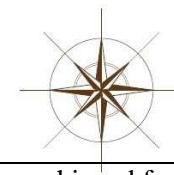


**NEWSLETTER**  
**May 2012**

<p><b>Noutati legislative privind sistemul de promovare a energiei din surse regenerabile</b></p> <p>1) <b><u>Metodologia de monitorizare a sistemului de promovare a energiei din surse regenerabile de energie prin certificate verzi</u></b></p> <p>In scopul stabilirii modului in care ANRE monitorizeaza evolutia capacitatilor de productie a energiei din surse regenerabile de energie si promovarii producerii acestora prin schema de sprijin cu certificate verzi, la data de 06.03.2012 a intrat in vigoare Ordinul ANRE nr. 6/24.02.2012 pentru aprobarea Metodologiei de monitorizare a sistemului de promovare a energiei din surse regenerabile de energie prin certificate verzi (denumita in continuare „Metodologia”).</p> <p>Monitorizarea va fi efectuata in baza informatiilor prevazute in cuprinsul Metodologiei si transmise ANRE, de catre: (i) producatorii de E-SRE; (ii) furnizorii cu obligatii de respectare a cotei de certificate verzi; (iii) operatorul de transport si de sistem; (iv) operatorul pietei de certificate verzi.</p> <p>In scopul monitorizarii costurilor si veniturilor producatorilor de energie care beneficiaza de sistemul de promovare a E-SRE prin certificate verzi, pe baza informatiilor transmise ANRE de catre producatorii de E-SRE bi, pentru fiecare categorie de tehnologie de E-SRE, se urmaresc urmatorii indicatori:</p> <ul style="list-style-type: none"> <li>▪ venitul unitar al producatorilor de E-SRE beneficiari ai schemei de sprijin;</li> <li>▪ venitul total realizat din vanzarea E-SRE;</li> </ul>	<p><b>New regulations related to the the promotion system of renewable energy</b></p> <p>1) <b><u>Methodology for monitoring the promotion system of renewable energy by green certificates</u></b></p> <p>In the aim of establishing the manner by which the ANRE monitors the evolution of the renewable energy generation capacities and of its promotion by means of green certificates support scheme, no. 6/24.02.2012 ANRE Order on approving the Methodology for monitoring the promotion system of renewable energy by green certificates (hereinafter referred to as the “Methodology”), entered into force on 06.03.2012.</p> <p>The monitoring activity shall be carried out based on the information provided in the Methodology and communicated to ANRE by: (i) E-RES producers; (ii) suppliers obliged to comply with the green certificate quota; (iii) the transport and system operator; (iv) the green certificates market operator.</p> <p>For the purpose of monitoring the costs and incomes of energy producers which benefit of the E-SRE promotion system by green certificates, based on the information sent to ANRE by the E-RES producers, for every E-RES technology category, the next indicators shall be taken into account:</p> <ul style="list-style-type: none"> <li>▪ the unitary income of E-RES producers that benefit from the support scheme;</li> <li>▪ the total income achieved from the E-RES selling;</li> </ul>
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- venitul total realizat din vanzarea certificatelor verzi;
- costurile unitare ale producatorilor de E-SRE beneficiari ai schemei de sprijin;
- evolutia anuala a valorii altor ajutoare primite de producatori ca ajutoare de stat, altele decat cele aferente schemei de sprijin prin certificate verzi (ex. ajutoare de investitii, scutiri/reduceri de taxe, garantii de stat etc.).

ANRE are obligatia de a efectua o analiza cost-beneficiu cu actualizare pentru fiecare categorie de tehnologie de productie a E-SRE.

Supracompensarea activitatii de productie a E-SRE pentru producatorii beneficiari ai schemei de sprijin va fi urmarita anual, pe perioada in care aceasta activitate este promovata prin schema de sprijin cu certificate verzi, pe baza urmatorilor indicatori:

- nivelul mediu al investitiei specifice;
- nivelul mediu al indicelui specific al costurilor variabile;
- nivelul mediu al indicelui specific al costurilor fixe;
- nivelul mediu al factorului de capacitate;
- in cazul tehnologiilor de productie a E-SRE in cogenerare pe baza de biomasa, va fi avut in vedere nivelul mediu al raportului dintre energia electrica livrata si energia termica livrata, precum si nivelul mediu al raportului dintre energia electrica produsa in cogenerare de inalta eficienta si energia electrica livrata.

In situatia in care, in urma analizei cost-beneficiu se constata ca valoarea ratei interne de rentabilitate (denumita in continuare „IRR”) rezultata pentru o categorie de producatori depaseste cu mai mult de 10% valoarea IRR de referinta a acesteia (valorile de referinta ale IRR avute in vedere pentru fiecare tehnologie la autorizarea schemei de sprijin sunt reglementate prin Decizia de autorizare a Comisiei Europene C (2011) 4.938 din 13 iulie 2011), se considera ca schema conduce la supracompensare pentru respectiva categorie. In acest caz, pentru categoria de tehnologie anterior mentionata, ANRE are obligatia

- the total income achieved from the green certificates' selling;
- the unitary costs of the E-RES producers that benefit from the support scheme;
- the annual evolution of other aids received by the producers as state aids, other than those corresponding to the green certificates support scheme (e.g. investment aids, exemption/reduction of fees, state guarantees etc.).

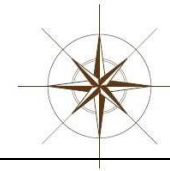
ANRE has the obligation to carry on a price-profit analysis for each category of E-RES production technology.

The over-compensation of E-RES generation activity with regard to the producers that benefit from the support scheme shall be carried out annually, during the period in which this activity is performed, based on the following indicators:

- the average level of the specific investment;
- the average level of the specific variable costs index;
- the average level of the specific fixed costs index;
- the average level of the capacity factor;
- when it comes of E-RES production technologies in cogeneration based on biomass, it shall be considered the average level of the report between the delivered electricity and the delivered thermal energy and also between the electricity produced in cogeneration of high efficiency and the delivered energy.

In case that, following the price-profit analysis, it outcomes that the internal profitability rate (hereinafter referred to as “IRR”), resulted for a category of producers, exceeds with more than 10% the IRR reference value (the considered IRR reference values for each technology at the support scheme authorization are regulated by the C (2011) 4.938 European Commission authorizing Decision as of 13<sup>th</sup> of July, 2011) it is considered that the scheme leads to over-compensation for the said category. In this case, for the category of technology previously mentioned, ANRE has the obligation to recalculate the new values of

<p>de a recalcula noile valori ale numarului de certificate verzi, astfel incat valoarea IRR, la nivel agregat, sa fie egala cu valoarea IRR de referinta pentru respectiva tehnologie.</p> <p>Pentru evaluarea impactului schemei de sprijin cu certificate verzi asupra preturilor de vanzare a energiei electrice la consumatorii finali, se va urmari atat evolutia gradului de indeplinire a cotei anuale obligatorii de achizitie de certificate verzi de catre fiecare furnizor, cat si cresterea pretului energiei electrice, pe categorii de consumatori, corelat cu cresterea cotei obligatorii de achizitie de certificate verzi si cu nivelul preturilor de tranzactionare a certificatelor verzi.</p> <p>In ceea ce priveste rezultatele monitorizarii, ANRE are urmatoarele obligatii: (i) de a intocmi anual rapoarte de monitorizare a sistemului de promovare a E-SRE prin certificate verzi; (ii) de a intocmi trimestrial si anual rapoarte privind monitorizarea functionarii PCV. Rapoartele anterior mentionate vor fi publicate pe site-ul oficial ANRE.</p> <p><b><u>2) Valori de tranzactionare a certificatelor verzi aferente anului 2012</u></b></p> <p>In conformitate cu Ordinul nr. 4 emis de ANRE la data de 17.04.2012, valorile de tranzactionare a certificatelor verzi pe piata de certificate verzi pentru anul 2012 sunt urmatoarele:</p> <ul style="list-style-type: none"> <li>▪ valoarea minima – 121,89 lei/certificat verde (respectiv 28,172 euro/certificat verde);</li> <li>▪ valoarea maxima – 248,30 lei/certificat verde (respectiv 57,389 euro/certificat verde).</li> </ul> <p>In cazul neindeplinirii cotei obligatorii de achizitie de certificate verzi pentru anul 2012, contravaloarea unui certificat verde neachizitionat de catre operatorii economici care au obligatia anuala de achizitie de certificate verzi este de 496,61 lei/certificat verde neachizitionat (respectiv 114,777 euro/certificat verde neachizitionat).</p>	<p>the green certificates number, so that the IRR value, at aggregated level, to be equal with the reference IRR value for the said technology.</p> <p>For the evaluation of the green certificates support scheme impact over the electricity selling prices to final consumers, it shall be observed both the evolution of accomplishing the annual mandatory quota of green certificates by each trader and the electricity price increase, by categories of consumers, correlated with the increase of mandatory quota of green certificate acquisition and also with the green certificate transaction price level.</p> <p>When it comes of the monitoring activity results, ANRE has the following obligations: (i) to annually draw up reports on monitoring the E-RES promotion system by green certificates; (ii) to draw up quarterly and annually reports on monitoring the GCM. The hereinbefore mentioned reports shall be published on ANRE's official site.</p> <p><b><u>2) Green certificates transaction values corresponding to 2012</u></b></p> <p>According to no. 4 Order issued by ANRE on 17.04.2012, the green certificates transaction values on the green certificates market for 2012 are the following:</p> <ul style="list-style-type: none"> <li>▪ the minimum value – 121.89 lei/ one green certificate (respectively 28.172 euro/one green certificate);</li> <li>▪ the maximum value – 248.30 lei/one green certificate (respectively 57.389 euro/one green certificate).</li> </ul> <p>In case of non compliance with the mandatory quota of green certificate n for 2012, the counter value of a green certificate not acquired is settled at 496.61 lei/one non-purchased green certificate (respectively 114.777 euro/non-purchased green certificate).</p>
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**3) Cota obligatorie de achizitie de certificate verzi aferenta anului 2011**

Prin Ordinul nr. 5 emis de ANRE la data de 24.02.2012 a fost stabilita cota obligatorie de achizitie de certificate verzi de catre operatorii economici care au obligatia de achizitie de certificate verzi, pentru anul 2011. Astfel, cota obligatorie mai sus mentionata a fost stabilita la 0,03746 certificate verzi/MWh.

**3) The mandatory quota of green certificates acquisition corresponding to 2011**

By no.5 Order issued by ANRE on 24.02.2012, it was established the mandatory quota of green certificates acquisition, for the economic operators that have the obligations to acquire green certificate, for the 2011 year. Thus, the mandatory quota above mentioned was established at 0.03746 green certificates/MWh.

Yours sincerely,  
Almaj & Albu, attorneys at law