

## client alert

ENERGY | UKRAINE |

JANUARY 2014

### ELECTRIC POWER MARKET IS COMING TO UKRAINE

The electric power market was introduced in Ukraine with the Law "On the Principles of Functioning of the Electric power Market in Ukraine" (the "Law"), which came into force on 1 January 2014. The Law is purported to establish a competitive model of the electric power market in Ukraine. Some of its provisions, however, including those establishing new sub-segments of the electric power market (namely, the bilateral contracts market, the day-ahead market and the balancing market) will go live only from 1 July 2017.

#### **ELECTRIC POWER MARKET OF UKRAINE: WHAT'S NEW?**

The Law introduces five sub-segments of the electric power market with different market players and rules, namely the bilateral contracts market, the day-ahead market, the retail electric power market, the ancillary services market and the balancing market. Such market segmentation will replace the current non-competitive and monopolised model of the electric power market where produced electric power must be sold and purchased only on the wholesale electric power market of Ukraine. Upon reformatting the electric power market will have new market players such as electric power distributors, ancillary services suppliers, qualified electric power consumers which may choose electric power supplier and enter into electric power consumption contracts with the chosen electric power supplier, the guaranteed buyer which will purchase electric power under the green tariff (feed-in tariff for alternative electric power) and market operators which will operate only on the day-ahead market.

#### **BILATERAL CONTRACTS MARKET**

The bilateral contracts market will be established for sale, resale and purchase of electric power under bilateral contracts between electric power producers, on the one side, and electric power suppliers, electric power distributors, electric power transmission companies, qualified consumers or the guaranteed buyer, on the other side.

The bilateral contracts market will, in fact, be the only market for sale of electric power under the green tariff to the guaranteed buyer which will be the legal successor to the state enterprise "Energoynok", i.e. the current wholesale electric power supplier. In order to sell electric power under the green tariff electric power producers will need to qualify for the electric power market, enter into bilateral contracts with the guaranteed buyer, become participants of the balancing group of producers and submit, on a daily basis, hourly schedules of electric power generation to the guaranteed buyer. In case of fulfillment of the above requirements by alternative electric power producers the guaranteed buyer will have to purchase all electric power generated by such producers till 1 January 2030. Payments for electric power purchased by guaranteed buyer from alternative electric power producers must be made within 90 calendar days as from the day of its supply.

The appeal of the bilateral contracts market is somewhat marred, however, by the fact that the electric power authority will be able to set the maximum term of validity of respective bilateral contracts. Such term, however, may not be less than three months. The Law also provides for a number of restrictions which means that the bilateral contracts market will still be under supervision.

### **DAY-AHEAD MARKET**

The day-ahead market will be launched for sale and purchase of electric power and electric power products through organised day-ahead bidding and managed by the market operator. "Free" prices for sale and purchase of electric power will be fixed by the market operator. The market operator will be the only participant to settle payments on the market. The market will be accessible only for participants, namely, electric power producers, electric power suppliers, the guaranteed buyer (mandatory participant), electric power transmission companies and electric power distributors which qualified for such market, were registered as market participants by the market operator, entered into participation agreements with the market operator and provided performance warranties.

All electric power purchased by the guaranteed buyer from alternative electric power producers on the bilateral contracts market must be put for sale by the guaranteed buyer on the day-ahead market at the lowest price acceptable on the day-ahead market.

### **BALANCING MARKET**

The balancing market will be organised by the system operator for balancing of volume of electric power generation and import as well as electric power consumption and export. The system operator will be the key person for planning the work of the entire electric power system of Ukraine and approval of supply, consumption, export and import schedules of market participants. It will also be authorised to give instructions to the market participants for departure from the approved schedules. In particular, the system operator will be authorised to give load decrease instructions to alternative electric power producers if load decrease applications of other market participants have already been accepted by the system operator. The lost profit of the alternative electric power producers as a result of such load decrease instructions will be reimbursed by the system operator under the green tariff.

In case of non-fulfilment of daily schedules approved by the system operator alternative electric power producers which are not participants of the balancing group will have to purchase/sell such electric power imbalances directly to or from the system operator. In case an electric power producer participates in the balancing group such electric power imbalances will be purchased/sold by/to the guaranteed buyer which will then resell/repurchase it to/from the system operator.

The Law also provides for reimbursement of the cost of imbalances by alternative electric power producers to the guaranteed buyer in case of imbalances. In particular, solar and wind electric power producers are released from such an obligation till 2030 while electric power producers from other alternative electric power sources are released from reimbursement only for the first year starting from the operation of the new model of the electric power market. During second and third year of operation of the new market, the share of reimbursement by such alternative electric power producers will be equal to 0.5 % and 1% accordingly.

Electric power will be sold and purchased on the balancing market upon selection of applications by the system operator.

## RETAIL ELECTRIC POWER MARKET

The retail electric power market will cover supply of electric power to electric power consumers by electric power suppliers and electric power distributors.

## ANCILLARY SERVICES MARKET

The ancillary services market will include the system operator and providers of ancillary services which will render such services to the system operator. Registration of ancillary services providers by the system operator is mandatory.

## IMBALANCES SETTLEMENT FUND

The Imbalances Settlement Fund (the "Fund") will be established for reimbursement of (i) the difference between the cost of electric power purchased under the green tariff from alternative electric power producers by the guaranteed buyer on the bilateral contracts market and the cost of electric power sold on the day-ahead market by the guaranteed buyer; and (ii) expenses incurred by the guaranteed buyer due to settlement of electric power imbalances within the balancing group.

The Fund will operate till 1 January 2030.

## WHEN THE NEW MODEL OF ELECTRIC POWER MARKET WILL BE ESTABLISHED?

A decision on the date of establishment of the new model of the electric power market must be adopted by the Cabinet of Ministers of Ukraine, with the Law specifying July 1, 2017, as the deadline. Before that date only some of the markets will be operating, namely, the ancillary services market and the retail electric power market together with the currently operating wholesale electric power market. The Cabinet of Ministers of Ukraine has already started to draft regulations necessary for introduction of separate markets.

## TRANSITIONAL PERIOD

Legal entities involved in the wholesale electric power market must adapt their activities to comply with the Law within 6 months from its effective date.

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