



National
Association of
Regulatory
Utility
Commissioners



Dispute settlement and consumer affairs

Veronica Muruziuc

Missouri
September 20-24, 2010



USAID
FROM THE AMERICAN PEOPLE

Provisions on dispute settlement according to the natural gas and electricity Acts (1/7)

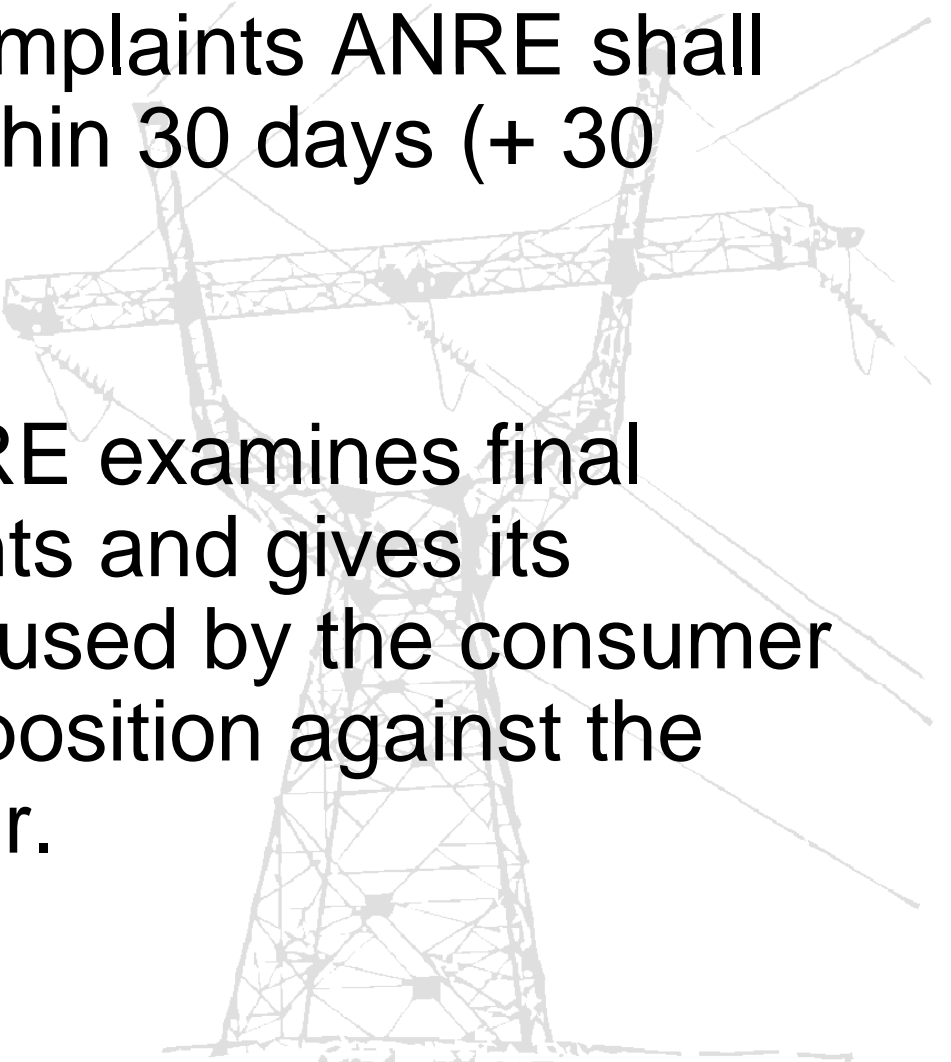
- ☐ ANRE is empowered to solve in an extra judiciary procedure disputes between participants to the regulated markets;
- ☐ The law settles directly categories of the disputes that can be examined and solved by ANRE (no provisions in Electricity and Natural Gas Acts from 1998);

Provisions on dispute settlement according to the natural gas and electricity Acts (2/7)

❑ ANRE examines and solves disputes between final customers and transmission network operator/distribution networks operators/suppliers of electricity or natural gas at regulated tariffs in relation to connection to the networks, and also those regarding conclusion of contracts for electricity/natural gas supply (art. 13);

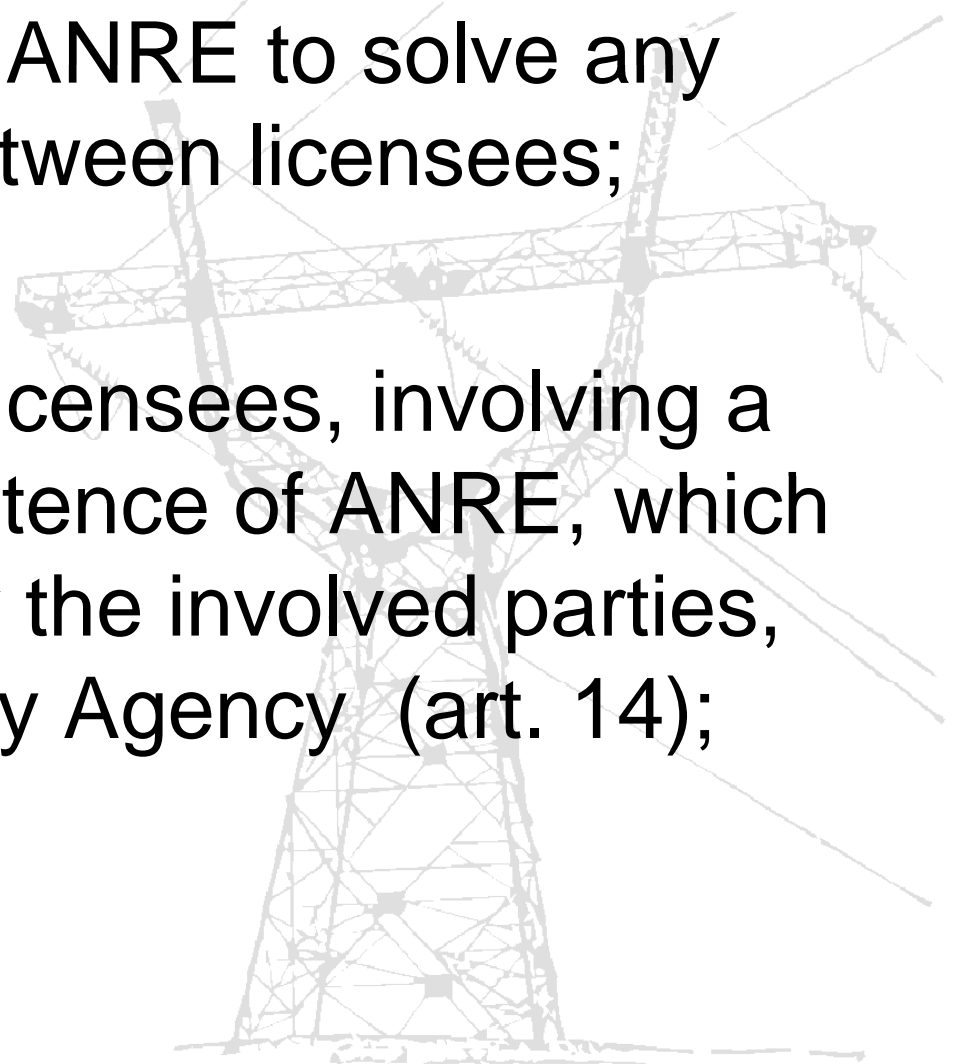
N.B. ANRE can make decisions regarding prohibition of disconnection of utilization installation from electric/natural gas networks or regarding renewal of electricity supply.

Provisions on dispute settlement according to the natural gas and electricity Acts (3/7)

- ☐ Upon customers complaints ANRE shall issue its decision within 30 days (+ 30 days).
 - ☐ In other cases, ANRE examines final consumers complaints and gives its opinion that may be used by the consumer in court to prove its position against the grid operator/supplier.
- 

Provisions on dispute settlement according to the natural gas and electricity Acts (4/7)

- ☐ The law empowers ANRE to solve any types of disputes between licensees;
- ☐ Disputes between licensees, involving a matter within competence of ANRE, which cannot be settled by the involved parties, shall be examined by Agency (art. 14);



Provisions on dispute settlement according to the natural gas and electricity Acts (5/7)

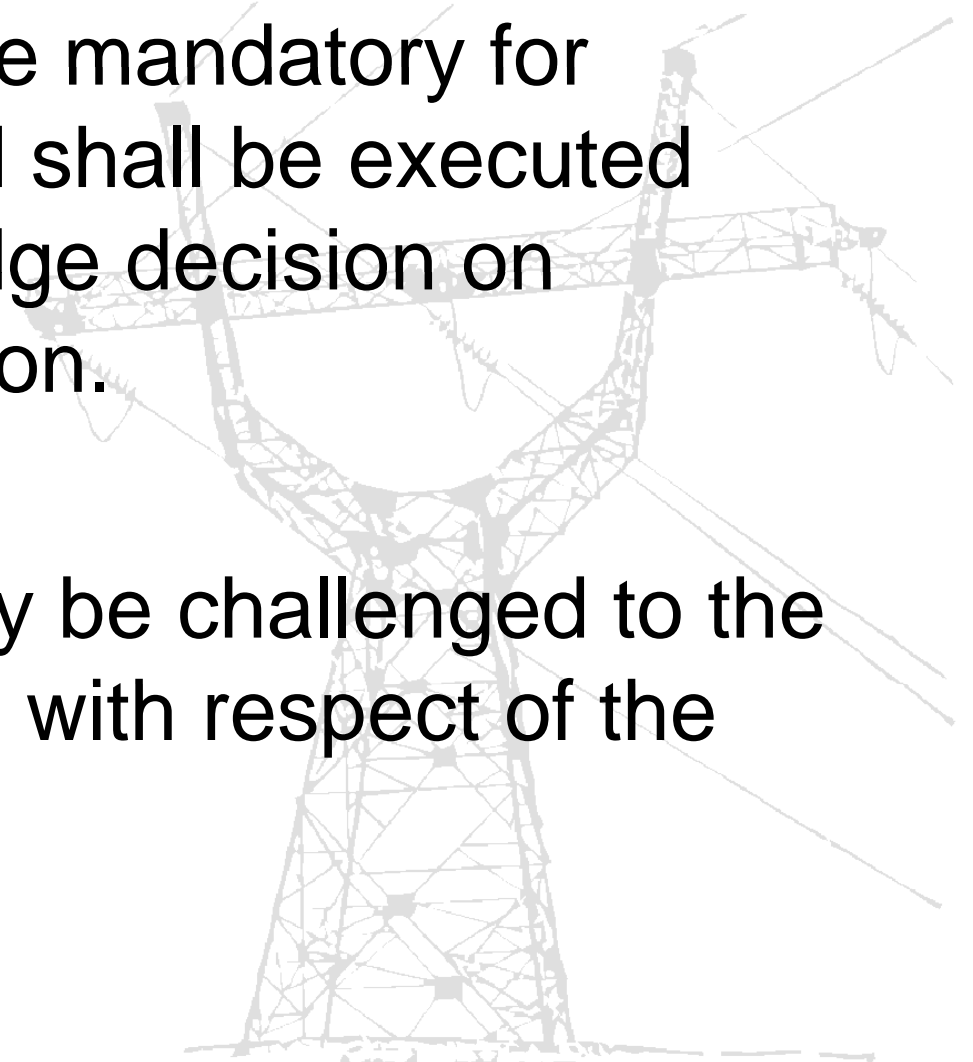
- ☐ Upon notification by one party, ANRE shall issue within 30 calendar days a decision settling the dispute. If necessary, ANRE shall extend the established period by maximum one month, notifying in written interested parties about that;
- ☐ During 3 working days from the date of adoption of decision settling the dispute, ANRE shall send it for execution to involved parties, explaining also reasons on which the respective decision is adopted.

Provisions on dispute settlement according to the natural gas and electricity Acts (6/7)

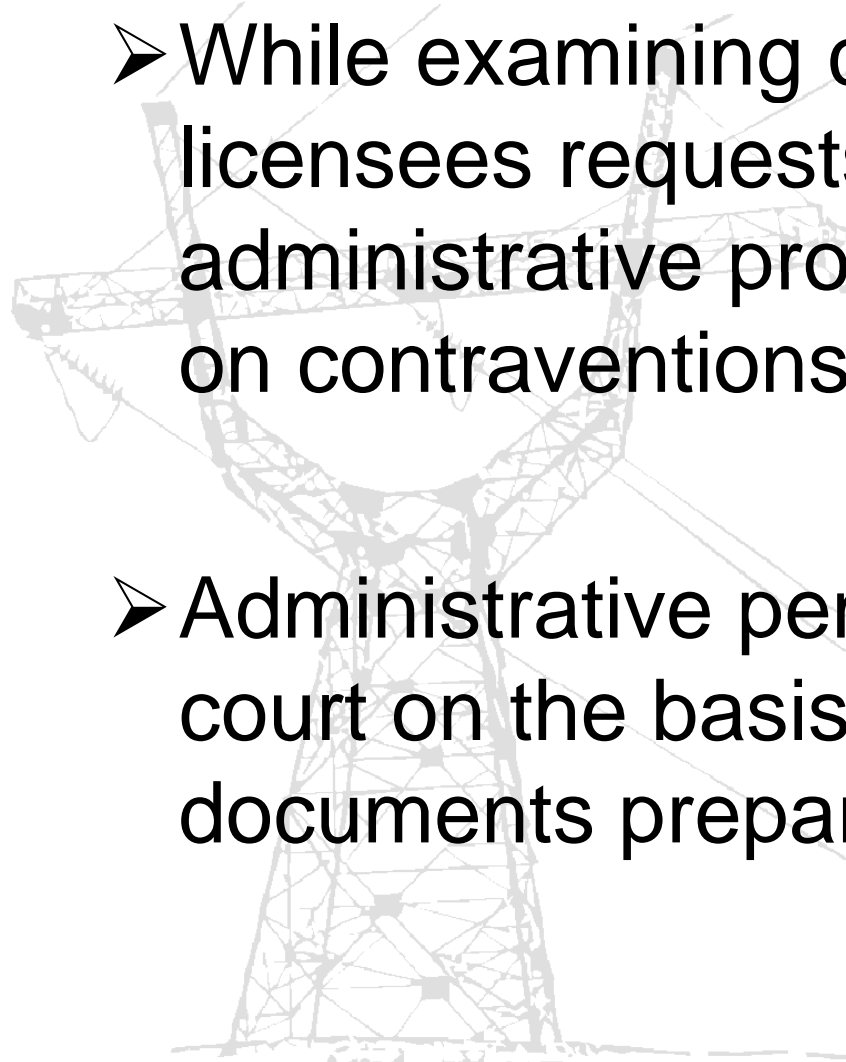
- ☐ ANRE shall settle cross-border disputes regarding transmission network operator which refuses to use the power/natural gas system, or access to electric/natural gas transmission network (according to the EU Directives);
- ☐ No provision regarding the person that shall submit the request to ANRE and the procedure of its examination.

Provisions on dispute settlement according to the natural gas and electricity Acts (7/7)

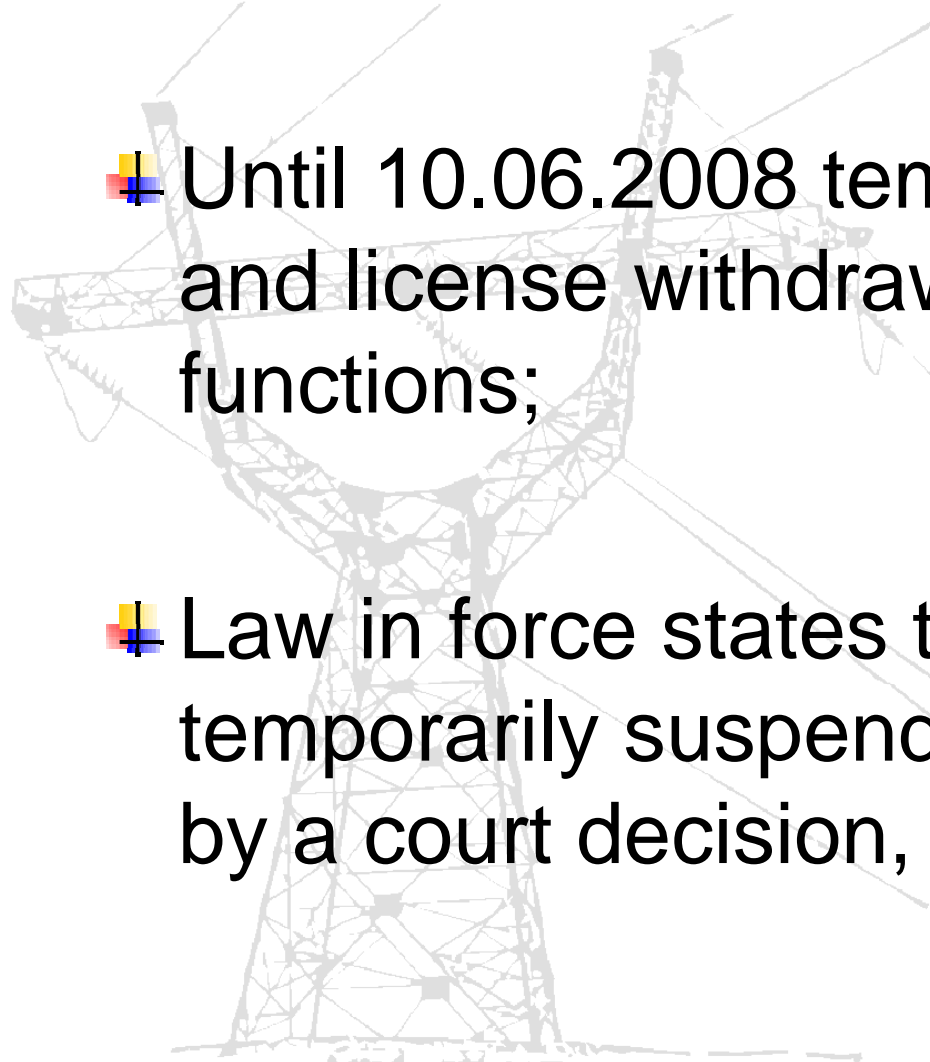
- ☐ ANRE decisions are mandatory for parties involved and shall be executed unless there is a judge decision on temporary suspension.
- ☐ ANRE decision may be challenged to the court within 30 days with respect of the prior procedure.



Establishment of contraventions

- 
- While examining consumers complaints or licensees requests ANRE can initiate the administrative procedure (art. 169 Code on contraventions);
 - Administrative penalties are given only by court on the basis of evidences and documents prepared by ANRE.

Temporary suspension and license withdrawal 1/5

- 
- ✚ Until 10.06.2008 temporary suspension and license withdrawal was one of ANRE functions;
 - ✚ Law in force states that a license may be temporarily suspended or withdrawn only by a court decision, at ANRE request;

Temporary suspension and license withdrawal 2/5

✚ In special cases, provided by law, a license may be temporarily suspended by ANRE decision strengthened by a final court decision. In this case:

- ANRE shall apply to court within 3 working days;
- Contrariwise, ANRE resolution on temporary suspension shall be cancelled;

✚ A license may be temporarily suspended or withdrawn by ANRE decision upon request of the license holder;

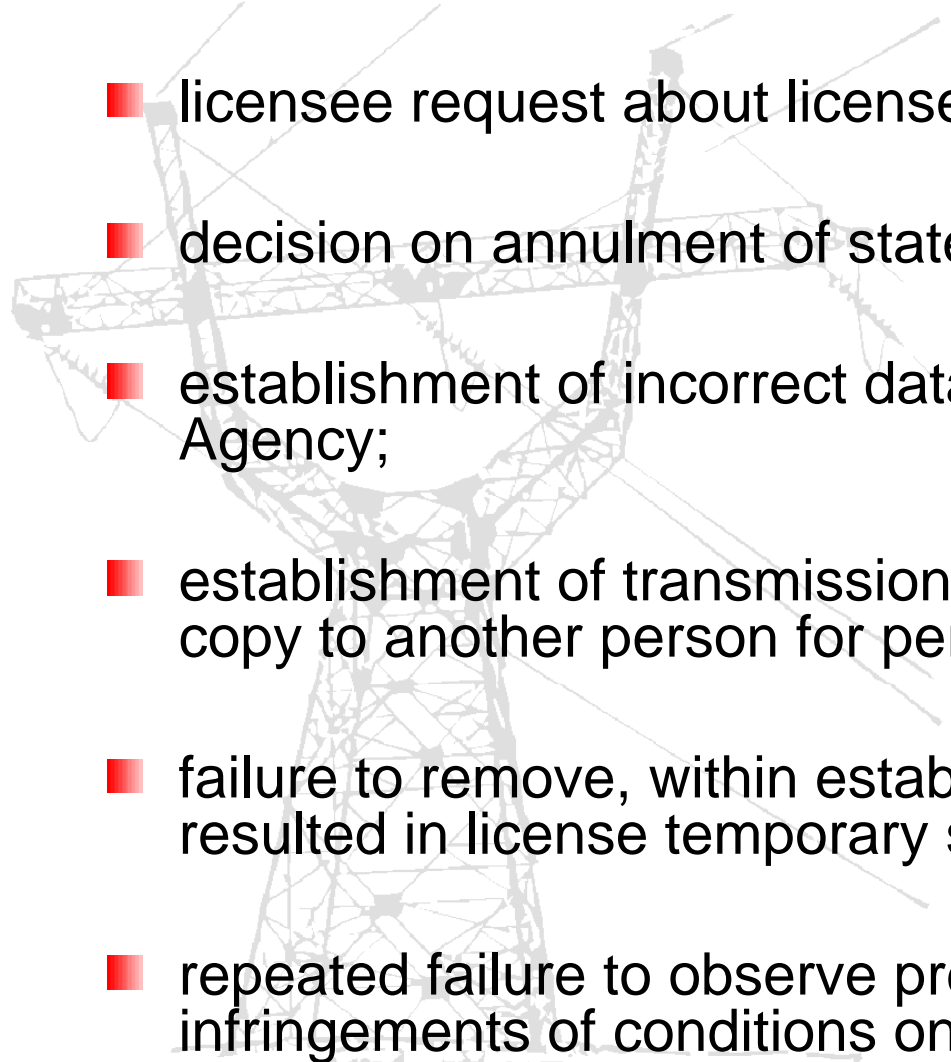
Temporary suspension and license withdrawal 3/5

License may be temporarily suspended if:

- licensee requests license temporary suspension;
- licensee does not observe the term for submitting application to get copy of license in case it was lost or deteriorated;
- licensee does not observe, within terms established by ANRE, prescription for redressing infringements of conditions on performing licensed activity;
- temporary inability of licensee to perform licensed activity, in compliance with law;
- licensee does not pay regulatory fees within terms established by ANRE.

Temporary suspension and license withdrawal 4/5

Reasons for license withdrawal are:

- 
- licensee request about license withdrawal;
 - decision on annulment of state registration of the licensee;
 - establishment of incorrect data in documents presented to Agency;
 - establishment of transmission by licensee of the license or of its copy to another person for performing activity specified in license;
 - failure to remove, within established terms, circumstances which resulted in license temporary suspension;
 - repeated failure to observe prescriptions for redressing infringements of conditions on performing licensed activity.

Temporary suspension and license withdrawal 5/5

- ANRE assigns a new license holder who shall carry out licensed activity instead of licensee for transmission, distribution or supply of electricity/natural gas at regulated tariffs whose license was temporarily suspended, was withdrawn or expired.

Judicial practices outlining ANRE functions in solving disputes between licensees 1/4



- ❏ In some regions conflicts regarding the territory of activity of license holders aroused;
- ✎ Transmission network operator, distribution networks operators and suppliers of electricity/natural gas at regulated tariffs shall perform their licensed activity on the territory specified by ANRE in License Conditions and in case if within the specified territory another licensee does not perform the same activity (art. 17)

Judicial practices outlining ANRE functions in solving disputes between licensees 2/4



- ☛ To settle the dispute, ANRE issued resolutions on establishing the territory of activity of the license holders;
- ☛ ANRE resolutions were challenged in court;
- ☛ The court stated that ANRE resolutions are legal.

Judicial practices outlining ANRE functions in solving disputes between licensees 3/4

Court reasoning:



-  ANRE issues, in compliance with law-established procedure and requirements, licenses for: transmission, distribution and supply of electricity/natural gas at regulated tariffs (art. 8);
-  Transmission network, distribution networks operators and suppliers at regulated tariffs shall perform their licensed activity on the territory specified by ANRE (art. 17);

Judicial practices outlining ANRE functions in solving disputes between licensees 4/4

-  In accordance with art. 15, to get a license the applicant should submit documents proving possession of networks (as owner or user);
-  To ensure continuous supply of natural gas to final customers ANRE is obliged to settle this type of disputes between license holders.

Judicial practices describing ANRE functions in dispute settlement between customers and licensees

Case “Basis”:

-  Customer challenged in ANRE the bill issued by the supplier for unauthorized consumption of electricity;
-  ANRE issued a decision on cancellation of the bill because the evidences to prove the alleged unauthorized consumption of electricity were insufficient;

Judicial practices describing ANRE functions in dispute settlement between customers and licensees

✍ The court decided to annul ANRE decision as being issued without competences;

✍ **Court reasoning:**

■ Billing issues are related to the execution of the contract and thus in case of disputes contracting parties should go to the court;

Judicial practices describing ANRE functions in dispute settlement between customers and licensees

- Energy Act stipulates that no central or local public authority has right to intervene in the operational activity of undertakings performing in energy field (art. 6);
- ANRE – public authority (art. 7)

Judicial practices describing ANRE functions in dispute settlement between customers and licensees

Case “Cenusa”:

- Customer challenged in ANRE the fact that the supplier asks payment for verifying the metering equipment when concluding with him, as a new owner of the apartment, a contract on supply;
- ANRE issued a prescription obliging the supplier to conclude the contract without any payment and to give back the money taken from 5 109 customers in similar circumstances;

Judicial practices describing ANRE functions in dispute settlement between customers and licensees

➤ The court stated that ANRE decision is legal.

➤ **Court reasoning:**

✎ Costs related to the verification of metering equipments shall be borne by the supplier and recovered through the tariff;

Judicial practices describing ANRE functions in dispute settlement between customers and licensees

- ✎ When concluding contract on supply with the new owner of the apartment supplier shall verify the metering equipment;
- ✎ Supplier is prohibited to ask any payment for concluding contracts on supply.

Dispute settlement in courts and the participation of ANRE as a regulatory authority

- ❑ Code of civil procedure: ANRE may participate as “public authority” to give its position on the dispute examined in the court;
- ❑ Usually, ANRE opinion is taken in consideration by the court when given it's final decision.



Thank You

Veronica Muruziuc
Legal consultant
National Agency for Energy Regulation
Republic of Moldova

MD-2012, Moldova
Chisinau, 90 Columna str.,
Tel: / 373 22/ 240514
Cell: / 373 69999189
E-mail: vmuruziuc@anre.md
www.anre.md