

SERBIA: ENERGY & NATURAL RESOURCES

The New Law on Energy *

The Serbian Parliament adopted the new Law on Energy on 28 July 2011 (the "**Law**"). The Law is a step within the process of harmonizing the Serbian energy sector with EU legal framework as it implements the second and parts of the third EU energy package.

Production of Electric Energy

Production of electric energy is no longer defined as an activity of general interest. Accordingly, government approval is no longer required for the production of electricity and the Government will no longer have a supervisory authority over the producers. The Government of Serbia, however, retains the right to adopt safeguard measures (e.g. restrict export or import, determine supply priorities, etc.) in the event of lack of supply on the Serbian market or in the presence of other extraordinary circumstances.

Unbundling of distribution and supply activities

By 1 October 2012 the activities of distribution of electricity / gas and supply of retail consumers with electricity / gas will have to be divided into separate companies.

Licenses

Issuance of the licenses for various energy activities remains within the competence of the Energy Agency of the Republic of Serbia. Certain licensed activities are now designated differently (e.g. energy trading is now labeled energy supply), while the Law has changed the scope of certain licenses. Even though licenses issued under the previous legislation remain valid until their expiry, the holders of such licenses which pertain to the activities that are now treated differently under the Law will have to submit their licenses to the Energy Agency within 90 days from the Law coming into force, in order to obtain a note on the changes pertaining to the description or, as the case may be, the scope of the licensed activity. The standard duration of a license remains 10 years, with the exception of the production of electricity, heating energy and combined production of electric and heating energy, where a license is issued for a period of 30 years. Licenses are renewable and are not transferable.

Restrictions to Third-party Access

In line with the EU Directives 2009/73/EC and 2009/72/EC, the Law regulates in detail the conditions for refusal of third party access, especially in the case of new gas or electricity infrastructure as well as in relation to take-or-pay commitments in the gas sector.

Regulated Prices

From 1 October 2010, the Energy Agency of the Republic of Serbia, as an independent regulator, will have the competence to determine the price of electricity and gas for public supply, as well as

the price of access to the transmission and distribution systems. Until then, the Government of Serbia will continue to regulate those prices.

From 1 January 2013, the regulated prices of electricity and natural gas will apply only to consumers connected to the distribution grid, while industrial consumers which are directly connected to the transmission grid will not be entitled to the regulated price. Consumer protection will be further reduced from 1 January 2014 in respect to electricity and, from 1 January 2015 in respect to natural gas, when regulated prices will apply only to households and small industrial consumers (i.e. companies with less than 50 employees, less than EUR 10 million of revenue and connection to the distribution grid of up to 1kV).

Long-term PPA's

In order to address potential competition and state-aid issues, the Law sets forth a 15-year maximum duration of a PPA for the electricity produced in production facilities designated as being of importance for the security of supply in the Energy Strategy of Serbia.

Renewables

The Law introduces the system of green certificates to be set up and managed by the Serbian transmission system operator.

In order to facilitate project financing of larger projects in the renewables sector, the Law provides for the possibility of acquiring the temporary status of a privileged producer of electricity¹ (which may last up to three years, with the possibility of a one year extension) and entering into a pre-contract on the purchase of electric energy with a public supplier. Temporary status may be obtained upon obtaining a construction permit for a relevant renewables project and posting a deposit or a bank guarantee in the amount of 2% of the investment.

The Law specifically provides for the obligation of the public supplier to enter into a power purchase agreement with the privileged energy producer. The existing feed-in tariff remains in place until the end of 2012². It still remains to be seen what policies will be put in place in respect to renewables.

¹ The status of privileged producer can be acquired for power plants using renewable resources if they fulfill certain requirements and thresholds. For instance, the maximum installed power of hydro power plants is 30 MW; for combined cycle power plants this threshold is 10MW and, in addition, their efficiency level has to be above the minimum level which is yet to be determined by the relevant ministry; for wind and solar power plants there is going to be an overall maximum threshold of installed power that may acquire the privileged status which currently exists only for wind power plants and is set at 400 MW.

² The currently applicable feed-in tariffs are as follows:

- 7.8 to 9.7 eurocents per kWh for small hydro power plants;
- 11.4 to 13.6 eurocents per kWh for biomass plants;
- 12 to 16 eurocents per kWh for biogas plants;
- 9.5 eurocents per kWh for wind farms;
- 6.7 eurocents per kWh for waste and landfill gas power plants;
- 7.5 eurocents per kWh per kWh for geothermal power plants;
- 7.6 to 10.4 eurocents for co-generation power plants;
- 8.5 to 9.2 eurocents per kWh for waste-fired power plants;

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