

A NERA Publication

Global Energy Regulation

Reporting on energy regulation around the world

Issue No: 66

November 2004

About the Editors

General and European Editor

~ Graham Shuttleworth

Regional Editors

~ Kristina Sepetys, **U.S.**

~ Greg Houston & Ann Whitfield, **Australia and
New Zealand**

~ Oscar Arnedillo, **Spain and Portugal**

~ Francesco Lo Passo, **Italy**

In This Issue

European News Pages 1 - 12

North American News Pages 13 - 14

Central & South American News Pages 15 - 15

Asia Pacific News Pages 16 - 19

EUROPEAN NEWS

Great Britain: Regulator Requires More Work On New Transmission Charges

Energy regulator Ofgem stated that National Grid Company (NGC) needs to work further on its new charging arrangements for the use of the Great Britain (GB) transmission system. Ofgem stated that neither of NGC's two options for use of system charges is consistent with the requirements of NGC's licence obligations, European law and Ofgem's statutory duties. Ofgem require NGC to conduct further work on the new charging regime before Ofgem can approve it. Ofgem intends to publish its views on NGC's charging proposals in early December.

Ofgem press release, 30/11/04



Great Britain: Regulator Announces Increases In Electricity Distribution Prices

Energy regulator Ofgem published its final proposals for the fourteen electricity distribution network operators' (DNOs) price controls, which take effect from April 2005 and last five years. Ofgem proposed average price increases across DNOs of 1.3% in the first year. Ofgem set capital expenditure allowances of £5.7 billion (US\$10.8 billion), equivalent to an average increase across all DNOs of 48% from current levels. Ofgem decided to apply a post-tax cost of capital of 4.8%, although additional returns are available under Ofgem's sliding scale mechanism if a DNO's actual cost matches its allowance. Following the first year, Ofgem proposed prices to increase in line with inflation (i.e. X=0) for all DNOs except EDF-SPN for whom Ofgem will allow prices to increase by RPI+2%.

Ofgem press release, 29/11/04

Great Britain: Regulator Consults On Next Steps In Potential Gas Network Sale

Energy regulator Ofgem is consulting on the next steps in the regulatory process for National Grid Transco's (NGT) proposed sale of four of its eight regional gas Distribution Networks (DNs). Ofgem initiated two consultations: (1) a formal consultation on the licence modifications related to the changes to Transco's price control required to facilitate separation; and (2) an informal consultation on the other substantive changes required to support NGT's proposed divestment so that customers' interest are protected.

Ofgem website, 26/11/04

Great Britain: OFT Does Not Refer ScottishPower's Acquisition To Competition Commission

The Office of Fair Trading (OFT) has concluded that ScottishPower plc's completed acquisition of the remaining 50 per cent shareholding in South Coast Power Limited (the owner and operator of a 400MW power station) has not and may not be expected to result in a substantial lessening of competition in generation. Accordingly, the merger will not be referred to the Competition Commission. In its assessment, the OFT concluded: (1) the less than 10 per cent share of supply of the merged entity was comparable or lower than the shares of its principal competitors; and (2) the addition of 200MW of capacity to ScottishPower's generating portfolio will not give rise to any significant horizontal or vertical competition concerns.

OFT website, 23/11/04

Great Britain: Regulator Publishes Quality Of Service Report

Energy regulator Ofgem published a report on the quality of service performance between April 2003 and March 2004 of the fourteen electricity distribution companies in Great Britain. Ofgem concluded that, on average, performance standards have improved over the previous year. Ofgem identified Western Power Distribution as the best overall performer in 2003/04 and as a reward will allow a 1 per cent increase in their allowed revenues during the next distribution price control review, due to start in April 2005. Ofgem also identified Scottish and Southern Energy and CE Electric as performing better than average overall. Elsewhere, performance was more mixed. Companies' quality of service performance is reflected in the targets set by Ofgem for future improvements as part of the current price control review.

Ofgem press release, 23/11/04



Great Britain: Regulator To Operate Under A Five-Year Price Control

The governing Authority of energy regulator Ofgem imposed a price control on Ofgem of RPI-3 over the next five years. The Authority expects the price control to result in savings of £5.3 million (US\$10.04 million). Costs of work undertaken by Ofgem on behalf of Government are excluded from the cost control regime, and if unexpected events occur that require action to be taken to ensure customer's interest are protected then Ofgem can put forward a case for additional expenditure.

Ofgem press release, 22/11/04

Great Britain: Regulator Says Customers Could Benefit From Gas Network Sale

Energy regulator Ofgem published a regulatory impact assessment of National Grid Transco's proposed sale of four of its eight gas Distribution Networks (DNs). Ofgem estimated that NGT's sale of four DNs will result in a net benefit to customers of £225 million (US\$426.2 million) in present value terms between 2005 and 2023. Ofgem states its estimate is conservative and has identified a range of net benefits for customers of between £500 million (US\$947 million) in a high case and £80 million (US\$151.5 million) in a low case. Ofgem's governing Authority intends to make its final decision on whether or not to approve the sale in January 2005.

Ofgem press release, 18/11/04

Great Britain: Regulator Publishes Decisions Regarding Competition In Connections

Energy regulator Ofgem published a decision document on the policies and procedures needed to enable effective competition in the provision of connections to electricity distribution networks. Ofgem has made decisions over a number of processes and agreements, including: (1) consent to connect process; (2) adoption agreements; (3) Memorandum of Understanding with Lloyds Register; (4) standards of service; (5) service level agreements for unmetered connections; and (6) "triangular" contracts for unmetered connections. Ofgem intends to publish a second decision document in early 2005 relating to the audit and inspection regime, and point-of-connection charges.

Ofgem website, 9/11/04

Great Britain: Regulator Consults On Financial Ring-Fencing Provisions

Energy regulator Ofgem is consulting on the introduction of financial ring-fencing conditions in licences for new and existing independent gas transporters (IGTs). Ofgem's initial proposals are consistent with existing arrangements for independent electricity distribution network operators and Transco's existing obligations under its Gas Transporter (GT) licence. Ofgem's initial proposals are to: (1) introduce financial ring-fencing provisions; (2) introduce an investment grade credit rating obligation for all IGTs with more than a specified number of connected customers; (3) allow for alternative arrangements to an investment grade credit rating for IGTs with fewer than the specified number of connected customers; and (4) consider granting derogations from certain conditions for existing IGTs in order to facilitate compliance with the new obligations. Ofgem has proposed a range of between 300,000 and 500,000 connected customers as the threshold above which IGTs will be subject to the ring-fencing provisions.

Ofgem website, 8/11/04



Great Britain: Government Plans To Review Renewables Obligations Scheme

The Government announced plans to review the Renewables Obligation (RO), which it introduced in April 2002 to ensure that all electricity suppliers source a specified and increasing amount of energy from renewable sources. The Government proposes to examine: (1) the effectiveness of the RO since its introduction; (2) all aspects of the working arrangements of the RO; (3) the levels of the RO beyond 2015/16; and (4) the potential impact of the EU emissions trading scheme.

DTI press release, 4/11/04

Austria: Ministerial Assurance Of Gas Quality

In response to a parliamentary question, Austrian Economic Affairs Minister Martin Bartenstein assured legislators and the public that gas quality in Austria would not be compromised. Behind this exchange were German press reports drawing attention to the addition of a liquid petroleum gas/air mix or simply air to distributed gas in Germany and suggesting that customers' bills might not reflect the lower heating value of the 'conditioned' gas. Bartenstein said that the 'conditioning' of gas undertaken in Germany was not necessary in Austria because of the consistent quality of imported gas. He also pointed out that in any case, distribution grid operators were obligated to supply only gas of specified quality.

International Gas Report by McGraw-Hill Inc, 5/11/04

Belgium: Gas: Natural Gas Plan Forecasts High Investment Requirements

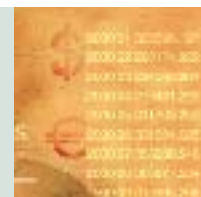
The CREG released its proposal for an Indicative Natural Gas Supply Plan 2004-2014. It forecast that Belgium's natural gas demand will rise from 17 billion cubic meters to 23 billion cubic meters by 2014. This growth will require investments and a more efficient management of the system. The CREG stressed the importance of the Zeebrugge junction but said more initiatives had to be taken to import gas from the east of the country. The CREG also was concerned with the closure of nuclear stations by 2015 and their replacement by gas-fired turbines, which would require investment to transport an additional 5,000 million cubic meters of gas, of which 80% would be produced outside the EU by 2030.

CREG, 10/11/04

Bulgaria: Tax Shock in Bulgaria Energy Privatisation

The sale of Bulgaria's seven power distributors has been delayed following a tax audit of two of the power distributors showed arrears of over US\$30 million. The arrears relate to corporate tax and value added tax arrears for two power distributors in Sofia and the Sofia region dating from the period 2000-2002. The Czech power utility CEZ, which was chosen to buy the two utilities, is not faced with paying the arrears. However, differences between the methods used by tax authorities and the electricity distribution companies to acknowledge operating expenses are expected to cause delay and possible cancellation of the deal.

Capital Weekly, 8/9/04



EU: Regulation On Conditions For Access To The Natural Gas Transmission Networks

Following the legislation of 26 June 2003 concerning common rules for the internal market in natural gas, the European Parliament adopted legislation on technical rules regarding third party access. The focus is on setting harmonised principles for tariffs (or the methodologies underlying their calculation), for access to the network, for establishment of third party access services, for capacity allocation and congestion management, for the determination of transparency requirements, balancing rules and imbalance charges and for facilitating capacity trading.

EU website, 12/11/04

France: EdF And GdF Change Status

Since 19 November, EdF and GdF have been limited liability companies. However, under the law of 9 August 2004, the share of the State will remain above 70% in each company. This new status will enable GdF and EdF to access new financial resources. The end of their special status means that EdF and GdF are now able to sell products other than electricity and natural gas respectively, along with associated services, both in France and abroad. EdF and GdF will maintain a common entity for distribution, "EdF-Gaz de France Distribution", responsible for the management of electricity and gas distribution networks (construction, development and maintenance, technical operation, metering and daily relations with non-eligible customers).

EdF and GdF, 19/11/04

France: Low Increase For End User Tariffs

The government approved an average increase of cEuro 0.15/kWh (+ 3.8%) for gas tariffs to domestic customers, from 15 November. This is the first tariff raise since the cEuro 0.28/kWh reduction in November 2003. The energy regulator CRE criticized the increase saying the government had based the cEuro 0.15/kWh figure on social considerations only. According to the CRE, the application of the tariff formula would have resulted in an increase of cEuro 0.30/kWh. The CRE thought there were financial risks for operators, in particular GdF, if economic costs were not recovered through tariffs. The low increase also hinders competition as it makes retail competition less attractive, thereby limiting the entry of new suppliers into the French market.

French Government and CRE, 9/11/2004 and 12/11/04

Germany: Consumers' Association Announces Campaign Against Gas Price Rises

Domestic customers have experienced gas price rises since October between 8% and 10% in most German towns. This trend is going to continue. Germany's greatest gas supplier Ruhrgas plans to raise its prices once more in January 2005. A third rise threatens in spring. In reaction to this development, the Association of German Energy Consumers announced a campaign against higher gas prices. The Bundeskartellamt is already investigating whether recent gas price rises were justified.

Frankfurter Rundschau, 27/11/04; General-Anzeiger, 19/11/04



Germany: New Energiewirtschaftsgesetz (Energy Law): Hearing In Bundestag Committee

The new Energiewirtschaftsgesetz (Energy Law) is intended to encourage greater competition in gas and electricity markets. However, many of its provisions remain controversial. In a position paper, the Bundeskartellamt in particular welcomed the clearer rules for the electricity industry under the law, but expressed reservations about the envisaged penalties for offences against the law. A first hearing of the new law in the Bundestag Committee for the Economy and Labour was scheduled on Monday 29 November, but further parliamentary debate is likely.

Sueddeutsche Zeitung, 27/11/04

Germany: German Stadtwerke In Talks With Trianel Over 800MW Gas Power Station Project

Around 15 municipal utilities in Germany expressed an interest in participating in Trianel's 800MW power station project at Dupont's Hamm-Uentrop site. Trianel expects to have allocated project shares corresponding to full installed capacity by the end of this year, removing the need for strategic investment from a gas supplier.

Platts Power in Europe, 22/11/04

Germany: RWE Pessimistic On Impact Of New Regulatory Framework

German utility major REW expects the creation of a new regulatory framework under the revised energy bill published in late October to result in a deterioration of its German grid business earnings. The company is particularly concerned about the federal cabinet's decision to subject all grid fee increases to prior regulatory approval ("ex-ante regulation").

PH Energy Analysts Ltd, 9/11/04

Ireland: All Ireland Energy Market

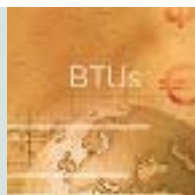
The Irish Minister for Communications, Marine and Natural Resources and his Northern Ireland counterpart, Minister for Enterprise, Trade and Investment met and reaffirmed their Governments' commitment to an all-island energy market. Following the meeting, the two Ministers jointly launched the All-Island Energy Market Development Framework which provides the strategic blueprint for creation of an all-island energy market. The Framework was produced in consultation with the Regulatory Authorities, industry and other stakeholders. It outlines the policy context and benefits of an all-island energy market and identifies the short- to medium-term priorities.

CER, 24/11/04

Ireland: Gas Safety Framework

The Department for Communications, Marine and Natural Resources prepared a consultation paper on the drafting of a Gas Safety Bill covering the regulatory framework for natural gas safety.

CER, 19/11/04



Ireland: Results Of The Fifth Virtual Independent Power Producer Auction

The Commission announced the results of the fifth Virtual Independent Power Producer Auction (VIPP5). The successful bidders, which purchased a total of 385 MW in the auction, were: Bord Gáis Energy Supply; CH Power Limited; Direct Independent Energy Limited; Energia (Viridian Energy Supply Limited's trading company); and ESB Independent Energy Limited.

CER, 18/11/04

Ireland: Gas Capacity Statement

The Commission for Energy Regulation (CER) published its second annual Gas Capacity Statement. This document provides a forecast of capacity, flows and customer demand on Ireland's natural gas system over the coming seven-year period. This year's report shows the system to be robust enough to cope with almost all demand scenarios. However, significant demand growth, coupled with delays to, or difficulties with, indigenous supply sources, may require reinforcement of gas infrastructure in Scotland before the end of the seven-year period. Given lead times of such projects, the Commission has recommended that the Transporter review the most cost-efficient and timely form of network reinforcement and test the performance of onshore compressors in Scotland.

CER, 12/11/04

Ireland: Top Up Prices In 2005

The Commission for Energy Regulation (CER) published decision papers in relation to the top-up and secondary top-up prices to apply for the independent sector from 1 January 2005 to 31st December 2005.

CER, 5/11/04

Italy: Extension Of Capacity Payments To Bilateral Contracts

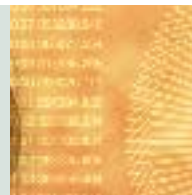
In order to comply with the law, the Autorità per l'energia elettrica e il gas (Aeeg, the Italian regulator) has decided that plants generating on critical days to satisfy bilateral contracts may receive the capacity payment for the share of capacity covering such contracts.

Staffetta Quotidiana, 30/11/04

Italy: Auction For CFDs To Take Place In December

The Acquirente Unico (AU, the Single Buyer) published on its web site a notification of public auction for CfD contracts for 2005 with an option for 2006 and 2007. The auction will take place at the beginning of December 2004. Contracts are intended to hedge the AU against price volatility; total demand from the AU is 18,175 MW. The auction is a descending clock auction and has two stages: (i) initial offers (participants bid on quantity at an initial price set by the AU); and (ii) improving offers. Companies wishing to take part in the auction must participate in a training session on 1 December 2004.

Acquirente Unico's web site, 25/11/04



Italy: New Proposals From Regulator To Enhance Competition In The Power Exchange

The Italian energy regulator, AeeG, issued a consultation document setting out the actions it would take in 2005 to enhance competition in the power exchange and to prevent prices rising due to abuse of dominant position. The regulator would continuously monitor several indicators to detect whether the electricity price in one market zone is significantly different from the minimum price in all other market zones and whether producers are offering and selling quantities of electricity above a given minimum quantity (to discover when capacity is withdrawn from the market). In case of abuse, the price of electricity sold by the producer would equal its offer price for each plant (and not the system marginal price). Moreover, for a given period, the producer would be obliged to sell electricity on the power exchange at a constant price (to be decided by the producer).

AEEG's web site, 24/11/04

Italy: Provisions For The Hedging Against Dispatching Cost Risk And For Active Demand On The Power Exchange

The Italian energy regulator, AeeG, has proposed new instruments for hedging against volatility of dispatching costs and has issued a consultation document to update dispatching rules in order to take account of active demand on the power exchange from the beginning of 2005. GRTN would sell hedging instruments by means of an auction, which would allow system users to hedge ageing rising costs for use of the grid. The AeeG's proposal to update the dispatching rules aims at making the system more flexible (For instance, operators would be allowed to sell on the power exchange the excess electricity they bought by means of bilateral contracts.) and at making the System Operator and the Market Operator draw up a transitory system to control costs.

AEEG's web site, 20/11/04

Netherlands: DTe Begins Investigation Into Exchange Of Consumption Data

Dutch energy regulator, DTe has begun to investigate the provision of consumption data to energy suppliers. On the basis of this consumption data, the suppliers settle yearly accounts. The investigation involves the network operators, the metering businesses and the energy suppliers. The investigation was prompted by complaints from consumers over late settlement of bills.

DTe website, 10/11/04

Netherlands: Consultation Over Regulation On Avoided Network Losses ("RUN")

In May 2004, DTe published a "Viewpoints Document on Decentralised Generation". In this document, DTe concluded that it would be desirable to pass savings in network losses back to the decentralised generators who save them. DTe is at present occupied with working up a Regulation on Avoided Network Losses ("Regeling Uitgespaarde Netverliezen" or RUN). DTe has issued a consultation document on the RUN and held a public seminar on it on 25 November. The RUN will become part of the tariff code as of 1 January 2006

DTE website, 9/11/04



Portugal: OMI's Head Expresses Doubts About The Creation Of Mibel

Antonio Almeida, Head of the Portuguese section of the Iberian electricity market (Mibel), said that the Mibel will not be fully effective for three or four years. Mr Almeida is of the opinion that the interconnection limits between Spain and Portugal do not allow for competition, so that price reductions and customer switching would not be expected to occur in the initial stages of the market integration. He also commented that the lack of political commitment to the reinforcement of the interconnections is currently the most important obstacle to the proper functioning of the market.

Jornal Publico, 25/11/04

Portugal: Competition Policy Authorities To Investigate LPG Prices

The Portuguese competition policy authority, Autoridade da Concorrência (AC), has opened an investigation into LPG prices (propane gas and butane gas bottles.) The AC intends to determine whether market operators have indulged in anticompetitive behaviour - more specifically, abuse of dominant position or price collusion. The AC has requested Galp and BP for information on pricing decisions. Prices have increased around 15% since the beginning of the year, which is not in line with the increase in raw material costs. Other fuel prices are also subject to price monitoring.

Agencia Financiera, 23/11/04

Portugal: Government To Go Ahead With Gas Liberalisation

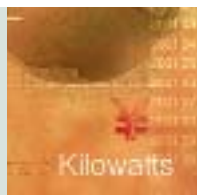
The Economic Activities Minister, Mr Alvaro Barreto, has declared that the proposal made to the European Commission (EC) to bring forward the full liberalisation date to 2006 for industrial customers and 2008 for domestic customers will go ahead. This proposal was made in the context of the negotiations between the Portuguese government and the EC over the restructuring of the Portuguese energy sector.

Jornal de Negocios, 19/11/04

Portugal: EC To Block The Portuguese Restructuring Process

The European Commission (EC) seems to be reluctant to approve the deal that would combine Portugal's leading electricity and gas groups, formed by Energias de Portugal (EDP) and Gas de Portugal (GDP). The EC decided that the concessions offered by the companies were insufficient to override competition concerns. A final decision will be taken by the EC in December. Brussels is thought to have based its negative view on concerns that the takeover would strengthen the dominant position of EDP and GDP in their respective markets.

Financial Times, 19/11/04, 18/11/04



Portugal: Competition Policy Authority Recommends Restricting Galp's Dominant Position

The Portuguese competition policy authority, Autoridade da Concorrência (AC), has recommended that the Government implement policies to restrict Galp's market power in the retailing of oil products. Galp currently enjoys a monopoly in refining oil products in Portugal. In addition, Galp also has a dominant position in both the use of the port facilities at Sines and Matosinhos, and in storage facilities for oil products. In order to avoid any abuse, the AC has suggested that port facilities should be opened to competition through public bidding, and that the storage facilities should be subject to an open access regime for any interested agent.

Diario Económico, 18/11/04

Portugal: Portuguese Government Approves Legislation On Cancellation Of PPAs

The Portuguese Council of Ministers passed the Decree-Law that allows electricity generators to be compensated for cancellation of the long-term power purchase agreements (PPAs) between the transmission operator (REN) and EDP, Turbogás and Tejo Energia. These PPAs are being eliminated to avoid difficulties in the transition from a regulated market to a liberalised one. The European Commission has approved the plan. The total expected amount of compensation could be around EUR 3,000 million (US\$3,900 million).

Diario Económico, 11/11/04

Portugal: Portugal To Invest EUR 6,000 Million In Renewables

The Head of the Portuguese Renewables Association (APREN), Mr António Sá da Costa, has stated that Portugal has to invest EUR 6,000 million (US\$7,800 million) by 2010 in order to reach the 39% target of electricity production from renewables. This is the target set in the European Directive on the promotion of electricity produced from renewable energy sources, passed into national law by the Portuguese government in April 2003.

Agencia Financiera, 9/11/04

Romania: Energy Sector Losses To Drop By 1.7% Of GDP In 2004

Financial losses within Romania's power system are expected to fall by US\$1,170 million, equivalent to 1.7% of GDP. State-owned energy company Termoelectrica, which produces 60% of the country's energy, will raise thermal energy prices to US\$26.1/gigacalorie and electricity prices to US\$53.5/GWh. This will put thermal prices US\$0.01 below the level of production costs, and electricity prices US\$2.1 above production costs. Hidroelectrica, which accounts for 30% of Romania's electricity output, will double its tariffs. After the increase in energy prices, Romania expects to see a further fall in losses in 2005 amounting to 0.9% of GDP.

Romanian News Digest, 15/10/04

Russia: Government Postpones Privatisation Of Generation Companies

The Minister of Fuel and Energy Viktor Khristenko announced that the Government will not discuss the privatisation of the Wholesale Generation Companies (OGK) at the meeting in December. The Government meeting for energy reforms was initially scheduled for 2 December and then postponed to 16 December. According to Mr Khristenko, the privatisation of OGKs will be discussed only after all of the OGKs are established and operational, which may take another year and a half.

Kommersant 30, 28/11/04, Dow Jones News Service 24/11/04



Russia: Federal Antimonopoly Service (FAS) Criticizes Gazprom Over Pipeline Access

FAS accused Gazprom of discrimination in access to the pipelines and issued an order for Gazprom to eliminate the violations. According to a FAS official, Gazprom created discriminatory conditions for independent producers. Gazprom denies the charge and is ready to prove in the court that it did not violate antimonopoly laws.

Interfax, 3/11/04

Spain: Final Allocation Of Emission Rights

The Spanish Government published the allocation of CO2 emission rights to each installation included in Directive 2003/87/CE. In the electricity generation sector, the final allocation is based on a scenario with a high level of CCGT generation and a reduction in coal-based generation. More specifically, in 2005 coal plants will receive 62% of the total rights devoted to combustion plants, and 50% in 2007, while in 2005 CCGT plants will receive 19% of the total sectoral rights, and 32% in 2007.

Cinco Días, 27/11/04

Spain: Government May Maintain Industrial Tariffs After 2007

The General Energy Secretary of the Spanish Industry Ministry has announced the intention of the government to modify the legislation that abolishes high voltage full-service tariffs in 2007. The government will maintain industrial full-service tariffs until it considers that both retailers and customers in the electricity market enjoy equal bargaining power.

Cinco Días, 15/11/04

Spain: Courts Reject Complaint Against Iberdrola's Green Electricity Offers

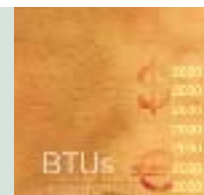
Spanish Courts have rejected the complaint lodged some months ago by the Organización de Consumidores y Usuarios (OCU), a private consumers' association, against the green electricity campaign of Iberdrola. The OCU claimed that the green electricity marketing campaign of Iberdrola was misleading. The Courts have based their decision on the reports published by the Spanish Competition Authority (Servicio de Defensa de la Competencia, SDC) and the public consumers' organisation (Instituto Nacional de Consumo, INC), which found no evidence that the marketing campaign of Iberdrola infringed competition law or was a case of misleading publicity. OCU will appeal against the decision of the Tribunal.

Expansión, 12/11/04

Spain: CNE Proposes To Fine Iberdrola Marketing Campaign

The Spanish Energy Regulator (CNE) has recommended that the Industry Ministry fine Iberdrola Distribución EUR 60,000 (US\$78,000). Iberdrola Distribución, the division of Iberdrola in charge of the billing and supply of electricity to captive customers that have not yet exercised their right to choose, was including marketing information from Iberdrola's competitive retailer in its bills for regulated service. The CNE found that this practice infringes the principle of legal unbundling of regulated and non-regulated activities imposed by the Spanish Electricity Law. The CNE is investigating similar practices at other Spanish utilities.

Cinco Días, 6/11/04



Switzerland: Companies To Specify Fuel And Spread Cost of Renewable Energies

Amendments to the federal energy ordinances adopted by the Swiss government require power companies to identify the source of their electricity on all invoices from 2006 and to distribute the additional cost of renewable energy more evenly among consumers. The new ordinance will also give official authenticity to certificates of origin granted to renewables producers in Switzerland, to help market Swiss green hydropower on the international market.

Platts Commodity News, 10/11/04

Switzerland: Bern Retains Nuclear Option

In the Swiss Canton of Bern, the parliamentary majority has decided to keep the option of nuclear energy in its energy strategy. It is however not clear yet whether the 32-year old nuclear energy plant at Muehleberg, within the Canton, will be replaced by a gas plant or a new nuclear energy plant.

Dow Jones Newswire, 18/11/04

Turkey: Turkish Court Scraps Privatisation Of Key Oil Refiner

Turkey's top administrative court upheld on Friday a decision to cancel the sale of TUPRAS, the country's main oil refiner, Anatolia news agency reported. In June this year, a lower court had ruled in favour of a trade union that had taken legal action to scrap the sale of 65.76 percent of TUPRAS to a joint venture between the German-based chemicals company Efremov-Kautschuk, an affiliate of the Russian oil producer Tatneft, and Turkey's Zorlu Holding company. The lower court ruled that the tender was against the public interest and in breach of competition laws because it did not include an auction. The Council of State, Turkey's top administrative court, confirmed the ruling today but said it would release its reasoning later.

AFX UK Focus, 26/11/04

Turkey: Latest Developments In Privatisation

The privatisation of energy production is progressing and is expected to be included in the privatisation agenda by June 2006. It is also reported that seven distribution regions have now been incorporated with preparations for a further 13 regions underway. According to the privatisation plan, three distribution regions will be privatised by the end of 2004 and by the end of 2006 privatisation of all electricity distribution companies and regions will be completed.

Mondaq Business Briefing, 11/11/04

Turkey: Turkey Says Private Firms To Take 64% Of Gas Market; Turkey's Botas Invites Bids To Sell Gas Contracts

Turkey plans to transfer 64% of its natural gas market to the private sector through tenders for purchase contracts. The state natural gas pipeline company Botas has invited tenders for six gas purchase contracts. These contracts illustrate a liberalisation drive in the sector following the natural gas law passed in 2001. This law was aimed at liberalising the state-dominated sector and specifically reducing the market share of Botas to 20 percent by 2009. The contracts will transfer the purchase of 16,000 million cubic metres per year from Russia and Iran as well as liquefied natural gas shipments from Algeria and Nigeria.

Reuters News, 5/11/04; Reuters news 4/11/04



NORTH AMERICAN NEWS

US: Steep Rate Increase By Connecticut's Top Power Company Could Boost Competition

Electric industry competition could get a jumpstart in Connecticut if the state's largest electric utility gets the 17% rate increase it requested. Such an increase in Connecticut Light & Power Company (CL&P) bills—nearly US\$11 a month for the average customer—could help other power companies compete by making it easier for them to offer lower prices. CL&P rates are scheduled to rise again in April, when the last of two consumer credits expires. As a result, the total increase in customer rates will approach 30%. While residential electricity customers are currently limited in their choices, businesses may choose from among nearly a half-dozen suppliers. Connecticut's standard offer—the price customers pay if they buy power through their utility's state-regulated standard offer instead of a private power company—has been so low competitors did not try to enter the market.

New Haven Register, 29/11/04

US: Ohio FirstEnergy Power Auction To Proceed

An Ohio auction for the right to supply utility FirstEnergy (FE) with power for three years has drawn sufficient interest to move forward, according to NERA Economic Consulting, the independent auction manager. Sufficient indicative bids have been received for the auction process to go forward. Some in the market have considered the auction unlikely to succeed, though some suppliers and the state's top utility regulator have expressed some optimism. The closely watched auction is seen as an important test of whether the market can supply power more cheaply than an incumbent utility, and is an opportunity for competing suppliers to sell substantial amounts of long-term power. Under the auction rules, there must be enough bids to cover all the load on offer for three years, with no one company serving more than 65 percent of the load.

Dow Jones & Company, Inc., 19/11/04

US: Oklahoma Electric Co-op Unplugs State Regulatory Control

Oklahoma Electric Cooperative is the latest electric utility to withdraw from Oklahoma Corporation Commission regulatory control, taking advantage of a recent state law that allows even the largest cooperatives to govern themselves. The move will save the utility money and make the decision-making process less bureaucratic. Despite the potential savings of time and money, the commission has said cooperative members risk losing valuable protection when they opt out of the agency's oversight. Most of the state's cooperatives withdrew from the commission after a 1993 law allowed the rate payers of electric cooperatives with fewer than 17,000 meters to be removed from the commission's regulatory authority. The Legislature amended the law in 2004 and allowed even the largest co-ops to cut ties with the commission.

The Daily Oklahoman, 11/11/04



US: Generators Encouraged By CPUC's Latest Move; Skeptical Of Utilities

Labeling it an “important step” and an indication regulators kept their promise, California’s merchant generators are encouraged by the California Public Utilities Commission’s decision to move to mid-2006 the time when major private sector utilities will be required to have increased reserve margins up to the 15-17 percent level. The move could result in more power contracts allowing currently stalled new generation plants to be built in the state. There are still some concerns about the transparency and leaning of the three major investor-owned utilities in their individual long-term procurement efforts. Credit requirements and the secrecy surrounding exactly how much power the utilities are likely to contract for are concerns for the generators.

NGI's Power Market Today, 2/11/04

US: FERC Tells Utilities To Submit More Market Power Data

The Federal Energy Regulatory Commission has told several utilities that the filings they’ve submitted in order to sell electricity at market prices are “deficient.” In the filings, utilities must show they don’t have market power, or too much sway over regional power markets. To do so, the companies must pass two market power tests and present the analysis to the commission. The filings have been closely watched because, if a company doesn’t pass either one of the tests, FERC could launch a formal investigation and ultimately find that the company cannot continue to charge market prices. If that happens, companies would have to charge rates for power based on costs, which can be less profitable. Several companies have already taken the tests and filed the results with FERC. Southern Company, American Electric Power Company and Entergy Incorporated failed at least one of the tests. The FERC has directed the three companies, as well as about a dozen others, to update their filings with more data and include “appropriate support and work papers.”

Dow Jones & Company, Inc., 1/11/04

Canada: Ontario Looking To Get More Power Out of Rivers, Puts Cap On Project Size

The Ontario government is hoping to squeeze another 5,000 megawatts of power out of the province’s rivers, without building any big new dams. Natural Resources Minister David Ramsay said that there’s a lot of potential electricity to be tapped by using new technology in Ontario’s fast-moving rivers. However, the government insists it isn’t interested in any of the big James Bay-style hydro electric projects that flood huge areas of land. There will be a cap of 25 megawatts per site. The projects on northern rivers could be used to supply power to native communities, ending their reliance on diesel generators and helping them attract new industries.

The Associated Press, 11/11/04

Mexico: Blackout For Lower Electricity Rates

Companies, municipalities, unions, the church, the government and more than 80% of the population created a general “blackout” for an hour yesterday to protest against high electricity tariffs in Mérida, Yucatán.

Reforma 30/11/04



CENTRAL AND SOUTH AMERICAN NEWS

Argentina: President Kirchner Signs The Bill Creating The State Oil Company ENARSA

Argentinean President Kirchner has signed the bill creating a new state oil company—known as Enarsa. The Argentinean government and provinces will hold 53% and 12% stakes in the company respectively, whereas the remaining 35% will be traded on the Buenos Aires Stock Exchange. Enarsa's mission is to undertake investments in the energy sector that private investors are reluctant to carry out and to sign agreements with other state-run companies in Argentina and abroad. For example, potential projects include a partnership with the Brazilian Petrobras and Venezuelan PDVSA to explore some 50 offshore fields unexplored so far and another partnership with the Bolivian YPF in the natural gas sector. The government started considering the creation of Enarsa in April, aiming at reducing concentration in the local oil and gas markets, so far controlled by the Spanish-Argentine group Repsol YPF and the Brazilian Petrobras.

Business News America, 18/11/04

Bolivia: New Hydrocarbons Bill Approved By Lower House Of The Bolivian Congress

The Lower House of the Bolivian Congress has approved the hydrocarbons bill submitted in September 2004. The bill contains a clause by which the existing gas and oil contracts signed with foreign private companies since 1997 must be renegotiated within 180 days of the bill being approved, a provision heavily criticised by private investors. The Senate will now examine the bill. If approved by the Senate, the President Carlos Mesa may then decide to sign the bill and convert it into law, to veto it or to send it back to the Congress with amendments.

Business News America, 18/11/04

Brazil: Fear Of Low Prices At The Forthcoming Power Auctions

Private investors have expressed some concerns about the outcome of the forthcoming power auctions in Brazil. Particularly, private generators are concerned that federally owned generating companies, such as Chesf, Furnas and Eletronorte, might use their fully depreciated and cheap hydro plants to dump electricity, lower prices and help the government to meet its inflation targets. However, Mauricio Tolmasquim, the mines and energy ministry's executive secretary, has reportedly said that the government is adopting appropriate measures to prevent state-controlled generators from dumping electricity prices. The forthcoming power auction, which is scheduled for 7 December, represents the first test of the new electricity regulatory framework in Brazil.

Business News Americas, 26/11/04

Brazil: New Rules For The Gas Sector To Be Released In 2005

The Brazilian mines and energy ministry has reportedly announced that details of a bill regulating the natural gas sector in Brazil—initially expected to be published in November 2004—will be unveiled in 2005. The bill will include the creation of a secondary natural gas market, which allows gas-fired power plants to sell the gas they are not using for generating electricity. The gas bill will also contain rules and guidelines for the transport and sale of gas and will determine the role of the players in the market, especially of the federal company Petrobras. At the moment, Petrobras controls the largest gas reserves in Brazil and the country's 4,000km gas pipeline transport network.

Business News Americas, 16/11/04



ASIA-PACIFIC NEWS

Australia: Regulator Reduces Power Prices

Power prices in residential South Australia will fall by up to 7.5% from July 2005, after draft decisions by the state regulator, the Essential Services Commission of South Australia. The Commission has released two draft reports on electricity prices in the state. One report relates to a price path for retailer AGL South Australia's standing contract customers for the three years from January 2005. The other report relates to distribution company ETSA Utilities' charges for all customers for July 2005 to June 2010. The Commission has decided on significantly lower standing contract and distribution prices than those sought by the companies concerned. Electricity prices will reduce relative to the consumer price index. For AGL's standing contract customers, prices will increase by 1.2% from 1 January 2005. The AGL price determination is to be finalized in mid-December. The ETSA Utilities draft price determination will result in a price reduction for the average residential customer of about 6% from July 2005. The Commission has reduced the allowed rate of return on distribution assets from 8.26% to 6.81%. The determination provides for rises in capital and operating expenditure for distribution over the five-year period.

www.saiir.sa.gov.au, 30/11/04; Asia Pulse, 30/11/04

Australia: Structural Changes For State-Owned Electricity Firms

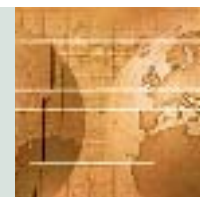
The government of the state of New South Wales is proposing a new structure for state-owned electricity businesses, and has rejected an earlier Risk Management Proposal. The Risk Management Proposal involved "trader contracts", which allowed a private sector trader to manage the trading of each generator's capacity in the National Electricity Market. The government has now dropped this proposal because of implementation difficulties and concerns over market concentration. In its Energy Directions Green Paper, the government has raised the possibility of vertical integration between state-owned generation and retailing. Distribution would be divested to two separate companies, one urban, one rural. The paper also proposes greater private sector involvement in state-owned retail businesses, including long-term risk-sharing contracts.

www.deus.nsw.gov.au, 6/12/04; www.accc.gov.au, 11/11/04

Australia: Regulator Rejects Gas Tariff Rise

The Australian Competition and Consumer Commission proposes to reject a change to a gas transportation tariff because of adverse impact on customers. The tariff relates to a transmission system in the state of Victoria, owned and operated by GasNet Australia. In the same draft decision the Commission proposed to approve three revisions to GasNet's access arrangement. The revisions would smooth GasNet's tariff path, adjust its demand forecasts to reflect warmer weather, and revise the calculation of the 2005 tariffs.

www.accc.gov.au, 11/11/04



Australia: New Consumer Protection Law

The government of the state of Victoria has introduced new consumer protection legislation for the energy sector. Under the new laws, late-payment fees will be outlawed and early exit penalties for changing energy retailers will be strictly controlled. Gas and electricity companies that illegally disconnect households will have to pay compensation. The possible introduction of pre-payment meters has been referred to an inquiry. The meters will only be introduced if the inquiry reveals clear benefits for consumers. All major retailers will have to publish market prices on their websites.

Herald Sun, 5/11/04

China: Higher Home Tariffs Proposed

As part of an overhaul of China's power price mechanism, the State Electricity Regulatory Commission will propose raising residential tariffs. The change in relative tariffs is designed to force residential users to bear a larger share of the infrastructure investment required to satisfy their demand, as well as to bring the entire system more in line with international practice. The Asian Development Bank assisted in the drafting of the proposal that will also recommend "time-of-day" tariffs, which currently apply, to industrial and commercial users in some regions be extended nationwide.

South China Morning Post, 11/11/04

China: China To Soon Permit Floating Power Prices To Track Coal Fluctuations

In a move to ease tensions between coal-fired power companies and coal suppliers, the Chinese government will issue guidelines on how to float electricity prices based on fluctuations in the coal price. Despite surging demand over the summer, power utilities have failed to benefit due to price caps on power set by the government. Conversely the coal industry has a market orientated pricing structure and has thereby benefited from increased demand. AFX Asia report that the guidelines, whilst providing relief to power firms, will still require them to absorb one-third of any cost increases arising from coal prices.

AFX—Asia, 7/11/04

India: The UP Reforms

The Indian state of Uttar Pradesh will issue a tender for the privatization of its power distribution and supply system. The advancement of the privatization comes amid threats of industrial action from power sector employees who are opposed to the sale of power sector assets. Industrial action will start with a one-hour boycott in December, organised by an umbrella organization of power employees opposed to privatisation. Indian power utility Reliance Energy Ltd. approved the bidding process for the privatisation of five power distribution companies on the 1 December. The five distribution companies cater to about 8.5 million consumers with a peak demand of about 6,500 megawatts.

Reuters News, 1/12/04; Platts Power in Asia, 11/11/04



India: CCEA Meet To Discuss Fuel Price Hike, Indian Govt Likely To Raise Gasoline, Diesel Prices

The effect of holding retail oil product prices constant after increases in global oil prices could be a cost to the oil industry of US\$4,440 million this financial year. In order to improve shrinking margins the petroleum minister is expected to suggest a cut in duty. In addition the issue of subsidies on LPG and kerosene is also likely to be discussed at the CCEA. A further option is an increase in retail oil prices. The Press Trust of India reported on Thursday that they expect the retail price of gasoline to rise 3 cents a litre.

Dow Jones International News, 4/11/04; The Economic Times, 3/11/04

Indonesia: Indonesia Pays State Energy Firm Pertamina US\$1.4bn In Subsidies

The Indonesian government has said that it will make subsidies equalling US\$1,400 million to the state energy firm Pertamina. The subsidies will be applied to the end of 2005 and will ensure domestic fuel supplies remain sufficient. The subsidy comes in spite of advice from the US that Indonesia should roll back subsidies, which are a drain on Indonesia's economy. High fuel prices have previously caused unrest in Indonesia adding to opposition to removing the subsidy.

Agence France Presse, 5/11/04

Japan: Level Of Competition Key To Deciding When To Cut Power Rates

Of the ten Japanese power providers, eight plan to lower rates to pre-empt increased competition by new entrants. Previously the ten power companies had increased rates in tandem, but they are now taking the pricing behaviour of smaller rivals into consideration and introducing new rates separately. Tokyo Electric Power Co. reduced rates by an average of 5.21% in October following the loss of as many as 400 customers to new entrants.

Nikkei Report, 11/11/04

Japan: Rationale For A Carbon Tax

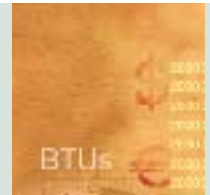
The Japanese Environment Ministry is calling for the introduction of a "carbon tax" in light of the Kyoto Protocol, which requires Japan to cut emissions of carbon dioxide and other greenhouse gases by 6%. The tax would be imposed on all types of fossil fuel, such as petroleum, coal and natural gas; it would also be levied on electricity. The Japan Business Federation, and the Ministry of Economy, Trade and Industry, oppose the tax on the grounds that it would slow economic growth.

The Japan Times, 11/11/04

Philippines: Transco Sale Moves Forward

The tender for the sale of the National Transmission Corporation looks set to proceed following the issue of a Department of Justice opinion. Transco will be privatized on a 25-year lease. Energy Secretary Vincent Perez said that the use of a lease will allow the Power Sector Assets and Liabilities Management Corporation (PSALM) to decide whether to include some or all of the firm's various responsibilities for improving, expanding, operating and maintaining the high voltage transmission grid in the scope of the tender. This approach results from the justice department's interpretation of Section 21 of the 2001 Electric Power Industry Reform Act. This interpretation means a concessionaire could only be responsible for any activities not limited to public utilities.

Platts Power in Asia, 25/11/04



New Zealand: Gas Price Controls In The Pipeline

The national energy regulator, the Commerce Commission, has recommended price controls be introduced for two gas distributors: Powerco and Vector. The Commission also recommended that a lesser degree of regulatory control be imposed on two gas distributors, NGC Distribution and Wanganui Gas, and on two gas transmission companies, NGC Transmission and Maui Development. For the latter companies, the Commission recommended a regime analogous to the targeted control regime applying to the electricity lines industry in New Zealand. The Minister of Energy is to make a final decision by mid-2005. If he decides to regulate, it will be the first gas industry price control since 1992.

www.med.govt.nz, 2/12/04; www.nzherald.co.nz, 2/12/04; www.stuff.co.nz, 30/11/04

Thailand: Three Models Offered To Break EGAT Impasse

The management of Electricity Generating Authority of Thailand (EGAT), in co-operation with Boston Consulting have published a study proposing three models to resolve the deadlock over EGAT's planned privatization. The models include dropping the privatization plan, transforming EGAT into a public company and privatizing its holdings, or setting up subsidiaries to run EGAT's different units. Supporters of privatisation note that EGAT needs over US\$1,000 million to meet its construction plans to 2008.

Bangkok Post, 28/10/04

Our Practice

NERA is at the forefront of the continuing transformation of the energy industries worldwide. We have pioneered in developing approaches for introducing competition in segments such as power generation (where competition is workable) and for improving the regulation of sectors (where it is not). We work with companies and governmental bodies worldwide to design competitive power markets and to develop tariffs and rules of access for regulated transmission and distribution systems for electricity and gas and transport of oil and oil products. With industry restructuring, we also help companies develop strategies for exploring new opportunities and minimizing new risks, including issues related to climate change and other environmental initiatives.

We help our clients to develop new regulatory strategies and, when needed, support our clients with analysis and testimony before regulatory commissions, antitrust and competition policy agencies, and domestic and international courts. Our economists help clients to decide which lines of business to pursue; to divest assets no longer consistent with their strategy; to identify and evaluate opportunities for mergers, acquisitions and investment; and to develop bidding, trading, contracting, and marketing strategies and organizations. Our work also includes designing and conducting energy auctions, providing strategy and valuation, advice on mergers and acquisitions, the financing of energy companies, and the financial restructuring of distressed companies.

Subscribe to Our Newsletters

NERA produces two newsletters that report and analyze energy matters around the world. *Energy Regulation Briefs* summarize NERA's views on the economics behind topical developments in energy sector regulation. Previous issues have discussed regulators' use of "benchmarking," FERC's Order 2000, problems in the California electricity sector, and competition policy in the UK electricity market. The *Global Energy Regulation Newsletter* compiles brief summaries of news stories about energy regulation around the world. The coverage includes network regulation, industry restructuring, and the organization of electricity and gas markets. The "GERN" allows energy sector professionals to easily keep in touch with looming problems, the latest developments in regulatory methods, and innovative solutions.



Contact

NERA Offices

London

15 Stratford Place
London W1C 1BE
Tel: +44.20.7659.8500
Fax: +44.20.7659.8501
Contact: David Hough,
Graham Shuttleworth

Rome

Via XXIV Maggio, 43
Roma 00187, Italy
Tel: +39.06.488.8101
Fax: +39.06.485.838
Contact: Francesco Lo Passo

Madrid

Paseo de la Castellana, 13
Madrid 28046, Spain
Tel: +34.91.212.6400
Fax: +34.91.521.7876
Contact: Oscar Arnedillo

White Plains

50 Main Street
White Plains, New York 10606
USA
Tel: +1.914.448.4000
Fax: +1.914.448.4040
Contact: Jeff Makholm (Boston),
Gene Meehan (Washington)

Sydney

Level 6, 50 Bridge Street
Sydney
NSW, 2000
Australia
Tel: +61.2.8272.6506
Fax: +61.2.8272.6549
Contact: Greg Houston, Ann Whitfield

NERA also has offices in:

Boston, MA	+1.617.621.0444
Brussels, Belgium	+32.2.282.4340
Chicago, IL	+1.312.573.2800
Denver, CO	+1.303.327.1467
Frankfurt, Germany	+49.69.133.8530
Ithaca, NY	+1.607.277.3007
Los Angeles, CA	+1.213.346.3000
New York, NY	+1.212.345.3000
Philadelphia, PA	+1.215.864.3880
San Francisco, CA	+1.415.291.1000
São Paulo, Brazil	+55.11.3048.1837
Tokyo, Japan	+81.3.3500.3290
Washington D.C.	+1.202.466.3510

About NERA

NERA Economic Consulting is an international firm of economists who understand how markets work. Our clients include corporations, governments, law firms, regulatory agencies, trade associations and international agencies. Our global team of 500 professionals operates in 18 offices across North and South America, Europe, Asia and Australia.

NERA economists devise practical solutions to highly complex business and legal issues arising from competition, regulation, public policy, strategy, finance and litigation. Our more than 40 years of practical experience creating strategies, studies, reports, expert testimony and policy recommendations reflects our specialisation in industrial and financial economics. Because of our commitment to deliver unbiased findings, we are widely recognised for our independence. Our clients come to us expecting integrity; they understand this sometimes calls for their willingness to listen to unexpected or even unwelcome news.

NERA Economic Consulting (www.nera.com), founded in 1961 as National Economic Research Associates, is a subsidiary of Mercer Inc., a Marsh & McLennan company.

Disclaimer:

The information contained in this document is publicly available. It does not incorporate NERA research.

For further information, please visit our global website at: www.nera.com

© Copyright 2004
National Economic
Research Associates, Inc.

