

Serbia: The legal regulation of the use of renewable energy sources

Currently, there is an ongoing process in the Republic of Serbia regarding the change of legal regulation of the use of renewable energy sources. On 21 January, the Ministry of Mining and Energy published the Draft Amendments to the Law on the Use of Renewable Energy Sources (hereinafter: "the **Draft Law**") and adopted it on 16 March so the Draft Law is now ready for the official adoption by the National Assembly.

Amendments to the Law on Renewable Energy Sources are aimed at solving the issue of building new wind and solar power plants. Among the main questions is whether the connection of renewable sources to the distribution network will be more expensive than others. The law amendments will enable the organization of the auctions in a way which will integrate the investors into the market faster.

The current legal solution gives the right to all producers from renewable energy sources to transfer the balance of responsibility to the guaranteed supplier, that is, public company Elektroprivreda Srbije (hereinafter: "**JP EPS**") which performs the function of guaranteed supplier and is also the largest participant in the market. This right is guaranteed regardless of whether the producers are in the incentive system.

Such a legal solution resulted in the scenario where the transmission system operator received requests for connection of about 14,000 MW of wind and solar power plant projects. To understand the scope of the projects, it should be borne in mind that the total

Srbija: Pravno regulisanje korišćenja obnovljivih izvora energije

U Republici Srbiji trenutno je u toku proces menjanja načina pravnog regulisanja korišćenja obnovljivih izvora energije. Ministarstvo rudarstva i energetike je 21. januara objavilo Nacrt izmena i dopuna Zakona o korišćenju obnovljivih izvora energije (u daljem tekstu: „**Nacrt zakona**“) i usvojio ga 16. marta, tako da je sada Nacrt zakona spreman za usvajanje u Narodnoj skupštini.

Izmene Zakona o obnovljivim izvorima energije imaju za cilj rešavanje pitanja izgradnje novih elektrana na vetar i sunce. Među glavnim pitanjima navodi se da li će priključenje obnovljivih izvora na distributivnu mrežu biti skuplje od ostalih. Izmjenama zakona omogućiće se sprovođenje aukcija na način koji će investitore brže integrisati na tržište.

Postojeće zakonsko rešenje daje pravo svim proizvođačima iz obnovljivih izvora energije da prenesu balans odgovornosti na garantovanog snabdevača, odnosno javnog preduzeća Elektroprivreda Srbije (u daljem tekstu: „**JP EPS**“) koje obavlja funkciju garantovanog snabdevača i ujedno je najveći učesnik na tržištu. Ovo pravo garantuje se bez obzira da li se proizvođači nalaze u sistemu podsticaja.

Takvo zakonsko rešenje imalo je za posledicu da je operatoru prenosnog sistema stiglo dosta zahteva za priključenje, oko 14.000 MW projekata elektrana na vetar i solarnih elektrana. Da bi se razumeo koliki je to obim projekata, treba imati u vidu da je

installed capacity in Serbia is about 8,000 MW of all power plants.

Due to the extraordinary number of requests, the transmission system operator was forced to suspend the resolution of requests, because, in the event of the transmission system operator's entering into contractual obligations with all the mentioned projects, it would continue the implementation of projects that use variable renewable energy sources to the extent that, in the case of their construction and putting into operation, it would threaten the safety of the power system.

On the other hand, the existing solution represented a significant risk for the business of JP EPS and end customers who finance incentives for privileged producers, because it imposed the obligation to assume balance responsibility for projects that are developed commercially.

In addition to the above, the proposed solution to resolve the relationship between the guaranteed supplier and the producer from renewable sources (in terms of balance responsibility through the permitted percentage of balance deviation and the payment to the guaranteed supplier by the producer of a fixed fee for each kilowatt hour outside the permitted percentage of balance deviation) proved to be problematic during the preparations of the by-law, because it does not solve the issue of abuse by producers on the market, and the issue of the amount of fees and the allowed percentage has not been resolved to date.

The next problem that the Draft Law should solve concerns the customers-producers who are enabled to install production facilities on the transmission system with the right of priority takeover of electricity by the system operator, which in the conditions of the existing requirements for connection in the amount of 17 GW can lead to endangerment of the safety of the power system.

Also, the Draft Law should resolve the issue of jurisdiction for determining the maximum price that

ukupan instalirani kapacitet u Srbiji oko 8.000 MW svih elektrana.

Usled vanrednog broja zahteva, operator prenosnog sistema bio je prinuđen da obustavi rešavanja zahteva, jer bi se, u slučaju stupanja operatora prenosnog sistema u ugovorne obaveze sa svim navedenim projektima omogućio nastavak realizacije projekata koji koriste varijabilne obnovljive izvore energije u obimu koji bi, u slučaju njihove izgradnje i puštanja u rad, ugrozio sigurnost rada elektroenergetskog sistema.

Sa druge strane, postojeće rešenje predstavljalo je veliki rizik za poslovanje JP EPS-a i krajnje kupce koji finansiraju podsticaje za povlašćene proizvođače, jer mu se nameće obaveza preuzimanja balansne odgovornosti i za projekte koji se razvijaju komercijalno.

Osim navedenog, predloženo rešenje da se odnos garantovanog snabdevača i proizvođača iz obnovljivih izvora (u pogledu balansne odgovornosti reši kroz dozvoljeni procenat balansnog odstupanja i plaćanje garantovanom snabdevaču od strane proizvođača iznos fiksne naknade za svaki kilovat sat van dozvoljenog procenta balansnog odstupanja) pokazao se problematičnim u toku priprema podzakonskog akta, jer ne rešava pitanje zloupotrebe proizvođača na tržištu, a pitanje iznosa naknada i dozvoljenog procenta nije rešen do danas.

Naredni problem koji Nacrt zakona treba da reši tiče se kupaca-proizvođača kojima je omogućeno da sa pravom prioritetnog preuzimanja električne energije od strane operatora sistema instaliraju proizvodne objekte na prenosni sistem, što u uslovima postojećih zahteva za priključenje u iznosu od 17 GW može dovesti do ugrožavanja sigurnosti rada elektroenergetskog sistema.

Takođe, Nacrt zakona treba reši i pitanje nadležnosti za određivanje maksimalne cene koja

can be offered at auctions, given that the current solution foresees that the Energy Agency of the Republic of Serbia determines the maximum price at auctions, and the Ministry implements them, which potentially leads to the inefficiency of the entire process. This is because the responsibility for the success of auctions and their implementation is distributed among two state institutions, one of which is independent in its work, so it is necessary to centralize the auction system around one institution.

The goal of the proposed changes is, therefore, first of all to make the connection of new (renewable) sources of electricity safer for the electrical distribution network.

For these purposes, it has been announced that the producers of RES electricity will take over part of the balancing costs in the connection procedure, as well as a limit of 400 KW, the so-called of priority taking over of electricity. It is the *de facto* value of the overtaken energy to which all producers from renewable sources will be limited if the operation of the system is threatened, and which is in accordance with EU directives. According to the plan, it should be halved in 2026 and amount to 200 KW.

In brief, connection will be more expensive for producers from renewable sources, and the use of their electricity will be limited.

It can be concluded that the biggest beneficiary of these changes is the transmission system operator EMS, which has been provided an additional privilege.

The proposed amendments to the Law on the Use of Renewable Energy Sources do not apply to individual households that are already, or that are planning to become customer-producers, because the proposed restrictions apply only to larger producers of energy from renewable sources.

It is certainly difficult to assess what consequences these changes would have on the population, prices,

se može ponuditi na aukcijama, s obzirom da postojeće rešenje predviđa da Agencija za energetiku Republike Srbije određuje maksimalnu cenu na aukcijama, a Ministarstvo ih sprovodi, što potencijalno dovodi do neefikasnosti celog procesa. Ovo stoga što se odgovornost za uspeh aukcija i njihovo sprovođenje distribuira na dve državne institucije, od kojih je jedna nezavisna i samostalna u radu, pa je potrebno sistem aukcije centralizovati oko jedne institucije.

Cilj predloženih izmena je, samim tim, pre svega da se priključenja novih (obnovljivih) izvora električne energije učine sigurnijim po elektrodistributivnu mrežu.

U te svrhe najavljuje se da će proizvođači struje iz OIE preuzeti deo troškova balansiranja u postupku priključenja, kao i ograničenje od 400 KW tzv. prioritnog preuzimanja električne energije. To je *de facto* vrednost preuzete energije na koju će svi proizvođači iz obnovljivih izvora biti ograničeni ako dođe do ugrožavanja rada sistema, a koja je u skladu sa direktivama EU. Ona po planu treba i da se prepolovi 2026. godine i iznosi do 200 KW.

Ukratko, priključenje će biti skuplje za proizvođače iz obnovljivih izvora, a korišćenje njihove struje biće ograničeno.

Može se zaključiti da je najveći dobitnik ovih izmena operater prenosnog sistema EMS, kome je data dodatna privilegija.

Predložene izmene Zakona o korišćenju obnovljivih izvora energije ne odnose se na individualna domaćinstva koja su već, ili koja planiraju da postanu kupci-proizvođači, jer se predložena ograničenja odnose samo na veće proizvođače energije iz obnovljivih izvora.

Svakako je teško proceniti kakve bi posledice imale ove izmene po stanovništvo, cene, sigurnost i



security and in general the nature of the Serbian power system if they are adopted.

What is certainly changing is the price and profitability of projects for the construction and operation of medium and large power plants based on renewable sources in relation to 2021. The situation in which EMS suspended the resolution of requests for new power plants, which Serbia desperately needs if our goal is to achieve greater energy security, independence and sustainability, must certainly be amended as well.

After the adoption of amendments to the Law, the adoption of regulations will follow, and in the best case scenario, auctions will be announced in the second quarter of this year. A large number of investments are pending, which can only happen if the regulations are complete and applicable.

uopšte prirodu elektroenergetskog sistema Srbije ukoliko one budu usvojene.

Ono što se sigurno menja je cena i isplativost projekata izgradnje i rada srednjih i velikih elektrana na obnovljive izvore u odnosu na 2021. Svakako se menja i neodrživa situacija u kojoj je EMS obustavio rešavanje zahteva za nove elektrane koje su preko potrebne Srbiji ukoliko nam je cilj veća energetska sigurnost, nezavisnost i održivost.

Nakon usvajanja izmena Zakona, sledi usvajanje uredbi, te će u najboljem slučaju aukcije biti raspisane u drugom kvartalu ove godine. Veliki broj investicija je na čekanju koje se mogu desiti samo ako regulativa bude kompletna i primenjiva.

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