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ENERGY MARKETS

SEE: Energy Community's Annual Implementation Report

by Mira Todorovic – Symeonides (Athens)

The Energy Community Secretariat published in October its Annual Implementation Report analytically presenting the progress made in the period mid 2012 – mid 2013, by the 9 members of the Energy Community (Albania, Bosnia and Herzegovina, Croatia, Kosovo, FYR of Macedonia, Moldavia, Montenegro, Serbia and Ukraine) regarding the implementation of the EU Treaty and energy regulation, in accordance with the Energy Community Treaty. The Report covers the fields of electricity, competition, gas, oil, renewable energy, environment and energy efficiency. The deadline for the implementation of the Third Energy Package and the Large Combustion Plants Directive is approaching, thus it is expected that the Contracting Parties shall increase their regulative activity in the next reporting period. The Report also presents the dispute settlement status as of September 2013. Although the Energy Community Treaty operates since 2005, the dispute settlement started practically to apply since 2008. In 2013 there are total of 7 cases pending, one of which was initiated in 2013. The Secretariat drew the preliminary conclusion that the five Contracting Parties (Albania, Bosnia and Herzegovina, FYR of Macedonia, Serbia and Ukraine) have not yet implemented the requirements of Directive 199/32/EC on reduction of emissions of SO₂ resulting from the combustion of heavy fuel oils and gas oils. The Report also contains information on the energy data collection and energy investments in the reporting period.



Greece: Introduction of the Risk Management of LAGIE for the Day Ahead Scheduling

by Mira Todorovic Symeonides (Athens)

On 7 October 2013, the Greek Regulatory Authority for Energy, accepting the proposal of the Electricity Market Operator (LAGIE), amended the Power Exchange Code (the Code), the Manual for the Code (Decision no. 461/2013) and the Table of Required Guarantee Amounts for the participation in the Day Ahead Scheduling (DAS) (Decision no. 462/2013). The main amendments, aiming to improve the operations of LAGIE and financial discipline of the Electricity Market Participants, relate to introduction of the Risk Management Mechanism for DAS, which should start operating from 31 October 2013. The Risk Management of LAGIE for the DAS is based on the following principles: compulsory involvement all Participants in the weekly settlement mechanism; establishment of a minimum guarantee for participation in the DAS for all Participants; establishment and control of daily credit limits per Participant, not having production plants, and per dispatch day, through submission of guarantee letter or deposition of the required amounts; providing of new model of Guarantee Letter for simplification of the procedures;

and introduction of the Status of Pending Financial Obligations and payment/settlement of DAS transactions on a daily basis. The new credit limits for the participation in DAS shall consist in the fixed minimum amount of € 50.000 and the variable amount calculated in accordance with the Table of Required Guarantee Amounts. A Participant shall acquire the Status of Pending Financial Obligations if it fails to provide guarantees; by application of the provisions on the Control of the Participants Position, or if it fails to pay its weekly or monthly obligations. The penalty for remaining in the Status of Pending Financial Obligations for more than 4 consecutive working days shall, after the control of the Participant's position, be the termination of the electricity exchange agreement with LAGIE.

Greece: New hearing on PPC's exclusive lignite rights

by Haris Synodinos (Athens)

On March 2008, the European Commission adopted a Decision concerning the granting by the Hellenic Republic of quasi-monopolistic lignite exploration rights to the Greek Public Power Corporation (PPC). The Hellenic Republic was found to have distorted competition in this regard by creating inequality of opportunities between economic operators on the wholesale electricity market and thereby reinforcing the dominant position of PPC (combined application of art. 102 and 106 TFEU). PPC contested the above Commission Decision before the General Court (Sixth Chamber), which annulled the Decision (case T-169/08, 20.9.2012) on the ground that the Commission's reasoning was not sufficient in solely establishing that the State measure in question distorted competition by creating an inequality of opportunities, but it should also have identified a concrete actual or potential abuse of the dominant position to which the State measure in question led or could lead. Against the above judgment of the General Court an appeal was brought by the Commission and the hearing took place on 3 October 2013. Main argument of the Commission's appeal is that the General Court erred in law with regard to the interpretation and application of art 102 and 106 TFEU to the facts of the case. The Court's Judgment is expected with great interest, while the Greek electricity market is still in the process of liberalisation.

Ukraine: Privatisation of the Ukrainian Transmission System Operator (Ukrenergo)

by Alina Karas (Kiev)

Referring to the Energy Strategy of Ukraine for 2030 the Parliament admitted for discussion two draft laws on corporatisation (transforming of a state company into private with the purpose of further tender for selling its shares) of State enterprise "Ukrenergo". The first draft was initiated by the Cabinet of Ministers in September 2013 and the second one by a parliament member in October 2013. Currently both drafts are being discussed at the Committee of the Parliament before the first reading. Pursuant to the Law of Ukraine on the list of the state property objects which are not subject to privatisation, as of 7 July 1999, Ukrenergo is considered to have natural monopoly and is included into the list of state enterprises for which corporatisation is not allowed. Both of the above drafts provide for excluding of Ukrenergo from this list. According to the Energy Strategy the aim of corporatisation is to attract investments into energy sector of Ukraine and enhance growth of Ukrenergo, while those opposing the privatisation point out the profitability of the company. The difference between the two drafts lies in the privatisation strategy. The first draft envisages corporatisation of 100% of the company, while the second draft provides for division into two companies, where the first one would be organised as TSO of the United Electricity System of Ukraine and would remain in state ownership, while the second one would keep remaining energy activities and certain company's assets, and would be corporatised.



EU: European Parliament decided on mandatory environmental impact assessment for shale gas

by Mira Todorovic Symeonides (Athens)

On 9 October 2013 the European Parliament voted the amendments to the 2011/92/EU Directive on the assessment of the effects of certain public and private projects on the environment (EIA Directive). The Commission's proposal aimed to resolve certain shortcomings of the EIA Directive including: the screening procedure, the quality and analysis of the EIA and the risks of inconsistencies within the EIA process. The European Parliament proposed further amendments of the Commission's proposal, including the amendments to the Annex I to the Directive containing the list of projects subject to mandatory EIA. The new types of projects include "exploration, limited to the phase involving the application of hydraulic fracturing, and extraction of crude oil and /or natural gas trapped in gas-bearing strata of shale or in other sedimentary rock formations of equal or lesser permeability and porosity, regardless of the amount extracted; exploration, limited to the phase involving the application of hydraulic fracturing and extraction of natural gas from coal beds, regardless of the amount extracted." The amendments proposed by the European Parliament also emphasise the significance of public participation and consultation. They regulate central portals, to be established in each Member State, which should provide timely environmental information regarding the implementation of this Directive and impose obligations on Member States to ensure certain minimum of relevant information to be provided by the portals. The amendments to the Directive shall be final and may be enforced when a common position of the Parliament and the Council on its content is reached.

Poland: Mandatory trading in gas through a commodities exchange

by Agnieszka Binieda (Warsaw)

The so-called "Little Energy Three-Pack", which came into force in September 2013, drastically amended the Energy Law, among others, by introducing provisions of fundamental significance in reforming the gas market in compliance with EU Directive 2009/73/EC, which introduced common rules for the internal market in natural gas. As a means of establishing a competitive gas market the little energy three-pack imposes on energy companies engaged in gas trading the obligation to sell gas through a commodities exchange. Each energy company shall sell by this means at least 30% of gas introduced to transmission network until the end of 2013, 40% from 1 January 2014 and 55% from 1 January 2015. With a view to creating a transparent wholesale market, in which all companies trading in gas will be entitled to offer gas to any interested market participants in line with the non-discrimination principle, companies conducting business with gas will have the possibility to receive a member status of the commodities exchange, thus being authorised to sell gas in their own name without the necessity of using brokers.



Greece: New law introducing amendments to the legal framework for RES

by Lazaros Sidiropoulos (Athens)

Further to the Multi-Bill No 4157/2013 (Official Journal 107 A/09-05-2013) which introduced in May 2013 a series of amendments to the legal framework for Renewable Energy Sources (RES), a new set of RES related stipulations is included in a new law, which was passed by the Greek Parliament on 24 October 2013. Among others, following issues are regulated by the new law: Detailed criteria and conditions for extending RES installation licenses are introduced; issues related to the licensing and installation of big hydropower plants in forests are clarified; a new regime for the licensing of small wind power projects (up to 50kW) is established; specific conditions for the change of the initially planned location of installation or RES projects are introduced; the annual adjustment of the feed-in tariffs is reduced to 25% of the consumer price index; installation of photovoltaics and small wind projects by autoproducers is excluded from some existing legal restrictions.



Serbia: Amendments to energy permitting procedure for construction of energy facilities

by Vuk Stankovic (Belgrade)

On 18 July 2013, the Ministry of Energy, Development and Environmental Protection of the Republic of Serbia adopted the new "Rulebook on the criteria for issuing energy permits for construction of energy facilities, the content of the applications and the procedure for issuing energy permits as well as on the criteria for granting approvals for constructing energy facilities for which no energy permit is required" (hereinafter: "Rulebook"). In view of the latest amendments of the Energy Law and the ongoing reforms in the area of energy efficiency regulation, revision of the previous procedure was highly required. In line with the amended Article 34 of the Energy Law, the new Rulebook now regulates the procedure for granting approvals for the construction of small hydroelectric plants with total installed capacities of up to 1MW stipulating the same conditions for their issuing as required for energy permits for capacities above 1 MW (including requirements regarding environment, energy efficiency, safety). The previous Rulebook did not regulate the approvals for small hydropower plants while the amended Energy Law provided for these plants only the condition of efficient and rational use of resources. Regarding energy efficiency requirements, the Rulebook has been harmonized with Article 45 of the Law on Efficient use of Energy (hereinafter: EE Law), which obliges each energy facility to meet minimal requirements regarding energy efficiency level. Pursuant to Article 46 of the EE Law applicants are obliged to submit a report on the energy efficiency of the facility.



EU: List of key energy infrastructure projects adopted by the European Commission

by Lazaros Sidiropoulos (Athens)

With a view to enhancing integration of energy markets in Europe and aiming to attract more investors for significant energy projects promoting security of supply, competition and diversity of energy sources in Member States, the European Commission adopted on 14 October 2013 a list of 248 key energy infrastructure projects. The majority of these “projects of common interest” refer to electricity and gas transmission lines, but also some electricity and gas storage as well as two smart grids projects are included. Eight (8) projects are relevant to Greece, among others: electrical interconnection between Greece and Bulgaria; underwater electrical interconnection between Israel, Cyprus and Greece; gas pipeline between Greece and Bulgaria; LNG terminal in Alexandroupolis or Kavala; gas pipeline from Greece to Italy; and gas pipeline linking the Levantine Basin via Crete to Greece. Projects included in the list will have significant benefits, such as: accelerated planning and licensing procedures (binding 3,5 years limit); licensing by a single national competent authority acting as one-stop-shop; and possibility of funding under the Connecting Europe Facility with a €5,85 billion budget allocated to trans-European energy infrastructure for the period 2014-2020. An update of the list shall be effected every two years.



Greece: Two model energy performance contracts published to the web

by Lazaros Sidiropoulos (Athens)

In line with Law 3855/2010 on energy end-use efficiency and energy services, which provides the basic principles applying to the so called “energy performance contracts” concluded between consumers and energy service companies (ESCOs), two model energy performance contracts were published by the Greek Ministry of Environment, Energy & Climate Change at the website www.ecoregistry.gr. These model contracts differ from each other in several issues such as with regard to the party assuming the financing of the equipment installed, the time of transfer of the ownership of the equipment to the consumer, the energy and water cost savings guarantees to be delivered by the ESCO, the method of compensation of the latter etc. While not providing fully comprehensive solutions to all issues which may arise in practice, the model contracts may serve as a basis for the drafting of elaborate agreements regulating more complex aspects.

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