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Electricity Procurement: 3 Post-Tender Scenarios

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Executive Summary

The tenders regarding the electricity procurement for the period of 1 April 2017 – 31 March 2018 is a useful exercise in increasing the transparency of suppliers selection. The Moldovan and Ukrainian media unevenly interpret the issues related to these tenders. For this reason, the Position Note is aimed to explain the tender procedure and the potential targeted suppliers. Therefore, the main features of suppliers, their experience in supplying electricity to the Republic of Moldova, and their performance during tenders are reviewed.

The Position Note describes three post-tender scenarios that may occur, taking into account the suppliers' profile and the local and regional realities from the Republic of Moldova, especially the unpredictable situation in eastern Ukraine. Nonetheless, we should not exclude a hybrid scenario that would comprise different elements of the basic scenarios described in the Position Note.

Finally yet importantly, the document contains a series of long - and short-term recommendations that may help improve the new rules for electricity procurement and the communication of the Ministry of Economy, if implemented. It also reiterates the measures to eliminate offshore companies from the energy sector, expedite the electricity interconnections with Romania, and take over the Romanian experience regarding the development of a wholesale electricity market.

Description of the problem

The operators on the Moldovan electricity market are searching for electricity suppliers for the period of 1 April 2017 – 31 March 2018. This is an emergency due to the expiry of the contract with the current supplier "Energokapital"¹, signed in March 2016, on 31 March this year. Thus, six operators² launched tenders in January 2017, inviting electricity suppliers to submit their bids.

Though the Ministry of Economy established clear rules for conducting tenders³, only Gas Union Fenosa shows an appropriate degree of transparency with respect to this tender⁴. As a result, based on the information reported by the operator with Spanish capital, we can state that the main companies that confirmed their participation in the tender are the following: JSC Energocom, Cuciurgan Power Plant and DTEK Pavlogradugoli PJSC. Besides those three suppliers, according to some informal channels, it seems that Energokapital expressed its interest as well, but this cannot be proved so far.

So far, there is no clear and comprehensive agreement on the conduct of the tender. The Group of Observers will reported the tenders' outcomes. The Group's role is to monitor the tender and it consists of

¹ Energokapital has two founders. The first is Bas Market, registered in Tiraspol (30 July 2014), which has two other founders – Intercom Management LTD, based in Belize, and Iurie Dzetul, who is allegedly close to the leader of Tiraspol administration, Evgheni Sevcuic. The second founder is the Ornamental Art Limited - an offshore company registered in Hong Kong.

² Gas Natural Fenosa Furnizare Energie SRL, FCC RED Union Fenosa JSC, JSC Furnizare Energie Electrică Nord, SE Moldelectrica, RED Nord JSC, and RED Nord Vest JSC.

³ Order of the Ministry of Economy No 4 of 5 January 2017 approving the Guidelines for the Annual Procurement of Electricity, http://mec.gov.md/sites/default/files/document/attachments/achizitii_anuale_energie_electrica_ordin.p

⁴ Gas Natural Fenosa, http://www.gasnaturalfenosa.md/achizitii_energie/2017

representatives of the Ministry of Economy, ANRE, EU Delegation, Energy Community, and the EU High-Level Adviser in the energy sector.

Potential electricity suppliers

We will analyse hereinafter the issue related to the electricity procurement tender from the perspective of the details published by Gas Union Fenosa – the only available source. According to the data published by Gas Union Fenosa and confirmed by the Ministry of Economy, the deadline to submit the bids for electricity procurement was extended three times in March and the final deadline was set for 30 March 2017. Likewise, we can state that by 16 March 2017, DTEK Pavlogradugoli PJSC submitted the single bid. The latter is part of DTEK conglomerate, owned by the most influential businessperson in Ukraine, Renat Ahmetov.⁵ This bid was affected by the events that are taking place in eastern Ukraine. Therefore, the imports of coal extracted from Donbass were blocked in March, and the separatist forces took control over DTEK enterprises from Donbass.⁶ Both incidents created additional pressure on the Ukrainian energy system that depends on coal extraction, and endanger the potential exports of electricity, previously announced by the Ukrainian officials. None of the other suppliers submitted any bid until 27 March.

1. **DTEK Pavlogradugol PJSC.** This is the only company that submitted a bid for electricity procurement. However, DTEK Pavlogradugol PJSC was not the only company that purchased electricity to export it in the Republic of Moldova. Thus, DTEK Trading and Donbasenergo⁷ participated in the wholesale electricity tender from Ukraine (December 2016), but they did not announce their intention to participate in the Moldovan tender. At the tender organised by Gas Natural Fenosa, Ukraine is willing to supply 810 million MW/h, or 90 million MW/h monthly to the Republic of Moldova. According to the plan of the Ministry of Energy and Coal Industry of Ukraine, the exports to the Republic of Moldova are planned April to December 2017.⁸ The sales price of electricity in Ukraine was USD 49.9 per MW/h at the beginning of 2017 and was expected to decrease in summer, but it was hampered by the railway blockade from Donbass (March 2017).

According to some sources⁹, the Ukrainian party reportedly planned to offer a special export price to the Republic of Moldova – under USD 40 per MW/h against the current price we pay to Energokapital – USD 48.9 per MW/h. In reality, this is unlikely to happen taking into account the recent increase of electricity price in Ukraine and the general difficulties encountered by the Ukrainian energy sector. The uncertainties related to the safety of nonstop supply of electricity are the main concerns invoked by the Moldovan party during tenders.

2. **Cuciurgan Power Plant ('Moldavskaya GRES').** The company belonging to the Russian Concern RAO EES since 2006 expressed its interest in these tenders. This power station was one of the main suppliers due to its enormous production capacity (above 2500 MW) and to its access to cheap raw material. The power station produces electricity from Russian gas and does not pay for it to

⁵http://biz.censor.net.ua/events/3022931/ahmetov_stal_bogateyishim_ukraintsem_po_versii_forbes_uvelichiv_sostoyanie_za_god_v_2_raza

⁶http://biz.censor.net.ua/events/3022586/dtek_zayavil_o_potere_kontrolya_nad_predpriyatiyami_na_okkupirovannom_donbasse

⁷<http://www.ukrenergo.energy.gov.ua/Pages/ua/DetailsNew.aspx?nID=3388&urlNews=/pages/ua/auctionresults.aspx>

⁸ <http://mpe.kmu.gov.ua/minugol/doccatalog/document?id=245191818>

⁹ http://biz.censor.net.ua/resonance/3022801/zachem_ukraine_eksportirovat_elektroenergiyu_v_moldovu

MoldovaGaz, like other enterprises from the left bank of Nistru River, accumulating debts amounting USD 6 billion that MoldovaGaz must pay to Gazprom. The Cuciurgan Power Plant had not submitted any bid until 27 March 2017 invoking that it waited for the gas tariff to be set. In Transnistrian region the gas tariff is established by Tiraspoltransgaz-Transnistria.

3. **Energocom SOE** The state-owned company that supplies electricity at non-regulated tariffs also expressed its intention to participate in the tender. Currently, suppliers and distributors purchase electricity at regulated tariffs from Energocom, which is supplied by Energokapital and produced by Cuciurgan Power Plant.¹⁰ According to the Instructions of the Ministry of Economy on the conduct of tenders, the potential electricity suppliers must meet a series of technical criteria and must indicate the source of supplied electricity (p. 6.3).¹¹ At the same time, Energocom had not submitted any bid until 27 March. One cause may be the lack of clear contracts of electricity procurement. Energocom cannot formulate any bid for those six operators because it did not sign a contract of electricity procurement at non-regulated prices. Though Energocom does not meet the requirement of indicating the source of electricity, it was allowed to participate in the tender. This creates unequal conditions for “DTEK Pavlogradugol PJSC” and for Cuciurgan Power Plant, both having capacity to produce and supply.
4. **Energokapital.** This company with shareholders from offshore zones¹² is not mentioned as a supplier that expressed openly its intention to supply electricity. Nonetheless, non-official sources claim that the supplier from the Transnistrian region would like to extend the supply contract after the current one expires, in force between 1 April 2016 and 31 March 2017. Energokapital had to decrease the price by 28% compared to the previous one (4.89 US cents for kW/h against 6.795 kW/h during 2014-2016) during the 2016 tenders, which were criticised for lack of transparency.¹³ This is due to the tender launched by Gas Union Fenosa and due to the participation of DTEK. At the same time, the fact that the price offered by Energokapital was lower (by almost 0.5 US cents per MW/h or 0.0005 US cents per kW/h) than the one proposed by the Ukrainian supplier DTEK generated suspicions of concerted actions. For now, we cannot exclude the fact that Energokapital will maintain its positions, for example by signing a contract with Energocom. This would mean that Energocom has a better bid than DTEK Pavlogradugol PJSC.

¹⁰ <http://www.mec.gov.md/ro/content/pretul-de-procurare-energiei-electrice-s-diminuat-pentru-luna-martie-cu-12-iar-incepand-cu-1>

¹¹ Guidelines for the Annual Procurement of Electricity,

http://mec.gov.md/sites/default/files/document/attachments/achizitii_anuale_energie_electrica_ordin.pdf

¹² Energokapital has two founders. The first is Bas Market, registered in Tiraspol (30

July 2014), which has two other founders – Intercom Management LTD, based in Belize, and Iurie Dzetul, who is allegedly close to the leader of Tiraspol administration, Evgheni Sevciuc. The second founder is the Ornamental Art Limited - an offshore company registered in Hong Kong.

¹³ ADEPT, “Expert-Grup” and LRCM, Monitoring report on the implementation of the Priority Reform Action Roadmap, 16 September 2016, <http://expert-grup.org/ro/biblioteca/item/1324-raport-de-monitorizare-a-implement%C4%83rii-foii-de-parcurs-privind-agenda-de-reforme-prioritare>

The Three Post-Tender Scenarios

- **Optimistic scenario.** After the tender, the six operators conclude separate contracts with DTEK Pavlogradugol PJSC and purchase cheaper electricity from Ukraine (under USD 40 per MW/h). Thus, despite the situation from Donbass, the Ukrainian party ensures the nonstop supply for the entire period between 1 April 2017 and 31 March 2018. Nonetheless, the Republic of Moldova needs at least 3 billion MW/h to meet the country's need, and the problem of an adequate supply is still open. The country will need two more billion MW/h to meet fully its needs. This volume will have to be contracted from Cuciurgan or from Energocom (which in their turn have to purchase it from the Transnistrian region).
- **Moderate scenario.** The operators sign contracts only with Energocom that manages to obtain supplies from Ukraine (810 million MW/h), and from the Transnistrian region from Cuciurgan. The price does not differ too much from the current one (USD 48.9 per MW/h), which is between USD 40 and 49 per MW/h. DTEK Pavlogradugol PJSC is not selected, but like other Ukrainian suppliers, has contracts signed with Energocom. This scenario implies that the potential bid proposed by Energocom is better than the one from the Ukrainian supplier. However, there will be question about how Energocom managed to anticipate the price of DTEK Pavlogradugol PJSC.
- **Negative scenario.** Only DTEK Pavlogradugol PJSC submits the bid, which in the end excludes any possibility of competition. The Ukrainian supplier signs separate contracts with the operators, but is not allowed to supply more than 810 million MW/h, which represents the maximum export capacity established by the Ukrainian party for 2017. Because of the tense situation from eastern Ukraine, the Ukrainian supplier is forced to suspend the supplies and the situation from 2014 will be repeated. As a result, the contract with DTEK Pavlogradugol PJSC is cancelled and another contract between Energocom and Energokapital is signed (similar to the situation from December 2014) or with Cuciurgan Power Plant. In parallel, the Republic of Moldova uses the electricity offered by Ukraine for balancing, due to the dependence of Odessa on the electricity that transits the Moldovan territory. According to the new contract the prices could be at least USD 48.9 per MW/h (same price as during 2016-2017) due to the emergency situation, but mostly as a result of lack of competition.

The uncertain situation with electricity suppliers, the vulnerability of the Ukrainian system (that may occur in all the above-mentioned scenarios) and the lack of an anti-crisis plan from the authorities do not exclude the possibility of a hybrid scenario that will combine elements from all three scenarios described earlier.

Conclusions and Recommendations

The delay of bids from the potential suppliers described above, except for the bid of DTEK Pavlogradugol PJSC, submitted before the events that took place in Donbass, generates uncertainties for the operators on the market. After 31 March, when the contract with "Energokapital" expires, the Republic of Moldova will use only internal energy sources (about 700-800 million MW/h), and the electricity supplied by the Ukrainian party for balancing the system. In fact, the Republic of Moldova is facing a latent crisis regarding the electricity

supply and the authorities are late to come with an anti-crisis plan that would identify a sustainable solution and prevent the dire consequences for the Moldovan energy system.

The partial relaxation of Moldovan authorities is determined by the fact that the Energy Community and the EU participate in tendering process as members of the Group of Observers. Thus, on the one side, there is an attempt to share the responsibility with the European partners. On the other hand, the authorities are confident that a contract will be signed, though only the Ukrainian supplier had submitted its bid until 27 March.

It is obvious that the positive scenario is the most favorable for the operators and for Moldovan consumers respectively, because it envisages lower prices and safer contracts. Such a scenario implies a maximum competition and, at the same time only about 30% of the necessary volume (if DTEK Pavlogradugol PJSC is selected) of almost 3 billion MW/h. Therefore, even if a positive scenario takes place, the operators will need additional sources and the electricity produced in Transnistrian region will be contracted (directly from Cuciurgan or via Energokapital).

The negative scenario generates major risks for the Republic of Moldova, because Moldovan energy system remains practically uncovered. However, there is the probability of repeating the situation of 2014, when the trader Energokapital, associated with fraudulent schemes and offshore companies, entered the Moldovan energy system.

Recommendations

The Moldovan authorities need to conduct a series of actions with the support of European partners in order to prevent the negative scenarios. These are short- and long-term recommendations.

Short-term actions:

- **Provide an anti-crisis plan to prevent the situation in which no supplier is selected or cannot be selected.** For example, only DTEK Pavlogradugol PJSC submits the bid, but it is not selected because it cannot guarantee the nonstop supply of electricity (because of tensions in Donbass).
- **Start the negotiations with the Ukrainian party regarding the electricity supply from Ukraine (from balancing services) in order to avoid shortages in the Moldovan system.** This is essential for the situation when no supplier is selected and for the situation when the Ukrainian supplier is selected, but from different reasons (in Donbass) it cannot meet the contractual provisions for the period between 1 April 2017 and 31 March 2018.
- **Clarify the situation concerning the electricity supplier at non-regulated prices – Energocom.** There is a favorable treatment of this supplier in comparison with other suppliers and was not obliged to mention the sources of electricity, even if the technical criteria requires this.
- **Ensure maximum transparency in contracts negotiated between Energocom and other suppliers (from the Transnistrian region or from Ukraine).** The state-owned company has not indicate so far the exact sources of electricity, but taking into account the past experience it is clear that suppliers prefer to sell rather to Energocom than to market operators (6 operators mentioned above).
- **Introduce an efficient e-communication mechanism in the Ministry of Economy regarding the tender.** The communication model used by Natural Gas Fenosa can serve as a good practice.

Long-term actions:

- **Amend the Guidelines for the Procurement of Electricity in order to guarantee that the technical criteria are compulsory for all potential suppliers.** Thus, such suppliers like Energocom should be prevented from participating in the tender if they do not have contracts of electricity procurement.
- **Exclude the offshore companies from transactions in the energy sector.** In this respect, the Law on Electricity needs adjustments. At the same time, one solution would be to amend the Guidelines for the Procurement of Electricity by introducing the criterion according to which the supplier is obliged to prove that it has no debts to the producer (Energokapital case). The Energy Community initially recommended this, but the Ministry of Economy ignored it.
- **Integrate the Guidelines for the Procurement of Electricity in the primary legislation.** This allows to ensure the predictability and continuity of new rules of game, which guarantee the transparency of tenders in the energy sector.
- **Take over the experience of Romania regarding the development of a wholesale electricity market – OPCOM.** This tool will ensure a higher competition and equitable prices for consumers.
- **Accelerate the electricity interconnections with Romania (Isaccea-Vulcanesti-Chisinau).** The estimations show that this interconnection will be operational in about six years (2023). This period can be reduced if private investors are identified, besides the European banks and the European Commission. The investments depend on the safety and predictability of the market, guaranteed only if the regulator (ANRE) is reformed and free from any political influence.