

Energy Regulatory Office

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"Authorisation of rights – for a good start"

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The Third Party Access principle has been present in the Polish legal system since 1998. However at the beginning this regulation was dedicated to big customers, since July 1st 2007 it will cover all of 13,5 mln household customers purchasing electric energy and 6,5 mln purchasing gas. Although since July 2004 all non – household customers have been given the right to use the TPA rule in practice and the figures may seem to be impressive – respectively 1,9 mln in electricity and 60 thousand in gas, the results are far from being satisfactory.

Liberalisation – a steeplechase.

Energy experts are aware of the liberalisation barriers. First of all, they are related to the functioning of the wholesale energy market, weak position of the Power Exchange in the turnover volume, imposed obligatory purchases and technical complications connected with the participation in the system market. Network companies, possessing tools reflecting their position and economic potential have the upper hand. They dominate local markets enjoying the monopolistic position. Additionally, complicated and sometimes contradictory legislation is a serious obstacle too. Taking into consideration the fact that the state is the owner of 75% of generation assets and 85% of distribution assets, it is not difficult to notice that the conditions for competition are uneasy.

It is obvious that dominating undertakings are not happy with the switching process, and, when they can, they try to impose enormously expensive technical requirements or high

costs of new distribution contracts on those who want to switch. The result is that many of those who intended to change a supplier give the idea up.

The most important thing is a good law.

Good, coherent law determining the rights of all participants of the market play is a prerequisite of the functioning of competition. It is sorry to say that but the amendment process of the Energy Law which completed in April 2005, did introduce main points of EC directives, but did not take into account the Polish reality. No market model, neither wholesale nor retail, emerged from the amended Energy Law. Another problem is measurement. Who should have the access to customer's data? The perfect solution would be to assign this job to an independent company. At the beginning this function could be performed by distribution system operators. Uniformed patterns of switching procedures should also be elaborated. The duty to supply energy in case of a failure of supplies caused by externalities, not clearly defined by the existing regulation, should be imposed on nominated last resort suppliers for a defined period of time.

Serious tasks for the administration.

There are four bodies in the state administration playing the key role referring to the power sector and energy policy. The minister of economy – responsible for general policy, the minister of the treasury – performing ownership functions, the regulator – regulation of energy subsectors and promoting competition, and the president of the antimonopoly office – fighting practises which limit competition and control mergers and acquisitions. It seems that the minister of economy, who has the upper hand in shaping market conditions, should set up (in a form of an ordinance) coherent legal framework of energy trade, but also simple and non-discriminatory procedures of switching based on a desired model of the energy market.

A special role in this model is fulfilled by a Transmission System Operator, which, via the grid code, creates duties and gives access rights to his services to market participants. Some parts of the grid code referring to balancing and congestion management are now being analysed by the Energy Regulatory Office. The most important issue is – according to the president of the URE – to make sure that these regulations would not create new barriers against competition.

Group balancing – a new solution proposed by the electricity TSO – can also be an advantage.

Distribution companies are to be obliged to unbundle distribution activities from trade. We hope that an independent distribution system operator will guarantee equal access to grid. The success will be complete if distribution system operators introduce universal system of metering, equipped with the newest technology.

A new start.

This complicated task requires a general discussion among all stakeholders - not only representatives of public administration but also energy sector, legislators and customers. Who should have the upper hand in this dialogue? I am sure that customers - active and fully aware of their rights - should dominate in this discussion.

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