Report on research with regard to Default Supplier issue

This Report presents REAP's findings on its Default Supplier (DS) research, based on the ERGEG document "Status review of the definitions of vulnerable customers, default supplier and supplier of last resort issued on July 16, 2009" (Status Review), as well as laws and other documents related to regulatory and market issues in Romania, Bulgaria, Croatia and Montenegro. Also included in this document is an outline of a possible option to gradually open the electricity market in BiH, which includes DS service. Attached to this document is more detail on DS service in several countries in the region.

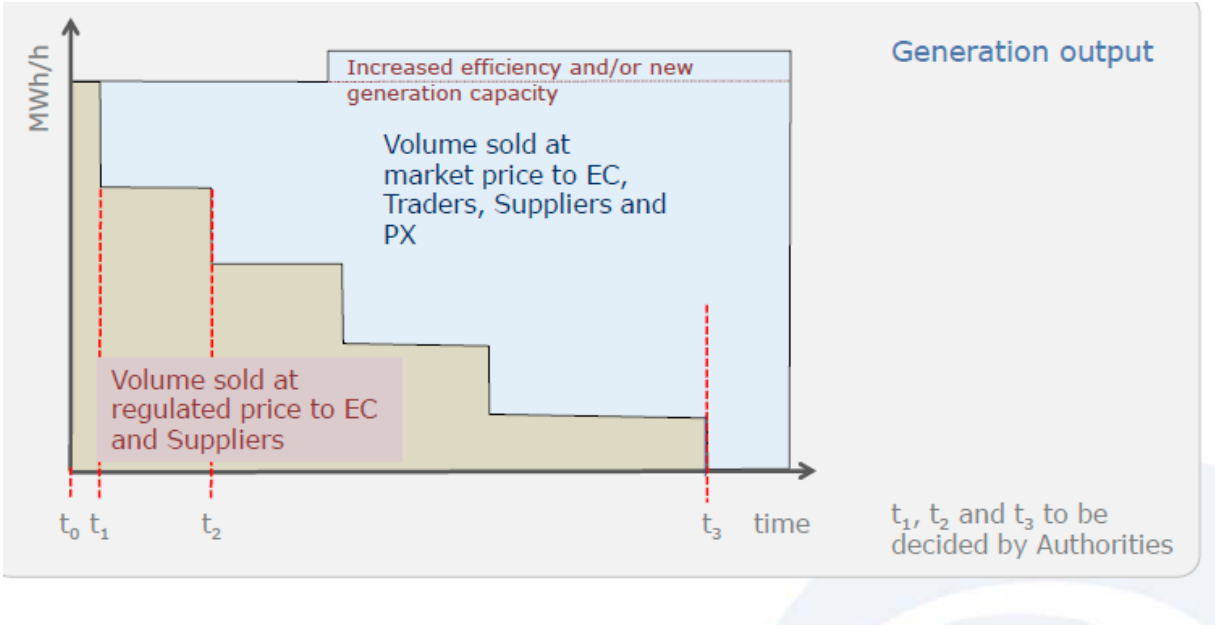
The key findings with regard to the default supplier service are the following:

1. Existence of a provision on DS service and where.
    a. According to ERGEG, all EU countries have DS service.
    b. Within the region, the ERGEG Status Report indicated that Bulgaria, Romania, Montenegro, and Croatia have established DS service.
    c. Romania is the only country cited above that precisely defines DS service in a primary law.
2. Role of the DS
    a. In a majority of the countries, the term DS is most often used in the context of a situation where the customer fails to choose a supplier or when the customer cannot find a supplier on the market.
    b. The ERGEG Status Review states that DS service exists in Romania, Bulgaria and Croatia. However, after having reviewed the laws and regulations of those countries, it appears that ERGEG considered DS service to be where the market is open but customers can continue to be supplied at regulated. (It is possible that in these cases DS service is distinguished by its pricing methodology and the methodology used to choose a DS.)
3. Designation of the DS
    a. In a majority of the countries, the DS is designated by regulator.
    b. In Germany, the DSO determines which supplier has the most customers within the network area and chooses that supplier as the DS.
    c. In Poland, the regulator chooses the DS through a tender procedure; but in the transitional period the DS is the incumbent.
4. Identity of the DS
    a. In all countries but Germany, the DS is the incumbent supplier.
    b. In Poland, where the law prescribes that the DS will be chosen through a tendering procedure, the DS is the incumbent supplier during the transition period.
5. Period during which the DS provides the service
    a. There is normally no time limit on DS service.
    b. If there is no time limit, customers prefer to stay under regulated prices.
6. How the DS is chosen
    a. DS is usually incumbent supplier.
    b. A tendering procedure for appointing the DS is a market-oriented option, but is not commonly used.

This report is made possible by support from the American People sponsored by the United States Agency for International Development (USAID). The contents are the sole responsibility of the author/s and do not necessarily reflect the views of USAID or the United States Government.

Option to gradually open electricity market in BiH (Combination default supplier service and gradual removal of regulated tariffs):

- Eligible customers are allowed to buy a gradually decreasing part of its demand volume at a regulated price (regulated volume)
- The customer will have two options to buy the remaining volume:
  - buy it at market price
  - buy it at a fully cost-based with rate of return default supplier prices that will escalate to be closer to market price (super regulated price)
- The regulated volume will be gradually decreased during the transition period
- The volume sold at market or super regulated prices will be increased during the transition period
- The super regulated price will be gradually increased to fully reflect costs at the end of the transition period
- Preconditions to gradually open the market must be created by the elimination of impediments



- Small commercials and households will be moved to default supplier service at regulated prices without the boost towards market prices.

ATTACHMENT

Bulgaria (from Energy regulatory Commission Report for 2009 issued in 2010):

The electricity market in Bulgaria operates by a model where part of the transactions for electricity sale are concluded at regulated prices, approved by the regulator, and the remaining part is traded on the liberalized market at freely negotiated prices, between the parties on the market. Under the Energy Act, parties to transactions on the liberalized market of electricity are producers, traders in electricity and consumers.
A certain share of the quantity of electricity output by individual (mainly large) producers, under the Energy Act and Directive 2003/54/EC, is sold to the Public Provider for protected consumers at regulated prices. The quantity of electricity purchased at regulated prices from producers, within a regulator-defined „quota" for each producer, is determined on the basis of the principles of equality and transparency. Within this model, the regulated price for protected consumers is calculated as an average weighted mix of prices of electricity producers from various primary energy sources (nuclear, coal, water). Producers may, under the law, sell the rest of electricity output on the liberalized market as equal participants.
The annual consumption of electricity in 2009 was 32.3 TWh, and the share of traded quantity on the domestic market was 7.9 TWh. This quantity was traded between producers, traders in electricity and large and medium business consumers, based on bilateral contracts signed at freely negotiated prices.
Presently, operations of traders in electricity do not cover retail markets for small companies and household consumers. Amendments of legislative framework have been developed, aiming at expanding the electricity market in the medium and small business consumers sector.
Total consumption of end-users in 2009 was 28.63 TWh.
Total sold electricity in the free market, namely high voltage (HV) and partly middle voltage (MV), was 7.9 TWh.
Total end consumption by protected consumers (household consumers and small businesses) who purchased electricity at regulated prices in 2009 was 20.73 TWh.

In order to strengthen consumer protection, the Directive recommends precautionary measures to prohibit the switch-off or interruption of the network and the creation of supplier of last resort in the national legislation of member states.

The supplier of last resort may be appointed by a representative of the sector, determined by law, administrative decision, or a tender procedure. The purpose of this mechanism is to ensure continuity in the electricity supply, and the respective national competent authorities may monitor the access to electricity and announce the monitoring results to the public.
At present, the mechanism of Public supplier of last resort is not laid down and differentiated from other players in the Electricity Sector. Its appointment and functioning will be envisaged by the forthcoming amendment of the Energy Act. The idea is that the supplier of last resort will sell electricity at prices, regulated by SEWRC, but determined by the market, as opposed to the current pricing, where tariffs are cost-based. The supplier of last resort will purchase energy on the market and will transfer all costs and losses to end consumers; therefore, the regulatory commission will have the power to set the maximum price of this company. The transfer of costs to the end consumer should stimulate customers to seek a competitive supplier.

Croatia (Amendments to the Energy Law):

Eligible customers from the household class in case the customer cannot not find or does not want to choose a market supplier will be supplied by the tariff supplier.
An eligible customer who remained without a its supplier or its supplier left the supply business and has not found a new supplier in certain period of time, will be supplied at the price for balancing electricity by the tariff supplier.

Romania (extract from the Electricity Law, year 2007):

Art. 3. – For the purpose of this Law the terms and definitions herein have the following meanings:
Default supplier means the supplier designated by the competent authority, which holds a distribution license as well as a concession contract for delivering the electricity supply service exclusively in an assigned area or the successor of the legal person which develops the distribution as well as the supply activity upon the time of the entering into force of the present law;

Obligation of the default supplier as regards the supply contracts
Art. 49. – The default supplier must conclude supply contracts with the captive customers situated in the area assigned by the license.

Prices and tariffs

Art. 74. – The following prices and tariffs operate for the activities developed in the electricity sector on the electricity market for the activities developed in the electricity sector:
d) Prices/tariffs applied by the supplier of last resort and the default supplier after the electricity market is fully opened;

Principles for the substantiation of regulated prices and tariffs

Art. 79. -
(**6**) The justified acquisition costs and the associated costs as well as a reasonable profit share shall be fully recognised in the tariffs of the default supplier and of the supplier of last resort.

Price/tariff cap

Art. 80. – (1) The competent authority can limit the prices/tariffs by:
a) Setting up a cap of the price/tariff proper (price-cap).
b) Limiting the revenue obtained from the regulated activity in order to avoid the uncontrolled price hikes to the consumers.
(2) Costs that are not recognised as specified in paragraph (1), item b), are fully recovered in compliance with the procedure issued by the competent authority.

Montenegro (Extract from the Energy Law adopted in 2010)

Article 154

Public supplier

(1) Electricity or gas supply at regulated tariffs to households and eligible customers that choose that way of supply, shall be carried out, as a public service, by an energy undertaking authorized by the Government in accordance with this Law.

(2) Public supplier from the paragraph (1) of this Article shall:

1) supply households and eligible customers connected to electricity or gas distribution systems, who choose that way of supply;
2) specify general conditions of supply and shall submit them to the Agency for approval;
3) carry out supply with electricity or gas at tariffs approved by the Agency;
4) undertake measures aimed at achieving secure and quality supply to households and eligible customers who choose that way of supply;
5) undertake measures aimed at achieving most favourable energy prices that are component part of regulated tariffs.

(3) Carrying out of the function of the public supplier shall be regulated by rules from the article 38 paragraph (2) clause 5) herein.

(4) Provisions from the article 153 herein shall apply to business operations of the Public supplier.

(5) Activities of the public supplier with electricity i.e. activities of the public supplier with gas shall be carried out by energy undertaking appointed by the Government.

(6) Activities of public supplier may be carried out only by energy undertaking with a seat in Montenegro, on the basis of a license for supply.

(7) A procedure for assignment of activities to a selected public supplier of electricity and gas that shall be obliged to undertake also a supply of tariff customers shall be specified in the Government's regulation.