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REGULATORY REPORT

September 2017

IN ASSOCIATION WITH
MONTEL

RIE
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ED ENERGETICHE

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REGULATORY AND STRATEGIC CONSULTING SERVICES FOR THE ENERGY SECTOR

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Letter from the Editor

"CO2 Markets – Quo Vadis after BREXIT?"

15 September

Dear Reader,

As we have reported in the last couple of editions, the CO2 market is increasingly likely to be the first hit in the energy sector, once Brexit comes into effect in 2019. In September 2017, the European Parliament took noticeable action by amending a regulation which, if it entered into force, would nullify all permits in the EU Emission Trading System (EU ETS) issued after 1 January 2018 by a country intending to leave the European Union.

If this becomes law, CO2 permits issued by the UK later than 1 January 2018 would immediately lose their validity in the 27 EU Member States. UK permits would consequently have a limited future under the EU ETS, as they would not regain any validity until such time as the EU 27 and the UK could reach an agreement on either linking the UK scheme to the ETS scheme, or agree on another form of co-operation which entails inter-tradability of EU and UK permits.

The regulation de facto leads to a fragmentation between the EU and the UK C02 markets during the time where most of the phase 3 CO2 rights will be surrendered.

The European Parliament's move casts a dark shadow over the CO2 transition period triggered by BREXIT. If a "Hard Brexit" is on the agenda, trading counterparties should verify the contractual solutions for their CO2-portfolio.

We anticipate the impact of an Article 50 timeframe to hit the EU EUTS at a mid-phase point before the end of phase 3. It is unlikely that the UK or EU governments will be focused on their EU ETS or Kyoto/Paris Agreement obligations as part of the many issues they will prioritise in their negotiation discussions. After this week's EU Parliament resolution, the UK and the EU will feel the pressure to provide for clarity.

In theory, the UK could establish its own ETS and stay linked to the EU ETS, however, such a position would be hard to achieve before the end of the two-year period for Article 50 negotiations and, furthermore, it would pre-empt the outcome of the negotiations.

This is not an outcome that is consistent with the UK government's hard Brexit stance. The UK may impose a carbon tax in the short term and in the future, establish a national UK-ETS as part of a linking discussion with other countries.

Market participants should decide whether a specific outcome should follow the effect of not being able to perform following a hard Brexit

There is urgent need for clarity on the CO2 markets in the BREXIT context, before the markets lose trust in its future. Trade associations such as EFET and IETA will hit the drums!

Happy Reading,

Jan Haizmann, Editor

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For more reading:

http://www.ieta.org/resources/EU%20-%20Brexit%202017/IETA%20Letter%20to%20Minister%20Hurd_24%20April2017.pdf

http://www.efet.org/Files/EFET%20PR_EU%20Parliament%20vote%20on%20EU%20ETS%20impact%20Brexit%2020170914.pdf

EUROPEAN UNION

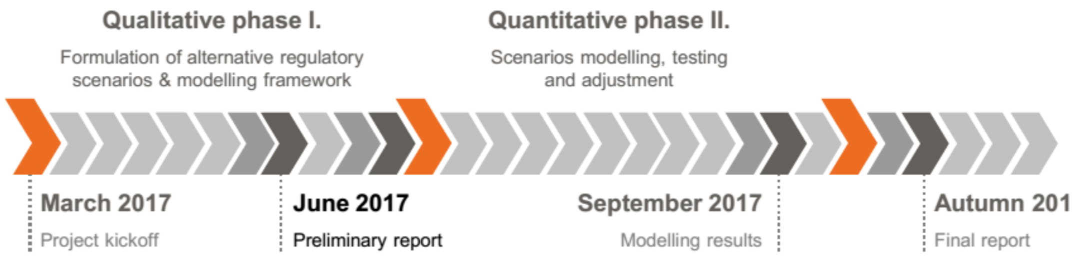
>>EUROPEAN COMMISSION

1. Efforts to improve the European gas market regulatory framework continue

26 July

The agenda for the 30th meeting of the annual EU Gas Regulatory (Madrid) Forum is already available. As it is customary, the Forum - scheduled for 19-20 October - will look at the functioning of European gas markets and the prospects for future development. The Quo Vadis study commissioned by the European Commission has a prominent place on the agenda. The purpose of the study is to assess whether the current gas market regulatory framework is capable of maximising overall EU welfare.

A preliminary report on the Quo Vadis study was shared with market participants on 20 June. It highlighted some important obstacles and threats to the functioning of wholesale gas markets. The report was followed by a workshop on 26 July, organised by REKK - the consultancy commissioned to carry out the quantitative analysis, which will underpin the study. The workshop was an opportunity for REKK to bring more transparency around the model developed for the analysis of European gas market policy- the European Gas Market Model (EGMM), and to collect feedback from stakeholders on the modelling approach and assumptions.The participants of the workshop questioned some of the assumptions used for the construction of the reference scenario and highlighted the need for more attention to sensitivities around demand and supply assumptions. Written comments on the modelling aspects of the study were also gathered in the first half of August.



Source: REKK, http://rekk.hu/downloads/events/1_Introduction_QV_Kaderj%C3%A1k.pdf, slide 4

As stated in the project timeline above, the final report is due in the autumn. Based on the findings and recommendations of the study, the Commission may decide to introduce proposals for amendments to the gas market legislation and related network codes.

More information at:

http://ec.europa.eu/energy/en/studies/study-quo-vadis-gas-market-regulatory-framework

http://rekk.hu/event/149/gas_market_modelling_for_the_quo_vadis_project http://newsletter.correggio-consulting.eu/?p=4938

http://www.efet.org/Files/Documents/Gas%20Market/Tariffs/EFET%20comments%20to%20the%20Quo%20Vadis%20study%20interim%20report.pdf

>> EUROPEAN PARLIAMENT

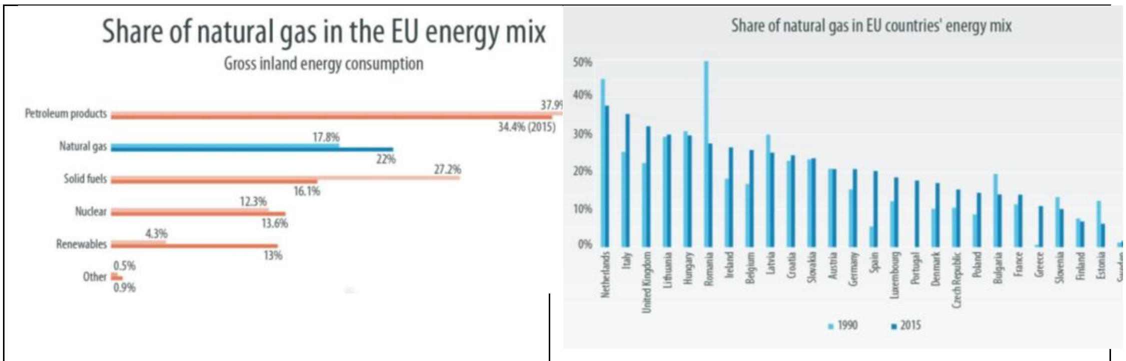
2. MEPs support new rules strengthening gas security of supply

12 September

On 12 September, Members of the Industry, Research and Energy (ITRE) Committee of the European Parliament voted in support of the revised EU Gas Security of Supply (SoS) Regulation. The revised Regulation aims to strengthen regional cooperation and to improve gas supply transparency, so that Member States (MSs) are prepared to deal with security of supply disruptions.

The new rules introduce a solidarity mechanism through which EU members experiencing a gas shortage emergency can request assistance from neighbouring MSs. Household and essential social services such as hospitals are to take priority. Information exchange is also a key pillar of the revised framework. Annex I sets out four risk groups of MSs that serve as a basis for risk-associated cooperation in the form of joint risk assessments and joint preventive and emergency measures. In addition, the European Commission will have the right to request access to any gas supply contracts representing at least 28% of the annual gas consumption of the MS concerned. Details of related commercial agreements, such as gas infrastructure contracts, may also be requested.

Over the past twenty-five years, the share of natural gas in the European energy mix has increased from 17.8% to 22%. Mostly used for heating and cooling (46%) and generation of electricity (16.4%) its significant share makes security of gas supply a key political priority.



Source: European Parliament, http://www.europarl.europa.eu/news/en/headlines/economy/20170911STO83502/europe-s-increasing-need-for-gas-supply-security-infographic

The EU imports two-thirds of its natural gas, mainly from Russia (more than one-third), Norway, Algeria and Qatar, with some MSs being almost entirely dependent on a single supply source. Following the supply disruptions of 2006 and 2009, the EU security of supply rules were strengthened and the 2010 Gas SoS Regulation required MSs to ensure that gas is supplied to households and other vulnerable customers. In 2014, however, the gas stress test carried out by the Commission showed that further cooperation is required to meet this objective.

The revised Regulation is part of the sustainable energy security package presented by the European Commission in February 2016 and implementing one of the pillars of the Energy Union. Following the supportive vote of the Parliament, it now has to be adopted by the Council before it is published in the Official Journal. Changes are not expected, as the Council and the Parliament reached a compromise in April.

More information at:

http://www.europarl.europa.eu/news/en/headlines/economy/20170911STO83502/europe-s-increasing-need-for-gas-supply-security-infographic

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bREPORT%2bA8-2016-0310%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+AMD+A8-2016-0310+179-179+DOC+PDF+V0//EN

http://newsletter.correggio-consulting.eu/?p=4951

>>REGULATOR (UK FCA)

3. UK FCA publishes first list of contracts to be subject to position limits

30 August

On 30 August, the UK financial market regulator - the Financial Conduct Authority (FCA), published a list of contracts that will be subject to bespoke position limits from 3 January 2018 under the recast Markets in Financial Instruments Directive (MiFID II). The actual limits, however, are not yet available.

The list includes energy derivatives such as several ICE Futures Europe oil, coal, natural gas and power contracts, and two Italian power contracts brokered by Tradition Energy. Commodity derivative contracts which are traded on a UK trading venue, but are not listed by the FCA, and are not traded in significant volumes on another EU trading venue, i.e. new or illiquid contracts, will be subject to a limit of 2500 lots as of 3 January 2018. The authorities have indicated that the list may be subject to changes.

The position limits regime is one of the key pillars of the MiFID II framework. It aims to create a harmonised regime for curbing speculation in commodity derivatives markets across Europe. Together with the ancillary activity framework, it is one of the most relevant aspects of MiFID II for energy firms not authorised as investment firms.

Article 57 of MiFID II requires National Competent Authorities (NCAs) to set position limits on the size of a net position which a person can hold at all times in commodity derivatives traded on trading venues and economically equivalent OTC (EEOTC) contracts. Those will be set per contract by the NCA supervising the main trading venue for each relevant contract. Before they are official, the limits will have to be approved by the European Securities and Markets Authority (ESMA). Regulators have indicated that those will be available in October/ November, but the timeframe would depend on when draft limits are submitted to ESMA for endorsement. The tight timeframe in view of the start of application of MiFID II on 3 January 2018 has been a source of concern for some in the industry.

More information at:

https://www.fca.org.uk/markets/mifid-ii/commodity-derivatives/position-limits

>>REGULATOR (ACER)

4. ACER consults on minimum and maximum price limits in day-ahead and intraday

24 August

On 24 August, ACER issued a consultation to gather stakeholder views on minimum and maximum price limits for day-ahead and intraday coupling. This consultation is a result of the failure of national regulators to agree on the common proposal of the power exchanges – in their quality of Nominated Electricity Market Operators (NEMOs) – submitted in February according to the CACM Regulation.

The NEMOs proposal foresees harmonised price limits of EUR +3,000/-500 per MWh for day-ahead, and EUR +/-9,999 per MWh for intraday. Two improvements in the proposal have been nonetheless following a market participants' consultation from late 2016:

- the possibility for deviations from the harmonised price limit has been removed
- for day-ahead only, the proposal foresees an automatic review mechanism of the price limits by an increment of EUR 1,000 per MWh in the event the hourly clearing price in an individual or multiple bidding zones has exceeded a value of 60% of the price limit on at least 3 separate delivery dates in the preceding 30 days.

In its consultation, ACER consults market participants on the level of the maximum day-ahead price limit, suggesting EUR 5,000 per MWh or EUR 9,999 per MWh as alternatives to EUR 3,000 per MWh. The Agency is also proposing a quicker automatic adjustment procedure in case 60% of the price limit is reached, as soon as this event occurs in a market time unit (instead of the necessity for this event to occur on three delivery dates within 30 days). Finally, ACER suggest to have the new harmonised price limits operational as soon as the Market Coupling Operator (MCO) function is implemented, rather than also waiting for the common grid model and regional capacity calculation methodologies.

While the various price cap options recommended by ACER should be looked at carefully with regard to the corresponding effects on collateral requirements, all the other proposals of the Agency go in the direction of a faster implementation and more adaptability of the proposed methodology to market requirements, for the benefit of market participants. Stakeholders are invited to respond to the consultation by 15 September.

More information at:

http://www.acer.europa.eu/Media/News/Pages/ACER-consults-on-the-maximum-and-minimum-prices-in-the-day-ahead-and-intraday-coupling.aspx

>>OTHER EU INSTITUTIONS (ENTSO-E)

5. European TSOs propose amended methodologies for intraday gate opening and closing time, and capacity pricing

14 August

In the course of August, the TSOs jointly submitted their final proposals for two interlinked methodologies under the CACM Regulation: one on the gate opening and closing time for the intraday market, and a second one on pan-European intraday capacity auctions for capacity pricing.

The TSOs have reformed their initial harmonised intraday gate opening time (GOT) across Europe at 22:00 D-1 for differentiated GOTs per capacity calculation region (CCR). While intraday markets will open at 15:30 in the Nordic CCR, and at 18:00 in the Baltic and Channel CCRs, they will remain closed until 22:00 in most of the rest of Europe, including the key CORE CCR that covers most of continental Europe. This step back from current practices should alarm all market participants.

Regarding pan-European capacity auctions for capacity pricing, the TSOs have settled on a model with a single opening auction, which would not need suspending continuous trading on the future pan-European continuous intraday trading platform (XBID). It still needs to be assessed whether such auctions will be mandatorily held at each bidding zone border in Europe, which some TSOs and regulators – not to mention market participants – are not necessarily keen on.

National regulators have until early next year to approve the proposed methodologies, or send them to ACER for amendments.

More information at:

https://www.entsoe.eu/Documents/Network%20codes%20documents/Implementation/cacm/170810_IDCZGT_Proposal_AllTSOs_approved.pdf

https://www.entsoe.eu/Documents/Network%20codes%20documents/Implementation/cacm/170810_CZIDCP_Methodology_AllTSOs.pdf

>>OTHER INSTITUTIONS (ENTSOG)

6. TSOs publish first demand assessments for incremental capacity for gas

31 July

The European Network of Gas Transmission System Operators (ENTSOG) has published the first incremental capacity demand assessment reports of Transmission System Operators (TSOs). Demand assessments for incremental capacity are part of a new process introduced by the amended EU Capacity Allocation Mechanism Network Code (CAM NC), which requires decisions on building incremental capacity to be made on the basis of assessments of market demand. The Code also defines how incremental capacity is to be allocated.

As required by the CAM NC, the first demand assessment was carried out between April and July 2017. During this period network users were given the opportunity to send to TSOs non-binding demand indications for incremental capacity at interconnection points (IPs). Following an evaluation of those indications, TSOs had to determine whether to initiate a technical study concerning the expected amount, direction and duration of demand. The demand assessment reports show that non-binding demand indications were submitted for 17 interconnection points. In 9 cases technical studies were commissioned. In the remaining 8, either network development projects had already been initiated, or the indicated demand was found to be below the available technical capacity for the respective period.

Incremental capacity could be capacity built above the available technical capacity at an IP; capacity built when a new IP between two entry-exit systems is created; or physical reverse capacity at an IP where previously capacity was available only in the other direction. Provisions on incremental capacity were introduced through an amendment to the CAM NC in order to develop a harmonised EU-wide market-based approach to determining when incremental capacity needs to be built and to design a mechanism for the integrated allocation of incremental and existing capacity.

More information at:

https://www.entsog.eu/publications/incremental-capacity#INCREMENTAL-CAPACITY---DEMAND-ASSESSMENT-2017

https://www.entsog.eu/public/uploads/files/publications/incrementalcapacity/2017/Demand%20Assessment%20Reports%20summary.pdf

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0459&from=EN

AUSTRIA

>> REGULATOR (E-Control)

7. Gas System Charges Ordinance changed (in brief)

12 September

Following changes on the Austrian market are note-worthy:

Austrian-Czech Gas Markets: E-control introduced a charge for the system operator's service that entitles system users to nominate for exit from the Eastern Austrian market area and immediate matching entry into the Czech market area. System users can now directly connect the Eastern market area in Austria with the Czech market, although there is no physical connection. The offering of this service is based on a service agreement of both involved network operators. The charge is now regulated and is meant to facilitate trading between both zones.

Capacity Conversion Service: The Gas Market Model Ordinance 2012 is providing for a new capacity conversion service.

Biogas allowed: The rules regarding system access for storage undertakings and producers of biogenic gas have been amended in Sections 16 and 17. Amendments have been introduced regarding shorter lead times for scheduling and communication channels to be used (Chapters 2 and 3).

Shorter Lead times for scheduling: The amendments in Chapters 2 and 3 relate to the shortening of lead times for schedule changes based on Section 34 para. 2 Gas Market Model Ordinance. From 1 February 2018, the communication between transmission system operators / VTP operator and the balance responsible parties according to Article 21 Interoperability Network Code has to be done via the data format Edig@s-XML and the AS4 protocol.

Consultation: Market participants are invited to participate in the consultation process of the Long-Term Planning 2017 and the Coordinated Network Development Plan 2017 for the planning period 2018 -2027 until 3 October 2017.

More information at:

http://www.aggm.at/en/network-information/network-developments-plans/lfp

http://www.aggm.at/en/network-information/network-developments-plans/knep

FRANCE

>>REGULATOR (CRE)

8. CRE consults market participants on gas hubs merger

27 July

On 27 July, CRE issued a consultation to assess stakeholder views on a wide array of detailed implementation elements of the planned merger of the French zones into a single gas hub. The reform is planned since 2015, and discussions in working groups have allowed the TSOs and the regulator to go deeper into the specifics of the functioning of the future hub.

The consultation revolves around two main themes:

- the functioning of the hub itself – which will still consist of two spate balancing zones, though shippers should not be affected by this;
- the various options to manage residual congestions within the single hub – including mutualised restrictions, the use of locational spreads, the use of interruptible capacity, possibly even a flow commitment mechanism.

While the main principles for the functioning of the hub seem to be clear in the mind of the TSOs and the regulator, the practical arrangements, especially concerning the use of locational products and mutualised restrictions, still seem quite open for discussion. Market participants' input on the matter will be key to establish a system that caters for the needs of the system users once the hubs merger will enter into force on 1 November 2015.

Market participants are invited to respond to the consultation by 15 September.

More information at:

http://www.cre.fr/en/documents/public-consultations/creation-of-a-single-gas-market-area-in-france-on-1st-november-2018

GERMANY

>> *GOVERNMENT*

9. Energy policy in the German election campaign

14 September

On 24 September, German voters will head to the polls and elect a new government for the next four years. As opposed to the previous elections in 2013, energy policy has not been a salient issue in the current election cycle. The main topic of German energy debate in recent years has been centred around the 'Energiewende' (energy transition) which aims to underscore the process of decarbonisation in a sustainable and affordable way. In practice, this has resulted in strong financial support for renewable energy sources. The following table provides a brief overview of stated party stances on various topics of energy policy:

	Die Linke	Bündnis 90/Die Grünen	SPD	CDU/CSU	FDP	AFD
Wholesale and Retail Energy Markets	Allow local actors to purchase energy networks and ensure their equal access in the development of renewable industry; nationalise electricity generation; decrease electricity tax for private consumers; strengthen competition and cartel laws.	Abolish of non-environmentally friendly subsidies and introduce "divestment" as a climate protection instrument.	Allow tenants to profit financially from the feed-in and their own generation of renewable; support citizen cooperatives and allow local communities to re-municipalise the network infrastructure.	Support the market integration of the 'Energiewende'; fulfil already existing energy and climate commitments based on market-based instruments; keep Germany as one electricity bidding zone.	Europeanise Energiewende and reduce energy taxes to minimum levels; do not use emissions certificates revenues for subsidies; include shipping and air transport in global agreements; reject sector specific regulation and CO2 minimum prices.	Energy technology (particularly electric cars), as any other technology, should have to compete on the free market.

Renewable Energy	Allow local communities to participate in developing renewable power plants and storage facilities;Reform or abolish the EEG[1].	German electricity production should be exclusively (100%) based on RES by 2030.	Create alternative financing models for the Energiewende so that, amongst others, the customers can profit from decreasing market electricity prices; support renewable energies and the development of a decentralized supply	Support a market-based approach and system integration to make electricity feasible for both businesses and factories as well as for consumers.	Abolish RES subsidies; the distance between wind turbines and the nearest residential area should be 10 times the height of the turbine.	Abolish the Renewable Energy Sources Act EEG.
Nuclear	“Polluter-pays” principle for businesses involved in nuclear energy; introduce nuclear phase-out into the constitution; ban both the import and export of uranium.	Support the complete phase-out of nuclear energy including shutting off nuclear power plants in other countries near Germany’s borders (in Belgium, the Czech Republic, France, and Switzerland).	Actively lobby other states to phase out nuclear energy and prohibit building new nuclear power plants within the EU.	Support the nuclear phase-out that should be completed by 2023.		The AfD would like to use the nuclear power plants until the end of their (operational) expiration date.
Coal	Phase-out coal by 2035 and ban new coal power plants; establish a €250	Close 20 most polluting coal plants; combine phase-out with a new social	In the brown coal regions, structures should be built up and expanded,			Support the continued use of modern coal plants.

[1]German Renewable Energy Sources Act (Erneuerbare-Energien-Gesetz – EEG)

	million fund to create jobs for coal miners.	contract; ban construction of new brown coal plants.	which are linked to the industrial traditions of the regions.			
Fossil Fuels/ Carbon	RES to replace fossil fuels; withdraw public funding or subsidies from any assets or companies in the fossil energy industry.	Phase-out all non-electric cars by 2030.	Make the European Emissions Trading System the instrument for climate protection OR introduce CO2 minimum prices.	Replace fossil fuels with RES in parallel to the structural development of affected regions.	Simplify aims and instruments combatting climate change (e.g. by setting a global price for CO2 emissions).	CO2 is required for „life"; lack of scientific evidence to conclude that climate change is "man-made".
Shale Gas/Oil	Ban all forms of fracking with no exceptions.	No reference in their party programme, but oppose fracking in other official statements.	Indeterminate ban of unconventional fracking; Keep natural gas, renewable gas from Power-To-Gas-Plants and already existing gas distribution system infrastructure as a part of the energy mix.			
R&D			Research programs for storage and technologies for sectoral coupling; digitalise and make power stations more flexible.	Support research into modern electricity storage technologies to put Germany at the centre of battery production.		Participate in international research projects to maintain nuclear capabilities.

International relations / Europe	Europe should abandon nuclear energy and dissolve EURATOM; create „European Community for supporting renewable energy and energy saving".	Support the development of the European Energy Union to improve the connection of distribution and electricity production within Europe.	Expand partnerships with developing and emerging countries. Pursue an ecological industry policy globally; small and medium-sized enterprises should be supported externally in terms of economic foreign policy.		Fully liberalise the European Energy Market and strengthen the pan-European network expansion, support international cooperation climate change, use emissions trading as instrument.	Repeal the 2050 Climate Protection Plan as well as the Paris Climate Accord; abolish any financial support to all public and private „climate protection" organisations.

The two primary contenders for power are from the incumbent coalition parties: the CDU/CSU's Chancellor Angela Merkel and the former President of the European Parliament and leader of the junior coalition partner SPD, Martin Schulz. Currently, Merkel enjoys a 15-point lead in the polls, however, this fails to attain absolute majority for her party. As has become customary in recent decades of German politics, following the vote, the parties will commence coalition negotiations to find a workable programme for a group of parties that can secure more than half of the Bundestag seats. As a repeat of the current CDU/CSU-SPD "grand coalition is unlikely, the smaller parties – the far-left die Linke, the Green party, the liberal FDP, and the far-right AfD – have taken on a more central role as potential coalition partners in the future government, although the AfD (and to a certain extent die Linke) is not seen as a potential coalition partner by the other mainstream centrist parties.

More information at:

https://www.cdu.de/system/tdf/media/dokumente/170703regierungsprogramm2017.pdf?file=1

https://www.spd.de/fileadmin/Dokumente/Bundesparteitag_2017/Es_ist_Zeit_fuer_mehr_Gerechtigkeit-Unser_Regierungsprogramm.pdf

https://www.die-linke.de/fileadmin/download/wahlen2017/wahlprogramm2017/die_linke_wahlprogramm_2017.pdf

https://www.gruene.de/fileadmin/user_upload/Dokumente/BUENDNIS_90_DIE_GRUENEN_Bundestagswahlprogramm_2017.pdf

https://www.afd.de/wp-content/uploads/sites/111/2017/06/2017-06-01_AfD-Bundestagswahlprogramm_Onlinefassung.pdf

https://www.fdp.de/sites/default/files/uploads/2017/08/07/20170807-wahlprogramm-wp-2017-v16.pdf

>>REGULATOR (BNetzA)

10. BNetzA cuts onshore wind power subsidies

31 August

On 31 August, the German regulator BNetzA announced the reduction by 2.4 percent of the subsidies granted to onshore wind farms. This measure will apply to already existing onshore wind farms but not to those which are available in the recent call for bids from 1 January 2018 onwards.

The regulator's decision was driven by the increase of the renewable energy generation capacity of onshore wind farms with 5,038 Megawatt between August 2016 and July 2017, which exceeded the yearly growth rate. According to the text of the amended Renewables Act (EEG) subsidies should be reduced when generation levels go beyond the renewables growth target and vice versa - in case the growth target is not reached, the subsidies should be increased. This way the EEG keeps control over the costs of renewables generation.

Prior to the regulator's announcement, the second round of call for bids closed mid-August with many competitive biddings: 67 of the 281 biddings were successful which translated into a volume of 1,013 Megawatt whereas the total bidding volume was 2,927 Megawatt. To sum up, onshore wind farmers will continue to face a downside potential while the electricity bills of end-consumer will remain at the same high levels.

More information at:

https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/DE/2017/31082017_Onshore.html?nn=265778

https://www.bundesnetzagentur.de/SharedDocs/Pressemitteilungen/DE/2017/15082017_WindAnLand.html?nn=265778

ITALY

>> GOVERNMENT

11. New friendly netting regime in Italy winks at trading companies

29 August

Major positive changes for energy trading companies seated in Italy: after more than two years of discussion, provisions introducing close-out netting in Italy became law as part of the Competition bill and came into force on 29 August 2017. The recognition of close-out netting and the enforceability under the insolvency law will introduce an important mean of credit risk mitigation in bilateral transactions and agreements that will protect commercial interests of companies in insolvency scenarios.

Netting is a standard process within the financial sector for the close-out of financial instruments: close-out netting clauses are provisions, generally included in standard framework agreements regulating transactions between counterparties in which it is agreed that, upon termination of such agreement, all non-performed contracts between the parties are terminated; the market value of each of the contracts is then determined using a pre-defined mechanism.

The introduction of a friendly netting regime extended to physically settled energy transactions will ease operating costs for companies in Italy, by decreasing the counterparty risk and lowering collaterals requirements.

More information at:

http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2017-08-14&atto.codiceRedazionale=17G00140&elenco30giorni=false

>> REGULATOR (AEEGSI)

12. New proposals over the planned Italian capacity market

3 August

The Italian regulator AEEGSI published a consultation on the technical and economic parameters of the planned Italian capacity market, with particular focus on the value of the strike price of the reliability option and the economic parameters of the capacity demand curve.

The value of the strike price, currently proposed to be equal to the variable costs of the so-called 'peak technology' identified in the open cycle gas turbine (OCGT), proves to be controversial amongst market participants. The fear is that a low strike price level, as the one calibrated on the OCGT costs (85-90 EUR/MWh), would represent an implicit cap to the day-ahead and ancillary services market, lowering volatility and preventing the emergence of price spikes. Hence, most of the market players have already suggested to calibrate this price on the demand side and in particular on the value of lost load.

The document clarifies the regulator's view on the active participation of demand to the capacity market. In this regard, starting from the observations gathered on the methodology used for setting the strike price, AEEGSI considers that the demand for active participation in the capacity market (DSR) is not penalized by the level at which the strike price is set. Therefore AEEGSI insists on calibrating it on the OCGT variable costs, while proposing some changes and additions to the methodology for its calculation. By applying the proposed approach, the strike price of last June would have been around 125 EUR/MWh.

The document also examines how to manage the risk of market power at the launch of the capacity market. AEEGSI seems to be very concerned about protecting final consumers from excessive costs of the mechanism, even at the cost of reducing the active participation of existing capacity. Among the proposed measures, the regulator proposes to differentiate, in the auctions of the first stage of implementation and at least in the first auction stage of the full implementation phase, the maximum value of the premium in EUR/MW negotiated in the auction for the existing capacity from the one for the new capacity. In particular, AEEGSI proposes to 'cap' the premium for existing capacity to 20.000 EUR/MW a year, a value that seems very low, compared to the 75.000 EUR/MW envisaged in previous consultations. The document also outlines a gradual implementation of the capacity market, through the increase, in the first phase, of the strike price to a value that could also reach 250 EUR/MWh, depending on the duration of the lead time (less than or not less than three years).

The mechanism, though, is still pending and needs first ro receive the approval of DG Competition of the European Commission. The Italian Ministry of Economic Development stated publicly that they are confident that the first auction will take place by the end of the year, or beginning 2018.

Market participants are invited to respond to the consultation by 15 September.

For more information:

http://www.autorita.energia.it/allegati/docs/17/592-17.pdf

POLAND

>> REGULATOR (URE)

13. Reshaping the gas market in Poland

10 September

Following the ongoing changes on the Polish gas market (read more in the July edition), private companies have taken the opportunity to either leave the market by giving up their so-called import licenses, or by suspending their import activities in order to avoid meeting the storage obligations. In the meantime, the Polish regulator URE together with the TSO continue their work on the implementation of the network codes and they have consulted stakeholders on the imbalance tolerance levels, and have run an assessment of the demand for incremental capacities.

As result of the new gas storage obligation in Poland, around ten entities have terminated their import licenses within the given deadline. At the same time, due to the burdensome license acquisition procedure, numerous companies have decided to suspend their activities and endure the period of severely unfriendly regulatory environment. However, this alternative move by some market participants might not solve the problem, as the regulator holds the right to revoke the license after a period of six months of inactivity.

Despite the drop in market activity, the Polish TSO has responded to URE's request to review the interim market measures in place under the EU Balancing Network Code. The proposal envisages a gradual decrease of daily imbalance tolerances to zero by 1 April 2019. At the same time, following the provisions of the EU Capacity Allocation

Mechanism Network Code (CAM NC), Gaz-System, in conjunction with neighbouring TSOs, has called for non-binding capacity demand indications. The existing projects being developed with Lithuania and the Czech Republic were found to be sufficient to satisfy the indicated demand. While the interconnection capacity with the Germany's TSO Gascade is sufficient to meet the reported demand, an expansion of the Gaz-System-Ontrans interconnection needs to be explored.

Along with the planned expansions of the national grid (read more in the April edition) aiming to ensure the diversification of sources for gas import, both the TSO and the regulator continue their work to make the Polish market rules compliant with EU regulation and increase the attractiveness of the market compared to its neighbours in the region. Nonetheless, with the current rather negative governmental approach towards market liberalization, little positive outcome could be expected. In the meantime, the already supreme market strength of PGNiG has been reinforced, as the incumbent has booked the entire remaining capacity of the Polish LNG terminal. The European Commission has yet to issue an official response to the recent legislative changes in Poland.

More information at:

http://en.gaz-system.pl/centrum-prasowe/aktualnosci/informacja/artykul/202556/

http://en.gaz-system.pl/centrum-prasowe/aktualnosci/informacja/artykul/202537/

http://en.gaz-system.pl/centrum-prasowe/aktualnosci/informacja/artykul/202554/

http://www.me.gov.pl/node/27393

>> GOVERNMENT

14. Polish government comes up with new amendments to the Renewables Act

14 August

As already indicated in early July, the Polish government continues to prepare amendments to the Renewables Act. Just eight months after the adoption of the previous version and before the draft regulation described in the July edition got finalized, the government decided to address the issue of oversupply of green certificates. The new amendment to the Renewables Act, signed into force by the President on 14 August, envisages linking the so-called substitute fee to the market price of green certificates. This fee is payable when an insufficient amount of green certificates are submitted balance a company's energy mix.

The current price of the green certificates market is very low and has remained at these levels for long time due to heavy oversupply. The amendment states that the substitute fee in a given year will amount up to 125% of the average green certificates price calculated for the previous year. The government hopes that this correlation will provide the right incentive for companies to purchase the surplus certificates in order to avoid excessive costs. This view was opposed by the President of the Polish regulator URE, arguing that the amendment will not manage to cope with the oversupply of green certificates on the market and its expected impact on the power prices for households (the government estimated a price increase of 2,5 EUR per year) is severely underestimated.

Changes to the way the substitute fee is estimated will have a positive impact on the market price of the green certificates. Yet, the substitute fee which needs to be calculated based on these prices for the upcoming year could not be higher than the one previously in force (which was around 70 €/MWh). Moreover, the amendment will translate into lower substitute fees for not purchasing the necessary green certificates. In this context, the buyers who contracted green certificates at higher price in the past, will now try to have these contracts voided.

More information at:

http://www.dziennikustaw.gov.pl/du/2017/1593/D2017000159301.pdf
http://www.cire.pl/item,149805,1,0,0,0,0,0,prezydent-podpisal-nowelizacje-ustawy-o-oze.html

SWITZERLAND

>>GOVERNMENT

15. Federal Council ends cross-border priority dispatch for renewables

30 August

On 30 August, the Federal Council confirmed the date of entry into force of the reformed law on electricity supply approved by the Parliament in March 2017.

The main novelty of the reform concerns the access to interconnection capacity at the borders with neighbouring countries. To date, a number of actors are granted priority dispatch at the borders, including hydro plants close to the borders, long-term supply contracts concluded before 2002, and electricity produced from renewable energy sources (RES-E). As of 1 October 2017, cross-border priority dispatch will however cease for RES-E. In practice, RES-E producers will need to participate in cross-border auctions, with exactly the same rights and responsibilities as other market participants.

This reform, intended to limit the disconnection between cross-border capacity allocation and physical flows, will also ensure a more equal treatment of market participants.

More information at:

https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-67909.html

16. Switzerland and the EU take one 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 European Emissions Trading System (EU ETS) with its Swiss equivalent. This agreement follows long negotiations between the European and Swiss authorities, and the announcement last year that a solution to couple the two schemes was in sight.

The agreement was made on the basis of the very close designs of the Swiss and European ETS, including coverage, thresholds, allocation and auction design for allowances, and penalty regimes. An information sharing system will be established between the European and 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 solve disagreements between the authorities. Dispute settlement will be handled by the Permanent Court of Arbitration, the UN 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. It is one of the criteria that will need to be adopted in the Swiss scheme to ensure that the agreement enters into force. Both the European and Swiss authorities hope for a signature of the agreement before the end of 2017. On the European side, the Commission proposal will need to be approved in the Council with the consent of the Parliament. The Swiss Parliament will also be consulted. Considering the technical adjustment 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

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The report has been in circulation since 2008 and is an authoritative source for energy policy developments in Europe.

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