

Monthly energy law headlines from the EU & the SEE countries of the Rokas network

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## the highlight...

### ENERGY MARKETS

EnC: WB6 Monitoring Reports on Electricity and Sustainability

On 12 July 2017, the 2017 Western Balkan 6 (WB6) annual Summit was held in Trieste, Italy. The summit addressed several areas of cooperation, in particular in the connectivity agenda, and in the regional integration process. Among other, WB6 committed to a set of regional and national reform measures, regarding the development of the electricity market in different timeframes, addressing the issues such as capacity allocation and calculation, spot markets and balancing markets. The Energy Community Secretariat (ECS) prepared for this Summit the Monitoring Report which provides an overview of the implementation of "connectivity reform measures" (so called "soft measures") in transport and energy which were agreed at the 2015 Vienna Summit and 2016 Paris Summit, including the roadmap for establishing a well-functioning regional electricity market.

### RENEWABLES

Serbia: Amendments to the RES Secondary Legislation

On 19 June 2017, the Government of the Republic of Serbia ("Government") during its 57th session, adopted amendments to the RES secondary legislation as follows: (i) Decree on the amendment of the Decree on the Power Purchase Agreement ("PPA Decree") which entered into a force on 01 July 2017; (ii) Decree on amending and supplementing the Decree on incentive measures for electricity generation from renewable sources and from high-efficient combined generation of power and heat ("RES Incentives Decree") which entered into a force on 28 June 2017; and (iii) Decree on the amendment of the Decree on conditions and procedure for acquiring the status of the privileged power producer, the temporary privileged power producer and the electricity producer from renewable energy sources ("PP Producer Decree") which entered into a force on 28 June 2017.

### ENERGY EFFICIENCY

Ukraine: Laws on Energy Performance of Buildings and on Commercial Metering of Utilities

On 22 June 2017, the Ukrainian Parliament adopted the Law No. 2118-VIII on Energy Performance of Buildings, thus implementing certain provisions of Directive 2010/31/EU into the national legislation. Inter alia, the Law outlines particularities of the energy performance (EP) certification of buildings and inspection of central heating and conditioning systems, accreditation of energy auditors, as well as applicable energy efficiency measures and the mechanisms of their financing.

## Energy Markets **what's new...**

### EU: Europex Position Paper on the Future of Energy Markets

*by Mira Todorovic Symeonides, (Athens)*

On 16 June 2017, the Association of European Energy Exchanges (Europex) issued its position paper on the future of energy markets "At the Core of the Future Energy Market- Our Vision for an Evolving Energy Sector." The Paper stresses the benefits of the energy exchange for the liberalisation and functioning of the energy markets and particularly that energy exchanges: create transparency, determine an efficient price, create and couple liquid markets, and subsequently maximise social welfare by supply at lower cost, which is used first, until the costs for additional volume exceeds its value for consumers. The Paper further describes the current status and development tendencies of the energy markets (close interplay between physical and financial markets; digitalisation of the wholesale markets; interplay between spot, futures and forward markets; renewables share increasing; reducing dependence of renewables from subsidising; developing LNG global market; developing of new products on the energy exchanges; introducing blockchain and other possibilities provided by the new IT technologies; as well as increasing of coupling of power markets across Europe). It further provides recommendations for successful regulation of the energy sector including the relevance of the financial market regulation recent reform. The Paper also recommends: to provide a stable regulatory framework, to avoid regulatory complexity, to ensure the consistent application across Europe, to keep market price relevant, to minimise market distortions from interventions or subsidise and to expose renewables to market prices.

### EU/ENTSO-E: Cyber Security Regulation for Electricity Transmission Systems

*by Mira Todorovic Symeonides, (Athens)*

On 20 June 2017, ENTSO-E and the European Network for Cyber Security (ENCS) signed a Memorandum of Understanding (MoU) establishing a cooperation to develop cyber security regulations, practices and standards for the electricity transmission system. ENCS is a non-profit member organisation established in 2012 by the infrastructure stakeholders with the aim to cooperate and address cyber security issues across Europe. Its primary focus is on the smart grids and infrastructure. The MoU regulates that ENCS will provide technical information and support on cyber security issues while ENTSO-E will provide necessary information regarding the European transmission system and the respective cyber concerns.





## ENERGY MARKETS highlight...

### EnC: WB6 Monitoring Reports on Electricity and Sustainability

by Mirjana Mladenovic, (Belgrade)

On 12 July 2017, the 2017 Western Balkan 6 (WB6) annual Summit was held in Trieste, Italy. Heads of government, foreign ministers responsible for energy, economy and foreign affairs of Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Montenegro, Kosovo and Serbia, as well as EU member states Croatia, Slovenia, Austria, France, Germany, Italy and the representatives of the European Union and the International Financial Institutions attended the Trieste Summit. The summit addressed several areas of cooperation, in particular in the connectivity agenda, and in the regional integration process. Among other, WB6 committed to a set of regional and national reform measures, regarding the development of the electricity market in different timeframes, addressing the issues such as capacity allocation and calculation, spot markets and balancing markets.

The Energy Community Secretariat (ECS) prepared for this Summit the Monitoring Report which provides an overview of the implementation of "connectivity reform measures" (so called "soft measures") in transport and energy which were agreed at the 2015 Vienna Summit and 2016 Paris Summit, including the roadmap for establishing a well-functioning regional electricity market. This report presents the progress made at both national and regional level, stressing the area where continued implementation efforts are needed the most. Namely, the Report contains for each WB6 country the overview of the (i) Spot Market Development; (ii) Cross-border Balancing; (iii) Regional Capacity Allocation; and (iv) Cross-cutting measures.

The Report states that the progress in establishing day-ahead markets and their coupling in the WB6 still comes slowly and that only functional day-ahead market in the WB6 is the power exchange SEEPEX in Serbia. Further to that, all transmission system operators of the WB6 are in the process of developing models and contractual frameworks for cross-border exchange of balancing energy. It is concluded that further reform of balancing rules and deregulation of the balancing reserve price is needed in order to allow the nondiscriminatory access of new entrants into the market. The Report also concluded that only improvement in regional capacity allocation is the inclusion of the cross-border capacities on the interconnection between Former Yugoslav Republic of

Macedonia and Greece into the common regional auctioning performed by Coordinated Auction Office in South East Europe (SEE CAO). Further to that Serbia represents the only WB6 country that is not allocating any of its cross-border capacities through the regional auction office. It is also indicated that signing of an agreement between its transmission system operator, EMS, and SEE CAO is delayed. Furthermore, it is indicated that progress in implementing the bilateral agreements between the transmission system operators of Kosovo and Serbia does not exist. Also, Report concluded that the most prominent progress since the Paris Summit was made in the area of price deregulation and unbundling of system operators.



Also, it should be noted that WB6 Trieste Summit invited the CESEC Electricity and the Energy Community Secretariat to explore opportunities for cooperation with the neighbouring EU Member States building on the WB6 Memorandum of Understanding on Regional Electricity Market Development and the Treaty establishing the Energy Community (Title III).

## Electricity what's new...

### EU/ ENTSO-E: Study on Data Exchange in Electric Power Systems Published

by *Stefania Chatzichristofi, (Athens)*

In June 2017, a study on data exchange in electric power systems, commissioned by the European Network of Transmission System Operators for Electricity (ENTSO-E), was published. The study provides an overview regarding how EU Member States are currently managing their data exchange as well as their perspectives and solutions on this issue. More precisely, it is highlighted that all stakeholders of the electricity sector (namely consumers, TSOs, DSOs, retail and wholesale market etc.) generate an increasing amount of data that is becoming very important for the efficient system use and functioning. This study addresses the needs for data exchange in the emerging power system and presents data exchange models, firstly providing a detailed overview of the existing solutions (decentralized data exchange that is still the dominant model in EU) and setting criteria for them in a second step (as central data exchange could be further enhanced according to the report). Data exchange platforms that bring together data sources as well as potential applications, thus making data accessible, have been introduced in many EU Member States. Recent regulatory developments mandate increased cooperation of TSOs and DSOs and their aim to empower customers to participate actively in both the retail and wholesale energy markets, thus further increasing the requirement for data exchange between all the stakeholders. Consequently, future data exchange platforms are about to play a significant role in the overall power system towards an integrated wholesale-retail market.

### EU: Decision of the ECJ on Dispute between Austrian Energy Regulator and ACER

by *Andriani Kantilieraki, (Athens)*

On 29 June 2017, the Seventh Chamber of the European General Court delivered its decision in case T-63/16. The action was brought forth by Energie-Control Austria (the Austrian Regulatory Authority for Energy) in regards with the annulment of Decision No A-001-2015 of the Board of Appeal of ACER (Agency for the Cooperation of Energy Regulators) dismissing an appeal against ACER's Opinion No 09/2015 on the compliance of the decisions of national regulatory authorities approving methods of cross-border transmission capacity allocation in the Central-East Europe region with Regulation (EC) No 714/2009. The contested decision dismissed the administrative appeal of the claimant on the grounds that the matter at hand had no binding legal effects and therefore was not the subject matter of an appeal. The applicant alleged among others, infringement of procedural requirements and error in law. The Court held that the opinion in question is not a decision for the purpose of Article 19 of Regulation No 713/2009, which may be the subject of an administrative appeal by virtue of that article and that ACER's Board of Appeal provided adequate reasons for rejecting the appeal. In conclusion the Court dismissed the action in its entirety and ordered E-Control Austria to pay for the costs incurred by ACER.

### EnC/Serbia: Secretariat's Opinion on Licensing of Electricity TSO

by *Stefan Pavlovic, (Belgrade)*

On 26 June 2017, the Energy Community Secretariat (ECS) published its opinion 3/17 dated 15 June 2017 regarding the preliminary decision of the Energy Agency of the Republic of Serbia (AERS) on certification of the transmission system operator for electricity JSC Elektromreža Srbije (EMS) in compliance with the Third Energy Package. In the preparation of the Opinion, the Secretariat analysed the Energy Community Regulatory Board's Opinion 2/17 as of 02 June 2017. Based on the information displayed in the preliminary decision of AERS and all other information obtained in the course of the present proceeding, the Secretariat concluded that EMS is currently not unbundled in line with the ownership unbundling model as prescribed by Article 9 of the Electricity Directive (2009/72/EC). Most notably, EMS is still directly and indirectly controlled by persons active in the production and/or supply of natural gas or electricity (the Government as representative of state ownership in both EMS and EPS, as well as in Srbijagas). During the procedure of making the final decision regarding the certification of EMS, AERS shall take into consideration the Opinion.

### Montenegro: Establishment of Electricity Exchange

by *Aleksandar Mladenovic, (Belgrade)*

In line with the Government of Montenegro plan as of November 2016 to further allow retail competition in the supply of electricity to end-use customers, on 21.06.2017 Elektroprivreda Crne Gore (EPCG), national power utility company of Montenegro, Montenegro Electricity Market Operator (COTEE) and Montenegrin Power Transmission System (CGES), signed the foundation agreement and adopted a statute of a limited liability company which shall be operating the Montenegrin power exchange. The COTEE and CGES shall hold two-thirds of the stake in the new company with minimum initial capital of € 100,000, whereas COTEE is to invest EUR 50,000. Other energy entities in the country, besides EPCG, can be also offered to participate in the founder's equity. The new company shall be registered in the competent registry of commercial entities whereupon its management shall be appointed.

## Oil & Gas what's new...

### EU: Cooperation with Japan Regarding LNG

by Theodoros Theodorou, (Athens)

On 11 July 2017, EU and Japan signed a Memorandum of Cooperation on promoting and establishing a liquid, flexible and transparent global Liquefied Natural Gas (LNG) market. Under the terms of this memorandum, Japan and EU aim to share their technological experience and develop a common strategy concerning the global LNG market. More specifically, their primary objective is to achieve the flexibility of LNG transactions, the organization of gas hubs, price transparency as well as the coordination in international fora and organisations in order to avoid unexpected gas market disruptions. Furthermore, this memorandum is expected to provide greater access to the gas markets, a bigger variety of supply sources and enhance energy security in a global scale, thus leading to a more advanced and competitive LNG market.



### EU/ENTSO-G: Annual Report 2016 and Reports for Network Code Implementation and Effect Monitoring

by Maria Cheimona, (Athens)

On 13 June 2017, the European Network of Transmission System Operators (ENTSO-G) published its Annual Report 2016 and three implementation and effect monitoring reports. ENTSOG launched the annual effect monitoring process in December 2016 to ensure the timely publication of results in the 2016 Annual Report. Following Article 8(8) of Regulation (EC) No 715/2009, ENTSOG shall monitor the effects of the Balancing Network Code in the European market. The Balancing Network Code entered into force on 16 April 2014. The Code foresees three implementation deadlines: 1 October 2015, 1 October 2016 and up to April 2019. For ten (10) countries the Code has been applicable already since 1 October 2015. For another five (5) countries applied the transitory period option until October 2016, the deadline for full implementation of the Code has also passed by 1 October 2016. Instead of full implementation, interim measures can be implemented for up to five (5) years from the entry into force of the Code (i.e. until 16 April 2019). The ENTSOG report on effect monitoring covers the implementation of the BAL NC and aims to monitor some of its effects per balancing zone across countries in the EU after the first implementation deadline as of 1

October 2015 for the period gas year (GY) 2015/2016. Balancing implementation is an ongoing process – even following implementation. Due to continuous changes in the market environment, adjustments of the provision such as imbalance prices might be needed to better achieve the goal of the Code. Regarding the effect monitoring, ENTSOG focus has in particular been to identify to which extent the main aims of the network codes have been achieved according to four market-based indicators in order to show certain effects of the implementation of the BAL NC.

### Albania: Licensing on the Natural Gas Sector

by Odisea Xhelita, (Tirana)

On 04 July 2017, the Energy Regulatory Entity (ERE) issued the Decision no. 97/2017, approving the Regulation on the procedures of licensing on the natural gas sector, including the modification, transfer or revoking of such Licenses. The Regulation has been approved after considering the proposals of the Energy Community Secretariat (ECS) as well as the opinions of the Albanian Technical and Industrial State Inspectorate (TISI) and the Competition Authority (CA). The Regulation determines licensing procedures for all Albanian operators wishing to conduct the following activities: i) transmission of natural gas; ii) distribution of natural gas; iii) supply (retail sale) in the natural gas sector; iv) trade (wholesale) in the natural gas sector; v) operation of natural gas storage facilities; vi) operation of natural gas plants & vii) operation of the natural gas market. The Regulation came into force after the publication on the Official Gazette dated 18 July 2017.

### Albania: Re-establishment of the Hydrocarbon Science Institute

by Odisea Xhelita, (Tirana)

On 13 July 2017, the Ministry of Energy and Industry (MEI), as announced on its web page, had a consultative meeting with the stakeholders regarding the Reestablishment of the Hydrocarbon Science Institute (HSI), whose responsibility is forecasted to be increasing the technical and scientific capacities on the hydrocarbon industry, especially in researching and production activities. HSI will carry out analyzes and studies in the areas of geology, geophysics, drilling technology and oil extraction, collection, storage and transport, including the environmental studies, and will provide consultancy in the interest of public institutions. It will also be in charge for the administration of geological, geophysical, technical, economical data, and will have the exclusivity of the state ownership over the relevant data.



## Greece: Approval of the Environmental Impact Assessment for the Ionian Sea

by *Andriani Kantilleraki, (Athens)*

On 3 July 2017, a press release was issued by the Ministry of Environment & Energy on the approval of the Environmental Impact Assessment for the Ionian Sea. The Minister and Deputy Minister for Energy signed the Joint Ministerial Decision regarding the aforementioned approval, which constituted an important prerequisite, thus setting in motion the procedures for the signing of Lease Contracts on the concession of research and hydrocarbons exploitation rights in the Ionian Sea. Following the approval, what remains to be completed is the pre-contractual control by the Greek Court of Audit for the area north-western of Kerkira and the signing of the Lease Contract with the consortium of Total, Edison and Hellenic Petroleum. Finally, the process for the next Lease Contract with Hellenic Petroleum in the area of Kyparisiakos Gulf is speeding up.

## Montenegro: Master Plan for the Development of Gas Transport System

by *Stefan Pavlovic, (Belgrade)*

On 22 June 2017, the Government of Montenegro on its 31st session reviewed the Master Plan for the Development of Gas Transport System (Gasification) of Montenegro with the Report on Strategic Environmental Impact Assessment and Guidelines for Planning Priority Investment in Gas Projects ("Master plan") and adopted it by conclusion no. 07-1898 on 30 June 2017. The creation of Master plan was approved as part of the tenth call of the Western Balkans Investment Framework. The Master plan was completed in November 2015 and it represents an overview of the situation regarding the gas market in Montenegro, as well as the institutional measures that need to be implemented at the ministerial levels and regulators in charge of this area.



## Romania: Regulation on the Framework for Organized Gas Trading

by *Corina Badiceanu, (Bucharest)*

Order no. 54/2017, on the approval of the Regulation regarding the organized framework for trading on the centralized natural gases market managed by the National Electricity and Natural Gas Market Operator – OPCOM SA was published in the Official Gazette no. 503/30.06.2017. The Regulation approved by the aforementioned Order establishes an organized framework for the competitive centralized trading of natural gases by means of bilateral contracts (PCGN) and for the organization and functioning of the day-ahead market (PZU-GN), respectively the types of products that can be traded on the centralized natural gases market, including on PZU-GN, managed by OPCOM SA, the ways of establishing the sale and buy offers of natural gases by the participants on the centralized natural gas market, including on PZU-GN, the ways of organising the auction/transaction sessions and the ways of establishing the transactions, the principles of discounting the transactions on PZU-GN, the participants on the centralized natural gas market, the ways of taking out the traded natural gas and the ways of registration, managing and publication of the information on performed transactions. The Regulation applies to the participants on the centralized natural gas market and to the National Electricity and Natural Gas Market Operator – OPCOM SA, as operator of the centralized market of bilateral contracts (PCGN) and of PZU-GN.

## Serbia: Licensing of the Gas TSO and approving of TYNDP

by Stefan Pavlovic, (Belgrade)

On 20 June 2017, the Council of the Energy Regulatory Agency of the Republic of Serbia ("AERS") on its 372nd session adopted a Decision on the Approval of Yugorosgaz-transport LLC Transmission System Development Plan for 2017-2026. In accordance with the Energy Law of the Republic of Serbia, Yugorosgaz-transport submitted in December 2016 the draft of Transmission System Development Plan for the period 2017-2026 (TYNDP) to AERS, whereby AERS launched a public consultation regarding the subject matter. The Plan foresees an increase of the security of supply of customers in Serbia by connecting the existing transmission system with future Niš – Dimitrovgrad gas pipeline which is expected to be constructed, as well as more intensive gasification of the south of Serbia. It is worth mentioning that AERS asked for amendments to the Plan in order to harmonise it with the requirements of the Law and the Transmission Network Code in terms of both its content and format. On the same session of the Council of the AERS, a Decision on the Issuance of a Certificate to the Yugorosgaz-transport as to an independent system operator ("ISO") was adopted. In April 2017 the Energy Community Secretariat ("Secretariat") published its opinion ("Opinion") regarding the preliminary decision of the AERS on certification of the Yugorosgaz-transport as an ISO, in which it concluded that Yugorosgaz-transport is currently not able to operate the system effectively and independently from the system owner Yugorosgaz. Having in mind the Opinion, AERS imposed an obligation to the Yugorosgaz-transport to (i) take all necessary activities within a 12-month deadline in order to harmonise its organisation and operation in a way that enables the compliance with the conditions related to the system operator's independence in line with the independent operator model and (ii) to submit additional documents to the AERS. Due to the fact that the final decision on certification is different from the Opinion, the decision along with the Opinion and background for such decision are published in the Official Gazette of Republic of Serbia No. 62/2017.

## Ukraine: NEURC Amends Standard Gas Storage Contract

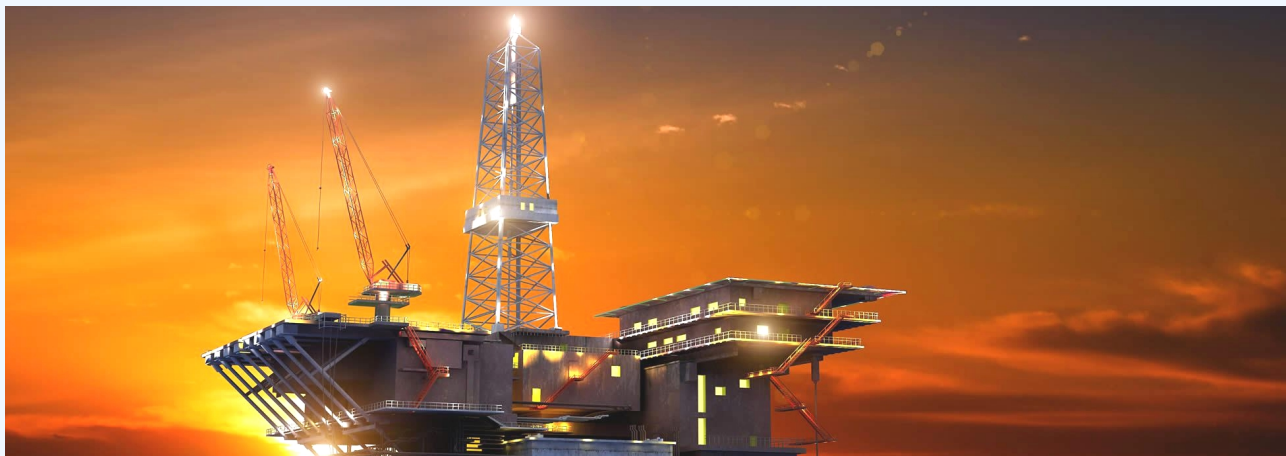
by Tetyana Vyshnevskaya, (Kiev)

On 13 July 2017, the National Energy and Utilities Regulatory Commission (NEURC) issued Resolution No. 919 on Amending the Standard Contract on Storage (Injection, Withdrawal) of Natural Gas, approved by NEURC Resolution No. 2499 of 30 September 2015. Thereby NEURC supplemented the Standard Contract with a new provision concerning dispute resolution, in particular: if a foreign (non-resident) company is a party to the Contract, any disputes arising therefrom may be resolved by means of international arbitration, agreed by the parties. The Resolution came into force on 20 July 2017.

## Ukraine: New Rules for Development of Oil and Gas Fields Came Into Force

by Tetyana Vyshnevskaya, (Kiev)

On 15 March 2017, the Ministry of Ecology and Natural Resources approved the Rules for Development of Oil and Gas Fields by means of its Order No. 118. The main objective of the Rules is to ensure complex and rational use of natural resources. For this purpose they regulate relations between economic operators and state executive authorities as regards usage of oil and gas deposits, and determine the organisational and execution requirements for development of hydrocarbons. In particular, the Rules detail the requirements for: a) establishment of gas/oil fields with due account of safety and protection requirements in relation to the population, environment and property; b) exploratory and commercial development of gas/oil fields; c) extraction of hydrocarbons during commercial development of gas/oil fields; and d) techniques and technologies applied to well drilling etc. In addition, the Rules provide the particularities of geological investigation and development of non-conventional deposits of hydrocarbons. The Order came into force on 30 June 2017.



## Infrastructure what's new...

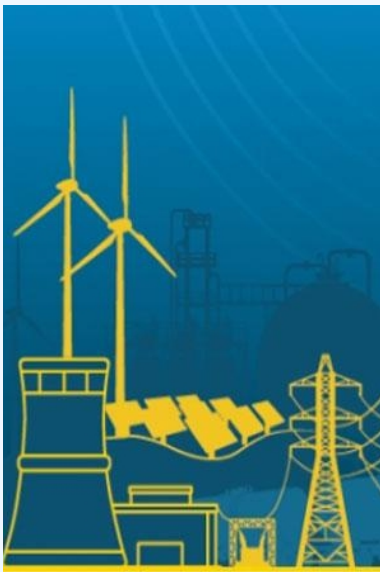
### EU: ACER Publishes Progress Report on PCIs' Implementation in 2016

by Tetyana Vyshnevskya, (Kiev)

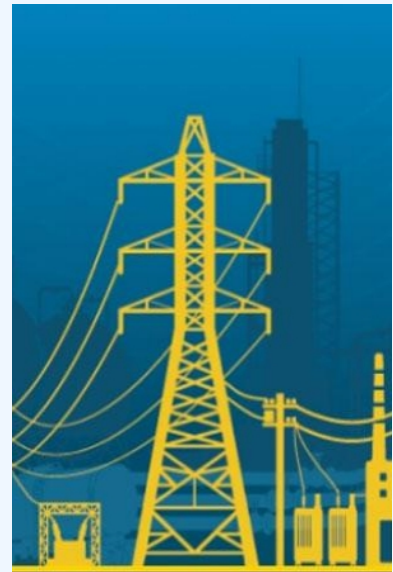
On 7 July 2017, ACER published its third consolidated annual report on the progress achieved in the implementation of electricity and gas Projects of Common Interest (PCIs), in accordance with the requirements of Regulation (EU) No. 347/2013 on guidelines for trans-European energy infrastructure. The Report is based on the reports submitted by promoters of PCIs from the second EU list (adopted on 18 November 2015), as well as the input of respective National Regulatory Authorities (NRAs), and covers the period of 1 February 2016 – 31 January 2017. The Report presents an in-depth analysis of the PCIs, along with ACER's findings and relevant recommendations for the electricity and gas sectors. Inter alia, the Report showed the following: a) the quality and quantity of data provided by project promoters improved, except for data on the monetized benefits and the expected life-cycle costs of the PCIs; b) in one or several Member States the PCIs are not included in the National Network Development Plans; c) the status of the PCIs advanced (most of them entered the permit granting process) but the commissioning dates for half of the PCIs have been postponed; d) in some cases the reported changes in technical characteristics of the PCIs significantly altered their cost-benefit ratio; and e) project promoters show little interest in regulatory tools provided by Regulation (EU) No 347/2013 and exemptions. The most frequently used tools are the submission of investment requests and the resulting issuing of cross-border cost allocation decisions.

### EU/Ukraine: Agreement on Conditions for Future Interconnection of Power Systems Came Into Force

by Tetyana Vyshnevskya, (Kiev)



On 28 June 2017, the electricity Transmission System Operator (TSO) Ukrenergo signed the Agreement on the Conditions for the Future Interconnection of the power system of Ukraine and Moldova with the power system of Continental Europe. This Agreement is the first step towards synchronization with/accession to the European Network of Transmission System Operators for Electricity (ENTSO-E), and includes: (i) a catalogue of measures, the unconditional execution of which is necessary for a decision on the integration of power systems; (ii) a list of necessary additional researches and (iii) a roadmap. The Agreement has been signed by the Moldavian TSO (Moldelectrica) and the TSOs of the ENTSO-E's Regional Group Continental Europe, and thus came into force on 7 July 2017. In the next five years Moldelectrica and Ukrenergo are expected to properly implement the catalogue of measures, including a set of technical and regulatory requirements.



### Greece: Consultation on Preliminary Network Development Plan

by Theodoros Theodorou, (Athens)

In July 2017, the Hellenic electricity DSO, DEDDIE launched a public consultation regarding the Preliminary Network Development Plan for the first year of implementation of the Network Management Code, covering the period 2018 - 2022. The Network's development plan includes expansion and upgrade, modernization of infrastructures, as well as the infrastructure and equipment of the Network Operator, aiming at servicing the demand for electricity, meeting the needs of connecting new users or modifying existing user connections, upgrading the quality of service provided to users and improving the economic efficiency and security of the Network. More precisely, the projects of the plan considered as strategic are the following: modernization of Attica Network control centre; establishment of a network control centre to certain islands and other regions; upgrade of the remote control equipment; installation of a Geographic Information System (GIS); new Customer Information System (CIS); call centres; upgrade of the network development planning; creation of Non-Interconnected Islands infrastructures for code observation; reorganisation of the supply chain.



## Competition - State Aid **what's new...**

### EU: Latvian RES and CHP Support Scheme

*by Viktoria Chatzara, (Athens)*

On 2 June 2017, the European Commission's decision on the state aid case No SA.43140 concerning the scheme for support of the production of electricity from renewable energy sources (RES) and of combined heat and power (CHP) plants adopted by Latvia, was published in the Official Journal of the EU. As stated in the decision, which was issued on 24 April 2017, it concerns the aid granted in the period from 1 July 2007 to 31 December 2012, whereas no beneficiary was accepted following this date. The beneficiaries under this scheme are producers of electricity generated from onshore wind turbines, biomass and biogas plants, small hydro power plants, natural-gas-fired high-efficiency CHP plants, as well as high-efficiency CHP plants using renewable energy as fuel. According to the terms of the support scheme, the aid is granted in the form of a fixed payment for the electricity sold to the grid under a mandatory procurement mechanism or as fixed payments for electric power capacity installed. However, capacity payments are available only to large CHP plants (with installed capacity greater than 20 MW) fuelled by either natural gas or RES. The Latvian RES and CHP support scheme is financed by final electricity users through a levy on electricity consumption, one part of which will be collected, since 1 January 2018, by means of charges proportional to electricity consumption, whereas the remaining part will be collected as a fixed fee depending on the grid connection voltage level. Apart from the support scheme, the Commission also examined several complaints concerning the scheme that were submitted, arguing that the scheme caused undue distortion to the competition in the relevant market. After examining the scheme, the Commission concluded that it constitutes state aid, which was illegally granted as no notification was made. Nevertheless, the Commission decided not to raise objections, as the scheme was found to be compatible with the internal market.

### EU: Prolongation of Interruptible Services Scheme in Italy

*by Viktoria Chatzara, (Athens)*

On 2 June 2017, the Commission's decision dated 29 February 2016 on the state aid case No SA.41933 concerning the prolongation of the scheme for compensation of interruptible services in Sardinia and in Sicily for two years (2016-2017), was published in the Official Journal of the European Union. With respect to this compensation scheme, prior to the latest prolongation, the Commission had issued respective decisions in 2010 and in 2012 stating that the measure at hand did not constitute state aid in the sense of the applicable EU law provisions. According to the contemplated scheme, undertakings located in Sardinia and in Sicily will be compensated in the event that they conclude agreements with the transmission system operator (TSO), under which they will undertake to accept instantaneous interruption of electricity supply, whenever the TSO requires it to reduce the consumption, with the aim of balancing the transmission network. The undertakings eligible to participate in the scheme shall have consumption at least equal to 1 MW; however, the Italian authorities may lower the threshold to 0.5 MW, in order to increase the number of participants. The Commission, taking into account that no amendments to the applicable to the measure national law provisions took place, stated that, as in its previous decisions, the measure is to be regarded as paid for through State resources and imputable to the State, selective and liable to affect competition and intra-EU trade. However, as the measure does not result in overcompensation of the balancing services provided by the participating undertakings, the Commission concluded that it does not confer economic advantage to the recipients. As such, the measure was found not to constitute state aid, however only for the two additional years of the prolongation, i.e. until 2017.

### EU: Amendments to the Northern Ireland Renewable Heat Incentive Scheme

*by Viktoria Chatzara, (Athens)*

On 16 June 2017, the European Commission's decision dated 31 March 2017 on state aid case No SA.47501, in connection with amendments effected on the Northern Ireland Renewable Heat Incentive Scheme (RHI), was published in the Official Journal of the European Union. The original RHI scheme, which was approved in 2012 by the Commission, aimed at assisting Northern Ireland to contribute in the UK's RES targets, whereas the proposed amendments, concerning installations in the small and medium biomass bands of the scheme, aim at reducing the net cost to the Northern Ireland Executive of the RHI scheme for the financial year 2017-2018. With respect to the first amendment, an annual tiered tariff will be introduced for installation in the small and medium biomass bands, for which an annual cap shall apply, according to which the standard rate tariff will be paid for the first 1,314 operating hours. Moreover, an annual heat cap of 400,000 kWh will be imposed on all small and medium biomass installations, above which no payments will be made, thus acting as a maximum threshold to enable the competent authorities to ensure that the beneficiaries will not claim support in excess of the hours of heat which can be generated. Finally, the "medium biomass" band will be rebanded so as to cover capacity of "20kW and above, up to but not including 200kW", instead of 100kW, which was the threshold until now. The above amendments shall apply on beneficiaries that had entered the scheme before November 2015, as the beneficiaries that subsequently entered it were already subject to these conditions, due to a review of the RHI scheme effected on 18 November 2015. To be noted that operators of non-domestic renewable heat installations in Northern Ireland using sources such as (indicatively) biomass, ground source, biogas production, etc., can qualify as beneficiaries of the RHI scheme, whereas the support is granted by the Department of the Economy in Northern Ireland and the scheme is administered by the Office of Gas and Electricity Markets. According to the Commission's assessment, the notified measure involves state aid in the sense of the applicable EU law provisions, said state aid measure, however, is compliant with the internal market.



## EU: Amendments to RES Scheme in Netherlands

*by Viktoria Chatzara, (Athens)*

On 7 July 2017, the European Commission's decision dated 10 May 2017 on the state aid case No SA.46960, concerning amendments to the existing renewable energy (RES) support scheme notified by Netherlands, was published in the Official Journal of the European Union. The already existing RES support scheme (referred to as SDE+) supports investment in renewable electricity, gas and heat production. The proposed amendments to which the Commission's decision of 10.05.2017 refers established a competitive bidding process exclusively for small-scale installations, with an installed power of less than 400 kW, producing electricity from biogas obtained by digestion of manure and falling into the scope of the RES definition under the Guidelines on State aid for environmental protection and energy 2014-2020. According to the notified amendments, the support would be granted as a floating premium above the reference market price for electricity, and would pay the difference between the value of a winning bid and said reference price. In order for a generator to participate in the bidding process, it will have to submit certain information, such as feasibility study, description of the installation, financing plan, etc., whereas generators may participate as individual installations, collaborations between installations and operators with multiple digesters on different locations. The Commission found that the notified measure consisting in the support in the form of a floating premium constitutes state aid, which, nevertheless, is compatible with the internal market, under the relevant provisions of the EU law.

## Bulgaria: Procedure Regarding Infringement of Competition Rules in Electricity Retail

*by Apostolos Christakoudis, (Sofia)*

On 6 July 2017, the Bulgarian Commission on Protection of Competition (CPC) issued information related to restriction of energy trading freedom. The CPC claims that the local subsidiaries of Czech CEZ, Energo-Pro and Austria's EVN traded information on customers switching from regulated to liberalised market and they stalled on purpose the needed paperwork for the customers to make the initial change of power supplier. It further claims that these three companies have employed strategies and practices that discriminate against power traders outside of their corporate structures. The competition watchdog said that these actions on the behalf of the three companies restricted electricity trading at freely negotiated prices. CEZ, Energo-Pro and EVN have 30 days to get acquainted with the materials related to the case and submit their written objections.

## Renewables what's new...

### Bulgaria: New Preferential Prices for RES

by Galina Ruseva, (Sofia)

On 1 July 2017, the Bulgarian Energy and Water Regulatory Commission (EWRC) issued Decision No. Л -17 on setting the preferential prices for electricity produced from renewable sources and on updating the preferential prices for electricity produced from biomass. The EWRC sets preferential prices for electricity, produced from photovoltaic power plants with a total installed capacity up to 30 kW incl., which are provided to be installed over rooftop and facade constructions of joined to the electricity distribution network buildings and the real estate to them in urbanized territories. The prices are into legal force as of 1.7.2017 and are divided in two categories: 1) for electricity, produced from photovoltaic power plants with a total installed capacity up to 5 kWp incl and 2) 1) for electricity, produced from photovoltaic power plants with a total installed capacity from 5 kWp to 30 kWp incl. With the same decision The Bulgarian EWRC updates the preferential prices for electricity, produced from biomass in different production and origin categories. The decision of the EWRC may be appealed before the Administrative court of Sofia in a 14 days term.

### Greece: LAGIE Announces IT Database for RES Stations with Operational Aid Contracts

by Stefania Chatzichristofi, (Athens)

On 17 July 2017, the electricity Market Operator, LAGIE announced the launch of its IT database regarding the declaration of the operational aid of the owners of RES and CHP production plants. This announcement comes after and is pursuant to the provisions of the article 3 of the Law no. 4414/16 as well as the Ministerial Decision no. APEHL/A/F1/oik.187480 (Official Gazette B'3955/9.12.2016). More precisely, LAGIE is bound to create a special IT database for the electronic declarations of the owners of RES and CHP electricity production plants and have concluded an operational aid contract (fixed price or differential surcharge) in the interconnected System and the interconnected grid after 1 January 2016. In this way, the respective stakeholders are able to declare the amount of the operational aid that has been paid as well as all the information required for the calculation of the monthly amount of diminution of the operational aid. For further information, LAGIE invites the interested parties to visit its IT website: [http://cl.lagie.gr/apex/f?p=105:LOGIN\\_DESKTOP:5348770174820](http://cl.lagie.gr/apex/f?p=105:LOGIN_DESKTOP:5348770174820).

### Greece/DEDDIE: Announcement on the Requests of Virtual Net Metering

by Stefania Chatzichristofi, (Athens)

On 7 July 2017, the Greek electricity DSO, DEDDIE published for the interested stakeholders its announcement regarding the receipt of the respective connection requests that have already started since 14 July 2017 pursuant to the provisions of the Ministerial Decision APEHL/ A/F1/ oik. 175067 (Official Gazette B 1547/05.05.2017) concerning the installation of virtual photovoltaic power plants through virtual net metering. The main objective of this Decision was to enhance autoproduction as a means of saving energy and reducing energy costs, with an emphasis on the active participation of auto-producers and consumers. Furthermore, it improved the existing legal framework for the net metering (that allows consumers who generate some or all of their own electricity to use that electricity anytime, instead of when it is generated) and introduced the virtual net metering for PV plants. In particular, by the measure of virtual net metering, it is possible to offset the electricity produced with the total electricity consumed for autoproducers, irrespectively of the location it is produced and consumed. The requests for stations connected to the low voltage grid will be submitted to the relevant local units of DEDDIE, while the requests for stations connected to the medium voltage grid will be submitted to the Directorates of Regions of DEDDIE for applications related to the Interconnected Network (mainland and interconnected islands), while for requests relating to the Non-Interconnected Islands, all requests will be submitted to the local departments of DEDDIE, by completing the relevant Application forms and the submission of the required documents. The application forms as well as the respective information material (Information Sheet, Frequently Asked Questions-Answers, Patterns of Responsible Statements, etc.) have been posted on the website of DEDDIE.



## RENEWABLES highlight...

### Serbia: Amendments to the RES Secondary Legislation

by Vuk Stankovic, (Belgrade)



On 19 June 2017, the Government of the Republic of Serbia ("Government") during its 57th session, adopted amendments to the RES secondary legislation as follows: (i) Decree on the amendment of the Decree on the Power Purchase Agreement ("PPA Decree") which entered into a force on 01 July 2017; (ii) Decree on amending and supplementing the Decree on incentive measures for electricity generation from renewable sources and from high-efficient combined generation of power and heat ("RES Incentives Decree") which entered into a force on 28 June 2017; and (iii) Decree on the amendment of the Decree on conditions and procedure for acquiring the status of the privileged power producer, the temporary privileged power producer and the electricity producer from renewable energy sources ("PP Producer Decree") which entered into a force on 28 June 2017.

- i) PP Producer Decree introduces extension of the deadline to 360 days for a Lender to nominate another entity ("Representative") in the event of step-in. Pursuant the Government, subsequent analysis shows that previous deadline of three (3) months was short and that the 360-day deadline is reasonable for the election of a Representative who shall act in the capacity of Privileged Producer. It should be noted that Lender's step-in right is reserved only for projects exceeding 30MW in capacity.
- ii) PPA Decree brings forward changes in content of the draft Models of PPA and Step-in Agreement. New

PPA has suffered changes in Article 38 in the manner that mandatory insurance in the events of Force Majeure is not required. In line with the changes to the PP Producer Decree, Step-in Agreement Model brings forward detailed step-in procedure and accurately defined Required Period in which Lender who stepped in into the project may assign the project to Representative. Pursuant to the new Step-in Agreement Model, Required Period represents the period as of notification date (notification on cancellation of PPA or notification on cancelled status of PP Producer) until the expiry of 360 days.

- iii) RES Incentives Decree changes the wording of the Article 18 protecting the PP Producer not just from deliberate, however from all subsequent changes in law. Namely, previous version of the RES Incentives Decree, provided the protection from changes in legislation which aimed at reducing the rights or increasing the obligations of the PP Producer, whereas new RES Incentives Decree protects from all changes which result in a reduction in rights and/or increase in obligations of the PP Producer.

It should be noted that Temporary PP Producer, who concluded a PPA prior to 01 July 2017, are obliged to submit a request to the Off-taker for the modification of PPA within thirty (30) days as of the date of entry into force of PPA Decree.



## Energy Efficiency **what's new...**

### EU: Adoption of Regulation on Energy Efficiency

*by Andriani Kantilieraki, (Athens)*

On 26 June 2017, the EU Council adopted a new regulation on energy efficiency labeling which is meant to replace the current legislation and more specifically Directive 2010/30/EU. Among others, the regulation establishes certain novelties such as rescaling mechanisms for the current classes, the creation of a product database which will enable market surveillance authorities of member states to enforce labelling requirements and delegated acts alongside with implementing acts for database and safeguard procedures. The main goal of the new Regulation is to enable customers to gain more insight on the energy consumption of their household appliances thus reducing their energy costs and contributing to the achievement of energy demand moderation as well as energy efficiency targets set out by the Commission for the year 2030.

### Greece: Regulation on Energy Performance of Buildings

*by Mira Todorovic Symeonides, (Athens)*

On 12 July 2017 the Joint Decision of the Ministry of Finance and of the Ministry of Environment and Energy no. DEPEA/oik.178581 on Approval of Regulation on Energy Performance of Buildings was published in the OJ no. B'2367/12.07.2017. This Regulation, issued for the implementation of the Law no. 4122/2013 on Energy Performance of Buildings – harmonisation with Directive 2010/31/EU, will replace the previous Regulation on Energy Performance of Buildings no. D6/B/oik. 5825/30.03.2010 issued jointly by the same ministries, for



the implementation of the Law no. 3361/2008 (OJ. A' 89/2008) which had harmonized the Greek legislation with the previous EU Directive on Energy Performance of Buildings (2002/91/EC as amended). The Regulation provides the methodology for calculation of the energy performance of buildings (taking into consideration Greek climate zones) and minimum requirements and categories of energy performance of buildings. It also regulates the issues related to the energy efficiency study of buildings which is required for issuing of construction license for new buildings or a major renovation of an existing building, energy efficiency certificate, as well as energy inspection of buildings and heating/cooling systems. The Regulation will come into force upon issuing of the new Technical Directive of the Technical Chamber of Greece on analytic national specification of parameters for the calculation of energy efficiency of buildings and for the issuing of certificate of energy efficiency, which will replace the current 2012 Technical Directive.

## ENERGY EFFICIENCY highlight...

### Ukraine: Laws on Energy Performance of Buildings and on Commercial Metering of Utilities

by Tetyana Vyshnevskya, (Kiev)

On 22 June 2017, the Ukrainian Parliament adopted the Law No. 2118-VIII on Energy Performance of Buildings, thus implementing certain provisions of Directive 2010/31/EU into the national legislation. Inter alia, the Law outlines particularities of the energy performance (EP) certification of buildings and inspection of central heating and conditioning systems, accreditation of energy auditors, as well as applicable energy efficiency measures and the mechanisms of their financing.

Pursuant to the Law, EP certification will apply to objects currently in construction as well as to existing buildings. The EP of buildings will be determined based on the methodology to be drafted by the Ministry of Regional Development, Construction, Housing and Utilities (the Ministry), with due account of the requirements of the EU and Energy Community acquis. The minimum EP requirements will be set by the Ministry and will take account of thermal and technical characteristics of the building envelope as well as EP requirements for utility systems and equipment (according to the economically acceptable level), depending on the building's functional purpose, height and the type of construction works. The energy efficiency class for buildings accepted into service shall correspond with the minimum EP requirements applicable as of the beginning of construction works.

The minimum EP and EP certification requirements, envisaged by the Law, shall not apply to: a) industrial and agricultural buildings, objects of the energy industry, transport, communication and defense, as well as warehouses (to be listed by the Government); b) individual residential buildings and summer cottages; c) buildings used as places of worship and for religious activities; d) the objects of cultural heritage; and e) stand-alone buildings with a total useful floor area of less than 50 m<sup>2</sup>. That said, as of 1 July 2019 the EP certification shall be mandatory for: a) newly constructed, reconstructed or thoroughly overhauled buildings with medium (CC2) and significant (CC3) consequences; b) state-owned buildings with the total useful floor area over 250 m<sup>2</sup>, occupied by state authorities and frequently visited by the public (to be listed by the Ministry); c)

buildings with the total useful floor area over 250 m<sup>2</sup>, occupied by bodies of local self-government (in case of thermal modernization of such buildings); d) buildings undergoing thermal modernization at the expense of state aid, resulting in an energy efficiency class corresponding (at least) with the minimum EP requirements. The EP certification shall be carried out on a contractual basis, at the request and expense of the building's (co-)owner(s). EP certificates shall be made public in the buildings subject to mandatory EP certification as well as on the web-sites of respective authorities. EP certificates shall constitute an integral part of the project documentation and the building passport, and have the duration of ten (10) years, unless a new EP certificate is issued earlier.

The State Agency on Energy Efficiency and Energy Saving will maintain a database of all the issued EP certificates as well as a database of accredited energy auditors and utility systems inspection specialists. Both databases will be published at the official website of the Agency. A database of reports on the outcome of inspections of utility systems will be maintained by the Ministry. The EP certificates and the reports are subject to independent monitoring by the Agency and the Ministry respectively. The Government shall draft plans on increasing the number of buildings with close to zero energy consumption, the first one to be adopted by July 2019 and then revised every five years. Although the Law came into force on 23 July 2017, it will become effective a year later, i.e. on 23 July 2018, while certain provisions will apply as from 1 July 2019.

According to the Law, the EP of buildings may be achieved, inter alia, through installation of metering devices and regulation of energy consumption. In this respect, on 22 June 2017, the Parliament also adopted the Law on Commercial Metering of Utility Services (draft law No. 4901 of 6 July 2016). This Law aims to ensure rational use of water, energy and fuel resources, as well as consumer protection, through introduction of mandatory metering of heat energy, cold and hot water. The Law is expected to come into force on the day following its official publication.




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