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Global Energy Regulation

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UK

DECC Asks Ofgem To Report On Longer Term Gas Security

The Department of Energy and Climate Change (DECC) commissioned Ofgem to investigate the security of gas supplies over the medium term. In response, Ofgem announced that it will launch a detailed investigation, and published a draft decision to increase security of supply incentives and strengthen existing arrangements. DECC's announcement follows the publication of its risk assessment on the security of gas suppliers required under EU law.
DECC website, 8/11/11; Ofgem website, 8/11/11

Ofgem Deregulates Connection Charges For Distribution Network

Ofgem decided to deregulate the connection charges of Electricity North West Limited (ENWL) at "extra high voltage" and "high voltage" levels, after deciding that ENWL faced sufficient competition in connection for connecting customers in these segments. The move follows ENWL's application in July 2011 for deregulation of all of its connection charges. Ofgem will continue to regulate connection charges for other customer segments.
Ofgem website, 21/11/11

Ofgem Releases Retail Market Review Proposals For Non-Domestic Customers

Ofgem released the results of its Retail Market Review for non-domestic customers. In the course of the review, Ofgem uncovered concern about suppliers' contract terms and conditions, mis-selling to non-domestic customers, and refusal to allow non-domestic customers to switch energy supplier. Ofgem's proposals include new licence conditions backed up by financial penalties as well as enforcement of the existing protection for small businesses or businesses using energy brokers.
Ofgem website, 21/11/11

DECC Announces Funding Boost For The Green Deal

DECC announced £200 million (US$314 million) of new funding to boost the take-up of the “Green Deal”, one of the government’s flagship energy efficiency policies. The Green Deal will operate from October 2012 and will offer homeowners and businesses insulation and energy efficiency measures at zero up-front cost to the consumer. The consumers and businesses may repay the costs of the energy efficiency measures over time using the savings on their energy bills. DECC estimates that total private sector investment in energy efficiency as a result of the Green Deal could top £14,000 million (US$22,000 million), with energy suppliers providing £1,300 million (US$2,000 million) in support.
DECC website, 24/11/11

Renewable Heat Incentive To Open For Applications

DECC opened the Renewable Heat Incentive which will provide a tariff for heat generated from renewable technologies, including biomass boilers, solar thermal equipment, and heat pumps. Recipients will earn between 4.5p and 8.5p (US$0.07 and US$0.13) per kWh depending on the technology used, with smaller installations earning larger sums per kWh. Households will receive the payment for 20 years from the date of installation.
DECC website, 25/11/11

Ofgem Announces Winners From Low Carbon Network Fund

Ofgem announced the six projects that will share £57 million (US$90 million) of funding from the Low Carbon Networks Fund (LCNF). The projects Ofgem has chosen include trials of electricity storage batteries and using network capacity previously reserved for maintaining security of supply to connect renewable energy sources. Ofgem awarded funds from the £500 million LCNF for the first time last year, spending £63 million on four projects in 2010-11.
Ofgem website, 27/11/11

Austria

Regulator Publishes Report On Service Quality

The Austrian regulator, E-Control, has published its second monitoring report on the service quality of 20 Austrian gas distribution network operators. Overall E-Control said that service quality was satisfactory although in some areas, such as online services, there was still room for improvement.
E-Control website, 07/11/11

Regulator Consults On New Gas Market Model

The Austrian energy regulator, E-Control, is holding a consultation on the new gas market model that is being introduced with the new gas law (Gaswirtschaftsgesetz). The law requires the introduction of the new rules by 1 January 2013. E-Control said that it was planning to finalise the regulatory framework in the spring of 2012 so that gas companies would have until the end of the year to implement the new rules.
E-Control website, 14/11/11

Regulator Presents Draft Electricity Use of System Tariffs

The regulatory commission of the Austrian energy regulator, E-Control, has presented the draft decree on electricity use of system tariffs (Systemnutzungsentgelte-Verordnung 2012, SNE-VO 2012). E-Control said that consumers could look forward to lower tariffs, but that there would be significant changes for pump storage plants. For these plants, the capacity price would be doubled to €2 per kW. E-Control explained that while pump storage plants were essential to the European energy system in times of the “energy turnaround”, it was justifiable to ask pump storage plants to contribute to network revenues.
E-Control website, 22/11/11

Court Annuls Use of System Tariff Decisions

The Austrian constitutional court (Verfassungsgerichtshof, or VfGH) annulled the network tariff decrees for the years 2009, 2010, and 2011. Electricity generators had appealed against the rule that they (as well as consumers) should pay network tariffs. The VfGH’s decision follows its earlier decision that the legal basis for these network tariff decrees, the Electricity Act of the time (ElWOG 2000), was unconstitutional. E-Control said that ordinary courts now had to decide if generators really could use the networks without paying. According to E-Control the consequences of the VfGH on network tariffs was not yet clear.
E-Control website, 22/11/11

Belgium

Regulator Approves “Standard Connection Agreement”

The federal energy regulator, the Commission de Régulation de l’Electricité et du Gaz (CREG), approved the “standard connection agreement” to the gas transmission network submitted by Fluxys, the gas TSO. CREG had asked Fluxys to revise the standard connection agreement to bring it into line with a royal decree entering into effect on 23 December 2010. Fluxys submitted the new standard connection agreement in October 2011 for approval by CREG. CREG approved the changes, but asked for the addition of an additional article as well as some minor edits.

Commission de Régulation de l’Electricité et du Gaz, 03/11/11

Agreement Reached On Nuclear Tax

The six parties negotiating the budget have come to an agreement on the nuclear tax (the “rente nucléaire”). The tax will be €550 million. The negotiators decided that Electrabel would also have to make some of its nuclear production available to the market and the regulator, CREG, would have to develop a mechanism to stop prices rising above the level in other countries in the absence of any objective reason.

Belga, 15/11/11; Le Soir, 15/11/11

Regulator Publishes Decree on Methodology for Setting Electricity and Gas Transmission Tariffs

The federal energy regulator, the Commission de Régulation de l’Electricité et du Gaz (CREG), published two decrees setting out a “provisional methodology” for determining tariffs for electricity and gas transmission, for connection to the transmission network and for storage and LNG installations. CREG explained that the current national tariff arrangements were no longer in line with European law after the deadline for transposing European directives 2009/72/EC and 2009/73/EC expired on 3 March 2011. Therefore, CREG said, it could no longer apply the tariff methodology currently set out in Belgian law and instead determined the provisional methodology in order to execute the mission afforded to it by European law. CREG had previously consulted on these methodologies and also published the results of these consultations. The next regulatory period will start on 1 January 2012.

Commission de Régulation de l’Electricité et du Gaz, 24/11/11

Regulator Rejects Tariff Proposals Of Fluxys And Elia

The federal energy regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), has rejected tariff proposals submitted by Fluxys, the gas TSO, and Elia, the electricity TSO. The tariff proposals would have set their respective tariffs in the regulatory period 2012 to 2015. CREG said that the current national tariff arrangements were no longer applicable, because they were no longer in line with European law. However, CREG explained that it had the authority to approve the tariffs on the basis of European law. CREG rejected the proposals of both Fluxys and Elia and asked the two companies for an adjusted proposal to be submitted by 12 December or later, but in time for the new tariffs to take effect on 1 January 2012. CREG had criticised Fluxys for trying to recover from Belgian consumers the cost of an installation that would predominantly be aimed at the British market. In the case of Elia, CREG disputed the claimed increase in costs.

Commission de Régulation de l'Electricité et du Gaz, 24/11/11; Belga, 29/11/11

France

Regulator Issues Qualified Approval For Draft Biogas Tariffs

The environment and energy ministers have asked the French regulator, the Commission de Régulation de l'Énergie (CRE), to assess a draft decree setting the feed-in tariffs for biogas. The CRE analysed the return that biogas plants would receive under the proposed tariffs. The CRE found that agricultural plants with a capacity between 100 and 200m3/h would receive a "normal return", while returns for other plants would be lower. The CRE made a number of recommendations, including the introduction of new thresholds for larger plants to take into account potential economies of scale, to increase the length of feed-in contracts to 20 years in line with the operational life of plants, and to introduce a degression in tariffs to take into account future cost reductions. The CRE approved the proposed decree subject to its comments. The CRE took its decision in July but published it only now on its website.

Commission de Régulation de l'Énergie website, 26/07/11

Regulator Approves Contract Conditions Between Biogas Producers And Natural Gas Suppliers

The French ecology, economy and energy ministers asked the French regulator, the Commission de Régulation de l'Énergie (CRE), to assess a draft decree outlining the conditions of contract between producers of biomethane and natural gas suppliers. The draft decree introduces an obligation on the producer and the network manager to conclude not only a connection contract, but also an additional contract specifying the financial conditions of the injection, the operation and maintenance costs for installation of the injection point, and the network and operating costs associated with injection of biomethane. CRE issued a favourable opinion on the envisaged contractual arrangement, stating that this arrangement ensures transparency. The CRE took its decision in July, but has only just published it on its website.

Commission de Regulation de l'Energie website, 26/07/11

Regulator Gives Further Advice On ARENH

Following a request by the prime minister, the Commission de Régulation de l'Énergie (CRE), has issued its advice on a draft decree that further spells out the conditions under which suppliers are allocated rights to buy nuclear power at regulated prices (ARENH). In particular this latest decision concerns the case of consumers that are shareholders in a company which buys long-term electricity supply contracts and are also supplied by this company. The CRE took its decision on 20 October, but published it on its website in November.

Commission de Régulation de l'Énergie website, 20/10/11

Regulator Approves Tariffs Of Independent Gas Networks

The French regulator, the CRE, has approved the tariffs for three independent gas networks managed by GrDF and Réseau GDS. The "non equalised" tariffs for these independent networks, chosen in a competitive process, are set by applying a multiplicative coefficient to the "equalised" tariffs of French DSO, GrDF. In the future, the tariffs are rolled forward according to a specific formula.

Commission de Régulation de l'Énergie website, 20/10/11

Government Launches A Public Consultation on Measures To Increase Energy Efficiency

The government launched a public consultation on how to increase energy efficiency. Various measures are considered to ensure more sustainable levels of energy consumption and energy cost savings. To reduce household consumption and costs, solutions such as tax credits for sustainable development and smart meters have been proposed. On the other hand, to

ensure increased competitiveness for firms, proposed solutions include energy efficiency loans to small businesses and energy performance guarantees in contracts. The consultation will be used to create a national action plan for increased energy efficiency and sustainability, to be implemented in early 2012.
Ministère de l'Écologie, du Développement durable, des Transports et du Logement website, 10/11/11

Regulator Approves Revision in Interconnector Capacity Allocation Rules

The Commission de Régulation de l'Énergie (CRE), has approved the changes proposed by the French TSO, RTE, to the capacity allocation rules on the interconnectors with Switzerland, the Centre-West region (Germany, Belgium, and the Netherlands), the Centre-South region (Italy), and Great Britain.
CRE approved the new rules, which should become effective on 1 January 2012, and said that they were "a significant step" towards the integration of markets and the implementation of the framework guidelines on capacity allocation and congestion management.
Commission de Régulation de l'Énergie website, 17/11/11

French Minister Announces Long-Term Plans To Ensure Peak Demand Security

The French minister for energy called a meeting of the monitoring unit and stakeholders to discuss the security of energy supply in winter 2012 and long-term security of supply during peaks. The monitoring unit identified two points of concern: the retirement of eight nuclear reactors in Germany and the vulnerability of Brittany and the "PACA" region. The group concluded that capacity shortages are unlikely to occur due to the excess capacity in Europe that can be mobilised following the closure of eight nuclear reactors in Germany, particularly coal-fired stations in Eastern Europe. The Minister also presented the reforms intended to ensure long-term generation capacity, highlighting the need for investment in capacity by 2015/16. To ensure long-term adequacy of supply, France is going to introduce capacity obligations, tradable obligations imposed on suppliers which are intended to ensure that they have enough capacity available to meet their peak demand requirements. Implementation of the scheme is expected in the winter of 2016/17.
Ministère de l'Économie, des Finances et de l'Industrie website, 21/11/11

Total To Appeal Government Decision On Shale Gas

Total, the French oil and gas company, said it would appeal the government's decision to revoke its permit to explore an area in the South of France for shale gas. Total said it had respected the law and could not understand why its permit was being revoked.

La Tribune, 21/11/11; Agence France Presse, 26/11/11; Les Echos, 28/11/11; Dow Jones Business News, 28/11/11; HIS Global Insight Daily Analysis, 29/11/11

Government Reinforces Support For Biogas

The French government published details of the regulatory support mechanism for biogas obtained from waste disposal in its Official Journal. Under the new support mechanism biogas injected into the gas networks will receive a tariff of between €45 and €125 per MWh, depending on the size of the facility, type of unit, and nature of the waste recycled. The support mechanism is one of the means by which France is intending to reach its renewable energy targets of 23% by 2020. By 2020, biogas injected into natural gas networks is expected to represent a third of the natural gas production in France. Subsidies for biogas are expected to reach €500 million per year by 2020.

Ministère de l'Écologie, du Développement durable, des Transports et du Logement website, 22/11/11

French Regulation On Renewable Energy Conform With EU Directives

The French ecology, economy, and energy ministers issued a press release following criticism of France by the European Commission (EC) for failing to transpose the EU Renewable Energy Directives into national law. The EC drew attention to the lack of administrative procedures regarding network access, and of criteria for judging the sustainability of biofuels and bioliquids.

The ministers confirmed France's commitment to supporting renewable energy generation and obtaining 23% of its energy from renewables by 2020. The press release stated that network access was already available, and that France had already passed the necessary orders for transposing laws on biofuels and biocarbons. The single outstanding issue was Article 15 on the guarantees of origin, which had already been passed and would be published before the end of 2011.

Ministère de l'Écologie, du Développement durable, des Transports et du Logement website, 25/11/11

Administrative Court Suspends Government Decision To Freeze Gas Tariffs

The Conseil d'État, France's administrative court, has suspended the decree of 29 September 2011, which froze regulated tariffs for small customers. Both the incumbent, GDF Suez, and alternative suppliers had appealed the decision, which was also criticised by the energy regulator, CRE. The Conseil d'État said that there was no basis for ministers to suspend the tariff formula, which would have implied increased tariffs by between 8.8% and 10%. The government now has one month to review its decision. Press articles suggest that the tariff freeze was motivated by the upcoming presidential elections.

La Tribune, 28/11/11; Reuters, 28/11/11; Les Echos, 29/11/11; HIS Global Insight Daily Analysis, 30/11/11

Germany

Regulator Determines Return On Equity For Second Regulatory Period

The networks regulator, the Bundesnetzagentur (BNetzA), has determined the return on equity for investments in electricity and gas networks for the second regulatory period. In future, the (nominal) return on equity for new assets and investment in expanding the network will be 9.05% before corporation tax (10.48% before deduction of corporation and trade tax). The new (real) rate of return for old assets was set at 7.14%. The new interest rates apply to gas network operators from 1 January 2013 and to electricity network operators from 1 January 2014. The currently applicable rates are 9.29% and 7.56%.
The return on equity remains the same throughout the five-year regulatory period. The BNetzA said important factors in its decision were the development of interest rates on capital markets and the assessment of entrepreneurial risk. Hence, the BNetzA lowered the base rate from 4.23% to 3.8%, but decided to keep the risk premium at 3.59%. The BNetzA justified its decision not to lower the risk premium by pointing to the need to provide incentives for a fast expansion of networks in order to support the government's plans for renewable energy.

Bundesnetzagentur website, 02/11/11

Regulator Publishes Data On Network Quality

Network operators have submitted the latest set of annual data on interruptions of supply. The BNetzA has now published the results and commented that the supply quality of German electricity and gas networks continued to be high.

Bundesnetzagentur website, 17/11/11

Forum Recommends Faster Pass-Through

The forum "Energy Networks Fit For The Future", which brings together representatives of environmental, business, energy, consumer associations, and regulatory authorities, met in the economics ministry for the fifth time to discuss questions related to the expansion of electricity networks. The forum approved with an overwhelming majority a proposal to facilitate the financing of large network investment projects, such as the connection of offshore wind farms. Currently, network operators have to wait two years until they start recovering the costs of offshore projects through network tariffs. The forum proposed that network operators should start recovering their costs without a delay. The economics ministry (BMWi) said that it was already working on a change in the law and that the forum's decision confirmed the necessity of implementing the reforms as soon as possible.

Bundesministerium für Wirtschaft und Technologie website, 22/11/11

Regulator Publishes Monitoring Report

The networks regulator, the Bundesnetzagentur (BNetzA), published its annual monitoring report, which reviews developments in the generation sector and in energy transport (networks), as well as in wholesale and retail markets. The BNetzA said that the expansion of networks would be the "main issue" in coming years, but that there were currently "considerable" delays, which also affected 12 out of 24 priority projects under the Network Expansion Act (EnLAG). The BNetzA also reported that in 2010 the number of customers changing their energy supplier increased significantly.

Bundesnetzagentur website, 25/11/11

Regulator Launches Quality Regulation For Electricity Distribution Networks

The networks regulator, the Bundesnetzagentur (BNetzA), has communicated the level of the so-called quality element (Q-element) to electricity distribution system operators who are subject to incentive regulation during the first regulatory period. Out of a total of 202 system operators, 143 will have an amount added (bonus) and 59 will have an amount deducted (penalty). The highest amount added is approximately €4.7 million and the highest amount deducted is approximately €4.1 million. The level of the bonus or penalty an individual company receives is based on the difference between the individual reliability of the electricity network during the period 2007 to 2009 and a reference value calculated for the same period. The BNetzA said that structural differences between the individual network areas were taken into account when calculating the reference value. The BNetzA explained that in order to minimise the financial risks for system operators posed by major fluctuations in supply outages, bonuses and penalties would be constrained by a symmetrical cap for 2012 and 2013. The cap was fixed at +/-4% of the revenue cap in 2011, subject to some adjustments.

Bundesnetzagentur website, 30/11/11

Netherlands

NMa Sets Out Method Decision On Regulating Flexibility Services

The Dutch Competition Authority (NMa) published its method decision on the regulation of the flexibility services provide by Gas Transport Services (GTS), operator of the national gas transmission network. This method decision states that GTS should continue to offer flexibility services for the period 2012 to 2014, on the grounds that Gasterra has a dominant position in the market for flexibility services. This method decision sets out how the NMa will determine the rate that GTS may charge for these services.

NMa website, 07/11/11

Correction Of TenneT Rates By NMa

The Dutch Competition Authority (NMa) published a new x-factor decision for TenneT, operator of the national high voltage network, covering the fourth period (2008-2010). The X factor for TenneT is set at 1.3% per annum. A new decision was needed after the Board of Trade and Industry Appeals (CBb) ordered the NMa in June to revise the underlying method in the decision for the fourth regulatory period.

NMa website, 10/11/11

Poland

Polish Energy Regulator URE Asked Polish Energy Utilities to Revise Down Tariff Requests

In response to requests for gas price increases ranging from 8.4% to 17.9% for 2012, the Polish Energy Regulator URE has asked energy distributors to revise down their requests. The president of URE, Marek Woszczyk, noted that the proposals were unacceptable and that the regulator did not believe that sufficient evidence or analysis existed to support significant tariff increases. Woszczyk also stated that URE will pass the final decision on the new energy tariffs on 17 December 2011.

PAP Market Insider, 10/11/11, 02/11/11; Polish News Bulletin, 14/11/11

Polish Energy Regulator URE Approves Polish Natural Gas Monopoly PGNiG's Gas Storage Tariff Changes

The Polish Energy Regulator URE has approved tariffs that reduce by 3% the price of gas storage services provided by Polish natural gas monopoly, PGNiG. The new tariffs also include measures to increase the amount of gas storage which third parties can access, with 905 million cubic metres of capacity available over one to four years. The tariffs will go into effect on 1 December 2011 and remain valid until 31 March 2012.

European Spot Gas Markets, 28/11/11; Dow Jones Business News, 29/11/11

Polish Antirust Regulator UOKiK has Approved Acquisition of Vattenfall Assets by Poland's State-Controlled Natural Gas Monopoly PGNiG

Poland's antitrust regulator, the Office for Competition and Consumer Protection (UOKiK), has approved the takeover of the Polish assets of Swedish state-owned energy company Vattenfall by the Polish state-controlled natural gas monopoly PGNiG. The acquisition represents a consolidation of the heat sector in Poland, though UOKiK stated that the takeover would not result in a significant reduction of competition.

Dow Jones Business News, 29/11/11; UoKiK website, 29/11/11

Portugal

EU Court Of Justice Maintains Its 2010 Decision On Portugal's Golden Shares In GALP

The EU Court of Justice has upheld its 2010 decision on Portugal's holding of golden shares in GALP Energia, the country's leading oil and gas group. According to the Court, Portugal's special rights in GALP Energia, assigned to it by means of its golden shares, constitute a restriction on the free movement of capital and the fundamental freedom of establishment. The court had already declared the golden shares illegal in November 2010, but Portugal had applied for a derogation from this decision on the grounds that they were necessary to ensure a secure energy supply.

Europolitics, 11/11/11; Corporate Law and Governance, 11/11/11

New Rules For Auctions Of Energy From Wind And Cogeneration Plants

The Portuguese energy regulator, ERSE, published a directive that sets out rules for the auctions of energy produced by wind and cogeneration plants. According to these rules, the closing price is to be established by successive rounds of bidding uniform prices, until excess demand is eliminated. The auctions will comprise two types of product: a base-load contract, for electricity to be delivered in every hour of the delivery period, and a peak-load contract for electricity to be delivered between 8:00 am and 8:00 pm Monday to Friday, over the whole of the delivery period. The first auction will be held on 15 December 2011. The auction will procure only base-load contracts up to a total of 300 MW, in the form of a quarterly contract for the first quarter of 2012 and a yearly contract for 2012.

Sapo, 16/11/2011; RTP, 25/11/11

Romania

Romanian Energy Regulator Implements Renewable Energy Law

The Romanian energy regulator (ANRE) has implemented the Renewable Energy Law passed in parliament in October. The legislation includes a green certificate scheme providing banded support by technology with wind power earning two Green Certificates per MWh and solar projects receiving six Green Certificates per MWh. The Green Certificates will vary in value between regulatory limits of €55 and €57 per certificate.

Business Review online, 17/11/11; www.energia-online.eu*, 18/11/11*

Spain

Government Did Not Approve Drafted Regulation For Wind Power Installations

The outgoing Spanish government did not approve the regulation for wind power installations that it had recently drafted. The regulation was expected to enter into force in January 2013. The proposal would have capped the number of hours of full-capacity-equivalent operation per year that are entitled to receive a premium. The draft would also have introduced a system that adjusted the premiums upwards or downwards, depending on the level of compliance with the annual target for installed capacity (which was also set out in the draft regulation). A new bill is expected to be approved once the new government takes office.

Asociación Empresarial Eólica, 08/11/11; Cinco Días, 09/11/11

Government Approves The Renewable Energy Plan 2011-2020

The Spanish government approved the Renewable Energy Plan ("PER") covering the years 2011-20, which sets a national target of 20.8% of energy consumption supplied from renewable sources by 2020. According to the PER, renewable generation capacity in 2020 will comprise: a) 35,750 MW of wind farms, of which 750 MW will be offshore, b) 7,250 MW of photovoltaic installations, c) 4,800 MW of thermal solar plants, d) 13,861 MW of hydropower, e) 1,950 MW of biomass, f) 100 MW of tidal power, and g) 50 MW of geothermal facilities. This generation capacity represents a 60% increase from currently installed levels. The PER estimates the costs at €24,700 million (US$33,330 million), while the direct benefits are estimated at €29,000 million (US$39,130 million).

Instituto para la Diversificación y Ahorro de la Energía, 11/11/11; Agencia EFE, 11/11/11

Spanish Competition Commission Fines E.ON For Anti-Competitive Behaviour

The Spanish Competition Commission (CNC) fined electric utility E.ON € 607,728 (US$815,450) for anti-competitive behaviour. According to the CNC, the company abused its dominant position by making use of information it obtained as a distribution company to develop activities related to the installation of new connection points for final consumers. According to Spanish regulations, the works required for new connection points are open to competition. This fine is the result of a case initiated by the CNC in 2009.

Expansión, 14/11/11; Europa Press, 14/11/11

Government Places The First Emission Of Electricity Tariff Deficit Bonds Among Private Investors

The Electricity Debt Amortization Fund ("FADE") placed the first issue of electricity tariff deficit bonds among private investors, for a total of €475 million (US$640 million). The issue was split into two parts, with maturities of seven and 15 years and interest rates of 6.42% and 5%, respectively. In September 2011, the Spanish government changed the law that regulates FADE's debt issues in order to facilitate its securitisation. This change authorises the Fund to place debt among private investors instead of calling for bids in an auction process. With this emission, the FADE has placed a total of five issues amounting to a total of €8,825 million (US$11,900 million). This amount is lower than the €15,400 million (US$20,780 million) the government was expecting to place by July.

Europa Press, 15/11/11; Cinco Días, 16/11/11

Spanish Supreme Court Declares Freezing The Tariff Of Last Resort Illegal

The Spanish Supreme Court declared illegal a move to reduce the access charge, so as to freeze the Tariff of Last Resort. The government used this practice in July 2010 and October 2011 to keep the Tariff of Last Resort unchanged in spite of rises in wholesale electricity prices. The Court also declared that the government did not follow the required steps, having bypassed the mandatory report from the Spanish energy regulator, the CNE. The access charge represents about 50% of the Tariff of Last Resort. The other part of the tariff results from the closing price in the auctions for Supply of Last Resort electricity, which are held every three months.

El Mundo, 16/11/11; El Semanal Digital, 16/11/11

The Spanish Government Faces Arbitration Proceedings Over Retroactive Premium Cuts For Solar Installations

Fourteen institutional investment funds and foreign energy companies filed a lawsuit that initiates international arbitration proceedings against the Spanish government for a law approved in 2010 that allegedly reduced the premiums that solar installations were entitled to receive. The lawsuit claims that the bill passed in 2010 violates the European Energy Charter.

Expansión, 17/11/11; Cinco Días, 18/11/11

Government Approves An Availability Payment Mechanism For Thermal And Hydroelectric Facilities.

The Spanish government passed a bill that introduces an availability payment to be paid to electricity generation plants less than 10 years old that can vary their output to meet peak demand. This covers fuel, coal, and combined cycle gas turbine plants, as well as pumped storage and hydroelectric reservoir facilities. The bill sets a reference payment for the first year, starting in December 2011, equal to €5,150 (US$6,950) per MW, a figure which is adjusted by a coefficient that differs between technologies depending on their availability factor. Thermal and hydroelectric technologies will be entitled to receive approximately €4,700 (US$6,340) per MW) and €1,200 (US$1,620) per MW, respectively. The capacity payment also rises, from €20.000 (US$27,000) per MW/year to €26.000 (US$35,100) per MW/year. The national energy commission (CNE) is also tasked with developing a proposal within six months to set the level of these payments on the basis of competitive mechanisms.

Agencia EFE, 18/11/11; Cinco Días, 19/11/11

Turkey

Gazprom To Sign Export Deal With Private Companies

The Turkish energy firm Bosphorus Gaz, which is majority-owned by Russia's Gazprom, said Gazprom Export was close to signing a new gas supply contract with one or more of Turkey's gas importers. Negotiations in September between Gazprom and the Turkish gas giant BOTAS failed to extend an old supply agreement on the Western Line, which expires at the end of 2011.

pennenergy.com, *01/11/11; European Spot Gas Markets, 17/11/11*

Further Privatisation Of Distribution Grids To Be Completed This Year; 16 GW Of Generation Capacity To Be Privatised In 2012

The Turkish privatisation administration said it hoped to complete the privatisation and transfer of two or three electricity distribution companies by the end of the year. The administration stated that, of the 18 distribution companies the administration originally had in its portfolio, it had already completed the privatisation of nine companies. Private distribution companies currently control 46% of the distribution market. The administration also said that the generation facilities of the state-run EUAS would be privatised in 2012. EUAS's generation portfolio includes 18 thermal power plants and 27 hydro power plants, with a total generation capacity of 16GW.

hurriyetdailynews.com, *22/11/11; Turkey Today, 23/11/11*

NORTH AMERICAN NEWS

US

Duke And AEP Propose Transition To Competitive Markets

Two Ohio electricity distributors, Duke Energy Ohio and American Electric Power, have individually filed settlements with the Public Utilities Commission of Ohio (PUCO) that detail plans of transition to competitive markets. Both companies plan to transfer their respective plants to a competitive generating affiliate. This generation capacity will then be offered to PJM's capacity market. This move is expected to help alternative suppliers to compete for the companies' retail customers in Ohio. Duke is proposing to start immediately selling all its capacity onto the market, while AEP would release its capacity to a new merchant subsidiary over the course of three years.

The Energy Daily, 27/10/11; Electric Utility Week, 31/10/11

DOI Releases Plan To Eliminate Solar Zones In West

The US Department of the Interior (DOI) released a supplement to its programmatic environmental impact statement that anticipates removal of seven solar zones in the West, due to either lack of sufficient interest by developers, foreseeable transmission constraints, or concerns over environmental impacts. This decision reduces by nearly 60% the total land area in the West pre-approved for utility-scale solar energy development. Solar energy developers receive "fast-track" permitting and regulatory and financial incentives for developing within solar zones. In the last two years, the DOI has approved 13 solar projects for a total capacity of 5,000 MW and currently has 79 projects seeking permits for a total of more than 33,000 MW. The DOI plans to identify additional solar zones.

Phoenix Business Journal, 30/10/11; Platts Electric Utility Week, 31/10/11

FERC Approves PJM's Proposal To Measure Demand Reductions

On 4 November, FERC released an order accepting the proposal by PJM Interconnection LLC to measure demand reductions provided by demand response resources in its capacity market. PJM's proposal disagreed with the existing method to curtail load, alleging that it overstated the demand reductions from demand-response aggregators and could therefore hinder system reliability. FERC approved PJM's proposal but is requiring PJM to adopt an interim mechanism to protect aggregators from the changes in measurement for commitments they have already made in PJM's recent capacity auction.

Additionally, PJM must submit evidence that the approved rules will not prevent aggregation of demand-side reductions and file a plan to determine the penalties to be imposed on customers who do not meet their committed load reduction.
Platts Electric Utility Week, 31/10/11; FERC website, 04/11/11

FERC Releases Plan For Reviewing And Modifying Rules

FERC has released its "Plan for Retrospective Analysis of Existing Rules", which sets forth a schedule for reviewing and improving certain FERC regulations at least every 10 years. The plan comes in response to an executive order from President Obama which called on independent agencies periodically (1) to identify significant regulations and (2) to repeal, modify, streamline, or expand the regulations to better achieve agency objectives. Three FERC rules were classified as "significant" and will therefore be periodically reviewed: the open access transmission policy, the reliability and cyber security standards, and the smart grid policy statement. Further, FERC staff will consider additional rules of "particular importance to the industry."
Inside F.E.R.C., 14/11/11; Electric Power Daily, 10/11/11

New US FERC Rule Blocks Affiliates From Gaming Interstate Pipeline Bidding

The US Federal Energy Regulatory Commission has issued a final rule preventing affiliated companies from engaging in bidding tactics with the aim of obtaining more than their fair share of available capacity. Under current practice, if there is not enough pipeline capacity to fulfil all bids in an open season, capacity is assigned based on the ratio of the shipper's bid to all other qualifying bids. The new rule prevents multiple affiliates of the same entity successfully bidding for capacity during a pro rata allocation and then releasing all the capacity to a single affiliate, giving this affiliate more capacity than it could have gained alone. FERC has decided also that if affiliates have a valid reason for bidding for capacity independently, then the rule will not apply.
A recent staff investigation into bidding tactics during the March 2007 open season for El Paso's Cheyenne Plains gas pipeline resulted in fines of US$7.5 million for the parties involved.
Platts Commodity News, 17/11/11; [www.ferc.gov,](http://www.ferc.gov) *17/11/11*

PUCO Approves Rehearing To Consider AEP Ohio's POLR Charges

On 3 October 2011, the Public Utilities Commission of Ohio (the Ohio PUC) found that AEP-Ohio had not provided enough evidence of the actual costs of the Provider of Last Resort (POLR), and directed AEP-Ohio to reduce the POLR charges reflected in its rates. AEP-Ohio filed an application for rehearing of the PUC Order, pointing to a number of errors in the Commission's initial finding and arguing that their option model provides a reasonable measure of POLR costs. On 22 November, the Ohio PUC found that AEP Ohio provided sufficient reason to warrant a rehearing of its October 2011 Order.

PUCO website, 22/11/11

NERC Reports EPA Regulations Will Strain The US Electric System

The National American Electric Reliability Corp (NERC) released a report on 28 November with a detailed analysis of the adverse impact that certain regulations of the US Environmental Protection Agency (EPA) could have on the bulk system reliability. The EPA is in the process of proposing or implementing several regulations directed at reducing emissions from coal-fired power plants. According to NERC, the EPA regulations could compromise the financial viability of up to 61 GW of existing generating units fired by coal, oil, and natural gas, leading to potential retirements by 2018 in addition to the 38 GW of retirements already announced. NERC's analysis concluded that the nation's power grid could be strained from 2012 to 2018 as reserve margins decrease, if replacement resources cannot be built or acquired by the proposed deadlines.

NERC website 28/11/11; SNL Energy, 29/11/11

Mexico

Government Approves A Plan To Extend The Country's Natural Gas Pipelines Network

The President of Mexico presented a plan to extend the country's natural gas transport and distribution networks. The project foresees a mix of public and private investments that amounts to a total of US$10,500 million. The objective is to add 4,374 kilometres to the natural gas pipelines network in the next six years.

Mexico government website, 08/11/11; El Universal, 09/11/11

CENTRAL & SOUTH AMERICAN NEWS

Brazil

Electricity Regulator Approves Methodology To Determine Costs Of Electricity Distributors In The Third Regulatory Period

Brazil's energy regulator, Aneel, approved the methodology to determine the electricity distribution costs in the third regulatory period starting in 2012. This new methodology reduces the real post-tax rate of return on capital invested by electricity distribution companies from 9.95% to 7.5%.
The methodology also modifies the current procedure for calculating the companies' operating costs, basing them on a reference model. Aneel set an average productivity rate of 0.782%, which will be used as a reference for the estimation of each distributor's operating costs, regardless of their actual costs.
Agência O Globo, 08/11/11, 08/11/11; Aneel, 08/11/11

Government Announces A New Power Auction For Electricity Supply Starting In 2016

The Brazilian energy regulator, Aneel, will hold a new auction on 20 December 2011 to procure electricity produced by new hydroelectric, thermal (biomass and gas), and wind power plants. The contracted energy is to be delivered starting in 2016. In addition, in the case of hydroelectric power plants, winners of the auction will also receive a concession for independent power production. A total of 377 generation projects have been registered to participate in the auction, with a total installed capacity of 24,200 MW.
Agência Brasil, 18/11/2011; CERPCH, 22/11/2011

ASIA PACIFIC NEWS

Australia

Transmission Frameworks Review Interim Report Published

The Australian Energy Market Commission (AEMC) published the First Interim Report for the Transmission Frameworks Review. The First Interim Report focuses on options for reforming the role and provision of transmission networks and details five alternative paths for achieving such an outcome. This report also includes options for enhancing the planning and connection arrangements. The AEMC is currently seeking comments from stakeholders to enable the next stage of its review, with submissions due on 27 January 2012.
AEMC website, 17/11/11

Application And Operation Of Administered Price Periods Rule Change Proposal Final Determination Issued

The final determination on the rule change relating to the application and operation of administered price periods in the National Electricity Market (NEM) was published by the Australian Energy Market Commission (AEMC). All of the decisions proposed in the draft determination and the consultation paper have been implemented in the final determination. These decisions relate to amendments to areas such as Administered Price Periods, Market Ancillary Services, the Australian Energy Market Operator's obligations, and the calculation of price constraints. Given the final determination, the AEMC released Version 46 of the National Electricity Rules, which includes the Rule relating to the Application and Operation of Administered Price Periods (Rule 2011 No 9). The new rules became effective from 10 November 2011.
AEMC website, 10/11/11

AEMC Commences Assessment On Consolidated Rule Change Request

The Australian Energy Market Commission (AEMC) has given notice under section 93(1)(a) of the National Electricity Law (NEL) that it is to consolidate the rule change request received from the Energy Users' Committee with that received from the Australian Energy Regulator (AER) (see Global Energy Regulation, September 2011, p.17). Both change requests deal with matters relating to the calculation of the cost of debt for electricity network businesses. Submissions close on the consultation paper on 8 December 2011.
AEMC website, 03/11/11

AEMC Commences Review Of Distribution Reliability Outcomes And Standards

The Australian Energy Market Commission (AEMC) has launched a consultation on distribution reliability outcomes and standards following the directions given by the Ministerial Council on Energy in August. For the first half of its review, the AEMC will consider a workstream for New South Wales (NSW), with the second half of the review to consist of a national workstream. The AEMC has released the issues paper for the NSW workstream, which sets out its proposed scope and approach. The NSW section of the review provides advice on the benefits and costs for NSW of future reliability outcomes for distribution.
AEMC website, 03/11/11

Clean Energy Legislation Passed

The Clean Energy Legislation has passed the Australian Parliament. This legislation established a number of climate change policies and bodies. First, the expanded Renewable Energy Target will ensure that one fifth of electricity will be produced by renewable sources by 2020. Second, a carbon price will apply from 1 July 2012. Third, the Australian Renewable Energy Agency will be created to facilitate research and development in renewable energy technologies. Lastly, the establishment of the Clean Energy Finance Corporation will encourage private sector investment in clean energy technologies.

Minister of Climate Change and Energy Efficiency press release, 08/11/11

Clean Energy Regulator To Commence In April 2012

The Clean Energy Regulator will commence operations in April 2012. It will become responsible for the administration of the National Greenhouse and Energy Reporting System, the Carbon Farming Initiative, the Renewable Energy Target, and the carbon pricing mechanism.

Minister of Climate Change and Energy Efficiency press release, 15/11/11

New Zealand

Draft Reasons Paper And Determination Released

The Commerce Commission has published its draft decisions on the default price-quality paths for gas pipeline services. The initial proposed gas price-quality paths would apply from 1 July 2012. They will be set by rolling over current prices and include a quality standard for the gas pipeline businesses. The Commerce Commission is seeking feedback on its draft decisions.

Commerce Commission website, 21/11/11

Revenues Set For Transpower

The Commerce Commission has set the Maximum Allowable Revenues (MARs) that Transpower is allowed to earn for the three-year period beginning April 2012. Transpower operates the national electricity transmission grid in New Zealand and the MARs effectively set the amount that Transpower can charge power companies and large electricity users. The MARs announced by the Commerce Commission are significantly higher than those set in previous years due to Transpower's planned investment in critical infrastructure. However, the Commerce Commission concluded that the MARs allow for a well-balanced tradeoff between investment and consumer prices.

Commerce Commission website, 01/11/11

China

China Power Reform To Strip SGCC Of 4 % Of Assets

The State Grid Corporation of China (SGCC) issued a statement showing that a long-planned re-modelling of SGCC would involve selling off 4% of SGCC.

Reuters News, 03/11/11

China May Face Power Shortages This Winter

The State Electricity Regulatory Commission (SERC) said it expected a shortage of capacity this winter of up to 26 GW at peak times. It said part of the reason was that the stockpiles of coal at power plants were low due to low profitability.

China Daily, 12/11/11; Industry Updates, 14/11/11

China To Increase On-Grid Power Prices, Cap On Coal Prices

The Chinese National Development and Reform Commission (NDRC) said China would increase on-grid power prices and electricity rates for industrial users and put a ceiling on coal prices. On-grid electricity prices were to increase by 25 yuan (US$3.90) per MWh and electricity for industrial users would rise by 30 yuan (US$4.70) per MWh. The government said it would also cap the spot price for benchmark coal at Qinhuangdao Port at 800 yuan (US$125) per tonne and limit increases in term-contract unit coal prices to less than 5%.
The rise comes after increasing losses for coal plants, which have been facing both regulated prices of electricity and rising market prices for coal, squeezing profitability.

Industry Updates, 01/12/11; China Daily – Hong Kong Edition, 01/12/11

India

Appellate Tribunal Orders Annual Hikes In Power Tariffs

The Appellate Tribunal for Electricity (ATE) issued a landmark order to the State Electricity Regulatory Commissions, requiring that they set electricity tariffs before the beginning of every fiscal year. This will effectively disallow delays in tariff revisions and ensure that they are increased gradually and at regular intervals rather than in large, one-off hikes. The landmark order empowers state regulators to order binding tariff revisions in the event that utilities fail to initiate proceedings for annual performance reviews. The decision came after the secretary of the Ministry of Power approached ATE pointing out the massive annual revenue losses incurred by state utilities and particularly state distribution companies, which are expected to rise to Rs 116,000 crore (US$22,591 million) per annum by 2015.

Indian Power Markets, 14/11/11;
The Economic Times – Delhi/Bangalore/Mumbai ed., 22/11/11

Maharashtra: Regulator Rejects Proposal To Raise Tariffs

The Maharashtra Electricity Regulatory Commission (MERC) rejected JSW Energy's proposal to raise power tariffs on grounds that the commercial difficulty caused by its fuel provider does not constitute legitimate grounds for JSW not to honour its power purchase agreement (PPA) with MERC. According to the PPA, JSW is obliged to sell electricity from its 300 MW unit at Jaigad at Rs 2.71 (US$0.053) per kWh. JSW proposed a tariff hike after its Indonesian coal supplier had its mining license suspended, claiming this constituted a "force majeure". JSW was subsequently forced to procure coal on the spot market, where coal prices have been on the rise. MERC ruled that JSW's PPA was not contingent upon fuel supply at a particular price, and therefore did not merit tariff adjustment. JSW may appeal the order.

The Economic Times – Delhi/Mumbai/Kolkata ed. 18/11/11; Bloomberg UTV, 21/11/11

Delhi: Regulator Issues Notice On Discoms For Debt Non-Payment

The Delhi Regulatory Commission (DERC) issued notices for debt non-payment to the two largest infrastructure-backed distribution companies, BSES Rajdani and Yamuna, who supply more than 70% of the electricity in Delhi. DERC threatened to suspend the distribution companies' licenses for operation, as they currently have outstanding debts to a number of generation and transmission companies of around Rs 3,000 crore (US$584 million). The distribution companies were requested to submit a response by 2 December, after which DERC will hold a formal hearing. The current financial distress of the distribution companies is a consequence of the lack of cost-reflective tariffs in Delhi, which even after the recent hikes fail to recover the costs of power purchases, according to BSES spokesmen.

Press Trust of India, 25/11/11; Indian Express, 26/11/11; The Pioneer, 26/11/11

Central Government Directs Nuclear Safety Reviews Following Fukushima Disaster

The Nuclear Power Corporation of India Ltd. (NPCIL) and the Atomic Energy Regulatory Board (AERB) were tasked by the Ministry of State to review the safety of the Indian nuclear power plants, following the Fukushima disaster. The task forces found that the nuclear power plants have sufficient safety standards and are well equipped to withstand extreme natural events. Following the review, the NPCIL and AERB task forces drew up recommendations for safety enhancement, and a "Roadmap" for their implementation. The government also passed the Nuclear Safety Regulatory Authority Bill, giving statutory rights to the nuclear safety regulator.

India Public Sector News, 24/11/11; ABC Live, 24/11/11; The Energy Business, 25/11/11

Tamil Nadu: Regulator Accepts Proposal To Raise Tariffs By Up To 40% For Domestic Consumers

The Tamil Nadu Electricity Regulatory Commission (TNERC) accepted the proposal by the Tamil Nadu Electricity Board (TNEB) to increase its tariff rates by 25% for high tension units and up to 40% for domestic users. Final approval will be granted after public consultation with stakeholders. The move came in light of the severe financial losses borne by TNEB whose debt burden stood at Rs 40,651 crore (US$7,913 million) in March 2011.

Business Standard, 28/11/11; India Public Sector News, 28/11/11; India Energy News, 28/11/11

Indonesia

Indonesia To Develop 4,000 MW Of Coal Capacity, Electricity Exports To Replace Gas Exports

Indonesia's deputy energy and mines minister, Widjajono Partowidagdo, said Indonesia would develop a 4,000 MW coal-fired plant on the island of Batam to export electricity to Singapore. The plan is to replace existing gas exports with exports of electricity from coal-fired power stations.

Platts, 07/11/11; Platts, 17/11/11

Indonesian Government To Revise Geothermal Electricity Prices

Sugiharto Harsoprayinto, director at the Indonesian Energy and Mineral Resources Ministry, said the ministry is considering a revision of its regulation on the prices of electrical power originating from geothermal energy, saying it would vary according to conditions in the region where it was produced.

Asia Pulse, 08/11/11; ***Antaranews.com****, 10/11/11*

Philippines

Philippines' Napocor Is Assured Budget For Generation In Off-Grid Areas

Energy Secretary Jose Rene D. Almendras stated that a supplemental budget for sustaining generation in off-grid areas had been endorsed by Congress and was likely to pass the Senate as well. The supplemental budget is granted to reduce intermittent power outages in remote areas that are not connected to the grid. The Energy Department is also currently undertaking studies aimed at privatising significant off-grid generation capacity.

BusinessWorld, 22/11/11; Manilatimes.net, 22/11/11

South Korea

Committee Reveals "Support Package" For The Renewable Energy Industry

The Presidential Committee on Green Growth presented a package of measures to support the renewable energy industry in South Korea. President Lee Myung-bak said South Korea should increase support to the sector in order to "strengthen its position the global renewable energy industry". Among other measures, the plan contains an increase in funding for R&D and export financing from 6.6 trillion won (US$6,000 million) to 10.5 trillion won (US$9,500 million). The government was also set to relax regulations for renewable energy firms. At the same time, the government presented plans to incorporate additional costs of renewable energy generation into electricity charges, which is likely to lead to tariff increases.

Asia Pulse, 31/10/11; ***news.xinhuanet.com****, 31/10/11*

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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.

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