CORREGGIO Consulting

REGULATORY REPORT

October 2017

IN ASSOCIATION WITH

MONTEL

RIE RICERCHE INDUSTRIALI ED ENERGETICHE

CORREGGIO CONSULTING
Rue le Corrège 93 B-1000 BRUSSELS, Belgium
info@correggio-consulting.eu
www.correggio-consulting.eu
Editor: Dr. Jan Haizmann

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Correggio Consulting
Rue le Corrège 93
B-1000 BRUSSELS, Belguim
T ++32 (0) 2732.54.74
F ++32 (0) 2734.39.21
info@correggio-consulting. eu

Contents

Letter from the Editor

GERMAN ELECTION RESULT – Quo Vadis ENERGY POLICY?

16 October

Dear Reader,

As the German election led to a Merkel IV Government (without their long-term SPD partner anymore), we may ask ourselves, what does this means in terms of energy policy? The Government options have been reduced to a "Jamaica" coalition between the conservative CDU, the liberal (FDP), and the Greens. The Greens, in particular, see energy policy as their key area of expertise and will do whatever possible to get their priorities right.

The challenges ahead are obvious: current German emissions are short of reaching the CO2 target and the gap between targets and reality is widening, which requires additional Government-sponsored policy incentives.

What will happen with the electricity generated from hard-coal, currently representing 40% of the German generation mix, a stable percentage for many years? Can the Government continue to allow lignite-operated plants with the Green party being partner in Government?

The Greens have been quite outspoken about a phase out of coal-fired generation during the election campaign. If the Greens are getting their way, RWE, EnBW and others will have to shut down their profitable units.

The FDP, a new joiner of the Merkel IV Government is interested in reforming the carbon market. Otto Solms, FDP underlined that there was a need for a "deep and structural reform" of renewable energy policy. Solms criticised the renewable compensation (EGG Umlage) as a recipe for high energy prices. Solms concluded that the EEG compensation mechanism needs to be abolished by the new Government.

Joachim Pfeiffer, energy spokesman of Merkel's CDU is touting that "carbon trading is an instrument to control emissions, not to control prices". He is advocating more EU-wide coordination of environmental policies. Some quarters in his party are looking into regulatory possibilities on how to achieve a higher carbon price.

All of this is set against the backdrop of one of the biggest emissions markets, leaving the European Union in less than 2 years. The UK is likely to hold back investment until clarity on the future CO2 market in the UK and its potential linkage with the EU is obtained.

It looks like there is a need for urgent clarity around the CO2 market in the BREXIT context, before markets lose trust in its future.

More information at:
https://www.fdp.de/content/solms-grundsaetzliche-reform-der-energiepolitik-notwendig

Happy Reading,

Jan Haizmann, Editor

j.haizmann@correggio-consulting.eu

EUROPEAN UNION

>> EUROPEAN PARLIAMENT

1. MEPs submit an overwhelming amount of amendment proposals to the Clean Energy Package ahead of mid-September deadline

15 September

Following the publication by the Estonian Presidency of the Council of a series of amendment proposals to the Commission draft Clean Energy Package (CEP) over the summer, it was now time for the Members of the European Parliament (MEPs) to raise their voices. By the time of the official deadline in mid-September, more than 3,000 amendment proposals were submitted by MEPs for the draft recast Electricity Directive and Regulation alone. About 400 amendments were also tabled for the draft recast Regulation on the Agency for the Cooperation of Energy Regulators (ACER), and another 200 for the draft Regulation on risk preparedness.

Despite the enormity of the task, the relevant rapporteurs for the Parliament Committee on Industry, Research and Energy (ITRE Committee) had only until 12 October to analyse the amendments and work on a possible revision of the draft reports issued before the summer. As far as the draft recast Electricity Directive and Regulation are concerned, Rapporteur Krisjanis Karins confirmed that despite the very high number of amendment proposals, he would stick to the timeline announced by the Parliament.

A vote of the ITRE Committee on the various legislative proposals comprising the Clean Energy Package is scheduled for 11 December. Trialogue negotiations between the Parliament, the Council and the Commission will start at the beginning of 2018, under the Bulgarian Presidency of the Council.

More information at:

http://www.europarl.europa.eu/committees/en/itre/draft-reports.html?ufolderComCode=ITRE&ufolderLegId=8&ufolderId=08718&linkedDocument=true&urefProcYear=&urefProcNum=&urefProcCode

http://www.europarl.europa.eu/committees/en/itre/draft-reports.html?ufolderComCode=ITRE&ufolderLegId=8&ufolderId=08686&linkedDocument=true&urefProcYear=&urefProcNum=&urefProcCode

http://www.europarl.europa.eu/committees/en/itre/draft-reports.html?ufolderComCode=ITRE&ufolderLegId=8&ufolderId=08681&linkedDocument=true&urefProcYear=&urefProcNum=&urefProcCode

http://www.europarl.europa.eu/committees/en/itre/draft-reports.html?ufolderComCode=ITRE&ufolderLegId=8&ufolderId=08692&linkedDocument=true&urefProcYear=&urefProcNum=&urefProcCode

>> EUROPEAN COUNCIL

2. New rules on EU gas security of supply pass final test

9 October

On 9 October, the Council adopted the revised EU Gas Security of Supply Regulation, requiring closer cooperation and enhanced solidarity among Member States (MSs) to improve their resilience against supply emergencies. This was the final step in the formal adoption of the new rules. They were approved by the Parliament already in September and will enter into force on the fourth day following that of their publication in the Official Journal of the European Union.

The key provisions of the new Regulation include enhanced regional cooperation and coordination organised around risk-based groups of MSs, which will be required to develop jointly regional risk assessments, and preventive action and emergency plans. An enhanced solidarity mechanism will apply in emergency cases, requiring neighbouring MSs to provide assistance to cover the needs of households and essential social services. More transparency in relation to gas supply contracts is also required, with the Commission being given monitoring responsibilities to review provisions of gas supply contracts deemed to be of significance for security of supply (accounting for at least 28% of the yearly gas consumption in a MS). The Commission will also have powers to request the details of commercial agreements related to such gas supply contracts, including gas infrastructure contracts. Closer cooperation with the Contracting Parties of the Energy Community is also envisaged.

The new Security of Supply Regulation, together with the revised rules on Intergovernmental Agreements adopted in March 2017 and requiring EU MSs to inform the Commission of plans to negotiate energy supply deals with third countries before negotiations can begin, is one of the main building blocks of the Energy Union strategy and an important mechanism for reducing dependence on individual supply sources.

More information at:

http://data.consilium.europa.eu/doc/document/PE-22-2017-INIT/en/pdf

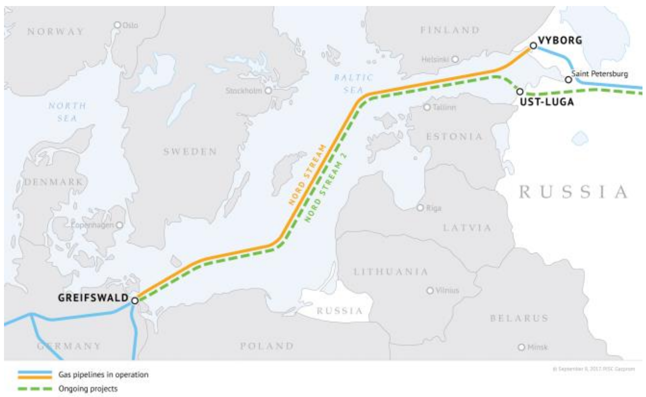
>> EUROPEAN COMMISSION

3. Commission determined to clarify rules for gas pipelines connected to the EU

11 October

The Commission is planning to put forward a proposal on common rules for gas pipelines entering the European internal gas market. The proposal is expected in the first half of November. This became clear on 11 October, when the Commission was providing a state of play update to the Parliament on discussions with the Council in relation to the Nord Stream 2 pipeline.

The Commission sees considerable danger in allowing pipelines between the EU and third countries to operate without a clearly set regulatory framework. It is of the opinion that Nord Stream 2 would limit significantly transit through Ukraine. This would impact Eastern and South-Eastern Member States, because it would lengthen supply routes and bring gas prices up. There are further concerns about the impact of the pipeline on competitiveness, as Gazprom would be the only party with unrestricted access to it and as it would feed directly into the German market at the heart of Europe. Nord Stream 2 would also concentrate significant volumes (110 bcm - aggregated design capacity of both Nord Stream and Nord Stream 2) in a rather limited corridor, posing risks to security of supply.



Source: http://www.gazprom.com/f/posts/15/336269/map_sp2e2017-09-08.png

The EU Gas Directive (2009/73/EC) is not directly applicable to offshore pipelines such as Nord Stream 2, which means that they are not subject to unbundling, third-party access, non-discriminatory tariff setting, or transparency provisions. This was confirmed by a legal opinion commissioned by the Council. The Commission has expressed concerns about the pipeline operating outside established regulatory frameworks or under Russian law, and has stated that a specific regulatory regime has to be negotiated with the Russian side.

The Council's legal opinion suggests that it would be up to Member States to decide whether to grant the Commission mandate to negotiate such a regime. They may do that if they consider competitiveness or security of supply to be at risk. Highlighting the Energy Union strategy's objectives to diversify gas supply sources and to facilitate the further development of a competitive gas market in Europe, the Commission is of the firm opinion that action needs to be taken.

Following the exchange of views with the Commission, the Coordinators of the Parliament's Committee on Industry, Research and Energy (ITRE Committee) decided to fast-track the procedure for examining the forthcoming proposal. The Chair of the Committee, Jerzy Buzek, was nominated as Rapporteur for the file. If adopted, the new framework may enter into force by the end of 2018. Nord Stream 2 is scheduled to be put into operation in the second half of 2019.

More information at:
http://www.emeeting.europarl.europa.eu/committees/agenda/201710/ITRE/ITRE(2017)1011_1P/sitt-6842388

4. Commission adopts equivalence decision on US under EMIR

13 October

On 13 October, the Commission adopted an equivalence decision in relation to the United States. The decision confirms that the legal, supervisory and enforcement framework of the US regime for non-centrally cleared over-the-counter (OTC) derivatives is equivalent to that under the European Market Infrastructure Regulation (EMIR).

In particular, the decision concludes that the US rules in relation to the exchange of collateral between counterparties, as well as the rules on risk monitoring and mitigation for OTC derivative contracts not cleared by a central counterparty, are equivalent to those under EMIR. The decision will be welcomed by firms operating in both jurisdictions, as they will now have to comply only with one set of rules. This is important as duplicative rules impose undue costs, while conflicting rules may make compliance difficult.

The decision will enter into force on the twentieth day following the day of its publication in the Official Journal of the EU. The Commission equivalence decisions take the form of Implementing Acts. They are published on the Commission website (web link available below).

More information at:

https://ec.europa.eu/info/files/171013-press-release-emir-cftc_en

https://ec.europa.eu/info/sites/info/files/emir-equivalence-decisions_en.pdf

>> ACER

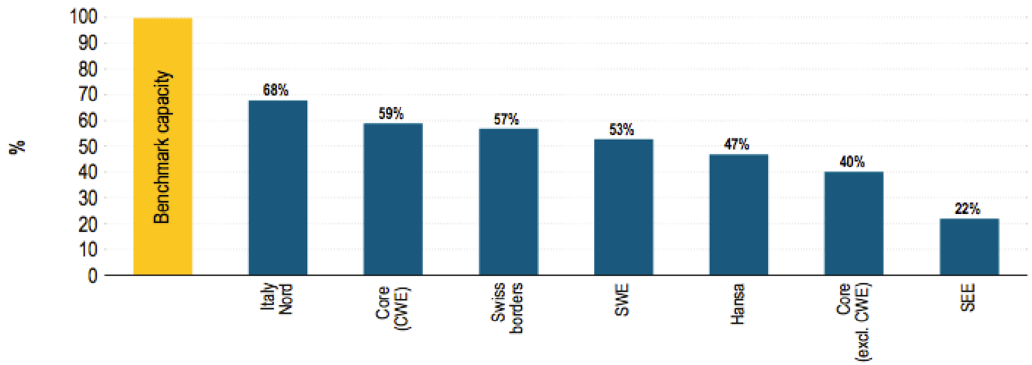
5. ACER fears electricity market integration is at risk in Market Monitoring Report

6 October

In its 2016 Market Monitoring Report published on 6 October, the Agency for the Cooperation of Energy Regulators (ACER) expresses concerns about the stalling level of integration of electricity markets, which contrasts with the situation observed on the gas side. Chief among the reasons for this is the low availability of cross-border transmission capacities allocated by transmission system operators (TSOs), which reduces the potential for cross-border trade in electricity and for price convergence between the various European markets.

The Report presents the results of a new analysis carried out by ACER, comparing current capacity allocation levels to what the Agency assumes the levels would have been had TSOs applied its Recommendation on capacity calculation, the so-called “benchmark capacity allocation”.

Figure i: Ratio between available cross-border capacity and the benchmark capacity of HVAC interconnectors per region – 2016 (%)



Source: ACER, based on data provided by NRAs, ENTSO-E and Nordpool Spot

ACER highlights the need for an appropriate bidding zones configuration to address structural efficiency problems, but insists that whichever the bidding zones configuration, capacity calculation and allocation should be optimised. The Agency blames the lack of such optimisation on insufficient coordination between TSOs and on the prioritisation of internal exchanges over cross-border transactions.

To illustrate this last element, ACER takes the example of the Central West European (CWE) region where flow-based capacity calculation applies to the day-ahead market. It shows that "*in case of congestion in the CWE region (more than 60% of the hours in 2016), the available cross-zonal capacity is more often constrained by internal lines (72% of the occurrences in 2016) than cross-zonal lines (28%). Moreover, 77% of the congestions relate to lines located in Germany (including cross- border lines)*".

The ACER Recommendation, which aims to improve the use of cross-border transmission to ensure optimal welfare, was issued in November 2016, following the publication of the previous Market Monitoring Report where the problem was also flagged. The main elements of this Recommendation were incorporated in the Clean Energy Package draft proposed by the European Commission in December 2016.

At a time when TSOs are lobbying very hard to oppose the Clean Energy Package proposals for a more economically efficient use of transmission capacity and are trying to maintain the black box of capacity calculation, we should only hope that the ACER Report will push National Regulatory Authorities, Member States and the European Commission to finally take action on this subject.

More information at:

http://www.acer.europa.eu/en/Electricity/Market%20monitoring/Pages/Current-edition.aspx

6. ACER finalises decision on EU Harmonised Allocation Rules

12 October

On 12 October, the Agency for the Cooperation of Energy Regulators (ACER) issued a final decision on the Electricity Transmission System Operators' (TSOs) proposal for EU Harmonised Allocation Rules for Long-term Transmission Rights (EU HAR), ending a dispute between the German energy regulator, BnetzA, and other European regulators on credit requirements. This decision will ensure that the allocation of forward transmission rights in Europe is done according to a clear set of harmonised rules and procedures, including those for curtailment of transmission rights and related compensation.

The adoption of the EU HAR is part of the implementation of the EU Guideline on Forward Capacity Allocation, which entered into force in October 2016. The dispute that led regulators to forward the TSOs' proposal to ACER was centred around the question of the ratings of financial institutions providing bank guarantees to market participants who participate in auctions for forward transmission rights. While the standard rating requirement for financial institutions (BBB+/Baa1) was not challenged, BNetzA questioned the procedure that allows the common allocation platform to investigate a possible decrease of the required rating for a limited period of time in case of industry-wide downgrade of financial institutions. ACER agreed with the majority of the regulators to keep the TSOs' proposal as it was.

ACER also took the opportunity to remove “foreseen balancing problems” as a possibility to reduce forward capacity allocation. As long argued by market participants, ACER considered that TSOs have other means to manage foreseen balancing problems than reducing cross-border capacities in the forward timeframe.

With this decision, a major step in the harmonisation of rules governing long-term transmission rights is completed. National regulators nonetheless still need to approve some of the border-specific exceptions to the main body of the EU HAR. This process will need to be completed in time for the first annual auctions of 2018 capacities this fall.

More information at:

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2003-2017%20on%20HAR.pdf

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/ANNEXES_HAR_DECISION/Annex%20I_171002.pdf

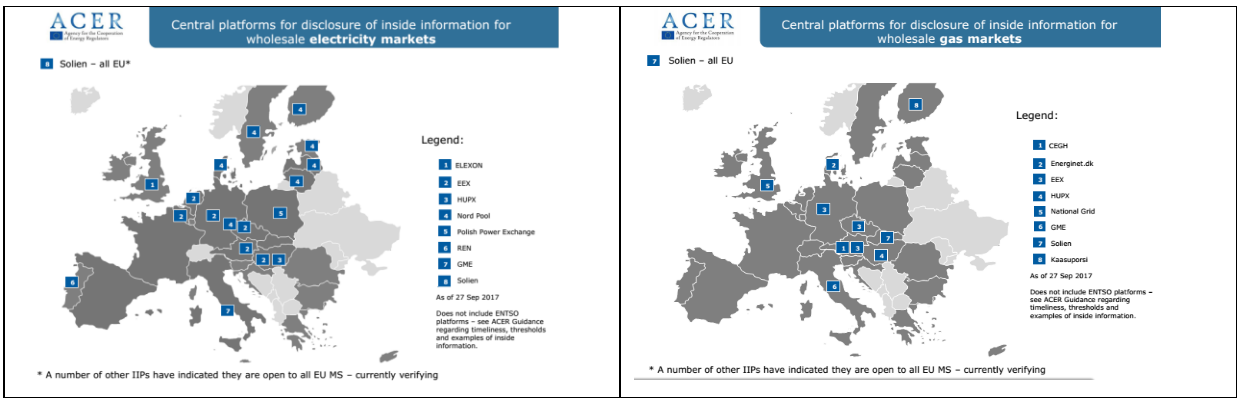
7. Let's first implement fully REMIT before we start thinking about REMIT II

11 October

Regulators and market participants seemed to be in agreement that discussions about REMIT II may be a bit premature and that it is now important to complete the implementation and improve the performance of REMIT I - the Regulation on Wholesale Energy Market Integrity and Transparency, and the related Implementing Act. That was the mood on 11 October at the 1st

Energy Market Integrity and Transparency Forum organised by the Agency for the Cooperation of Energy Regulators (ACER). The Forum served as a platform for the Agency to update market participants on recent developments and priorities, but also to gather feedback and answer questions from the audience.

The implementation of REMIT provisions on inside information featured prominently on the agenda. ACER is now in the process of gathering inside information from platforms for the disclosure of inside information through web feeds, as per Article 10 of the REMIT Implementing Act. Regulators encouraged market participants to use central platforms, as that reduces complexity and improves transparency. Market participants taking part in the discussion seconded that view. According to the presented data, however, the use of inside information platforms remains rather law at less than 10% of the registered over 12 000 market participants.



Please note that the list is only indicative, not exhaustive. These are the platforms checked by ACER, but there may be others in operation as well.

Source:http://www.acer.europa.eu/Events/1st-Energy-Market-Integrity-and-Transparency-Forum/Documents/20171010%201st%20MIT%20Forum_final_for%20publication.pdf

Furthermore, ACER discussed the public consultation launched on 5 October in relation to the revision of electronic formats for transaction data, fundamental data and inside information reporting under REMIT. The consultation will close on 8 December. Subsequent amendments to the reporting schemas will follow in 2018, or 2019, depending on available resources.

The consultation is part of several planned or ongoing initiatives of the Agency for technical improvements. Others include improving the market participant registration form, which would allow market participants to make amendments more easily, and creating the possibility for market participants to obtain upon request samples of the data submitted on their behalf to the central data collection platform ARIS to verify the completeness, accuracy and timeliness of the reports. Both have been postponed to 2018 or beyond, depending on the available resources. The publication of aggregate REMIT data for transparency purposes has also been postponed.

Lastly, EMIR data (data on over-the-counter (OTC) and exchange-traded derivatives that are wholesale energy products under REMIT, but are reported under the European Market Infrastructure Regulation (EMIR) and are therefore not reportable under REMIT to avoid double reporting) and data on emission allowances (which are not reportable under REMIT, but will be reported under the recast Markets in Financial Instruments Directive, as they will become classified as financial instruments as of 3 January 2018) will be gathered as of next year, or beyond, once again, depending on the resources at the disposal of the Agency, which has been struggling with resource constraints since its inception in the early 2010s.

More information at:

http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2017_R_03.aspx

http://www.acer.europa.eu/Events/1st-Energy-Market-Integrity-and-Transparency-Forum/Documents/20171010%201st%20MIT%20Forum_final_for%20publication.pdf

>> ESMA

8. In preparation for the new reporting regime under EMIR

3 October

The new transaction reporting regime under the European Market Infrastructure Regulation (EMIR) will start applying as of 1 November.

On 3 October, the European Securities and Markets Authority (ESMA) published a further update to the validation rules, which accompany the revised regulatory technical standards (RTSs) on the minimum details of the data to be reported to trade repositories and the revised implementing technical standards (ITSs) on the format and frequency of trade reports to trade repositories. The updated validation rules will start applying together with the revised RTSs and ITSs.

On 2 October 2017, ESMA also issued an updated EMIR Q&A – the document where the Authority provides further non-binding guidance on EMIR - to reflecting the forthcoming revisions.

The revised rules contain some significant changes to existing reporting fields and include some new fields, and market participants would be well-advised to review the new rules carefully to ensure full compliance. Trade repositories are offering workshops and testing environments to assist market participants in their preparation for the forthcoming implementation date.

More information at:

https://www.esma.europa.eu/sites/default/files/library/esma70-145-63_emir_validation_rules_for_revised_rts_its.xlsx

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0104&from=EN

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0105&from=EN

https://www.esma.europa.eu/sites/default/files/library/esma70-1861941480-52_qa_on_emir_implementation.pdf

>> ENTSO-E

9. ENTSO-E tests synchronisation of Baltic TSOs with the Continental European grid

3 October

On 3 October, the European Network of Transmission System Operators for Electricity (ENTSO-E) announced that it will hold a kick-off meeting for a technical study to analyse the feasibility of synchronising the Baltic transmission system operators (TSOs) with the Continental European grid. The intention of ENTSO-E and the involved TSOs from Estonia, Latvia, Lithuania and Poland is to improve the network and market integration of the Baltic systems with the rest of Europe.

Currently, the Baltic grid is synchronised with western Russia, including the exclave of Kaliningrad, and Belarus. This link of the Baltic countries with their powerful neighbour to the east is often perceived by the local governments and the electricity sector as an impediment to the development of their local markets and to further integration in the Internal EU Energy Market. Cooperation already exists between the Baltic countries and the rest of Europe, including day-ahead market coupling via the interconnectors between the Baltic region and Nordic countries on one hand, and Poland, on the other. However, the synchronisation of the Baltic TSOs with the continental European grid would certainly help to improve the market

integration of these three rather isolated countries.

Source: Direct Industry

The technical study on the feasibility of synchronisation should be published in the spring of 2018. A rather long period of transition is to be expected given the political sensitivity of the issue, especially with regard to the future of the connection with the Russian exclave of Kaliningrad. Grid reinforcements are also likely to be considered before the switch takes place. Reports from late 2014 mentioned 2025 as a target date for the effective synchronisation with Continental Europe.

More information at:

https://www.entsoe.eu/news-events/announcements/announcements-archive/Pages/News/Synchronisation-of-the-Baltic-States.aspx

http://tyndp.entsoe.eu/insight-reports/baltic-synchronisation/

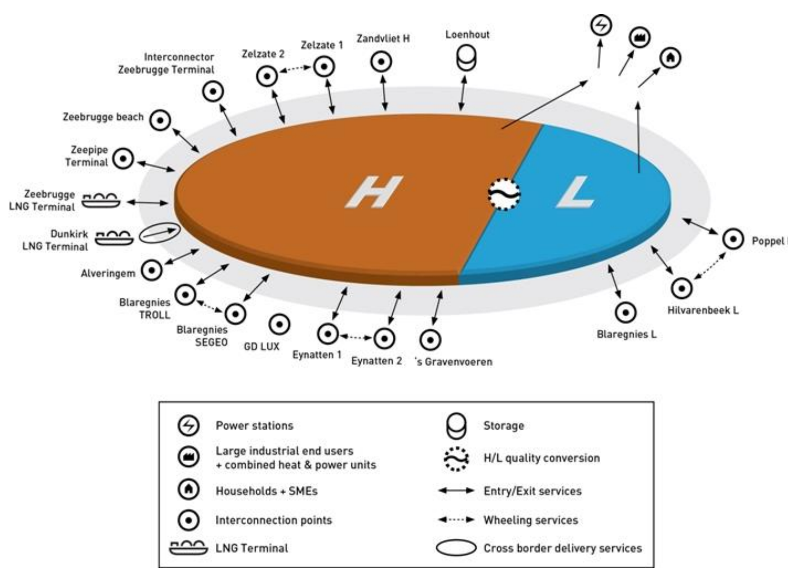
BELGIUM

>> REGULATOR (CREG)

10. CREG approves common gas balancing hub for Belgium and Luxembourg

19 September

In a decision published on 19 September, the Belgian regulator, CREG, approved the creation of a common balancing hub for the H and L gas systems of Belgium and Luxembourg. A new entity, Balansys, jointly owned by the transmission system operators (TSOs) Fluxys Belgium and Creos (Luxembourg), will manage all balancing activities for the two countries.



Source: Fluxys Belgium

By handing over balancing activities to Balansys, Fluxys Belgium and Creos effectively create an integrated Belgian/Luxembourg market. Entry-exit access fees between the two countries will cease to apply and the Zeebrugge Trading Point will become the gas trading point for the integrated market.

The creation of this integrated market is expected to improve liquidity at the common hub, especially for the historically much smaller Luxembourg market.

More information at:

http://www.creg.be/fr/publications/avis-a1618

BULGARIA

>> TSO (Bulgartransgaz)

11. Good news for the Bulgarian gas sector

1 October

As of 1 October some important changes have been introduced in the Bulgarian gas sector, which have the potential to facilitate further gas market opening and integration with other European gas markets.

The start of the gas year has finally been synchronised with the more advanced European gas markets. The new gas year shall start on 1 October and end on 30 September of the following year, while until now the gas year coincided with the calendar year.

By decision from 1 August, the Energy and Water Regulatory Commission (EWRC), the Bulgarian energy regulator, approved the necessary income of Bulgartransgaz EAD (BTG) for the regulatory period 2017-2019, and BTG, by decisions from 21 September, approved the prices for access to and transmission through its networks. The new prices apply as of 1 October, when the entry-exit tariff model was also introduced in the Bulgarian gas market. They were set according to the methodology adopted in line with Regulation (EC) 715/2009 (the Gas Regulation).

BTG has updated accordingly the set of documents necessary for accessing its networks (contract for gas access and transport, contract for gas purchase and sale for balancing, contract for virtual trading point use). The set of documents is uploaded on BTG's webpage (both in Bulgarian and in English).

In parallel, preparations for the establishment of gas hub Balkan are ongoing. The idea of creating a gas hub in Varna is supported by the strategic geographic location of Bulgaria, the well-developed gas infrastructure for transmission and storage, and the interconnection projects with Romania, Turkey, Greece and Serbia. The realisation of the gas hub concept supports the

EU objective to develop a pan-European gas market. It is in line with the Southern Gas Corridor project and other infrastructure development plans aiming to improve security of supply and to diversify natural gas supply sources. It also corresponds to the needs of the region as identified by the High Level Group on Central and South Eastern Europe Gas Connectivity (CESEC) and by the European strategy for the Energy Union.

On 27 September, BTG opened a tender for a feasibility study for gas hub Balkan. The deadline for submitting offers is 1 November. The tender documentation is available on the website of BTG.

All of these developments are, of course, positive for the further development of the Bulgarian gas market. However, only their practical implementation will show whether the set targets are achieved or at least achievable.

For more information, please contact Stefan Tzakov, Managing Partner, KAMBOUROV & PARTNERS ATTORNEYS AT LAW (tzakov@kambourov.biz).

More information at:

https://www.bulgartransgaz.bg/en/news/ceni_za_dostap_i_prenos_za_gazova_godina_2017_2018-338-c15.html

https://www.bulgartransgaz.bg/en/news/odobreni_harmoniziran_dogovor_za_dostap_i_prenos_s_obshti_usloviya_kam_nego_dogovor_za_pokupka_i_proda-339-c15.html

http://tenders.bulgartransgaz.bg/bg/competitions/predproektno_prouchvane_za_gazov_hab_balkan_chast_ot_proekt_ot_obsht_interes_6_25_4-226-c1-1.html

FRANCE

>> TSO (RTE)

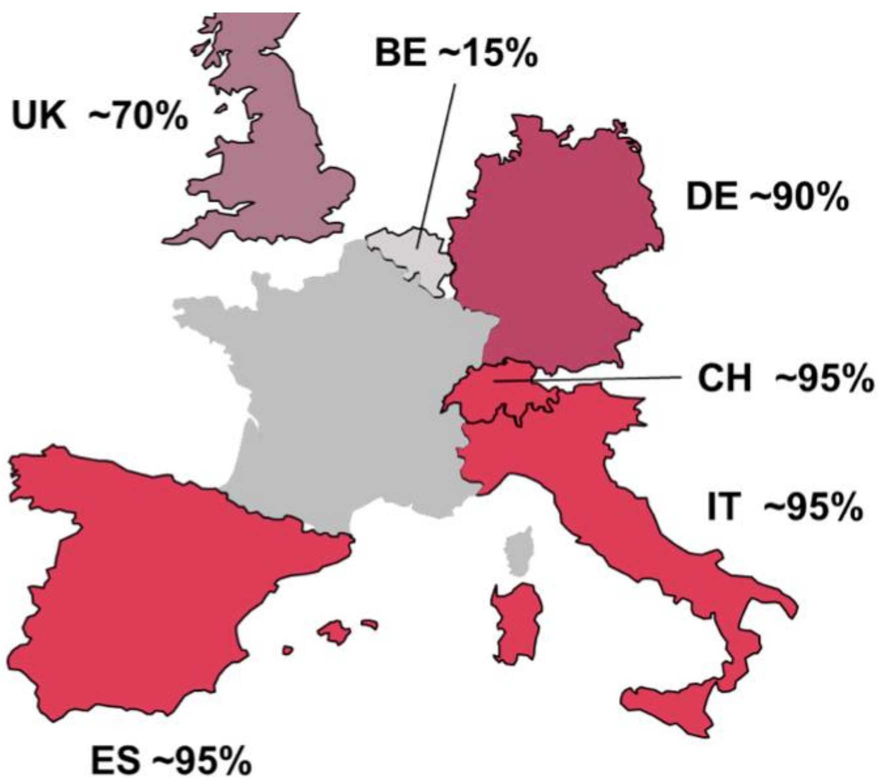
12. RTE publishes draft proposal for cross-border participation in French capacity mechanism

27 September

On 8 September, the French transmission system operator (TSO) RTE issued a draft proposal for rules governing the cross-border participation of foreign generation and demand response capacities in the French capacity remuneration mechanism (CRM). The proposal follows a request by the European Commission (DG Competition), backed by the French government, to open up the French CRM. While most of the RTE proposal was expected, following a stakeholder engagement process initiated by the TSO in the spring, it also includes a “poison pill” that is very likely to render the whole proposal ineffective.

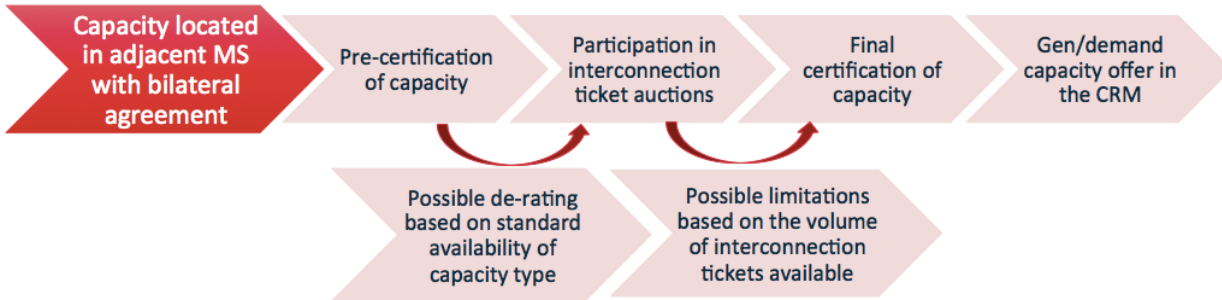
The fundamental principle governing the proposal is that the same rights and obligations should apply to French and foreign capacity providers in the scheme. Foreign capacities would be subject to the same certification, control and possible penalties as those imposed on French capacities. This requires the establishment of bilateral agreements with the neighbouring TSOs, which will be in charge of discharging these certification, control and penalty obligations with regard to foreign capacities. Without such agreements, direct explicit participation of foreign capacities in the French CRM would not be allowed, and the contribution of the capacities of a specific country to security of supply in France would be considered implicitly in the adequacy assessment (i.e. in the same manner as it is taken account of at the moment). It is worth noting that RTE foresees the possibility to participate directly in the scheme only for capacities located in adjacent EU Member States (i.e. excluding Switzerland) at the moment.

If and when an agreement with a neighbouring TSO has been put in place, foreign capacity providers can be pre-certified and can then participate in an auction for "interconnection tickets". The interconnection tickets are not to be confused with transmission rights: the French CRM is an availability mechanism; hence the interconnection tickets will not constitute a reservation of cross-border capacity. The volume of interconnection tickets auctioned for each border will be calculated based on the statistical availability of each interconnection between France and one of its neighbouring EU Member States in times of concomitant scarcity (see below a figure showing the statistical probability of interconnection unavailability at the various French borders in case of concomitant scarcity).



Source: RTE, based on 2014 data

Once a foreign capacity provider has secured an interconnection ticket, it can finalise the certification of the capacity corresponding to the volume of interconnection tickets it managed to secure, and participate in the French CRM like any French capacity provider, i.e. in the certificates auctions organised by EPEX Spot or on the over-the-counter (OTC) market.



Source: Correggio Consulting

These points of the RTE proposal, in spite of their complexity, correspond to what was discussed with market participants. However, RTE included in its draft proposal an element that could deter any form of participation from outside France. On the complex subject of the sharing of the proceeds from the interconnection tickets auctions, RTE suggests that it will only share the revenues with the neighbouring TSO if a market-wide capacity market is in place in the neighbouring country; if not, RTE will keep all the revenues. The re-emerging of this reciprocity clause, a subject all parties thought had been dealt with for a long time, in practice means that proceeds from the auctions for interconnection tickets could only be shared with National Grid, and possibly with Terna in the future, should the reform of the Italian capacity mechanism go through, but not with the Belgian Elia, the Spanish REE or the German TSOs. That will clearly limit the incentive for the Belgian, Spanish and German TSOs to conclude agreements with RTE to establish a complex cooperation system for the French CRM. Also, looking at the preliminary analysis of RTE of the statistical unavailability of interconnections in case of concomitant scarcity, effectively closing the door to the participation of Belgian capacities would be the biggest loss, as the French-Belgian interconnection has the lowest level of unavailability in case of concomitant scarcity in France and Belgium.

The draft proposal of RTE seems to care more about keeping revenues from the CRM within France, and bears the risk of practically rendering cross-border participation in the CRM ineffective. In its current state, it is unlikely to create any excitement among foreign TSOs and market participants. It will now be up to the French regulator - CRE, the French government, and hopefully DG Competition to judge the proposal.

More information at:

https://www.concerte.fr/system/files/concertation/2017%2009%2008%20Rapport%20sur%20prise%20en%20compte%20de%20l%27interconnexion%20au%20système%20européen%20dans%20le%20mécanisme%20de%20capacité%20français_version%20pour%20discussion.pdf

GERMANY

>> REGULATOR (BNetzA)

13. BNetzA launches first call for bids for CHP generation

6 October

The German regulator, BNetzA, has launched the first call for bids to install subsidised combined heat and power (CHP) generation capacity. Producers can submit bids by 1 December.

While it was the German Renewable Energy Act (EEG) that introduced bidding as an allocation mechanism for a pre-determined total quantity of subsidised generation capacity, it was the amendment to the CHP Act and the related Decree on the allocation of CHP that paved the way for the call. CHP plants with generation capacity between 1 and 50 MW are subsidised under this scheme. Bidders are competing for a share of a total of 100 MW bidding volume to be allocated. The maximum bid is set at 7ct/kWh. The lowest bids will be awarded subsidised capacity.

The bidding parties must fulfil certain requirements - such as being registered in the market registry (Marktstammdatenregister) - which are specified by the regulator (see web links below). Registration according to the Federal Emissions Protection Act (Bundes-Immissionsschutzgesetz) is not required. CHP generators falling under the temporary arrangements and eligible to continue under the old CHP regime are encouraged to submit their declarations within two weeks of the announcement of the call.

More information at:

https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/DE/2017/06102017_KWK.html?nn=265778

https://www.bundesnetzagentur.de/DE/Sachgebiete/ElektrizitaetundGas/Unternehmen_Institutionen/Ausschreibungen/KWK/Ausschr_KWK_node.html

14. BNetzA opens third bidding round for onshore wind power

18 September

The German regulator, BNetzA, has opened the third round of bidding for subsidised onshore wind power generation capacity. Bidders are invited to express their interest until 2 November.

Although BNetzA announced that there was high competition among the bidding parties during the first two rounds, the submitted bids remained below the total offered volume and the expectation for oversubscription was not met. The allocation mechanism (Section 28(1) of the Renewable Energy Act, EEG) foresees that generation capacity that has not been awarded in previous rounds is carried forward to the next bidding round for the year. In the second bidding round, which closed on 1 August 2017, only 213,450 KW were allocated. This amounts to two-thirds of the total 322,000 KW offered during that round. The total volume of the third and last bidding round for this year amounts to 1,000 MW. Ultimately, the third bidding round will allow for the evaluation of producers' demand for onshore wind power generation capacity to be installed. Consultation with potential and actual bidders would be necessary to evaluate the bidding rounds. However, a look at the administrative preconditions for submitting a bid may give a clue as to why the demand has been below expectations.

The original closing date - 1 November, was moved to 2 November, due to a public holiday in North-Rhine Westphalia on 1 November. The onshore generation capacity is located in the North of Germany. Information regarding the submission of bids can be found via the web links below.

More information at:

https://www.bundesnetzagentur.de/DE/Sachgebiete/ElektrizitaetundGas/Unternehmen_Institutionen/Ausschreibungen/Wind_Onshore/Gebotstermin_01_11_2017/Gebotstermin_01_11_17_node.html

https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/DE/2017/18092017_Auschreibung_Wind.html?nn=265778

15. BNetzA gives an all-clear for electricity supply?

9 October

In the past few weeks, the German regulator, BNetzA, issued two announcements, which the reader may not immediately see as directly linked: a milestone in the permitting procedure for the South-East-Link in Bavaria and a report on the quality of electricity supply.

In recent years, the German government has been under pressure due to delays in the expansion of the power grid on the North-South axis. For that reason, milestones in permitting procedures have been given a prominent place in press releases of the federal and state governments, and the regulatory authorities. The minimal progress on the actual building of new transmission system lines pales compared to these numerous press releases, which is perhaps well-received by some official stakeholders prior to the upcoming elections in Lower Saxony (October 2017) and Bavaria (autumn 2018).

At the same time, the German report on electricity supply indicates high levels of supply security for end-consumers. In 2016, the 860 network operators registered 172,506 incidences of supply disruption, which accumulate to an Average Interruption Duration Index (SAIDI) of 12.70 minutes per connected end-consumer. Even though the total number of incidences slightly decreased, while the SAIDI slightly increased, the overall stability of electricity supply is high. Accordingly, BNetzA is sending an all-clear signal to end-consumers: quality of electricity supply remains high, despite decentralisation, higher share of energy from renewable sources and slow progress in building transmission lines. This is good news for the consumer.

However, have the increasing energy bills due to increasing re-dispatch costs and feed-in compensation costs been forgotten (Correggio Report May 2017)?

The German ministry of energy initiated a stakeholder consultation process to identify measures which counterbalance the cost spiral. According to the ministry, the congestion management costs amount to EUR 1 billion per year. The proposed measures shall be implemented by 2023 and are expected to achieve a decrease of approximately EUR 200 million per year. The measures range from technical modernisation of existing lines, to improved network monitoring, network development and permitting processes.

End-consumer will certainly appreciate a reversal in the coming years of the cost explosion trend, as an all-clear signal may not be appropriate yet.

More information at:

https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/DE/2017/170911_Saidi_Strom.html?nn=265778

https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/DE/2017/09102017_SuedOstLink.html?nn=265778

http://www.bmwi.de/Redaktion/DE/Pressemitteilungen/2017/20170915-bessere-auslastung-der-stromnetze-spart-200-millionen-euro-pro-jahr.html

16. BNetzA abolishes horizontal cost allocation for gas introduced last year

11 October

On 11 October, Ruling Chamber 9 of the German regulator, BNetzA, decided to abandon the horizontal cost allocation compensation mechanism for gas transmission system operators (TSOs), which was based on section 29(1) of the Industry Act (Energiewirtschaftsgesetz) and section 30(2) of the Gas Network Tariff Ordinance (Gasnetzentgeltverordnung).

The ruling is based on a decision by the Higher Court of Düsseldorf, which concluded that there was not sufficient legal basis for the introduction of an inter-TSO compensation mechanism. However, it is expected that in the course of the implementation of the network codes on tariffs and capacity allocation, such a legal basis will become available. BNetzA is already working on a regulation (called INKA) which will lay the ground for introducing an inter-TSO compensation mechanism. The regulatory decision, thus, is the consequence and an example of a court ruling not synchronised with the implementation trajectory.

Initially, it was planned for horizontal cost allocation to be applied as of 1 January 2018, with tariffs required to be published by 15 October 2017. Some TSOs have already published tariffs based on the horizontal cost allocation method and will need to recalculate and (re)publish those. Surprisingly, BNetzA did not publish the reasons for their regulatory decision, which is directly applicable as of 11 October 2017.

Horizontal cost allocation was introduced last year to ensure that entry-exit tariffs and TSOs' costs are distributed on a non-discriminatory basis. Prior to the adoption of horizontal cost allocation, TSOs were consulted. The main trigger for the BNetzA to equalise entry-exit tariffs in one market area was to prevent market participants from choosing the lowest entry tariff when the contractual path does not reflect the real transportation path and related costs.

Horizontal cost allocation was introduced as an inter-TSO compensation mechanism for TSOs in the same market area. Following the decision, tariffs will be determined individually for each TSO, without inter-TSO compensation.

More information at:

https://www.bundesnetzagentur.de/DE/Service-Funktionen/Beschlusskammern/Beschlusskammer9/BK9_01_Aktuelles/BK9_Aktuelles_node.html;jsessionid=EBC06C08C1B1081E9BF8E2A27DE33362

ITALY

>> REGULATOR (AEEGSI)

17. AEEGSI introduces market mechanisms for LNG capacity allocation

28 September

The Italian energy regulator, AEEGSI, has introduced competitive procedures for the provision of regasification capacity, thus overturing the previous allocation mechanism based on priority access and pro-rata allocation.

The Resolution foresees the alignment of the timing of LNG allocation with those foreseen for the allocation of transport capacity. Annual and multi-annual (up to 15 years) regasification capacity will be allocated via the so-called “ascending clock” or “dutch” auction and valorised at the marginal price; short term regasification capacity for periods of less than one year will instead be priced according to the pay-as-bid system. Overall, the use of the auction mechanisms foreseen in the CAM Network Code, both for long-term (“ascending clock”/ marginal price) and short-term (pay-as-bid) capacity, added to the management of auctions on the PRISMA capacity platform, would allow for the harmonisation of all existing allocation procedures.

The regulator will carry out a more thorough analysis regarding the definition of auction reserve prices. The criterial will be part of a future Resolution.

In addition, the same Resolution foresees the publication of a new integrated text of the provisions on guarantees for free access to the liquefied natural gas regasification services

(TIRG). These also contain provisions on the flexibility services for LNG redeployment offered by the regasification companies.

More information at:

https://www.autorita.energia.it/allegati/docs/17/660-17.pdf

18. *AEEGSI introduces new flexibility mechanism for long-term gas transportation capacity contracts*

28 September

The Italian energy regulator, AEEGSI, deliberated a rule for the flexible usage of long-term transportation capacity, following a consultation document published over the summer. The Resolution introduces a mechanism in favour of holders of multi-year capacity contracts at interconnection points (IPs), signed before the entry into force of EU Regulation 984/2013 (the EU Network Code on Capacity Allocation Mechanisms).

The mechanism envisages that in case of non-usage by a shipper of capacity contracted in one thermal year at one IP, the same capacity can be used in one of the years following the expiry of the transportation capacity contract. Shippers opting for this flexibility mechanism have the right to communicate to the transmission system operator, SNAM Rete Gas, the intention not to use, in whole or in part, the capacity contracted at such points in relation to the thermal year 2017-2018 and later.

The Communication concerning capacity for the period 2017-2018 must be sent to SNAM by 31 October, with effect from 1 October. The Communication on capacity for subsequent thermal years must reach the transport company by 30 April, in advance of the start of the thermal year in question. As Correggio understands, a shipper would be entitled to use the same surrendered capacity at the same IP by the third thermal year following the expiration of the multiannual contract, to the extent that the shipper has bought back the capacity via competitive auctions. The shipper, however, will be required to pay the tariff for the surrendered capacity and potentially a premium arising from the auction when buying the capacity back.

AEEGSI reports that in the abovementioned consultation process industrial end customers who participated in the tendering procedure for multiannual transport capacity (2008-2018) at the Austrian IP highlighted the need for introducing flexibility mechanisms applying also to these long-term commitments. According to the regulator, a solution could be found in cooperation with the Austrian authorities.

More information at:
https://www.autorita.energia.it/allegati/docs/17/666-17.pdf

POLAND

>> GOVERNMENT

19. Regulatory risks disrupt the power market

25 September

Lack of transparency on the future of support schemes in Poland has created a very unfriendly business environment for many market participants. The government has suddenly crossed out the new capacity remuneration mechanism (read more in the July 2016 edition) from the list of projects to be approved by the Parliament, reportedly after having received comments from the European Commission. Meanwhile, the combined heat and power (CHP) producers are being kept in the dark regarding the support scheme for their production – the current certificate-based support ends in 2018.

Although the finalised capacity remuneration project was already waiting for approval in the Parliament, the discussions with DG COMP apparently continued. It now appears that the Commission did not appreciate making the potential support scheme accessible to different sources that are already subsidised (CHP, renewables) and has its reservations towards its status under the Clean Energy Package (read more in the May edition). Access to the scheme by foreign generators is also still an open question. The details of the communication with the Commission, however, have not been disclosed, leaving potential investors without any information about the incentives offered.

As far as CHP is concerned, the current support scheme exists as a prolongation of the certificate system that expired in 2016. The government decided to extend the system to 2018 to have the time to draft a new support mechanism for this kind of generation. Discussions over the subject started in mid-September, when a draft CHP support scheme project was – presumably prematurely – published on the website of the Ministry of Energy. The draft envisaged premiums payable to each MWh of CHP-generated power sold through the power exchange. Different bonuses were to be offered to existing and new units, further divided by the type of fuel they were using. Just two days after the presentation was published, it was deleted from the website and the Ministry refused to comment on it.

Lack of transparency around the support accessible to different kinds of power generation creates major uncertainties about the future power prices in Poland. Considering the amount of questions around the direction in which the market will develop, it is no surprising that some major players (e.g. EDF) have decided to limit their presence in the country. In this relation, the issue of market concentration becomes important once again, since PGE, the main owner of power plants in Poland, now has the ambition and the opportunity to buy back the assets that have been sold to external parties at the time of market opening.

More information at:

http://www.sejm.gov.pl/sejm8.nsf/PrzebiegProc.xsp?nr=1722 https://www.uokik.gov.pl/aktualnosci.php?news_id=13526

http://wysokienapiecie.pl/energetyka-konwencjonalna/2593-panstwowe-spolki-spieraja-sie-o-elektrocieplownie?highlight=YTozOntpOjA7czo2OiJyYWZhxYIiO2k6MTtzOjY6Inphc3XFhCI7aToyO3M6MTM6InJhZmHFgiB6YXN1xYQiO30

SWITZERLAND

>> GOVERNMENT

20. Switzerland and the EU take a further step towards the coupling of their CO2 emissions trading schemes

16 August

On 16 August, the Swiss Federal Council and the European Commission approved an agreement on criteria to link the EU Emissions Trading Scheme (ETS) with its Swiss equivalent. The agreement is the result of long negotiations between the European and the Swiss authorities, and follows an announcement last year that a solution to couple the two schemes was in sight.

The agreement was reached on the basis of the very close designs of the Swiss and the European schemes, including coverage, thresholds, allocation and auction design for allowances, and penalty regimes. An information sharing system will be established between the European and the Swiss authorities to ensure that the two systems remain compatible. A Joint Committee will be established to steer this information sharing, but also to interpret the agreement and to solve disagreements between the authorities. Dispute settlement will be handled by the Permanent Court of Arbitration, the United Nations state dispute settlement body based in The Hague.

One key difference between the two schemes is the treatment of aviation, which is not yet covered by the Swiss ETS. Incorporating aviation in the Swiss regime, therefore, is one of the criteria for the agreement to enter into force. Both the European and the Swiss authorities hope that the agreement will be signed before the end of 2017. On the European side, the Commission proposal will need to be approved by the Council, with the consent of the Parliament. The Swiss Parliament will also be consulted. Considering the technical adjustments and reforms necessary to meet all the criteria of the agreement, entry into force is not expected before 2019.

More information at:

https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-67745.html

https://ec.europa.eu/clima/news/eu-and-switzerland-join-forces-emissions-trading_en/?pk_campaign=DGEnergyNewsletterSeptember2017

http://data.consilium.europa.eu/doc/document/ST-11699-2017-INIT/en/pdf

THE NETHERLANDS

>> TSO (GTS)

21. New tariff developments in the Dutch gas market

15 September

A number of elements of wholesale gas tariffs in the Dutch market are under discussion in formal and informal market consultations, with the Dutch gas transmission system operator (TSO), GTS, making several important proposals in recent months.

On 31 August, GTS submitted a gas tariffs proposal for 2018 to the Dutch regulator, ACM. The proposal encompasses tariffs for transport, quality conversion, balancing and existing connections or connection points. The tariff increase varies considerably across the different services. The transport tariffs will increase by 8%, the tariffs for existing connections by 7%, and the tariffs for connection points by 4%, on average. The balancing tariffs will remain stable, while the quality conversion tariffs will decrease by 14%.

Under the turnover regulation scheme, decreasing transportation bookings translate into increasing tariffs. This is a rather unfortunate outcome particularly for holders of long-term capacity bookings, as their tariffs tend to increase while they are contractually captured. These shippers currently do not have the flexibility to adjust their capacity demand to the tariff elasticity. At the same time, if the capacity market is long, the option to re-sell on the secondary market may not be available. ACM is expected to issue a decision on the GTS tariff proposal by November.

The interconnection point Julianadorp is not part of the tariff proposal, as GTS decided to deal with it in the context of the wider market integration of the BBL interconnector in the Title Transfer Facility (TTF) market area as of 1 January 2018. However, this market integration measure and the redistribution of tariffs are still subject to the review and approval of the UK regulator, Ofgem. The Virtual Interconnection Point (VIP) is also not covered by the tariff proposal, as it is still under consultation. GTS expects the tariffs for Q4 2018 to be defined by May 2018. Overall, the tariff proposal resembles the shape of cheese, with parts where more external coordination was necessary and could not be captured in the regular tariff-setting timeline being carved out.

In the context of the implementation of the Tariffs Network Code, GTS also hosted a market session to consult on solutions which need to be put in place by 1 March 2018. The TSO presented two scenarios: one described as “Competitive market attracts gas” and another, as “Counterfactual”. The scenarios include different measures and vary, for instance, with regard to the service range, entry-exit split, and discounts for storage and LNG. Their numerical underpinning and evaluation will be part of the next sessions.

On 31 August, GTS also presented the results of the consultation on the procedure for neutral gas pricing. GTS had previously developed two alternatives: one foreseeing the formalisation of the current temporary procedure, which refers to the usage of neutral gas prices, as published by ICE ENDEX; and a second, referring to the spot prices on the PEGAS (EEX) market. The advantage of the latter is that it would not require the revision of the Transmission Code in case PEGAS applies the calculation method outlined in the Code. During the consultation meeting, ICE presented a third alternative, the details of which still need to be elaborated before further discussion could take place. For the time being, the five parties that submitted an opinion are clearly in favour of the second option. The consultation process is still ongoing and GTS will follow up with further information before a proposal can be submitted to ACM.

More information at:

https://www.gasunietransportservices.nl/nieuws/resultaten-consultatie-neutrale-gasprijs

https://www.gasunietransportservices.nl/en/news/tariff-proposal-2018

TURKEY

>> REGULATOR (EMRA)

22. Final steps in preparation for the start of an organised wholesale natural gas market in Turkey

21 September

With Regulation No 30024, published on 31 March, the Energy regulator, EMRA, announced the operational principles and procedures for the organised Turkish wholesale natural gas market (OPP). The market will come into operation on 1 April 2018 at 8.00 a.m.

The establishment of an organised spot market is an important step towards achieving Turkey's ambition to become a natural gas trade centre. It includes setting up an electronic platform for continuous trading (Continuous Trading Platform, CTP), where market participants can purchase or sell natural gas. The platform will be established by the market operator, EPİAŞ. The OPP will also enable market participants to balance their contractual obligations in the market through the CTP.

The Regulation requires both settlements of market transactions and imbalances in the transmission system to be carried out by EPİAŞ. Although ensuring the physical balance of the transmission system is mainly the responsibility of the Turkish Petroleum Pipeline Corporation, BOTAŞ, this task will be carried out by EPİAŞ on behalf of BOTAŞ and in accordance with the data transmitted by BOTAŞ. EPİAŞ shall keep separate accounts for the settlement of market transactions and the settlement of imbalances. Settlements shall be made at the end of each month on a gas-day basis. In relation to settlements, EPİAŞ shall be responsible for the preparation and notification of invoices, collection and payment transactions, and other activities under the conditions stipulated in the Regulation, the OPP and also the Transmission Network Operation Principles of BOTAŞ (the Network Code), as the Network Code responsibilities shall remain in force for the market participants who carry out market transactions under the CTP.

For more information, please contact Ceren Akkur, (C.Akkur@EFET.org).

More information at:

http://www.resmigazete.gov.tr/eskiler/2017/03/20170331-8.htm

http://www.resmigazete.gov.tr/eskiler/2017/09/20170923-8.pdf

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To find out more, please contact:

Jan Haizmann

+32 2 737 1100

info@correggio-consulting.eu

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Consulting