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Energy Community: Strategy and Projects of Common Interest Report

by Mira Todorovic – Symeonides (Athens)

On 12 November 2013 the Secretariat of the Energy Community (EC) issued the EC Strategy and Projects of EC Interest Report. The Report analyses the increased investment needs in energy infrastructure in Western Balkans and other members of EC and lists 35 energy projects of interest for EC. The strategy follows the same principles as the ones of EU's "Energy 2020" strategy; its objectives focus on creating a competitive integrated energy market, attracting investments in energy and providing secure and sustainable energy supply to customers. The respective EC initiatives include: establishment of a Coordinated Auction Office, well functioning Day Ahead Market for the whole SEE region and Gas to Power Initiative. In this regard the key regional themes for the Energy Community to address include the following: Gasification of the Western Balkans and Moldova, price liberalisation and improvement of cross border interconnections. The Report estimates that over the next eight years, EUR 44.6 billion are needed in the region to diversify existing resources, replace ageing equipment and supply the increasing energy demand. The Report provides the methodology for project assessment and includes a list of projects, which have been considered to be of priority, to have a regional impact and contribute to security of supply, generation adequacy and/or meeting the targets for renewable energy. The list of the 35 selected projects contains: 14 electricity generation projects (including HPP Upper and Middle Drina as well as Velika Morava), nine electricity infrastructure projects, ten gas infrastructure projects (including IAP and TAP) and two oil infrastructure projects (one regarding the JANAF oil pipeline and another regarding the Construction of the Brody – Adamowo oil pipeline).

Poland: Consumer Protection Stipulations in the "Little Energy Three Pack"

by Agnieszka Binieda (Warsaw)

The legislative act called "Little Energy Three Pack", which came into force on 11 September 2013, aiming to harmonise the Polish energy law with EU Directives 2009/28/EC, 2009/72/EC and 2009/73/EC, includes, among others, several consumer protection provisions, with which energy companies should comply. Energy companies are committed to provide the consumers with clear and unambiguous information, both at the time of entering into a transaction as well as during the service provision. The law specifies the basic elements of a supply agreement in which the consumer is a household and clarifies the information obligations of energy suppliers with regard to price increases. It also requires from energy suppliers to provide customers with a copy of the list of rights of energy consumers. Moreover, energy companies are not allowed to suspend energy supplies to consumers—households, while the outcome of a complaint lodged by a consumer is pending. In case a complaint is not being considered within 14 days, it is assumed that the complaint has been accepted. If the complaint is rejected, the customer has the right to request resolution of the dispute before the consumer arbitration court, in which case the energy company has no right to withhold energy supply until the issuance of the judgment of the court.



Greece: Decision of the Permanent Arbitration Tribunal forces Greece's Major Electricity Supplier to sell to an Industrial Customer at Low Cost

by Lazaros Sidiropoulos (Athens)

In October 2013 the Permanent Arbitration Tribunal, which was established by the Greek Energy Regulator (RAE) in 2012, issued its first Decision (1/2013), ruling on a long lasting dispute between PPC (Greece's major electricity supplier) and Aluminium SA, one of PPC's bigger industrial clients, regarding the pricing of electricity sold to the latter. Further to RAE's Decision No. 346/2012, which had provisionally ruled in favor of Aluminium by setting a temporary electricity supply price of €42/MWh, the Arbitration Tribunal issued a very favorable Decision for Aluminium, forcing PPC to supply it with electricity at a price of €40,7/MWh, which – contrary to RAE's Decision No. 346/2012 - is also inclusive of some additional charges such as for the use of the transmission system, ancillary services, contributory fees in favor of RAE, TSO and the market operator etc. This pricing shall apply retroactively for the period from 1 July 2010 to 31 December 2013. The Tribunal's Decision was met with criticism by PPC, which announced its intention to oppose against it before the Greek Courts and the competent EU authorities. Moreover, PPC terminated on 7 November 2013 its supply contract with Aluminium, based on the claim that as a result of the Arbitration Decision PPC is now forced to sell below its cost. The Decision of the Arbitration Tribunal attracted great interest in the Greek energy market and is expected to impact on related disputes pending between PPC and several industrial customers.

BiH: New Law on Electricity introduced in the Federation of Bosnia and Herzegovina

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

The newly adopted Law on Electricity (Official Gazette FBH no. 65/13, hereinafter Law), which entered into force on 10 September 2013, aims to harmonise BiH's energy regulation with the respective EU directives. Moreover, with a view to the integration of the electricity market, the Law aims to comply with certain provisions of the previously adopted Electricity Law of the Republika Srpska and to strengthen the role of Federal Energy Regulatory Committee. The Committee, apart from issuing licenses, monitoring the electricity market, approving tariffs and methodologies for calculation of fees, may now act as arbiter in dispute settlement procedures between suppliers and purchasers of electricity regarding the quality of supply and services, the rights and obligations of the parties, and the tariffs. While the previous regulation was predominately focused on market aspects and generation - related issues, the Law deals with fundamental issues regarding the operation of the electricity sector. Among others, it includes stipulations obliging companies that perform two or more electricity related activities to proceed with functional unbundling by separating accounts and management. The Law also specifies the licensing conditions for each type of market participant, such as with regard to the construction of electricity generation facilities, in which case the licensing procedures vary depending on the capacity: e.g. for the construction of facilities with installed capacities over 30 MW a Federal Parliament approval is required. A section of the Law is dedicated to the market opening, giving to eligible customers the possibility to opt for the most suitable supplier in the market. Under certain conditions all types of customers shall be considered as eligible, apart from household customers in respect of which enjoying of free market benefits is suspended until 1 January 2015.



Serbia: Unbundling Requirements in the Serbian Gas Sector

by Vuk Stankovic (Belgrade)

The Serbian gas market is undergoing within the last months some structural changes with the aim of fulfilling unbundling obligations undertaken under the Energy Community Treaty, i.e. the requirements laid down in Directives 2003/55/EC and 2009/73/EC. There are two players licensed for transmission, distribution, storage and supply of gas in Serbia: the State owned JP Srbijagas, owning the majority of the Serbian gas transmission network and Jugorosgaz AD (a joint venture between Srbijagas, Gazprom and Central Me Energy & Gas GmbH) which owns less than 5% of the transmission pipelines. The unbundling of Srbijagas, although its first steps started more than a year ago, has not yet been finalised. The main reason is that the Ministry of Energy and the management of Srbijagas have yet to agree on the structural scheme of the TSO. In April 2013 the Ministry of Energy adopted the Basic Criteria on Restructuring Srbijagas, according to which Srbijagas is to be divided into two state-owned companies, one for supply of gas and another for transmission and storage activities. The second should, alongside other TSOs (in the field of electricity and oil transmission), become a part of a new Holding company. In October 2013, Srbijagas presented its own plan for unbundling providing only for the division of Srbijagas into two companies, one for the supply and another for transmission, without further creation of the Holding of TSOs. In regard of Jugorosgaz's unbundling activities, the company has recently established a subsidiary for pipeline transport.

In the meantime, on 25 October 2013 the Secretariat of Energy Community opened a dispute settlement procedure against Serbia for failure to comply with the Second Energy Package requirements in the gas sector. In the official announcement, the Secretariat stated that Srbijagas had failed to unbundle its transmission operations in view of the legal form, whereas Jugorosgaz had not taken measures to comply with the requirements aimed to ensure the independent decision-making within that company (functional unbundling).



EU: Commission Guidance on State Aid for Energy and Environment

by Mira Todorovic Symeonides (Athens)

On 5 November 2013 the Commission published in the form of Communication a guidance for Member States regarding state intervention in energy markets. The aim is to make state intervention more effective, efficient and harmonised at EU level. The Paper contains general guidance on specific measures, while technical aspects are further developed in the 5 accompanying Staff Working Documents, issued on the same date: 1. Generation Adequacy in the internal electricity market; 2 European Commission guidance for the design of renewables support

schemes; 3 Guidance on the use of renewable energy cooperation mechanisms; 4 Annexes to the Guidance on the use of renewable energy cooperation mechanisms and 5. Incorporating demand side flexibility, in particular demand response, in electricity markets (including the increasing of the role of consumers by providing them with incentives to use electricity when it is cheapest, thus ensuring sufficient energy flow at peak times). The Commission is also in the process of revising the guidelines on state aid for environmental protection as part of the State aid modernisation process. For example, the guidance for the design of renewables support schemes recommends among others: devising a support scheme that is flexible enough to account for changes in the development of costs and technologies; planned review periods and no unannounced interim changes; wide and public consultation on scheme design, tenders for support with rules that foster genuine competition; and limiting support to comparable periods (10/15 years) or to a pre-set number of full-load hours calculated based on reasonable expectations for capacity utilisation over a defined period.

Greece: RAE's Proposal Regarding the Legal Framework on Electricity Storage

by Mira Todorovic Symeonides (Athens)

On 8 November 2013 the Greek energy regulator RAE submitted to the Ministry of Environment, Energy and Climate Change its proposal for amendments to the legal framework regarding the RES storage facilities in Greece. The proposal is the result of several previous studies performed for RAE in 2013. The purpose of the RES storage facilities is to minimise the rejection by the System Operator of the electricity produced by RES for technical reasons. Storage facilities are currently regulated in connection with hybrid RES facilities comprehensively performing activities of production, storage and recovery of electricity, these activities being legally regarded as a whole in terms of licensing, operation and pricing. Although the current legislation allows for the formation of purely storage facilities not connected with RES production, they are not financially feasible, taking into consideration the current market prices and the cost of their construction. Aiming to secure financial sustainability of the storage facilities, RAE proposes the establishment of a separate storage service that would be paid from the guaranteed fees (FITs) for the RES production, while the RES producer would receive the guaranteed price for the produced electricity reduced by the amount of the storage fees, as this electricity would otherwise have been rejected by the System Operator. The storage facilities would participate in the day-ahead scheduling market in accordance with the Power Exchange Code; the Code should be amended to include the special mechanism for the management of the RES cutbacks and the possibilities of their absorption by the storage facilities based on their production/capacity statements. Since the storage facilities would contribute to ensuring sufficient capacity they would be considered to serve the public interest and would be entitled, when necessary, to receive limited subsidy, as additional measure for safeguarding their sustainability. They should have the possibility of simultaneous production and storage in order to cover the need of storage of RES energy 24 hours a day. If installation of new storage facilities is considered necessary, a competitive selection procedure would be organised.

BiH: Law on RES and Efficient Cogeneration adopted by the Parliament of the Federation of Bosnia and Herzegovina

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

While the Republika Srpska introduced its RES regulation at the beginning of this year (whereas in Brčko District the respective field remains unregulated), a regulatory gap has been existing in the Federation of Bosnia and Herzegovina for approximately one year, hindering investments in this essential energy sector, due to the fact that the Government's Decree on the Use of Renewable Energy and Efficient Cogeneration, which previously regulated the RES sector, was declared unconstitutional. This awkward situation has now come to an end, since the Parliament of the Federation of Bosnia and Herzegovina adopted the Law on the Use of Renewable Energy

Sources (Official Gazette FBH No. 70/13) (hereinafter RES Law), which entered into force on 19 September 2013. Pursuant to the RES Law, the Operator for Renewable Energy Sources (RES Operator), which is to be established by the end of 2013 as a non-profit legal entity (not being entitled to obtain a supply license), shall be the competent authority for the mandatory take-off of electricity under a Feed-in tariff regime. Aiming to create a system of incentives for the production and purchase of electricity from RES generated facilities, the RES Law provides several benefits for privileged producers, including priority in the connection of RES plants to the electricity grid and priority in the delivery of RES generated electricity to the grid. The RES Law also establishes criteria for acquiring the status of a privileged producer and includes stipulations regulating the construction of RES facilities.



Greece: Recent Regulatory Developments regarding the Construction of Cross-Border Gas Pipelines

by Lazaros Sidiropoulos (Athens)

As announced on 19 November 2013, the Greek Energy Regulator (RAE) approved by its Decision 531/2013 the Tariff Code for the Trans Adriatic Pipeline (TAP), which shall transfer gas from Azerbaijan to Italy, through Greece and Albania. The same Tariff Code was also approved by the respective national regulatory authorities of Albania (ERE) and Italy (AEEG). It includes provisions on the methodology of determination of the tariffs for the use of TAP, also foreseeing a decrease of tariffs in case of future increases of booked capacities. The adaptation of the Code by the three authorities is regarded as a further step towards the realisation of this major project, which shall increase competition and enhance security of supply in the European natural gas market.

Another significant step for the realisation of another major energy infrastructure project was also made on 23 October 2013, as the Greek Minister of Environment, Energy and Infrastructure signed the Decision of Approval of Environmental Conditions for the construction of the onshore gas pipeline connecting Greece (Komotini) and Bulgaria (Stara Zagora), known as Interconnector Greece – Bulgaria (IGB). This Decision enables from a legal point of view the construction of the project in the Greek Territory. The Final Investment Decision is expected to fall in the middle of 2014, whereas construction work shall start in autumn 2014 with a view to a start of operation in the beginning of 2016.

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