

DECISION OF COMPETITION COUNCIL
no. 210 of 10.10.2006
on the notification of the Ministry of Economy and Commerce
regarding the financial support measures
for SC TERMOELECTRICA SA

THE COMPETITION COUNCIL,

Having in view the provisions of the European Agreement establishing an association between Romania, on one side and the European Communities and the member States thereof, on the other side, as ratified by Law no. 20/1993, published in the Official Gazette, Part I, no. 73 of April 12, 1993,

Having in view the provisions of the Competition Law no. 21/1996, as republished in Romania's Official Gazette, Part I, no. 742 of August 16, 2005

Having in view the provisions of Law no. 143/1999 on State aid, as republished in the Official Gazette, part I, no. 744 of August 16, 2005,

Having regard to the Regulation regarding State aid in the form of compensations, granted to certain undertakings entrusted with the provision of services of general economic interest, published in Romania's Official Gazette, part I, no. 1048 of November 12, 2004,

Having in view the provisions of Decree no. 57/2004 on the appointment of Competition Council members,

On the following grounds,

1. PROCEDURE

(1) By address no. 2986/03.05.2006, registered with the Competition Council under no. RS-AS 80/03.05.2006, the Ministry of Economy and Commerce, through the Office of State Ownership and Privatization in Industry, as initiator, submitted to the Competition Council, on the basis of art. 15 of Law no. 143/1999 on State aid, as republished, the notification of the financial support measure for SC TERMOELECTRICA SA.

(2) The Competition Council requested supplementary information from the Ministry of Economy and Commerce (hereinafter named MEC) by address no. CC/589/10.05.2006, DAAS/956/07.08.2006 and RG 6472/05.09.2006. MEC sent the answer to the requested

information by addresses no. 3589/26.05.2006, no. 3924/05.06.2006, no. 3933/08.06.2006, no.5764/OPSPI/04.09.2006, no.6719/25.09.2006 and no. 6719/02.10.2006, registered with the Competition Council under no.RG 4286/26.05.2006, no.RG 4465/05.06.2006, no.DAAS/846/07.06.2006, no. RG 6472/04.09.2006, DAAS/1094/26.09.2006, and no. RG 6972/02.10.2006. The notification became effective on 02.10.2006.

2. DESCRIPTION OF THE FINANCIAL SUPPORT MEASURE

2.1. The beneficiary of the support measure from the state

(3) The beneficiary of the notified support measure is Societatea de Producere a Energiei Electice si Termice „TERMOELECTRICA” SA (hereinafter referred to as TERMOELECTRICA).

(4) The company was established through the reorganization of Compania Nationala de Electricitate (CONEL) on the basis of GD no. 627/2000 subsequent to the application of the engagements assumed by Romania on the reorganization by decentralization of the energy system and on creating market structures.

(5) TERMOELECTRICA is headquartered in Bucharest, 1-3 Lacul Tei Blvd., 2nd district and is registered with the Trade Registry under no. J/40/7750/2000, Sole Registration Code R13293638. The share capital of the company is entirely held by the Romanian State, through MEC.

(6) The company has 4 energy generation branches, respectively the Thermal Power Plants (CET) Braila, Borzesti, Doicești and Paroseni.

(7) The economical-financial results of the company, based on the balance sheets data for the last 3 years are presented in table no. 1.

Table no.1 – Economical-financial situation of the company for 2003-2005

- RON -

Indicators	2003	2004	2005
Total turnover	830,864,940	483,844,222	401,643,479
Loss	151,395,728	71,206,023	135,547,789

Source: Notification form

The data presented in the table above prove the fact that the company has registered losses in this interval.

(8) The company has as main object of activity electricity generation and supply and heat generation and supply. The license granted by the Romanian Energy Regulatory Activity (hereinafter named ANRE) entrusts the company with the provision of the both public services. Thus, TERMOELECTRICA operates on the basis of License no. 400. Point 21 of the License specifies that: “in order to observe the obligations under the portfolio

agreements, the license holder will set safety stocks of solid and liquid fuel, calculated to ensure the operation of energy generating units for a period established in accordance with the legal provisions and, through firm agreements, the necessary gas fuel for an operating period hereof of at least 3 months”. According to art.16 (1) of the Energy Law no. 318/2003 „the activities and the services for which licenses are granted, are of public interest, except for those exclusively intended for the own consumption of the authorization or license holder”.

(9) TERMOELECTRICA obligations as electricity and heat generator, in accordance with art. 30 of the Energy Law no. 318/2003, are as follows:

- to ensure the deliveries of co-generated electricity and, respectively, heat and the system technological services, with the observance of the criteria imposed through licenses, contractual clauses and regulations in force ;
- to offer in non-discriminatory conditions all the available electrical power, as well as the system technological services;
- to maintain sufficient fuel supply or, as the case may be, sufficient water supply for the fulfillment of continuous electricity and heat generation and supply provided by the regulations in force ;
- to operationally follow the requests of the transport and system operator and to set, accordingly, own stages of operational management.

(10) Bearing in mind all of the above, the public interest services entrusted to the company are:

- heat generation and supply;
- electricity generation and supply.

(11) The financial support is granted to the company for the provision of heat generation and supply service, as well as for electricity generation and supply service.

(12) The products supplied by the company are:

- heat;
- co-generated electricity;
- electricity generated in condensation.

2.2. Market affected by the financial support granted to the company

(13) TERMOELECTRICA operates on the market of heat generation and supply and on the market of electricity generation and supply.

(14) The markets affected by the granting of the financial support analyzed hereby are the market of heat generation and supply and the market of electricity generation and supply. The financial support measures granted by the State and notified by MEC envisage the compensation of costs generated by the obligation to provide economic services of general economic interest, respectively the service of heat generation and supply and of electricity generation and supply.

(15) The market of heat generation and supply as well as the market of electricity generation and supply are regulated markets, with both the delivered quantity and the delivery price set by the regulatory authority (ANRE). Practically, the market of energy generators has been structured on a technological principle where the generators were in fact complementary to each other and not competitors. Under these circumstances, according to information presented in the notification, ANRE has established, through issued orders, the providers, the quantities of electricity and heat energy and delivery prices hereof. These prices have been constantly lower than the costs for generation, which lead to the accrual of significant losses.

(16) TERMOELECTRICA ensures the heat for population in major cities with centralized heating systems, respectively Bucharest, Galati, Deva, Constanta, Petrosani, Aninoasa, Uricani, Lupeni. The electricity generated by the company is delivered in the National Energy System to the subsidiaries of SC ELECTRICA SA, respectively: Moldova, Muntenia Nord, Muntenia Sud, Dobrogea, Transilvania Nord, Transilvania Sud, Banat.

(17) On the heat market, geographically defined by the served cities, TERMOELECTRICA has no competition being the only supplier. With regard to electricity, the geographical market is represented by the entire Romanian territory.

2.3. Financial support measures to be granted to TERMOELECTRICA

(18) The financial support measures intended to be granted to TERMOELECTRICA are provided in the OUG draft that has been notified *ex-ante* by MEC to the Competition Council.

(19) The financial support measures notified by MEC consisted in exemption from payment of certain debts of the company to the consolidated State budget and AVAS, as well as the payment of certain debts to suppliers, with a total amount of RON 3,358,996 thousands, respectively:

- exemption from payment of due and unpaid obligations to the risk fund for State guarantees for external loans, as well as the ancillaries attached hereto, consisting of delay increases, interests and delay penalties in a total amount of RON 2,074,404 thousands;
- exemption from payment of due and unpaid obligations representing the value added tax, as well as the ancillaries attached hereto, consisting of delay increases, interests and delay penalties in a total amount of RON 306,835 thousands;
- exemption from payment of due and unpaid obligations to the State budget, to the State social insurance budget, to the budget of the National Fund of Healthcare Social Insurance and unemployment insurance budget, special funds budgets as well as the attached ancillaries hereto, consisting of delay increases, interests and delay penalties in a total amount of RON 17,447 thousands;

- exemption from payment of due and unpaid obligations representing customs fees and commissions for performed imports, as well as the ancillaries attached hereto, consisting of delay increases, interests and delay penalties in a total amount of RON 254,493 thousands;
- exemption from payment of other debts towards MFP representing outstanding obligations to the consolidated State budget in the total amount of RON 275,355 thousands;
- exemption from payment of due and unpaid obligations representing debts to AVAS consisting in debts taken over from SC DISTRIGAZ SUD SA and SC DISTRIGAZ NORD SA on the ground of OUG no. 37/2004 on measures to reduce arrears in the economy, as well as the ancillaries attached hereto, consisting of delay increases, interests and delay penalties in a total amount of RON 51,328 thousands;
- payment of company due and unpaid debts to suppliers of raw materials, fuels and services in a total amount of RON 379,134 thousands.

2.4. State aid measures previously granted

(20) In accordance with the data presented in the notification, up to the present TERMOELECTRICA has benefited of the following State aids authorized by the Competition Council:

- State aid in the amount of RON 26,362,072 granted for rehabilitation of group Mintia-Deva plant¹;
- State aid in the amount of RON 781,280,000 consisting in the state guarantee of an external loan²

2.5. Costs arising from the provision of public services of general economic interest

(21) The public services of heat generation and supply and of electricity generation and supply granted to the company are regulated by ANRE. In order to accomplish these public services, the company bears costs for raw materials (fuel), materials, personnel expenses, environmental expenses, repairs and investments expenses, monitoring expenses and others.

(22) In accordance with the legal provisions, the companies providing public services must keep separate records of the performed activities, with separate accounting for each type of service, so that their activities are easy to evaluate, monitor and control. TERMOELECTRICA keeps management accounts (as basis of management decisions) wherein the company activities are registered separately. Thus, in accordance with the data presented in the notification, the company keeps separate accounts for the two types of services of general economic interest – the activity of heat generation and supply and the activity of electricity generation and supply – which allows the individualization of the generation costs.

¹ The state aid was authorized by the Competition Council through Decision no. 7/2002;

² The state aid was authorized by the Competition Council through Decision no. 269/2004;

(23) As previously shown, the market of heat generation and supply and the market of electricity generation and supply are regulated markets. The regulatory authority – ANRE – establishes both the quantity to be delivered and the delivery price. Delivery prices practiced by TERMOELECTRICA during 1999-2005 for heating energy, and those for electric energy during 2000-2003³ were set by ANRE through decisions and orders. The establishment of the prices applied by TERMOELECTRICA for the two abovementioned services is based on statements regarding electricity and heat generation costs as well as on incomes anticipated to be obtained following service provision.

(24) In the above mentioned periods, the distribution prices set by ANRE were constantly below TERMOELECTRICA costs for generation due to the fact that the State tried to maintain the average heat and electricity price within certain limits, supportable for the population. Also, in these periods, the heat and electricity distribution price does not reflect the company expenses for investments, repairs and modernization of the energy system it operates. As a consequence, the company has accumulated significant losses from providing the two services of general economic interest.

(25) It must also be mentioned that TERMOELECTRICA is the only heat supplier in the towns of: Bucharest, Galati, Deva, Constanta, Petrosani, Aninoasa, Uricani and Lupeni. Also, the Competition Council notes that a significant part of the electricity generated by TERMOELECTRICA is necessary for ensuring Romania's energy safety. Thus, TERMOELECTRICA must maintain available capacities on certain operation parameters so as to generate and deliver the energy quantities requested by order of the National Energy Dispatcher in order to ensure the safety and the balance of the National Energy System. Maintaining these generation capacities involves certain costs that, in the analyzed interval, were not paid by the system.

(26) Considering all of the above, the Competition Council notes that there are significant differences between the real costs of services of general public interest and the distribution prices set by the regulation authority, which lead to TERMOELECTRICA registering a loss in the total amount of RON 1,376,846,079.20 for the interval 1999-2006 following the obligation to provide the public service of heat generation and supply; in addition, following the obligation to discharge the public service of production and supply of electric energy the company had a total loss of RON 1,291,280,980.20 related to 2000-2003. Also, the company is estimating a loss for the first 9 months of 2006 of RON 12,920,324.67 RON following the discharge of the public service of production and supply of heating energy. The status of the losses registered by the company following the obligations to provide the public services of heat generation and supply and respectively of electricity generation and supply are presented in table no.2 and in table no.3 of the annex.

³ Following the negotiation for the accession to the European Union, through the Complementary position paper to Chapter 14 – Energy, Romania committed that as of 01.07.2004 „prices and tariffs for electric energy for captive consumers are regulated and ensure the coverage of all costs, including financial, development and environmental costs”. Thus, the Competition Council analyzed the compensation of costs related to the discharge of the public service for the production and supply of electric energy at the end of 2003.

3. ANALYSIS OF STATE SUPPORT MEASURES

3.1. Object of the decision

(27) On the basis of the notification submitted by MEC to the Competition Council the object of this decision is represented by the financial support measures granted by the state, mentioned on paragraph (19) with an aggregate value of RON 3,358,996 thousand. These measures are analyzed in the context of TERMOELECTRICA fulfilling the obligation of service of general economic interest.

3.2. The obligation of service of general economic interest

(28) In accordance with the provisions of the Regulation for State aid in the form of compensations granted to certain undertakings entrusted with services of general economic interest (hereinafter referred to as the Regulation), the financial support granted to a company providing a service of general economic interest is not considered State aid within the meaning of art.2 of Law no. 143/1999 regarding State aid, as republished, if the following conditions are cumulatively fulfilled:

- a) the obligation to provide a service of general economic interest is granted through a normative/administrative act and is clearly defined;
- b) the parameters based on which the compensation is calculated are established in advance, in an objective and transparent manner, with a view to avoid granting an economic advantage to the beneficiary;
- c) the compensation must not be higher than the necessary for the total or partial cover of the costs resulted from providing the service of general economic interest, taking into consideration the relevant revenues and a reasonable profit for the fulfillment of these obligations;
- d) in case the company entrusted with the provision of a service of general economic interest has not been appointed by open tender, which would have allowed the selection of a bidder capable to fulfill this public service at the lowest costs, the level of compensation must be set based on a comparative analysis of the company costs and the costs of a well managed and profitable company fulfilling all the conditions imposed by the provision of the respective public service, taking into consideration also the relevant incomes as well as a reasonable profit following the fulfillment of the obligations of a service of general economic interest.

3.2.1. Condition under point 3.2. letter a):

(29) TERMOELECTRICA has been entrusted with the provision of services of electricity generation and supply respectively of heat generation and supply through ANRE license no. 400. Point 21 of the License specifies that: *„in order to observe the obligations under the portfolio agreements, the license holder will set safety stocks of solid and liquid fuel, calculated to ensure the operation of energy generating units for a period established in*

accordance with the legal provisions and, through firm agreements, the necessary gas fuel for an operating period hereof of at least 3 months”.

(30) According to art. 16 (1) of the Energy Law no. 318/2003 *„the activities and the services for which licenses are granted are of public interest, except for those intended exclusively to the own consumption of the authorization or license holder”.*

(31) TERMOELECTRICA obligations as electricity and heat generator in accordance with art. 30 of the Energy Law no. 318/2003, are as follows:

- to ensure deliveries of co-generated electricity and heat respectively and the system technological services, with the observance of the criteria imposed through licenses, contractual clauses and regulations in force ;
- to offer in non-discriminatory conditions all the electrical power available, as well as the system technological services;
- to maintain sufficient fuel supply or, as the case may be, sufficient water supply for the fulfillment of continuous electricity and heat generation and supply provided by the regulations in force .

(32) Furthermore, the electricity and heat quantities distributed by the company, as well as the distribution price have been set by the regulatory authority (ANRE). Consequently, we may conclude that TERMOELECTRICA is entrusted with the provision of services of general economic interest through a normative act (license), thus fulfilling the condition under point 3.2. letter a) of the Regulation.

3.2.2. Condition under 3.2. letter b):

(33) In accordance with this criterion, the compensation for fulfilling the obligation of public service of general economic interest must be calculated based on objectives established in advance and on transparent parameters and must not grant an economic advantage to the beneficiary.

(34) In the analyzed periods, the electricity and the heat market are regulated markets, ANRE being the regulatory authority for carrying the activities on these markets. The high regulating level of these markets was imposed by the existent structure of generators in the country and by the necessity of maintaining prices as convenient as possible to the captive consumers. Heat and electricity sale on these regulated markets takes place on fixed prices and in the quantities set by ANRE. Another regulating aspect of the electricity market is the fact that all the generators are obligated to produce the quantities requested by the National Energy Dispatcher in order to ensure the safety and balance of the National Energy System.

(35) The level of compensation is calculated based on the heat and electricity distribution quantities and prices, parameters established in advance by the regulation authority (ANRE) through decisions and orders, as shown under paragraph 23 of this decision. The Competition Council notes that these distribution prices are set within certain limits, supportable for the population and do not reflect the real costs related to public services

provision (costs influenced mainly by the fuel price), ensuring only the resumption of the generating cycle for the safe operation of the national energy system.

(36) Taking into consideration all the above, it is considered that the compensation level for fulfilling the obligation to provide the services of general economic interest by TERMOELECTRICA was accomplished based on parameters established in advance and which do not offer an advantage to the company.

3.2.3. Condition under point 3.2. letter c):

(37) Condition 3.2.c) provides for the level of compensation not to be higher than the costs imposed by the provision of service of general economic interest considering the relevant incomes and a reasonable profit for the accomplishment of these obligations.

(38) Table no.2 of the annex shows that, in the interval 1999-2005, TERMOELECTRICA has registered losses in the amount of RON 1,376,846,079.20 resulted from the obligation to provide a service of general economic interest of heat generation and supply. According to data presented in table no. 3 of the annex, in the interval 2000-2003, following the provision of the service of general economic interest of heat generation and supply, the company has registered losses in the total amount of RON 1,291,280,980.20. These losses are caused by the differences between the delivery prices set by ANRE and the real costs for electricity and heat generation. Also, the company is estimating a loss for the first 9 months of 2006 of RON 12,920,324.67 from the discharge of the service of production and supply of heating energy.

(39) Considering the annual profit rate achieved by European companies⁴ that deploy activities similar to TERMOELECTRICA, a reasonable profit of 13.6% of the turnover has been estimated, that the company should have made following the provision of the two public services. Thus, in the interval 1999-September 2006, the company should have made a total profit of RON 385,107,893.41 from providing the service of general economic interest of heat generation and supply and a total profit of RON 1,105,138,058.29 from providing the service of general economic interest of electricity generation and supply in the interval 2000-2003.

(40) The financial State support measures envisaged to be granted to the company are in the amount of RON 3,358,996 thousands and consist of exemption from payment of certain debts to the state consolidated budget and AVAS, as well as the payment of certain debts to suppliers. In accordance with item 2.4 of this decision, TERMOELECTRICA has already benefited of state aids in the amount of RON 807,642 thousands that have compensated a part of the losses registered in the interval 2001-2003 following the obligation to provide the two services of general economic interest.

(41) Table no.4 presents the results generated by the provision of services of general economic interest of heat generation and supply and of electricity generation and supply

⁴ Information extracted from annual reports published on web-sites of these companies.

(losses, reasonable profit), as well as the amount of the financial support measures intended to be granted, thus:

Table no.4 – Compensation of costs generated by the provision of services of general economic interest

Service of general economic interest	Cumulated losses -RON-	Unaccomplished reasonable profit -RON-	Amount of state support⁵ -RON-
Heat generation and supply	1,389,766,403.87	385,107,893.41	1,774,851,635.00
Electricity generation and supply	1,291,280,980.20	1,105,138,058.29	2,391,786,432.00
TOTAL	2,681,047,384.07	1,490,245,951.70	4,166,638,067.00

Source : additional information

The detailed situation of compensation for the public service of heat generation and supply is presented in table no. 5 of the Annex, and of compensation for the public service of electricity generation and supply in table 6 of the Annex.

(42) The Competition Council notes that the financial support granted to the company does not exceed nor the total costs triggered by the provision of the public service of heat generation and supply and neither the costs triggered by the provision of the public service of electricity generation and supply.

(43) The Competition Council considers that the financial support that is to be granted to TERMOELECTRICA represents a compensation of the costs related to the provision of the service of heat generation and supply and of the costs triggered by the provision of the service of electricity generation and supply, since the level hereof does not exceed the total costs resulted from the obligation to provide these services of general economic interest.

3.2.4. Condition under point 3.2. letter d) :

(44) The provision of services of general economic interest of heat generation and supply and of electricity generation and supply has not been granted to TERMOELECTRICA by open tender.

(45) The provision of these services of general economic interest has been entrusted to TERMOELECTRICA by ANRE license. Thus, in order to determine the compensation level, it is necessary to analyze the costs that another well managed economic agent

⁵ Financial support granted by the state compensates both losses resulted from providing the service of general economic interest, and a reasonably estimated profit

would have supported while providing the same service. There are other generators and suppliers operating on Romanian heat and electricity markets, but a comparison with these companies would not be relevant, since they are all public companies, that receive State support for the fulfillment of the obligation of public service of general interest. However, a comparative analysis with other economic agents, electricity and heat generators and suppliers, showed that the situation hereof is similar to the situation of the analyzed company, respectively that the real costs of the service exceed the delivery prices established by ANRE and that the causes leading to this situation are similar.

3.3. Evaluation of State aid

(46) With regard to all of the above, it is considered that the four conditions specified under item 3.2. are not cumulatively met, respectively the condition provided under item 3.2. letter d) could not be proven. Consequently, the support measures for TERMOELECTRICA, as notified by MEC, represent State aid in the meaning of Article 2 of Law no. 143/1999 regarding State aid, as republished and of the Regulation.

3.4. Compatibility of State aid

(47) In accordance with the Regulation, the compensations granted in order to fulfill the service of general economic interest may represent State aid compatible with the normal competitive environment if the following conditions are cumulatively met:

- a) the State aid is necessary in order to operate the service of general economic interest;
- b) the State aid does not unjustifiably affect the trade between Romania and Member States of the European Union.

3.4.1. The State aid is necessary in order to operate the service of general economic interest

(48) In order to be able to evaluate the necessity of granting the State aid for the operation of the service of general economic interest, the following conditions must be taken into consideration:

- the beneficiary must be officially granted the obligation to provide a public service of general economic interest and this must be clearly defined;
- the level of the compensation must not exceed the necessary in order to provide the respective public service, considering the relevant revenues and a reasonable profit resulting from the provision of these obligations.

(49) As presented under point 3.2.1., TERMOELECTRICA provides public services of general economic interest, and this obligation is clearly defined by the license.

(50) TERMOELECTRICA operates the services on the basis of ANRE license no. 400. This license and the relevant law clearly define the company obligation to provide the two public services – of heat generation and supply and of electricity generation and

supply. We may conclude that TERMOELECTRICA has been officially entrusted with the provision of the both public services.

(51) Also, the analysis performed under point 3.2.3. shows that, in conditions of regulated markets, the company may not impose on the consumers its own prices for the provision of these services, prices that would cover the real operation costs. This is the main cause for the company registering annual losses. Furthermore, the compensation granted to the company does not entirely cover the costs that are usually triggered by the provision of these public services.

(52) Consequently, it is considered that the State aid envisaged to be granted to TERMOELECTRICA does not exceed the necessary for the operation of the public service of heat generation and supply and of electricity generation and supply under normal conditions of continuity, safety and comfort.

3.4.2. The State aid does not unjustifiably affect the trade between Romania and Member States of the European Union

(53) It must be specified that the company's activity is restricted to a limited market, represented by the territory of Bucharest, Galati, Deva, Constanta, Petrosani, Aninoasa, Uricani, Lupeni – for heat – and by Romanian territory – for electricity. TERMOELECTRICA is not involved in import-export activities. Under these circumstances, we consider that granting the state aid does not unjustifiably affect the trade between Romania and Member States of the EU.

3.4.3. There is no over-compensation

(54) The State aid granted to TERMOELECTRICA as exemption from payment of outstanding debts to the consolidated State budget and AVAS and payment of certain suppliers does not represent an over-compensation since it does not exceed the inherent costs of the obligation to provide the both public services of general interest (see paragraphs 38-41).

3. CONCLUSIONS

(55) Thus the two conditions specified under paragraph 47 are cumulatively met, conditions provided by the Regulation to appreciate that the support measures for TERMOELECTRICA, representing compensations for the provision of the service of general economic interest, represent State aid compatible with the normal competition environment.

(56) The State aid to be granted to TERMOELECTRICA, in the total amount of RON 3,358,996 thousands, is compatible with the normal competition environment. The State aid is used only for the service of general economic interest of heat generation and supply and for the service of electricity generation and supply.

DECIDES

Art. 1. The financial support measures that are to be granted to Societatea de Producere a Energiei Electrice si Termice „TERMOELECTRICA” SA represent State aid within the meaning of Article 2 of Law no. 143/1999 regarding State aid, as republished.

Art.2. The State aid represents a necessary compensation for the provision of services of general economic interest of heat generation and supply and of electricity generation and supply under normal conditions of safety and continuity, compensation that does not unjustifiably affect the trade between Romania and Member States of the European Union.

Art.3. On the grounds of Article 21 paragraph (2) letter b) corroborated with Article 23 paragraph (1) letter j) of Law no.143/1999 regarding State aid, as republished, it is hereby authorized the State aid for Societatea de Producere a Energiei Electrice si Termice „TERMOELECTRICA” SA, as aid for the provision of the both services of general economic interest in conditions of safety and continuity.

Art.4. The amount of the state aid is of RON 3,358,996 thousands.

Art.5. In accordance with provisions of Article 32 of Law no. 143/1999 regarding State aid, as republished, the Ministry of Economy and Commerce shall annually send to the Competition Council information on the State aid granted to Societatea de Producere a Energiei Electrice si Termice „TERMOELECTRICA” SA, in view of monitoring hereof.

Art.6. This decision becomes applicable on the date of the communication hereof.

Art.7. In accordance with provisions of Article 46 of Law no. 143/1999 regarding State aid, as republished, this decision may be brought before the Bucharest Court of Appeal, Administrative Litigation Section by the interested persons, within 30 days as of the communication.

Art.8. The General Secretary Office within the Competition Council shall communicate this decision to:

- Ministry of Economy and Commerce – office for State Ownership and Privatization in Industry, 152 Calea Victoriei , 70034 Bucharest;
- SC TERMOELECTRICA SA, 1-3 Lacul Tei Blvd., 2nd district, Bucharest.

PRESIDENT

MIHAI BERINDE

ANNEX

Table no. 2 Economic financial situation related to the public service of heat generation and supply

-RON-

	1999	2000	2001	2002	2003	2004	2005	Jan,-Sept, 2006	Total interval
Total expenses	580,390,737.00	937,610,860.90	1,348,313,118.20	1,084,128,658.50	136,174,154.50	54,790,883.10	44,401,486.00	35,632,192.52	4,221,442,090.72
Total revenues	412,844,736.60	543,119,980.70	824,622,625.50	828,568,193.20	129,543,349.00	41,439,712.00	28,825,222.00	22,711,867.85	2,831,675,686.85
Loss	167,546,000.40	394,490,880.20	523,690,492.70	255,560,465.30	6,630,805.50	13,351,171.10	15,576,264.00	12,920,324.67	1,389,766,403.87
Unaccomplished reasonable profit (13.6% of the turnover)	56,146,884.18	73,864,317.38	112,148,677.07	112,685,274.28	17,617,895.46	5,635,800.83	3,920,230.19	3,088,814.03	385,107,893.41

Table no. 3 Economic financial situation related to the public service of electricity generation and supply

-RON-

	2000	2001	2002	2003	Total interval
Total expenses	2,125,400,448.60	3,438,476,790.70	3,015,517,493.10	837,901,382.30	9,417,296,114.70
Total revenues	1,963,255,212.90	2,619,189,872.30	2,862,158,937.40	681,411,111.90	8,126,015,134.50
Loss	162,145,235.70	819,286,918.40	153,358,555.70	156,490,270.40	1,291,280,980.20
Unaccomplished reasonable profit (13.6% of the turnover)	267,002,708.95	356,209,822.63	389,253,615.49	92,671,911.22	1,105,138,058.29

Table no. 5 Compensation of the public service of heat generation and supply**-RON-**

	1999	2000	2001	2002	2003	2004	2005	Jan,-Sept, 2006	Total interval
Loss	167,546,000.40	394,490,880.20	523,690,492.70	255,560,465.30	6,630,805.50	13,351,171.10	15,576,264.00	12,920,324.67	1,389,766,403.87
Reasonable profit	56,146,884.18	73,864,317.38	112,148,677.07	112,685,274.28	17,617,895.46	5,635,800.83	3,920,230.19	3,088,814.03	385,107,893.41
Financial support granted to the company for service provision	223,692,175.00	468,354,564.00	635,836,573.00	368,244,195.00	24,247,868.00	18,975,005.00	19,492,966.00	16,008,289.00	1,774,851,635.00

Table no. 6 Compensation of the public service of electricity generation and supply**-RON-**

	2000	2001	2002	2003	Total interval
Loss	162,145,235.70	819,286,918.40	153,358,555.70	156,490,270.40	1,291,280,980.20
Reasonable profit	267,002,708.95	356,209,822.63	389,253,615.49	92,671,911.22	1,105,138,058.29
Financial support granted to the company for service provision	429,147,871.00	1,175,493,996.00	542,453,666.00	244,690,899.00	2,391,786,432.00

NOTE: In accordance with the Competition Council decisions no. 7/2002 and no. 269/2004, the company as benefited of state aids in the total amount of RON 807,642 thousand that have compensated for a part of the registered losses in the interval 2001-2003 following the obligation to provide the two services of general economic interest.