Draft Law of Georgia on Energy:
main requirements & practical implications

Andrius Šimkus | Energy Community Secretariat
High-Level Policy Talks on the Electricity Market of Georgia
Tbilisi, 9 November 2017
The Accession Protocol signed on 14 October 2016

Ratification by the Parliament on 21 April 2017

Georgia’s rights and obligations, as of a Contracting Party, are in full force subject to specific conditions prescribed in the Accession Protocol
<table>
<thead>
<tr>
<th>ACQUIS ON ELECTRICITY</th>
<th>TIMETABLE FOR IMPLEMENTATION</th>
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<tr>
<td><strong>Directive 2009/72/EC</strong> concerning common rules for the internal market in electricity</td>
<td>31 December 2018</td>
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<td><strong>Regulation (EC) No 714/2009</strong> on conditions for access to the network for cross-border exchanges in electricity</td>
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<td><strong>Directive 2005/89/EC</strong> concerning measures to safeguard security of electricity supply and infrastructure investment</td>
<td>31 December 2019</td>
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Draft Law of Georgia on Energy

ECS draft of 7 Feb. 2017
Shall repeal Law of Georgia on Electricity and Natural Gas of 27 Jun. 1997 (as amended)
Full implementation by 31 December 2018

i.e.

13 months 23 days
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<th></th>
<th>Q4 2017</th>
<th>Q1 2018</th>
<th>Q2 2018</th>
<th>Q3 2018</th>
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<td>Primary law</td>
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<td>Corporate ref.</td>
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<td>TSO unbundling</td>
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<td>TSO certification</td>
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#1 Market opening
Generators
- Market-based operation
- Unregulated electricity trading
- Open competition

Networks
- Natural monopolies
- Unbundling from other activities
- Regulated tariffs & third party access

Suppliers*
- Free access to customers
- Unregulated prices
- Level-playing field & open competition

Customers
- Free choice of supplier
- Consumer protection
- Secured & reliable supplies
Eligibility = customer’s right to freely choose and switch its supplier

From 31 Dec. 2018

From 31 Dec. 2019
#2 Authorisations
Electricity

Licensed activities (GNERC)

Generation

Market operation (MO)*
- Day-ahead & intra-day market operation
- Record keeping of market data & transactions

Transmission (TSO)*
- Full TSO duties & responsibilities
- All functions, incl. dispatching

Distribution (DSO)
- Full DSO duties & responsibilities
Electricity

Non-licensed activities

Trade
Electricity wholesale trading activities
No supply to final customers

Supply
Electricity retail trading activities
Supply to final customers

*Proposed mechanism of notification to GNERC
#3 Unbundling
Transmission system operator (TSO)

Full unbundling from commercial energy activities

- Three optional models: OU / ISO / ITO
- Particular model to be adopted by the Government*
- Mandatory consultations with GNERC & ECS
- Any step back (‘bundling’) is not allowed
- New licenses only subject to certification
Ownership unbundling

Shareholder X
- VIU
  - Generation
  - Supply

Shareholder Y
- TSO
  - Network ownership & operation
  - Transmission

- EU preferred option
- Most effective model
- Usually requires thorough structural and corporate changes
Independent system operator (ISO)

Shareholder X
- VIU
- Generation
- Supply
- Network ownership (TNO)

Shareholder Y
- ISO
- Network operation
- Transmission
- Network operation (TNO)

- Most unpopular model
- Complex investment mechanisms
- Legal and functional unbundling of the network owner
- Increased role of the NRA
Independent transmission operator (ITO)

- A compromise model designed for incumbent VIUs
- Extremely high regulatory intervention
- Measures ensuring a working level independence of the ITO
Certification of the TSO (Art. 10/11 of Dir. 2009/72/EC)

1. TSO’s notification to the NRA on the unbundling
   Submission of all the relevant data and information covering each requirement of unbundling

2. NRA’s decision on the certification of the TSO (explicit or tacit)

3. NRA’s notification to ECS on the designation of a TSO

4. ECS’s opinion on compatibility
   Submission of the NRA’s decision and the notification received from the TSO

5. NRA’s final decision on the certification
   2 M

6. Publishing of the NRA’s decision and the ECS’s opinion
   2 M

4 M

4 M
Silk Road Holdings B.V.

100 %

E generation

51 % 100 %

G import / trade

G TNO

Asset management

E transmission

E dispatching

E distribution

E supply

E market operator

E trade

E transmission

100 %

24,5 %

75,1 %
**Distribution system operator (DSO)**

**Legal & functional unbundling from commercial energy activities**

- DSO = separate legal entity
- Organisational & decision-making independence
- Possible exemption: DSOs with less than 100.000 customers
- Possibility for a combined operator (TSO unbundling prevails!)
- No certification = monitoring through GNERC’s licensing
#4 Customers & public services
Right to choose
- Right to choose a preferred supplier
- Free & effective switching to another supplier (3 weeks)*

Consumer protection
- Standard & known contractual practices
- Awareness of service conditions & prices (tariffs)
- Effective access to service & consumption information
- Efficient complaint handling & dispute settlement

Security of supply
- Accessibility & availability of electricity
- Universal supply to households & small enterprises
- Social protection of vulnerable customers
Households & small enterprises

Universal service supply

‘Standard’ PSOs in the electricity sector

All customers

Supply of last resort (max. 3 months)
‘Tailor-made’ PSOs in the electricity sector

- May address specific needs of general economic interest
- May be imposed by the Government*
- Only upon consultations with ECS (+ notification)
- To be justified on case-by-case basis
- Always limited in time, proportionate & truly necessary
#5 Third party access
Unrestricted TPA to transmission & distribution systems

- Based on published terms & conditions (Network Codes)
- Applied objectively & without discrimination
- Charged on the basis of regulated & published tariffs (NRA)
- May be refused if the operator lacks the necessary capacity
- Any refusal shall be technically & economically justified
#6 National regulatory authority
Independence of the NRA

- Legally distinct regulatory authority
- Functionally independent from any public or private entity
- Sovereign staffing & budgeting policies & procedures
- Acts independently from any market interest
- Do not seek or take direct instructions within its competence
Duties & powers of the NRA

1. Law-making competences: adoption of legally binding regulatory acts

2. Regulatory competences: authorisations for energy activities, tariff setting, reporting duties, etc.

3. Monitoring powers: activity monitoring & supervision, inspections, market monitoring, etc.

4. Enforcement powers: handling of complaints, dispute settlement, sanctions (incl. fines)

5. Consultative role: market reports, recommendations, information publishing, etc.
Georgian National Energy and Water Supply Regulatory Commission

- Already satisfactory level of independence & functioning
- Necessary reinforcement of duties & regulatory powers
- Full competence under Energy Community law to be ensured
- Standard competences + ISO/ITO + sanction provisions
- Building of internal capacities due to increasing role
#7 Enforcement
National enforcement

- Public enforcement: administration & courts
- Private enforcement: contracts, courts & arbitration
- Specific procedures: GNERC, Competition Agency, etc.

Energy Community enforcement

- ECS: monitoring & dispute settlement
  [preliminary references & mediation]
- EC MC: decisions on breaches of the Treaty
#8 Priority steps forward
- Primary legislation (Law on Energy + amendments)
- Secondary legislation (Government, Ministry & GNERC)
- Strengthening of GNERC → functions, powers & capacities
- Network management rules (incl. TPA and transparent allocation)
- Unbundling of incumbent market players (TSOs & DSOs)
- Gradual market opening (PSOs vs. market-based relations)
Thank you for your attention!

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