

Ordonanta de Urgenta nr. 88/2011 privind modificarea si completarea Legii 220/2008

Avand in vedere adoptarea de catre Comisia Europeana a deciziei prin care se autorizeaza schema de sprijin stabilita prin Legea nr. 220/2008 dar si necesitatea corelarii acesteia din urma cu dispozitiile comunitare, Guvernul Romaniei a adoptat Ordonanta de Urgenta nr. 88/2011 privind modificarea si completarea Legii 220/2008, publicata in Monitorul Oficial al Romaniei, Partea I, Nr. 736/19.10.2011.

In continuare vom prezenta principalele modificari si completari aduse de OUG 88/2011 in domeniul promovarii energiei electrice produse din surse regenerabile.

1) Definirea unor noi termeni si expresii

Avand in vedere modificarea si completarea semnificativa a Legii 220/2008, s-a impus definirea unor noi termeni si expresii, precum:

- supracompensare – situatie in care, luand in considerare indicatorii tehnico-econimici specifici medii realizati anual pentru fiecare tehnologie, din analiza cost-beneficiu efectuata pentru ansamblul capacitatilor de productie utilizand aceeasi tehnologie, rezulta o rata interna de rentabilitate mai mare cu 10% fata de valoarea considerata pentru tehnologia respectiva la autorizarea sistemului de promovare;
- acces prioritar la retele – ansamblu de reguli si conditii tehnice si comerciale in baza carora producatorilor de energie electrica

Emergency Ordinance no. 88/2011 regarding the amendment of Law 22/2008

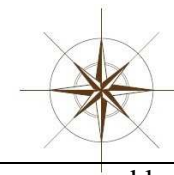
Considering the European Commission positive decision by which the support scheme established by Law no. 220/2008 was authorized, and also the necessity of correlating the latter with community dispositions, the Romanian Government adopted the Emergency Ordinance no. 88/2011 regarding the amendment and completion of Law 220/2008, published within the Official Gazette of Romania, Part 1, No. 736/19.10.2011.

Hereinafter we will present the main amendments brought by GEO 88/2011 in the field of electricity produced from renewable sources.

1) Definition of new terms and expressions

Considering the major amendments brought to Law 220/2008, defining some new terms and expression was mandatory:

- over-compensation – situation in which, considering the specific technical-economic average indicators achieved every year for each technology, from the cost-benefit analysis conducted for the entire production capacity using the same technology, a profit internal rate results, higher with 10% than the value considered for that technology at the promotion system authorization;
- priority access to grid – set of technical and commercial rules and conditions according to which, for the producers of



din surse regenerabile, contractata si vanduta la pret reglementat, li se asigura posibilitatea preluarii in orice moment si a vanzarii intregii cantitati de energie electrica produsa la un moment dat. Mentionam ca beneficiaza de acces prioritar la retea producatorii de energie electrica contractatata si vanduta la pret reglementat;

- acces garantat la retele – ansamblu de reguli si conditii tehnice si comerciale in baza carora pentru energia electrica produsa din surse regenerabile de energie care beneficiaza de schema de sprijin prin certificate verzi contractata si vanduta pe piata de energie electrica se garanteaza preluarea in reseaua electrica.

2) Aplicarea sistemului de promovare a producerii energiei din surse regenerabile de energie

Prin OUG 88/2011, sistemul de promovare se aplica inclusiv pentru energia electrica din surse regenerabile produsa pe perioada de proba, in baza deciziei de acreditare emise de ANRE, daca punerile in functiune, respectiv retehnologizarile de grupuri/centrale se realizeaza pana la sfarsitul anului 2016.

Conform noilor reglementari nu se aplica sistemul de promovare stabilit prin Legea 220/2008, pentru: (i) energia electrica produsa din combustibil care provine din biomasa, deseuri industriale si/sau municipale achizitionate din import, indiferent de puterea instalata a centralei electrice (reglementarea anterioara nu includea in enumerare biomasa) si (ii) energia electrica produsa in centrale electrice care utilizeaza surse regenerabile si conventionale de energie in aceeasi instalatie de ardere daca continutul energetic al combustibilului conventional utilizat depaseste 10% din continutul energetic total (75% in reglementarea anterioara).

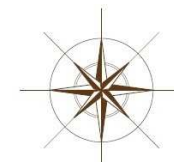
electricity from renewable sources, contracted and sold at regulated price, the possibility of taking over and selling the entire quantity of produced electricity is, at any time, granted. The beneficiaries of grid priority access benefit are the producers of contracted and sold at regulated price electricity;

- guaranteed access to grid – set of technical and commercial rules according to which for the electricity produced from renewable sources that benefits from the green certificates support scheme contracted and sold on the electricity market the taking over in the electricity network is guaranteed.

2) The application of the promotion system of renewable energy production

By means of GEO 88/2011, the promotion system is applied also for electricity from renewable sources produced during the testing period, according to the decision of accreditation issued by ANRE, if the commissioning and respectively refurbishment of groups/power stations are carried out by the end of year 2016.

According to the new regulation, the promotion system established by Law 220/2008 does not apply for: (i) electricity produced from biomass fuel, industrial and/or municipal waste purchased from import regardless the installed power of the power plant (the previous regulation did not include in the enumeration the biomass) and (ii) electricity produced in power plants using renewable and conventional sources of energy in the same combustion installation, if the energy content of the conventional fuel used exceeds 10% of the total energy content (75% in the old regulation).



3) Modificarea numarului de certificate verzi acordate producatorilor

Pentru anumite surse de energie regenerabila, a fost modificat numarul de certificate verzi acordate producatorilor, dupa cum urmeaza:

- doua certificate verzi pentru fiecare 1 MWh produs si livrat de producatorii de energie electrica din surse de energie geotermala, biomasa, biolichide si biogaz (anterior - trei certificate verzi);
- un certificat verde pentru fiecare 1 MWh produs si livrat de producatorii de energie electrica din gaz de fermentare a deseurilor si gaz de fermentare a namolurilor din instalatiile de epurare a apelor uzate (anterior – trei certificate verzi).

Mai mult, noile dispozitii prevad ca pentru energia electrica produsa in centrale/grupuri de cogenerare care utilizeaza sursele regenerabile de energie mai sus mentionate si calificata de ANRE ca fiind de inalta eficienta, se acorda suplimentar cate un certificat verde pentru fiecare 1 MWh produs si livrat.

De asemenea, conform OUG 88/2011, indiferent de tipul sursei regenerabile utilizate, producatorii de energie electrica beneficiaza de un certificat verde pentru fiecare 1 MWh produs si livrat din centrale electrice pe perioada de proba.

4) Obligatia de achizitie de certificate verzi

Avand in vedere ca reglementarea anterioara prevedea doar modalitatea de stabilire a numarului de certificate verzi obligatorii a fi achizitionate anual de catre furnizorii de energie electrica, prin noua reglementare se largeste cadrul de aplicabilitate al obligatiei de achizitie certificate verzi si cu privire la:

- energia electrica achizitionata de furnizorii de energie electrica, destinata atat consumului final al acestora, cat si vanzarii catre

3) Modification of the number of green certificates granted to producers

For certain renewable energy sources, the number of green certificates granted to producers has been modified, as follows:

- two green certificates for each 1 MWh produced and delivered by producers of electricity from geothermal, biomass, bio-liquids and bio-gas energy sources (previously – three green certificates);
- one green certificate for each 1 MWh produced and delivered by producers of electricity from waste gas and sludge fermentation gas from treatment installations for waste water (previously – three green certificates).

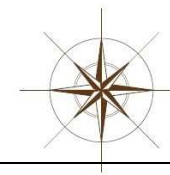
Moreover, the new dispositions provide that for the electricity produced in power plants/groups of co-generation that use renewable sources mentioned above and qualified by ANRE as being of high efficiency, a green certificate for each 1 MWh produced and delivered is additionally granted.

Also, according to GEO 88/2011, regardless the type of the renewable source used, the electricity producers benefit from a green certificate for each 1 MWh produced and delivered from the power plants during the test period.

4) Obligation of green certificate acquisition

Considering that the previous regulation stipulated only the method of establishing the number of green certificates mandatory to be purchased every year by the electricity traders, the new regulation expands the applicability frame of the obligation for purchasing green certificates also for:

- electricity purchased by the electricity traders, meant both for their final consumption or sale to final consumers;



consumatorii finali;

- energia electrica utilizata pentru consum final propriu, altul decat consumul propriu tehnologic, de catre un producator de energie electrica;
- energia electrica utilizata de un producator pentru alimentarea cu energie electrica a consumatorilor racordati prin linii directe de centrala electrica.

5) Dispozitii speciale privind aplicarea sistemului de promovare reglementat de Legea 220/2008

Prin OUG 88/2011 se introduc noi reguli aplicabile operatorilor economici care dezvoltă centrale electrice de producere a energiei electrice din surse regenerabile cu putere instalată mai mare de 125 MW. Astfel, operatorii economici mai sus menționați, vor putea beneficia de sistemul de promovare, doar după obținerea autorizației de la Comisia Europeană cu privire la aprobarea măsurii de sprijin pentru respectivul producător.

- electricity used for own final consumption, other than own technological consumption, by an electricity producer;
- electricity used by a producer, for electricity supply to consumers connected by direct grid to the generation unit.

5) Special dispositions regarding the applicability of the promotion system regulated by Law 220/2008

By means of GEO 88/2011, are introduced new rules applying to economic operators which develop power plants using renewable sources with installed power capacity that exceeds 125 MW. Thus, the economic operators mentioned above shall benefit from the promotion system only after priority obtaining authorization from the European Commission regarding the approval of the support measure for that producer.

Yours sincerely,
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