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Opening up the energy markets

June 24 2013

Introduction

Electricity Market Act

RWE enters Croatian electricity market to fight HEP's monopoly

Gas Market Act

Comment

Introduction

As part of the process of incorporating the EU Third Energy Package into Croatian law, the new Energy Act (*Official Gazette* 120/12) was passed in late 2012. The Energy Act is an umbrella law that regulates the energy market in general, while separate acts regulate the gas, oil, electricity, heat and renewables markets (for further details please see "[Preparing the energy market for EU accession](#)").

In February 2012 both the Electricity Market Act and the Gas Market Act were passed by Parliament. The Electricity Market Act (*Official Gazette* 22/13) took effect from March 2 2013 and the Gas Market Act (*Official Gazette* 28/13) from March 14 2013.

New laws on heat and renewables are still being drafted.

Electricity Market Act

The new Electricity Market Act adopts measures set out by the following EU directives:

- EU Directive 2009/72/EC concerning common rules for the internal market in electricity;
- EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources; and
- EU Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment.

The most significant measure imposed by Directive 2009/72/EC, and consequently by the new Electricity Market Act, is the unbundling of transmission systems from the generation business. The following unbundling models are provided for transmission system operators:

- the ownership unbundling model;
- the independent system operator model; and
- the independent transmission operator model.

The national electricity company, HEP dd, opted for the independent transmission operator model, meaning that HEP-OPS (the transmission system operator) will remain part of the vertically integrated undertaking HEP Group; however, it will have to secure physical, technical and financial independence from HEP dd. At present, HEP-OPS is in the certification process prescribed by Article 23 of the new Electricity Market Act. The certificate confirming that HEP-OPS complied with the unbundling requirements of independent transmission operator model is granted by the Croatian Energy Regulatory Agency (HERA) based on the European Commission's opinion and, in some circumstances, the opinion of the Agency for the Cooperation of Energy Regulators. HEP-OPS is due to be renamed HOPS (*Hrvatski operator prijenosnog sustava*) and the whole unbundling process finalised within 12 months (ie, by March 2014).

RWE enters Croatian electricity market to fight HEP's monopoly

Although the Croatian electricity market has been formally open since 2008, until now HEP Group (through its daughter companies) has managed to maintain its monopoly on the market. Although there are 10 registered electricity supply companies, HEP Opskrba doo holds more than 95% of the supply market.

This may change in the future because German electricity giant RWE has now acquired supply company Energy 2 sustav doo, and thus has entered the Croatian electricity supply market. RWE's objective is to offer to Croatian customers cheaper energy prices and quality service that will

eventually lead to it taking 10% of the market within the next three years. RWE may actually become the first serious competitor to HEP.

As Croatia will join an internal EU electricity market on July 1 2013, and will implement new electricity laws and regulations incorporating the EU Third Energy Package, the electricity market will create new opportunities for investors, as already recognised by RWE.

Gas Market Act

As in the electricity sector, the new Gas Market Act prescribes the unbundling of transmission from generation and supply activities through three models (the ownership unbundling, independent system operator and independent transmission operator models). However, unlike in the electricity sector, the gas transmission operator Plinacro doo has been separated from its previous owner, INA dd, since 2002. Plinacro doo also has to be certified by HERA, but this process should be much simpler than for HEP.

A novelty introduced by the new Gas Market Act is easier access for Croatian consumers to gas suppliers registered in EU member states. A registered EU gas supplier may participate on the Croatian gas supply market based on a licence from HERA; however, the licensing procedure is much simpler and shorter than for other undertakings.

Finally, the act introduces a new category of public service: 'guaranteed supply' performed by the 'guaranteed supplier'. The objective is to increase the security of supply by guaranteeing to each customer connected to the distribution pipeline a sufficient gas supply in circumstances where its nominated supplier ceased work. The 'guaranteed supplier' is nominated by the government. With this measure, shortages of supply caused by international gas crises (eg, the 2009 crisis caused by a dispute between Russia and Ukraine) should be avoided or at least minimised.

Comment

Developments in the electricity and gas legislation signal the further opening up of the Croatian market to potential domestic and foreign investors. Furthermore, joining the EU energy market on July 1 raises many expectations, for both the government and the private sector.

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