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Greece: RAE's Decisions on Two Requests of the Greek Utility for Repeal of imposed Fines

by Lazaros Sidiropoulos (Athens)

By its Decision no. 487/2013 the Greek energy regulator (RAE) ruled on the appeal filed by the Public Power Corporation (PPC) against RAE's Decision no. 307/2013, which had imposed in July 2013 a 4.4 million € fine on PPC for having failed to substantially negotiate with its medium voltage customers and to offer an adequate number of alternative tariffs. RAE now rejected PPC's appeal and confirmed that the 4.4 million € fine is valid due to PPC's unlawful conduct at the relevant time period. In addition to that, RAE took a step forward by also deciding to forward the case to the Greek Competition Commission, in order for the latter to examine if by PPC's conduct national and/or European competition law has been violated. A few days later RAE also issued its Decision no. 539/2013 ruling on PPC's appeal against RAE's Decision no. 326/2013 which had forced PPC to provide to a specific medium voltage customer a new tariff proposal which would comply with the applicable legal framework and at the same it had imposed a fine of 5.000 € on PPC for each day of non compliance. Due to the fact that PPC thereafter submitted 8 alternative tariffs to all medium voltage customers, RAE revoked the daily fine imposed by its Decision no. 326/2013, while it also pointed out that PPC should nevertheless still take into consideration proposals made by its customers in the course of negotiation and adjust tariffs to the particular needs of its customers when this is justifiable.



EU: ACER Publishes Framework Guidelines on Harmonised Gas Transmission Tariff Structures

by Mira Todorovic Symeonides (Athens)

On 3 December 2013 ACER published the Framework Guidelines on harmonised gas transmission tariff structures and submitted them to the European Commission, which further invited ENTSOG to use them in developing the relevant Network Code. Their purpose is to improve the efficiency of gas trade and enhance competition by establishing clear and objective principles for tariff structuring and by setting certain publication requirements with a view to the development of a Network Code harmonising transmission tariff structures for gas. The Framework Guidelines provide detailed instructions on the information requirements to be fulfilled by the Member States and/or

the TSOs, including provision of detailed explanation and reasoned justification for the choice of methodology, relevant input information necessary to calculate tariffs, information on reserve prices etc. Such information must be published both in the official Member State language and in English. The Guidelines describe four main primary cost allocation methodologies with variants, for the national Regulatory Authorities to choose and approve the implementation of one: postage stamp, capacity-weighted distance approach, virtual point based approach and matrix approach. They also address the following issues: tariffs for entry and exit points from and to gas storage facilities; TSOs revenue reconciliation; and reserve prices for firm standard capacity products.

Serbia: The New Law on Commodity Reserves for Crude Oil and Petroleum Products

by Vuk Stankovic (Belgrade)

In accordance with Decision 2008/03/MC of the Ministerial Council of the Energy Community which extended requirements concerning compliance with EU regulation in the oil sector, particularly in relation to Directive 2009/119/EC, the Republic of Serbia undertook the obligation to establish and maintain mandatory oil stocks. Accordingly, the Serbian parliament adopted the new Law on Commodity Reserves (hereinafter: Law), which came into force on 5 December 2013. As regards reserves of crude oil and petroleum products, the Law regulates the relations between the competent Ministry, petrol companies, traders, warehousing companies and the Directorate for Commodity Reserves (hereinafter: Directorate) and provides the obligation of creating and maintaining minimum stocks until December 2022. Contrary to the previous regulation, crude oil and petroleum products are defined as "commodity" thus allowing participation of private sector companies either through holding and managing public warehouses or - under certain conditions provided by law - as owners of private warehouses. The Ministry shall be in charge of establishing and maintaining such reserves as well as of coordinating between the Government and companies licensed to operate oil warehousing. The Directorate will be authorised to purchase oil from licensed traders and sell respective products in the event of difficulties arising in the energy supply. Only if the capacities of the Directorate's and public warehouses are not sufficient, lease agreements for warehousing purposes may be concluded directly between the Ministry and private warehousing companies. All trade and storage activities have to be performed in line with the public procurement regulation, while the Law additionally provides that oil might be purchased on an organized stock market via option agreements. Finally, all licensed traders and producers are required to pay a contribution fee for stock financing purposes and to meet reporting requirements in regard of consumption, export and import of oil products.

BiH: New Law on Exploration and Exploitation of Oil & Gas in FBiH

by Vuk Stankovic (Belgrade) and Senad Bilic (Sarajevo)

Aiming to exploit the potentials set out in the National Energy Plan adopted in 2008, the Federation of Bosnia and Herzegovina (hereinafter: FBiH) established the legal framework for the development of the upstream Oil & Gas sector by issuing the Law on Exploration and Exploitation of Oil & Gas in the Federation of Bosnia and Herzegovina (Official Gazette FBiH no. 77/13) (hereinafter: the Law), which entered into force on 12 October 2013. Contrary to the Republika Srpska, whose respective regulatory framework is dispersed among several legislative acts (Law on Concessions, Law on Oil, Law on Gas and Mining Law), FBiH has unified the process of awarding concession agreements for exploration and/or exploitation purposes. The new Law includes a stipulation pursuant to which all provisions set forth therein shall be considered as prevailing over provisions of the Law on Concessions. Thus, in case a concession is declared as a "project of public interest", no tendering procedure would

be required, the government then being enabled to enter into an agreement with a previously chosen strategic partner. Other issues regulated in the Law are the following: pre-agreement procedures; negotiation process; conditions to be fulfilled by potential concessioners; granting procedures; content of the agreement; concession fees; FBIH right of pre-emption of the exploited products; and supervision issues. Contrary to Law on Concessions, the duration of the Agreement is limited to up to 25 years.

Ukraine: Amendments to the Mining Law – Procedures for Exploration and Exploitation

by Alina Karas (Kiev)

Amendments to the Mining Code of Ukraine were approved by the Cabinet of Ministers of Ukraine in October 2013 and they were planned to be passed by the Parliament until the end of 2013. The amendments should be in line with Article 107§1 of the National Action Plan for 2012 on the implementation of the Program "Prosperous Society, Competitive Economy, Effective State". An one-stop service center shall be competent for granting the right to explore and exploit mines (including hydrocarbons) by means of a mining agreement signed between the investor and the State Geology and Mining Service of Ukraine or the Counsel of Ministers of Crimea. Moreover, through the amendments pledge, sale and contribution to a charter capital shall be made possible in relation to rights of exploitation of mineral resources. The above amendments are of great importance, considering that Ukraine has the biggest shale gas deposits in Europe.



Poland: Auction System Introduced in the Polish Renewable Support Scheme

by Agnieszka Binieda (Warsaw)

The latest draft of the RES Act provides a new support scheme for renewable energy projects in Poland. Instead of the initially planned green certificate system the legislator finally favored the introduction of the so-called "auction system". Pursuant to the stipulations setting out the general principles of this system, the Minister of Economy will announce detailed information on the auctions by the 30th November of each year, including, but not limited to, the maximum value of RES generated electricity and electricity generated from agricultural biogas, which can be purchased through auctions in the following calendar year. Auctions will be organised and conducted by the President of the Energy Regulatory Office at least once a year. A minimum of 25 % of the electricity generated from renewable energy sources or from agricultural biogas must be produced by installations with a total capacity of up to 1 MW. This provision is meant to facilitate the establishment of installations of local character in the form of small and medium-sized business entities. On the other hand, dedicated co-incineration plants, hybrid systems and biomass plants with total installed capacity exceeding 50 MW - and in the case of co-generation plants exceeding 150 MW - are excluded from the auction system so as to limit the formation of large installations using renewable energy sources such as biomass which would have to be supplied through imports.

Bulgaria: 20% Charge on the Income of Solar and Wind Producers Introduced

by Gergana Hadjipanteleeva (Sofia)

On 9 December 2013 the State Budget Bill for 2014 was approved by the National Assembly, introducing, among others, a highly disputable new 20% charge on the revenues from RES generated production. The new charge shall be applicable only for the production of solar and wind energy. This measure was met with great criticism, raising protests from representatives of the RES industry, which denounced the new charge as a measure of “nationalisation of private capital”. The Bill has not been promulgated by the President yet, who has expressed his concern over the negative effect of this new measure on local and foreign investments. Although he stated that he will not exercise his veto right against the Bill, actions for contesting the constitutionality of the Bill before the Constitutional Court should be expected. Not clear is particularly the legal sense of this charge, i.e. whether it represents a levy imposed in exchange for a public service or rather a tax. Furthermore, this measure is regarded as discriminatory against solar and wind energy producers in relation to other energy producers.



Greece: Gas and Electricity Ten-year Grid Development Plans Approved by RAE

by Lazaros Sidiropoulos (Athens)

By its Decisions no. 525/2013 and 560/2013 the Greek energy regulator (RAE) approved in November 2013 the ten-year Grid Development Plans submitted for approval by the gas and electricity TSOs respectively. Pursuant to the Greek energy law 4001/2011, such plans must be yearly developed by the competent TSO, then be published for public consultation and finally receive approval by RAE. As regards the gas TSO (DESFA), its Grid Development Plan for the period 2013-2022 was approved by RAE (Decision no. 525/2013) as a result of a long procedure of consultation, rejection of initial plans and submission of revised versions. The finally approved plan provides several construction projects with a view to connecting new users to the grid, modernising the existing infrastructure and further expanding the grid. Among others, the second upgrade of the LNG Terminal at Revithoussa is addressed in the Plan. As regards the electricity TSO (ADMIE), its Grid Development Plan for the period 2014-2023 was approved by RAE (Decision no. 560/2013). This plan was a revised version submitted to RAE following the rejection of the initial one by RAE's Decision no. 463/2013, which requested that the initially scheduled performance period for some projects should be shortened. Projects included in the Plan are, among others, the interconnection of Crete and of the Cyclades islands with the main grid and the expansion of the grid in Peloponnese.



EU: New Guidance on EU Energy Efficiency Rules

by Mira Todorovic Symeonides (Athens)

On 6 November 2013 the European Commission published Guidance on the implementation of the EU Energy Efficiency Directive (2012/27/EU), which should be transposed by the Member States in the majority of its provisions into national law by 5 June 2014. In order to assist the Member States in this task the Commission has prepared seven Staff Working Documents which provide details on how certain provisions of the Directive should be read and applied regarding the: exemplary role of public bodies' buildings; purchasing by public bodies; energy efficiency obligation schemes; energy audits and energy management systems; metering, billing information and cost of access to metering and billing information; promotion of efficiency in heating and cooling; and energy transformation, transmission and distribution. In this regard the Staff Working Documents clarify numerous legal technical issues such as regarding the definition of "central government", "SMEs" particularly in cross border application, and they also provide practical examples for the application of certain requirements such as of how the 3% refurbishment target could be established and met.

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