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Global Energy Regulation

Contents

EUROPE

UK

Ofgem Opens Up Network Innovation Fund To Non-Network Companies

Ofgem announced that funding under the Network Innovation Competition (NIC) will be available to non-network companies which can demonstrate that their innovations will improve the efficiency of the grid. The NIC is an opportunity to win funding for innovative projects as part of the RIIO-T1 and RIIO-GD1 price controls, and follows the earlier implementation of the Low Carbon Networks Fund (LCNF) as part of the distribution price control for electricity networks. The final arrangements for the NIC are under review and Ofgem stated that its final proposals will take account of stakeholder comments and will draw on the lessons from the LCNF.

Ofgem website, 02/09/11

Ofgem Extends Timetable For "TransmiT" Review

Ofgem has decided to extend its "Project TransmiT" review process to allow for additional modelling work and further consultation in the light of stakeholder feedback. Ofgem launched a Significant Code Review in July 2011, under which it proposed changes to the transmission network use of system (TNUoS) charges set by National Grid Electricity Transmission plc. Ofgem had expected the changes to take effect from April 2012, but has now announced that the new TNUoS charges will not apply until after that date.

Ofgem website, 09/09/11

DECC Increases Ofgem's Powers

The Department of Energy and Climate Change (DECC) has announced an increase in the powers of the energy regulator, Ofgem, to intervene to protect consumers. The measures include the power to levy unlimited fines on energy companies who breach their licence conditions, with the revenue from the fines being "ring-fenced" to provide redress to individual consumers or consumers in general. Energy companies will also no longer be able to prevent Ofgem from taking action by appealing to the Competition Commission (CC). Instead, energy companies will be able to appeal ex post to the CC, a right that they will share with consumer groups. DECC has also announced a review of switching procedures and possible requirements for energy suppliers to point their customers toward cheaper deals.

DECC website, 20/09/11

Ofgem Issues Consultation On Third Party Access To LNG Terminals

Ofgem has launched a consultation on arrangements for regulated Third Party Access (TPA) to LNG terminals in Great Britain. Ofgem's consultation will focus on ensuring TPA arrangements comply with the EU's "Third Package" directive on the Internal Energy Market, which came into force in March 2011. The consultation sets out how Ofgem is thinking of interpreting the provisions of the EU directive, including the use of auctions for capacity allocation, requirements to publish information in a timely manner and Ofgem's views on monitoring and enforcement. The existence of regulated TPA arrangements will not affect existing exemptions or prevent future investors from applying for exemption from the TPA arrangements.

Ofgem website, 30/09/11

Austria

Constitutional Court Decides On Use Of System Tariffs

On 21 June, the Austrian constitutional court (Verfassungsgerichtshof, or VfGH) decided that parts of article 25 of the Electricity Act 2000 (Elektrizitätswirtschafts- und organisationsgesetz, or ElWOG) were unconstitutional. However, the problems identified by the VfGH had already been rectified in the amended ElWOG from 2010 and therefore the current law is not affected. The VfGH found that instructions for sharing the costs of electricity networks between customer groups were not sufficiently detailed in ElWOG 2000. In 2009, the energy regulator, E-Control, drafted a decree (Systemnutzungstarife Verordnung, 2009 version) setting use of system tariffs for electricity networks on the basis of the ElWOG 2000. In this decree, E-Control made electricity produces pay a greater contribution towards the costs of the electricity network by requiring them to pay the “network losses tariff” (Netzverlustentgelt). Some electricity producers appealed, eventually leading to the decision of the constitutional court. Following publication of the decision, E-Control said that the impact on current network tariffs was still unclear. If network operators were to experience any deficit due to a loss of revenues from electricity producers, E-Control would have to investigate how to compensate for this deficit.

Verfassungsgerichtshof website, 21/06/11; E-Control website, 13/09/11

Electricity Labelling Decree Becomes Effective

From next year, electricity suppliers will be required to provide precise information on the origin of their electricity on advertising materials and bills. The energy minister said that this would allow consumers to choose the electricity they wished to buy. The information requirement comes from the amended electricity labelling decree (Stromkennzeichnungsverordnung) drafted by the energy regulator, E-Control, which has now taken effect under the Energy Act (Elektrizitätswirtschafts- und -organisationsgesetzes 2010, or ElWOG 2010).

E-Control website, 14/09/11

Belgium

Regulator Gives Advice On Nuclear Tax

The Belgian federal energy regulator, the Commission de Régulation de l’Électricité et du Gaz (CREG), was asked by the president of the economics commission of the parliament to advise on five proposals for a law to capture a share of the “nuclear rent”, i.e., the profits of nuclear power plants that are already depreciated. The CREG evaluated the proposals on the basis of economic and legal criteria, and suggested improvements where relevant. The parties that put forward the five proposals were given the option of explaining them to the CREG.

Commission de Régulation de l’Électricité et du Gaz website, 08/09/11

Belgian Regulator Urges The Government To Develop Clear Rules On Financing Of L-Gas To H-Gas Conversions

The general council of the Belgian federal energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), has asked Belgian authorities to develop rapidly some clear rules on the financing of conversions from low-calorific gas (L-gas) to high-calorific gas (H-gas). Following an agreement between Fluxys, the Belgian gas transmission system operator, and Inter-energa, a distribution network operator, Fluxys agreed to pre-finance a pilot project converting the Leopoldsburg area from L-gas to H-gas. The CREG's general council also set out what any agreement between federal and regional authorities needed to address and raised a number of questions.
Commission de Régulation de l'Electricité et du Gaz website, 20/7/11 ;
EU Energy, 09/09/11

Regulator Publishes Findings On Price Spike

Following the failure of an algorithm in computing the date when switching to daylight saving time (on 28 March 2011), the Belpex Day Ahead Market suffered a price spike of €2,999/MWh, as compared to the average price between 1 January and 27 March 2011 of about €53/MWh. The Belgian federal energy regulator, the Commission de Régulation de l'Électricité et du Gaz (CREG), analysed the behaviour of the three largest power producers and concluded that they did not act in an "abnormal" way at the time. To prevent a repeat of such events, the CREG proposed measures to alter the operation of the Belpex and publication of information by the transmission system operator, Elia.
Commission de Régulation de l'Électricité et du Gaz website, 28/09/11

Regulator Decides Network Points Subject To Information Requirement

On the basis of Regulation (EC) 715/2009, the Belgian federal energy regulator, the Commission de Régulation de l'Électricité et du Gaz (CREG), approved the list of points on Fluxys's gas transmission network and the Interconnector UK for which operators are required to publish certain information.
The information concerns the availability and use of capacity at each of these points.
Commission de Régulation de l'Électricité et du Gaz website, 28/09/11

Bulgaria

Regulator Hikes Gas Tariffs By Almost Seven Percent

The State Electricity and Water Regulatory Commission (SEWRC) has increased natural gas tariffs by 6.67% to BGN 594 (USD$410) per 1,000 cubic metres. The measure falls short of earlier submissions by Bulgargaz, the state-owned natural gas company, for an increase of 13.86%, as well as the findings of an earlier SEWRC working group, which proposed an increase of 8.6%. The tariff will apply for the fourth quarter of 2011.

SEENews, 27/09/11; Bulgarian News Agency, 27/09/11

European Union

European Commission Gives Green Light To Sale Of GDF Suez's Italian Gas Network

The European Commission has approved the sale of GDF Suez's Italian gas network, G6 Rete Gas. The network was acquired by a consortium led by French insurer AXA's private equity arm and Italian investment fund F2i, for a price of €772 million (US$1,028.8 million). According to the Commission, the transaction creates only limited horizontal overlap between F2i and G6 Rete Gas's activities in the market for gas distribution, and allows for a sufficient number of competitors in this market.

European Commission website, 09/09/11; Reuters, 24/08/11

European Commission Receives Report On Nuclear Safety From EU Countries

The European Commission has received interim reports on nuclear safety from all 14 EU countries operating nuclear plants. Currently, all 143 nuclear plants operating in the EU are being assessed.

Nasdaq.com, 16/09/11; Platts, 16/09/11

European Commission Initiates Investigation For Anticompetitive Behaviour In The Natural Gas Sector

The European Commission announced that it has initiated an investigation into natural gas companies for allegedly blocking competition in the use of the natural gas networks. The Commission has declined to provide the names of the companies under investigation but said that the inquiry is being conducted in 10 countries, predominantly in Central and Eastern Europe, and includes companies involved in the supply, transmission, and storage of natural gas. The investigation focuses on upstream supply, where the Commission suspects that incumbents may have engaged in exclusionary practices, such as market partitioning or hindering network access, in order to limit supply diversification. There is no legal deadline to complete the investigation.

European Spot Gas Markets, 27/09/11; Bulgarian News Agency, 28/09/11

France

France Announces Specifications Of Second Photovoltaics Tender

The French ecology, economy, and energy ministers announced the launch of a second tender to build photovoltaic (PV) capacity. The tender is for plants constructed on buildings and on the ground with a capacity greater than 250 kW and completes the phase-in of the PV support scheme first introduced in March 2011. The French energy regulator, the Commission de Régulation de l'Énergie (CRE), published the specifications of the tender on its website. Offers will be assessed on the basis of four criteria: price, environmental impact, industrial innovation, and realisation timetable. The tender is for the construction of 450 MW of capacity in total, with the objective of reaching 900 MW of capacity by 2015. With more than 1,600 MW of capacity already in place and 2,000 MW capacity waiting to be connected, France is well ahead of the Grenelle environmental objectives of reaching 1,100 MW by 2012 and 5,400 MW by 2020, a government statement said.

Ministère de l'Économie, des Finances et de l'Industrie website, 15/09/11

Nuclear Operators Submit Safety Reports

On 15 September, the French nuclear operators (EDF, AREVA, and CEA) submitted to the nuclear safety authority (l'Autorité de sûreté nucléaire, or ASN) their first additional safety reports, as requested by the prime minister. The energy minister acknowledged the reports and "noted with interest" that the operators proposed to reinforce safety in a number of areas. A government statement said that it was down to the ASN to assess the reports and to judge whether the proposed measures were sufficient. The ASN would announce its decision before the end of the year.

Ministère de l'Économie, des Finances et de l'Industrie website, 16/09/11

GDF Suez To Appeal Gas Tariff Decision

On 9 September 2011 GDF Suez asked the French energy regulator, the Commission de Régulation de l'Énergie (CRE), to approve a revision of its regulated gas tariffs for small customers from 1 October 2011. GDF Suez's proposal would have increased the base tariffs and those of household customers by an average of 4.9%, while all other tariffs would have increased by an average of 8.8%. The decree of 18 December 2009 requires tariffs to cover all the costs of suppliers and allows suppliers to adjust their tariffs to reflect changes in their supply costs as given by their tariff formula (which, in the case of GDF Suez, was fixed by decree on 9 December 2010). The CRE is responsible for checking that proposed tariffs are in line with the formula. On 22 September 2011 the CRE found that the proposal only adjusted the base and household tariffs by half the amount implied by the formula. The same day, GDF Suez issued a press release saying that the government had decided to freeze its tariffs and that the company would take "appropriate legal action" to protect its rights. Then, on 27 September, the government submitted to CRE a draft decree that proposed to freeze base and household tariffs and to increase other tariffs by 4.9%. On 29 September, the CRE said that, contrary to the law, the proposed tariffs were "very insufficient" to cover the cost of supply and withheld its approval of the draft decree. However, the government finalised the decree, without amendment, on 29 September.

GDF Suez website, 22/09/11; Le Monde, 24/09/11;
Journal Officiel de la République Française, 29/09/11;
Commission de Régulation de l'Énergie website, 29/09/11, 22/09/11

Roll-Out Of Smart Meter Announced

The French energy minister announced the roll-out of smart electricity meters ("Linky") from 2013. A statement by the ministry said that the smart meters would generate productivity gains from more efficient operation of the electricity network. The French distribution network operator, ERDF, had tested the smart meters in a trial. The government decision follows the conclusions submitted by a committee which included network operators, suppliers, regulatory authorities, consumer associations, and industrial organisations.

Ministère de l'Économie, des Finances et de l'Industrie website, 27/09/11, 26/09/11;
Agence France Presse, 26/09/11

Regulator Issues Favourable Opinion On Regulated Tariffs Of Gaz de Bordeaux And Energies Services Lannemezan

The ministers for economy and energy asked the French energy regulator, the Commission de Régulation de l'Énergie (CRE), for its opinion on a proposed decree regulating the gas tariffs of Gaz de Bordeaux and Energies Services Lannemezan. The draft decree sets out a formula for estimating changes in the cost of supply of the two companies, which the CRE audited and validated. In future, the companies will apply directly to the CRE for changes to their tariffs, and the CRE will assess their proposals on the basis of these formulae. The CRE approved the draft decrees.

Commission de Régulation de l'Énergie website, 27/09/11; 28/06/11

Regulator Approves Regulated Gas Tariffs

A number of gas distribution companies asked the French energy regulator, the CRE, to approve a revision of their regulated tariffs. The CRE compared their proposed tariffs with a formula, set by decree for each company, which reflects changes in their costs of supply. In the case of Régie municipale Energis, the company did not submit an annual review and the regulator asked the company to comply with the regulatory framework as soon as possible. The regulator approved the tariffs in all cases.

Commission de Régulation de l'Énergie website, 27/09/11

Germany

Regulator Consults On Return On Equity For Electricity And Gas Networks

The German networks regulator, the Bundesnetzagentur (BNetzA), said it planned to determine the regulatory Return on Equity (RoE) for the second regulatory period by the end of the year. The RoE is used when setting revenue caps for electricity and gas networks. The second regulatory period begins on 1 January 2013 for gas networks and on 1 January 2014 for electricity networks. The Bundesnetzagentur is required under section 7(6) of the electricity and gas network charges ordinances ("StromNEV" and "GasNEV") to determine the RoE prior to the beginning of each regulatory period. The BNetzA said it used a capital markets approach for determining the RoE, similar to that already used when determining the RoE for the first regulatory period in 2008. The BNetzA has calculated a preliminary pre-tax RoE of 8.20% for new assets. (Under the law, "trade tax" is considered separately.) The real gross pre-tax RoE—that is before the deduction of trade and corporation tax – is 9.50%. Compared with the pre-tax RoE for the first regulatory period, which was 9.29% before corporation

tax, the rate for the second period has fallen by just over one percentage point. The BNetzA said that this was attributable to changes in interest rates in general, but also reflected the fact that networks generated very stable and consistent returns in comparison with the overall market, which had recently been highly volatile. Market participants have until 5 October 2011 to respond.
Bundesnetzagentur website, 31/08/11

Upper House Rejects CCS Law

Germany's upper house of parliament, the Bundesrat, rejected a draft law on the storage of carbon dioxide (CO2), the Kohlendioxid-Speicherungsgesetz. The government had drafted this law to regulate, among other things: (i) the testing of bedrock as a site for permanent storage; (ii) the establishment and operation of CO2 storage sites; (iii) the closure and aftercare of CO2 storage sites; and (iv) their transfer to the public sector after a 30-year period. The act had already been approved by Germany's lower house, the Bundestag. According to press reports, one of the reasons for the Bundesrat's rejection of the draft law was concern over safety. The government and the Bundesrat are now considering whether to appeal to the conciliation committee.
Bundesregierung website, 23/09/11; Agence France Presse, 23/09/11

First Meeting Of The "Power Plant Forum"

The first meeting of the "power plant forum" took place at the German ministry for economics and technology (BMWi). The BMWi set up the forum for regular discussions of energy economics with electricity producers, environmental organisations, the German states and the relevant federal agencies. The forum is to meet about twice a year. After its first meeting the BMWi said that the forum decided to establish a database that would hold information on current and future plant capacities. The next meeting will focus on capacity markets.
Bundesministerium für Wirtschaft und Technologie website, 30/09/11

Ireland

Irish Energy Tariffs To Rise

The Commission for Energy Regulation has allowed Bord Gais to increase its charges for domestic and business gas by 21.7% and its electricity charges by 12% from 1 October. This tariff increase is expected to raise household gas bills by about €160 per year, whilst electricity bills will rise about €144 per year. ESB Electric Ireland will also increase its gas prices by 21.7% and its electricity prices by 12%. Similarly, Airtricity has announced plans to increase gas tariffs by 21% and electricity by 12% at the end of September. All three energy suppliers are blaming the increases on steep rises in the price of wholesale gas on the international markets.

Irish Independent, 27/08/11; Irish Times, 03/09/11

Netherlands

NMa Permits Intra-Day Electricity Trade With Norway

The Dutch Competition Authority (NMa) decided that the volume of intra-day trade in electricity allows the opening up of intra-day trade in electricity between Norway and the Netherlands. The decision of the NMa allows the Dutch and Norwegian transmission system operators, TenneT and Statnett, together with the APX and Nord Pool Spot market, to integrate electricity trading within the day, and to increase trading opportunities for market players.

NMa website, 01/09/11

NMa's Decides On Further Improvements In Energy Bills For Consumers

The Dutch Competition Authority (NMa) is pushing for improvements in the quality of bills issued by energy companies. Suppliers will be obliged to read and to check metering equipment. They will also be obliged to contact consumers it their meter readings appear not to be completely reliable. The NMa will supervise this process directly, as the provisions of the energy code do not cover these obligations on energy companies.

NMa website, 16/09/11

NMa Decides On Appeals For The Fourth Regulatory Period In Gas

The Dutch Competition Authority (NMa) has published 11 decisions on objections lodged against x-factor decisions for the fourth gas regulatory period (2011-2013) and tariff decisions for 2011 for regional gas networks. These decisions dismiss all 31 appeals and the NMa will therefore let the earlier decisions stand.

NMa website, 21/09/11

Poland

Polish Regulator URE Proposes Allowing Gas Prices For Industrial Clients To Be Set By The Market In 2012

Marek Woszczyk, head of URE, the Polish energy regulator, stated that the regulator wants to take further steps to liberalise the gas market and to allow prices for industrial customers to be set by the market in 2012. He also hoped to publish a plan for gas market deregulation in early 2012. These moves come in response to pressure from the European Commission earlier this year, which stated that, if Poland did not deregulate its gas market as soon as possible, it would face a lawsuit.

Dow Jones Business News, 01/09/11; Reuters News, 01/09/11

Polish Energy Regulator URE Approves Reverse-Flow Code On Yamal Pipeline

URE, the Polish energy regulator, has approved a reverse flow natural gas network code for the Polish section of the Yamal pipeline. This code will make around 2,300 million cubic metres of annual capacity available to companies outside Poland who want to sell Russian gas to Polish buyers, through a virtual reverse flow service. The code was developed by the Polish transmission system operator, Gaz-System, which held a consultation on the code revisions.

The head of the URE, Marek Woszczyk, stated that the new code would increase the number of participants in the Polish market, which is seen as an important step towards creating competition in Poland's natural gas market.

Dow Jones Business News, 01/09/11; European Gas Markets, 15/09/11

Polish Parliamentary Lower House Passes Amendment To Gas Storage Law

The lower house of Poland's parliament, the Sejm, approved an amendment to the gas storage law, which enables gas importers to store the required 20 days' worth of annual imports anywhere in Europe (as opposed to in Poland, as originally specified in the law). Further changes include raising the threshold at which gas importers are required to hold reserves in storage from 50 million to 100 million cubic metres per year. Before it becomes law, the amendment must be approved by the parliamentary upper house, the Senate, and be endorsed by the president.

European Gas Markets, 01/09/11; IHS Global Insight Daily Analysis, 21/09/11

Russia

Gas Starts Flowing In The Nord Stream Pipeline

On 6 September 2011 the gas started flowing through the first pipe of the Nord Stream pipeline. The twin pipeline runs under the Baltic Sea and connects Vyborg in northwest Russia to Sassnitz in northeast Germany. German consumers will start receiving gas through the pipeline in October. When the second pipe is completed at the end of 2012, the pipeline will be able to transport 55,000 million cubic meters of gas annually.

ITAR TASS, 06/09/11; BBC News, 06/09/11

Spain

National Court Suspends Fine Imposed By Competition Authority On Electricity Utilities

The National Court provisionally suspended the fines that the Spanish Competition Authority (CNC) imposed on electricity utilities Endesa and Iberdrola, and on Unesa (an association of the leading companies in the electricity sector), for hindering the transfer of retail electricity customers to other suppliers and for engaging in price-fixing practices that affected industrial consumers. The Court is expected to decide in favour of similar suspensions of the fines imposed on three other large utilities.

Cinco Días, 23/09/11; El Economista, 02/10/11

Government Drafts New Regulation For Wind Power Installations

The Spanish government drafted a new regulation on wind power installations which will enter into force in January 2013. New wind power installations will be entitled to receive a premium on top of the market price but only for 12 years and only for the first 1,500 hours of full-capacity-equivalent operation per year. The actual premium will be based on a reference premium that will be adjusted upwards or downwards if the amount of new capacity is below or above the annual target (also set out in the draft regulation). The actual premium will also depend on the spot market price, through a cap-and-floor scheme; for those hours in which installations receive a premium, the regulation foresees an annual total minimum income of €55/MWh (US$73/MWh) and a maximum of €80/MWh (US$107/MWh). The bill is expected to be approved before the November general elections.

El Economista, 23/09/2011; Cinco Días, 23/09/11

Spanish Competition Commission Fines Unión Fenosa And HC For Anti-Competitive Behaviour

The Spanish Competition Commission (CNC) has fined electric utilities Unión Fenosa €1.93 million (US$2.57 million) and HC €365,000 (US$486,000) for anti-competitive behaviour. According to the CNC, the two companies abused their dominant position by making use of information, made available to them as electricity distribution companies, to develop business in the installation of new connections for consumers. According to Spanish regulations, the works required for a new connection point are open to competition, but the two companies were using information on their customers obtained from the distribution company to offer these services. The fines result from two separate cases initiated by the CNC in 2007 and 2008.

Europa Press, 23/09/11; El País, 24/09/11

Government Places A New Issue Of Electricity Tariff Deficit Bonds

The Electricity Debt Amortization Fund (FADE) placed a new issue of electricity tariff deficit bonds. The last issue was in May 2011 because of the high volatility in sovereign-debt markets. The bond issue amounted to €1,500 million (US$2,000 million) and pays interest of 4.4%, down from the 5.6% paid in May. In addition, the government changed the law regulating FADE's bond issues. Under the new rule, the FADE will be entitled to place debt with private investors and will no longer be required to use an auction process.

La Vanguardia 24/09/11; Expansión, 26/09/2011; ABC, 27/09/11

Electricity Supply Of Last Resort Auction For Spain And Portugal Held

The sixteenth Electricity Supply of Last Resort auction, buying forward energy contracts for supplies to Spanish and Portuguese customers under the supply of last resort tariff, was held on 27 September. The auction included quarterly base- and peak-load contracts. The base-load auction procured 3,800 MW to be delivered in every hour of the fourth quarter of 2011 at a price of €57.99/MWh (US$77.28/MWh). The auction for peak-load contracts, to be delivered between 8am and 8pm during the fourth quarter (except on Saturdays, Sundays, and Spanish national holidays), procured 458 MW at €63.00/MWh (US$83.96/MWh). These prices represent an increase from the previous auction of between 9% and 13%, which would imply a 6% increase in the Tariff of Last Resort. Nonetheless, the Spanish government has decided to lower the access charge within the Tariff of Last Resort, so as to keep it unchanged, in spite of the impact on the tariff deficit.

OMEL Subastas website, 27/09/11; El Mundo, 28/09/11

Switzerland

Regulator Publishes Electricity Tariffs

Swiss distribution companies had to submit their electricity tariffs for the coming year to the regulator, the Eidgenössische Elektrizitätskommission (ElCom). ElCom has now published these tariffs on its website. ElCom said that household and commercial tariffs were on average 2% and respectively 1% lower than in the previous year. In most cases, these reductions were due to decreases in network tariffs, which decreased by an average of 3% to 6%.

Eidgenössische Elektrizitätskommission website, 06/09/11

Second Tenders For Saving Electricity

Switzerland carried out for the second time competitive tenders for projects and programs that save electricity in the industrial, service, and household sector. The Federal Office of Energy (Bundesamt für Energie) announced that 31 projects and 13 programmes were successful and would receive a total of CHF13.6 million (US$14.9 million) in funding contributions.

Bundesamt für Energie website, 06/09/11

Risk Coverage For Geothermal Project

For the first time, a geothermal project will benefit from risk coverage financed out of the Swiss feed-in tariff (known as Kostendeckenden Einspeisevergütung, KEV) fund. The federation supports geothermal projects through a number of instruments, including risk coverage under article 15a of the energy act.
The Swiss energy office (Bundesamt für Energie, BFE) said that the risk coverage made it easier for investors to push forward geothermal projects without the certainty that electricity will be generated successfully. In total, CHF150 million (US$160 million) were available for this purpose. The KEV trust is required to cover up to 50% of the drilling and testing costs if the temperatures and water quantities necessary for electricity generation are not found. In the case of the project submitted by AGEPP SA, and approved after several months of assessment, the maximum guaranty is CHF8.3 million.
Bundesamt für Energie website, 26/09/11

Turkey

BOTAS Informs Gazprom Of Contract Termination On Western Line

The Turkish state gas company, BOTAS, decided not to prolong the contract with Gazprom Export for deliveries of 6,000 million cubic metres of Russian gas through the Western Line. The current contract concluded in 1986 expires 31 December 2011. Instead, imports through the Western Line are set to continue through deals with the private sector.
Reuters.com, 02/10/11; rian.ru, 02/10/11; Asia Pulse, 07/10/11

Koc Holding Completes Acquisition Of 24.81% In AES Entek Elektrik Uretimi

Koc Holding confirmed that it had completed the acquisition of a 24.81% stake in AES Entek Elektrik Uretimi. The acquisition, which Koc Holding disclosed in August, was subject to the approval of the energy market regulator.
Reuters, 03/08/11; Turkey Sectors and Companies Today, 10/10/11

NORTH AMERICAN NEWS

US

FERC To Decide Whether Federal Entities Can Be Fined For Violating Reliability Standards

The Federal Energy Regulatory Commission (FERC) has agreed to review a notice of penalty issued by the North American Electric Reliability Corp. to the Southwestern Power Administration (SPA) for violating mandatory reliability standards. This request will force FERC to resolve the question as to whether a federal entity can be fined for not meeting reliability rules. FERC has never addressed this issue in the past, because all fines issued to federal entities have been "zero dollar" penalties. The SPA and Department of Energy have maintained that FERC must rule in their favour due to sovereign immunity.
SNL Energy, 01/09/11; FERC website, 28/09/11

FERC Supports El Paso Natural Gas Postage Stamp Fuel Rate

A FERC administrative law judge has rejected Texas Gas Service's argument against the postage stamp fuel rate of El Paso Natural Gas. A postage stamp fuel rate charges the same percentage fuel fee to all shippers, regardless of distance. Texas Gas claimed that the postage stamp rate is unjust and unreasonable, that shippers in Texas, New Mexico, and Nevada are subsidising shippers in California and Arizona, because it requires more fuel to ship gas to Arizona and California than to Texas, and the fuel rate should reflect that difference.
The judge held that Texas Gas failed to prove that gas delivered to the western parts of the system travelled farther than gas delivered to the east and concluded that the company's methodologies and calculations were too flawed to support the case. The decision is subject to review.
Gas Daily, 12/09/11; Inside FERC, 12/09/11

NJ BPU To Investigate PJM's Transmission Planning Process

The New Jersey Board of Public Utilities (NJ BPU) has arranged a second legislative hearing to investigate issues concerning the transmission planning process of the PJM Interconnection (PJM). The NJ BPU initiated a hearing in June 2011, due to frustrations over the state's high power prices, and has since been trying to find ways to stimulate the construction of more capacity in New Jersey. New Jersey power suppliers claim that PJM's lengthy generation interconnection request process is one reason why new power plants are not being built in New Jersey. The NJ BPU will review why PJM's capacity market is failing to send the necessary price signals and incentives to constrained zones within New Jersey in need of mid-merit and base-load capacity.
NJ BPU website, 27/09/11; SNL Energy, 28/09/11

FERC Suspends Virtual Bidding At California ISO Intertie Scheduling Points

The Federal Energy Regulatory Commission (FERC) issued a waiver to suspend the planned increase in virtual bidding limits at California ISO's intertie scheduling points, due to concerns over market inefficiencies. Virtual bids are financial transactions used by generators and utilities to hedge their physical market positions and to manage their exposure to differences between day-ahead and real-time prices. The California ISO began allowing virtual bidding in February 2011 subject to certain transitional position limits.
On 1 October 2011, these limits were due to increase substantially. In August, the California ISO petitioned for a temporary waiver to suspend the increase in virtual bidding limits and it has since proposed to permanently eliminate all virtual bidding at its interties.

FERC website, 29/09/11; SNL Energy, 30/09/11

CENTRAL & SOUTH AMERICAN NEWS

Brazil

Government Announces A New Power Auction For Electricity Supply Starting In 2015

The Brazilian government announced that the energy regulator, ANEEL, will hold a new auction in February 2012 for the purchase of electricity supplies starting in 2015. Thermal and wind power contracts purchased in the auction will be based on availability of capacity and will last for 20 years. Hydroelectric projects will be paid for the energy they produce and contracts will last for 30 years. Companies willing to participate in the auction must apply by 21 November.

Diário Oficial da Uniao, 23/09/11; Agência Brasil, 26/09/11

ASIA PACIFIC NEWS

Australia

Senate Approves Single National Offshore Petroleum Regulator

The Senate passed the legislative package that establishes a single national regulator for offshore petroleum activities, an important milestone in the government's reform agenda for improving safety in the offshore petroleum industry. The Minister for Resources and Energy said the establishment of the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) delivers on a core recommendation of three comprehensive reports into offshore petroleum safety.

Minister for Resources and Energy website, 14/09/11

New Version Of The National Gas Rules - Version 11

On 15 September 2011, the Australian Energy Market Commission published a new version of the National Gas Rules. The current consolidated version of the Rules is Version 11, incorporating the National Gas Amendment (STTM Brisbane Hub) Rule 2011 No. 5, which commenced operation on 15 September 2011.

AEMC website, 15/09/11

Regulator Proposes Changes To Price-Setting Rules

The Australian Energy Regulator (AER) has proposed changes to the National Electricity Rules to ensure that electricity network companies can charge no more than is necessary for the safe and reliable delivery of electricity services. The AER is currently restricted in its ability to set prices based on an objective assessment of the efficiency or necessity of expenditure proposed by electricity network businesses. The AER's proposed changes would enhance its ability to assess their proposed expenditure.

AER website, 29/09/11

China

Chinese Mining Company Set To Buy Australian Coal Business

The Chinese mining company, Yanzhou Coal Mining Co, has agreed to pay A$296.8 million (US$285 million) for an Australian coal-mining business owned by Wesfarmers Ltd in southwestern Australia. This is Yanzhou's largest Australian company takeover since 2009 when it acquired Felix Resources Ltd. The proposed takeover is pending regulatory approval in Australia and China.

The Wall Street Journal Asia, 29/09/11; Townsville Bulletin, 29/09/11

India

Karnataka Launches Tender For 80 MW Of Solar Projects

Karnataka is inviting bids for 30 MW of solar thermal and 50 MW of photovoltaic (PV) projects, within strict guidelines imposed by Karnataka Renewable Energy Development Limited (KREDL), the Karnataka agency charged with ensuring a competitive bidding process. The projects will be assessed by the discounts they offer on the benchmark tariff set by the Karnataka Electricity Regulatory Commission (KERC), at Rs 14.50 (US$0.36) per kWh. Certain assumptions made by KERC have raised doubts over the feasibility of the benchmark tariff, however. KERC used a capital expenditure (capex) value of Rs 155 million (US$3.87 million) per MW for PVs, higher than the average capex of Rs 130 million (US$3.25 million) currently observed on the market. KERC also used a Capacity Utilization Factor (CUF) of 19%, while the Ministry of New and Renewable Energy found that the average CUF in the country was 15.85%. The assumed interest rate on debt, at 12%, was also significantly lower (by 200-300 basis points) than market benchmarks.

PV Magazine, 18/08/11; Electronics Bazaar, 01/09/11

Regulator Calls State Power Utility On A Public Hearing For Cost Overruns

The Maharashtra Electricity Regulatory Commission (MERC) rejected a plea by Mahagenco, the state-owned power generation utility, to determine capital expenditures for the two new 250 MW thermal units—Parli-7 and Paras-4—and to raise tariffs without a public hearing. MERC passed an order condemning Mahagenco for cost overruns exceeding 30%, and for its disregard of the stipulated timeframe of implementation of the projects, referring to the senior project team as “unprofessional”. The average project cost now exceeds Rs 58 million (US$1.45 million) per MW, and is substantially higher than the industry average. Costs will be passed onto consumers as the Mahagenco plants are entitled to a 16% return on equity under the Electricity Act of 2003, with any unforeseen project costs passed on to consumers via tariff hikes.

Hindustan Times, 16/09/11; Mint (New Delhi), 20/09/11;
NewsWire18 – EquityWire, 21/09/11

BBMB To Oppose Move By CERC To Assume Jurisdiction Over Power Tariffs

The Central Electricity Regulatory Commission (CERC) has taken control over the Bhakra Beas Management Board (BBMB) project, a move which will give it the power to determine tariffs for both BBMB's transmission lines and generation units. The BBMB project, an inter-state joint venture owned by the Punjab, Haryana, Himachal Pradesh, Rajasthan, and Chandigarh states, viewed the CERC move as an "infringement" of the rights of the partner states. BBMB argued that CERC's decision is contrary to previous orders in which it acknowledged BBMB as an inter-state powerhouse project. The Board will consult with partner states about appealing against the CERC order within 60 days, on fears that the CERC tariff-setting procedure will raise costs and tariffs, ultimately harming end-users.

PSEB News, 28/09/11; Hindustan Times, 03/10/11

Indonesia

Indonesian Government Prepares New Regulation To Boost Oil And Gas Exploration

During a conference in Jakarta, the Indonesian Energy and Mineral Resources Ministry said it is currently preparing a new regulation to boost oil and gas exploration in the country. Indonesia's upstream oil and gas regulator, BP Migas, had announced earlier that it doubted the country could reach its oil-lifting target of 945,000 barrels per day, as set out in the 2011 state budget. A number of other initiatives are also being taken.

Asia Pulse, 16/09/11, thejakartapost.com, 21/09/11, Asia Pulse, 30/09/11

New Indonesian Law Makes Coal More Expensive To Surrounding Countries

A new regulation in Indonesia states that the price of coal exports is to be indexed to the international price and revised annually, which is set to increase coal prices significantly. Many power projects in neighbouring countries, including India, had planned to get coal from Indonesia, but are now expected to struggle with the increased costs.

Financial Express, 22/09/11; Business Standard, 27/09/11

Philippines

Philippines Generators Ask ERC To Postpone Start Of "Open Access" Regime

In a joint letter signed by a number of electricity companies, Meralco asked the Philippines ERC to postpone the planned date for commencement of open access, currently planned to start on 26 December 2011. They argued that systems and rules for business-to-business transactions have not yet been finalised. The open access regime is designed to introduce competition into the electricity market by allowing end-users consuming at least one megawatt to choose their electricity source from a list of accredited suppliers.

BusinessWorld, 30/09/11; The Philippine Start, 30/09/11

South Korea

South Korea Saw Major Blackout

South Korea's energy minister, Choi Joong-kyung, offered to step down after taking responsibility for the nation's worst-ever power outage.

Platts Commodity News, 19/09/11; wsj.com, 19/09/11

About 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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