2016

Hellenic Energy Regulation Institute

Newsletter – Issue 3, July-August 2016

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EU Energy Law at the Crossroads: The 'Athens Conference on European Energy Law and Policy'

The Hellenic Energy Regulation Institute in collaboration with the internationally renowned academic institution Florence School of Regulation organise the 'Athens Conference on European Energy Law and Policy', an important high level scientific event dedicated to the major legal and political issues arising in the context of the EU electricity and natural gas markets, which will be held on the 30th of September 2016 in the Athens Chamber of Commerce and Industry.

The said conference constitutes a joint initiative of the 'Hellenic Energy Regulation Institute (HERI) and the world-renowned in the field of energy regulation academic institute 'Florence School of Regulation', which, in addition to its extensive academic research output, serves as an influential think tank, often advising key institutional players in the elaboration of EU policies pertaining to the full range of network economies.

The conference will be attended by the major scientific and institutional actors operating within the EU energy market, as well as some of the prominent academic researchers in the field of energy regulation. Sir Philip Lowe, who has served as Director-General for Energy and Competition and is currently Senior Adviser at FTI Consulting, will give the keynote address. Among the speakers who have thus far confirmed their attendance are Univ.-Prof. Dr. Dr. Dres. h.c. Franz Jürgen Säcker, Director of the 'Institute for Energy and Regulatory Law Berlin' and leading energy regulation specialist at the international level, Mr. Alberto Pototchnig, Director of the Agency for the Cooperation of Energy Regulators (ACER) and Professor Leigh Hancher, Director of the Florence School of Regulation's Energy Law & Policy Department.

The agenda of the conference comprises the following four timely topics:

- The future of coal and lignite in the EU following the Paris Agreement
- Energy security and transnational natural gas pipelines – Do third countries, non EU Member States fall within the scope of application of EU energy law

- Latest EU regulatory framework on renewables from 2020 onwards
- The future role of Distribution System Operators (DSOs)

The detailed agenda of the Conference will soon be made available on the official ***website*** of the Hellenic Energy Regulation Institute.

For further information, please on the Conference, please click ***here***.

In order to register for the event, please click ***here***.

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EU Environment Ministers recognize need for a bold reform of the EU carbon market

Key EU Environment Ministers discussing the reform of the EU Emission Trading Scheme (ETS) after 2020 acknowledged that the Paris Agreement created new conditions for this process, and called for ensuring that a review of the level of ambition in the ETS takes place in the near future.

In reaction to the debate at the Environment Council today, Wendel Trio, director of Climate Action Network (CAN) Europe said:

"The Ministers discussed the obvious: the ETS needs an overhaul to be in line with the Paris Agreement goals. Ministers stressed the need for a five-year review clause in the ETS Directive, to be able to adapt it to the potential increase of the EU climate target for 2030. It is high time for the EU leaders to step forward and accept that the Paris Agreement requires a revision of all EU policy tools, including the ETS in due time. Only bold reforms can turn the ETS into a functioning policy tool. It is painfully obvious that with the weak reform proposals currently on the table, the ETS will not drive any emission cuts for many years to come, let alone help the EU meet the ambitious Paris Agreement goals."

Ministers from several EU countries, including Austria, Belgium, France, Germany, Luxembourg, Sweden and the UK intervened on the need to bring the ETS in line with the Paris Agreement, and called for a review clause to be included in the ETS Directive, the EU to be prepared for the UNFCCC review in 2018, efforts to increase the low carbon price or raising the Linear Reduction Factor, amongst others.

According to CAN Europe, in order to align the ETS with the Paris Agreement and keep the 1.5°C Paris goal within reach:

- the massive glut of surplus pollution permits should be permanently cancelled (by 2020, the ETS surplus will have grown to up to 4.4 billion – EU's annual emissions which under current rules can be fully carried over to the next trading period);
- both the 2030 target and the annual Linear Reduction Factor should be substantially raised in the run up to the next UN political moment in 2018 and then revised every five years;
- the starting point for reductions after 2020 should be at actual emissions level (projected to be around 38% below 2005 emissions by 2020).

3

EU invests €263 million in energy infrastructure

In July 15, 2016, EU Member States agreed on the European Commission's proposal to invest €263 million in key European energy infrastructure projects. The lion's share of the investment will support the building of gas infrastructure in the Baltic Sea region as well as supporting the electricity sector across Europe. Nine projects were selected following a call for proposals under the EU funding support program the Connecting Europe Facility (CEF). The selected priority projects aim to increase energy security, connect the isolated EU Member States to the wider European grid and contribute to the Energy Union objectives of affordable, secure and sustainable energy.

In the gas sector, the European grants will cover the construction of the Baltic connector (EU support €187.5 million), the first gas pipeline linking Estonia to Finland. Once completed, the interconnector will end the dependence of Finland from a single gas supplier strengthening the security of supply in the Eastern Baltic Sea region.

Furthermore, works to enhance the Estonian-Latvian interconnection will be financially supported (EU support €18.6 million). The enhancement of Estonia-Latvia interconnection will enable better access to storage in Latvia, ensure a more diverse natural gas transmission network in the Baltic Sea region and further enable the Baltic connector project.

In the electricity sector, the list will include the construction of a new 100 km electricity line between Dobrudja and Burgas in Bulgaria that will strengthen the resilience of the Bulgarian electricity grid. The European support to this new power line amounts to €29.9 million.

Furthermore, EU support is given to develop preparatory study for a secure and reliable operation of the Baltic States' power system (EU support €125,010), a study on the gas interconnection at Nea Messimvria in Greece (EU support €243,250). The metering and regulating station will help connect the Greek natural gas transmission system with the Trans-Adriatic Pipeline (TAP) bringing natural gas from the Caspian Sea.

Of the 9 proposals selected for funding:

- 5 are in the gas sector (EU support worth €210 million) and 4 are in the electricity sector (EU support worth €53 million).
- 3 relate to construction works (€236 million) and 6 to studies (€27 million).

With a total of €800 million available for grants under Connecting Europe Facility – Energy in 2016, the second 2016 call for proposals with an indicative budget of €600 million is currently ongoing and will close on 8 November.

4

Bad news for Greek Ship-owners? The tonnage tax under the European Commission's microscope

Upon completion of a long-winded ex officio inquiry into the Greek taxation regime for shipping, the European Commission found that the pertinent legal framework includes certain provisions that may be deemed incompatible with EU state aid rules and, in particular, with the 'EU State Aid Guidelines for Maritime Transport' (Commission Communication C (2004) 43), which seek to maintain a level playing field for shipping within the European Union. Accordingly, by virtue of Decision C (2015) 9019 final of 18.12.2015, the Commission addressed a set of proposals to the Greek government, calling for the amendment of the said framework in such a manner as to achieve its compliance with the aforementioned EU rules.

The Commission's inquiry focused primarily on Law 27/1975 'on the taxation of ships, application of a duty for the development of merchant shipping, establishment of foreign shipping companies and related matters.' According to the said law, owners and managers of Greek-flagged vessels, as well as foreign vessels above 500 tons involved in international transportation and managed from Greece, are eligible for tonnage taxation. The payment of tonnage tax constitutes fulfillment of all liability of the ship-owner and the shareholders of the relevant entities in respect of income tax on profits derived from the operation of ships.

The Commission has voiced its concerns that the above-described tonnage tax scheme - which, it is noteworthy to mention, paved the way for the adoption of equivalent regimes in many other European countries - is not well-targeted, in so far as it benefits the shareholders of shipping companies beyond what is permitted under the Maritime Guidelines. The Commission noted in particular that the exemption from taxation of capital gains from the sale of tonnage-taxed ships, of dividends paid by shipping companies and of capital gains related to shares in shipping companies, together with the exemption from inheritance tax and the tax benefits granted to wider maritime cluster companies under Law 27/1975, are all measures which constitute State aid within the meaning of Article 107(1) TFEU. The Commission also drew attention to the preferential tax treatment targeted at various maritime intermediaries and shareholders of shipping companies – none of which conduct genuine maritime transport activities.

In this instance, it is worth noting that the Greek tonnage tax scheme was put in place in 1975, i.e. before the country's accession to the European Union in 1981. It is therefore considered as "existing aid" and hence subject to a specific cooperation procedure, whereby the Commission, together with the competent national authorities, will have to jointly explore how to amend the current regime, so as to eliminate distortions of competition within the internal market. In particular, the Commission asked the Greek authorities to revoke or modify the contested legislation within two years period of time and in a manner that ensures compatibility with the EU regulatory framework on State aid.

While the relevant negotiations are still ongoing, the shipping sector has been lobbying the Commission in support of maintaining the *status quo*. On the other hand, the European Commissioner for Transport, Ms Violeta Bulc, recently stated in a joint press conference with the presidency of the UGS that there is no intention of changing the existing guidelines on the taxation of shipping activities. It is thus still possible that, following a failure to reach an agreement with the Greek State with regard to the proposed measures, the Commission will eventually open a formal State aid investigation.

The contested Commission decision is maintained to present critical gaps, scientifically questionable arguments and contradictory reasoning. This could act in favor of forming a targeted legal argumentation, which could potentially set aside or at least mitigate key elements of the Commission's legal position and utilize the procedural particularities of the categorization of the measures at issue, to characterize them as existing measures (existing aid) and not new state aid (new aid).

5

G20 Energy Ministers commit to tackle together global energy and climate challenges

European Commissioner for Climate Action and Energy Miguel Arias Cañete participated in the second ever G20 Energy Ministerial meeting in Beijing, China.

At the meeting, energy ministers agreed on a communiqué reaffirming their commitment to ensure access to affordable, reliable, sustainable and modern energy for all.

The communiqué recognises the key role of renewable energy in achieving the goals set at the Paris climate conference held in December last year. In line with this, participants adopted the G20 action plan on renewable energy and agreed to continue implementing the G20 toolkit of voluntary options on renewable energy deployment. G20 Ministers also encouraged cooperation on standards to accelerate smart grid deployment and interoperability.

The communiqué recognises the role of nuclear power in reducing greenhouse gas emissions for countries, which opt to use it, and emphasises the need to ensure the highest standards of nuclear safety, security and non-proliferation.

On energy efficiency, G20 members adopted the G20 energy efficiency-leading programme and agreed to take the global leadership in promoting energy efficiency. International energy efficiency cooperation currently focuses on vehicles, products, finance, buildings, industrial energy management and electricity generation, and additional work streams were agreed.

The communiqué also contains a commitment to work together on global energy architecture and on tackling global energy challenges.

Moreover, it emphasises the need for sustainable energy security and diversification of energy sources and routes, the phasing out of inefficient fossil fuel subsidies and increasing market transparency.

China holds the G20 presidency this year and Germany will take over in 2017.

6

European Commission publishes latest energy, transport and emission projections in EU Reference Scenario 2016

The European Commission has released its latest outlook – the EU Reference Scenario 2016 - which projects energy, transport and greenhouse gas emissions trends in the EU up until 2050.

The Reference Scenario is a projection of where our current set of policies coupled with market trends are likely to lead. The EU has set ambitious objectives for 2020, 2030 and 2050 on climate and energy, so the Reference Scenario allows policy makers to analyse the long-term economic, energy, climate and transport outlook based on the current policy framework.

The Reference Scenario is not designed as a forecast of what is likely to happen in the future. Rather, it provides a benchmark against which new policy proposals can be assessed.

A new feature for 2016 – interactive graphs – can help you to explore the energy, transport and greenhouse gas emissions outlook for the years ahead.

7

Commission proposes new rules on gas and a heating and cooling strategy

A new study focuses on how EU countries identify, prepare and respond to security of supply risks and emergency situations.

The study – a review of current national rules and practices relating to risk preparedness in the area of security of electricity supply - shows a diverse range of plans across EU countries on electricity supply risk assessments, plans and rules. While most EU countries have plans to prevent and deal with electricity crises, the detail and scope of these plans varies considerably across the EU.

Moreover, many national plans tend to focus on uniquely on the national situation and not on the broader electricity supply risk. Cross-border cooperation in risk assessment and prevention plans is scarce, according to the study.

The results of the study also show that EU countries have different concepts of what an emergency situation is, and who should do what and when in such situations. In particular, there is significant uncertainty on what public authorities can do in emergency situations.

The goal of the study was to provide the Commission with an overview and to highlight best practices as well as any gaps and inconsistencies in national strategies. The results of the study feed in to the Commission's work on proposals for new legislation on risk preparedness as part of a broader set of initiatives to reform the electricity market in the EU.

8

Bulgaria-Romania and Romania-Ukraine sign gas agreements

Following the signature of an interconnection agreement between gas network operators in Bulgaria and Greece this June, gas network operators in Bulgaria and Romania and in Romania and Ukraine have signed similar agreements. These agreements are a crucial step towards opening the Trans-Balkan pipeline system between Greece and Ukraine to transport gas and trade in line with EU rules.

The European Commission has welcomed these two new agreements, aimed at further connecting gas markets in the region. The agreements have been signed ahead of the forthcoming Central and South Eastern Europe Gas Connectivity (CESEC) ministerial meeting on 8 and 9 September in Budapest.

The agreements will be effective from 1 October 2016.

*The Hellenic Regulation Institute is a scientific multidisciplinary forum founded by Metaxas & Associates Law Firm (**www.metaxaslaw.gr**) in an effort to host a well-founded dialogue between energy experts and people interested in the energy field.*

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