



When negotiations fail.. .. early natural gas market opening in Latvia

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Dr.iur. Māris Onževs, JSC "Latvijas Gāze"

Presentation plan

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2. Solutions for the problem
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Topicality

On April 3, 2017, the natural gas trading industry in the Republic of Latvia is opened for free competition

The ground of opening the gas market is the expiration of LG privatisation agreement signed for 20 years among LG, the Republic of Latvia and the shareholders of LG on 02.04.1997

However, already in year 2015 authorities of the Republic of Latvia stated that any gas consumer shall not wait for year 2017 and may purchase gas from other traders as long as the change of ownership of the gas purchased takes place outside the Republic of Latvia

Topicality

The task of LG lawyers:

To find a legally correct and effective solution to protect LG's exclusive right of gas trading until 03.04.2017

This is particularly important given that the Public Utilities Commission (the Regulator) is unwilling to engage in any negotiations with LG regarding to this and insists on an immediate market opening

Solutions of the problem

Legal proceeding No.1

In October 2015, LG brings a case against the Regulator to suspend concrete norms of the issued gas transmission system rules (which could allow to open Latvian gas market before 03.04.2017.)

On 17.11.2015, the Administrative Regional Court suspends the binding force of rules

However, in January 2016, the Supreme Court after appeal of Regulator decides that the dispute lies beyond the scope of administrative proceedings.

Solutions of the problem

Legal proceeding No.2

After in February 2016, relevant amendments were made to the Energy law, LG addresses the Regulator a request to explain whether the Regulator still holds that LG should ensure an early opening of the gas market

The Regulator starts administrative proceeding against LG over non-compliance with the legislative requirements and decides to warn LG

LG has appealed against the decision before the Administrative Regional Court, the case is under review

Solutions of the problem

Legal proceeding No.3

In May 2016, LG addresses the Regulator with a request for a temporary derogation with respect to the right for third parties to use LG's natural gas infrastructure. Such derogation would prevent other traders from infringing LG's right to trade natural gas in Latvia by 03.04.2017

After several months of examination, the Regulator refuses to grant the derogation, prompting LG to apply to the Administrative Court



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Solutions of the problem

Legal proceeding No.3

LG files a case in the Administrative court and requests to grant a temporary derogation and recognise that LG is not obliged to provide infrastructure services in Latvia before the market opening

While the Administrative Court rejects LG's request for interim measures, it *obiter dictum* recognises that LG holds exclusive gas trading rights by 03.04.2017. Appeal of Regulator in the Supreme court does not give a result

With this case LG wins the Regulator over early market opening



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Conclusions

1. Despite the public authorities aggressively pushing for an early opening of the gas market, the legal team of LG managed to hold back the opening until 03.04.2017.
2. The favourable outcome for LG was secured by well-considered tactics of interest protection based on a creative use of interim measures in legal proceedings.
3. If the Regulator would not have forced LG to legal proceedings regarding early market opening and engaged in negotiations, the gas market opening in Latvia would be better prepared and all necessary acts passed and tariffs approved timely.

Thank you

Dr.iur. Māris Onževs

Deputy Head of Legal Division

JSC “Latvijas Gāze”

Latvia

maris.onzevs@lg.lv

