



**Competition in energy markets:
the way to ensure affordable and secure
supplies for all consumers**

Bulgarian electricity sector

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 - balancing between the *ex-ante* sector regulation and the *ex-post* antitrust control
 - exchange of information under REMIT – setting rules and practices

Liberalization and Regulatory Framework (1)

- **Constant changes of legislation**

Law on Energy and Energy Efficiency - adopted in 1999, amended once in 2000 and 2001, twice in 2003 and repealed in 2004.

Energy Law – adopted in 2003, already has 44 amendments, 2 of them since the beginning of 2018

Rules on trade with electricity – since 2004 – 6 adopted and repealed, the current one, adopted in 2013, amended twice in 2014 and twice in 2015. To be amended or repealed again this year.

- **Delayed secondary implementation legislation** by the sector regulator

- Uncertainty for the business
- Favours *status quo* – the existing market players, the vertically integrated undertakings

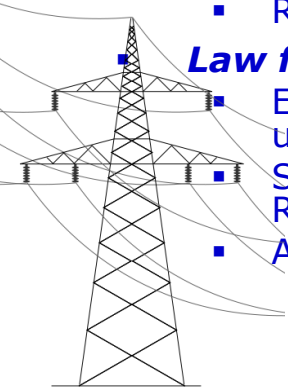
2 amendments to the Energy Law in 2018

- **Draft law for amendment by the Ministry of Energy** – not adopted yet

- Restricting the possibilities for the transmission/distribution operators to refuse access to the grid
- Requirement to give motives for the refusal

- **Law for amendment** – adopted on 5 May 2018

- Enhancing the powers of the energy regulator to investigate market manipulations under Regulation 1227/2011 – dawn raids
- Sector regulator to exchange information with the CPC on market manipulations – Rules for cooperation to be adopted by 1 July 2018
- All generators 4 KW and above should sell only on the IBEX



Liberalization and Regulatory Framework (2)



- **Initial situation** – generation, transmission, distributions, supply – state owned
Implementation of the First Package 2001-2008 Privatization of the state owned generators (with the exception of Kozluduy Nuclear Power, Maritza Iztok Thermal coal power plant (TPP) and some important Hydro Power Plant (HPP) - hereby enabling new suppliers to offer electricity to eligible customers
- **1999** - Establishment of sector regulator – State Energy and Water Regulation Commission
Government decision - Regulatory Law and Competition Law approaches have complemented and reinforce each other and both should have a significant impact on terms and conditions on which energy products are sold in Bulgaria
- **2004** – privatization of the 3 state owned electricity distribution operators to CEZ, EVN, E.ON (sold later to Energo PRO) - establishment of vertically integrated (distribution, supply and some small part of the market generation of energy) undertakings. Concerns that this process will provide conditions for abuses of dominant position of vertically integrated companies?
- **2004** – big industrial clients (MV and HV) are allowed to contract electricity directly from a generating power plant (bilateral contract between Kozloduy Nuclear Power Plant and Umicore) - off-exchange bilaterally without any broker involvement

Liberalization and Regulatory Framework (3)



Unbundling of vertically integrated energy undertakings

2007-2013 – transposition of Directive 2003/54/EC (Second Liberalization Package) and Directive 2009/72/EC (Third Liberalization Package) in National Law

Unbundling (legal, organizational, financial, accounting) of

- TSO (ESO) from the public provider (NEK) - 2014
- 3 DSOs activities as system operators from end supply and other activities of the vertically integrated undertakings

Market definition – from competition and liberalization perspectives

- **generation and wholesale** – generation of electricity and import of electricity through interconnectors
- **transmission** – operation and management of HV grid and distribution of MV and LV systems with the view to its delivery to final customers and to distributors
- **retail market** – depends of the size of customers and their consumption profiles
- **trading of electricity** – 2 types (Physical trading – delivery of electricity to supplier or industrial customers through bilateral contracts or trade on exchange) and financial trading – trading of financial products minimizing the risks of unforeseen price development in physical trading

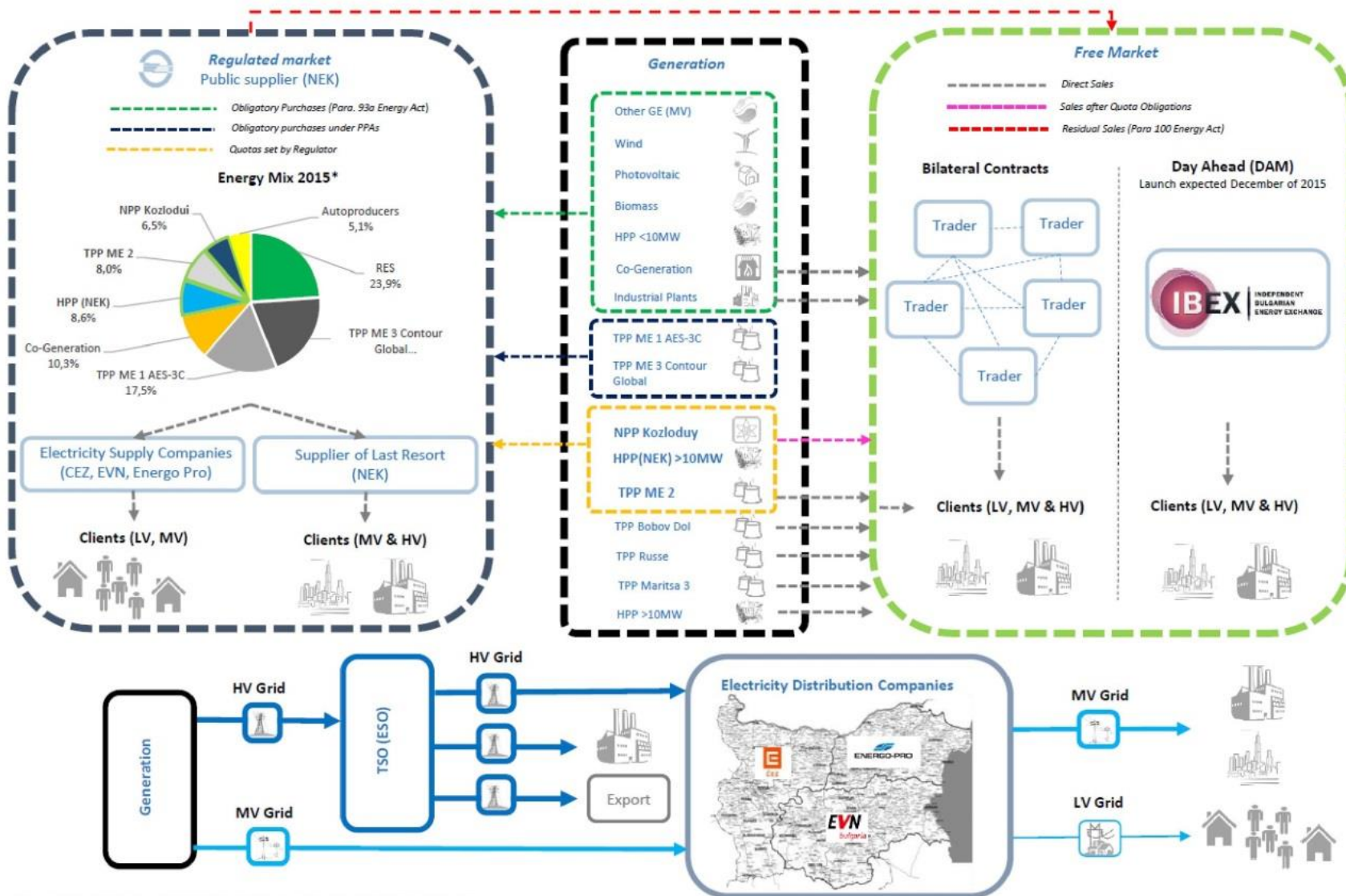
Latest developments

1 July 2013 – all industrial clients HV, MV, LV and household customers (LV) could go to free electricity market

June 2015 – the first household consumer entered free market

January 2014 - Independent Bulgarian energy exchange (IBEX) starts operating

Bulgarian Electricity Market Overview



* The Energy Mix for 2015 is based on reported figures for H1 2015 and figures for H2 2015 according to the new regulatory decision for the regulatory period August 2015 – June 2016

Abuse of dominance on liberalized BG market CPC experience - Case №305/554/2013 and Case № 1169/922/2014



- 2013 - CPC initiated investigations against 3 private DSO (vertically integrated companies) and their affiliated supplier and electricity traders following a complaint by independent electricity trader
- Traders of electricity within 3 DSO economic groups have a significant presence on distribution and retails markets especially on MV and LV on territories where respective supply and distribution companies have licenses - CPC defines product market - liberalized market of trade of MV and LV to eligible customers - industrial customers with the exception of households
- Refusal to Access Network in Various Forms (Network Foreclosure)

Abuse of dominance on liberalized BG market CPC experience - Case №305/554/2013 and Case № 1169/922/2014 (2)



- 2 DSO did not comply with 14 days legal term for issuance of statement about customers compliance with technical requirements of the grid – a key document for the transition of the client to the new entry of the liberalized market
- End suppliers did not comply with the terms of issuance of certificate for lack of obligations and a requirement for the switch
- DSO did not provide access to their data bases containing information about individual consumption of each consumer to independent traders
- DSO shared the information about hourly consumption of clients only with electricity trading company within their economic group preventing the traders to offer prices especially having in mind the most important segment of the liberalized market – market of balancing energy – lack of such information may lead to acquisition of unnecessary amounts of balancing energy which may increase the price for the client or reduce the profit margin for the trader
- DSO intentionally delayed the preparation of framework agreements with traders which prevented of so called “combined” agreements between trader and customers
- Internal “expert groups” were created in DSO which target the key commercial clients and “preserve” them as client of DSO trader.
- In general: each group of companies has an internal strategy for market share increase on liberalized BG energy market. Results – the free traders of electricity are placed in disadvantageous position being prevented to enter the market
- CPC ended the proceedings in December 2017 with 4 fines for abuse of dominant position for infringement of Art 21, point 5 of LPC

Conclusions



- Shortcomings of the liberalization of EM have not been entirely addressed by sectoral regulator and CPC. The cooperation between the regulators in the scope of implementation of Reg 1227/2017 (REMIT) is crucial for prevention of market abuses. Finding the right balance between the *ex-ante* sector regulation and the *ex-post* antitrust control. Exchange of information under REMIT – setting the rules – to be done by 1 July 2018
- Successful unbundling should be supported with efficient secondary legislation
- CPC has to be proactive in monitoring and assessing the barriers to entry in order to increase the competition and to allow new entrants to increase their markets shares especially in downstream markets. **CPC enforcement actions – more focus on the free electricity market, including IBEX**
- Unfortunately the competition analyses have proved that the electricity trade for the time being is liberalized mainly on paper; considerable scope for abuses of market power by the dominant position operators still remain

2 main concerns:

- ***ex post* competition rules applicable to non-regulated wholesale and to the large extending retail markets**
- ***ex ante* regulated tariffs may raise competition concerns to ensure freedom of choice and protection of customers**

Thank you

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