tariffs

ART. 66

(1) The licence holder who carries out the transmission of natural gases has the obligation to transmit ANRE the proposal for setting the total income, regulated income and transmission tariffs for the first year of regulatory period and their substantiation, at least 120 days before the start of regulatory period, according to the provisions of this methodology.

(2) The substantiation of total income, regulated income and transmission tariffs established based on the total income, for the first year of regulatory period, will be accompanied by all the data, information and necessary documents for justification of substantiation elements and the premises considered and methods used in their determination and mainly refer to:

a) quantities of natural gases transported by transmission system and the booked capacities for each type of transmission service of natural gases, having in view the contracts signed for the last year of regulatory period;

b) the quantities of natural gases transported by transmission system and the capacities booked for each type of transmission service of natural gases, for the first year of the new regulatory period, estimated by considering the requests for capacity booking transmitted by the grid users according to the legal provisions in force;

c) data, in the format of annexes to ECR, based on which the total income and regulated income are substantiated;

d) statement of costs and proposal for their allocation by regulated/unregulated activities and for the transmission activity of natural gases, allocation of costs in OPEX, CAPEX and CPD, respectively in fixed and variable costs;

e) proposal for allocation of total income for the transmission activity of natural gases in fixed component for each group and volumetric component;

f) proposal regarding the annual growth rate of economic efficiency of transmission activity of natural gases for regulatory period;

g) other data or information necessary for setting the total income, regulated income and transmission tariffs, generated by the application of normative acts in force;

h) report on accounting separation of regulated activities according to the legal provisions in force and structured by:

1. regulated activities from sector, detailed by:

(i) activities and operations carried out by licence holder for or in connection with construction, exploitation and development of transmission capacities and their use, as defined by this methodology;

(ii) the connection of third parties to transmission systems, for the investment works which were not included in investments and development plan of transmission system of the licence holder, approved by ANRE;

(iii) related activities to the operation of transmission systems;

(iv) other regulated activities from the sector, of which the transmission activity of natural gases for the pipelines Isaccea - Negru Vodă;

Subpoint (iv) of point 1 of letter h) of paragraph (2) of art. 66 was amended by point 14 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

2. unregulated activities in the sector;

Point 2 of letter h) of paragraph (2) of art. 66 was amended by point 15 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

3. activities outside the sector.

(3) These substantiation elements will be based on the achievements and estimates regarding the months of the previous year to the one for which substantiation is made and the estimates for the other years of regulatory period.

(4) The operational costs and directly incurred costs estimated for the first year of regulatory period can be evaluated and accepted by ANRE taking into account:

- a) expenses made in the previous years by the licence holder;
- b) annual evolution of cost elements for the new regulatory period;
- c) increasing the work productivity and efficiency of activity of licence holder;
- d) development of transmission activity of natural gases;
- e) comparative analysis of expenses made in the previous years by the licence holder for each transmission system operated by the licence holder, and those made by other licence holders for the operation of transmission systems;
- f) evolution of economic financial indicators made by the licence holders in the previous years.

(5) If the documentation for substantiation of total income, regulated income and transmission tariffs for the first year of regulatory period is incomplete and/or wrong, ANRE will request its completion within 15 working days from submission, and the licence holder has the obligation to answer within 10 working days. The period of 120 days necessary for the analysis of documentation starts from the moment of reception of the final form completed.

(6) Based on the elements presented, the specialized department will analyse and evaluate the corrected and/or completed proposal forwarded.

(7) In analysis period, for the purpose of correction, clarification or justification of documents forwarded, ANRE has the right to request any data, information and documents and the licence holder has the obligation to answer within 10 working days.

ART. 67

(1) Following the analysis of proposal and substantiation of total income, regulated income and transmission tariffs, the specialized department from ANRE elaborates a report on:

- a) total income and regulated income;
- b) annual growth rate of economic efficiency in the activity of transmission of natural gases;
- c) the transmission tariffs for all types of services provided.

(2) The report mentioned in paragraph (1) is transmitted to the licence holder in view of transmission to ANRE of a point of view within 5 days.

ART. 68

The report elaborated based on the provisions of art. 67 is forwarded by the specialized department to the Regulatory Committee for approval, accompanied by the point of view expressed by the licence holder.

ART. 69

(1) Following the approval of the report by the Regulatory Committee in the form proposed according to art. 68 or with changes approved in the meeting, the President ANRE issues the order regarding the approval of:

- a) the regulated income and total income for the first year of regulatory period;
- b) the annual growth rate of economic efficiency of the transmission activity of natural gases;
- c) transmission tariffs.

(2) The Order of President ANRE set out by paragraph (1) is published in Official Gazette of Romania, Part I.

(3) The report approved by the Regulatory Committee, according to art. 69, is communicated to the licenced operator within 3 working days from the meeting date of Regulatory Committee.

ART. 70

(1) If the report mentioned in art. 68 was not approved, within 3 working days from the meeting date of the Regulatory Committee and based on the information made available by its secretariat, the specialized department has the obligation to communicate the licence holder the decision of Regulatory Committee regarding the rejection/postponement of report, accompanied by the motivation of decision.

(2) Within 30 working days from the communication by the secretariat of Regulatory Committee of the rejection/postponement decision or from the reception of possible further information required to the operators, the specialized department will elaborate a new report, as applicable, if the Regulatory Committee did not establish another deadline in this interval.

(3) If the issue of Order of President ANRE set out by art. 69 is not made until the start date of the new regulatory period, the regulated tariffs approved for the previous regulatory year remain in force until the issue of the order, and the differences of incomes due to this cause will be settled.

SECTION 2

Procedure for adjustment and approval of regulated income, total income and transmission tariffs

ART. 71

(1) The licence holders who carry out the transmission activity of natural gases have the right to request the adjustment of total income, regulated income and transmission tariffs established based on the total adjusted income; for this purpose, they will transmit ANRE the adjustment proposal at least 90 days before the start of the year from the regulatory period, except for the first year of each regulatory period, when it is transmitted with the proposal of substantiation of total income, regulated income and transmission tariffs, according to the provisions of this methodology.

(2) If there are adjustment elements which could diminish the total income and/or the regulated income, the licence holder has the obligation to request the adjustment of total income, regulated income and the transmission tariffs with all these adjustment elements.

(3) For the adjustment of regulated income, total income and for setting the transmission tariffs for the third year of the third regulatory period, the licence holders will retransmit the adjustment proposal according to the provisions of this methodology, including the multiplication coefficients for setting the capacity booking tariffs, until the latest 30 May 2014.

ART. 72

(1) The proposal of adjustment of total income, regulated income and transmission tariffs established based on the total adjusted income will be accompanied by all the data, information and documents necessary for justification of this proposal and the premises considered and methods used in their determination and mainly refers to:

- a) the quantities of natural gases transported by transmission system and the booked capacities for each type of transmission service of natural gases, having in view the contracts signed in the year of regulatory period for which adjustment is required;
- b) the quantities of natural gases transported by transmission system and the booked capacities for each type of transmission service of natural gases, for the year for which transmission tariffs are set, estimated having in view the requests for capacity booking transmitted by the grid users according to the legal provisions in force;
- c) The incomes earned from the activity of transmission of the natural gases in the year for which the adjustment is required;
- d) The adjustment elements required by the licence holder allocated by regulated/unregulated activities, and for the transmission activity of natural gases, the allocation in fixed and variable costs/components;
- e) Proposal of allocation of total adjusted income for the activity of transmission of natural gases in fixed component for each group and volumetric component;
- f) Justified proposal for change of annual growth rate of economic efficiency of transmission activity of natural gases for regulatory period, according to art. 17 paragraph (5);
- g) other data or information necessary for setting the total income, the regulated income and transmission tariffs, generated by the application of normative acts in force.

(2) The data and adjustment elements refer to:

- a) Achievements of closed year prior to the year for which adjustment is made;
- b) Achievements and estimates from the months of the year when adjustment is made;
- c) Estimates for the year for which transmission tariffs are established.

ART. 73

(1) If the licence holder requests costs which were not presented, in the adjustment of total income, in the span of time mentioned in art. 71 para. (1), they will be envisaged since the next adjustment of regulated income and total income, respectively with the next setting of regulated income and total income for the first year of the next regulatory period, as applicable.

(2) No requests can be made for adjustment of regulated income and total income if between the moment of forwarding the request and the appearance or change of these costs there has elapsed a period of over 3 years.

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

ART. 74

If the documentation for adjustment of total income, regulated income and transmission tariffs is incomplete and/or wrong, ANRE will request its completion within 15 working days from submission, the licence holder has the obligation to answer within 10 working days. The period of 90 days necessary for the analysis of documentation starts from the reception of the final completed form.

ART. 75

(1) Based on the elements presented, the specialized department will analyse and evaluate the corrected and/or completed proposal submitted.

(2) In the analysis period, for the purpose of correction, clarification or justification of forwarded documents, ANRE has the right to request any data, information and documents, and the licence holder has the obligation to answer within 5 working days. The aspects for which data, information and documents were requested will not be taken into account if the licence holder does not answer the requests of ANRE.

ART. 76

(1) Following the analysis of proposal regarding the adjustment of total income, regulated income and transmission tariffs, and the specialized department of ANRE elaborates a report on:

- a) total income and regulated income;
- b) annual growth rate of economic efficiency of transmission activity of natural gases, if applicable;
- c) transmission tariffs.

(2) The report mentioned in paragraph (1) is transmitted to the licence holder for transmission to ANRE of a point of view within 5 days.

ART. 77

The report elaborated based on provisions of art. 76 is forwarded by the specialized department for approval to the Regulatory Committee, accompanied by the opinion expressed by the licence holder.

ART. 78

(1) Following the approval by Regulatory Committee of the report in the form proposed according to art. 77 or with changes approved in the meeting, the President ANRE issues the order regarding the approval of:

- a) regulated income and total income;
- b) annual growth rate of economic efficiency in the activity of transmission of natural gases;
- c) transmission tariffs.

(2) Order of President ANRE set out by paragraph (1) is published in Official Gazette of Romania, Part I.

(3) The report approved by the Regulatory Committee is communicated to the licensed operator within 3 working days from the meeting date of Regulatory Committee.

ART. 79

(1) If the report mentioned in art. 77 was not approved within 3 working days from the meeting date of Regulatory Committee and based on the information made available by its secretariat, the specialized department has the obligation to communicate the licensed operator the decision of the Regulatory Committee regarding the rejection/postponement of report, accompanied by the motivation of decision.

(2) Within 30 working days from communication by the secretariat of Regulatory Committee of rejection/postponement decision or from the reception of further information requested to operators, the specialized department will draw up a new report, as applicable, if the Regulatory Committee did not establish another deadline in this interval.

(3) If the issue of Order of President ANRE set out by art. 78 is not made until the start of the new year of regulatory period, the regulated tariffs approved for the previous regulatory year remain in force until the issue of the order, and the differences of incomes because of this cause will be settled.

SECTION 3

Re-substantiation and readjustment of total income, regulated income and transmission tariffs in regulatory period

ART. 80

The licence holder has the obligation to forward to ANRE all data, information and documents necessary for a new substantiation of total income, regulated income and transmission tariffs, according to the provisions of this methodology in the following cases:

- a) merger by absorption of another licence holder for operation of a transmission system;
- b) split-off provided that he carries out the activity of transmission of natural gases;
- c) restructuring and/or reorganization of transmission activity of natural gases or any other change by development/modernization of transmission activity of natural gases which generates the substantial change of OPEX recognized in total income.

ART. 81

ANRE can change the transmission tariffs approved by re-substantiation or readjustment of incomes and/or tariffs, as applicable, with the prior announcement of the licence holder, if it is noted that:

- a) the determination of transmission tariffs was made based on wrong/false information provided by the licence holder;
- b) there are significant errors of calculation in determination of transmission tariffs;
- c) there is the situation set out by art. 47 paragraph (2).

Art. 81 was amended by point 16 of [art. I of ORDER no. 31 of 6 July 2016](#) published in OFFICIAL GAZETTE no. 511 of 7 July 2016.

ART. 82

The change of transmission tariffs according to art. 81 involves first of all the measures for correction of effects of tariffs established, respectively the correction of wrong/false information, recalculation and approval of the new transmission tariffs which will be applied by the licence holder in question.

CHAPTER VII

Final provisions

ART. 83

(1) The failure to observe the deadline for submission of proposal for substantiation/adjustment of total income, regulated income and transmission tariffs represents contravention and is sanctioned according to the legal provisions in force.

(2) If the licence holder for justified reasons, cannot present on time the proposal for substantiation/adjustment of the total income, regulated income and transmission tariffs, the licence holder will send 15 days before the expiry of deadline for submission of this proposal, a postponement request of deadline which contains the justification of non-transmission on time and the proposal of the new deadline in view of approval by ANRE.

(3) ANRE will answer with celerity the request of the licence holder mentioned in paragraph (2), and in case of its approval, the licence holder will observe the procedure of substantiation/adjustment of the total income, regulated income and transmission tariffs, set out in this methodology having in view the new deadline for submission.

ART. 84

The regulated durations for amortization of tangible and intangible assets used in the realization of regulated activities are set out in annex no. 1.

ANNEX 1

To methodology

Regulated durations for
Amortization of tangible and intangible assets

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I. The regulated duration left for regulated amortization of tangible and intangible assets which represented RAB implicitly at the beginning of the first regulatory period for the activity of transmission: 30 years

II. The regulated duration of tangible and intangible assets commissioned after the beginning of the first regulatory period:

Group 1 Constructions	
Subgroup 1.1 Buildings	50 years
Subgroup 1.2 Light constructions (barracks, sheds etc.)	10 years
Subgroup 1.3 Collecting pipelines and main gas pipelines (including technological installations, and related equipment)	40 years
Subgroup 1.4 Probes for injection/extraction of natural gases from underground deposits (including auxiliary probes, technological installations and related equipment)	25 years
Subgroup 1.5 Steel distribution pipelines (including technological installations, and related equipment)	30 years
Subgroup 1.6 Polyethylene distribution pipelines (including technological installations, and related equipment)	40 years
Subgroup 1.7 Other constructions	10 years
Group 2 Technological equipment, machinery and work equipment	10 years

Group 3 Measuring, control and adjustment devices and installations	
Subgroup 3.1 Gas volumeters with membrane, gas meters with ultrasounds,	
Other systems with deprimogenic element	20 years
Subgroup 3.2 Meters with rotary pistons, meters with turbine	15 years
Subgroup 3.3 Electronic converters, flow calculators,	
Other devices and measurement, control and adjustment installations	10 years
Group 4 Means of transport	5 years
Group 5 Other tangible and intangible assets	5 years
Group 6 Lands	-

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ANNEX 2

To methodology

Supplementary rules regarding the method of determination
Of regulated value left of regulated assets base for
The activity of transmission of natural gases,
at the beginning of regulatory period

ART. 1

At the beginning of regulatory period we determine the regulated assets base according to the provisions of these rules.

ART. 2

The regulated assets base at the beginning of regulatory period is determined based on the following elements:

- a) the value of regulated assets base established at the beginning of the previous regulatory period;
- b) the difference between the value of RAB recognized at the beginning of the previous regulatory period and the achieved value of RAB at the beginning of the previous regulatory period, difference resulted from the closure of the years of the previous regulatory period;
- c) regulated amortization related to entries/exits of tangible and intangible assets in the previous regulatory period;
- d) regulated amortization related to tangible and intangible assets estimated to be entered/exited in the previous regulatory period;
- e) the annual value of entries of tangible and intangible assets commissioned or received/given in use, as applicable, until the end of the previous regulatory period, and their related amortization;
- f) the value of entries of tangible and intangible assets estimated to be commissioned or received/given in use, as applicable, until the end of the last year of the previous regulatory period and their related amortization;
- g) the annual value of exits of tangible and intangible assets until the end of the previous regulatory period and their related amortization;
- h) the value of tangible and intangible assets estimated to exit until the end of the last year of the previous regulatory period and their related amortization;
- i) the regulated duration for amortization of tangible and intangible assets used in the activity of transmission of natural gases.

ART. 3

The determination of the regulated value left of regulated assets base, at the beginning of regulatory period, is made as follows:

- a) the regulated value of start of previous regulatory period is corrected by elimination of estimated values of entries and exits of tangible and intangible assets which were taken into account in determination of the start value of the previous regulatory period and their amortization and are replaced by the achieved values;
- b) we add the annual regulated values for effective entries of tangible and intangible assets and as applicable, the entries of tangible and intangible assets estimated to be commissioned in the unclosed months of the last year of the previous regulatory period ;
- c) we subtract the regulated amortization for the tangible and intangible assets mentioned at point b);
- d) we subtract the regulated values left for the effective annual exits of tangible and intangible assets and as applicable, the exits of tangible and intangible assets estimated to be decommissioned in the unclosed months of the last year of the previous regulatory period;
- e) we subtract the regulated amortization corresponding to the exit year from RAB for tangible and intangible assets mentioned at point d).

ART. 4

(1) The determination of regulated amortization for a regulatory period is made by summing up the amortizations determined every year.

(2) The annual amortization is determined by each regulated group/subgroup of classification of tangible/intangible assets, depending on the commissioning year or the reception/giving into use, as applicable, as follows:

- a) for tangible/intangible assets which are part of the value RAB established for the beginning of the period we calculate by dividing the regulated value left determined at the end of the previous year, by the regulated duration left, expressed in years;
- b) for the tangible/intangible assets commissioned or received/given in use, as applicable, during a regulatory period, the annual regulated amortization is calculated since the following year of their commissioning/reception/giving in use, by dividing the regulated entry value by the regulated duration left of amortization, expressed in years, where the regulated duration left of amortization is calculated depending on the regulated groups/subgroups of classification of tangible/intangible assets;
- c) for tangible/intangible assets which were used in the carrying out of another regulated/unregulated activity, from the sector or from outside the sector and which during a regulatory

year are taken for the activity of transmission of natural gases by purchase from an economic operator or by transfer from another activity carried out by the licence holder, the regulated amortization is determined based on the regulated amortization period for the group/subgroup to which they belong, reduced accordingly by the duration of use consumed, expressed in full years, and the regulated value of entry in RAB related to these fixed assets will be the purchase value, respectively the book value left;

d) for the tangible/intangible assets exited from RAB, the regulated amortization is determined for the exit year by dividing the regulated value left determined at the end of the previous year by the regulated duration left, expressed in years, except for the exits of tangible/intangible assets imputable.

ART. 5

The tangible/intangible assets sold, discarded, the inventory minuses transferred to the category of inventory items or to other activities carried out by the licence holder are considered exits of tangible/intangible assets.

ART. 6

For the tangible/intangible assets exited from RAB since the third regulatory period, the regulated value left represents the regulated entry value of fixed asset adjusted until the end of the second regulatory period by inflation rate and regulated amortizations for each year.

ART. 7

(1) If in a regulatory period, we make reclassification of tangible/intangible assets in other groups/subgroups than those reported and taken into account in the adjustment of regulated incomes, the fixed assets will be taken into account of the value RAB first as an exit from the group/subgroup in which they were initially reported, at the regulated value left, then as a new entry in the group/subgroup reconsidered, at the same regulated value left. Any reconsideration of the group/subgroup of classification of plant assets will be made in a justified way and the tangible/intangible assets will be presented both in the statement of regulated assets base and more detailed in a different statement than the regulated assets base statement.

(2) If the regulated amortization duration for the new group/subgroup is higher than the regulated duration of consumed amortization, the regulated value left mentioned in paragraph (1) will be recovered for a period calculated by the difference between the two durations.

(3) If the regulated duration of amortization related to the new group/subgroup is lower or equal to the regulated duration of consumed amortization, the regulated value left mentioned in paragraph (1) will be recovered for the regulated duration of amortization for the new group/subgroup.

ART. 8

If we make replacements of tangible/intangible assets which were not fully depreciated according to the regulated durations established by this methodology, they will be recorded as exits from RAB at the regulated value left and the new tangible/intangible assets will be recorded in RAB as entries, at the regulated value, in the corresponding group/subgroup.

Subsemnata TOȘA Georgeta, interpret și traducător autorizat pentru limbile engleză și franceză, în temeiul autorizației nr. 9375/31.07.2003, eliberată de Ministerul Justiției din România, certific exactitatea traducerii efectuate din limba română în limba engleză, că textul prezentat a fost tradus complet, fără omisiuni, și că, prin traducere, înscrisului nu i-au fost denaturate conținutul și sensul.

INTERPRET ȘI TRADUCĂTOR AUTORIZAT,