



[EU/ Ukraine & Greece/ Bulgaria: Interconnection Agreements regarding Natural Gas Flow on the Hungarian-Ukrainian and the Greek-Bulgarian borders](#)

by Dimitris Nisanakis (Athens)

On 5 June 2015, FGSZ and Uktransgaz, the natural gas TSOs of Hungary and Ukraine, signed a new Interconnection Agreement governing both directions of natural gas flow on the interconnector across the Hungarian – Ukrainian border. This agreement complies with the EU's 3rd Energy Package as well as with the recently agreed rules for cross - border cooperation between gas network operators known as the Interoperability Network Code and it should serve as a model agreement for the TSOs of further EU Member States bordering Ukraine or other Contracting Parties of the Energy Community as it is the first of its kind concluded between the natural gas TSO of an EU Member State and Uktransgaz. The key point of this agreement is that, traditionally, the direction of gas supply from Russia to the EU is from East to West, and to a large extent coming through Ukraine as a transit country, whereas now it will enable the reverse flow of gas from EU to Ukraine which will boost the energy supply security and improve competitiveness in the gas sector in Ukraine.

Apart from the above, the business rules of a draft interconnection agreement to be signed between the Greek gas TSO DESFA and the Bulgarian gas TSOS Bulgartransgaz EAD for the common interconnection point (IP) Kulata/Sidirokastro, were published for public consultation on DESFA's webpage for the period of 11 to 25 June 2015. This consultation is intended to collect views from all parties interested in transmitting natural gas through the aforementioned IP either towards Greece or towards Bulgaria. The draft agreement establishes, among others, the business rules regarding the determination of offered capacity for the firm and interruptible capacity services on both flow directions, the designation of the competent authorities and their duties in relation to the matching process, the rules for the allocation of the transmitted gas quantities, and the procedure to be followed in case of exceptional events.



[Bulgaria: Commission for Protection of Competition Imposes Fines on the Three Main Electricity Distribution Companies](#)

by Svetla Stoykova (Sofia)

In Decisions № 449, 450 and 451, which were adopted on 27 May 2015 within procedure N K3K/501/2013, the Commission for Protection of Competition (the Commission) found that the three main electricity distribution companies CEZ Distribution Bulgaria JSC, EVN Bulgaria Electricity Distribution JSC and Energo-Pro Grid JSC

had breached the rule of Article 21, Item 1, of the Bulgarian Law on protection of competition prohibiting the abuse of dominant position. The infringement is found to prevent, restrict and distort the competition on the local market of using the electricity low voltage grid for cable laying, as well as to affect the interests of the consumers.

Following an investigation procedure, which started in May 2014, the Commission established that the electricity distribution companies have determined and charged with unreasonably high prices the access to their low voltage grid of cable operators providing television, internet and telephony services. According to the analysis of the Commission there are two independent reasons for concluding that the prices were unreasonably high: on the one hand, the costs for using the grid for cable laying are not subject to differentiated reporting apart from license costs for maintenance and operation of the grid, and, on the other hand, the pricing model applied toward providers is not substantiated.

The fines imposed on CEZ Distribution Bulgaria JSC, EVN Bulgaria Electricity Distribution JSC and Energo-Pro Grid JSC are between 167 256 BGN and 558 446 BGN calculated in accordance with the net incomes from the activity concerned, the duration and the weight of the infringements. Energo-Pro Grid JSC and EVN Bulgaria Electricity Distribution JSC already contested publicly the Decision of the Commission stating that the pricing of costs for access to low voltage grid is based on a market and economical analysis of the real expenditures of time, work and resources necessary for providing access to external operators. The case shall be further examined by the Supreme Administrative court.

[Bulgaria: Interested Parties are Invited to Comment on the Commitments Offered by the Energy Holding EAD Regarding Power Exchange](#)

by Svetla Stoykova (Sofia)

On 19 June 2015, the European Commission published the Communication N 2015/C inviting comments from interested parties on commitments offered by the State-owned Bulgarian Energy Holding EAD (BEH) to address competition concerns about BEH's behaviour on the non-regulated wholesale electricity market in Bulgaria in Case AT.39767 — BEH Electricity. Prior to that, on 12 August 2014, the Commission had adopted a Statement of Objections in Case AT.39767 — BEH Electricity, concerning an alleged infringement of Article 102 of the Treaty on the Functioning of the European Union ('TFEU') by BEH on the market for the wholesale supply of electricity at freely negotiated prices in Bulgaria. The Commission's preliminary assessment was that BEH is dominant on this market and expressed concern that certain clauses concerning territorial restrictions on resale of the contracts between on the one hand BEH's electricity production subsidiaries National Electricity Company, Nuclear Power Plant Kozloduy and Thermal Power Plant Maritsa East 2 and, on the other hand, third party buyers, limit those buyers' freedom to choose whether to sell the purchased electricity in the territory of Bulgaria or to export the electricity. This may constitute an abuse of that dominant position, within the meaning of Article 102 TFEU since BEH's practice has the potential effect of raising barriers to trade between Bulgaria and other Member States, thus distorting the allocation of electricity within the Single Market.

To alleviate the Commission's concerns, BEH has offered to set up a power exchange in Bulgaria with the assistance of an independent third party with expertise in the operation of power exchanges, where BEH shall offer predetermined volumes of electricity on the day-ahead market for a period of five years and the power exchange independence shall be further ensured by transferring the ownership and control from BEH to the Bulgarian Ministry of Finance. Further, BEH and its subsidiaries will cease and desist from including destination clauses, or any measure of equivalent effect, in their bilateral electricity supply contracts, ensuring that the territorial restrictions in electricity supply contracts concluded by BEH subsidiaries cease and do not recur. A

significant proportion of electricity will be traded on an independently-run day-ahead market on an anonymous basis, which means that the electricity sold cannot be traced and that its final destination cannot be determined at the moment of sale.

In accordance with Article 27(4) of Regulation (EC) No 1/2003, the Commission invited interested third parties to submit their observations on the proposed commitments, in particular whether: the volumes of electricity to be offered by BEH and its subsidiaries on the day-ahead market are appropriate in order to achieve the objective of developing a liquid day-ahead market on the power exchange in Bulgaria; the market participants will purchase the volumes offered on the day-ahead market, if the offer price is based on their costs; the possibility for BEH and its subsidiaries to offer block products of between 3 and 24 hours would make trading more difficult. These observations must reach the Commission not later than one month following the date of the publication. If the market test indicates that the commitments are a satisfactory way of addressing the Commission's competition concerns, the Commission may adopt a decision making the commitments legally binding on BEH. In case of breaking the binding commitments, the Commission can impose a fine of up to 10% of the company's worldwide turnover, without having to find an infringement of the EU antitrust rules.

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