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EU: Energy Union Package – Ambitious Legislative Reforms

by Mira Todorovic Symeonides (Athens)

On 25 February 2015, the European Commission (Commission) communicated to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank a Framework Strategy for a Resilient Energy Union with a Forward-Looking climate Change Policy. This ambitious proposal for reform of the EU energy sector provides a brief analysis of the current status with proposals for measures for achieving the Energy Union. The paper covers the fields of a) energy security, solidarity and trust, b) fully integrated European energy market; c) energy efficiency contributing to moderation of demand; d) decarbonising the economy and e) research, innovation and competitiveness. The Commission concluded that EU needs integrated governance and monitoring processes to ensure that energy-related actions at European, regional, national and local level are coordinated in the same direction.

A precondition for the legal reform is stated to be the full implementation and strict enforcement of the existing energy and related (such as competition and antitrust rules enforcement) legislation, particularly the requirements from the 3rd Internal Energy Market Package (the 3rd Package) regarding unbundling of energy entities and independence of regulators. Certain institutions established by the 3rd Package, such as ENTSO E/G, will have to be upgraded and certain new, such as regional operational centers, established. There should be a significant reinforcement of the powers and independence of ACER to carry out regulatory functions at the European level to oversee the development of the internal energy market and deal with cross-border issues. The Commission will prepare an ambitious legislative proposal to redesign the electricity market and link wholesale and retail aiming to: a) be better adapted to the energy transition; b) bring new producers, particularly of RES; c) enable full participation of consumers through demand response, d) ensure closer integration on a regional level, e) increase cross-border trade and f) develop both short and long term markets with effective price formation. Attention shall be paid to greater transparency in the composition of energy costs and prices as well as to public interventions such as regulated tariffs, energy taxation policies and the impact of public support on pricing mechanisms. Different national market arrangements, such as capacity mechanisms and uncoordinated RES support schemes should be more compatible with the internal market.

The Commission's proposed actions and time-table for their accomplishing are summarised in the section of the draft Framework Strategy named "Energy Union in Fifteen Action Points". These action points include: a) revision in 2015-2016 of the existing securing of gas supply Regulation by proposing a resiliency and diversification package for gas; b) new comprehensive strategy for LNG and its storage; c) revision in 2016 of the Decision on Intergovernmental Agreements to ensure compatibility with EU legislation before agreements are negotiated; ensuring involvement of the Commission in such negotiations; developing standard contract clauses for EU rules and making commercial gas supply contracts more transparent; d) financial support for the infrastructure projects of common interest and creation of Energy Infrastructure Forum; e) in 2016 proposal of legislation on security of

supply for electricity; in 2015 proposal for new European electricity market design with legislative proposal in 2016; f) developing guidance on regional cooperation; g) revision of energy efficiency regulation and new proposals in 2015 and 2016; h) developing Smart Financing for Smart Buildings initiative; i) proposing a comprehensive road transport package promoting more efficient pricing of infrastructure and enhancing energy efficiency; j) proposing legislation to achieve the greenhouse gas reduction within and outside of the Emissions Trading System; k) proposing in 2016-2017 a new Renewable Energy Package including a new policy for sustainable biomass and biofuels.

EC: Proposal for Establishment of the European Fund for Strategic Investments

by Marina Aliferopoulou (Athens)

On 13 January 2015, the European Commission (Commission) adopted a legislative proposal for a Regulation of the European Parliament and of the Council on the European Fund for Strategic Investments (EFSI) and amending Regulations (EU) no 1291/2013 and (EU) no 1316/2013, which expects to generate at least €315 billion in private and public investments across the European Union over the next three years. According to the draft Regulation, the Commission shall conclude an agreement with the European Investment Bank (EIB) on the establishment of the EFSI with the purpose to support investments in the Union and to ensure increased access to financing small and medium size companies. The EFSI will be open to accession by Member States and subject to consent of existing contributors, to other third parties. Furthermore, the EFSI Agreement shall provide for the creation of a European Investment Advisory Hub ("EIAH") within the EIB, with which the Commission will work as strategic partner. The EU shall provide a guarantee to the EIB for financing or investment operations carried out within the EU covered by this Regulation. It shall also establish an EU guarantee fund from which the EIB will be paid in the event of a call on the EU guarantee.

Pursuant to an amendment to Regulation (EU) No 1316/2013, the amount, which shall be distributed in the energy sector, regarding the implementation of CEF for the period 2014 to 2020, is EUR 5.350.075.000. In addition, the proposal provides an estimate expenditure, among others, on the following: a) optimising the integration and interconnection of transport modes and enhancing interoperability; b) coordination at European level, further integration of the internal energy market and the interoperability of electricity and gas networks across borders; c) enhancing EU security of energy supply; d) contributing to sustainable development and protection of the environment; e) making the transition to a reliable, sustainable and competitive energy system and f) construction, operation and exploitation of the International Thermonuclear Experimental Reactor (ITER) facilities – European Joint Undertaking for ITER – Fusion for Energy.

EU: General Court Upholds Decision of the European Commission on the Austrian Renewable Energy Scheme

by Viktoria Chatzara (Athens)

On 11 December 2014 the General Court of the European Union issued a Decision rejecting the appeal of the Republic of Austria against Decision 2011/528/EU of the European Commission (case T-251/11), according to which the exemption of energy-intensive undertakings from the general scheme for the promotion of electricity production from renewable sources constitutes state aid, not compatible with the Single Market. More specifically, Austria, in order to comply with its national goal set by Directive No 2009/28/EC on the promotion of the use of energy from renewable sources, issued a Law concerning the promotion of "green" electricity (OSG

Law). The OSG Law contained two main measures: it guaranteed that the total amount of energy from renewable sources would be bought by a centre of settlement of green electricity (OMAG) on a predefined price, higher than the price of the market, set each year by the competent Austrian Minister. Moreover, the above cost would be passed on to the consumers, who would be paying an annual contribution, independent from their energy consumption. Electricity suppliers would be also obliged to buy from OMAG the total amount of the produced green electricity on the predefined higher price and then pass the respective excess cost on to their clients. However, with respect to energy-intensive undertakings, it was provided that their payments would be limited to a certain amount, calculated in connection with their net annual production. The European Commission, following an official investigation, issued a decision, stating that the above limitation concerning energy-intensive undertakings constitutes state aid, prohibited by the EU Law.

The General Court, in order to define whether the funds in question (i.e. the cost from which energy-intensive undertakings were exempted) were deriving from state sources, stated that OMAG was established in order to undertake a public service and that the amounts paid to OMAG served exclusively a public purpose, determined by the National Law. Moreover, the amounts for the promotion of "green" electricity derive from an obligatory surcharge of the price of "green" electricity, an extra cost for the consumers, which is equal to a tax in favour of third parties, determined by a public authority, for public purposes and based on objective criteria. As such, the above amounts are deemed to be deriving from state sources. This conclusion is reinforced by the fact that OMAG is under strict control from the Austrian state regarding its compliance with the applicable law and the management of its funds. The General Court also ruled that the Commission was right to characterise the exception of the energy-intensive undertakings as a selective measure, since it provided for different treatment between undertakings in the same position, without such differentiation being inherent with the nature of the whole system and regardless of the fact that the above described benefit could be attributed to an undefined number of undertakings operating within multiple business sectors. Furthermore, the General Court upheld Commission's position, according to which the guidelines concerning state aid schemes with respect to the protection of the environment were not applicable by analogy. Finally, the General Court rejected Austria's argument concerning the application of the provisions of Regulation No 800/2008 declaring certain categories of aid compatible with the common market, ruling that the situation under examination in this case was not comparable with the ones described in the Regulation's provisions.

Energy Community: Policy Guidelines on the Independence of National Regulatory Authorities

by Marina Aliferopoulou (Athens)

On 28 January 2015, the Secretariat published policy guidelines on independence of National Regulatory Authorities (NRAs) with the purpose to inform the national stakeholders in the Energy Community on the implementation of the Third Energy Package, according to which the NRAs should be independent functionally, legally and financially; furthermore, they should exercise their powers in transparency, and, away from any political influence.

In particular, in compliance with the relevant provisions of Directive 2009/72/EC concerning common rules for the internal market in electricity and Directive 2009/73/EC concerning common rules for the internal market in natural gas, Contracting Parties shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. The Contracting Parties shall ensure that the regulatory

authority is legally distinct and functionally independent from any other public or private entity; ensure that its staff and the persons responsible for its management act independently from any market interest and do not seek or take direct instructions from any government or other public or private entity when carrying out the regulatory tasks. In order to protect the independence of the regulatory authority, Contracting Parties shall ensure that it can take autonomous decisions, independently from any political body, and has separate annual budget allocations, with autonomy in the implementation of the allocated budget. Contracting Parties are required to equip the NRA with adequate human and financial resources that allow the NRA to carry out its duties in an efficient and effective manner. NRA staff salary levels should orientate on those of the regulated industry in order to ensure that NRAs are able to attract sufficiently qualified staff to execute its responsibilities in a meaningful way. The members of the board, or in the absence of a board, the regulatory authority's top management must be appointed for a fixed term of five to seven years, renewable once. Independence of the NRA management is particularly at risk where after the expiry of a board member's term this post is for a longer time either not filled or filled by the previous board member without renewal of mandate.

The guidelines are meant serve as a basis for the Secretariat's assessment of the Contracting Parties' compliance with the Energy Community acquis in this area.

Energy Community: Dispute Settlement Case against FYR of Macedonia for Postponing Market Opening

by *Simonida Sosolceva Giannitsaki (Skopje)*

Following the amendments to the Law on Energy adopted in October 2014, by which the full opening of the electricity market is postponed until 2020, the country now is facing a dispute settlement case initiated by the Energy Community Secretariat (Secretariat). On 30 January 2015, the Secretariat sent to the FYR of Macedonia an Opening Letter in regard to its failure to comply with the Energy Community's eligibility rules by postponing full opening of the electricity market. The Secretariat also considers that the provisions on the gradual achieving of eligibility based on the quantities of electricity consumption present a breach of the Energy Community Treaty. Furthermore, the explanation of the Government, when adopting the amendments in October 2014, that the full opening of the electricity market would distort the market, are opposite to the measures which are recognised by the Energy Community acquis for protection of dramatic price increase. Instead of postponement of the full opening of the electricity market, the Government should have adopted regulated tariffs for socially vulnerable categories of customers. The Secretariat further offers its assistance to the country in rectifying the identified breaches of the Energy Community Treaty.

Serbia: New Rulebook on Energy Permits

by *Vuk Stankovic (Belgrade)*

On 10 February 2015, the Serbian Ministry of Mining and Energy adopted the new Rulebook on energy permits (OJ 15/2015) (Rulebook). The Rulebook is the first regulation issued for the implementation of the new Energy Law, adopted in December 2014. The Rulebook reintroduces the obligation to acquire energy permits for small hydro plants with a capacity of up to 1 MW. It introduces several new requirements for obtaining energy permits including: a) replacement of the requirement regarding bank guarantee or deposit in the amount equal to 2% of the investment value with the obligation of investors in all energy facilities to deposit an amount equal to 0.5% of the total value of the investment or to present evidence that such amount has already been invested for the

project in question; b) that the RES facility, for which the application is submitted, would increase the country's RES share in the total consumption of energy thus contributing to fulfillment of the National RES Action Plan; c) that the electricity plant, for which the application is submitted, would contribute to the secure and stable operation of the electricity grid thus enabling connection of larger number of RES facilities to the grid; and d) all investors are obliged to provide innovative technical solutions ensuring that energy efficiency is equal to or higher than the prescribed minimum for buildings. In addition, more detailed requirements regarding spatial planning conditions are introduced for energy facilities other than electricity generators.



EU: ENTSO-E Policy Paper on Cross Border Participation to Capacity Mechanisms

by Mira Todorovic Symeonides (Athens)

On 24 February 2015, ENTSO-E published a "Policy Paper on Cross Border Participation to Capacity Mechanisms" as a contribution to the ongoing debate with regard to increasing the efficiency and integration of the European system as a whole, through the appropriate consideration of cross-border opportunities. The ENTSO-E Policy Paper deals with the compatibility of national capacity mechanisms and with solutions for the design of cross-border participation of foreign generation or demand response. In order to secure the electricity supply some Member States have introduced national capacity mechanisms, thus remunerating capacity providers (generators or demand response) according to the capacity they offer and the needs of the system. These capacity mechanisms should be in compliance with the mechanisms of cross-border contribution to security of supply (market coupling and TSOs cooperation such as real-time support in emergency situations). Following a discussion on the possible impact of the capacity mechanism rules and their opening to foreign capacities on the European Internal Energy Market (IEM), ENTSO-E has issued this Policy Paper containing guiding principles and concrete recommendations.

The guiding principles include: a) consistency with IEM and target model; b) consistency with national policies on security of supply; c) efficiency of capacity mechanisms' investment signals; d) adequate consideration of availability constraints; e) regional coordination; and f) smooth implementation. Due to the significance of TSOs in design and operation of these mechanisms TSOs from different countries should develop cooperated solutions while their competences in regard to this issue should be clearly defined. The concrete recommendations from the Policy Paper include: a) given the level of diversity of the capacity mechanisms applied by Member States it is necessary to find solutions to ensure their compatibility; b) key dimensions of explicit participation models are participation of either capacity providers or interconnectors themselves while remuneration of capacity providers would either depend on their availability to deliver energy or on physical energy delivery in pre-defined situations; c) it is not recommended that the interconnection capacity is reserved except for netting obligations and d) multiple participation in different capacity mechanisms can efficiently deliver added value in specific situations (double coupling) as long as overlapping is avoided.

Energy Community: Study on the Integration of Balancing Markets in the Region

by Lazaros Sidiropoulos (Athens)

On 16 February 2015, the Energy Community Secretariat published an "Impact Assessment of Regional Balancing Integration in the Southeast European (SEE) Electricity Market" assessing the steps that need to be taken by the Energy Community Contracting Parties towards common balancing market in the region. The study provides an overview of the present state of balancing procedures and markets in SEE countries and attests that national balancing markets either do not exist (Ukraine, Moldova) or are at an initial stage (Balkans countries). Insufficient level of competition and high costs of balancing at small national markets are identified in this regard. Taking into consideration the developments in Western and Central Europe, the study illustrates the benefits of balancing market integration by providing numerical examples of saving potentials, based on comprehensive market modelling. Further, the study provides a concrete roadmap on proposed integration steps to be followed by SEE countries and addresses the regulatory prerequisites in this regard. Finally, investment potentials due to balancing integration are examined; the study suggests that, although balancing activities generally require investments in fast-starting generation units (e.g. gas), also efficient and least-cost usage of balancing resources may contribute to savings in the process of balancing integration. Nevertheless, as a means of maximising efficiency of integrated balancing markets, infrastructure investments could focus on further building of transmission links at congested borders as well as on strengthening the IT infrastructure necessary for integrated balancing activities.

EU: ACER Publishes Status Review Report on Electricity and Gas Regional Initiatives for 2014

by Stephania Chatzichristofi (Athens)

On 10 February 2015, ACER published its annual review regarding electricity and gas regional initiatives for the year 2014, in cooperation with National Regulation Authorities. Given the fact that 2014 was set by Council of EU as the deadline for the completion of internal energy market, the report aims to point out the progress that has been achieved, but to underline also the need for further efforts and cooperation especially in regard to the upcoming implementation of the binding Network Codes.

Regarding the electricity regional initiatives, significant progress has been made in the implementation of the European Price Coupling linking the European electricity markets: The go-live of the North-West Europe (NWE) Market Coupling project in February was extended in May to the Iberian market and has been followed by the go-live of the coupling of the markets of the Czech Republic, Slovakia, Hungary and Romania in November, soon to be extended to the northern Italian borders. Moreover, ACER notes that the preparation of a European set of rules for allocating long-term transmission rights has been advanced, as planned. The submission of these European set of rules to National Regulatory Authorities is scheduled in the second half of 2015 so that they can enter into force during 2016. Further, the Central-West Europe project for the flow-based capacity calculation project has been rescheduled to March 2015 while in the region of Central-East Europe, after the signing of the Memorandum of Understanding, progress has been recorded. On the other hand, despite the European Commission's involvement, the Cross-Border Intraday (XBID) project is experiencing ongoing delays, which may lead to opting for alternative initiatives in 2015.

As far as gas regional initiatives (GRI) are concerned, ACER focuses on the need to facilitate the implementation of the Network Codes (NCs), to enhance market integration projects and to carry out other projects either nationally or regionally in accordance with the new regional Work Plan for 2015. Furthermore, 2014 has been the year that the South and SEE gas regions have begun to schedule their upcoming work for the next years in their respective territories. On 3 November 2014, the final Work Plan 2015-2016 for the South region was adopted whereas the Work Plan 2015-2018 for the South-eastern region is expected to be adopted in the near future. These Work Plans are about to become the new reference for regional work in 2015 and in the following years. To end with, it is mentioned that National Regulatory Authorities after their effort to reorganise the SEE region, are forming new priority areas and activities in the SSE Work Plan 2015–2018 and are proposing various changes to the organisational structure of the region.

Romania: ANRE Establishes National Register of the Participants in the Wholesale Energy Market

by Corina Badiceanu (Bucharest)

On 30 January 2015, an Order of the Romanian Regulatory Authority for Energy (ANRE) on the establishment of a national register of the participants in the wholesale energy market was published in the Official Gazette under the number 1/2015. Starting with 18 March 2015, the aforementioned register shall be operated by ANRE, the Authority being in charge of organising, verifying and continuously updating the information included in this register. The register will include all participants in the wholesale electricity market and in the wholesale natural gas market, as, according to the Order, the “wholesale energy market” domain contains both mentioned categories and will give to each participant a unique identification code. The participants to this market registered in this national registry will be obliged to inform ANRE on all changes in reference to the registered data and will be able to register in the European Centralised Register of the participants to the energy market through ANRE.

The establishment of the national register of the participants to the wholesale energy market is in accordance with the provisions of art. 9 (3) of the European Regulation no. 1227/2011 on wholesale energy market integrity and transparency (REMIT).

Romania: ANRE Publishes Draft Orders on Licensing of Electricity Trading

by Corina Badiceanu (Bucharest)

Taking into consideration that Law no. 127/2014 introduced significant amendments to Law no. 123/2012 on electricity and natural gas, such as with regard to the regime of the transmission systems of electricity and natural gas and the introduction of the term “electricity trader” (distinguishing from the term “electricity supplier”), the amendment of certain aspects of the secondary legislation in order to effectively allow interested persons to trade with electricity was necessary. Thus, two draft Orders in setting up the regulatory framework on licensing of electricity trading were published on the website of the Romanian Regulatory Authority for Energy (ANRE) on 19 December 2014 and on 27 January 2015 respectively.

According to the draft Order on the modification of the Regulation on granting electricity licenses, in order to obtain a trading license, the person interested in trading with electricity must submit certain documents such as a presentation of the organisational structure and the human resources necessary for the performance of the trading activity. Moreover, the applicant must prove that an amount of at least EUR 200.000 is at its disposal.

According to the draft Order on the general conditions associated to the electricity trading licenses, the licensee will be obliged to respect, throughout the license's validity, certain provisions such as the license conditions and the European and national applicable legal provisions. The licensee will also be obliged, among others, to keep separate accounts, to assure that sensible commercial information is being kept confidential, to submit reports and certain information to ANRE, and to have qualified human resources for the fulfilment of its obligations in the electricity domain.

When the aforementioned draft orders enter into force, the establishment of a reliable framework for interested electricity traders will be assured.

Greece: RAE Approves Market Coupling at Italian-Greek Borders

by Lazaros Sidiropoulos (Athens)

On 17 February 2015, Decision no. 31/2015 of the Greek energy regulator RAE was published approving the project of electricity market coupling at the Italian borders under participation, among others, of the Greek TSO ADMIE and the Greek market operator LAGIE. After respective approvals were granted by all other national regulatory authorities involved, the official launch of the Italian Borders Market Coupling was announced for the 24 February 2015. Following the launch of this project at that date, allocation of capacities for the Italian borders will be performed as part of the Multi-Regional Coupling (MRC). MRC is a pan-European project of cooperation between power exchanges of 20 countries dedicated to the integration of European power spot markets by operating price coupling of the Day-Ahead wholesale electricity markets, aiming to increase efficiency of allocation of interconnection capacities of the countries involved. At the launch date of the Italian Borders Market Coupling on 24 February 2015 only 3 of the five Italian borders will be coupled with MRC; market coupling at the Italian-Swiss borders, though technically ready, is delayed due to ongoing bilateral negotiations between Switzerland and the European Commission. On the other hand, market coupling at the Italian-Greek borders is not technically ready yet, the respective go-live date remaining unclear. By its aforementioned Decision, RAE approved the package of contractual documents and technical manuals regarding the project of Italian Borders Market Coupling and requested ADMIE and LAGIE to proceed immediately with the necessary procedures for the realisation of this project also at the Italian-Greek borders.



EU: European Commission Initiates a Consultation Regarding the Security of Gas Supplies in Europe

by Stephania Chatzichristofi (Athens)

On 15 January 2015, the European Commission launched a new consultation on the revision of regulation (EU) No 994/2010 concerning measures to safeguard security of gas supply, with intention to gather opinions on EU rules about ensuring security of gas supply in an attempt to further improve EU's capacity to respond effectively in case of disruption of gas supplies. In 2014, European Commission carried out stress tests in order to identify

the effects of either partial or complete disruption of gas supplies from Russia. The results have shown that due to the Regulation, EU Member States are better prepared to cooperate with each other in the light of a possible supply crisis and are better protected thanks to bilateral cross-border natural gas flows. Nevertheless, further improvement is required in order to ensure more effectively security of supply. In this scope, the aforementioned consultation paper intends to identify those areas where further progress is needed. Consequently, the Consultation is divided into two parts. The first one refers to preventative measures and poses questions regarding the necessity of improving existing provisions of the Regulation whereas the second part deals with mitigation actions in order to ensure that Member States are prepared to manage an emergency situation by cooperating with each other rather than adopting a rather national strategy. The consultation period is open until 18 March 2015. European Commission will then examine the responses and consider what additional measures are demanded to further enhance gas supply security in Europe.

Ukraine: Government Takes a Step towards Deregulation of the Oil & Gas Sector

by Tetyana Vyshnevskya (Kiev)

On 28 January 2014, the Cabinet of Ministers of Ukraine adopted Resolution No. 42 "Certain Issues of Deregulation of Business Activity". The Resolution introduces amendments to several resolutions of the Cabinet of Ministers of Ukraine concerning the agrarian, food and fuel & energy sectors. In particular, Resolution No. 42 provides for cancellation of subparagraph 3 of paragraph 26 of Resolution No. 615 dated 30 May 2011 "On Approval of the Procedure for Issuance of Special Permits for Using Ground under the Surface", which applies, among others, to oil and gas extracting companies, and stipulates that monitoring and scientific tracking of fulfillment of special conditions for using of ground under the surface (so called Geological Monitoring) shall be carried out by specialised State geological enterprises, institutions and organisations. Market participants have claimed that the Geological Monitoring was an unnecessary and overly high-cost (UAH 100 thousand to 1 million) procedure, which was duplicating the inspections performed by State bodies of geological control of the State Geological and Mineral Resources Service, and have initiated the cancellation of the above mentioned provision several times before. This time their proposal was adopted and Resolution No. 42 provides that the Geological Monitoring is no longer a mandatory but a voluntary procedure to be carried out upon request of business entities. Resolution No. 42 came into force on 11 February 2015.



Ukraine: NERC Decides on Review and Reduction of Feed-in Tariffs

by Tetyana Vyshnevskya (Kiev)

The National Commission for State Regulation of Energy and Public Utilities Sector (NERC) adopted recently several decisions significantly affecting the Ukrainian RES market.

On 31 January 2015, NERC issued Resolution No. 105 "On Establishment of Green Tariffs for Electric Energy". According to the Resolution, Feed-in Tariffs (FIT) for electricity produced from wind energy, biomass, biogas, by surface, roof-based and/or facade-based solar panels, as well as by micro, mini and small hydropower plants,

were increased by 12.5%, that is adjusted to the EUR-UAH currency exchange rate in accordance with the provisions of Ukrainian Law "On Electric Power Industry" (hereinafter – the Law). The Resolution came into effect on 1 February 2015. Noteworthy, although according to the Law NERC is obliged to review FIT on a monthly basis, it has been neglecting this obligation during the previous 5 months, having reviewed them for the last time on 31 July 2014. Market participants were, during this period, addressing the President and the Prime-Minister of Ukraine with numerous open letters requesting them to take action and claiming that they have suffered significant losses due to the inactivity of NERC.

On the same date, i.e. on 31 January 2015, NERC adopted Resolution No. 157 "On Suspension of Clause 1 of the NERC Resolution dated 31 January 2015 No. 105 and on Establishment of Green Tariffs for Electric Energy within the Frame of Temporary Emergency Measures at the Electricity Market". According to Resolution No. 157, FIT for electricity produced by surface based solar panels were decreased by 10% – 20%, while FIT for electricity produced from wind energy, biomass, biogas, by roof-based and/or facade-based solar panels and by micro, mini and small hydropower plants – by 10%. Resolution No. 157 was adopted on the basis of the Order of the Cabinet of Ministers of Ukraine No. 36-p dated 14 January 2015 "On Temporary Emergency Measures at the Electricity Market of Ukraine" (in effect from 25 January 2015 till 25 February 2015) and the letter of the Ministry of Energy and Coal Industry of Ukraine No. 01/13-0216 dated 31 January 2015. Resolution No. 157 became effective on 1 February 2015 and shall remain in force until the Order of the Government No. 36-p dated 14 January 2015 remains in force. According to the Order of the Cabinet of Ministers of Ukraine No. 124-p dated 25 February 2015, the validity of provisions of Order No. 36-p dated 14 January 2015 has been prolonged for another month. As of the moment, according to the web-site of NERC, Resolution No. 157 dated 31 January 2015 remains in effect.

Given that pursuant to the Law FIT for business entities and households producing electricity from RES should remain until 1 January 2030, Resolution No. 157 has been widely discussed and criticised by energy experts and market participants in particular. According to the latter, the lawfulness of such decision of NERC is highly doubtful; the reduction of FIT will have a detrimental effect on the renewable energy sector and on the investment climate in Ukraine, and will most probably result in lawsuits as well as complications with the implementation of the National Renewable Energy Action Plan.

[Energy Community: Secretariat Demands from Three Countries the Immediate Adoption of National Renewable Energy Action Plans](#)

by Stephania Chatzichristofi (Athens)

On 24 February 2015, the Energy Community Secretariat called officially Albania, Bosnia & Herzegovina and FYR of Macedonia to adopt and submit their National Renewable Energy Action Plans (NREAPs) to the Secretariat. After the Energy Community Ministerial Council adopted in 2012 Directive 2009/28/EC on the promotion of the use of energy from renewable sources, the Contracting Parties of the Treaty were obliged to implement this Directive by 1 January 2014, while they should have notified their NREAPs to the Secretariat already by 30 June 2013. These national plans must define the national sectoral targets (electricity, heating-cooling, transport) regarding the share of energy from RES and must provide exhaustive information on the planned measures to comply with the RES Directive and to ensure achievement of national goals by 2020. The national plans must be prepared according to the template of European Commission Decision 2009/548/EC. In case that the aforementioned three countries do not manage to fulfil their obligations within two months, they may

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be accused for breach of Energy Community Law. Finally, the Energy Community announced within this context that two other countries that had undergone the same procedure, namely Ukraine and Montenegro, have finally observed their obligations and adopted National RES Plans by the end of 2014.



EU: Commission Adopts Cost-Benefit Analysis Methodologies in the Energy Sector

by Ioannis G. Asimakopoulos (Athens)

On 4 February 2015, the Commission adopted two Cost-Benefit Analysis (CBA) methodologies in the EU Energy Sector providing a common framework for multi-criteria cost benefit analysis for candidate gas and electricity transmission infrastructure projects, aiming to ensure development of adequate transmission systems, which are essential to integrate energy markets, enhance competition, facilitate grid access to all market participants and increase security of supply. The CBA methodologies were designed by ENTSO-G for gas and ENTSO-E for electricity in compliance with Regulation (EU) 347/2013 on guidelines for trans-European energy infrastructure, taking into consideration the opinions and information given by the Agency for the Cooperation of Energy Regulators (ACER), the European Commission and the Member-States. The end of such a two-year cooperation process was marked by the aforementioned adoption of the CBA methodologies by the European Commission on 4 February 2015. The newly adopted CBA methodologies are used in the context of ENTSO-E's and ENTSG's Ten-Year Network Development Plans (TYNDPs) providing the guidelines for the selection of EU Projects of Common Interest (PCIs). CBA methodologies aim to improve transparency in assessing gas and electricity transmission infrastructure projects by displaying costs and benefits of projects in a homogenous way at a European-wide scale.



Croatia: Regulation of ESCO Agreements in the Public Sector

by Sanja Tolj Par (Zagreb)

The Croatian Government, at its session on 29 January 2015, adopted the Regulation on Contracting and Implementation of Energy Services in the Public Sector (OJ 212/2015), pursuant to Article 27, Paragraph 1, of the Energy Efficiency Act (OJ 127/2014). This Regulation prescribes the manner of contracting energy services for the public sector, obligations of the provider (ESCO) and the contracting authority of energy services, the content of the energy performance contract, as well as budgetary monitoring of energy services on behalf of the public sector contracting authority. The provisions of the Regulation apply to budgetary and extrabudgetary users of the state budget, local and regional self-government units, ESCOs and the Agency for Transactions and Mediations in Real Estate. Procurement of energy services for public sector buildings in the application of public

procurement regulations is conducted according to the criterion of economically most advantageous tender and in accordance with the Energy Efficiency Act. Prior to the launch of the procurement process the contracting authority ordering the energy services should determine the reference energy and/or water consumption, and provide all available documentation relating to the existing energy efficiency state of the building. Contracting is conducted for buildings that are found to meet the cost effectiveness criteria of energy renovation and for which there exists an intended use during the contracting period. Cost effectiveness criteria is considered to be met when the savings achieved offset the resources invested in energy renovation. Savings are estimated in accordance with the regulations for monitoring, measurement and verification of energy savings adopted on the basis of a special law regulating the area of energy efficiency. The savings will be substantiated by the project developed by the energy services provider in accordance with the special law regulating the area of energy efficiency and other regulations. Project calculations should be confirmed by an expert committee of the contracting authority ordering the energy services. The minimum scope of energy renovation of buildings must adhere to the requirements on energy performance of buildings under a special regulation laying down the technical requirements for rational energy use and thermal protection in buildings. The Regulation also provides for the minimum content of ESCO agreements and monitoring of their implementation.

Montenegro: New Energy Efficiency Law

by Mira Todorovic Symeonides (Athens) and Dejan Radinovic (Podgorica)

On 3 January 2014, the Law on Energy Efficiency, voted by the Montenegrin Parliament on 16 December 2014 and published in the OJ no 57/2014, came into force. Its scope is to improve the energy efficiency and harmonise the previous 2010 law with EU acquis. The Law provides that the Government issues energy efficiency improvement programmes for buildings in state ownership and buildings managed by state authorities and public agencies. Municipalities should issue three-year programmes for improving energy efficiency in accordance with the energy efficiency strategy and the energy efficiency action plan. Public buildings should fulfil minimum energy efficiency requirements in accordance with the law and the Government should provide a three-year public buildings' reconstruction plan. Energy-intensive electricity consumers (with annual electricity consumption above 10.000 MWh) should establish an annual plan for improving energy efficiency and submit it to the Ministry of Economy not later than 31 March each year. They should appoint a person responsible for energy management and keep records on their energy consumption.

The Law also regulates eco-labelling and the respective obligations of producers and suppliers/distributors of goods. Energy efficiency should be taken into account during public procurement procedures and when public administration leases or purchases real estate. All new and reconstructed buildings should fulfil minimum energy efficiency requirements and obtain respective certificates. From January 2016 a) investors of buildings that are constructed or reconstructed, b) owners selling or leasing buildings, c) public administration using buildings in state ownership and d) owners of buildings, such as hotels, theatres and cinemas, whose utilisation includes gathering of a certain number of persons, will be obliged to obtain certificates on the energy characteristics of the buildings. The Law introduces rules on the conditions, the necessary authorisations, the training and the exams applicable to the persons authorised to perform energy auditing of buildings. The Ministry of Economy shall keep register of the persons authorised to perform the energy auditing of buildings and the entities authorised to perform training and examination of these persons. The Law also regulates for the first time ESCOs and the minimum content of ESCO agreements.

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