

PSOs in SEE – Challenges Ahead

Main PSO Aspects

Notion of PSOs as obligations which the undertaking if considering their own commercial interests would not assume (or would not assume to the same extent or under the same conditions)

What PSOs have to fulfill (in any legal context):

- Clearly defined
- Non-discriminatory
- Transparent
- Verifiable



Important derogations (Electricity Directive and beyond)

- Authorization mechanics for construction of new generation facilities
- Tendering for construction
- Third Party Access
- Direct Lines



SEE – Slovenian example

- PSOs laid down in the EU legislation have been implemented with the sector specific national legislation
- Energy Act entered into force on 22 March 2014 transposes the Third Package and regulates electricity and gas markets, energy efficiency and renewable energy sources
- Electricity market opened and in practice divided into wholesale market and retail market
- Energy Act guarantees that all households are provided with electricity and ensures the protection of vulnerable end consumer (non-discriminatory principle). Further, SODO as a DSO has to ensure an emergency energy supply in event of the insolvency or illiquidity of the supplier (continuity of services)
- Operating the natural-gas transmission network falls within a national mandatory public service



SEE – Bulgarian example

Bulgarian legal system does not have a general notion of PSO - instead, such obligations can be found in different sectors and would have different names

Article 3 of Directive 2009/72/EC and Directive 2009/73/EC on PSOs was transposed into Bulgarian law mainly by the Bulgarian Energy Act („Закон за енергетиката“), which talks about “*obligations of services of public interest*” and “*obligations towards society*”.

The first category (including consumer protection, environmental protection and protection of competition) concerns only companies performing services of public interest, i.e. transmission and supply with energy or natural gas of specified quality at a regulated/free market price, which can only be refused on grounds expressly specified in the Energy Act.

The second category concerns all energy undertakings, i.e. companies active in the generation, transformation, transmission, storage, distribution and supply with electricity, heat or natural gas based on a license; extraction of energy resources based on a concession; generation of electricity and/or heat, which is not obligatorily based on a license; and oil transmission via pipelines. Such companies are obliged to perform their activities in the service of society and of the particular client in accordance with legal requirements, by ensuring the security of supply, including protection of essential energy infrastructures, regularity and quality of electricity and heat energy and natural gas, the effective use of fuels and energy, environment protection and protection of the life, health and property of citizens.

Price of electricity in Bulgaria, whether purchased at a regulated price or at the free electricity market, comprises a “price for obligations toward society”.



The case of Ukraine

Article 11(3) of the Gas Law establishes a list of national policy areas which are considered to be in the general public interest (equivalent to the general economic interest under Article 3(2) of Directive 2009/73/EC) which include:

- i. national security, as well as the security of natural gas supply;
- ii. stability, due quality and affordability of energy resources;
- iii. protection of environment, including energy-efficiency, the increase of the share of energy from alternative sources, and reduction of greenhouse gas emissions;
- iv. protection of health, life and property of the population.

The Regulation on Imposing Specific Duties on Natural Gas Market Participants to Meet General Public Interests in Course of Natural Gas Market Performance adopted by the Cabinet of ministers of Ukraine No. 187 as of 22 March 2017 defines specific PSOs.

Energy Community Secretariat's Conditional approvals of PSOs (both related to Ukrainian gas market)



Looking Ahead

- Observing the principle of proportionality
- Allowing investments in energy efficiency
- Price regulation eligible in respect of vulnerable consumers
- NRAs to keep monitoring level of market opening
- Balanced subsidies
- ...and many more.



Thank you for your attention!



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