

# Bulgaria

Siyana Veleva and Gergana Shinikova

Kinkin & Partners

## 1 Policy and law

### What is the government policy and legislative framework for the electricity sector?

As an EU member state since 2007, Bulgarian legislation in the energy sector is for the most part harmonised with EU law. The Energy Directive packages were implemented into Bulgarian legislation in 2006. The third liberalisation package is currently being implemented.

The legislative framework in the sector is structured by laws and ordinances adopted by Bulgarian authorities and in the direct implementation of EU legislation.

The liberalisation process of the sector started with the Energy Act, adopted in December 2003. The Energy Act regulates the production of energy production of heat, gas usage, the interconnection procedures and the energy and gas markets.

The main objectives of the Energy Act are ensuring the needs of society for electricity and heating power and natural gas are met, ensuring energy development and energy reliability in the country through the effective use of energy and energy resources, the creation and development of a competitive and financially stable energy market, encouraging the combined production of electric and heating power, developing infrastructure for transmission and distribution of natural gas, and the transmission of oil or oil products within and through the country.

The common European practice for the promotion of energy from renewable and alternative energy sources led to the adoption in 2007 of the Law on the Renewable and Alternative Sources of Energy and Biofuels, which was replaced in 2011 by the Law on Energy from Renewable Sources.

The energy sector is also governed by ordinances, which in particular cases develop the general provisions of the Energy Act.

The sector is also regulated by rules adopted by the Energy and Water Regulatory Commission (EWRC), for example, Rules for Energy Trading, Rules for Grid Access, etc.

State policy on the energy sector is made by parliament and by the Council of Ministers. The Minister of Energy sets the energy policy of the country.

The general framework of Bulgarian energy policy are provided in the energy strategy adopted by parliament in June 2011, which will be in force until 2020. The energy strategy is a strategic document that reflects the political view of Bulgaria on the development of the sector. The priorities of the strategy are guaranteeing the safety of energy supplies, reaching the renewable energy targets, an increase in energy efficiency, and the development of a competitive energy market and policy directed to ensuring the needs and preserving the interests of consumers. Renewable energy sector policy is implemented through the national action plan for energy, produced by the renewables sector, adopted by Bulgaria's Council of Ministers and in force until 2020.

## 2 Organisation of the market

### What is the organisational structure for the generation, transmission, distribution and sale of power?

Electricity generation in Bulgaria comes from numerous sources, including nuclear power, thermal, hydro and renewable and alternative energy resources. Most conventional power plants are owned by

the National Electricity Company, which is 100 per cent government-owned. Some of the thermal power plants are the property of independent firms. All renewable energy facilities, including small hydro power plants (up to 10MW), are 100 per cent owned by independent investors.

Since the liberalisation of the energy market, the governance of the transmission network is subject to a licensing procedure. Only one licence can be issued for the entire country. The transmission network is 100 per cent owned by the Bulgarian Electricity System Operator (TSO).

The distribution network on the regulated market is the property of three licensed energy distribution companies (CEZ, EVN and Energo Pro), organised on a territorial basis.

Since July 2007 the Bulgarian energy market has been totally liberalised, which means that every consumer has a right to choose the distribution companies and has a right to free and equal grid access. A market model has been introduced based on the regulated access of third parties to the grid, where the transactions are based on direct bilateral contracts between the producers or traders and the end consumers.

The production, sale and supply of electricity are activities subject to a licensing procedure.

The non-regulated part of the market is based on free negotiated prices between traders, consumers and independent producers trading the energy remaining after execution of obligations to the public supplier to satisfy the needs of clients in the regulated segment. Trading is based on bilateral contracts in a free negotiated process on the market organised by the TSO.

## Regulation of electricity utilities - power generation

### 3 Authorisation to construct and operate generation facilities

#### What authorisations are required to construct and operate generation facilities?

The initiation of the construction process is regulated by general Bulgarian civil law and in particular the Law on Spatial Zoning Planning and the ordinance for its application. The construction process is regulated by the general construction law, but also by a specific ordinance for construction requests for energy sites.

The entering into operation of facilities is subject to general legislation, but also to the provisions of the Energy Act. A licence issued by the EWRC for the production of electricity is required for the construction and operation of energy facilities with an installed capacity of over 5MW.

### 4 Grid connection policies

#### What are the policies with respect to connection of generation to the transmission grid?

The Minister of Energy determines the required new electricity generating capacity for connection to the transmission grid and promulgates the inventory of required new capacity in the State Gazette. The EWRC approves and publishes on its website the predicted electricity capacity that may be allocated for connection to the transmission grid for electricity production from renewable sources. The TSO provides the expansion, reconstruction and the modernisation of the transmission grid together with the long-term prognoses and plans

for the development of the electricity sector. The TSO, on the basis of the assessments, forecasts and plans, and prepares a national electric energy budget and a list of the sources, including new generating capacities and intersystem electricity power lines, required to meet national demand, and submits the said drafts to the Minister of Energy. The electricity transmission network operator is obligated as a priority to connect all power plants generating electricity using high-efficiency combined generation, with an installed capacity up to 10MW, to the transmission grid.

Interconnection policies are also subject to strategic acts in the energy sector, as approved by the Bulgarian authorities, such as the Energy Strategy Until 2020, the national action plan for energy from renewables.

Pursuant to the national report on reaching the targets for consumption of energy from renewables, the particular procedure for interconnection does not apply to renewables facilities.

## 5 Alternative energy sources

### Does government policy or legislation encourage power generation based on alternative energy sources such as renewable energies or combined heat and power?

In 2007 to promote alternative energy sources the Law on Renewable and Alternative Sources of Energy and Biofuels was adopted. The Law implemented the provisions of Directive 2001/77/EC of the European Parliament and the Council on the promotion of the production and consumption of electricity generated using renewable energy sources in the internal electricity market and of Directive 2003/30/EC of the European Parliament and of the Council on the promotion of the use of biofuels and other renewable fuels for transport. The national target, according to the admission contract and Directive 2001/77/EC, was an 11 per cent share of electricity, produced from the renewables sector.

The Law applied only to the renewable and alternative energy investors and led to significant development of the renewable sector in Bulgaria. Pursuant to the Renewable Energy Sources Directive 2009/28/EC Bulgaria set a national target of 16 per cent share for renewables in Bulgaria.

In 2011 the Law was repealed and the Law on Energy from Renewable Sources was adopted. Although the law promotes renewables, it also limits new renewable energy projects. The main promotional measures are fixed long-term contracts for selling the energy produced, feed-in tariffs and guaranteed grid access. According to the second national report on the development of the renewable sector, Bulgaria has reached the 16 per cent target of final consumption of energy produced from renewable sources.

For certification of the quantities of produced energy, the Law on Renewable and Alternative Sources of Energy and Biofuels introduced 'green certificates', issued by the EWRC. Following its repeal, pursuant to the new law, green certificates are issued by the Sustainable Energy Development Agency.

## 6 Climate change

### What impact will government policy on climate change have on the types of resources that are used to meet electricity demand and on the cost and amount of power that is consumed?

In the past few years, Bulgaria has joined the international effort to reduce climate change and has adopted a package of measures in the energy sector. The implementation of renewables and energy-efficiency measures are a priority of energy policy in Bulgaria and correspond to EU policy in the sector.

Conventional energy generation is one of the biggest sources of greenhouse gas emissions in Bulgaria (about 70 per cent). To limit greenhouse gas emissions the Bulgarian government adopted a policy to encourage new investments in the renewables sector. The Bulgarian government's main goal is the simultaneous application of improvement in energy efficiency and the mechanism for promoting the use of renewable technologies.

Another measure to lower greenhouse gas emissions is the obligation to refurbish existing conventional electricity installations.

The National Trust Eco Fund manages funds provided under debt-for-nature and debt-for-environment swaps, as well as funds

provided under other types of agreements with international, foreign or Bulgarian sources aimed at environmental protection in Bulgaria. The fund also manages funds for energy efficiency.

The fund contributes to the implementation of the Bulgarian government's environmental policies and the enforcement.

## 7 Storage

### Does the regulatory framework support electricity storage including research and development of storage solutions?

The national action plan for energy, adopted by Bulgaria's Council of Ministers in June 2011 and in force until 2020 provides development of electricity storage systems. The government has adopted a Decree for setting national rules for eligibility of expenditure under the programmes financed by the European structural and investment funds, for the programming period 2014-2020, effective from 8 August 2016. According to the Decree, the European Regional Development Fund shall support investment priorities, related to improvement of energy efficiency and security of supply through development of intelligent systems (smart grids) for distribution, storage and transmission of energy through the integration of distributed generation from renewable sources.

## 8 Government policy

### Does government policy encourage or discourage development of new nuclear power plants? How?

Bulgaria has one nuclear power plant – NPP Kozloduy. Some of the power plant's capacity was reduced as part of Bulgaria's negotiation process for joining the EU. The Bulgarian government has been planning to build a seventh nuclear reactor. The preliminary projects have been designed and ecological and cross-border permission procedures are under way.

The Bulgarian government has planned to build a second nuclear power plant – NPP Belene – and preliminary research has been conducted. However, the construction of this plant has been the subject of huge political and social debate. In 2013 a national referendum on the topic was organised. Owing to the misleading phrasing of the question, the results were unclear. The project for a second national nuclear power plant is currently on hold by a decision of parliament.

## Regulation of electricity utilities – transmission

### 9 Authorisations to construct and operate transmission networks

#### What authorisations are required to construct and operate transmission networks?

The construction and operation of a transmission network requires the approval of the competent state authorities. For construction of transmission network approved investment designs and construction permission are required. The Minister of Investment Project Development issues ordinances about the contents of the investment designs. The EWRC issues, amends, supplements, stops, terminates and withdraws licences for transmission of electricity. Pursuant to the Energy Act, only one licence shall be issued in the country for the transmission of electricity. The Bulgarian operator of transmission networks is the electricity system operator.

### 10 Eligibility to obtain transmission services

#### Who is eligible to obtain transmission services and what requirements must be met to obtain access?

The EWRC issues the rules for access to the electricity transmission network. The operator must connect any energy sites with a generating capacity of more than 5MW of an electricity producer located within the relevant area, for which the producer has concluded a contract for connection at a connection price. Another condition for connection to the transmission grid is also the fulfilment of the producer's obligations under the contract and the regulatory requirements for connection to the electricity transmission grid. The producer must have built energy sites within the boundaries of its own property, or property where it has the right to build. The producer must conclude a contract for grid access with the operator.

The electricity transmission grid operator must connect the energy facilities of an electricity distribution network operator in relation to the expansion, reconstruction and modernisation of the electricity distribution grid and connect them to electricity producers and customers.

The transmission grid operator must connect any facilities of an electricity customer located within the relevant area that has electrical fixtures built within the bounds of its property, in conformance with technical standards and safe operating requirements and satisfying the conditions for connection to the transmission grid, and it has concluded a written contract for connection with the electricity transmission grid operator for a set connection price.

The operator must provide equal access to the transmission network by observing the requirements for quality and providing network consumers with the information they need for efficient access. The operator may refuse access if it would lead to a breach of the technical requirements and security of the networks or to the deterioration of the conditions for supply to other consumers and users.

End-users use the electric transmission grid under publicly known general conditions, also approved by the EWRC and these enter into force without any explicit written acceptance.

## 11 Government transmission policy

### Are there any government measures to encourage or otherwise require the expansion of the transmission grid?

Bulgarian legislation does not provide any incentives for expansion of the transmission grid. The development and the expansion of the grid is obligation of the operator, as provided by the Energy Act and by its licence. The expansion and modernisation of the grid is part of the operator's investment programme, approved by the EWRC.

## 12 Rates and terms for transmission services

### Who determines the rates and terms for the provision of transmission services and what legal standard does that entity apply?

The EWRC determines the rates for the provision of transmission services. The EWRC decides the fees for access to the transmission grid. The methods of price regulation, the rules for price calculation setting and modification, and the procedures for provision of information, for the submission of proposals on prices and for the endorsement of prices are established by ordinances on electricity adopted by the EWRC.

The operator of the transmission grid determines the general terms for connection to the transmission grid, approved by the EWRC.

## 13 Entities responsible for grid reliability

### Which entities are responsible for the reliability of the transmission grid and what are their powers and responsibilities?

The Electricity System Operator (the Bulgarian TSO) is responsible for ensuring the reliability of the transmission grid.

The National Dispatching Centre (NDC) of the TSO acts as an operator of the national power transmission system and performs the functions of centralised real-time dispatching, control and supervision of the electrical power system (EPS). Its main task is to guarantee the reliable and efficient operation of the Bulgarian EPS and its synchronous operation with the partners in the Union for the Co-ordination of Transmission of Electricity. The NDC also organises the electricity market. There are four regional dispatching centres covering the territory of Bulgaria.

## Regulation of electricity utilities – distribution

## 14 Authorisation to construct and operate distribution networks

### What authorisations are required to construct and operate distribution networks?

The construction of a distribution network must be permitted by the competent state authorities and requires approved investment designs and construction permission. The construction of a distribution network must be compatible with environmental laws and building permits can only be issued only to the operator of the distribution grid.

A licence issued by the EWRC is required to operate a distribution network. Pursuant to the Energy Act only one licence shall be issued for each territory for the distribution of electricity. The territory for a licence to distribute electricity shall include no less than 150,000 clients connected to the distribution network, and at least one administrative region.

A licence shall be issued to a person registered according to the Commercial Act who:

- has technical and financial capacities, material and human resources and an organisational structure to fulfil the requirements for carrying out the activity under the licence;
- presents proof that the energy sites through which the activity under the licence will be implemented meet the normative requirements for safe operation and for protection of the environment; and
- has genuine rights to the energy sites through which he or she will implement the activity if they are to be constructed. As previously mentioned, there are three companies operating distribution networks (CEZ, EVN and Energo Pro) in Bulgaria.

## 15 Access to the distribution grid

### Who is eligible to obtain access to the distribution network and what requirements must be met to obtain access?

The relevant operator of the distribution grid must provide equal access to the network. Rules for access to distribution networks are similar to those governing access to transmission network. The operators of distribution networks must publish general conditions for access to their grid, approved by the EWRC. Contracts are signed between the distribution operator on the one hand and customers connected to the distribution network in general terms or the producer of electrical energy connected to the distribution network. There are, however, significant differences in the procedures for access to the energy distribution grid for producers of electricity from renewable energy sources, from conventional energy sources and for cogeneration sites. The conditions for connection to the relevant distribution grid of a producer of electricity from renewable sources are different. The relevant operator may reasonably refuse to wholly or partially connect the energy sites of a producer or of a customer to the distribution grid by objective, non-discriminatory and published criteria (such as public service imperatives or technical reasons relating to the security and the safety of the network).

## 16 Government distribution network policy

### Are there any governmental measures to encourage or otherwise require the expansion of the distribution network?

The distribution of electric power and operation with distribution networks is carried out by distribution network operators. According to the Energy Act, the network operators shall provide the expansion, reconstruction and modernisation of the electric distribution network and of auxiliary networks, in compliance with the requirements of environmental protection, energy efficiency and effective use of power.

## 17 Rates and terms for distribution services

### Who determines the rates or terms for the provision of distribution services and what legal standard does that entity apply?

The operator of distribution grid determines general terms for connection, approved by the EWRC. Customers or producer of electricity who want to connect to a distribution grid have to submit an application form to the respective operator. The operator shall issue an opinion on the request, which specify the conditions for accession to its network. The operator of distribution grid offers connection agreement, who contains all technical requirements and conditions for access to the grid of the particular energy sites of producer of electricity or of customer. The fees for access to the distribution network cover management of the network and relate to the overall management and administration of the electricity system, including dispatching costs, energy sites, commercial metering devices, reporting as well as all other administrative expenses for the upkeep of the distribution network. The EWRC sets the fees for access to the distribution network.

---

**Regulation of electricity utilities – sales of power**


---

**18 Approval to sell power****What authorisations are required for the sale of power to customers and which authorities grant such approvals?**

All energy market activities are subject to a licence procedure before the EWRC. For the sale of electrical power the EWRC issues three types of licence – for trading electricity, for wholesale suppliers and for public supply.

The wholesale supplier ensures electricity supply to public suppliers and customers, connected to the transmission grid. Only one licence shall be issued on the territory of the country for wholesale supply of electricity (the title holder of the licence is the National Electric Company).

Public suppliers ensure the supply to electricity customers connected to the distribution grid for the territory for which the suppliers' licence is issued. In Bulgaria the three aforementioned companies possess licences for public supply (CEZ, EVN and Energo Pro).

Electricity traders are persons who meet the financial criteria to trade in electricity and who are entitled to purchase electricity from producers and supply privileged customers. Any juridical person, if fully compliant with all laws, can request a licence for energy trading.

**19 Power sales tariffs****Is there any tariff or other regulation regarding power sales?**

Is there any tariff or other regulation regarding power sales?

Contracts for energy sales are concluded at regulated prices, at freely negotiated prices or at prices determined by methods approved by the EWRC and pursuant to long-term contracts for electricity purchase. The EWRC is entitled to regulate the prices in the energy sector.

The EWRC regulates the prices at which the producers sell electricity to the wholesale supplier; the wholesale supplier sells electricity to the transmission and distribution grid operators to cover their technological expenses for transfers; the wholesale supplier sells electricity to the public suppliers; and the public suppliers sell to end customers connected to the low-voltage distribution grid. The EWRC approves the feed-in tariff for purchasing electricity from the renewables sector. The feed-in tariff is applicable for selling electricity to both wholesale and public suppliers. The EWRC determines a separate feed-in tariff for energy produced from combined energy sites.

On exercising its obligations for pricing regulation, the EWRC may apply different methods of regulation to determine the indexes of effectiveness of energy sites and indexes for comparison, and basic criteria. The EWRC applies two general methods for price regulation – the rate on the return of capital and a limit on prices or income.

The EWRC approves different components of the regulated energy price (different from the feed-in tariff). Some of the components are energy in Bulgarian leva for megawatt/hour; price for capacity/availability for megawatt/megawatt per hour; other components are independent from the structure of expenses.

According to the amendments to the Energy from Renewable Sources Act (ERSA), in force from 24 July 2015, the public provider and respectively the end-providers shall buy the generated electricity from renewable sources at the feed-in tariff price for the quantities of specific net electricity production (the average annual electricity production of 1kW of installed capacity according to the decision of the EWRC for determining the feed-in tariff after deduction of expenses for own needs) based on which feed-in tariffs are fixed in the respective decisions of the EWRC. The generated quantities of electricity exceeding that amount are bought at a price in excess of the balancing market. At the same time the producers of electricity from renewable sources shall also sell the electricity produced by them at a freely negotiated price or on the balancing market.

The amendment to the ERSA provides new rules for determining the feed-in tariff for energy sites that were built with funds from the national or EU support scheme and in respect of which aid applications were submitted before the ERSA's entry into force (ie, before 2011).

**20 Rates for wholesale of power****Who determines the rates for sales of wholesale power and what standard does that entity apply?**

The EWRC regulates the price at which producers sell electricity to the wholesale and public suppliers and the feed-in-tariff price at which the producers from the renewables sector sell electricity to suppliers. The EWRC determines the wholesale price of power, which are market-based; provide a balance between the interests of the energy enterprises and clients; and prevent non-admission or restriction or violation of the competition on the energy market. The EWRC regulates prices by applying various methods of regulation, including setting efficiency parameters for energy companies, comparability parameters between such companies and setting basis criteria. The EWRC may determine price components reflecting: the cost structure; or items such as time of the day, seasonal and other tariff structures related to costs.

The prices are determined for one regulatory period (one year), but can be modified by an additional decision of the EWRC, but no more often than once a calendar quarter and under specific conditions.

**21 Public service obligations****To what extent are electricity utilities that sell power subject to public service obligations?**

Pursuant to the Energy Act, services of public interest are: transmission and transformation of electricity; distribution of electricity and electricity supply. The energy enterprises must carry out their activity in the interests of the public and of individual clients and in compliance with the requirements of the Energy Act and of the other laws, ensuring reliability of supply (including protection of the sites, which are critical infrastructure in the energy sector), uninterrupted supply and quality; the efficient use of energy; and the protection of the environment, the life, health and property of citizens.

The end-suppliers shall provide a supply of electrical power for household and non-household end-clients connected to low-tension distribution networks in the relevant licensed territory where these clients are not provided by another supplier. The EWRC publishes annual recommendations on the compliance of the sale prices by wholesale suppliers and end suppliers with public service obligations, including the protection of energy services consumers. Energy companies providing public services shall determine special procedures for providing information to vulnerable customers regarding the consumption and suspension of their electricity supply.

---

**Regulatory authorities**


---

**22 Policy setting****Which authorities determine regulatory policy with respect to the electricity sector?**

The EWRC is the main regulatory body of the energy sector. It was established by a Decree of the Council of Ministers of the Republic of Bulgaria No. 181 of 10 September 1999.

Some regulatory rights are also provided for the Minister of Energy.

**23 Scope of authority****What is the scope of each regulator's authority?**

The main prerogatives of the EWRC in regulating the activities in the energy sector are to:

- issue, amend, supplement, suspend, terminate and withdraw licences for the generation of electricity, for the transmission of electricity, for the distribution of electricity, for electricity trade, for the organisation of the electricity market, for the public provision of electricity and for the public supply of electricity;
- adopt and publishes basic guidelines concerning its activities;
- approve the common terms and conditions of the contracts in the energy sector;
- exercise control in the cases envisaged in the Energy Act;
- carry out price regulation of electricity;
- define the rules for trading electricity and the network technical rules at the request of the energy companies and control their compliance;

- adopt and control the application of methodology for the price formation of balancing energy;
- define the rules for access to the electricity transmission and distribution grids;
- hold tenders for the construction of new capacities for electricity generation in the various territories;
- consider the energy companies' requests for compensation of stranded costs and make decisions on the amount of the justified stranded costs and the approach for their compensation;
- issue monthly certificates to the producers of electric energy for the origin of the goods of electric energy, produced at highly effective combined production of electric and heat energy (in force from 1 January 2016);
- request power and gas network operators to evaluate the energy efficiency potential of the respective networks by reduction of the technological expenses; the assessment shall include analysis of the transfer, distribution, management of loads, the efficient functioning of the networks and the possibilities of connecting installations for decentralised energy production;
- based on the aforementioned evaluation the EWRC requires the networks to include in their development plans concrete measures and investments for improving energy efficiency in the gas and electricity networks and a timetable for their implementation;
- issue green certificates to electricity generators using renewable energy sources and such generating combined electric and heat power;
- define the permitted dimensions of technological costs of generating, transmitting and distributing electricity in accordance with a methodology adopted by the EWRC;
- define the electricity generation availability and technical parameters, in accordance with which every generator may conclude transactions with eligible customers, electricity traders and other generators;
- give its consent to the division, separation, merger by acquisition or merger by the formation of new energy companies licence holders;
- permit sales of property used for licensed activities and other transactions that lead or may lead to a break of supply as a result of the indebtedness of the energy company; and
- consider customer complaints against licensees or of licensees against licensees related to the performance of the licensed activity.

## 24 Establishment of regulators

**How is each regulator established and to what extent is it considered to be independent of the regulated business and of governmental officials?**

The EWRC is an independent specialised government body with a head office in Sofia. The chairmen and the members of the EWRC are elected and released by the National Assembly. The EWRC is an administrative body composed of nine members, including a chairman. The mandate of the members of the EWRC is five years, provided that a maximum of two complete mandate periods is allowed. The EWRC is completely independent of the regulated business.

## 25 Challenge and appeal of decisions

**To what extent can decisions of the regulator be challenged or appealed, and to whom? What are the grounds and procedures for appeal?**

EWRC resolutions and decisions are defined as administrative acts. Its decisions can be appealed before the Supreme Administrative Court. The grounds and the procedure for appeal of the EWRC's decisions are set out in the Administrative Procedure Code.

## Acquisition and merger control – competition

### 26 Responsible bodies

**Which bodies have the authority to approve or block mergers or other changes in control over businesses in the sector or acquisition of utility assets?**

The EWRC permits the transformation of a licensee through the merger, consolidation, division or separation of a sole-owner trade

company through a change of legal form, if the person who is to carry out the licensing activity after the transformation meets the requirements for issuance of a licence. The EWRC amends or terminates the existing licence or issues a new licence, depending on the particular case. When permission for transformation is required from the Commission for the Protection of Competition (CPC) under the Law on Protection of Competition, the EWRC notifies the CPC. Such permission from the CPC is required after the transformation if the new company has a concentration on the market. The CPC shall permit the concentration as long as it does not lead to the creation or strengthening of a dominant position that would significantly impede effective competition on the energy market. The CPC, however, will permit a concentration that, even if it creates or strengthens a dominant position, aims to modernise the energy business activity, improve the energy market structure, or better satisfy the interests of customers and as a whole the positive effect outweighs the negative impact on competition on the respective market.

### 27 Review of transfers of control

**What criteria and procedures apply with respect to the review of mergers, acquisitions and other transfers of control? How long does it typically take to obtain a decision approving or blocking the transaction?**

The rules and criteria applicable to merger control are the same as in any other sector. The merger rules are set out in the Commerce Act. However, before making a decision to transform under the Commerce Act the licensee must have permission for the transformation from the EWRC. The EWRC's external experts shall issue an opinion on whether the transformation is likely to upset the balance between the interests of the energy company and customers and other objectives and principles in the Energy Act. The EWRC also may require statements from the CPC about the request for transformation in compliance with competition rules. The licensee may not complete the transaction before the EWRC has given its approval.

### 28 Prevention and prosecution of anticompetitive practices

**Which authorities have the power to prevent or prosecute anticompetitive or manipulative practices in the electricity sector?**

The CPC may investigate, order the cessation of and sanction anticompetitive practices in any economic sector, including the electricity sector. The EWRC, as a specialised body, must uphold competition on the energy market. If the EWRC finds that the licensee has infringed competition rules, it notifies the CPC. If the CPC establishes that the licensee has harmed competition, it can impose administrative penalties as provided in the Energy Act. If the CPC establishes systematic violation of the competition rules, it may revoke the licence.

### 29 Determination of anticompetitive conduct

**What substantive standards are applied to determine whether conduct is anticompetitive or manipulative?**

The general provisions of the Competition Act are applicable for anticompetitive or manipulative practices in the energy sector. The act provides for detailed regulation of prohibited agreements, decisions and concerted practices.

### 30 Preclusion and remedy of anticompetitive practices

**What authority does the regulator (or regulators) have to preclude or remedy anticompetitive or manipulative practices?**

On the request of the EWRC, the regulator must petition the court to nullify any transactions performed between licensees without the EWRC's approval.

Additionally, the CPC is the competent authority to preclude or remedy anticompetitive or manipulative practices. The CPC could start the case on its own decision, or could be approached by any interested party. The EWRC has the right to expand the scope of the proceedings. The CPC's decision may be appealed before the Supreme Administrative Court.

### Update and trends

The EU tendency to decrease the stimulation of development of new RES projects is also valid for Bulgarian energy market. The possibility of obtaining feed-in tariffs for new RES projects (terminated in 2015) is still likely.

Legislation in the energy sector remained relatively stable in 2016 with a likelihood of remaining so in 2017.

In 2016 the pressure of RES facilities, already in operation for legislation amendments, which to allow them to reach investment levels provided before the 2015 legislative change, is active.

In 2016, energy-efficiency projects are on the rise, especially in the public sector, and likely to increase in 2017.

As of 24 July 2015 a new structure was set up, the Security of Electricity System Fund (the Fund). The Fund will collect money for the purpose of covering expenditure incurred by the NEC arising from its obligation to buy electricity produced from renewable sources and from cogeneration, determined by decisions issued by the EWRC, including those from previous regulatory periods.

The Fund has two basic sources:

- contributions amounting to 5 per cent of the monthly sales of all producers of electricity in the country and of all traders in electricity imported and sold in the country; and
- revenue from auctions for the sale of quotas of carbon used for the development of renewable energy sources. With the amendments to the Energy Act, the NEC and end suppliers are obliged to buy

electricity from thermal power plants only if they have received a monthly certificate of origin for high-efficiency energy. The quantity of electricity from this type of production is determined by the energy regulator. Beyond this amount the producers are able to sell electricity for a freely negotiated price or on the balancing market.

In an amendment to the Energy Act of 2016, 5 per cent monthly contributions are included also the grid operator (5 per cent of incomes from access and transportation of electricity), gas system operators and gas storage operators. In addition, the government has accepted several changes concerning measures for the protection of consumers of energy services. There are new requirements regarding the content of contracts concluded with customers of energy services. The contract has to include conditions for its termination by the customer and the possibility of such termination without additional payment or loss of other customer rights. The amendments to the Energy Act also establish more obligations on energy utilities when concluding contracts with customers to give more information about their services. Finally, a public council has been established for the protection of customers' interests, as a consultative body for solving problems that are under the special jurisdiction of the Minister of Energy.

### International

#### 31 Acquisitions by foreign companies

**Are there any special requirements or limitations on acquisitions of interests in the electricity sector by foreign companies?**

In general, Bulgarian legislation does not provide any special requirements or limitations on acquisitions of interest in the electricity sector by foreign companies and especially from companies originating from an EU member state. However, for some energy sector activities, such as licences in a competition procedure, pursuant to the Energy Act, if the winner is a company registered in a non-EU country, it must register as a company under the Bulgarian Commerce Act before obtaining a licence.

#### 32 Authorisation to construct and operate interconnectors

**What authorisations are required to construct and operate interconnectors?**

The operator of transmission networks has the right to construct and operate interconnectors. The operator shall be a person, registered according to the Commercial Act, who shall have a licence and a certificate issued by EWRC as required by the Bulgarian legislation. The

procedure for construction and operation interconnectors is related to the implementation of statutory conditions, which include supplying with authorisation issued by the Ministry of Regional Development and Public Works for elaboration of development plans. The development plans shall be coordinated with other government institutions, such as the Ministry of Environment and Water, Ministry of Culture, Road Infrastructure Agency, etc.

#### 33 Interconnector access and cross-border electricity supply

**What rules apply to access to interconnectors and to cross-border electricity supply, especially interconnection issues?**

As an EU member state Bulgaria has enacted the Energy Act to implement EU rules and applies all EU regulation regarding access to interconnectors and cross-border transactions.

The access to interconnectors is determined with Access Rules developed and adopted by the Bulgarian TSO and the Electricity System Operator of the other country (member state), which shall be coordinated with EWRC and the relevant regulatory energy authority.

Additionally, the Energy Act provides the possibility for producers, traders, wholesale and public suppliers of electricity and clients to enter into agreements for electricity with entities from other member states:

- when they obtain an acknowledged right for free trade with electricity for their customers;

**KINKIN & PARTNERS**  
law firm

Siyana Veleva  
Gergana Shinikova

veleva@kinkin-law.com  
shinikova@kinkin-law.com

8 Tsar Shishman Street  
Sofia 1000  
Bulgaria

Tel: +359 2 980 34 75, +359 889 236 879  
www.kinkin-law.com

- in case of reciprocity in legislation of other member state; and
- in cases where the clients can ensure the electricity meets certain quality indexes with transparent and fair prices.

All cross-border transaction are based on bilateral agreements.

---

### **Transactions between affiliates**

---

#### **34 Restrictions**

##### **What restrictions exist on transactions between electricity utilities and their affiliates?**

The Energy Act provides a strict division between activities in the energy sector. The act provides that all energy facilities keep separate accounts for different activities in the energy sector, for activities subject to a licence procedure, for all their branches and for activities under regulated and freely negotiated prices. Cross-financing between related persons is forbidden in the energy sector. All electricity utilities are obliged to present annual financial reports to the EWRC, which includes information for non-allowance of cross-financing between affiliates in the proposal for approval of electricity prices for the next regulatory period.

---

#### **35 Enforcement and sanctions**

##### **Who enforces the restrictions on utilities dealing with affiliates and what are the sanctions for non-compliance?**

The EWRC may review the annual financial reports of utility companies. The licensee must also present, at the request of the CPC or European Commission, documentation and technical and economic information, including information on agreements entered into.

The CPC also has the right to review information regarding non-competitive procedures.