

# Electricity

## Information Paper

September 2010



ANTONIOU  
ADVOCATES

*“As with every aspect of our legal practice, explaining the legal framework in clear and concise terms is a fundamental characteristic of the way we work. It is only natural for a law firm striving to provide as clear, practical and efficient legal solutions as possible to have developed a working structure which allows direct addressing of the issues our Clients are faced with. Particularly during the turbulent times we live in, we are not looking to overload our Client with ‘legalese’ and charge for the mere provision of information that is publicly accessible. Instead, we aim to increase value for our services by providing our Client with our own straightforward description of the regulatory framework in every industry well before they even decide to contact us for the first time. In this way both sides benefit, as we receive an informed initial enquiry in relation to which we can accurately identify the legal issues and start working on their solution while our Client receives our immediate legal support. This is how we comprehensively deal with complex legal challenges in an increasingly competitive environment and this is how we differentiate ourselves from traditional approaches.”*

*Anastasios Antoniou*

SENIOR PARTNER

### **Our Legal Services in the Electricity Market**

Whatever your role in the electricity market, be it a transmission or distribution operator, a new entrant to the market, a public or private organization or even an end-user, you can always rely on legal support that runs in parallel with market evolvments and developments. Whichever your legal needs, should these be regulatory or compliance-related, concern complicated commercial transactions, relate to safeguarding the provision of electricity to industry or consumers, or entail to matters of competition such as refusal to access to networks or electricity itself, rest assured we provide the most reliable, tailor-made legal solutions to face these challenges. Our industry-focused legal support covers all aspects of the electricity market and will always be aligned with your strategy to eliminate risks and raise profitability in increasingly liberalized market conditions and a fiercely competitive environment.

Contact us at [energy@antoniou.com.cy](mailto:energy@antoniou.com.cy) for more information or to discuss your legal needs.

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# EU legal framework

Electricity markets have been increasingly regulated in the sphere of the European Union (EU). Decentralized regulation is the current state of affairs, enabling Member States to effectively regulate their domestic electricity markets in conformity with Community legal instruments.

**NATIONAL REGULATION** Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity entails the following six principal aims:

- 1) Ensure a level playing field in generation;
- 2) Reduce risks of market dominance and predatory behaviour;
- 3) Ensure non-discriminatory transmission and distribution tariffs;
- 4) Ensure the disclosing of information on energy sources;
- 5) Ensure that reference is made to the environmental impact of energy sources.

Towards achieving these aims, the Directive establishes common rules for the generation, transmission and distribution of electricity. It lays down the rules relating to the organisation and functioning of the electricity sector, access to the market, the criteria and procedures applicable to calls for tenders and the granting of authorisations and the operation of systems.

## **PUBLIC SERVICE OBLIGATIONS AND CONSUMER PROTECTION**

Undertakings operating in the electricity market must be operated in accordance with commercial principles, with no discrimination between undertakings as regards either rights or obligations.

The objective is to achieve a competitive, secure and environmentally sustainable market in electricity.



EU Member States are obliged to:

- impose on undertakings operating in the electricity sector public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies and environmental protection, including energy efficiency and climate protection;
- ensure that all household consumers and small enterprises enjoy the right to be supplied with electricity of a specified quality at reasonable, easily and clearly comparable and transparent prices;
- take appropriate measures to protect end-users and vulnerable customers, including measures to help them avoid disconnection;
- ensure the implementation of a system of third party access to the transmission and distribution systems for all eligible customers.

**NEW ELECTRICITY CAPACITY TENDERING** Member States must ensure the possibility of providing for new capacity or energy efficiency/demand-side management measures through a tendering procedure or any procedure equivalent in terms of transparency and non-discrimination, on the basis of published criteria.

Details of the tendering procedure for generating capacity and energy efficiency/demand-side management measures must be published in the Official Journal of the European Union at least six months prior to the closing date for tenders.

#### **Designation of transmission or distribution operators**

Member States must designate, or require the undertakings owning transmission or distribution systems to designate, one or more transmission or distribution system operators for a period to be determined by Member States having regard to considerations of efficiency and economic balance.

Each **transmission** system operator is responsible for:

- ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity;
- contributing to security of supply through adequate transmission capacity and system reliability;
- managing energy flows on the system, taking into account exchanges with other interconnected systems;

- providing the operator of any other system to which its system is interconnected with sufficient information to ensure secure and efficient operation;
- ensuring non-discrimination between system users;
- providing system users with the information they need for efficient access to the system.

The tasks of the **distribution** system operator are:

- to maintain a secure, reliable and efficient electricity distribution system in its area with due regard for the environment;
- to ensure non-discrimination between system users;
- to provide system users with the information they need for efficient access to the system;
- to give priority to generating installations using renewable energy sources or waste or producing combined heat and power;
- to procure the energy they use to cover energy losses and reserve capacity in their system according to transparent, non-discriminatory and market-based procedures;
- to take energy efficiency/demand-side management and/or distributed generation measures that supplant the need to upgrade or replace capacity.

Both transmission and distribution system operators must meet specific criteria so as to ensure their independence. These are the following:

- they may not participate in the integrated electricity undertaking responsible, directly or indirectly, for the day-to-day operation of the generation, transmission or supply of electricity;
- appropriate measures must be taken to ensure that the professional interests of the persons responsible for the management of the distribution system operator are taken into account so that they are capable of acting independently;
- they must have effective decision-making rights, independent from the integrated electricity undertaking, with respect to assets necessary to operate the network;
- they must establish a compliance programme, which sets out the measures taken to exclude discriminatory conduct, and make sure that it is adequately monitored.

**TRANSPARENCY OF ELECTRICITY PRICING** Council Directive 90/377/EEC of 29 June 1990 concerning a

Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users

The philosophy behind this legal instrument is that the transparency of energy prices contributes to the creation and smooth operation of the internal energy market. The transparency of electricity prices improves the conditions ensuring fair competition within the market. It can help eliminate discrimination of consumers, by promoting their freedom to choose between different energy sources (oil, coal, fossil fuels and renewable energy sources) and between different suppliers.

Member States must ensure that companies supplying electricity to European consumers regularly send Eurostat information relating to:

- prices and conditions of sale of electricity to these consumers;
- the pricing systems in force;
- breakdown of consumers by category and their respective market share.

For energy price transparency to be truly effective, prices and pricing systems must be published and broadcast for consumers as widely as possible and prior to their enforcement.

**CROSS-BORDER ELECTRICITY TRADING** Regulation (EC) 1228/2003 on conditions for access to the network for cross-border exchanges in electricity aims to contribute to an intensification of trade in electricity on a cross-border basis within the EU. The increased harmonization of tariffs and charges for access and the allocation of available interconnection capacities and respective regulatory measures are ends the Regulation set to achieve. In general, it lays down provisions to make cross-border flows of electricity to be 'fair, cost-reflective, transparent and directly applicable'.

# Cyprus legal framework

**CYPRUS ENERGY REGULATION AUTHORITY** Established pursuant to the provisions of Law 122(I)/2003 which transposed Directive 96/92/EEC, the Energy Regulation Authority is the respective national regulatory authority envisaged by the Community legal framework detailed above. It is composed of three members who are appointed by the Executive, namely the Council of Ministers.

As provided by Directive 96/92/EEC and its transposing Law 122(I)/2003, the Authority is an independent State body and submits an annual report to the President of the Republic. Subsidiary legislation issued pursuant to s. 97 of Law 122(I)/2003 concludes the regulatory framework within which the Authority exercises its competence and powers.

**CYPRUS TRANSMISSION SYSTEM OPERATOR** The Transmission System Operator (TSO) was also established by virtue of Law 122(I)/2003 for the purposes of harmonization with the *acquis communautaire*. Its principal functions and responsibilities are to secure the operation of the national electricity Transmission System and manage the electricity market on an objective, non-discriminatory basis in a competitive environment, while at the same time supporting and promoting electricity generation from renewable energy sources.

The TSO ensures access to the Transmission System of all electricity producers and suppliers. The TSO also coordinates the actions taken for the repair and clearing of faults occurring in the Generation or Transmission Systems, ensuring unhindered and uninterrupted supply of electricity to consumers.

Beyond the aforementioned Law, the two principal regulatory instruments concerning the TSO's operational competence are the Transmission and Distribution Rules, which primarily govern the technical aspects of planning and operating the transmission and distribution systems and the Trading and Settlement Rules that primarily govern the commercial interactions of all parties utilizing the transmission and distribution systems.

# The Cyprus market

**MARKET PARTICIPANTS** Currently, the only producers of electricity in Cyprus are the Electricity Authority of Cyprus (EAC) and Vassilikos Cement Works Public Company Ltd. EAC is the dominant undertaking in the electricity market, constituting a vertically integrated, majority state-owned entity. It generates and supplies 100% of the electricity in Cyprus. EAC owns the transmission network, and owns and operates the distribution network and supply.

The TSO is legally unbundled and separate accounts are published. The function of the DSO remains with EAC (account unbundling has been achieved). The current threshold for retail market opening is 350 MWh per year and this corresponds to 35% of the market (the 726 largest customers). Cyprus is exempted from certain provisions of the Directive 96/92/EEC which allowed it to delay the opening up of the market for non-household customers until 31 December 2008. It has until 31 December 2012 to open up the electricity market for household customers.

**RENEWABLE ENERGY SOURCES INVESTMENTS** Taking into account that Cyprus has to comply with renewable energy sources being a source of the country's total energy production within specific timeframes, investments in electricity generation through using such sources are on the rise. Such investments are subsidised by the Energy Department of the Ministry of Commerce, Industry and Tourism and applicants address the Cyprus Energy Regulation Authority to obtain a license to generate electricity and establish their power plants.

**MARKET STATISTICS** The following tables show Electricity Generation and Sales data for the years 2008 and 2007. As stipulated above, these concern the sole provider of electricity in Cyprus, the EAC. The same state of affairs in the market remains valid as at the date this Information Paper was issued.

## Generation

Description	2008	2007	Increase (Decrease) %
Total units generated (GWh)	4 995,8	4 786,2	4,4
Installed capacity (MW)	1 118	1 118	-
Peak load (MW)	1 004	1 047	(4,1)
Thermal efficiency of generation (%)	33,7	33,8	(0,3)
Fuel consumption of generation (tonnes)	1 241 465	1 190 690	4,3
Cost of fuel (million €)	471,461	302,246	56,0
Load Factor (%)	56,8	52,5	8,2

## Electricity Sales

Description	2008	2007	Increase (Decrease) %
Total Sales (GWh)	4 555,8	4 298,3	6,0
Unbilled consumption (GWh)	8,5	7,9	7,6
Average charge per kWh sold (cents)	16,178	12,719	27,2
Average Charge per kWh unbilled (cents)	15,859	11,0	44,2
Consumers on Year-End	500 489	476 500	5,0

Data source: Electricity Authority of Cyprus