

TO:

MRS.CATHARINA SIKOW-MAGNY

DG ENERGY

DIRECTOR, DIRECTORATE B:

INTERNAL ENERGY MARKET

**SUBJECT: POSITION ON ELECTRICITY MARKET REFORMS IN BULGARIA (REFERENCE DOCUMENT:
BULGARIAN IMPLEMENTATION PLAN)**

Dear Mrs. Magny,

Bulgarian Wind Energy Association (BGWEA) is a representative organization for the wind energy sector in the country. BGWEA unites the majority of the companies actively engaged in the sector, including investors in wind energy projects. The members of BGWEA represent a significant share of the total installed wind energy capacity in Bulgaria. The association actively works towards the development of proper legislative and regulatory framework in order to create a favorable business and investment environment.

Within the frames of the consultation opened by the European commission on the proposed reforms of the electricity market in Bulgaria, on behalf of BGWEA, we would like to bring your attention the continuous barriers to power trading in Bulgaria faced by the wind energy producers.

1. Mandatory trading on IBEX - infringement of EU energy policy framework

This particular situation is a result of distorting legislation and the legal monopoly of the Independent Bulgarian Energy Exchange (IBEX), whose decisions seriously influence the functioning of the electricity market in Bulgaria. The relevant new provisions force all local generators with installed capacity of 500 KW or higher to sell all the electricity they generate exclusively at the single locally licensed electricity exchange IBEX as provided by Art. 100, Para 4 of the Bulgarian Energy Act. Depriving producers of the opportunity to trade outside of IBEX on bilateral basis had several negative consequences, since producers access to the wholesale market is severely limited. RES producers are in particular negatively affected, because the IBEX's forward trading platform—"Centralized Market for Bilateral Contracts" lacks a product that meets the specificities of renewable energy, depriving them of the opportunity to effectively trade in this market segment. First of all the provision does not place all categories of legal entities at level playing field and lead to discriminatory treatment of RES producers compared to conventional producers. This, in turn, is not in line with the constitutionally significant principle of guaranteeing equal legal conditions for carrying out economic activity (Art. 19, para. 2 of the Constitution), nor with the constitutionally significant principle of protection and support of investments and economic activity (Art. 19, para 3 of the Constitution). Moreover, the rules restricting free trade were implemented without imminent need for such restrictive measures and bring into question the legitimacy of its purpose. There were no legally or economically justified motives for RES producers not to be able to sell their energy on all exchange segments, including the "bilateral contracts" segment. Next, we must note that the change in the legal and economic framework for the implementation of investment decisions and business strategies violates the legitimate interests and expectations of investors for development and return on investment made in completely different legal environment. Last but not least, as we have repeatedly stated, the lack of predictability and security of energy policy affects not only the energy sector but the economy as a whole, as unpredictable and inadequate restrictive measures have a significant negative effect on the investment environment in Bulgaria.

In order to gradually achieve a level playing field, while at the same time safeguard the public interest, the restriction on producers with an installed capacity of 1 MW and over 1 MW to conduct transactions only on an organized exchange should be abolished.

The situation in the Bulgarian market has been aggravated by the effective discontinuation of the operation of the bilateral contracts market operated by IBEX, an important element for the market. In June 2020 the exchange operator unilaterally removed the ability of market participants to enter into bilateral contracts with deviations (flexible profile deliveries), thus completely eliminating the possibility for any long-term energy contracts for producers that can only produce and sell products with deviation, e.g. RES producers. The newly created restriction is contrary to the

process of liberalization of the energy sector, as well as to the principle of free energy trade. There is also an obvious discrepancy with the Energy Act. According to Art. 23, para. 1 of the Energy Act, the state policy in the sector should be implemented in accordance with the principles of preventing the restriction or distortion of competition on the energy market, ensuring a balance between the interests of energy companies and consumers, providing equality between different categories of energy companies. The basis of a sustainable and predictable electricity market is long-term trade. Only through long-term contracts between producers and traders on one hand, and traders and end customers, on the other, can achieve price stability and predictability. Therefore, we believe that the Instruction adopted by the IBEX is an additional artificially imposed restriction on the long-term electricity trade from renewable sources and on all other producers and traders interested in offering flexible products.

The unilateral decision to exclude products with deviation from the "Auctions" screen contradicts the basic principles of the Electricity Trading Rules, which aims achieving transparency and coherence with stakeholders. ***Given the fact that as RES producers we are legally obliged to trade the entire amount of energy produced on an organized market, while at the same time we do not have access to financial products through IBEX platforms that allow us to take advantage of futures transactions in neighboring markets and to we optimize the risk management, we insist on providing opportunities for the realization of products with deviations on the platform for bilateral contracts. Otherwise, if the excessive restriction of the freedom of trade for RES producers remains in force, we insist that urgent legislative changes be made to eliminate the obligation, according to Art. 100, para. 4 of the Energy Act, which will allow producers to trade outside the IBEX.***

RES producers brought the above-mentioned not only to the attention of the Bulgarian government, but also to the European executive body. BGWEA was among the organizations that sent a formal claim to the European commission on 30 October 2020. The full list of associations that insist that European Commission initiates infringement procedure is as follows: Bulgarian wind energy association, Bulgarian photovoltaic association, Hydroenergy Association, Association of traders with electricity, WindEurope and SolarPower Europe.

2. Lack of liquidity on IBEX forward market

As an additional consequence of the detailed above IBEX measure, it is worth pointing out that as product with deviation represented a big share of the traded volumes on the forward market which are nowadays highly limited. This leads to big fluctuations on the day-ahead market and distorts the electricity price signals for the upcoming periods. Among others these pricing signals are fundamentals used by the Regulator for calculating the so-called „reference market price” base on which the premium for RES producers is calculated.

3. Balancing market distortions

The Balancing Electricity Market was established in Bulgaria in June 2014 as part of market liberalization process. The balance in the electricity system is achieved by preparation and submission by the consumers and producers to the transmission system operator hourly forecast schedules for their power consumption/production amounts. Any discrepancy between pre-ordered energy quantities and actual consumption or production leads to imbalance in the system, which are penalized by high imbalances prices to be paid by the members of balancing groups.

When the balancing market regulation was adopted, the specific characteristics of the RES technologies and their ability to predict production within a day ahead market was not taken into account. Wind farms were obliged to predict the production of their plants for up to 39 hours ahead despite the undisputed fact that this is objectively impossible. As a result, producers are imposed significant financial sanctions for non-fulfilment of an objectively impossible obligation. The negative effect of the adopted measures is not so significant for the other technologies as they are able to forecast their production with the needed accuracy.

In the final price of electricity, balancing costs have a significant contribution, reaching up to 10% of the value of monthly invoices. The prices of balancing energy for up-regulation are the very high and are calculated as hourly price on the "Day Ahead" platform of IBEX. At the same time, the prices for down-regulation are fixed 0 BGN/MWh. With the increase of the prices on the energy exchange, the price for up-regulation also rises while the price for down-regulation remains unchanged. Increasing the gap between the prices for up and down regulation increases the costs of balancing, because deficits are paid at a high price, and surplus energy is bought back at a constant low price.

Good market practices imply that prices for down-regulation are also linked to hourly prices of the exchange. The two balancing prices for up- and down-regulation should be equally distant from the spot market price in order to stimulate accurate scheduling. In such a model, the costs for balancing are reduced and fair balancing prices are achieved.

In addition, the balancing market model allows for arbitrary decisions by the TSO on the balancing generators activation and quantities of balancing energy activated. This coupled with lack of transparency and accountability raises huge concern about the justification of the balancing market which burdens significantly the balancing market value chain.

In this regard, we support:

- the hourly marginal prices for up-regulation and down-regulation be proportionally distant from the hourly prices achieved on the Day Ahead (DAM) IBEX;
- more transparency and sufficient information about the functioning of the balancing market;
- coupling of the Bulgarian balancing market with the regional ones in order to guarantee liquidity and optimized cost levels.

4. Fees and taxes that increase unduly the price of RES electricity

Under a series of legislative and regulatory decisions in recent years, the economic conditions for wind energy producers have changed substantially – new unplanned costs, which are unforeseen in the first stage of planning, financing and making investments, occur.

The retroactive changes alter the status of already made investments and therefore strongly affect expectations in terms of return on investment and seriously challenge the business model based on the contract already concluded. An electricity sector with a growing share of renewable sources needs a robust and predictable legislative and regulatory framework that protects existing investments and provides them with fair treatment.

4.1. Price of access

By the latest price decision of EWRC higher access price was introduced for wind and solar producers (**5,79 BGN/MWh**, without VAT). It is true that the different technologies generate different intensity system management costs, but the imposition of extra expenses on only one category of producers, which in practice pay twice for the same service (once consumed and second time on the energy produced) places those producers in a disadvantageous position versus other producers and increases their costs unduly.

4.2. 5% fee to the Security of the Electricity System Fund (SESF)

Introduced in 2015 as a temporary measure, the 5% fee to Security of the Electricity System Fund (SESF) is paid by all electricity companies in order to finance the deficits in the National Energy Company. Almost 6 years later and after NEK deficit is already managed, producers in Bulgaria still pay this fee and there is no roadmap for its revocation. Yet again, this is charge that burdens

financially the companies and represents a cost element that increases the price to consumers.

BGWEA believes that legislative and regulatory decisions should be adopted after an objective discussion with all stakeholders and a careful assessment of the effect of these measures on investments, taking into account technical feasibility, cost-effectiveness and impact on the market participants. Otherwise, they would have significant adverse effect.

BGWEA hopes that abovementioned comments will be taken into account drawing up the needed reforms in the Bulgarian energy sector.



Yours sincerely,

Miglena Stoilova

Chairperson of BGWEA Supervisory Board