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Global Energy Regulation

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EUROPEAN NEWS

European Union

France, Germany, And Switzerland Launch 30-Minute Intraday Contracts

The European Power Exchange and the clearinghouse European Commodity Clearing introduced 30-minute continuous trading of power spot contracts in the intraday markets in France, Germany, and Switzerland. During their first 24 hours, these contracts traded a total of 450.45 MWh. These new 30-minute intraday contracts on the continuous intraday markets have been designed to provide a more efficient way of managing the emerging challenge of greater flexibility in electricity markets.

EPEXSPOT, 30/03/17

EC Launches Public Consultation On Proposed Projects For List Of Projects Of Common Interest

The European Commission (EC) launched a public consultation on the third list of projects proposed as Projects of Common Interest (PCI). Projects will receive PCI status if they are considered essential for completing the EU's internal energy market and for achieving the EU's energy policy objectives. Such projects will benefit from accelerated planning and permitting, and will be eligible for access to financial support from the Connecting Europe Facility program totalling €5,350 million (US$5,696 million) between 2014 and 2020. The consultation will close on 19 June 2017.

European Commission, 27/03/17

ACER Publishes Overview Of Cross-Border Cost Allocation Decisions

The Agency for the Cooperation of Energy Regulators (ACER) published an updated overview of decisions on cross-border cost allocation for electricity and gas infrastructure Projects of Common Interest. In this report, ACER notes that most decisions followed the "territorial principle", under which costs are borne by the country where the project is located. In some decisions, regulators allocated only part of the investment costs, due to expected excessive increases in transmission tariffs, and relied on EU funds to fill the financing gap. The report also notes that there is a decreasing trend in the number of applications for cross-border cost allocation and that the vast majority of the investment requests are for projects that are located in only one Member State.

ACER, 23/03/17

European Commission Clears Belgian Support To Long-Term Operation Of Three Nuclear Power Reactors

The EC approved Belgian plans to extend the operational lifetime of three nuclear reactors (Tihange 1, Doel 1, and Doel 2). Even though these plans imply the use of public funds to compensate Engie-Electrabel and EDF Belgium for potential financial risks, the EC considers the compensation to be in line with EU state aid rules. To ensure liquidity on the Belgian electricity market and to help increase competition among electricity suppliers, the Belgian government has imposed an obligation on Engie-Electrabel to sell on regulated electricity markets each year a volume of energy equivalent to Engie-Electrabel's share of the annual production of Tihange 1, Doel 1, and Doel 2.

European Commission, 17/03/17

European Parliament And EU Council Approve Rules On Prior Notice Of Member States' Energy Deals With Third Countries

Members of the European Parliament and the European Council approved new rules establishing a mechanism for exchanging information on intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy. Under these rules, Member States will have to inform the EC of their plans to negotiate oil and gas deals with third countries before opening negotiations. The EC may respond by advising on how to ensure that the final agreement is compatible with EU law and by suggesting optional model clauses and guidance. At a Member State's request, or when it considers it necessary, the EC may participate in the negotiations as an observer. The EC will have five weeks to provide notification if it has doubts about the deal under negotiation, and 12 additional weeks to give its opinion on the deal's compatibility with EU law, particularly with the EU's internal energy market and competition law. Until now, Member States were required to submit such agreements to the EC only after they were signed. The legislative act will be published in the Official Journal of the European Union and will enter into force in 2017.

European Parliament, 02/03/17; European Council, 21/03/17

ENTSOG Consults Stakeholders On General Terms And Conditions In Their Transport Contracts For Gas

The European Network of Transmission System Operator of Gas, ENTSOG, launched a public consultation on a template that contains the main terms and conditions of transport contracts for bundled capacity products. This consultation was launched in accordance with the Capacity Allocation Mechanisms network code, which requires ENTSOG to prepare such a template. The period of consultation ran until 7 April 2017.

ENTSOG, 07/03/17

ENTSO-E Launches Public Consultation On Revised Generation And Load Data Provision Methodology And Common Grid Model Methodology

The European Network of Transmission System Operators of Electricity, ENTSO-E, launched a public consultation on the draft Common Grid Model Methodology as well as on the draft Generation and Load Data Provision Methodology. Both methodologies have been revised to fall in line with the requirements set out in Regulation 2016/1719. The consultation period ran until 6 April 2017.

ENTSO-E, 06/03/17

Austria

ACER’s Board Of Appeal Rejects E-Control Complaint

ACER’s board of appeal rejected a complaint brought forward by E-Control, the Austrian energy regulator. E-Control had appealed against ACER’s decision to split the common Austro-German electricity market zone along the national border between the two countries. Instead, E-Control wants ENTSO-E, the European Network of Transmission System Operators for Electricity, to analyse the relevant bottlenecks and make its own suggestions on how to address them. In a first response to the rejection by ACER’s board of appeal, E-Control’s executive directors announced that they would thoroughly scrutinise the decision and continue to engage in bilateral talks with their German counterpart.

E-Control, 20/03/17

France

Multiple Legal Cases Filed Against Regulator's Electricity Distribution Tariff Decision

Several legal cases against the new TURPE 5 HTA/BT decision were filed at the French Conseil d'Etat. This tariff decision by CRE, the French energy regulator, defines the revenue allowance over the next four years for the electricity distribution network operator Enedis (formerly ERDF). The claims come barely two months after the French Energy Ministry issued a strong critique of the decision, claiming it offered insufficient remuneration to the network operator. The court received four demands for annulment of the CRE's TURPE 5 HTA/BT decision: one from the French minister for energy and the others from Enedis itself; Enedis's parent company EDF; and the energy sector union CFE-CGC Energies. The Ministry questions the adequacy of the allowance for Enedis's cost of capital, especially considering the transition to renewable energy and decentralised electricity production, which potentially exposes Enedis to volume risk. It may take more than a year for the Conseil d'Etat to reach its decision, however, whereas the new tariff will take effect in August 2017.

LesEchos.fr, 28/03/17; LeFigaro.fr, 21/03/17

First French Wind Farms Operate Under New Remuneration Scheme

In March 2017, the first two wind farms falling under the new French support scheme commenced operation. Instead of receiving fixed feed-in tariffs from the network operator, the wind farms operated by PME Hydronext and the Norwegian Statkraft group will sell their electricity on the wholesale market for wholesale prices and will earn a fixed "market premium" on top. The move to the market premium mechanism reflects the political objective, advocated by European policymakers, to gradually align subsidies with market price signals. The market premium mechanism applies to all wind farms that have requested authorisation to operate since 1 January 2016.

lesechos.fr, 31/03/17; lexplicite.fr, 22/03/17

Germany

BNetzA Initiates First Tender For Support For Onshore Wind Farms

On 8 March 2017, the German networks regulator, the Bundesnetzagentur (BNetzA), published the rules for the first tender to determine support levels for onshore wind installations with an installed capacity greater than 750 kW. The BNetzA plans to allocate support to projects with a combined generation capacity of 800 MW, up to 258 MW of which may be located in the so-called *Netzausbaugebiet* (network development zone) in Northern Germany. The lowest bidders will receive the prices they bid, up to a cap of €0.07/kWh. The tender is open to all installations that have registered approval under the federal emission control law by 10 April 2017. All bids must be submitted by 2 May 2017.

This is the first of three bidding rounds in 2017 intended to allocate support to a total of 2,800 MW of onshore wind power generation capacity. The next two auctions, covering 1,000 MW each, will be held on 1 August and 1 November 2017.

Bundesnetzagentur, 08/03/17

Bundesrat Demands Alignment Of Network Charges

On 10 March 2017, the German upper house, the Bundesrat, voted in favour of a proposal brought forward by the states of Saxony and Saxony-Anhalt to align the level of network charges paid to the different electricity transmission system operators (TSOs) from 2018 onwards. Under the current system, network charges for each TSO are calculated on the basis of that particular TSO's costs only. Due to higher re-dispatch and investment costs in the Central and Eastern networks, electricity consumers in these areas pay much higher network charges than consumers in the Southeast of the country.

The decision made by the Bundesrat now recognises that these differences ultimately result from the expansion of renewable energy sources—the *Energiewende*—which benefits all of Germany, and that the costs for the *Energiewende* should be borne equally by all consumers. The Bundesrat, therefore, suggests that the allowed revenues for each TSO should be determined individually but then translated into a single network charge applicable to all customers. Inter–TSO transfers would ensure that each TSO can cover its costs.

energate, 10/03/17; Bundesrat, 10/03/17

Netherlands

Maximum Term For Energy Innovation Scheme Extended To 2030

Energy-saving innovations that save costs over the long term can now also receive help under the Renewable Energy Projects (HER) scheme. The Minister of Economic Affairs extended the term of the scheme so that it ends in 2030 instead of 2023. The scheme covers, for example, promising innovations in the production of heat from sunlight, biogas, tidal power, and offshore wind. The Ministry of Economic Affairs is making €50 million (US$52.5 million) available for these projects through the HER and another €50 million through various other subsidy schemes.

Ministry of Economic Affairs, 02/03/17

Oxxio Fined For Improper Recording Of Customer Data

The Dutch Consumer and Market Authority (ACM) fined energy supplier Oxxio €1 million (US$1.06 million) for the improper registration of customer data in the Contract End Registry (CER). Following complaints from other vendors, ACM looked into Oxxio's registration of its customer data in the CER and found that Oxxio had wrongly entered an end date for contracts with an indefinite duration. This suggested to anyone consulting the registry that the customer had a fixed-term contract, which required them to wait or to pay a fee before switching to another supplier. The ACM established that Oxxio was entirely to blame for this offence and that Oxxio did not resolve it with the necessary urgency when the error was discovered. ACM noted also that Oxxio's behaviour would damage consumers' and other suppliers' confidence in the energy market.

ACM, 08/03/17

Portugal

OMIP Holds Reserve Capacity Auction For 2017

Portugal's organised electricity market, the OMIP, held an auction for required reserve generation capacity in the National Electricity System for 2017. In this auction, contracts for a total of 1,766 MW were awarded to three entities at a price of €4,775/MW (US$5,080/MW). The results of this auction imply savings for the system of about €7.2 million (US$7.7 million) relative to the previous availability incentive mechanism.

ERSE, 30/03/17

Spain

Spanish Government Approves Renewable Energy Auction

The Spanish Council of Ministers approved a Royal Decree that sets out the general conditions for establishing a competitive auction for up 3,000 MW of renewable generation capacity. Through this auction, the government looks forward to increasing renewable generation so that Spain can meet the 20% renewable generation objective for 2020. This Royal Decree states that only new installations that are located in mainland Spain can participate in the auction. Although the Royal Decree does not specify the date of the auction or any specific rules, it has been announced that the auction will be technologically neutral and that it should be held before June 2017.

Spanish Cabinet, 31/03/17

EC Opens Infringement Procedure Against Spain Over Sharing And Voting Limits On REE And Enagás

The European Commission (EC) opened an infringement procedure against Spain for setting limits on the share of the capital that investors can hold in the electricity and gas transmission system operators, REE and Enagás, respectively. The procedure also relates to current restrictions on voting rights in both companies. Spanish law prevents shareholders from owning more than 5% of the equity of these companies and limits voting rights to 3%. The Spanish Government must, by 9 April 2017, send the EC a proposal to adapt the current legislation to EU law.

Expansión, 08/03/17; El País, 08/03/17

Turkey

Russia Finalises Ratification Of Intergovernmental Agreement On Turkish Stream Pipeline

On 7 February 2017, Russian President Vladimir Putin ratified the intergovernmental agreement between Turkey and Russia on the construction of the Turkish Stream pipeline. Mr Putin's signature follows ratification by the Russian State Duma in January 2017 and by the Russian Federation Council on 1 February 2017. With Turkey having fully ratified the agreement in 2016, construction is expected to start in 2017. The pipeline will comprise two branches, each with an annual capacity of 15.75 billion cubic metres, and will carry Russian gas beneath the Black Sea to Turkey. One branch will deliver gas to Turkey, while the other will deliver gas to the European Union at Turkey's border with Greece.

Hurriyet Daily News, 07/03/17; Sputnik International, 07/03/17

Site Review Of Turkey's Second Nuclear Power Plant To Be Completed By End Of 2017

Mitsubishi Heavy Industries announced that it would complete by the end of 2017 the site suitability study for Turkey's second nuclear power plant, which will be located in Sinop on the Black Sea coast in North Central Turkey. The site suitability study includes an assessment of key geographical aspects of the proposed site, such as seismic activity and access to water for cooling. The remaining feasibility studies are expected to be completed by March 2018. As proposed, the Sinop plant will comprise four nuclear reactors with a combined capacity of 4,800 MW. A consortium of Mitsubishi Heavy Industries and two other companies will own a 51% share in the project, with Turkey's Electricity Generation Company owning the remaining 49%. The project is part of a push by the Turkish government to increase energy independence, and it is the second of three planned nuclear power plants. The first, Akkuyu Nuclear Power Plant, is currently under construction in the Southern province of Mersin, while the third plant's location has not yet been announced.

Bakhtar News Agency, 25/03/17; Anadolu Agency, 24/03/17

UK

British Regulator Closes Renewables Obligation Scheme To New Projects

The British energy regulator, Ofgem, closed the Renewables Obligation (RO) scheme, one of the main support mechanisms for large-scale renewable electricity projects, to new applications. The scheme, which was set up in 2002, places an obligation on suppliers to generate an increasing proportion of their electricity from renewable sources. Ofgem stated that the scheme played a key role in increasing electricity generation from low carbon sources from 1.3% to 23.5% over the period of the scheme's operation. The closure of the RO mechanism takes effect on 31 March 2017, with the possibility of some projects qualifying for a grace period.

Ofgem, 31/03/17; Reuters, 31/03/17

UK Regulator Gives Green Light To Westinghouse Nuclear Reactor

The UK nuclear regulator, the Office for Nuclear Regulation, approved the AP1000 nuclear reactor designed by Westinghouse. The approval was required before the proposed design could be used at the new Moorside nuclear project, which consists of three AP1000 reactors and which is being developed by NuGeneration (NuGen) in the Northwest of England. The regulator's approval comes after Westinghouse filed for bankruptcy earlier in the week, raising doubts over whether it will be able to finalise the design.

Reuters, 30/03/17; Energy Live News, 31/03/17

NORTH AMERICAN NEWS

US

US District Court Dismisses Complaint Alleging FERC Bias

US District Judge Tanya Chutkan granted requests by the Federal Energy Regulatory Commission (FERC) and PennEast Pipeline Co. LLC to dismiss a complaint filed by Delaware Riverkeeper Network and other environmental groups. The complaint alleged that FERC was biased toward granting natural gas pipeline projects under its review process because the commission collects fees from the industry it regulates. The court found that Delaware Riverkeeper did not show an inherent structural bias in FERC's authority under the Omnibus Budget Reconciliation Act of 1986, which gives the agency the ability to raise revenue from industry fees to cover its appropriations but does not give the agency control over its own budget.

SNL, 22/03/17; Law360, 22/03/17

California Approves Rigorous Methane Emission Regulations

At its meeting on 23 March 2017, the California Air Resources Board approved new rules to reduce methane emissions at oil and gas production plants by up to 45% by 2026. The board agreed to impose more stringent efficiency requirements, inspection mandates, and new rules to ensure leaks are detected and mitigated quickly. These rules will cover a wide range of new and existing infrastructure involved in oil and gas production, processing, gathering, storage, and compression (both onshore or offshore). Oil and gas account for approximately 4% of California's methane emissions.

SFGate.com, 23/03/17; SNL, 22/03/17

New York Regulators Order New Compensation Structure For Distributed Energy Resources

As part of the Reforming the Energy Vision (REV) initiative, on 9 March 2017 the New York State Public Service Commission (NYPSC) issued an order establishing a new "Value Stack" compensation structure to more accurately reflect the value of Distributed Energy Resources (DERs) to the network. The new structure will essentially replace the current net metering policy and will determine an alternative rate of compensation for the energy that clean distributed generators and other DERs inject into the grid. There will be grandfathering of retail-based net metering rates for 20 years. Components of the "Value Stack" include: (1) an energy value based on hourly zonal marginal prices, including line losses; (2) a generation capacity value based on retail capacity rates for intermittent technologies; (3) an environmental value equal to the higher of the Renewable Energy Certificate (REC) procurement price and the federal government's social cost of carbon; (4) an estimated system-wide distribution demand reduction value (DRV); and (5) a potential separate locational distribution system relief value (LSRV). The Department of Public Service staff will engage with utilities and stakeholders to finalise recommendations on implementing the new compensation mechanism.

The 9 March 2017 order also requires that, by the end of 2018, all investor-owned utilities in New York have at least two energy storage projects operating at separate distribution substations or feeders and that they perform at least two types of grid function, such as increasing the capacity of a substation or supplying power when energy demand is at its highest.

NYPSC, 09/03/17; SNL, 09/03/17

Arizona Public Service And Solar Industry Reach Critical Rate Case Settlement

On 1 March 2017, Arizona Public Service (APS) and a group of solar industry representatives filed a settlement on rate design and rooftop solar compensation with the Arizona Corporation Commission (ACC). Under the agreement, rooftop solar customers would be paid US$0.129/kWh for excess energy exported to the grid, a decline of 10% annually from the previous full retail rate under net metering, which was between US$0.13/kWh and US$0.14/kWh. Customers can lock in the new compensation rates for 10 years when they register. Existing rooftop solar customers who filed an interconnection application before a decision was issued in the rate case would be guaranteed net metering rates for 20 years. Residential and small commercial customers will be able to choose between alternative rates for their electricity usage, including an option to pay a demand-based rate or one of four new time-of-use (TOU) rates, until 1 May 2018. At that time, all new customers will be transferred to a TOU rate. Overall, the settlement proposal will increase the average residential customer's monthly bill by US$6, less than the US$11 monthly increase that APS had initially requested. The settlement is subject to debate and has to be approved by the five ACC commissioners.

ACC, 01/03/17; Utility Dive, 01/03/17

Mexico

First Open Season Auction For Gasoline And Diesel Transport And Storage Capacity Will Be Replaced

The Mexican energy regulator, Comisión Reguladora de Energía (CRE), and the state-owned oil company, Pemex, announced on 15 March 2017 that the first open season auction for gasoline and diesel transport by pipeline and storage capacity will be redesigned. The auction would now offer capacity in nine storage systems and four pipeline transport systems in the states of Baja California and Sonora. The auction was scheduled to take place in March 2017, but CRE and Pemex announced that, due to problems with the methodology, the auction would be cancelled and replaced by a new procedure.

CRE, 15/03/17; Pemex, 15/03/17

SENER Sets Clean Energy Certificates Purchase Requirements For 2020, 2021, And 2022

On 31 March 2017, the Ministry of Energy, SENER, announced that the purchase requirement for Clean Energy Certificates (CELs) will be 7.4% for 2020, 10.9% for 2021, and 13.9% for 2022. The requirements to purchase CELs are set as a percentage of the total electricity consumed in the load centres. Once the requirement is established for a future year, it cannot be reduced. Previously, SENER set the requirement for 2018 at 5% and for 2019 at 5.8%.

SENER, 31/03/17; Mexico´s Federal Official Gazette (dof.gob.mx), 31/03/17

CENTRAL & SOUTH AMERICAN NEWS

Colombia

Government Adopts The Reference Expansion Plan For Generation And Transmission 2016-2030

The Colombian Ministry of Mines and Energy adopted the Reference Expansion Plan for Generation and Transmission 2016-2030, as prepared by the Energy and Mining Planning Unit (UPME). According to the plan, the system needs to add 5,362 MW of new generation capacity during the next 15 years, of which 1,456 MW correspond to wind energy, 1,427 MW to hydroelectricity, 970 MW to coal, and 793 to small scale plants. The document foresees two new transmission projects being tendered.

Ministry of Mines and Energy, 21/03/17

Government Approves Decree On Self-Generation Surpluses

The Colombian government approved a new decree with guidelines on efficient energy management and delivery of small-scale self-generation surpluses to the network. These new rules eliminate the requirement for self-generators with capacities of 100 kW or less to sign network backup contracts. The energy regulator, CREG (Comisión de Regulación de Energía y Gas), will define simplified connection, measurement, and retailing procedures for the sale of energy surpluses by self-generation units with up to 1 MW of capacity.

Ministry of Energy and Mines, 02/03/17

ASIA PACIFIC NEWS

Australia

Review Of Distribution Market Model

The Australian Energy Market Commission (AEMC) launched a review to explore whether current AEMC arrangements are flexible and resilient enough to respond to changes in the availability and cost of energy technologies. This review will be a forward-thinking, strategic review examining how increased uptake of distributed energy resources (DERs) might drive the evolution towards a decentralised model of electricity distribution. Specifically, the review will explore: (1) technical opportunities and challenges presented by DERs; (2) the role of price signals and market platforms in optimising DERs; (3) the role of a distribution network service provider (DNSP) in a decentralised energy market; (4) whether existing frameworks adequately encourage innovation and adaptation by DNSPs to support efficient uptake and use of DERs; and (5) whether the existing regulation of distribution and the current market design impedes business model evolution. In December 2016, the AEMC published an "approach paper," outlining the scope, context, and approach for the review. The AEMC will consult on this approach paper in early 2017 and report back in mid-2017.

AEMC, 07/03/17

New Zealand

Energy Minister Hopeful For More Gas And Oil Exploration

Energy Minister Judith Collins launched the 2017 "Block Offer" for five offshore areas, two onshore areas, and one mixed on/offshore area, expressing hope for increased exploration in oil and gas. The Block Offer allows companies to compete for rights to explore for petroleum. The scheme has been less and less successful over the last three years, with only one successful bid in 2016. As margins are improving, however, the Ministry is hoping that there will be renewed interest in the industry. The 2017 Block Offer comprises eight areas spanning 481,735 square kilometres.

nzherald.co.nz, 22/03/17; radionz.co.nz, 22/03/17

MIDDLE EASTERN NEWS

United Arab Emirates

Dubai Inaugurates 200 MW Solar Plant

On 20 March 2017, Dubai completed a 200 MW solar plant of 2.3 million photovoltaic (PV) panels, as part of the second phase of the Mohammed bin Rashid Al-Maktoum Solar Park. The 200 MW PV plant, which cost US$326 million, is the largest completed solar independent power producer (IPP) plant in the region. According to the Dubai Electricity and Water Authority (DEWA), the plant set a new world record for cheap solar energy, at US$0.056/kWh of electricity produced. The 800 MW third phase of the Al-Maktoum Solar Park is currently under construction, with the first 200 MW due to come online in early 2018, 300 MW of solar capacity coming online in April 2019, and an additional 300 MW coming online in April 2020. DEWA's tender for the fourth phase of the project, a 200 MW concentrated solar power (CSP) plant, is open for proposals from qualified bidders until May 2017. The Mohammed bin Rashid Al-Maktoum Solar Park will contribute to meeting Dubai's ambitious renewable targets. According to the Dubai Clean Energy Strategy 2050, Dubai aims to produce 7% of its total power output from renewable sources by 2020, with the share increasing to 25% by 2030 and 75% by 2050.

DEWA, 26/03/17, 22/03/17; ArabianBusiness.com, 20/03/17

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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