

Reporting on energy regulation issues around the world

# Global Energy Regulation

October 2009  
Issue 125

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European Union and Latin America

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## European News

### UK

#### **Ofgem Publishes Scenarios For Future Gas And Electricity Market Development**

Ofgem has published the initial report of “Project Discovery”, Ofgem’s review of Britain’s future energy supplies. Ofgem found that ensuring security of supply and meeting targets for reducing CO2 emissions and increasing renewable generation would require investment over the next 10 years of up to £200,000 million in generation capacity and other infrastructure. Ofgem’s report showed that Britain will become increasingly reliant on gas imports, in particular for gas power plants to replace lost nuclear and coal-fired capacity. Ofgem also noted that thermal plant may need further investment so that they can operate more flexibly, to manage variability in wind output. Ofgem concluded it was highly likely that consumer bills would rise.

*Ofgem website, 09/10/09*

#### **Ofgem Consults On The Treatment Of Pensions Costs In Price Controls**

Ofgem has started a consultation on its “minded-to” position on the treatment of the future pension costs and existing pension liabilities of British gas and electricity network operators. Ofgem proposed to extend the period of time over which network operators recover the costs of pension deficits. Ofgem also proposed to incentivise network operators to manage future pension costs efficiently. The review’s conclusions, expected in December, will feed into the current electricity distribution price control review, as well as the forthcoming price control reviews of transmission and gas distribution businesses.

*Ofgem website, 16/10/09*

#### **Ofgem Updates DPCR5 Cost Assessment**

Ofgem has published an update to its “cost assessment”, as part of the distribution price control review. The document updates Ofgem’s forecasts of the distribution network operators’ operating and capital costs for the 2010-2015 control period. The review is due to conclude in December.

*Ofgem website, 23/10/09*

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## Belgium

### **Regulator Approves Power And Gas Tariffs**

The Belgian energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), has approved the tariffs of energy utility SIBELGA. The tariffs are available on the website of the regulator and will be in force from 1 October 2009.

*CREG website, 01/10/09*

### **Regulator Appeals To Constitutional Court On Gas Transit Tariffs**

The Belgian energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), currently uses one basis to set gas transit tariffs and a different basis to set transport tariffs for gas destined for the Belgian market, as required by Belgian law. The Court of Appeals of Brussels has now found that this aspect of Belgian legislation is out of line with European legislation, which requires a uniform tariff. The European Commission shares this view and also raised the question about the special tariffs in historic transit contracts – also required by Belgian law. Therefore CREG has decided to appeal to the Constitutional Court against the Act of 10 March 2009 amending the Act of 12 April 1965 on the transport of gas through pipelines. CREG said that in the interest of the market and consumers it wanted to clarify the situation with respect to the Belgian and European laws on gas transit and transport tariffs.

*CREG website, 02/10/09*

### **Government Decides To Extend Life Of Nuclear Plants**

The Belgian government decided to extend the life of the country's three oldest nuclear plants by 10 years. Under a law passed in 2003, the reactors were meant to go offline in 2015 after 40 years of operation. In exchange the generators will pay a contribution to the state budget, which will depend on costs and prices and which is expected to be between €215 million and €245 million (US\$315–360 million) per year between 2010 and 2014.

*La Croix, 05/10/09; Belgian Climate and Energy Minister's website, 12/10/09; Platts Nucleonics Week, 15/10/09*

### **Regulator Consults On Indicative Gas Transport Programme**

The Belgian energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), has launched a consultation on the indicative gas transport programme of Fluxys, which Fluxys has to draw up under article nine of the royal decree of 4 April 2003. The programme is a catalogue of all the supply services of Fluxys. CREG is particularly interested in the view of network users on the revised reservation rules ("subscription period"). The consultation will help CREG in its decision to approve the indicative gas transport programme.

*CREG website, 15/10/09*

### **Competition Authority To Investigate SPE-EDF Deal**

The Belgian competition authority will investigate EDF's proposed takeover of energy producer and supplier SPE. According to press reports the deal raises concerns about potentially adverse competition effects.

*Les Echos, 16/10/09; Data Processing, 16/10/09*

### **Regulator To Modify Publications Of Gas Tariff Parameters**

The Belgian energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), announced it would modify the publication of data in relation to gas tariffs. The parameters and quotes usually used by suppliers would be grouped in a common document. This document would include the parameter Igd, and the quotations GOL603, HFO603, HUB, and TTF. CREG decided to discontinue the publication of parameter New G from January 2010. CREG said New G did not correspond to the cost of supply any longer and was no longer used by suppliers.

*CREG website, 19/10/09*

### **Regulator Approves Power Distribution Tariffs**

The Belgian energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), approved the electricity distribution tariff of AIESH. The tariffs are available on the CREG website and are in force from 1 November 2009.

*CREG website, 29/10/09*

### **Regulator And Fluxys Agree New Gas Tariffs**

The Belgian regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), and the gas transport company Fluxys have agreed new multi-annual tariffs for the transport, transit, and storage of gas. According to CREG and Fluxys, the tariffs are very competitive and ensure a fair return on Fluxys's capital at the same time. Based on costs, CREG and Fluxys have determined entry/exit tariffs for transport and transit services by applying a unique methodology, as required by European legislation. The same principles are also applied to gas storage tariffs. The new tariffs will be in force from 1 January 2010 until the end of the regulatory period. The agreement represents an option allowed under Belgian legislation to move away from the regime of provisional transport tariffs and imposes a tariff reduction of 35% compared to 2008 and 2009. CREG and Fluxys said that these tariffs would allow Fluxys to finance its significant investment programme by ensuring a fair return on its invested capital. The agreement does not cover the appeals by Fluxys against CREG's decisions of 15 May and 6 June 2008 on historical transit contracts, which are still pending.

*CREG website, 30/10/09*



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## Bulgaria

### **RWE Pulls Out Of Belene Project**

RWE has withdrawn from the Belene nuclear power plant project, leaving the project to build a second nuclear power plant in Bulgaria without an investor other than the Bulgarian State. RWE attributed its decision to the financial crisis and the failure of the project to sign a final agreement with the contractor Atomstroyexport and to finalise the financial structure of the project. The government plans to continue with the licensing and design approval procedures at the Nuclear Regulatory Agency.

*Bulgarian News Agency, 28/10/09; [novinite.com](http://novinite.com), 30/10/09*

### **New Funding For Nuclear Decommissioning**

The European Commission has proposed an extra €300 million of EU support to the Bulgarian government to fund the decommissioning of units 1 to 4 of the Kozloduy nuclear power plant (NPP). This extra funding would add to the €550 million in financial assistance Bulgaria has already received towards the decommissioning.

*Europolitics, 28/10/09; Standart News (Bulgaria) website, 31/10/09*

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## European Union

### **Cooperation Of Power Exchanges On European Price Coupling Concept**

A cooperative project between Nord Pool Spot, EPEX Spot, and OMEL has been launched in response to an expression of interest by the regulators, TSOs, and market participants in the provision of a day-ahead market coupling solution for Europe, the exchanges said. The first step in the project was to test a concept of pan-European price coupling called “Price Coupling of Regions” or PCR. The three exchanges had been cooperating since June 2009 in testing a common concept through which spot electricity price formation would be coordinated in an area covering Portugal, Spain, France, Germany, Austria, Switzerland, Denmark, Norway, Sweden, and Finland. The exchanges said that, with the support of the relevant power exchanges and TSOs, the concept could also be applied to the Dutch, Belgian, British, and Baltic areas, and beyond. The three power exchanges are already involved in different regional market coupling projects and said their intention was to conduct PCR in parallel with these existing projects.

*EPEX Spot website, 05/10/09*



### **Commission Clears Natural Gas Deals Between Spain And England**

The European Commission has published two separate antitrust decisions affecting British and Spanish firms. The first has cleared the joint purchase of SAGGAS, a natural gas regasification plant in Spain, by British private equity fund RREEF and the Spanish energy companies Endesa Generación and Unión Fenosa Gas. The other decision cleared RREEF to acquire from Iberdrola a 25% stake in Bahia de Bizkaia Gas, which operates another natural gas regasification plant in Northern Spain.

*Platts Commodity News, 09/10/09; Dow Jones International News, 22/10/09*

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## **France**

### **Regulator Decision On Transitory Rule Change**

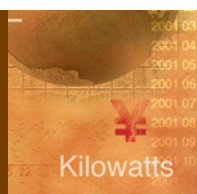
The French regulator, the Commission de Régulation de l'Énergie (CRÉ), has rejected a request by RTE, the French electricity TSO, for a temporary change in the "rules concerning programming, the balancing mechanism and the system of balance responsible parties". Underlying RTE's request was a request by the DSO, ERDF, to put off a financial reconciliation due in October 2009 for one year to allow it to verify the data and to consult on the implementation of the reconciliation process. The CRÉ rejected the request as there was no manifest error in the data. However, the CRÉ said it would consult on the reconciliation process to analyse its reliability and to define possible improvements. New rules could be implemented by 1 July 2010.

*CRÉ website, 01/10/09*

### **Regulator Approves Changes In Gas Balancing Rules**

The French energy regulator, the Commission de Régulation de l'Énergie (CRÉ), has approved the proposed gas balancing rules submitted by GRTgaz. The changes will take effect on 1 December 2009. The CRE said that balancing rules had been progressively moving towards market based rules. The main change sees GRTgaz intervening on the spot market ("Powernext Gas Spot") to cover some of its balancing needs instead of a specific platform ("Balancing GRTgaz"). The CRE said that the switch to the spot market would improve its liquidity and the reliability of the balancing price. The CRE said that the new rules would be evaluated in the first half of 2010.

*CRÉ website, 08/10/09*



### **Regulator Approves Rules To Allocate Gas Transport Capacities From North To South**

The French energy regulator, CRÉ, has approved GRTgaz's proposed rules to allocate firm and interruptible capacity from the balancing zone GRTgaz North to GRTgaz South from 1 April 2010 until 31 March 2011. The pro-rata type rules previously in place will be complemented by a "guaranteed allocation" option, which will ensure that suppliers receive their request for firm capacity if they keep their demands below a threshold level. The CRÉ said that the North-South interconnector was operating close to "physical saturation" and that the new rules would guarantee a minimal allocation to small market participants.

*CRÉ website, 15/10/09*

### **Regulator To Investigate Price Spike**

The French energy regulator, the Commission de Régulation de l'Énergie (CRÉ), said that it would investigate the price spike that occurred on 19 October 2009. The baseload price was €612.77/MWh, the peak price €1146.61/MWh, and some hourly prices were €3,000/MWh. The CRÉ said it would now investigate what factors could have produced these prices as part of its market surveillance role. The investigation would consider in particular the fundamentals of the French electricity system, production data, and cross-border flows, as well as the trades carried out by market players and procedures on the power exchange.

*CRÉ website, 22/10/09*

### **South Gas Regional Initiative Decides On Interconnection Capacity Between Spain And France**

The Implementation Group of the South Gas Regional Initiative (S-GRI) has validated the results of the Open Season procedure for the allocation of interconnection capacity between Spain and France that is to be built by 2013. In the South-North direction of the interconnection the capacity requested in the Open Season was twice the capacity offered, while in the opposite direction the requests amounted to 58.5% of the available capacity. The Implementation Group agreed on developing one of the two interconnection points that were initially under consideration for construction (Larrau). However, there was no agreement regarding the second interconnection point (Irún). Spanish representatives argued that the second interconnector ought to be built based on security of supply concerns and the interest showed by the bidders in the Open Season. However, French representatives believed that the bids had not fulfilled the provision in the Open Season rules relating to the daily capacity allocation to shippers. Another interconnector is expected to begin operation by 2015.

*CNE website, 29/10/09, 16/10/09; Expansión, 30/10/09*

## Germany

### **Federal Court Allows Municipalities To Buy Back Energy Grids**

The German federal court, the Bundesgerichtshof, has ruled that energy utilities continue to be bound by earlier commitments to sell back energy networks to municipalities after the end of concession contracts, despite later amendments to energy law. The court found that the municipality could insist on buying back the networks necessary for the supply of energy to the municipal area. An energy utility had argued that it had the option of leasing the network on the basis of article 46 of the Energy Law (EnWG). The court said that the fact that the transfer of assets at the end of a concession contract was now regulated by the Energy Law did not relieve the utility from its earlier commitment.

*Bundesgerichtshof website, 29/09/09*

### **Grid Operator Threatens To Sue Following Tariff Decision**

E.ON Gastransport (EGT), a supra-regional gas transport company, said that following the regulator's determination of grid tariffs some points had to be "clarified in court". Contentious issues include the calculation of the trade tax (Gewerbesteuer), the determination of current asset values and the cost of debt. EGT said that it could only fulfil new obligations (notably on expansion of the network) if it was clear who had to pay for the additional costs and that EGT was not able to bear additional risks. No date has yet been set for a hearing.

*E.ON Gastransport website, 30/09/09; Platts International Gas Report, 12/10/09*

### **Regulator Publishes Consultation On Renewable Electricity**

The German networks regulator, the Bundesnetzagentur (BNetzA), published a paper on the sale of electricity from renewable energy sources under the Renewable Energies Law (EEG) and the elements that still need to be regulated. Following a public consultation, the BNetzA intends to issue an implementing ordinance. The ordinance would set out regulations on the transparent apportionment of EEG electricity and its costs. The ordinance would also provide an incentive for TSOs to sell electricity generated under the EEG efficiently. The planned ordinance would flesh out the Ordinance on the Advancement of the Nationwide Equalisation Scheme (AusglMechV) which removes from 2010 the obligation on electricity suppliers to absorb a share of EEG electricity (the physical redistribution mechanism). From that time, EEG electricity will instead have to be sold through the power exchange.

*Bundesnetzagentur website, 01/10/09*



### **Regulator Clarifies Integration Of Offshore Wind Parks**

The German networks regulator, the Bundesnetzagentur (BNetzA), published a position paper on the integration of offshore wind power projects (OWP), in coordination with the relevant federal ministries. The paper defines the obligation of TSOs to connect off-shore wind parks to the grid under section 17(2a) of the Energy Law (EnWG). By doing so, the BNetzA says it is meeting the desire of the industry to coordinate the differing construction times of offshore projects and connecting cables. According to the BNetzA, the position paper creates the pre-conditions for swift, efficient, and non-discriminatory implementation of offshore wind parks on the basis of applicable law.

*Bundesnetzagentur website, 02/10/09*

### **Regulator Publishes Monitoring Report**

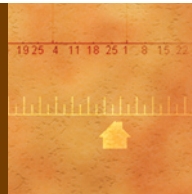
The German networks regulator, the Bundesnetzagentur (BNetzA), has published its Monitoring Report on the development of electricity and gas markets. The report says that the markets experienced far-reaching changes in 2008 and that competition was becoming increasingly intense in the energy sector. The Monitoring Report shows that competition in the gas market had been enhanced by the introduction of GaBi Gas, the basic model for balancing services and balancing rules in the gas sector applicable since the beginning of the previous gas year. The report also shows that competition in the gas market is becoming more intense with consumers being able to choose from a large number of suppliers. The BNetzA said that this development was in part attributable to its GeLi and GaBi Gas decisions, as a result of which changing supplier and trading had become much easier. According to the report, security of electricity supply was high in Germany. However, the rising number of constraints in German electricity networks indicated that investment in the construction of lines, power plants, and their connection to the network was urgently required.

*Bundesnetzagentur website, 13/10/09*

### **Regulator Publishes Data On Reliability Of Gas Supply**

For the year 2008, the average interruption in gas supply in Germany was just one minute per final consumer, said the BNetzA. This value was established by the BNetzA on the basis of reports which gas network operators are obliged to submit each year under Section 52 of the Energy Industry Act (EnWG). The BNetzA said that the result confirmed the high degree of reliability of the gas supply in Germany. The reliability of supply was calculated using the SAIDI (System Average Interruption Duration Index) also used by the electric sector.

*Bundesnetzagentur website, 20/10/09*



### **E.ON Hanse Loses Hamburg Court Case**

In a long-running dispute between gas supplier E.ON Hanse, a subsidiary of E.ON AG, and 52 of its customers, the district court of Hamburg ruled in favour of the customers. The E.ON Hanse customers started the case in 2005, following a price increase that E.ON Hanse justified on the basis of “price developments in the heat market”. The Hamburg district court has now decided that the increase was illegal, on the grounds that the relevant contract clauses are “vaguely formulated” and do not allow customers to explain price changes on the basis of available data. According to Günther Hörmann, head of the Hamburg consumer protection office, the court’s ruling may clear the way for over 17 million gas customers to contest recent price increases, since many energy suppliers use similar clauses in their contracts. E.ON Hanse has announced it will appeal the court’s decision.

*Website Süddeutsche Zeitung, 27/10/09; Die Welt Online, 27/10/09*

### **Regulator Publishes Photovoltaic Feed-In Tariffs**

The German networks regulator, the BNetzA, has published the feed-in tariffs for photovoltaic plants for 2010. As compared to plants that started operation in 2009, feed-in tariffs will decrease by 9-11%, depending on size and type. The BNetzA determines the feed-in tariffs and rate of reduction according to article 20 of the renewable energies law. The rate of reduction depends on the capacity of photovoltaic plants reported to the BNetzA over the previous year. The BNetzA said that the threshold of 1,500 MW, which implies a higher rate of reduction and lower feed-in tariffs, was clearly exceeded over the last year with a reported capacity of around 2,340 MW.

*Bundesnetzagentur website, 30/10/09*

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## **Italy**

### **New Rules And Automatic Indemnities To Improve Transmission Safety And Quality**

The Aeg, Italy’s energy regulator, has issued Part I of the “Regulations on the quality and tariff code for the natural gas transmission and dispatching services for the regulatory period 2010-2013”, which introduces new rules to improve safety, continuity, and commercial quality on gas transmission service. The new rules provide for stricter regulation of network monitoring and management of emergencies, as well as rules on service interruptions and automatic penalties imposed on transmission companies (base value €500, increasing with the delay in providing the required intervention).

*Aeg press release, 02/10/09*

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## Netherlands

### **Nma Reprimands Obragas And Netbeheer Haarlemmermeer**

The board of the NMa, the Dutch competition authority, has reprimanded gas network operators Obragas and Netbeheer Haarlemmermeer for violations of Article 8 of the Dutch gas law and the Ministerial Rule on “Quality Aspects of Gas and Electricity Network Operation”. According to NMa, Obragas and Netbeheer Haarlemmermeer broke a number of rules in the Quality Control System (“kwaliteitsbeheersingssysteem”), among others those concerning Risk Analysis and monitoring procedures. NMa therefore found that Obragas and Netbeheer Haarlemmermeer did not meet the standard set out in the law. Both Obragas and Netbeheer Haarlemmermeer have until 15 January 2010 to comply with relevant legal standards, or they will face a fine of €25,000 for each additional week until they do comply, up to a maximum of €250,000. In addition, NMa requires that Netbeheer Haarlemmermeer make sure that its Quality and Capacity Documents meet the legal standard ultimately by 1 December 2009, or it will risk another fine.

*Energiekamer website (case numbers: 102782-14/82 and 102782-15/85), 16/10/09 and 19/10/09*

### **Energiekamer Publishes Electricity Transmission Tariff Proposal 2010**

Tennet, the Dutch transmission system operator, has sent its tariff proposals for electricity transmission and for system services to Energiekamer, the Dutch energy regulator. The tariff proposals will be displayed on Energiekamer’s website until 4 November 2009. After that date, Energiekamer will review Tennet’s tariff proposal respondent’s views and set the tariffs for 2010.

*Energiekamer website, 22/10/09*

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## Russia

### **Government Allocates Funds For Troubled Hydro Plant**

Prime Minister Putin signed a decree allocating 4,300 million roubles (US\$146.5 million) towards construction of the shore spillway for the Sayano-Shushenskaya hydro plant before the spring flood season. The total cost of the spillway is 13,238 million roubles ((US\$451 million). RusHydro, the owner of the Sayano-Shushenskaya plant, will cover the difference. The spillway will facilitate reconstruction of Russia’s largest power plant, which was severely damaged as a result of the accident earlier this year.

*RIA Novosti, Prime-TASS, 29/10/09*



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## Spain

### **Competition Commission Opens Investigation Into Electricity Generators For Alleged Anti-Competitive Practices**

The Spanish National Competition Commission (CNC) has opened an investigation into nine electricity generators for abuse of a dominant position under the suspicion that they withdrew generation from the day-ahead market to sell it to the TSO-administered mechanism for resolving transmission constraints over the period 2004-2008, in coordination with their retail businesses. The CNC is also investigating the offers of Iberdrola's distribution business over the second half of 2006.

*CNC website, 05/10/09*

### **The Ministry Of Industry Issues Draft Legislation To Increase The Use Of Domestic Coal**

The Spanish Ministry of Industry issued a draft Royal Decree setting an annual quota for electricity generation with domestic coal for reasons of security of supply, after finding that the plants were not competitive in the wholesale market. Under the proposal, nine plants that use domestic coal will be entitled to receive a fixed price for their output (up to an annual limit) until 2012. That fixed price is approximately 50% above the average day-ahead market price in 2009. The draft legislation proposes a new mechanism to make room for generation for domestic coal by constraining the output of plants with the highest rates of CO2 emission. These plants will be compensated for lost profits by reference to regulated reference costs. The energy regulator, CNE, is to issue an advisory report on the draft Royal Decree.

*Expansión, 24/10/09, 26/10/09; IM Energía, 26/10/09*

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## Switzerland

### **Parliamentary Commission Debates Thermal Power Plants**

The parliamentary Commission for Environment, Spatial Planning and Energy has debated changes to the CO2 law and the exemption of fossil-powered thermal power plants. The Commission heard from power producers that the decommissioning date of the first nuclear plants should be pushed back by five years to 2025. Concerns over security of supply were therefore less "pressing" than assumed until now. Currently, three new nuclear power stations are planned in Switzerland, although only two are considered necessary. The Cantons, which are also owners of the power producers, said they wanted to reach an agreement by the end of this year.

*Kommissionen für Umwelt Raumplanung und Energie website, 06/10/09*



## North American News

### US

#### **Georgia Public Service Company Approves STRIDE Program**

The Georgia Public Service Commission has approved Atlanta Gas Light's Strategic Infrastructure Development and Enhancement Program (STRIDE). The program requires customers to pay a US\$0.39 surcharge until 1 October 2010 and then US\$0.79 until 1 October 2011, to enable the company to earn a return on investment for infrastructure improvements. Further increases will follow until 2022. SCANA Energy Marketing Inc. have asked the regulators to approve a third program under STRIDE that would involve the installation of new gas mains to serve customers of Atlanta Gas Light and gas marketers like SCANA, which would extend the surcharge to 2025.

[www.psc.state.ga.us](http://www.psc.state.ga.us), 04/10/09; [www.snl.com](http://www.snl.com), 29/10/09

#### **New DOE Loan Guarantee Program For Renewable Projects**

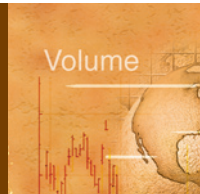
On 7 October, the US Department of Energy (DOE) announced the first solicitation for conventional renewable energy generation projects under a new Financial Institution Partnership Program (FIPP) with private sector lender participants. The program provides a streamlined set of standards to expedite DOE's loan guarantee underwriting process and funding of eligible projects. Unlike in prior DOE loan guarantee solicitations, proposed borrowers and project sponsors will deal with financial institutions as opposed to applying directly to DOE. The solicitation provides for up to US\$750 million in funding from the American Recovery and Reinvestment Act to cover the cost of loan guarantees. DOE anticipates that the program could support as much as US\$8,000 million in project financing.

*Energy Daily*, 08/10/09; *Clean Technology Insight*, 08/10/09

#### **First Renewable Energy Market Hub Proposed In The US**

A new merchant transmission investment initiative, the "Tres Amigas SuperStation" project has been proposed as a new power market hub that would allow electricity trading between the three grid interconnections in the US—Western, Eastern, and Texas. The goal is to enable renewable generation resources to tap into multiple markets and to increase the reliability of the grid. The project is pending a filing before the FERC.

*MW Daily*, 10/10/09; *Wireless News*, 21/10/09



### **California Governor Signs New Energy Measures**

On 11 October, California Governor Arnold Schwarzenegger vetoed two bills from the state legislature that would have increased the current Renewable Portfolio Standard (RPS) goal for investor-owned utilities, alleging that they placed too many restrictions on where the power could come from. The governor also signed a new bill on California's Feed-In Tariff (SB 32), which expands the obligation of investor-owned utilities to purchase all output from small renewable power stations below 3 MW. In addition, the governor signed bill SB 695, setting up a mechanism to end the moratorium on direct access power contracts imposed as a result of the 2001 energy crisis and to reinstate customer choice in the electricity market for large customers.

*Power Market Today, 13/10/09; Energy Daily, 15/10/09*

### **Indiana Regulators Order NIPSCO To Issue Refund To Customers**

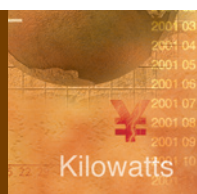
The Indiana Utility Regulatory Commission has ordered Northern Indiana Public Service Co. (NIPSCO) to return to its customers nearly US\$4.1 million in unaccounted-for gas costs, which it recovered between August 2007 and July 2008. The regulator said that these unaccounted-for costs should be factored into its gas cost adjustment in future.

[www.in.gov](http://www.in.gov), 22/10/09; [www.snl.com](http://www.snl.com), 29/10/09

### **Announcement Of US Federal Smart Grid Investment Program**

On 26 October, President Obama announced the largest federal investment in the modernization of the US electricity system. About one hundred utilities, cities, and smart grid private companies in 49 states have been awarded government grants totalling US\$3,400 million for the deployment of smart grid technologies, advanced meters and customer control systems. This scheme was introduced by the 2009 American Recovery and Reinvestment Act. It is intended to leverage US\$4,700 million in private investment nationwide. The government expects that the smart grid initiative will improve system reliability and expand the capability to bring more renewable resources on to the grid.

*The Washington Post, 28/10/09; Power Market Today, 28/10/09*



### **FERC Approves Transmission Cost Allocation Plan**

A new Order by the Federal Energy Regulatory Commission (FERC) approved amendments to Midwest ISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff (MISO Tariff) regarding generation interconnection to the MISO grid. FERC ordered revisions to the existing method to allocate the cost of network upgrades associated with interconnection of new generation projects in the region. The new method will make generators pay for the full cost of connecting to lines below 345 kV, and 90% of the costs of connecting to lines above 345 kV. This new policy is temporary and will be replaced by a new cost allocation system that MISO is currently drafting.

*FERC website, 28/10/2009; Policy Watch, 29/10/09*

### **Oregon PUC Approves Cut To Natural Gas Rates**

The Oregon Public Utility Commission has approved a reduction in natural gas rates charged by the Northwest Natural Gas Co. The average residential customer of the company will see a decrease in their monthly bill of US\$14.96 or 18.1%. Improvements in technology coupled with reduced demand have been the drivers of this rate reduction.

[www.snl.com](http://www.snl.com), 29/10/09; [www.puc.state.or.us](http://www.puc.state.or.us), 29/10/09

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## **Canada**

### **Ontario's Comprehensive Feed-In Tariff Program**

In early October, a new Feed-in Tariff (FIT) scheme was brought into effect in Ontario, following the Green Energy and Green Economy Act. The enactment of the FIT program will facilitate the implementation of the Ontario government's renewable resource program as well as major investments in the transmission and distribution infrastructure. Under the FIT scheme, utilities are obliged to pay a premium above market prices for green energy, such as solar, wind, water, biomass, biogas, and landfill gas, to help developers recover start-up costs. The rate reduces risks for developers and increases their borrowing power. The Ontario-type FIT scheme is common in a number of European countries but it is the first of this nature in North America. The Ontario government has promised to eliminate coal-based generation by 2014.

*Business Wire, 02/10/09; Reuters News, 06/10/09*

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## Mexico

### Government Closes Mexico City Electric Company

A decree by Mexican president Felipe Calderón has ordered the shutdown and liquidation of Luz y Fuerza del Centro (LyFC), the public electricity distribution company of the metropolitan area of central Mexico, which serves about 20 million residents in the states of Mexico, Morelos, Puebla, Hidalgo, and in the Federal District of Mexico City. The decision is aimed at fighting inefficiency and uncontrolled public spending: the company had unit costs three times those of the distribution company owned by CFE (Comisión Federal de Electricidad), had distribution losses of 32.5% due to inefficiency and theft, and had accumulated US\$18,000 million in labour liabilities, principally due to the enormous costs forced by the electricians' union. The company's inefficiency was deemed to affect the electricity supply service, particularly in distribution. The Federal Energy Department (Secretaría de Energía) has entrusted the distribution company of CFE with managing and providing electricity supply in the affected areas.

*Agencia Mexicana de Noticias, 11/10/09; Dow Jones International News, 11/10/09*

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## Central And South American News

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### Brazil

### Government Sets Tender Dates For Generation And Transmission Projects

The Brazilian Ministry for Energy and Mining has approved the guidelines for auctioning power transmission projects with a combined length of 1,097 km, as well as the Belo Monte hydro project with a generation capacity of 11.3 GW. The tender for the transmission projects will take place on 27 November 2009 and winning bidders are expected to finish construction works within 15 to 24 months, depending on the specific project. The Belo Monte generation project will be auctioned off on 21 December 2009 and the plant is expected to start operation in 2014.

*Business News Americas, 21/10/09, 30/10/09; Agência O Globo, 31/10/09*



### **Error In Distribution Tariffs Brings Authorities Into Conflict**

By finding that the methodology used to calculate electricity distribution tariffs failed to pass gains from economies of scale to consumers, the Brazilian Court of Auditors (Tribunal de Contas da União) has unleashed a conflict between the Energy Regulator, Aneel, and the Ministry for Energy and Mining. The ministry states that the regulator has the legal powers to solve the tariff problem, while the regulator states that the shortest path to a solution would be through a new ministerial decree. According to the findings, the tariff distortion started in 2002 and has produced unjustified revenues for distribution companies of at least US\$4,000 million.

*FolhaNews, 28/10/09, 29/10/09; O Estado de São Paulo, 30/10/09*

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## **Chile**

### **Extraordinary Price Review**

The energy regulator, CNE, carried out an extraordinary review of regulated wholesale electricity prices in the main electricity system in Chile. These prices are normally reviewed every six months unless wholesale costs vary by more than 10% in the interim. The joint effect of the normal and extraordinary reviews implies a decrease of 8.6% in electricity bills in the Central Interconnected System.

*CNE website, 15/10/09; Dow Jones Business News, 15/10/09*

### **Chile To Create Ministry Of Energy**

The Chilean Senate has approved the creation of a Ministry of Energy. The Ministry will take over some duties which are currently the responsibility of the Ministries of Finance and Mining, as well as supervising institutions such as the energy regulator (the Comisión Nacional de la Energía) and the nuclear supervisor agency (Comisión Chilena de Energía Nuclear).

*CNE website, 01/10/09; Business News Americas, 15/10/09*

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## **Peru**

### **Regulator Launches Auction For Generation From Renewable Sources**

The Peruvian Energy and Mining Regulator, Osinergmin, has started a tender process for 20-year supplies of electricity from renewable sources. The call is open to biomass (813 GWh/year), wind (320 GWh/year), solar (181 GWh/year), and hydro generators (under 20 MW). Offers from qualified bidders will be opened on 15 January 2010, the same day that contracts will be awarded.

*Osinergmin website, 15/10/09*



## Asia Pacific News

### Australia

#### **Australian Electricity Transmission Performance**

The Australian Energy Regulator (AER) has released the 2007/2008 electricity performance report for Transmission Network Service Providers (TNSPs). One of the regulator's key findings was that capital expenditure has trended upwards, reflecting investment done by TNSPs to upgrade network systems to meet network performance standards. The sector remains financially healthy and service standards are improving. The regulator stated that the findings provide evidence of the maturity of the regulatory regime; however, it acknowledges that there is still scope for improvement.

*AER website, 07/10/09*

#### **Energy Market Resilient To The Impact Of Climate Change Policies**

The Australian Energy Market Commission (AEMC) reviewed whether the national energy market framework needed to be adjusted in order to accommodate the introduction of the Carbon Production Reduction Scheme and expanded Renewable Energy Target. The AEMC concluded that, to adjust to future policies, the Australian energy market needed to be redefined and not redesigned. The AEMC suggested several areas for change such as the removal of retail price regulation where competition is effective, reforming transmission charges to reflect the cost of investments, and introducing more cost-reflective charges for generators. When the policies are implemented, further changes may be considered.

*AEMC website, 08/10/09*

#### **Victorian Distributors to Rollout Smart Meters**

The Australian Energy Regulator (AER) issued its final determination on the Victorian distribution network service providers' Advanced Metering Infrastructure (AMI) budgets and metering charges over the period 2009 to 2011. Distributors' expenditure and metering charges were assessed under a cost pass-through arrangement set up by the Victorian government. The AER approved budgets equivalent to US\$1,600 million for 2009 to 2011, which exceeded the US\$1,080 million proposed by the businesses. A number of benefits are expected from smart meters, such as more cost-reflective tariffs that can help to reduce peak demand and reductions in the operating costs of distributors.

*AER website, 30/10/09*



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## China

### **NDRC Takes Steps To Part-Liberalise Electricity Market**

Earlier this year, the National Development and Reform Commission announced plans to liberalise 20% of the domestic electricity market, allowing industrial consumers to contract separately with generators and the transmission network. Fushun Aluminium Works has concluded the first such agreement with Huaneng Yimin Power Plant, which the regulator has ratified. Under the terms of the agreement, Huaneng Yimin has been able to reduce its power costs by 20%.

*Reuters India, 19/10/2009; Asia Pulse, 21/10/09*

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## India

### **Customers Given The Power To Switch Power Supplier**

From the week beginning 5 October, Mumbai residents have the power to switch energy suppliers from Reliance Infrastructure (RInfra) to Tata Power Company (TPC), after moves by the Maharashtra Electricity Regulatory Commission (MERC). Previously outstanding issues that acted as a bar to reform included metering reading, installation of new meters, billing, and collection of tariffs once the two firms share the distribution network. MERC's interim order of 8 October set out arrangements allocating responsibility for meter reading to TPC and disconnections to RInfra.

*Times of India, 02/10/09; DNA Sunday, 18/10/09*

### **CERC Gets Tough On Grid Indiscipline**

The Central Electricity Regulatory Commission has put forward proposals to double charges for grid indiscipline to Rs 9/kWh (US\$0.20/kWh). State boards overdrawing power will pay higher prices under the new arrangements. Despite continuing efforts by the CERC to encourage open access to the transmission network, power imbalances persist across India, with large shortages and load shedding in some states. In the recent past, states suffering shortages have overdrawn from the transmission network, threatening grid stability.

*Indo-Asian News Service, 15/10/09; Times of India, 16/10/09*

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## Philippines

### **ERC Okays Open Access Arrangements**

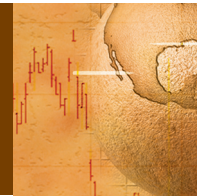
The Energy Regulatory Commission (ERC) has announced a timetable for implementation of open access to the distribution network. Arrangements for implementing open access will take force after the privatisations scheduled for early next year. Full details of the open access regime are not yet available.

*Philippine Star, 15/10/09; Philippine Daily Inquirer, 23/10/09*

### **Course Set For Further Private Sector Involvement In Philippine Power Generation**

The Power Sector Assets and Liabilities Management Corporation announced that it will privatise six power plants next year, with further privatisations set for 2011-2013. The state-owned Napacor has dominated electricity generation in the country, but recently the Philippine government has encouraged greater private sector participation. The planned privatisations follow the announcement of new tenders for independent power producers.

*Manila Bulletin, 19/10/09; Philippine Star, 19/10/09*



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## Our Practice

NERA is at the forefront of the continuing transformation of energy industries worldwide. Our experts have developed 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 minimising new risks, including issues related to climate change and other environmental initiatives.

NERA helps 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 organisations. Our work also includes designing and conducting energy auctions and providing strategy and valuation advice on mergers and acquisitions, the financing of energy companies, and the financial restructuring of distressed companies.

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NERA produces two newsletters that report and analyse energy matters around the world. *Energy Regulation Briefs* summarise 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 organisation 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. To view the latest editions or to receive our newsletters each time they are published, click here:

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## About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For nearly half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. With its main office in New York City, NERA serves clients from over 20 offices across North America, Europe, and Asia Pacific.



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