GLOBAL LEGAL INSIGHTS

Energy

Third Edition

Contributing Editor: Geoffrey Picton-Turbervill

Published by Global Legal Group

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Kyrgyzstan

Denis Bagrov
Colibri Law Firm

Overview of the current energy mix, and the place in the market of different energy sources

The fuel and energy complex in the Kyrgyz Republic comprises two main branches: fuel production (coal, oil & gas) and generation of electricity. These two branches are closely related with other branches of the country's economy such as agriculture, transport, etc.

Kyrgyzstan is second after Kazakhstan in its coal reserves. Approximately 70 coal deposits and locations are currently known. The estimated reserves of the main coal deposits are over 2.2 billion tonnes and the balance sheet reserves are 1,317 million tonnes. It was planned to reach the figure of 402,500 tonnes of mined coal in the country by 2009 and further increase up to 1.7 billion tonnes by 2025.

Twenty-five million cubic metres of gas was planned to be mined annually by 2010 as opposed to 14.9 million cubic metres extracted in 2007. The oil & gas industry is mostly represented by Kyrgyzneftegaz JSC. Unexplored resources of oil & gas in Kyrgyzstan amount to approx. 289 million tonnes. The aggregate self-sufficiency of the country in terms of oil products is less than 30%. It was planned to increase oil production up to 80-95,000 tonnes by 2010. In fact, the amount of oil products manufactured in the country in 2010 was 97,300 tonnes.

The main energy resource of the country is hydroelectric power. While in 1990 the share of the latter in the country's structure of resources was 55%, with coal at 40% and gas at 5%, the share of hydroelectric power in 2011 was 90%; coal 7%; and oil & gas 3%. Kyrgyzstan has the third largest quantities of hydropower resources among the former Soviet countries after Russia and Tajikistan. The largest hydropower plant is Toktogul Hydropower Station, generating approx. 4.1 billion KWt/h per year. The full hydropower potential of large and medium-size rivers in the country is about 142.5 billion KWt/h per year, while currently only 10% of these resources is utilised. The biggest part of the unused potential is represented by mini- and micro-hydropower plants.

According to various estimates the dependency of the country on external power resources is approximately 40-50%.

The country's total technically usable potential of small-size power engineering is 5-8 billion KWt/h of electric power a year. The hydropower potential of 252 large and medium-size rivers is estimated at 18.5 million KWt/h of power and 160 billion KWt/h of generated power. In Kyrgyzstan's GDP electric power engineering represents approx. 5%; 16% of industrial production and 10% of the country's budget revenue.

The structure of the electric power sector of the fuel and energy complex includes seven joint stock companies with a state shareholding, including one generating company, one grid and transmitting company, four distributing companies and one heating network company. There are also private stock companies present in the sector. Most of the state-owned companies in the energy sector have the status of permitted monopolies and the country's strategic assets are subject to special regulations.

The Kyrgyz Republic annually exports to Uzbekistan, Kazakhstan and Tajikistan up to 2.5 billion KWt/h of electric power while suffering from its own deficit; therefore it is planned to increase generation of electric power up to 22 billion KWt/h in 2015.

Changes in the energy situation in the last 12 months which are likely to have an impact on future direction or policy

The country currently has the following energy-related projects being implemented at various stages:

- construction of 500 KW electric power Datka-Kemin transmission lines and 500 KW Kemin substation;
- CASA-1000 (*see below*);
- construction of Kemin-Almaty electric power transmission lines;
- construction of Kambar-Ata Hydropower Plant-1;
- bringing into operation of the 2nd assembly of Kambar-Ata Hydropower Plant-2 (with a capacity of 120 MWt);
- construction of the Upper Naryn series of hydropower plants;
- construction of four small-sized hydropower plants; and
- construction of Kara-Keche Heating Electric Station.

All of the foregoing projects are extremely important for the country's energy security and will have major impacts on the country's energy sector in the short- and middle-term perspective.

Construction of the Kambar-Ata and Upper Naryn plants will substantially increase the generation of electric power in Kyrgyzstan and allow for the export of 4-6 billion KWt/h of electric power upon completion of the construction of the high voltage transmission lines: 500 KW Datka-Kemin, Kemin-Almaty and Datka-Khudjand (CASA-1000 Project).

It is worth mentioning that the CASA-1000 Project is extremely important in terms of cooperation among the Kyrgyz Republic, Tajikistan, Afghanistan and Pakistan in the field of electric energy. The modern and efficient power transmission line will allow using ecologically clean hydropower resources in the most efficient manner in four Central Asian Countries, allowing them to transmit and sell the surplus electric power generated in the summer to the countries of South Asia suffering from an energy deficit. Additionally it will promote the intentions of the countries aimed at improving access to electric power, energy market integration and expansion, and will assist with finding consistent solutions related to water management in the region.

Also, as mentioned earlier, the search for investors for the construction of the Kara-Keche Heating Power Plant (with a capacity of 1200 MWt), which will use the brown coal of the Kara-Keche coal deposit, is ongoing. Utilisation of leading international expertise and technologies is required in order to make sure that the plant has the lowest possible emissions of pollutants and greenhouse gas.

It was agreed with the Chinese Government at the summit of the Shanghai Cooperation Organization in September of 2013 to replace two boiler units with a capacity of 300 MWt at the Bishkek Heating Electric Plant. This measure will increase the production of electric power by 1 billion KWt/h and cover the maximum power consumption during the winter time.

Bringing the Oil Processing Plant in the town of Kara-Balta into operation is planned in the nearest future to start the processing of imported oil locally.

The acquisition of Kyrgyzgaz JSC by the Russian group Gazprom should resolve issues with the gas supply to the country.

In addition there are measures which have been recently undertaken with a view to developing renewable energy sources and introducing high power-saving technologies at various levels.

Developments in government policy/strategy/approach

Government policy in the Kyrgyz Republic mainly focuses on energy security issues, which the country has had to address since becoming independent in 1991.

The country's Government is often required to negotiate and agree on supplies of gas, coal and oil products for the coming year with its neighbours at the end of each year.

As a result of signing extremely vital Intergovernmental Treaties in 1998, the United Energy System of Central Asia was kept in operation, however defaults of neighbouring countries under the foregoing Treaties after 2002 led to a switch from the irrigational to the power generating mode in the work of Toktogul Hydropower Plants and the release of water from the Toktogul water reserve in order to supply power to domestic consumers during the autumn and winter time. This also created a serious threat for the country's energy security during the water-short years. There have also been stressful situations with the power supply to Kyrgyz consumers due to disconnection of the systems from the parallel operation of the United Energy System in Central Asia by Kazakhstan and Uzbekistan.

Due to the said issues above the Government has undertaken measures to ensure the country's energy security by constructing the Datka Substation (500 KWt) in Djalal-Abad Region in order to supply the generated energy to domestic consumers via the United Energy System of Central Asia. The Datka Substation designed and built by the Chinese transformer giant TBEA will ensure the supply of electric power from Toktogul Hydropower Plants to consumers in the Djalal-Abad and Osh Regions.

The Datka-Kemin power transmission line is expected to be brought into operation in November of 2014 and, with the Kemin Substation (500 KWt) also built by TBEA and scheduled to be in operation in August of 2014, the country will have its own energy ring of 500 KWt, allowing for transmission of electric power only through the territory of the country without having to use the Uzbek energy system for a transit fee or with frequent unauthorised use of the transmitted power and consequent failures.

It also must be noted that the country's energy sector, mainly built during the Soviet period, is now 70% worn out and requires substantial financing. The energy security of the country now entirely depends on domestic sale of electric power, however, currently the strategic commodity is being sold at a price lower than its prime cost.

This, of course, requires changes in the tariff policy in order to cover the capital expenditure necessary for rebuilding and maintenance of the Kyrgyz Republic's energy sector.

The external energy policy of Kyrgyzstan is focused on the export of electric power, therefore the implementation of the CASA 1000 Project is highly important for the country as it is expected to strengthen Kyrgyzstan's position in the regional electric power market and enable the export of Kyrgyz electric power to South Asian countries.

Construction of the Kemin-Almaty power transmission line will serve for the export of electric power directly to Kazakhstan without use of the Uzbek system.

Another noticeable trend in governmental policy is the promotion of development of the small- and medium-size power engineering sector, with a view to increasing the generation of electric power in the country and strengthening its national energy security.

Construction of the Kyrgyzstan-China gas pipeline and the Oil Processing Plant in Kara-Balta are also meant to minimise the energy risks related to supply of gas and oil products to the country's consumers.

Developments in legislation or regulation

The main laws governing the energy sector in Kyrgyzstan are:

1. Law on Power Engineering, adopted to enhance the economic efficiency and reliability of the country's fuel and energy complex.
2. Law on Electric Power Engineering, aimed at ensuring the reliable, secure and continuous supply of electrical and heating energy, as well as the improvement of service quality for all consumers, the creation of a competitive environment and formation of the energy market, the promotion of the private energy sector and attraction of investments.

3. Law on Renewable Energy Sources − serves to develop and use renewable energy sources, improve the power engineering structure and social position of the population, diversify energy sources, and ensure national energy security, the protection of the environment and sustainable development of the economy.
4. Law on Oil and Gas and Law on Coal − creates a legal framework for: the increase of economic efficiency and operational safety of the oil, gas and coal industry; protection of consumer rights; creation of investment-friendly conditions; and increase of oil, gas and coal production volumes in compliance with international standards.
5. Law on Energy Efficiency of Buildings − promotes enhancement of the energy efficiency of buildings, taking into account the best heating climate in them, efficiency of costs, reduced consumption of energy resources and emissions of greenhouse gas into the atmosphere.

Additionally, there is the National Energy Program of the Kyrgyz Republic for 2008-2010 and Development Strategy of the Fuel and Energy Complex until 2025, approved by Decree of the Zhogorku Kenesh (Parliament) of the Kyrgyz Republic #346-IV dated 24 April 2008.

The Programme has been developed by the Government and approved by the *Zhogorku Kenesh* (Parliament of Kyrgyz Republic). Its objectives include identification of the main directions of development of each branch of the Fuel and Energy Complex, such as preservation and efficient use of energy resources, increased efficiency of the fuel and energy supply and saving systems, use of ecologically clean fuel and protection of the environment, and dealing with prices, taxes and other matters in the fields of energy, fuel industry and R&D work.

The most recent developments in regulation of the energy sector are mostly linked with developments described here earlier based on government policy and relating to licensing issues (due to adoption of the new Law on Licensing & Permissive System at the end of the last year) and tariff policy.

There have also been changes in the Laws on Power Engineering and Electric Power Engineering regarding separation of competences among the public authorities related to the Government on the issues of policy development, supervision and control in the energy sector.

Judicial decisions, court judgments, results of public enquiries and major events or developments

Unfortunately information on judicial decisions and judgments is not publicly available in Kyrgyzstan.

Major events and developments in the country's energy sector have been described above.

Proposals for changes in laws or regulations

In summary, changes in Kyrgyz laws and regulations in the energy sector proposed by various parties are as follows:

- Promotion of construction of small- and medium-size hydropower plants in order to increase the country's energy security and export potential.
- Elimination of gaps in the relevant laws and simplification of permissive procedures for investors, in particular, related to permissions for the construction of small and medium-size hydropower plants.
- Utilisation of renewable energy sources and energy-saving technologies.
- Increase of tariffs for the electric energy, etc.

Denis Bagrov
Tel: +996 312 91 97 80 / Email: denis.b@colibrilaw.com

Denis is a Partner at Colibri Law Firm with more than ten years of considerable experience and concentration on energy and mining law, also focusing on corporate, contractual, antitrust, telecommunication and aviation matters.

His most recent experience in the energy sector includes:

- advising on construction of a 350 MWt hydro power station for the Russian energy giant;
- overview of regulations on the hydro power resource operation in Kyrgyzstan;
- consulting one of the 'Big4' audit firms on the hydro power resource operations and potential construction of a hydro power station in Kyrgyzstan; and
- advising IFC on renewable energy (small-sized hydro power stations) regulations.

Denis has also taken an active part in the transactions on cross-border M&As, equity investment, project finance and security for a number of major projects in Kyrgyzstan.

Denis is fluent in English and Russian.

Colibri Law Firm

19 Razzakov Street, 720040 Bishkek, Kyrgyz Republic
Tel: +996 312 91 97 80 / Fax: +996 312 91 97 90 / URL: http://www.colibrilaw.com

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