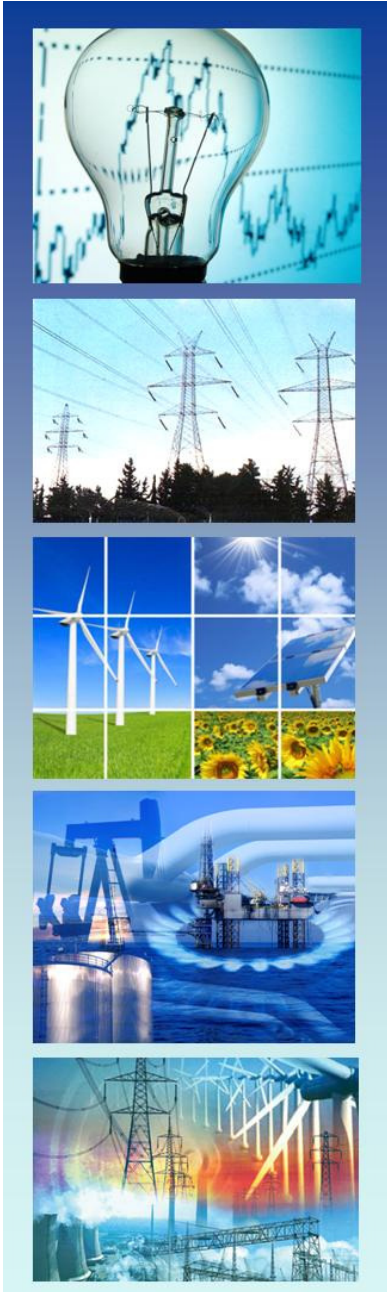


Energy, Natural Resources & Environment - August 2013



ENERGY MARKETS

- EU: MoU regarding implementation of REMIT concluded between ACER and NRAs

ELECTRICITY

- Greece: Reform of the electricity wholesale market
- Greece: PPC privatisation – further steps
- Greece: Developments in the electricity pricing

RENEWABLES

- Serbia: Standard model agreements with privileged electricity producers
- Ukraine: Resolution of NERC on Determination of the Local Content Amount

OIL AND GAS

- Croatia: Law on Exploration and Exploitation of Hydrocarbons (Petrol and Natural Gas)

ENERGY INFRASTRUCTURE

- Greece, Cyprus and Israel sign MoU on cooperation in the energy sector

A publication by **Rokas**...

intended for the information of our clients and contacts, aiming to highlight selected recent developments in SE European law. The highlights do not cover every important topic; they include limited information on the selected topic without extending to legal or other advice. Readers should not act upon them without taking relevant professional advice. Copyright © 2013, Rokas, All rights reserved.

Energy, Natural Resources & Environment - August 2013



ENERGY MARKETS

EU: MoU regarding implementation of REMIT concluded between ACER and NRAs

by Mira Todorovic – Symeonides (Athens)

The Multilateral Memorandum of Understanding between the Agency for the Cooperation of Energy Regulators (ACER) and National Regulatory Authorities (NRAs) and market monitoring bodies on cooperation and coordination of market monitoring under EU Regulation no. 1227/2011 on wholesale energy market integrity and transparency (REMIT) was concluded in July this year. The MoU establishes procedures and practical terms of cooperation at Union, regional and national level regarding monitoring of wholesale energy markets including notifications by NRAs to ACER of suspected breaches of prohibitions of market manipulations or insider trading in home or other Member State; investigations of suspected breaches of REMIT at the request of ACER; and establishment and coordination by ACER of an investigatory group regarding these breaches.



Greece: Reform of the electricity wholesale market

by Lazaros Sidiropoulos (Athens)

The Greek energy regulator RAE adopted on 18 July 2013 by its Decisions 338/2013 and 339/2013 some new measures, aiming at the provisional reform of the local electricity wholesale market for the purposes of gradual alignment with the common European 'Target Model' up to 2015. Among others, following amendments to the existing regulatory framework were introduced: The cost-recovery mechanism, which ensures that power producers are remunerated based on their declared minimum variable costs plus a 10% margin, shall be fully abolished by the 1st of July 2014, while the 10% margin is already abolished as of now. Moreover, the Capacity Adequacy Mechanism, which obliges suppliers to buy capacity certificates from power producers, is revised; nine older lignite units of the Greek utility PPC shall be immediately withdrawn from the list of units receiving payments for capacity certificates, while eleven modern natural gas fired units shall be entitled to issue an additional capacity certificate instead. Finally, the "30% rule", allowing power producers to make offers below the lower limit in the day-ahead market for an amount of energy corresponding to up to 30% of their total energy production, shall be abolished by the 1st of January 2014. The above measures are only meant to have a provisional character, until the final establishment of some new market mechanisms, such as auctions giving to third parties access to PPC's lignite and hydroelectric power production.

Greece: PPC privatisation – further steps

by Mira Todorovic Symeonides (Athens)

On 24 July 2013 the Ministerial Council issued the Decree on the Plan for Reconstruction and Privatisation of Public Power Corporation - PPC (Official Journal no. A' 168/24.7.2013). The Decree mainly confirms the restructuring and privatisation plan for the PPC published by the Government in May this year, consisting in: privatisation of the majority of shares in the electricity transmission system operator ADMIE, separation from PPC and formation of new vertical electricity company "smaller PPC" and its sale as well as sale of 17% of PPC's shares. The Decree authorizes the Ministry of Finance and the Ministry of Environment, Energy and Climate Changes, acting jointly, to amend the Plan or its part, particularly with regard to regulation and timeframe of each of the three steps of the privatisation without changing the steps themselves. Some modifications of the Plan as well as the initiation of the ADMIE privatisation are expected within the next months.

Greece: Developments in the electricity pricing

by Lazaros Sidiropoulos (Athens)

In order to cut down the deficit incurred by Greece's market operator LAGIE, caused by the rapid integration of RES technologies into the power system, the energy regulator RAE announced on 19 July 2013 a significant increase in ETMEAR, the levy paid by consumers to finance RES. The new fee will now average €14.96/MWh instead of previously €9.30/MWh (61% rise); mostly affected are the residential consumers who will consequently have to pay €20,80/MWh instead of previously €9,53/MWh (approx. 120% rise), while the High Voltage industrial consumers have been favored, with their fee being reduced to €1,78/MWh instead of previously €3,55/MWh.

Moreover, following a series of complaints of major industrial customers as well as of related decisions of RAE, the Greek utility PPC announced on 2 August 2013 its intention to offer fifteen different new tariffs to its High and Medium Voltage customers - seven in the High Voltage (HV) and eight in the Medium Voltage (MV) -, in order for the customers to select the most suitable tariff depending on their own consumption profile. This announcement was, however, not well received by the Greek industrialists, whose representative association, the Association of Industrial Energy Consumers (EVIKEN), commented that the new tariffs only led to small reductions for the MV consumers and to no reductions at all for the HV consumers. Among others, an issue, which is not dealt with in the new tariffs and may lead under circumstances also to increases in the electricity pricing, regards the charges for CO₂ rights, which PPC passes through uniformly to all customers, while RAE has ruled - also in some recent decisions issued in August 2013 (326/2013 and 365/2013), among others, imposing a daily fine of 5.000 € on PPC for non compliance with former relevant decisions - that these charges have to be separately negotiated with the customers, because they pertain to the competitive part of the electricity bills.



Serbia: Standard model agreements with privileged electricity producers

by Vuk Stankovic (Belgrade)

The Serbian Ministry of Energy, Development and Environmental Protection (hereinafter: Ministry) issued in July this year the Rulebook on determination of standard model agreements and pre-agreements on purchasing electricity from privileged producers (Official Gazette RS No. 62/2013) (hereinafter: PPA Rulebook). The PPA Rulebook governs provisions of three model agreements to be concluded between the Public Supplier and a privileged electricity producer (RES and combined carbon generation with certain level of efficiency, and combined biogas generation) on (i) purchasing electricity generated from power plants with total installed capacities up to 5MW; (ii) purchasing electricity generated from power plants with total installed capacities over 5MW and (iii) concluding pre-agreements for solar and wind power plants regardless of capacity for which a temporary status of privileged producers has been obtained. Distinguishing point between the first two models is the section dedicated to generation and maintenance planning, pursuant to which power plants with capacities over 5MW are obliged to undertake more liability regarding planning and predicting electricity generation, followed by day-ahead planning and notification model and annual reporting requirements.

These models are drafted in accordance with the Energy Law and the respective by-laws, which regulate their main terms, partly resulting from the discussions of the Ministry with investors and other market participants, held from March until July this year. The text of the model agreements is compulsory and nonnegotiable. The parties may agree amendments and changes of the agreements only if they are in compliance with the provisions stipulated in the above models. Bearing in mind that the Third Energy Package is set to be implemented in Serbia until 2015 in line with Directive 2009/72/EC, the Ministry announced further regulatory framework changes which might be effected on the content of the current models.

Ukraine: Resolution of NERC on Determination of the Local Content Amount

by Alina Karas (Kiev)

On the 9th of August 2013 the National Electricity Regulatory Commission of Ukraine (NERC), issued a Resolution on Approval of the Procedure for Determining the Local Content Amount. The Resolution implements the provisions of the amended Law on Energy Industry on the minimum participation of domestic companies in the construction of renewable energy plants ("Local Content") as a precondition for qualifying for the feed-in tariffs – the Local Content. It provides that NERC will be the expert organisation which shall confirm the Local Content. If the Local Content is connected with a production chain (several manufacturers produce parts or assemble some or all parts of the plant) all parts being documented by certificates of origin or other documents, NERC shall collect, register and publish this data on its website. In this way the chain of production and modifications of used materials are intended to be tracked. Some issues regarding the Local Content are viewed restrictively, e.g. in case one part, from the list of spare parts provided in Law in relation to the Local Content, is made of both Ukrainian and foreign elements, the whole part shall be qualified as foreign.

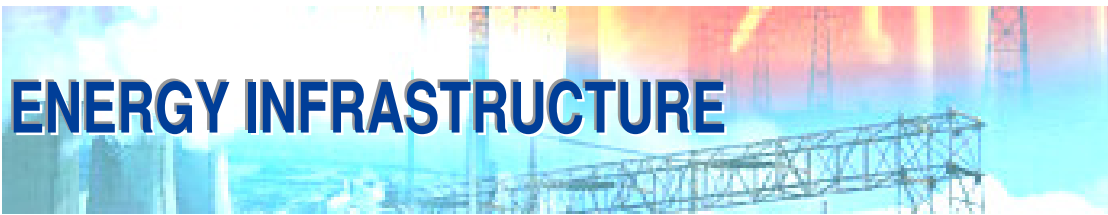


Croatia: Law on Exploration and Exploitation of Hydrocarbons (Petrol and Natural Gas)

by Mira Todorovic – Symeonides (Athens)

The Law on Exploration and Exploitation of Hydrocarbons issued on 15.07.2013 together with the recently passed Mining Law provides the legal framework for the opening of the Croatian oil and gas market to private and foreign investors. This Law is *lex specialis* to the Mining Law as well as other laws covering the same or similar issues. It regulates exploration and exploitation of hydrocarbons situated in earth, in seabed of internal sea waters or territorial sea of the Republic of Croatia or in seabed and subsoil of its costal areas in the Adriatic sea up to the border with neighbouring countries. The competencies in relation to the petrol and gas works are mainly shared between the competent Ministry and the Hydrocarbon Agency, established by this Law. The competent Ministry is authorized to decide on the strategy for the use of hydrocarbons, issue regulations for the optimal production of hydrocarbons, decide on the proposals of the Agency to initiate tenders for oil or gas works, issue licenses and grant concessions, at the proposal of the Agency. The competencies of the Hydrocarbon Agency are of more technical nature and include choosing of location for exploitation, preparation of the tenders for exploration and exploitation works, keeping the central register of data related to hydrocarbon reserves, drafting and preparation of the relevant bylaws for the implementation of this law, assisting the investors in their work, cooperation with other Croatian authorities and monitoring the execution of hydrocarbon projects.

Individuals and legal entities with residence, seat or branch office in the Republic of Croatia as well as legal entities properly registered in an EU member state for performing of exploration or exploitation of hydrocarbons may participate in tenders for the granting of a license for performing petrol or natural gas works. The license is issued for a period of no longer than 25 years including both the exploration period (of maximum 5 years which may be prolonged up to 2 times for 6 months) and the exploitation period, which may be extended by decision of the Ministry. The Law further regulates the rights and obligations of investors in case of discovery of hydrocarbon reserves not covered by the Concession Agreement, also in case that there is or there is no commercial discovery as well as the pre-emption right of the Republic of Croatia to purchase whole or part of the investor's share in petrol or natural gas at a market price.



Greece, Cyprus and Israel sign MoU on cooperation in the energy sector

by Lazaros Sidiropoulos (Athens)

The energy ministers of Greece, Cyprus and Israel signed on 8 August 2013 a Memorandum of Understanding engaging the three parties in consultations with a view to tripartite cooperation in the energy sector, aiming to enhance the security of energy supply and sustainable development in the three countries as well as in the wider region of the Eastern Mediterranean. Among others, following topics of joint research and development are mentioned: energy infrastructures; renewable energy sources; natural resources; water resource management; and environmental protection. Although no particular reference to specific energy projects is made in the MoU, according to statements of the participating ministers the MoU is intended to establish future avenues of tripartite cooperation in issues such as exploitation of offshore hydrocarbons; construction of an underwater gas pipeline; and creation of an electricity interconnection between the three countries by means of the EuroAsia Interconnector project (recently declared by the European Union as a project of common interest), which will link the power grids of the three countries through underwater power cables, allowing for the export of electricity generated in the region to the European Union energy market.

for further information, please contact...

Editing authors



Mira Todorovic-Symeonides, LL.M.

Partner

Rokas (Athens)

E m.todorovic@rokas.com



Dr. Lazaros Sidiropoulos, LL.M.

Senior Associate

Rokas (Athens)

E l.sidiropoulos@rokas.com

I.K. Rokas & Partners, 25 & 25A, Boukourestiou Str., 106 71 Athens, Greece
T (+30) 210 3616816, F (+30) 210 3615425, E athens@rokas.com

Authors



Vuk Stankovic

Associate

Rokas (Belgrade)

E belgrade@rokas.com

IKRP i partneri d.o.o. Beograd

30, Tadeusa Kosciuskog Str.
11000 Belgrade, Serbia
T (+381 11) 2080265
F (+381 11) 2638 349
E belgrade@rokas.com



Alina Karas, LL.M.

Director

Rokas (Kiev)

E a.karas@rokas.com

IKRP Rokas & Partners Ukraine

26 Chervonoarmiyska
(Velyka Vasykivska) Str.
Kiev, Ukraine
T (+ 380) 44 2882138
F (+ 380) 44 2794588
E kiev@rokas.com