

BULGARIA - COUNTRY REPORT 2006

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SCOPE

The Energy Community Treaty requires the adoption, according to a timetable, of certain legal acts from the *acquis communautaire* in the areas of electricity, gas, competition, environment and renewable energy sources. This report is a first analysis of the status quo of each party in relation to the *acquis communautaire*. At this stage it has not been assessed the actual implementation or the functioning of the energy markets.

The report was prepared based on the responses provided by the Parties to a detailed questionnaire regarding the *acquis communautaire* on electricity, gas, renewable energy, environment and competition; on interviews with representatives of relevant organizations from the Parties and finally on the available national legal acts.

1. INSTITUTIONAL BUILDING

1.1. Ministries

- The Ministry of Economy and Energy (<http://www.mee.government.bg>) is responsible for drafting and implementing the legislation in the electricity and gas sectors. In the area of vulnerable customers the responsibilities are shared with the Ministry of Labour and Social Policy (<http://www.mlsp.government.bg>).
- The Ministry of Environment and Water (<http://www.moew.government.bg>) is responsible for Environmental affairs. Its main tasks are as follows: a) organize and coordinate the elaboration of environmental protection regulatory system; b) coordinate and control the National environmental protecting program; c) coordinate and control the rational utilization of natural resources; and d) implement a special control on environmental protection.
- The Ministry of Economy and Energy is also responsible for drafting the policy in the areas of Renewables and Energy Efficiency. The Energy Efficiency Agency (<http://www.seea.government.bg/>) is an executive agency of the Ministry of Economy and Energy. The main areas of activities are as follows: a) elaboration of programs and projects for energy efficiency improvement and usage of renewable energy resources; b) transfer of technologies, knowledge and experience in the area of energy efficiency and usage of renewable energy resources.

1.2. Energy Regulators

- The State Energy and Water Regulatory Commission, SEWRC (<http://www.dker.bg>), was established as an independent body by the Energy and Energy Efficiency Act of 1999 (repealed), originally as State Energy Regulatory Commission (SERC). Under the Energy Act of 2003 it regulates the electricity, natural gas, district heating and water sectors. SEWRC is mainly responsible for price regulation, and licensing of enterprises. SEWRC is also responsible for monitoring the efficient functioning of the markets and for certifying the origin of the production of electricity from Renewable Energy Sources and CHP plants.

1.3. Competition Authority

- Bulgaria has also a Competition Authority in place (<http://www.cpc.bg>) which is responsible for enforcing the Competition Act and the State Aid Act.

2. ELECTRICITY SECTOR

2.1. Introduction

The accession negotiations between the European Union and Bulgaria were concluded in December 2004 and a Treaty of Accession was signed in April 2005 with a view to welcoming the country as member as from January 2007. Bulgaria's progress towards accession has been continuously monitored by the European Commission over a number of years. The reports assessed the preparedness of the country for accession in 2007 on the basis, among other issues, of the adoption and implementation of the acquis communautaire. The Energy chapter was opened in 2001 and closed in December 2004.

The Energy Act passed in December 2003 provides the legal framework for the liberalisation of the electricity sector. Bulgaria has also adopted a comprehensive package of secondary legislation for developing the transmission and distribution grid codes, the balancing arrangements, the licensing code, etc.

Bulgaria is a net exporter country whose generation sector is mostly privatised except for the large hydro which is still owned by the National Electricity Company (NEK). NEK has also been appointed as the Transmission System Operator (TSO) and market operator. In the distribution business, there are three private companies which are also involved in the supply activity.

The wholesale market is currently based on bilateral contracts between producers and consumers or through traders/retailers. A balancing market operated by the TSO is also in operation although in an interim phase. Non eligible customers are supplied by the distribution companies at regulated prices. The so called Wholesale Public Supplier, which belongs to the NEK group, is responsible of purchasing the electricity for the non-eligible customers. The Energy Act foresees the establishment of a Day Ahead Market but its design is still under discussion. In a transitional phase generators are obliged to sell a quota of their production in the liberalised market. This quota is to be removed in January 2007.

2.2. Public service obligations and customer protection

- The provisions on Public Service Obligations are included in Chapter Six of the Energy Act. Under the Law, energy companies are obliged to perform their activities in the interest of the public ensuring the security of supply, the non-interruption and the quality of the electricity, the efficient utilisation of fuels and the protection of the environment.
- The provisions regarding the appointment of a supplier of last resort have been introduced in an amendment to the Energy Law approved in April 2006. The deadline for implementation is the 1st January 2007.
- The Social Support Act establishes that the Ministry of Social Affairs shall protect the interest of vulnerable customers. At present this Ministry covers the energy bills of vulnerable customers. A social tariff that has been in place until now will be however eliminated with the aim of removing cross subsidies. It is still to be decided how the Ministry of Social Affairs will cover the costs in the new scenario.

2.3. Monitoring of Security of Supply

- Electricity Security of Supply is covered in both the Energy Act and in the Ordinance Licensing of Activities in the Energy Sector. The Grid Code also includes important provisions in this area, namely those related to the Operation of the System. The

main responsible institutions are the Ministry of Economy and Energy together with the Energy Regulator. The Transmission System Operator has also been assigned with key responsibilities.

- The Ministry of Economy and Energy is responsible under Section II of the Energy Law to prepare the energy forecasts of the country. Generation companies and network companies must also submit at least once every two years their business plans for a five year period.

2.4. Technical rules

- The key approved technical rules are the Transmission Grid Code, the Distribution Grid Code and the Electricity Metering Code.
- The Energy Act foresees special measures in case of sudden crisis such as Force Majeure, prevention of breakdowns of energy facilities, a lasting generation shortage, war times or terrorist attacks. The Ministry of Economy and Energy is responsible of deciding when to apply the safeguard measures. A specific ordinance regarding safeguard measures has also been adopted.

2.5. Generation

- The generation activity is subjected to authorisation. Licenses are granted by the energy regulator in accordance to the Licensing of Activities in the Energy Sector Ordinance.
- The Energy Law also contains provisions related to tendering new capacity in those cases when security of supply cannot be guaranteed. The tendering criteria are laid out in the Licensing Ordinance.

2.6. Unbundling provisions and access to accounts

Transmission System Operators

- The tasks of the System Operator are defined in Section IX of the Energy Law. Relevant secondary legislation further developing the TSO tasks are the transmission grid code and the Electricity Market Rules.
- The appointed TSO is the National Electricity Company (NEK) which at present has not yet unbundled its network activities from its generation and supply activities. The roadmap prepared for the unbundling of the Transmission System Operator envisages that full legal unbundling should be completed by the time when Bulgaria becomes a member of the European Union. On the 11th April 2006, the company approved a plan for its restructuring, which was submitted to the Ministry of Economy and Energy for approval. The proposed model of unbundling advocates for the creation of a subsidiary of the NEK group in charge of the operation of the system, the transmission network activities and balancing.
- A balancing market, based on the adopted balancing Code, is operating under a provisional scheme.

Distribution System Operators

- The key tasks of the distribution network operators are outlined in the Energy Law (Art. 13) and further developed in the Rules on management of electro-distribution grid.

- Bulgaria has three private distribution companies whose network and retail activities are still bundled. The legal, organisational and decision-making unbundling is planned and prepared to be implemented, as stated in the Energy Act, by the date when Bulgaria becomes a member of the European Union.

Access and unbundling of the accounts

- The Energy Regulatory Authority is entitled, according to the Energy Act, to access the accounts of the electricity undertakings. The electricity undertakings must submit annually to the Energy Regulator their financial statements and the audit reports. For the purpose of price regulation, the Energy Regulator is entitled to request any accounting, technical or economical information from the companies.
- The electricity companies are requested under the Energy Law to keep separate accounts for energy licensed activity. The Energy Regulator has adopted an Ordinance establishing the rules for keeping separate accounts.
- The rules for publishing the accounts are stated in the Accounting Act.

2.7. Third Party Access (TPA)

- The Energy Act states that Transmission and Distribution companies shall grant non-discriminatory access to producers, traders and eligible customers. The TPA rules were approved by the Energy Regulatory Authority in June 2004. Any refusal to access the grid must be justified by the transmission or distribution company based on technical grounds.
- The transmission and distribution tariffs are based on a cost plus rate of return. The methodology and the tariffs are both approved by the regulator and are publicly available on its website.

2.8. Market opening

- The Rules on Third Party Access contains the following eligibility calendar:
 - till 01 July 2004 – not less than 100 GWh;
 - from 01 July 2004 till 30 June 2005 – not less than 40 GWh;
 - from 01 July 2005 till 30 June 2006 – not less than 20 GWh;
 - from 01 July 2006 till 31 December 2006 – not less than 9 GWh;
 - from 01 January 2007 till 30 June 2007 – all non-domestic consumers
 - from 01 July 2007 – all consumers.

2.9. Direct lines

- The legislation does not contain yet provisions regarding granting the authorisation of direct lines. Amendments to the Energy Act approved by the Council of Ministers on 20 April 2006 and submitted to Parliament, however, transpose the text of the Electricity Directive related to the supply of eligible customers through direct lines.

2.10. Cross border trade mechanism

- NEK has been participating in the SETSO ITC mechanism since mid 2004 and it is also participating in the Dry run project for capacity allocation and congestion management.

- Under the rules currently in force the capacity at interconnectors is allocated pro-rata by the TSO. However the available transfer capacity is not being published. In case of congestion at the interconnectors the TSO will use curtailment.

3. GAS SECTOR

3.1. Introduction

- The Energy Act passed in December 2003 provides the legal framework for the liberalisation of the natural gas sector. Several secondary legal acts have developed the provisions of the Energy Act.
- The natural gas activities are mainly carried out by Bulgargas EAD, which is a 100% state owned company. Bulgargas EAD is a vertically integrated company performing activities on public supply, transmission, transit transmission and storage of natural gas. The gas market is a strongly concentrated one, where Bulgargas has a wholesalemarket share of 94%. The lack of gas pipelines connected to other transmission networks leads to delay of inclusion of new traders.
- The natural gas market is undergoing an accelerated development process. The current natural gas consumption is said to be high compared to the countries of the Region. Natural gas consumption is expected to slightly increase taking into account the long term contracts and demand-supply balance. Industry and power are the main sectors for gas usage. The natural gas is mainly supplied by companies of the Russian Federation. An extensive programme of gasification is envisaged for residential sector for near future.
- The principles of equal and non-discriminatory access to the transmission and distribution networks are regulated in the Law. Natural gas market has been opened to competition in 2003. The market opening level in Bulgaria in 2006 is 85% at an annual consumption threshold for eligible consumers of 20 million cubic meters.
- The security of supply is ensured by the gas volume, stored in the gas storage, the compressed natural gas in the system. The capacity of the gas storage is 450 million cubic meters dynamic volume.

3.2. Public service obligation and customer protection

- The National legislation (Law on Energy) imposes public service obligations as it is envisaged by Natural Gas Directive-2003/55/EC on the ensuring security of supply, the non-interruption, quality, efficiency, protection of the environment, safeguard measures etc. In addition relevant authorities may impose additional obligations on energy companies within the public service obligations too.
- The appointment of a supplier of last resort and protection of vulnerable customers issues are envisaged to be adopted by the 1st July, 2007. These two subjects are currently evaluated between Ministry of Economy and Energy, The State Energy and Water Regulatory Commission, and Ministry of Labour and Social Policy. The Ministry of Economy and Energy is responsible for the appointment of last resort supplier and the protection of vulnerable customers is under the responsibility of Ministry of Labour and Social Policy. The duty of a last resort supplier is performed at present by the public provider and public suppliers.

3.3. Monitoring security of supply

- The monitoring of security of supply is delegated to the Regulatory Authority. However Ministry of Economy and Energy is also responsible for the security of supply specifically for the diversification of supply sources.
- In case of a sudden crisis in the energy market regarding to safeguard measures, Ministry of Economy and Energy is the responsible and competent body in order to take necessary measures.

3.4. Technical rules

- The technical rules and standards for design and operation of facilities and installations for transmission, storage, distribution and supply of natural gas are subject to an Ordinance approved by Ministry of Regional Development and Public Works and Ministry of Economy and Energy. The Ordinance on the activities of the transmission and distribution networks operators and on the sustainable and safe operation of natural gas facilities and installations are in force currently.

3.5. Unbundling provisions and access to accounts

- The unbundling between natural gas activities (Bulgargas and others) are foreseen by Energy Law. Bulgargas EAD is a vertically integrated company performing activities on public supply, transmission, transit and storage of natural gas. Account unbundling between these activities is already in place. Although the legal, organizational and managerial unbundling are foreseen for transmission and supply activities by Energy Law, the unbundling of Bulgargas has not been completed yet. Bulgargas is expected to complete the unbundling of its activities by the end of 2006. The unbundling of distribution activities belonging to Bulgargas has already been completed and all the distribution activities are carried out by private companies which have been selected by a tender process carried out by regulatory authority. The distribution companies are not obliged legally to unbundle their activities between supply and operational activities, as none of them has 100,000 connected customers yet.

3.6. Third party access

- The principle of equal standing and non-discriminatory access to the transmission and distribution networks is regulated in the Energy Law while the terms and conditions of the access are specified in detail in the Rules for Access to the gas transmission and distribution networks adopted by the regulatory authority. The TSOs/ DSOs are obliged to justify to the interested party based on technical constraints the refusal of access to the network. TPA for storage is also regulated. There is a cost reflecting methodology defined for determining network access tariffs. The tariffs are defined by transmission and distribution companies and approved by the regulatory authority.

3.7. New infrastructure and exemptions

- There is no mechanism defined by Law for granting an exemption for new natural gas infrastructure.

3.8. Market opening

- Although the market opening level is around 85%, due to the long term supply contract of Bulgargas with one major importer and the insufficient domestic production of gas, only one eligible customer has switched its suppliers currently.

4. COMPETITION

The legal basis in the area of Competition and State Aid is the Law on Protection of Competition and the State Aids Acts. The Competition Authority is responsible for enforcing both Acts.

In addition to the above mentioned primary legislation it has also been adopted the following Secondary legislation: Methodology on Investigation and Definition of the Market Position of Undertakings in the Relevant Market (tackling among other issues agreements between undertakings and abuse of dominant position) and Rules on the application of the State Aids Act.

5. ENVIRONMENT

The legal basis regarding the effects of certain public and private projects on the environment is provided by the Environmental Protection Act and the Regulation on the terms and conditions for carrying out an Environmental Impact Assessment.

The emissions by combustion power plants is covered through the Regulation on the emission limit values of SO₂, NO_x and dust discharged to the atmosphere from large combustion plants and the Regulation on the requirements to liquid fuels, terms, procedures and method of control. The Ministry of Environment and Water is the institution responsible for monitoring SO₂ emissions.

A number of legal measures have also been adopted to protect wetland areas. Some of these are the Law on Biological Diversity, Protected Areas Act, Law on Hunting and Game Protection, Law on Fishing and aquacultures, Regulation on Developing Protected Areas Management Plans, etc.

6. RENEWABLE ENERGY SOURCES

The legal basis regarding the promotion of electricity from RES is the Energy Act, namely its chapter 11, and the Regulation for certification of Origin of Electric Power Generated by Renewable Energy Sources.

The Energy Act states that the Council of Ministers will approve a National indicative target of electricity produced from RES for a 10 year period. A National indicative target of 11% share of electricity from RES in the gross internal consumption by 2010 is defined in the Technical adaptations to the Bulgarian Accession Treaty concerning Directive 2001/77/EC on the promotion of electricity produced from RES in the internal electricity market.

RES electricity production is promoted through feed-in tariffs which are established by the Energy Regulator. The Energy Act states that the preferential prices are to be at least of 80% of the average selling price of electricity to households in the previous year. The tariffs are established and published by the Energy Regulator. A recent proposal for amendments to the Energy Act (adopted by the Council of Ministers and submitted to the Parliament) proposes that for a 12 years period the entire volume of RES electricity shall be bought at preferential prices. This rule shall be applied for all producers of RES electricity that enters the market till 31.12.2010. The preferential prices for the entire period till 2022 shall be

defined in a specific Regulation issued by the Energy Regulator. In addition a specific Regulation has been passed to define the criteria and rules for certifying the origin of the electricity from RES. The Energy Regulator is the institution responsible of issuing the certificates.

The Energy Act and the Grid Codes include provisions regarding access of RES generation plants to the grid as well as operational standards that TSOs and DSOs must follow towards electricity from RES. The wholesale public provider and the public retailers must buy out all the electricity produced from RES at the preferential price described in the previous paragraph.

In relation to Directive 2003/30/EC, Bulgaria is drafting a new Act on the promotion of RES which intends to include provisions on biofuels for transport.

7. ENERGY INFRASTRUCTURE PROJECTS

The projects proposed by Bulgaria that are important for the regional energy market include:

Electricity - Generation:

- Construction of the Nuclear Power plant “Belene” Units 1 and 2, each with capacity of 1000MW. The Unit 1 is also listed in the GIS study for the period 2016-2020. The total estimated cost is approx 2.4 billion EUR. The project is being tendered. The construction of the Belene NPP would ensure the security and the non-interruption of the electricity supply not only for Bulgaria, but also for a large part of the Energy Community, taking into account the UCTE forecasts that if the planned new power generation capacities are not built on time, there is a real risk for the electricity deficit to increase significantly around 2010-2012.
- Rehabilitation of the 4 Units of Maritza East 3 TPP with total capacity of 840 MW and the construction of flue gas desulphurization (FGD) facilities, in order to extend the life-time of the plant and comply with the EU environmental legislation (not listed in the GIS study). The project started in 2003 and is scheduled to end in 2008. The funding is secured by EBRD, MIGA, Bulgarian banks through loans and Maritza East 3 Power company as equity. The total cost is estimated at EUR 600 million.
- Construction of an arch-shaped domed dam wall, underground pressure pipeline and a new HPP - “Tsankov Kamak” with 80 MW capacity (not listed in the GIS study); the project started in 2004 and will finish in 2008; the project estimated cost is EUR 220 million and the financing is secured through export credit from: Bank Austria Creditanstalt AG (Austria), Fortis Bank SA-nv (Belgium), Osterreichische Volksbanken AG (Austria), Reiffeisen Zentralbank Osterreich AG (Austria) and Societe Generale (France).
- Construction of replacing power generation capacity 2 x 335 MW at the site of Maritsa East 1 (not listed in the GIS study); the estimated start date is May 2006 and end date is 2009; the cost is estimated at EUR 1.1 billion and the financing is secured by loans of CALYON Bank, ING Bank, BNP Paribas, EBRD and AES – own funds.

Electricity – Transmission/Interconnectors:

- Construction of an electricity network connection of 150 km between FYROM (Shtip) and Bulgaria (Chervena Mogila). The construction started in 2005 and is expected to be finalized in 2007; the cost of the project is 50 million EUR and the financing is covered by the Elektrostopanstvo na Macedonia (ESM) through a loan from the

EBRD and National Electric Company's (NEK) own sources and a loan granted by ESM to NEK from the EBRD financing. The project is included in the priorities of the Trans-European Energy Networks (TEN-E - Decision No 1229/2003/EC dated 26.06.2003) and it is an inseparable part of the infrastructure necessary for the effective functioning of the Energy Community.

- Construction of a second electricity interconnection between Bulgaria and Greece – substation Maritsa East (Galabovo, Bulgaria) and substation Filippi (Greece) or new substation Nea Santa (Greece). This project is estimated at 45 million EUR and is in the proposal phase. The project is included in the priorities of the Trans-European Energy Networks (TEN-E - Decision No 1229/2003/EC dated 26.06.2003) and is an inseparable part of the infrastructure necessary for the effective functioning of the Energy Community.
- Construction of a second electricity interconnection between Bulgaria (Vidin) and Serbia (Bor); the project is still a proposal and no estimated costs or implementation period is available.

Natural gas

- Construction of Nabucco gas pipeline (Turkey–Bulgaria-Romania-Hungary-Austria) of approx. 3200 km lengths; the total estimated cost is 4.6 bn EUR. The Feasibility study for the project was approved and the project is in the development phase. This is a project of true common European and regional character that will contribute to the development of the regional and EU gas markets.
- Construction of a regional reception (re-gasification) terminal for liquefied natural gas (LNG) at the Bulgarian Black Sea coast. The project is in a proposal stage and the estimated cost of the projects is EUR 250 million; any other information on the start year, financing sources, etc. is not available at present.
- Construction of a gas pipeline between Bulgaria (Dupnitsa) and Serbia (Dimitrovgrad-Nis). This is a pilot project for the cooperation in gas sector within the Energy Community and has the support of the European Commission and the World Bank. The estimated project cost is EUR 105 million. In 2005 a Memorandum of Understanding was signed between Bulgaria and Serbia. The project is important for the supply of natural gas to Serbia as well as to other countries in the West Balkans.
- Construction of a gas interconnection between Bulgaria and Turkey, as an additional proposal to Nabucco project, in case of serious delay for the implementation of the Nabucco project. The project proposal is at early stage and no other information on cost, duration, source of funding is available.
- Construction of of the Trans-Adriatic gas-pipeline (North route) from Bulgaria through FYR Macedonia and Albania via the bottom of the Adriatic Sea to Italy. This project is part of the development of the energy infrastructure of European corridor No 8. In this way an opportunity will be created for development and efficient functioning of the Energy Community gas market, as well as for supplies of natural gas for FYR Macedonia, Albania and Italy via the constructed gas transmission infrastructure on the way of European corridor No 8. The project proposal is at early stage and no other information on cost, duration, source of funding is available.
- Construction of the interconnection between the Romanian and the Bulgarian gas transmission networks; the project is in the proposal stage and the estimated cost is of EUR 30 million.

- Construction and development of the gas distribution pipelines and networks for the gasification of households and business in the territory of the country, especially in the larger municipalities for whose territories there are no licences issued and they are not in the list of the differentiated territories for gas distribution (the gas distribution regions). The project is in a proposal stage and the estimated cost is EUR 70 million for the construction of several new gas distribution pipelines to following main directions: Silistra, Vidin, Kardjali, Smolian, Lom, Karlovo-Sopot, Razlog-Bansko-Goce Delchev and etc.

8. CONCLUSIONS

The accession negotiations between the European Union and Bulgaria were concluded in December 2004 and a Treaty of Accession was signed in April 2005 with a view to welcoming the country as member as from January 2007. Bulgaria's progress towards accession has been continuously monitored by the European Commission over a number of years. The reports assessed the preparedness of the country for accession in 2007 on the basis, among other issues, of the adoption and implementation of the *acquis communautaire*. The chapters regarding Energy, Competition and Environment, were opened in 2001 and closed in December 2004.

Bulgaria has established the basic **institutional framework** for energy, environment and competition affairs. In addition to the relevant Ministerial Departments, the Energy Regulatory Authority, the Competition Authority and an Energy Efficiency Agency have been established.

In **electricity**, the Energy Act passed in December 2003 provides the legal framework for the liberalisation of the electricity sector. Bulgaria has also adopted a comprehensive package of secondary legislation developing the provisions of the Energy Act. The most important issues still to be implemented are the legal and organizational unbundling of the Transmission System Operator from generation and supply activities and the unbundling of the Distribution System Operators from supply activities. Both issues are expected to be implemented by the time when Bulgaria becomes a full member of the European Union. A recent amendment to the energy law introduced the provisions for the appointment of the Supplier of Last Resort and shall be implemented by January 2007. The national legislation does not contain yet provisions on direct lines. However Amendments to the Energy Act approved by the Council of Ministers on 20 April 2006 and submitted to Parliament, transpose the text of the Electricity Directive related to the supply of eligible customers through direct lines.

In **natural gas**, the legal and regulatory framework was established by the Energy Act too. Natural gas market was opened to competition in 2003. The new legal and regulatory framework is mostly compatible with EU Natural Gas Directive 2003/55/EC. However, there are some specific articles to be harmonized with the 2003/55/EC Natural Gas Directive such as minimum requirements for the independence of TSO and DSOs. Although the state company Bulgargas dominates the wholesale market, gas distribution networks are being constructed and developed by private and municipal companies.

Bulgaria has in force a Law on Protection of **Competition** and a State Aid Act. These two Acts aim to provide the legal framework envisaged in the Competition Chapter of the European Community Treaty.

In the area of **Renewable** Energy Sources, Bulgaria has in place the provisions of the Directive regarding the promotion of electricity from Renewable Energy Sources. Bulgaria is

drafting a new legal act on the promotion of renewable energy sources which shall also include provisions regarding promotion of biofuels for transport.

The relevant **Environmental** acquis for the Treaty has been addressed in several legal acts such as the Environmental Protection Act, the Regulation of the terms and conditions for carrying out an Environmental Impact Assessment or the Regulation on the requirements for liquid fuels. The next challenge to be faced is the full implementation, ensuring that financing is available for the required investment.