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EU and EnC

Market

EU: Commission Adopts Recommendations on Cyber Security Sector

by Nikoleta Nikolaou (Athens)

On 3 April 2019, was published at the official site of European Commission its decision to adopt a Recommendation (Commission Recommendation of 3.4.2019, on Cybersecurity in the energy Sector SWD 1240 final) on cyber security in the energy sector (Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply, OJ L 280, 28.10.2017). The energy infrastructure has been undergoing very rapid changes in recent years in order to increase the share of renewable energy sources such as wind and sun, which are by nature more distributed and variable. Managing the networks to ensure a permanent match between consumption and production requires a continuously increasing degree of digitalization. However, with an increasingly digitised energy system, and more and more home appliances connected to the grid, cybersecurity has become of paramount importance and a concern for all, with an increasing number of incidents in recent times (both in the electricity and the gas sectors). The Security of Gas Supply Regulation (Regulation (EU) 2017/1938) requires Member States to consider cybersecurity as part of their common (regional) and national Risk Assessments and to develop measures to address cybersecurity risks.

For the harmonisation of the implementation of the above Regulation the Commission has adopted on 3 April 2019 the aforementioned Recommendation that provides guidance on how to address the specific challenges of the energy sector on cybersecurity. In other words, it identifies the main actions required to preserve cybersecurity and be prepared to possible cyberattacks in the energy sector, taking into account the characteristics of this demanding sector.

In addition, the recently completed Clean Energy for All European Package includes several measures that reinforce cybersecurity such as the new regulation on electricity risk preparedness and the recast of the Electricity Regulation (Regulation (EU) 2017/1938, OJ L 280, 28.10.2017).

EU: CEER Conclusions' Paper on New Services and DSO Involvement

by Kosmas Karanikolas (Athens)

On 22 March 2019, the Council of European Energy Regulators (CEER) issued a detailed report on the possible effects of an expansion of Distribution System Operators' activities in the field of service provision to consumers. The report underlines that Distribution System Operators' (DSOs) core activity remains the design, maintenance, development and operation of the electricity and gas distribution system. As a matter of fact, owing to DSO's monopoly in the administration of the electricity and gas infrastructure at a national level, the possibility of a simultaneous provision of services to consumers by them (such as energy storage, data management and telecommunication services) must be examined with circumspection.

The main approach adopted by the CEER Conclusions' Paper on this issue is rather simple; in principle DSOs should refrain from directly offering services to consumers as their entanglement in the market is rather incompatible with their role as "neutral market facilitators", serving the public interest. The aforementioned neutrality can be manifestly jeopardized if DSOs systematically engage in the provision of services to consumers along with other enterprises operating in the gas and electricity competitive markets, as the risk of exploitation of their inherent advantage, arising from their monopoly position in the market in conjunction with the fact that they have their operational costs covered by regulated tariffs and they therefore carry a lower risk profile, is unequivocally apparent.

As a matter of fact, four different measures must be employed for the assurance of DSOs' confined involvement in market-based activities. Firstly, a concrete boundary between DSOs' core activity and the provision of other services must be drawn, so that it will be easily perceptible which activities fall outside their quality as neutral market facilitators. Practically, DSOs must retain separation between their regulated activities and other service provisions. Secondly, a formal permit by the NRA, illustrating the clear conditions under which the market activity of DSOs will be admissible and providing concrete justification about the needs that required such activity, must be rendered an indispensable prerequisite for DSOs' involvement in market-based activities. It is implied that such permit should be granted under certain conditions and may include temporal and/or territorial restrictions, while the NRA must retain the authority to review the approval. Thirdly, DSOs' engagement in the market must be governed by the principles of subsidiarity and proportionality; where activities are open to competition, DSOs should refrain from intermingling in the market, in order to prevent overlapping or interfering with activities that should be left to market players. In that regard, NRAs have drafted a not exhaustive list of activities that, in principle, are open for competition, among which are numbered (i.) the provision of flexibility services (including storage), (ii.) the development, ownership and operation of electric vehicles (EV) charging points, and (iii.) the provision of direct services to consumers, including specific energy efficiency advice, data analysis services and enriched data to third parties. Finally, it is crucial that DSOs do not neglect their core tasks, namely connection and metering activities, which lend them the capacity of neutral market facilitators.

Conclusively, a market-driven approach should be adopted where possible, in order to avoid any undue influence from the monopoly position of the DSO in the energy sector.

Electricity

EnC: Policy Guidelines on Competition and Liquidity of Wholesale Electricity Market

by Aleksandar Mladenovic (Belgrade)

The Energy Community (EnC) Secretariat has published the Policy Guidelines on Increasing Competition and Liquidity of Wholesale Electricity Markets, including Power Exchanges providing for recommendations on the legal and regulatory measures that could be used to introduce competition at national level and enable cross-border trade. In addition, the document outlines the legal and regulatory measures that could be imposed in order to introduce and/or increase liquidity on organized markets, in particular day-ahead market i.e. power exchanges. There are 5 types of measure proposed: 1) Measures that are designed to limit the influence of operators with significant market power and concentration and enhance participation of smaller players or industrial users; 2) Measures that aim to eliminate cross-subsidies, margin squeezes or concerted actions within vertically integrated undertakings; 3) Measures that directly enhance liquidity on organized markets; 4) Measures aimed at preventing market power abuse on power exchanges; 5) Measures preventing market power abuse by the power exchange itself indirectly affecting access and liquidity. The Policy Guidelines are a follow up to the Policy Guidelines on the Promotion of Organised Electricity Markets in the Contracting Parties developed and published by the Energy Community Secretariat in 2015.

EU: EEX Introduces New Products in Power, Freight and Emissions Derivatives

by Veronika Yordanova (Sofia)

3 June 2019, the European Energy Exchange (EEX) will expand its product range on the derivatives market with new power futures, freight futures and options as well as further maturities in emissions options. Clearing and settlement of the new products and maturities will be carried out by European Commodity Clearing (ECC). In addition, ECC will offer extended clearing services for EEX European carbon options. The listing of the new power futures extends the pan-European offering of EEX to the emerging power markets in Central and South Eastern Europe, thereby extending its range to 20 market areas throughout Europe. The product offering will include cash-settled power futures for Slovenia covering base and peak load products with weekly, monthly, quarterly and yearly expiries. Furthermore, cash-settled Bulgarian and Serbian base load products with the same expiries will be launched. In addition the offering for the European Carbon Option OEUA will be extended to Quarterly and Monthly expiries. EEX Group is a subsidiary of Deutsche Borse Group, which is one of the largest global operators of trading exchanges. EEX Group and its companies operate in 16 worldwide offices.

Oil & Gas

EU: Directive 2019/692 Amending Directive 2009/73/EC

by Mira Todorovic Symeonides (Athens)

On 17 April 2019, the European Parliament and the EU Council issued Directive (EU) 2019/692 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas (published in OJ L 117/1 on 03.05.2019). This Directive seeks to address obstacles to the completion of the internal market in natural gas which result from the non-application of Union market rules to gas transmission lines to and from third countries. The amendments introduced by this Directive are intended to ensure that the rules applicable to gas transmission lines connecting two or more Member States are also applicable, within the Union, to gas transmission lines to and from third countries. However, Member States should be able to grant derogations from certain provisions of Directive 2009/73/EC to such gas transmission lines which are completed before the date of entry into force of this Directive i.e. before 23 May 2019. The derogation may be granted for the duration of 20 years and may be renewed.

Furthermore, Transmission system operators should be free to conclude technical agreements with transmission system operators or other entities in third countries on issues concerning the operation and interconnection of transmission systems, provided that the content of such agreements is compatible with Union law. Technical agreements regarding the operation of transmission lines between transmission system operators or other entities should remain in force provided that they comply with Union law and the relevant decisions of the national regulatory authority. In such case it is not necessary to conclude an agreement between a Member State or the Union and a third country regarding the operation of the gas transmission line.

Agreements or parts of agreements with third countries which may affect common rules of the Union, should allow Member State to amend, extend, adapt, or renew relevant provisions of such agreements on the operation of a transmission line or an upstream pipeline network between the Member State and a third country. If the subject matter of an agreement falls partly within the competence of the Union and partly within that of a Member State, their close cooperation should be ensured, while since the objective of this Directive cannot be sufficiently achieved by the Members States the Union may adopt measures in accordance with

the principle of subsidiarity (article 5 of the Treaty on the EU). The Member States shall have the obligation to notify the EU Commission on intention to enter into negotiations with a third country in order to amend, extend, adopt, renew or conclude an agreement on operation of a transmission line with a third country concerning matters falling entirely or partly within the scope of this Directive and seek the respective authorisation of the Commission to conclude such agreement.

The Member States, except the landlocked Member States which have no geographical borders with third countries as well as Malta and Cyprus, are obliged to transpose this Directive into their legislation by 24 February 2020.

EU: New Guidance on Environmental Protection in Oil and Gas Extraction

by Ifigeneia Argyri (Athens)

On 9 April 2019, the European Commission issued the Best available techniques Guidance Document on upstream hydrocarbon exploration and production concerning the publication of new guidelines in upstream hydrocarbon exploration and production with regard to environmental protection. The Hydrocarbons Guidance Document is the result of a four years (2015-2018) exchange of information between the Commissions, the relevant industries, Member States as long as the Technical Working Group (TWG) in response to data collection questionnaires. This exchange of information covers all steps of the life cycle of a hydrocarbons project. The purpose of the said exchange of information is to identify the best available techniques (BAT) in upstream hydrocarbon exploration and production as regards with improvement of environmental protection. The Guidance Document distinguishes 13 onshore and 10 offshore activities for the exploration and production of both conventional and unconventional hydrocarbons which have the potentially highest impact on the environment. These activities include handling and storage of chemicals, hydrocarbons and drill cuttings or management of hydrocarbons and chemicals as long as management of fugitive emissions.

It is worth to be considered that the best techniques (BAT) listed and described in the aforementioned Document are intended to serve as a guidance for organizations engaged in hydrocarbons activities and for the regulatory/permitting authorities when planning new facilities or carrying out modifications to existing facilities. The Guidance Document is a non-binding tool to support the relevant authorities. More precisely, is not completely exhaustive in defining BAT and risk management approaches as it does not attempt to list all the techniques available. Organizations are still able to apply other techniques and new approaches to address environmental issues are still welcome. It should be clarified that best available techniques (BAT) are considered to be the most effective and advanced stage in the development of activities and their methods of operation which could reduce emissions and the impact on environment. Furthermore, Best risk management approaches are those that are currently considered to be the most effective approaches to managing risk at corporate and operational levels.

To that end, it should be noted that although the hydrocarbon industry has operated for many years with a range of far reaching regulations, standards and guidance aimed at protecting the environment this Guidance Document attempts to unify and clarifies them in the European context.

Competition & State Aid

EU: 2012 German Renewable Energy Act Does Not Constitute State Aid (Case C-405/16P)

by Maria Ioannou (Athens)

On 28 March 2019, the Court of Justice issued its judgment on Germany's appeal seeking the annulment of the Judgment of the General Court of 10 May 2016, *Germany v Commission* (T-47/15), by which the latter had dismissed Germany's action for the annulment of a Commission Decision concluding that Germany's Renewable Energy Act of 2012 (*Erneuerbare-Energien-Gesetz*, 'EEG 2012') involved two types of selective advantages for the support of renewable electricity and of energy-intensive users. Germany put forward three grounds in support of its appeal (the first two of which alleged an infringement of Article 107(1) TFEU and the third, a failure to observe the obligation to state the reasons on which judgments are based), but the Court found that the first part of the first ground for appeal was well founded and deemed the examination of the rest of the grounds unnecessary.

More specifically, the Court took the approach that the General Court had erred in law when determining whether the contested Commission Decision involved State resources within the meaning of Article 107(1) TFEU, i.e. resources which are attributable to the State, through which advantages are granted directly or indirectly. Indeed, according to the Court, the General Court had erred in law with reference to the assessment of the role played by the Transmission System Operators ('TSOs') in the EEG 2012 surcharge system. In order to do so, the Court highlighted the three factors according to which funds generated by a surcharge imposed by virtue of a member State legislation, may constitute State resources, i.e. firstly whether the funds generated by the surcharge imposed via legislation and administered collectively by the TSOs remained under the dominant influence of the public authorities; secondly, whether the funds in question were funds which involve a State resource and can be assimilated to a levy; and thirdly, whether the TSOs acted not freely and on their own behalf, but as administrators (assimilated to an entity executing a State concession) of aid granted through State funds.

The Court then proceeded to examine whether the General Court had erred in law when concluding that the funds generated by the EEG 2012 surcharge, constituted State resources. The Court, however, noted that the decisive factor of funds involving a State resource that can be assimilated to a levy on electricity consumption, was lacking because the fact that the financial burden resulting from the EEG surcharge was passed on to the final customers in practice, yet not as a legal requirement, is not sufficient in order for this surcharge to be classified as a levy on electricity consumption.

Secondly, the Court derived that the fact that the EEG 2012 provides for the allocation of the funds resulting from the imposed surcharge, exclusively to the financing of support and compensation schemes, means that the State is not entitled to allocate them in a different way, therefore, that the State does not have a power of disposal over these funds, which are being administered by the TSOs.

Thirdly, the Court determined that the General Court had failed to establish that the State exercised public control over the funds generated by the EEG 2012 surcharges, even though it had established that the State was in a position to monitor the proper implementation of the EEG 2012. For this reason, the Court of Justice overturned the General Court's decision which was based on previous case-law of the Court of Justice, for lack of key factors which would allow the application of such analogy.

Following the above, the Court concluded that Germany's appeal was well founded and proceeded to quash the Decision of the General Court, reserving for itself the right to give final judgement on Germany's action for annulment of the Commission Decision. The Court ruled that the Commission had failed to establish that the advantages envisaged in the EEG 2012 constituted State aid within the meaning of Article 107(1) TFEU, as they were not advantages financed through State resources, and for this reason annulled its Decision.

EU: Lithuania's New RES Scheme Approved (SA.50199)

by Maria Ioannou (Athens)

On 23 April 2019, the European Commission rendered its decision with which it has approved under EU State aid rules (in particular, under the 2014 Guidelines on State Aid for Environmental Protection and Energy) a scheme set up by Lithuania aiming to support electricity production from all types of renewable energy sources in the country in order to help it meet its national target share of renewable energy sources in the gross final energy consumption, a target which has been set at 38% by 2025. This aid scheme involves support in the form of a premium, serving as incentive for the generation of electricity from renewable energy sources, which will be set through a competitive bidding process for all types of installations generating electricity from renewable sources, irrespective of their size and the renewable technology used. The final premium shall be set to cover solely the difference between the average production cost of the most cost-efficient renewable energy technology in the country (that is, onshore wind power generation) and the market price of electricity in Lithuania. For all the above reasons the European Commission deemed the Lithuanian aid scheme as proportionate and in line with the EU state aid and competition rules.



EU: Slovakia Scheme for Supplying a Mandatory Quantity of Electricity (S.A.52687)

by Maria Ioannou (Athens)

On 10 May 2019, the European Commission approved Slovakia's subsidising scheme according to which an electric utility company shall be compensated for temporarily supplying a mandatory quantity of electricity produced from indigenous lignite, into parts of the Slovak electricity grid which are currently facing technical issues and for which investments are needed. The measure approved by the European Commission under the EU State aid rules on services of general economic interest, stipulates that until the aforementioned investments have been completed, and in any event until no later than the end of 2023, the utility company will be supplying electricity as a public service obligation and will be therefore receiving compensation enough to cover the difference between its revenues from the sale of electricity and its production costs. This compensation will be granted on the basis of a mechanism established by the Slovak electricity regulator.

The Commission assessed the measure as in line with the EU State aid rules and more specifically with Article 106(2) TFEU and the EU rules on competition, being that the electric utility company fulfilling this temporary public service obligation is the only reliable

electricity producer located in proximity of the area in need, that the compensation scheme is proportionate and that the measure is limited in time. It is noted that within the context of this Decision, the European Commission does not examine whether Slovakia is conforming to its legal obligations stemming from environmental legislation nor can it be inferred that the Commission approves of the use of lignite as fuel. The Commission has decided therefore to monitor how Slovakia meets its respective legal obligations.

EU: Irish Scheme to Support Heat Generation from RES Approved (SA.50807)

by Viktoria Chatzara (Athens)

On 16 April 2019, the European Commission issued its decision on an Irish state aid scheme (case No. SA.50807) aiming to provide support to the generation of heat from two renewable technologies: biomass and anaerobic digestion. According to the details of the scheme, it is expected to be open to a wide range of users, such as commercial, industrial, agricultural, district heating and other non-domestic heat users. The beneficiaries will be receiving operating aid, in the form of a payment for the useful renewable heat generated over 15 years. Nevertheless, until the non-confidential decision of the Commission is made publicly available, it is unclear who the beneficiaries will be. The European Commission found that the contemplated scheme entailed state aid, and assessed its compatibility with the single market, in light of the 2014-2020 Guidelines on State aid for environmental protection and energy. In this context, the Commission determined that the proposed scheme would contribute to EU's energy and environmental objectives, while at the same time it would not unduly distort competition. In the same relevance, the Commission found that the scheme is proportionate, as the payments that will be granted to the beneficiaries will not result in overcompensation. As such, the Commission concluded that the proposed Irish state aid scheme is compatible with the Single Market and, thus, decided not to raise any objections.

EU: Poland's Scheme Concerning a Cogeneration Plant Approved (SA.51614)

by Viktoria Chatzara (Athens)

On 16 April 2019, the European Commission issued its decision on a Polish state aid scheme (case No. SA.51614) aiming to provide support to the construction of a highly efficient waste-to-energy cogeneration plant located in Olsztyn. The aid will be granted through a public-private partnership between the beneficiary of the aid, a municipally owned company under the name Miejskie Przedsiębiorstwo Energetyki Ciepłej Sp. z o.o. ("MPEC"), and a private partner, which will be selected through a competitive procedure. The proposed Polish scheme was assessed by the European Commission in light of the applicable EU state aid provisions, and the 2014-2020 Guidelines on State aid for environmental protection and energy. The contemplated measure was found able to contribute to the EU's energy and environmental objectives, without unduly distorting the competition in the relevant market. Namely, the Commission found that cogeneration increases energy efficiency by recycling the heat from power generation for other uses (in this case public district heating), which has an overall benefit to the environment. At the same time, the new installation is expected to also help reduce municipal waste disposal in landfills by incinerating approximately 100.000 tonnes of waste that is currently landfilled. Taking the above into account, the European Commission concluded that the contemplated scheme is compatible with the Single Market and decided not to raise any objections.

EU: Budget Increase for Indirect EU ETS Costs in Spain (SA.53427)

by Anastasia Bolari (Athens)

On 8 March 2019, the European Commission issued a decision not to rise objection regarding the increase in budget of an aid scheme to compensate energy – intensive companies in Spain. The increased budget for 2018-2020 will reach €200 million per year and the compensation will take the form of partial refund of electricity costs resulting from indirect emission costs under the EU Emission Trading System. The aid scheme was originally approved in 2013, and the increase is in line with the 2014 Guidelines on State aid for environmental protection and energy. The guidelines support member states in reaching their 2020 climate targets. While addressing the market distortions that may result from subsidies granted to renewable energy sources.

RES

EU: Infringement Procedure - Hydroelectric Power Concessions

by Mira Todorovic Symeonides (Athens)

On 7 March 2019, the European Commission decided to send a letter of formal notice to the seven Member States (Austria, France, Germany, Poland, Portugal, Sweden and UK) and a second complementary letter of formal notice to Italy, regarding compliance with EU public procurement acquis in the hydroelectric power sector, namely the Service Directive (Directive 2006/123/EC of 12 December 2006 on services in the internal market) and the Concession Directive (Directive 2014/23/EU of 26 February 2014 on the award of concession contracts). In regards to Austria, Germany, Poland, Sweden and the UK the infringement concerns awarding

new authorisations for the construction and operation of hydropower installations without transparent and impartial selection procedure. In regards to Italy, France and Portugal the infringement relates to the procedure of renewal of the expired authorisation (Italy) or concession (France and Portugal). Now, the eight Member States have two months to respond to the arguments raised by the Commission or the Commission may decide to send them reasoned opinions.

EU: Request to Remove Forest Biomass from RES Directive

by Madalina Carmen Ion (Bucharest)

A group of affected individuals and non-governmental organizations from Romania, Estonia, France, Ireland, Slovakia, Sweden and the United States are the plaintiffs in a lawsuit against the European Union which seeks to eliminate forest wood from renewable energy sources. The five countries are stating that the EU's 2018 Renewable Energy Directive (RED II) will increase deforestation and greenhouse gas emission due to the qualification in the Directive of the forest wood as renewable energy and carbon neutral. Emissions from burning forest wood will not be included in a country's total carbon emissions. The lawsuit was filed on 4 March 2019 with the EU Court by a group of affected individuals and non-governmental organizations, which have the right to challenge legislative initiative acts if they can demonstrate against the court the existence of a direct effect on them. Plaintiffs have experienced harms to their health, livelihoods, communities and cultural traditions as a result of logging, wood pellet manufacturing, and production of biomass energy, the case argues.

In December 2018, the revised renewable energy directive 2018/2001/EU entered into force, as part of the Clean energy for all Europeans package. The new directive establishes a new binding renewable energy target for the EU for 2030 of at least 32%, with a clause for a possible upwards revision by 2023. The provisions of Article 2 (24) provide that biomass' means the biodegradable fraction of products, waste and residues from biological origin from agriculture, including vegetal and animal substances, from forestry and related industries, including fisheries and aquaculture, as well as the biodegradable fraction of waste, including industrial and municipal waste of biological origin; The group of plaintiffs says that one of their objective is to ensure the reducing the carbon emissions by 40% come 2030 because according to scientific findings, burning wood emits from 1.5 to 3 times more CO₂ than other fuels like coal or natural gas. If the EU Court will admit the application, forest biomass will no longer be counted in the EU's 2030 renewable energy target, solar and wind will remain the only renewable energy sources to achieve the target. The plaintiffs contend that including forest biomass as a source of renewable energy runs counter to Article 191(1) of the EU treaty, which stipulates that the bloc's environment policy shall contribute to: "preserving, protecting and improving the quality of the environment and, in particular, combating climate change".

EU: Clean Energy for EU Islands

by Anastasia Bolari (Athens)

On 14 May 2019, the Clean Energy for EU islands Secretariat on behalf of the European Commission launched a support mechanism for islands wishing to develop concrete clean energy transition projects. The project call was launched at the 3rd Clean Energy for EU Islands Forum, where island stakeholders and EU representatives are meeting to discuss transition models and discover key technologies for islands. Until the end of June, EU islands will be able to apply for assistance from the Secretariat to advance the development of individual renewable energy and energy efficiency projects in their local community. This support will be provided and completed by June 2020. Directorate-General Energy DG Dominique Ristori highlighted that when these initiatives are being implemented in the direction of energy transition, they will unleash a huge variety of solutions. At the same time, practices and movements in island regions can in turn inspire similar solutions in the mainland and help the EU achieve its energy and climate goals that it has set up more quickly and efficiently.

Energy Efficiency

EU: Commission Refers Spain to CJEU Regarding Transposition of the Energy Efficiency Directive

by Maria Ioannou (Athens)

On 7 March 2019, the European Commission decided to refer Spain to the Court of Justice (CJEU) for failing to correctly transpose Directive 2012/27/EU (the 'Energy Efficiency Directive'). According to the European Commission, Spain has transposed the Energy Efficiency Directive incorrectly, firstly, because its national implementation rules did not impose the requirement for the installation of individual meters for heating, cooling and domestic hot water for all existing multi-apartment and multi-purpose buildings where technically feasible and cost-efficient, but only with regard to new buildings built after 2007, and secondly, because it did not correctly transpose the requirement that where heat meters are not a technically feasible or a cost-effective solution, 'heat cost allocators' mounted on each radiator are to be installed instead. The Energy Efficiency Directive has been adopted with the aim of ensuring that the EU reaches its energy efficiency targets by 2020 through the promotion of efficient energy consumption at all stages of the energy chain with the help of market-based instruments (incentives).

EU: Preliminary Ruling Regarding Discounts on Electricity Network Charges (Case C-294/18)*by Maria Ioannou (Athens)*

On 2 May 2019, the Court of Justice of the EU issued a judgment following a request for a preliminary ruling by the Market Court in Finland, concerning the interpretation of Directive 2012/27 ('Energy Efficiency Directive') which aims to promote energy efficiency within the EU and the achievement of the Union's energy efficiency targets. The dispute arose because the Finnish Energy Agency regarded a discount of €1 on the monthly network access charges that an electricity retailer granted to its clients who had chosen electronic billing, but not to those who had chosen other billing methods (paper billing etc.), as a requirement for the latter to pay €1 for their bills. This, however, would mean that the electricity retailer is in breach of the Finnish law which transposed the Energy Efficiency Directive and which laid down the rule that all customers are to receive their electricity bills free of charge. The Agency ordered the retailer to change its billing practices and to reimburse the fees which had, according to its opinion, been incorrectly imposed on the retailer's clients. The retailer consequently brought an action before the Finnish Market Court (the 'referring court').

The referring court referred to the Court of Justice the question whether such discount on electricity network charges granted exclusively to final customers who opted for electronic billing, means that the rest of the final customers are in fact being charged for their billing. If this were so, then this would be contrary to Article 11(1) of the Energy Efficiency Directive, which envisages that consumers shall receive their energy consumption bills and billing information free of charge.

The Court of Justice established firstly that Article 11(1) of the Energy Efficiency Directive lays down the obligation for Member States to ensure that electricity retail sales companies do not charge their final customers for bills and billing information relating to energy consumption. According to the Court, as long as the bills and billing information are sent to final customers free of charge, the Directive does not preclude the customer concerned from being granted a discount on network charges. The Court went on to conclude that this literal interpretation of said provision is also supported by its context and the objective pursued by the Energy Efficiency Directive, which is, *inter alia*, facilitating the final customers' access to information relating to the metering and billing of their individual energy consumption as well as the implementation of intelligent metering systems and the fair, accurate and frequent billing based on actual consumption. Electronic billing facilitates the aforementioned objectives, consequently, granting a financial incentive to final customers to opt for such is deemed compatible with the objectives pursued by the directive, provided that billing and information on billing is kept free of charge for all final customers. The fact that the aforementioned discount is intended, *inter alia*, to reduce the administrative costs of the electricity retailer, means that a different interpretation of the Directive would deprive it of such possibility.

The Court ruled that granting said discount cannot be regarded as constituting a circumvention of the rule laid down in the Energy Efficiency Directive, being that the retailer granted the discount on already existing network charges to those final customers who had chosen electronic billing; that before the introduction of such a discount, there had never been any complaints against it for failing to comply with the obligation to provide bills and billing information free of charge and that after the introduction of that discount, final customers who had chosen a billing method other than the electronic, continued to receive such bills free of charge, paying the same amount for network charges.

The Court therefore ruled that, in circumstances such as those described above, the Energy Efficiency Directive must be interpreted as not precluding a discount on electricity network charges granted by an electricity retailer exclusively to final customers who have chosen electronic billing.

EU: Recommendation on Implementation of Energy Performance of Buildings Directive*by Ifigeneia Argyri (Athens)*

On 16 May 2019, Recommendation (EU) 2019/786 (dated 8 May 2019), on building renovation, (notified under document C (2019) 3352) was published in the Official Journal of the European Union. The aforementioned Recommendation issued as a response to Member States' requests for clarification on the revised building renovation provisions of the Energy Performance of buildings Directive (2018/844/EU).

Recommendation (EU) 2019/786 focuses on the provisions relating to the renovation of buildings and concerns Articles 2a, 10, 20 and Annex I to the EPBD, which include provisions on long-term renovation strategies, financing mechanisms, incentives, information and the calculation of energy performance of buildings. Pursuant to the said Recommendation (EU) 2019/786 on building renovation, Member States should adopt strong long term National long-term renovation strategies (LTRs) with a solid finance component in line with the requirements of Article 2a of the EPBD Directive to ensure the renovation of existing buildings into highly energy efficient and decarbonized buildings by 2050, facilitating the cost-effective transformation of all existing buildings into nearly zero-energy buildings ('NZEBs'). Moreover, Member States must, *inter alia* set out roadmaps with measures, domestically established measurable progress indicators and indicative milestones for 2030, 2040 and 2050 in order to deliver on a 2050 decarbonization goal. More precisely, Member States should go beyond a simple inventory of existing measures and provide a long-term view of the development of future policies and measures. In addition according to the Recommendation they could tailor their

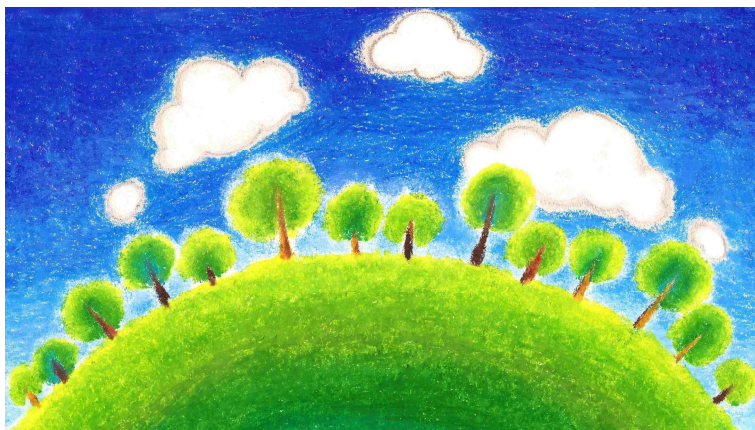
milestones and indicators to national specificities as the intention is not to establish legally binding targets. It should also be kept in mind that the setting of ambitious and clear milestones is key to reducing investor risks and uncertainties. Furthermore, Member States are encouraged to allow sufficient time to consult on the development and implementation of their LTRS, as long as to ensure access to a range of financial mechanisms to help mobilise investment that will be central to LTRS. Finally, they are encouraged to introduce the additional EPB indicators in revising the building codes. Provisions in the EPBD dealing with modernisation and technical building systems will be addressed in a separate Recommendation.

It is worth to be noted that the Recommendation aims to explain in more detail how certain provisions of the EPBD should be read and can be best applied in the context of national transposition, as long as to ensure a uniform understanding across Member States in the preparation of their transposition measures. The said Recommendation does not alter the legal effects of the EPBD and is without prejudice to the binding interpretation of the EPBD as provided by the Court of Justice. To that end, it should be kept in mind that EU countries have until March 2020 to fully transpose the new and revised provisions into national law.

Environment

EU: New Regulation on CO2 Emission Standards

by Madalina Carmen Ion (Bucharest)



On 17 April 2019, the European Parliament and the Council issued the Regulation (EU) 2019/631, which was published in the Official Journal on 25 April 2019 and will enter into force with effect from 1 January 2020. The new Regulation is replacing the past regulations (EC) no. 443/2009 and No 510/2011. The Regulation is setting stricter CO2 emission standards for new passenger cars and for new light commercial vehicles in order to contribute to achieving the Union's target of reducing its greenhouse gas emission and to ensure the proper functioning of the internal market. The regulation 2019/631 applies to the new passenger cars which are registered in the

Union for the first time and which have not previously been registered outside the Union and to the new light commercial vehicles. In the case of zero-emission vehicles of category N with a reference mass exceeding 2 610 kg or 2 840 kg, as the case may be, they shall, from 1 January 2025, for the purposes of this Regulation and without prejudice to Directive 2007/46/EC and Regulation (EC) No 715/2007, be counted as light storage commercial vehicles falling within the scope of this Regulation if the excess reference mass is due only to the mass of the energy storage system.

The provision of Article 1 of the Regulation provide that until 31 december 2024, it will be complemented by additional measures as part of the Union's integrated approach referred to in the Commission's communication of 7 February 2007 entitled 'Results of the review of the Community Strategy to reduce CO2 emissions from passenger cars and light-commercial vehicles'. The targets for the CO2 emissions will apply to each manufacturer's EU-wide fleet of new passenger cars and LCV. If the manufacture's will meet the benchmarks, meaning that by 2025, 15% of the new passenger cars and LCVs will be zero and low-emission vehicles, and by 2030 35%, for passenger cars and 30% for LCVs, they will be rewarded with less stringent CO2. Furthermore, manufacturers may enter into pooling arrangements (subject to competition law restrictions) for meeting their emissions targets. Besides the rewards that consist of lower CO2 targets, in respect of each calendar year, according to the Article 8, the Commission will enforce an excess emission premium, where a manufactures' average specific emission of CO 2 exceed its specific emissions target. The regulation provides a formula for calculating the excess emissions premium. For each excess gram per kilometer of CO2 emissions, the premium will amount to €95 per newly registered passenger car or LCV. The manufacturers will benefit for incentives in order to develop CO2 efficient passenger cars and LCVs, while the manufacturers of traditional CO2-intensive passenger cars and LCV's will be put under additional pressure.

ALBANIA

Electricity

Request for Interference in the Transmission Network

by Manuela Cela (Tirana)

On 15 March 2019, the Albanian Energy Regulatory Authority (ERE) issued its decision no.41 denying the OSTs request for "Interference in the Transmission Network". ERE's decision took under consideration the TSO's proposal dated 28 December 2018, by which this interference was requested. In this letter, the "OST" sha, mentions 110 kV high voltage lines and 110 kV substations, which are partially part of the 10-year development plan of the transmission network. This investment in compliance with the development plan has not been completed since it is presumed to have a considerable cost of around €100,000,000. OST sha proposed that, due to its limited financial means, it needs to obtain funds through a commercial lending for duration of about 15 years. The claim was supported by the fact that OST sh.a. does not have previously planned and unrealized investment. Adoption by ERE for the purpose of securing external financing for the realization of one investment, is exclusively related to a planned but unrealized investment. Any subsequent request for revision of the ten-year investment plan should be submitted based on a technical-economic analysis that makes clear the importance of these projects in order to assess their impact on end-users as well as the way of covering the costs of obtaining potential trade credits.

Additions on the Transitional Rules for Electricity Balancing Mechanism

by Manuela Cela (Tirana)

On 18 February 2019, the Albanian Energy Regulatory Authority (ERE) issued its decision no.19 initiating the procedures for the approval of some additions in "Transitional rules for electricity balancing mechanism", approved by ERE's board decision no.193, date 24.11.2017, as follows: in Article 12, point 2, add the point (d); in Article 12, point 3, add the point (d); ERE's decision was based on the OST sh.a letter no. 8531 Prot., dated 14 December 2018, sent to ERE, by which is made known that has evidenced losses in the financial balance by the application of the balancing mechanism under the provisions of "Transitional rules for electricity balancing mechanism". OST sha suggested that these losses come as a result of the application of four coefficients conforming to the system state against market participants (BRP) and the application of two coefficients versus the Balancing Service Provider (BSP). OST sha requires the review of the application of these coefficients by ERE.

Establishment of Energy Exchange from the Government of Albania

by Manuela Cela (Tirana)

In February 2018, Janez Kopac, director of the Energy Community Secretariat, stated that the creation of a national power exchange – the Albanian Power Exchange (APEX) – would be a real game changer not just for Albania, but also for the entire region.

In May 2019, Albania's government decided to establish a national power exchange in accordance with European directives as a step forward in advancing the reform of the energy sector. The Albanian power exchange will operate day-ahead and intraday trading platforms. The development of the power exchange was supported by the International Finance Cooperation (IFC) and the European Energy Community Secretariat. The establishment of the power exchange will be an incentive for the liberalisation and deregulation of the electricity market. The energy exchange is planned to start operations in January 2020.

The power exchange aims at trading electricity in the regional market and welcomes the participation as shareholders of transmission system operators of countries with which Albania has a memorandum of understanding and sustainable trade activity in this sector. The operator of the energy exchange will be established by Albania's state-owned power transmission system operator OST and will function as a joint stock company. The opening of the power exchange to all market operators will guarantee fast and flexible market operation in order to increase the security of Albanian electricity supply and financial transparency as well as deliver on commitments towards the Energy Community. Albania produces over 90% of its electricity at hydro power plants, most of it at three plants along the Drin River, in the northern part of the country.

Oil & Gas

Establishment of a Network Code on CAM in Gas Transmission Systems

by *Manuela Cela (Tirana)*

On 3 April 2019, the Albanian Energy Regulatory Authority (ERE) issued its decision no.58 initiating the procedures for transposition of Regulation 2017/459, approved with decision no. 2018/06/ PHGL-ENC "On the Establishment of a Network Code on Capacity Allocation Mechanisms in Gas Transmission systems". ERE's decision took under consideration the Natural Gas Operator "ALBGAS" sha, proposal dated 18 February 2018, by which was submitted for review and approval to ERE the Code on capacity allocation mechanisms in gas transmission systems. This Code has been drafted and adapted in compliance with the provisions of Law no. 102/2015 "On the Natural Gas Sector" as amended and the Provisions of the Decision no. 2018/06 / PHGL-ENC dated 28 November 2018 of the Permanent High Level Group of the Energy Community Secretariat, giving orientation regarding the capacity allocation mechanisms in natural gas transmission systems.

BULGARIA

Electricity

Amendments to the Bulgarian Energy Law abolishing Fee on Exports of Electricity

by *Apostolos Christakoudis (Sofia)*

On 9 May 2019, the Bulgarian Parliament amended its energy law to abolish a fee levied on exports of electricity (Law amending and supplementing the Energy act, published in the OJ - No 41/2019). In 2018, 62% of Bulgaria's electricity was traded on the free market, while the remainder was on the regulated market through which most households and small businesses pay regulated tariffs, according to information by regulator EWRC. Market participants have been lobbying for the abolishment of the export tariff for years since Bulgaria is the only EU country that applies it. The amendments will remove obstacles to trade with Energy Community contracting parties in the Balkans. The amendments to the energy law, approved by the Bulgarian parliament will come into force on 1 July 2019. According to earlier reports, the move will also bring 750 MW of renewable capacity to the free market, creating more competition and liquidity.

The Bulgarian export fee was subject to a complaint from an electricity trader, prompting the Secretariat of the Energy Community to request action from the European Commission, which is in charge of ensuring that European law is applied by the EU member states. From the perspective of European law, such a fee violated the rules guaranteeing the free movement of electricity across borders. Export fees are prohibited in the EU and the Energy Community, including between EU member states and Energy Community Contracting Parties.

BiH

Competition & State Aid

Secretariat Questions Compliance of State Guarantee for the Tuzla 7 Project

by *Vuk Stankovic (Belgrade)*

On 26 March 2019, the Energy Community Secretariat (Secretariat) initiated a preliminary procedure against Bosnia and Herzegovina and accordingly addressed an Opening Letter with reference to the Case ECS-10/18. The Case ECS-10/18 refers to a public guarantee granted by the Federation of Bosnia and Herzegovina in favour of the Export-Import Bank of China for a loan by the latter to the public utility Elektroprivreda BiH d.d. Sarajevo for the Tuzla 7 project. In the Open Letter, the Secretariat preliminarily concluded that regardless that guarantee has been found by the State Aid Council of Bosnia and Herzegovina not to contain elements of State aid does not comply with the State aid acquis. According to the Secretariat, the public guarantee constitutes State aid which is not issued in line with the Article 18(1)(c) and Article 19 of the Energy Community Treaty.

GREECE

Market

Amendment 2129/238 of the Jurisdiction of the Ministry of Environment and Energy

by Nikoleta Nikolaou (Athens)

On 22 April 2019, was published an Amendment of the Law 4425/2016 (OJ A' 185/2016) concerning the definition of the jurisdiction of the Ministry's of Environment and Energy. More specifically, the proposed Amendment describes the method of storage of Decompression installations of Compressed Natural Gas (CNG) which fulfill the needs of the remote distribution network from the city network. The Amendment further clarifies that the envisaged requirements do not apply to the already legally licensed and operating facilities.

The decompression facilities of compressed natural gas (CNG), for the supply of the distribution network from the urban transport network may: a) except drawing areas, at least 100 meters from the city limit, and at least 300 measures from gathering places together and b) in industrial park areas (VIPA-VIOPA) independently of nuisance degree. In conclusion, the proposed regulations do not result in adverse effects on the natural environment while improving the protection of the cultural environment because of the involvement of the Ministry of Culture and Sport as guardian of preservation and protection of culture.

RAE on Expenditures and Incomes approval of Horizontally Integrated Companies

by Nikoleta Nikolaou (Athens)

On 16 May 2019, was published at the official journal (B' 1730/16.05.2019) RAE's decision concerning the approval of Principles and Allocation Rules of assets and liabilities and expenditure and income for the establishment of separate accounts relating to electricity and gas supply activity in accordance with the provisions of Law 4001/2011. More specifically, these companies should keep separate accounts for gas and electricity supply and establish separate financial statements for these activities. The establishment of separated accounts will be made by allocating the assets of the company's accounts including its areas of activity, namely the supply of electricity and / or the supply of natural gas or other activities. However, for these accounts which cannot be directly attributable to an activity, because they are either related to more than one activities or to the entire gas and electricity supply of the company (e.g. computerization, accounting), will be used the principles and rules of distribution of the present Decision. Furthermore, for this purpose, RAE has the ability to access the accounts of each company and also the right to request the auditors of the company, to provide additional explanations or clarifications on their reports, as well as additional financial information regarding the issues included in these reports. In conclusion, the Principles and Allocation Rules of assets and liabilities and expenditure and income for the establishment of separate accounts authorized by the present decision concern both the preparation and the publication of the Annual Financial Statements of companies which are simultaneously engaged in the activity of the supply in gas and electricity sector.

Regulation on Price Comparison Tools in Force

by Ifigeneia Argyri (Athens)

On 12 April 2019, decision nr. 313/2019 of Regulatory Authority for Energy (RAE), issued on 14 March 2019 regarding the creation of the rules of Procedure of Price Comparison Tools in alignment with the provisions of Directive EU 2009/72, the provisions of the Law 4001/2011 as well as the Guidelines of Good Practice on Price Comparison Tools was published in the Official Government Gazette (B' 1254/2019). By virtue of the said Decision RAE as the competent authority for the monitoring and the supervision of energy market proceeded to the creation of the Rules of Procedure of Price Comparison Tools, an online application of special purpose in order to enhance the transparency in consumers' and participants' in energy retail market transaction. The said System was designed in order to compare under the principles of transparency, the accessibility to information and the independence of information, the final cost of the competitive part of the invoices offered and to count the cost of the regulated charges which are dependent on the energy consumption.

The scope of the aforementioned System is the small customers' on low voltage electricity invoices as long as the end-consumers' of natural gas domestic and commercial invoices, as they are defined in article 3 of the relevant Codes of Procurement. In the relevant Regulation are described all the procedures of the Price Comparison Tools, the roles of the stakeholders as long as their obligations and rights. To be more specific pursuant to the Regulation the Liable Supplier must introduce to the System all the relevant to the Price Comparison Tools notifications as long as any termination of them. In addition every Liable Supplier according to article 3 of the Regulation should introduce and inform the public data to the Repository in order for the price lists of the available products to be known. Specifically, these public data should be introduced/informed the same day of the marketing of a new product or in case of

change of an existing product in suppliers' price-lists. Natural gas suppliers are especially obliged to introduce to the Repository the price for this month till the last day of the month. To that end it is worth to be noted that RAE is authorised to temporally ban some suppliers of the System in case of violation of their obligations, to publish its exclusion measure as long as impose any administrative penalty.

This brand new system is expected to be of vital importance for the enhancement of competition in energy markets and help consumers to choose their suppliers independently in order to make the best possible choice for them.

Electricity

Public Consultation on Retail Electricity Market Pricing

by *Andriani Kantilieraki (Athens)*

On 25 April 2019, the Regulatory Authority for Energy (RAE) issued a press release concerning the launch of a public consultation on retail electricity market pricing. More specifically, based on the recent Legislative Resolution of the European Parliament (of 26 March 2019) on the proposal for a directive of the European Parliament and of the Council on common rules for the internal market in electricity, RAE considered certain elements of the electricity market on national and European level. Those aspects mainly concern the behavioural response of the electricity consumers who appear to be reluctant to switch between electricity suppliers (the rate of change in the European member states barely reached 6,3% in 2016) and/or undertake risks. RAE further mentioned that according to the European legislation, there seems to be a promotion of the "active consumer" model, i.e. consumers who actively participate and respond to the specific characteristics and signals of the energy market, while managing to find efficient solutions which save them money and contribute to the overall reduction of energy consumption. However the new consumer-oriented model will only be able to function if consumers are well informed and willing to undertake more



risks when choosing their suppliers and making relevant financial decisions, thus taking full advantage of the opportunities of a liberalised internal market for electricity. RAE further underlined the necessity of promoting technologically advanced infrastructure and policy tools with the view of ensuring clarity in the process and provision of adequate information so that all consumers freely to choose their suppliers and all suppliers freely to deliver to their customers. To that end, RAE launched a public consultation with the following main topics: a) the necessity (if any) of the provision of a stable pricing tool per consumer category in order to protect consumers who do not wish to undertake risks, b) the proposed ways to ensure adequate provision of information towards consumers, c) the proposed ways to provide clear, transparent and cost-effective solutions in the retail market pricing in order to increase consumer engagement and retail competition. According to RAE's announcement the deadline for the submission of comments and proposals was 24 May.

Update on Sale of the PPC's Lignite Units

by *Nikoleta Nikolaou (Athens)*

On 8 March 2019, was published at the official site of Greek Public Corporation SA, an invitation to submit an Expression of Interest and Request for Binding Offers for the acquisition of 100% of the share capital of the Meliti and/or the Megalopoli Divestment Businesses. More specifically, the purpose of this Invitation by the Seller is to solicit Expressions of Interest from the Interested Parties wishing to participate in the Tender Procedure which should meet the eligibility requirements criteria. Pursuant to the request of investors participating in the sales contest of lignite units Meliti and Megalopolis and after negotiations between PPC Management with Ministry of Environment and Energy and the Directorate General for Competition of the European Commission, PPC decided to postpone the deadline for the submission of binding offers for 28 May 2019, as was announced.

It should be mentioned that the aforementioned tender is the second one regarding the sale of PPC's lignite units since the first relevant attempt failed. The interested parties who submitted their expressions of interest in the first tender were the following: a) Beijing Guohua Power Company Limited and Damco Energy S.A. (as a consortium), b) China Western Power Industrial Co Ltd, c) Seven Energy A.G. – Indoverse (Czech) Coal Investments Limited (as a consortium), d) Gek Terna S.A., e) Elvalhacor SA and f) Mytilinaios SA. Whereas, in the second tender, the interested parties who submitted expressions of interest were: a) Seven Energy A.G. – Indoverse (Czech) Coal Investments Limited (as a consortium) and b) Gek Terna S.A.

Oil & Gas

ACER's Analysis of the Gas Tariff Code Implementation

by Kosmas Karanikolas (Athens)

On 1 March 2019, the Agency for the Cooperation of Energy Regulators (henceforth; ACER) published its report on the tariff methodology proposed by the Greek gas transmission system operator, namely DESFA. Introductorily, it must be noted that the National Regulatory Authorities (NRAs) are required to periodically submit to ACER consultation documents illustrating the reference price methodologies employed by them for all entry-exit systems while the latter is anticipated to analyse this documentation and equip the NRAs with the relevant feedback on the policies adhered to. It is reminded that ACER's competence to issue the aforementioned analysis derives from Commission Regulation (EU) 2017/460, which establishes a Network Code on harmonised transmission tariff structures for gas (NC TAR).

First of all, ACER verifies that *prima facie* the consultation document provided by RAE is complete as it encompasses all the required information. More specifically, DESFA's approach on tariffs is based mainly on a postage stamp methodology with an *ex-ante* 50/50 split between entries and exits while the imposition of a commodity charge for the purpose of complementary revenue recovery is also suggested. In addition, the enforcement of a discount for entry points from LNG facilities and re-scaling is applied to all entry points in order to ensure that both LNG and pipeline gas are treated equally, namely they are submitted to the same conditions. Moreover, part of the allowed revenues of the LNG terminal (situated at Revythoussa islet) is socialised through inclusion into the transmission tariffs at domestic exit points in consideration of the LNG terminal's contribution to the balancing of the national natural gas system load as well as to security of supply and to the facilitation of the entry of new suppliers into the natural gas market. Finally, it is noted that there is a separate charge to cover costs for operating the transmission system, losses and fuel costs being included, while there are also some non-transmission charges for the three (non-transmission) services of certification of welding operators, metrology and odourisation.

Apart from these observations, ACER ascertains that the next regulatory period (set out by RAE) comprises of four distinct consecutive tariff periods, extending from 2019 to 2022. More specifically, in early 2019, RAE is scheduled to approve the allowed revenues for the whole regulatory period. It may be noted, though, that the tariffs for 2019 are based on the current national Tariff Regulation, which is the same as for the 2018 tariffs, but with updated allowed revenues. On the contrary, the tariffs for the period 2020-2022 will be based on the proposed draft national Tariff Regulation, which is being consulted on, using the approved allowed revenues. Additionally, it is observed that changes to the established tariffs within the regulatory period may be triggered for the purpose of reconciliation.

ACER expresses, though, its objections regarding the scheduled inclusion of a significant socialisation of the costs of the LNG terminal into the resale price maintenance (RPM), and its treatment as a transmission service, as this can possibly result in distortion of the RPM. Moreover, it is emphasized that the socialisation of the terminal cost must not jeopardize the requirements for security of supply. In that regard, ACER suggests that RAE treats the socialisation of the allowed revenues of the LNG terminal in a way similar to a non-transmission service as this approach entails the advantage that it is transparent and allows for the costs to be charged to the beneficiaries who are the users of domestic exit points. Practically, this ensures that the costs of the LNG facility are not allocated to interconnection points (IPs). These observations are in line with ACER's proposal for the exportation of LNG stored in the terminal of Revythoussa to Bulgaria through the use of network users active at the exit of the Sidirokastro IP. In this scenario, the latter are anticipated to contribute to the socialisation of the costs incurred as they would be beneficiaries similar to users at domestic exit points.

Finally, ACER makes some recommendations on additional elements that ought to be included in RAE's consultation so that the latter is rendered more comprehensive. Hence, the following elements are numbered among those that ought to be incorporated in an updated and extended version of RAE's consultation; (i.) an adequate reasoning on how the proposed resale price maintenance (RPM) takes into account the principle of cost-reflectivity as well as the specificities of the Greek gas system and the main national energy policy objectives; (ii.) the enforcement of a separate motivated price-setting methodology for the non-transmission charge related to the socialisation of the under-recovery of the allowed revenues of the LNG terminal at Revythoussa. This methodology has to take into consideration that such terminal contributes to the balancing of the Greek gas system, increases security of supply and facilitates entry of new suppliers into the Greek gas system. Additionally, (iii.) ACER recommends that RAE clarifies its view on the potential future cross-system use of the Greek transmission system in consideration of the anticipated expansion of the network in the near future. Finally, (iv.) the Agency proposes that RAE properly classifies DESFA's services as either regulated or non-regulated so that if a service is considered as non-regulated, the allowed revenues should be adjusted to avoid double remuneration of assets and undue cross-subsidies from the TSO's regulated services to its competitive (non-regulated) services.

Infrastructure

Call for Tenders for the Crete – Attica Interconnection

by *Andriani Kantilieraki (Athens)*

On 23 and 24 May 2019, “Ariadne Interconnection S.P.S.A.”, which is the special vehicle (SPV) subsidiary of the Independent Power Transmission Operator (ADMHE) charged with the implementation of the Attica – Crete interconnection, issued two press releases concerning the launch of tenders for the project. In more detail, with the first tender, Ariadne Interconnection invited all interested parties to submit their offers for the “Engineering, Procurement and Installation of Cables and Electrode Stations for the Electrical Power Interconnection between Crete and Attica (2 X 500 MW)”, a project of total budget amounting to €600.000.000. On the other hand, Ariadne also invited interested parties to submit their offers for the second tender regarding the “Engineering, Procurement and Installation of two Converter Stations and one GIS Substation for the DC Electrical Interconnection between Crete and Attica (2 X 500 MW)”, a project with a total budget of €315.000.000.

According to the announcements of Ariadne, any person or legal entity within: a) the European countries, b) countries of the European Economic Area, c) third countries which have signed and ratified the World Trade Organization (WTO) Government Procurement Agreement (GPA) and d) third countries with a bilateral or multilateral agreement with the European Union, are given the right to participate in the aforementioned tenders. Further, the deadline for the first tender is set on 8 July 2019 whereas the deadline for the second tender was set for 22 July 2019, with the view of achieving the timely materialization of the project (within the year of 2022).

Approval of the TYNDP 2017-2026 for Gas

by *Anastasia Bolari (Athens)*



On 2 April 2019, RAE's decision n. 236/2019 regarding the approval of the Ten Year Network Development Plan (TYNDP) which was submitted by the Hellenic Gas Transmission System Operator S.A. (DESFA) for the decade 2017-2026, was published in the Official Government Gazette (B' 1089/2019). The new projects are user connection projects and projects for the development of the National Natural Gas System (NNGS). There are two new projects for users connection, the M Station at SALFA Anthousa and the M Station at SALFA Ano Liosia. As for the NNGS development, eight new projects are included in the Development plan. Among them,

the project for the construction of Pipeline Nea Messimvria – Eidomene /Gevgelija and the Metering/Regulating station is of great geopolitical and economical importance. The project aims at the interconnection of the NNGSs of Greece and North Macedonia, which will enhance the diversification of supply sources for North Macedonia. The project promotes the regional development of natural gas market and the involvement of more market players thus enhancing the role of Greece as a hub. Consequently, this has the potential to lead in lower prices in the Greek market. Furthermore, it will lead to the increased usage of infrastructure such as the LNG terminal in Revithoussa, in order to reduce the tariffs for the usage of the transmission system in the long term. Another important project is the Compressor Station in Ampelia which is necessary, given the expected increase in the transported quantities of natural gas from north to south with the start of the TAP pipeline and its interconnection with the NNGTS in New Messimvria. Other projects concern the upgrading of the NNGS, the upgrade of physical protection of DESFA facilities, the improvement of metering accuracy in the NNGTS stations, the replacement of Metering and control systems on M/R stations of the NNGTS and finally the upgrade of the Nea Messimvria compressor station.

There are fourteen planned projects that their implementation is ongoing in the current development plan. The second upgrade of the LNG terminal on the island Revithoussa is the project having the bigger budget (€142,3 million) and greatest importance. The scope of the project includes a) Increase of storage space of the station with the instalment of a new tank of 95.000 m3 capacity b) upgrade of marine to accommodate larger ships c) upgrade of gasification rate d) upgrade of Ag. Triada metering station. Other ongoing projects are the M/R Station in Komotini, the M/R Station in N. Messimvria for the Connection of NNGTS to TAP, the Installation of M/R Kavala, the compression station in Kipi, the construction of high pressure pipeline Mavromati (Vagia) - Larymna and necessary metering station for the Connection of LARCO GMM SA with NNGS, the Komotini – Thesprotia high pressure pipeline (part of NNGS), Upgrading Projects of NNGS 1st and 2nd group and LNG Terminal Boil-off Gas Compressor Station in Revythoussa island.

RES

New Tender for RES Operational State Aid

by *Anastasia Bolari (Athens)*

On 18 April 2019, the Regulatory Authority for Energy (RAE) launched a tender for operational state aid for electricity generating plants from renewable energy sources with Decision n. 441/2019. This tender concerns operational state aid for 300 MW for wind farms with a maximum power output of more than 3 MW and less than or equal to 50 MW or wind farms belonging to energy communities with a maximum output power greater than 6 MW and less than or equal to 50 MW, and operational state aid for 300 MW for photovoltaic stations installed at a power of 50 MW or more but less than or equal to 20 MW. Those who are interested to participate shall first register to an electronic platform and then provide all the necessary documents mentioned in the notice of invitation for the tender. The submission's offers deadline is 31 May at 5 p.m. while the auction will take place on 01 July 2019.

Results from the First Joint RES Tender for Wind and PV

by *Anastasia Bolari (Athens)*

On 18 April 2019, the Regulatory Authority for Energy (RAE) with decision n. 436/2019, issued the final results of the 15 April 2019 tender for operational state aid to electricity generating plants from renewable energy sources. The first stage of the procedure was concluded on 2 April 2019 with RAE decision n. 358/2019 "Provisional list of Stage B participants and Provisional list of excluded from tender", while on 10 April 2019, with decision n. 419/2019 it was issued the final list of stage B participants and the auctioned power was finalized at 45.555.475 MW. On 15 April the online auction was concluded according to the provisions of the notice of invitation no. 1/2019 (O.J. B' 656/28.02.2019). Seven participants underbid and thus were selected through the tender to join a support scheme in the form of operational state aid. The selected participants have power and price reference as follows: 1) 60 MW for 53 €/MWh, 2) 139.245 MW for 54,46 €/MWh, 3) 82.64 MW for 55,46 €/MWh, 4) 24.23165 MW for 58,4 €/MWh, 5) 66.6 MW for 60.6 €/MWh, 6) 27.684 MW for 64,72 €/MWh, and 7) 37.376 MW for 64,72 €/MWh. The weighted average value based on the above results of the selected projects is 57,03 €/MWh. The next step is the conclusion of contracts for differential state aid support between the selected participants and the RES Provider & Guarantee of Origin.

Three Ministerial Decisions to Strengthen the Framework for the Operation of RES

by *Alexandra Papaioannou (Athens)*

In March and April 2019, the Ministry of Environment and Energy issued three Ministerial Decisions, aiming to reinforce the Renewable Energy Saving Framework and increase its margin for contributing to combating energy poverty and reducing energy costs for both private households and businesses.

More specifically, Decision 15084/382, published in the Official Government Gazette B' 759 on 5 March 2019, introduces the implementation of "virtual energy sharing" for both Energy Communities and private households facing financial difficulties. Therefore, it is now possible to share the energy produced by the RES unit owned by each Community between all members of an Energy Community. Each member of the Community can set off its energy consumption with the share of production corresponding to it. The existing decision on net metering and virtual net metering is also amended, introducing, inter alia, new power limits as well as the use of all technologies by power generating stations, beyond the previously foreseen photovoltaic technology (e.g. small wind turbines, biomass/biogas, geothermal energy systems etc.).

Furthermore, by virtue of Decision 25512/883, published in the Official Government Gazette B' 1020 on 27 March 2019, the institutional framework regarding the participation of RES in the energy market is finalized, naming DAPEEP SA as the Ultimate Shelter Representative Body ("FoSETEK"). DAPEEP SA will take up its new role from 1 July 2019 until the end of 2022. FoSETEK will function as a last resort to RES producers and provide a solution in cases where the Cumulative Representatives Bodies ("FoSE") are unable to do so. For the provision of this service, FoSETEK shall impose monthly charges on the RES and CHP stations it represents. To be noted that the newly introduced activity of aggregators as Cumulative Representation Bodies aim mainly to balance differences between actual production and forecasts, especially in relation to RES production stations.

Finally, Decision 34495/1107, published in the Official Government Gazette B' 1341 on 18 April 2019, regulates the installed energy power, by technology and/or category of power plants from RES and CHP, which is auctioned through a competitive bidding tendering procedure until the end of 2020, including RES power stations established in countries within the EEA. The Decision sets the minimum number of competitive tendering procedures per year and per installed energy power, as well as the maximum allowed bid price for each competitive tendering process. The reference values for power generated from wind farms put into operation from 01 January 2021 was also adjusted, taking into consideration the large devaluation of prices in recent tenders.

SERBIA

Oil & Gas

Decision on Dismissal of Certification Application of Transportgas Srbija

by Mirjana Mladenovic (Belgrade)

On 22 April 2019, the Energy Agency of the Republic of Serbia (AERS) adopted a Decision on dismissal of application submitted by the Limited Liability Company "Transportgas Srbija" d.o.o. Novi Sad (Transportgas Srbija) as incomplete. Namely, on 22 November 2018 Transportgas Srbija submitted application for certification in line with the independent transmission operator model pursuant to Articles 232-238 of the Energy Law (Official Gazette of the Republic of Serbia, no. 87/15). In the procedure of assessment of the submitted application, it was concluded that Transportgas Srbija failed to complete the application and submit the necessary documents upon the request of AERS within the legal deadline of 4 months for the adoption of a certification decision and submit all documentation prescribed by the Energy Law and the Rulebook on Energy License and Certification (Official Gazette of the Republic of Serbia, no. 87/15). Subsequently, AERS adopted the procedural decision on the dismissal of the application as incomplete. Transportgas Srbija may submit a new application for certification, upon obtaining the prescribed documentation, in which case the application will be considered again.

EnC: Reasoned Request regarding the Certification of Yugorosgaz-Transport

by Mirjana Mladenovic (Belgrade)

On 19 April 2019, the Energy Community Secretariat (Secretariat) submitted a Reasoned Request to the Ministerial Council for issuance of the decision based on Article 91 of the Energy Community Treaty (Treaty). In the Request it stipulates that the Council of the Energy Agency of the Republic of Serbia performed the certification of Yugorosgaz-Transport as independent system operator (ISO) without fulfilling all necessary requirements.

Namely, the Secretariat concluded that it is not ensured that the transmission network will be managed by an operator which performs its operation independently from the supply and production interests within the vertically integrated undertaking and at the same time will not effectively perform all transmission system operator functions required by the Third Energy Package (operation, development and maintenance of the system). Having in mind said, it is considered that the Republic of Serbia failed to comply with its obligation prescribed by the Treaty. Before the Ministerial Council issues a decision, the Advisory Committee will give its opinion on the Reasoned Request.

Infringement Case for Failure to Ensure TPA on Hungary-Serbia Gas Interconnector

by Mirjana Mladenovic (Belgrade)

On 19 April 2019, the Energy Community Secretariat (Secretariat) sent a Reasoned Opinion (Opinion) to the Republic of Serbia for its failure to ensure unlimited non-discriminatory third party access (TPA) to the Horgoš interconnection point. It stipulates that the Republic of Serbia infringes its obligation to ensure non-discriminatory third party access to the natural gas transmission system. The Opinion represents the second step in the dispute settlement procedure initiated by the Secretariat. Namely, on 27 July 2018, the Secretariat sent an Opening Letter to the Republic of Serbia in accordance with the Rules of Procedure for Dispute Settlement (Rules). In the said letter the Secretariat, took the preliminary view that excluding interconnection point Horgoš from allocation of capacity is not compliant with the Energy Community acquis communautaire related to ensuring non-discriminatory third party access. Namely, the Secretariat does not consider that restricted access to Horgoš entry point was justified in accordance with Article 35 (1) of Directive 2009/73/EC. Therefore, it considers that exclusion of Serbiagas from the respective system entry point does not satisfy any of the criteria for refusal of access determined in the Directive and the Energy Law.



Environment

New Decree Regulating Payments of Pollution Charges

by Aleksandar Mladenovic (Belgrade)






On its session held on 18 April 2019, the Serbian Government adopted a Decree laying down criteria for introducing the obligation to pay the environmental pollution fee (act 05 number: 110-3048/2019). The Decree first sets the criteria for determining the activities of businesses and entrepreneurs that affect the environment according to the amount of pollution, and based on this, the amount of compensation is determined. The Decree further introduces an obligation that legal entities, entrepreneurs and natural persons, as well as local self-governments, to pay compensation which is determined solely on the basis of the actual degree and amount of pollution that arose from the performance of their activities. The consequences of the application of this Decree will be felt first of all by the economic branches that perform their production processes with outdated technology. The adopted Decree implements completely the "Polluter Pays" principle as the Acquis Communautaire, which has been successfully applied in the EU in the past period.

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