



Licensing in the Energy Sector

SCALING UP ENERGY EFFICIENCY INVESTMENTS TASK FORCE

SECOND MEETING

Minsk, Republic of Belarus, 5 October 2017

Agenda

- * What is licensing (terms and definitions)
- * The purpose of licensing
- * Main principles
- * The effect of the restructuring of the energy sector

What is licensing

The legal and regulatory **mechanism** that a state can use in order to maintain control and/or impose terms/conditions to a legal or natural person.

Two basic approaches:

- * **anyone is allowed to undertake** any activity unless a special license is required;
- * **no one is allowed to undertake** any specific activity unless it is granted an authorisation to do so.

Terminology and definition

There is no harmonised terminology!



License

Authorisation

Permit

Terminology and definition

- * Authorisation of a **business activity** which refers to the ability to undertake an economic activity in the electricity sector and can possibly be further broken down into:
 - * Authorisation of **competitive activities** (i.e. generation, supply/retail), and
 - * Licensing of **natural monopoly activities** (i.e. transmission/distribution ownership or operation);

Terminology and definition

- * **Permitting activities related to energy infrastructure** which refer to the construction, renovation, operation and maintenance in whole or in part of the respective infrastructure (i.e. generation plants, transmission/distribution networks);
- * **Licensing of professional competence** which refers to the technical capacity of certain entities to undertake, participate and hold responsibility in the construction, renovation, operation and maintenance in whole or in part of the respective infrastructure.

Competences allocation in the EU

Activities	Ministry	Energy Regulator	Comp. Authority	Other Authority	Not regulated
Natural Monopoly Activities					
Transmission Networks					
Planning approval	FR, GR, PT, ES, UK, NL, TR, IT, RO, CZ	BE, FR, GR, HU, PL, ES, TR		DK, IE, TR, IT, DE	AT, FI
Authorisation for construction	AUT, BE, DK, FI, FR, PT, GR, ES, UK, IT, CZ	FI, HU, IE, ES		AT, GR, PL, ES, NL, IT, RO, DE , TR	
Authorisation for operation	AT, BE, DK, FR, GR, PT, ES, NL, IT	FI, HU, IE, PL, ES, UK, RO, CZ		AT, ES	TR, DE
Distribution Networks					
Planning approval	GR, PT, UK, NL, TR, IT, RO, CZ	BE, GR, HU, PL, TR		DK, FR, IE, TR , IT	AT, FI, DE
Authorisation for construction	AT, BE, GR, PT, ES, UK, IT, CZ	HU, IE		AUT, GR, PL, ES, NL, IT, RO, DE ,TR	DK, FI, FR
Authorisation for operation	AT, BE, DK, GR, PT, ES, NL, IT	FI, HU, IE, PL, UK, RO, CZ		AT, FR, ES, IT	TR, DE

Competences allocation in the EU

Activities	Ministry	Energy Regulator	Competition Authority	Other Authority	Not regulated
Competitive Activities					
Generation					
Planning approval	FR, GR, PT, UK, TR, IT, RO, CZ	BE, GR, TR		AT, DK, IE, PL, IT, DE	FI, HU, ES, NL
Authorisation for construction	BE, DK, FR, GR, PT, ES, UK, IT, CZ	GR, HU, IE, ES, TR		AT, GR, PL, ES, NL, IT, RO, DE	FI
Authorisation for operation	BE, DK, FR, GR, PT, ES, IT	GR, HU, IE, PL, ES, UK, RO, CZ		AT, ES, IT, DE	FI, NL, TR

Source (all 3 tables): EURELECTRIC report on Regulatory Models in a Liberalised European Electricity Market (Ref.: 2004-030-0052) - Annex 3 table excerpt

Competences allocation in the EU

Activities	Ministry	Energy Regulator	Competition Authority	Other Authority	Not regulated
Competitive Activities					
Supply					
Setting prices for captive customers	BE, FR, ES, NL	BE, GR, IE, PL, PT, ES, TR, IT, CZ	RO (?)		AT, DK, FI, UK, DE
Approving prices for captive customers	BE, FR, GR, ES	DK, IE, PL, PT, ES, TR, RO, CZ		DE	AT, FI, UK
Market share / competition issues	GR, PL, ES, RO	BE, GR, IE, PL, PT, ES, UK, TR	DK, FI, FR, IE, PL, PT, ES, NL, DE, CZ	ES, IT	AT
Trading	FR, GR, ES, IT	GR, IE, (IT)	DK, NL, (IT), RO, DE	PL, ES, IT	AT, BE, FI, PT, UK, TR, CZ
Marketing & selling	ES	DK, PT, UK, IT	NL, IT, RO	PL, ES, RO, DE	AT, BE, FI, FR, PT, TR, CZ
Billing & collection	BE, ES	DK, FI, HU, PT, NL, IT	RO, DE	PL, ES, RO	AT, FR, PT, UK, NL, TR, CZ

Licensing in the Energy Sector

Focus on licensing of business activity

What is “liberalised” ?

Competition in Generation



Regulated access to networks*



Consumers may choose their
Supplier

(* networks remain a natural monopoly (but not necessarily public))

Example: The organisation of the electricity sector

4 models (evolution over time):

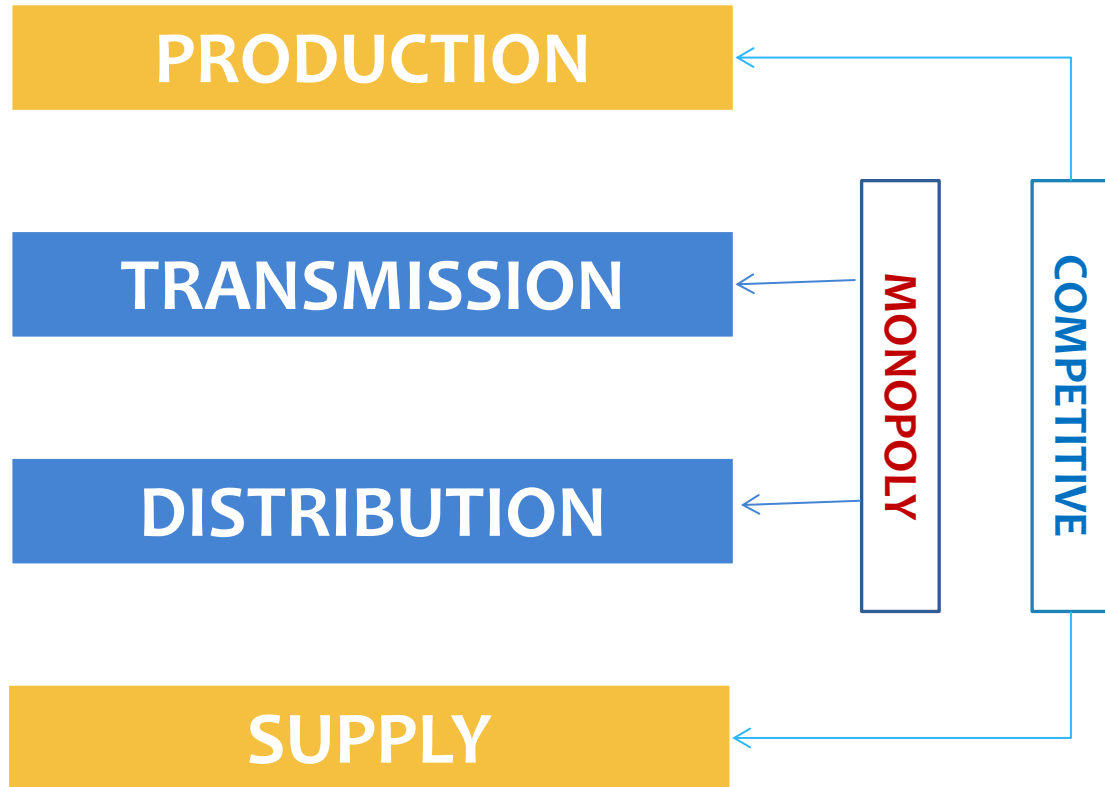
Monopoly

Single Buyer

Wholesale
Competition

Full
Competition

EU single energy market: Structural elements (Electricity & Gas)



EU single energy market:

Structural elements (electricity)

Network activities

- * Under **monopoly** regime
- * transmission and distribution networks
 - * constitute **natural monopoly**
 - * are subject to ex-ante regulation of prices, revenues or investment
- * operation & balancing usually performed by the TSO

Activities related to production and supply

- * under market **competition**
- * regulation confines on setting
 - * ex-ante rules about market behavior
 - * ex-post controls against anti-competitive behaviors

The concept of unbundling

Traditionally: T&D networks owned by the integrated electricity company
Under the **competitive environment:** unbundling requirements

3 well-known unbundling regimes:

- Accounting
- Legal
- Ownership

Very strict unbundling requirements under the 3rd EU Energy Package;
Requires unbundling of:

- **Regulated from liberalized activities**
- **Regulated activities with conflicts of interest, etc.**

Unbundling Options under the EU 3rd Energy Package

Ownership Unbundling

- **System Ownership:** by **independent** undertaking
- **System Operation:** by **independent** undertaking (can be also the Owner)

ISO

- **System Ownership:** by **integrated** undertaking
- **System Operation:** by an ISO

ITO

- **System Ownership:** by **integrated** undertaking
- **System Operation:** by (same) **integrated** undertaking/ Legal & Functional unbundling requirements

The Energy Regulator

- * Primarily for the natural monopolies (i.e. networks) but also for other business activities the **National Regulatory Authority (NRA)** responsible for energy:
 - * grants, modifies, suspends, transfers, and withdraws licenses;
 - * supervises and control compliance through licenses;

Objectives of licensing

- * **The restructured industry contains a range of distinct activities:**
 - * generation and supply, which will become competitive activities
 - * transmission system ownership and operation, and distribution system operation, which will be monopoly activities
- * **For the competitive activities, the intention of this licensing regime is to ensure that:**
 - * entry is allowed on a non-discriminatory basis; and
 - * competition is conducted on a fair and efficient basis
- * **For the monopoly activities, the intention of the licensing regime is to ensure that:**
 - * the operations of the entities are carried out in an efficient manner
 - * system development continues to take place efficiently and to meet users' needs
 - * access to the system is granted in a fair and non-discriminatory manner; and
 - * prices and terms are reasonable.
- * **The operation of the licensing regime is a key factor in determining whether conditions in the industry meet the requirements of the EU Directives and allow the restructured industry to function efficiently**

Legal Provisions on Licensing

- * **The Law contains clauses dealing in general terms with:**
 - * licence (or exemptions') conditions
 - * licence applications and consideration procedures
 - * modification and revocation of licences
 - * penalties for unlicensed activities and contraventions of conditions
- * **The Law also empowers the Regulator to issue regulations dealing with:**
 - * applications for licences (or exemptions)
 - * revocation of licences
- * **The whole purpose of these provisions is to ensure non-discrimination and transparency in all matters relating to licences**

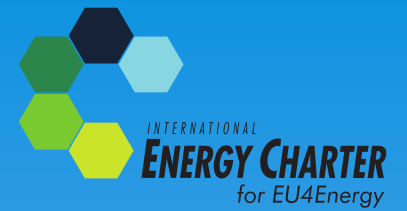
Procedure for License Applications

- * **The Law shall provide for universal criteria under which the licenses may be granted. These shall be provided in the Law and specified as necessary in the Licensing Regulations**
- * **For example the criteria that must be considered by the Regulator when deciding whether to grant licences for Generation may include:**
 - * National security
 - * the safety and security of the electricity system, electric plant, and electricity lines;
 - * the protection of the environment including the limitation of emissions to the atmosphere, water or land;
 - * the siting of generating stations and associated land use;
 - * the efficient use of energy,
 - * the nature of the primary source of energy to be used by a generating station
 - * the qualifications of an applicant, including the technical and financial qualifications of the applicant, and
 - * Public Service Obligations



Procedure for License Applications

- * **The Law shall provide for the detailed procedure for licence applications to be laid down in Regulations.**
- * **The Licensing Regulations shall set out an application procedure that covers:**
 - * the form of the application
 - * the information and accompanying documents that must be submitted, and collection of further information
 - * arrangements for publication of the application
- * **Submission of information by other parties**



Questions ?

NIKOS TOURLIS

NIKOS.TOURLIS@GMAIL.COM