



Electricity Labeling

Introduction

Since Bosnia and Herzegovina (BiH) has executed the Energy Community Treaty, which obligates all signatories to implement the energy *acquis communautaire*, consisting of EU Directives and other regulations that concern electricity, this paper provides an overview of electricity disclosure labeling, focusing on the European Directive 2003/54/EC, and the DG TREN Note on Labeling. While the BiH market is not yet open, the preconditions for market opening are being discussed now. Through a general examination of the EU Directive requirements for fuel-mix labeling and various Member States' experience with it, the BiH electricity sector can begin its preparation for this requirement by thinking about how to implement the general requirements for labeling.

Even though electricity use is a major source of greenhouse gas emissions, the majority of consumers do not connect climate change with their own electricity use. The point of energy labeling is to promote awareness of carbon emissions. An electricity information label contains the source of electricity generation and its tariff so that, when an electricity market actually opens and customers have multiple suppliers from whom to choose to purchase their supply, they will have enough information to understand the sources that emit the most carbon and, if they desire, can choose a different, less carbon-polluting electricity source even though this source may have a higher tariff.

There is a political advantage to careful implementation of the labeling requirement, as this approach may encourage consumers to move toward lower carbon emission options, albeit at higher tariffs. This change could, in the long run, ameliorate political difficulties in governmental implementation of other mandatory national and international programs targeted to reduce carbon emissions.¹

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¹ <http://www.electricitylabels.com/index.html>, 4CE Electricity website. Project “Consumer Choice and Carbon Consciousness for Electricity (4C Electricity)” was supported by the European Commission through the Altener program (contract no. 4.1030/Z/01-088/2001.)



What is “Electricity disclosure”?

Unless consumers buy certified green electricity, meaning that the source of electricity is certified to be from renewable resources, then generally consumers do not know from what sources their electricity comes. Electricity disclosure means that electricity sources are disclosed on a consumer’s utility bill.² [See p. 4 of this document for the recommended fuel mix display format from the DG TREN Note to be displayed with an electricity bill.³]

”As the electricity markets of Europe and other parts of the world open, consumers are given a choice about who they buy their power from and even what product they buy. In such a deregulated, competitive market consumers need to be able to distinguish between the products they are being offered. Electricity disclosure helps them do this, by making it mandatory for all electricity suppliers to label their products with . . . the supply mix and . . .the environmental effects.”⁴

Electricity disclosure started in California in the United States in 1998.⁵ Many U.S. states have such requirements today, even those with non-liberalized retail markets. The requirement of disclosure momentum in Europe is also increasing, particularly because of the requirements in the EU Electricity Directive.

Legal Background of Obligation on Labeling – The Energy Community Treaty, the EU Electricity Directive, and DG TREN Note on Labeling.

Implementing labeling with regard to electricity suppliers’ fuel-mix is a legal requirement that the electricity sector in Bosnia and Herzegovina must implement. The only question with regard to labeling is when, not whether, it is necessary to implement in the country.

On July 1, 2006, Bosnia and Herzegovina ratified the Energy Community Treaty, thus taking on the Treaty as an international obligation. As provided in Article 10 of the Treaty, each signatory “shall implement the *acquis communautaire* on

² The labeling of food is analogous to the practice of electricity labeling, and the fact that a grass roots movement developed for labeling of genetically modified food indicates that customers want information about environmental and health issues.

³ Note of DG TREN on Labeling Provision in Directive 2003/54/EC,
http://ec.europa.eu/energy/gas_electricity/interpretative_notes/doc/implementation_notes/labeling_en.pdf

⁴ <http://www.electricitylabels.com/disclosure.html>, Electricity Disclosure definition.

⁵ The California Energy Commission, Senate Bill 1305 (Sher, Martinez; Chapter 796, Statutes 1997),
http://www.energy.ca.gov/sb1305/retailer_disclosure/index.html, and Title 20, California Code of Regulations Article 5. Electricity Generation Source Disclosure,
<http://www.energy.ca.gov/sb1305/documents/SB1305REG.PDF>



energy. . .” Article 11 then defines the *acquis communautaire* on energy as the EU Directives on electricity and gas, along with Regulation 1228 on cross-border trade.

European Directive 2003/54/EC concerning the common rules for the internal market in electricity ⁶ contains a provision in Article 3(6) that requires the disclosure of the overall fuel mix of suppliers. In a nutshell, the labeling provision of the Article 3(6) of the Directive requires that suppliers make publically available a disclosure of each their energy sources in their overall fuel mix the preceding year on invoices or with promotional materials, at least by reference to existing reference sources such as websites. At a minimum, CO2 emissions and radioactive waste must be disclosed. Further, Member States must ensure that the information is reliable.⁷

DG TREN has published a Note on the labeling provision of the Directive⁸ that elaborates the requirements of the Directive. The Note explains that while market opening gives consumers the ability to choose a supplier, it can also give consumers a choice as to the characteristics of electricity supplied, such as the supply fuel mix and its impact on the environment. The Note contains a series of suggestions that are designed to help achieve the level of transparency regarding the supplier’s fuel mix that the Directive intends. The Note suggests that the

⁶ http://www.ewea.org/fileadmin/ewea_documents/documents/policy/external_documents/030715_directive_internal_market_electricity.pdf, Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.

⁷ The full text of Article 3(6) of the Electricity Directive is:

Member States shall ensure that electricity suppliers specify in or with the bills and in promotional materials made available to final customers:

- (a) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year;*
- (b) at least the reference to existing reference sources, such as web-pages, where information on the environmental impact, in terms of at least emissions of CO2 and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year is publicly available.*

With respect to electricity obtained via an electricity exchange or imported from an undertaking situated outside the Community, aggregate figures provided by the exchange or the undertaking in question over the preceding year may be used.

Member States shall take the necessary steps to ensure that the information provided by suppliers to their customers pursuant to this Article is reliable.

⁸ http://ec.europa.eu/energy/gas_electricity/interpretative_notes/doc/implementation_notes/labeling_en.pdf
Note of DG Energy & Transport on Directives 2003/54/EC and 2003/55/EC, Labeling Provision in Directive 2003/54/EC.



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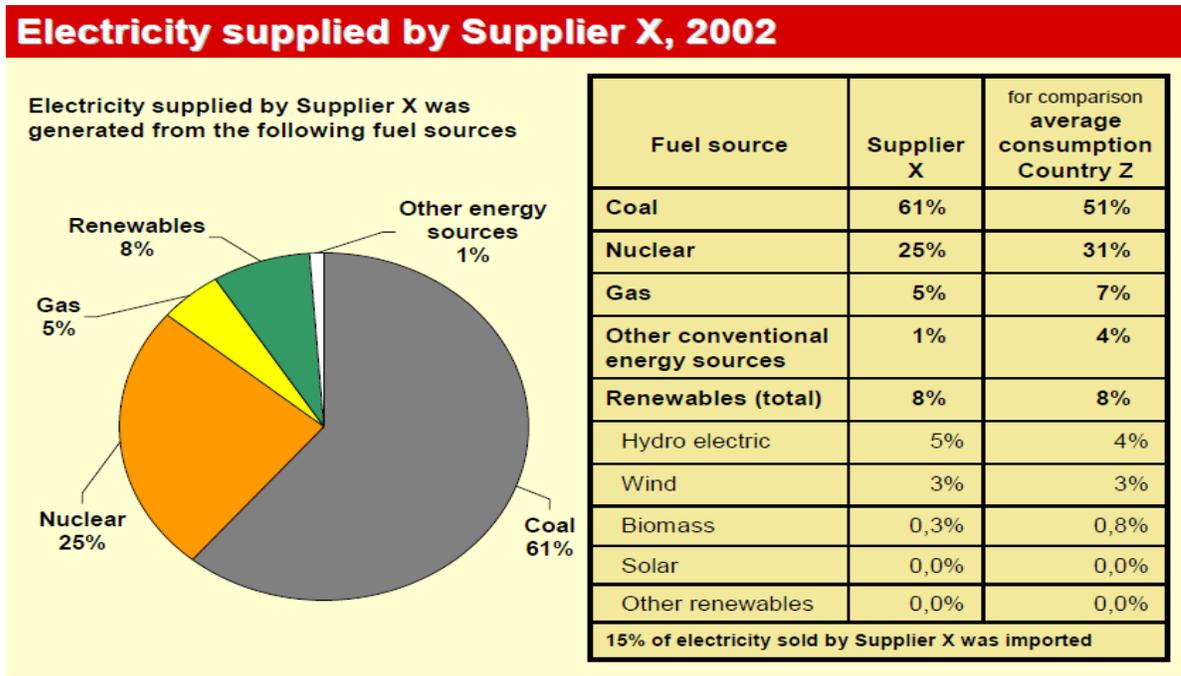
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disclosure be required at least on a yearly basis and states that the information must be provided for the supplier's entire portfolio (defined as all electricity sold to final customers); provides guidance on development of a standard list of fuel sources and the display of fuel mix; reminds readers of the Note that the disclosed information on the fuel mix should be on the bill or on a separate insert sent out with the bill; explains how information on the environmental consequences in terms of pollution of electricity used by consumers should be provided; contains recommendations on the comparison of information offered by all suppliers within a certain region by a regulator or consumer organization; defines promotional materials; and provides recommendations on the tracking of information and verification of information. Further discussion of the labeling requirements is contained in Christopher Jones' EU Energy Law, Vol. 1 The Internal Energy Market.⁹

⁹ Claeys & Casteels (2004) at 137-139.



The recommended fuel mix display format from the DG TREN Note is as follows:



Recommended Steps

Even though Bosnia and Herzegovina is involved in the beginning steps of market opening, it is not too soon to think about how to implement electricity labeling. The requirements are clear, and there is a track record of other countries that have implemented such disclosure requirements.¹⁰ Since this is one of the simpler requirements of the Directive and can be implemented in the near future, it is an “easy win” for Bosnia and Herzegovina. The country can show progress in complying with the *acquis communautaire*. As a result, it is recommended that:

- All three regulators require that regulated companies or international traders implement the labeling requirement to illustrate their fuel-mix for customers, with the regulators harmonizing their requirements and timelines to be as consistent as possible.
- Regulated companies can provide a timeline for implementation to the regulators.
- Regulators can be responsible for accumulating and pooling data on the same.

¹⁰ See Tables 1 and 2 attached to this paper.



Table 1

Grouping of countries with regard to the level of implementation of the disclosure systems in EU-15 and EU-12 including Norway and Switzerland¹¹

<i>Level of the Implementation of the</i> ELECTRICITY DISCLOSURE SYSTEMS	NO PRIMARY LEGISLATION PASSED	OPERATIONAL	FULLY OPERATIONAL	ADVANCED
<i>per countries</i>				
AUSTRIA				
BELGIUM – Brussels Capital				
BELGIUM – Flanders				
BELGIUM - Wallonia				
BULGARIA				
CYPRUS				
CZECH REPUBLIC				
DENMARK				
ESTONIA				
FINLAND				
FRANCE				
GERMANY				
GREECE				
HUNGARY				
IRELAND				
ITALY				
LATVIA				
LITHUANIA				
LUXEMBURG				
MALTA				
NETHERLANDS				
POLAND				
PORTUGAL				
ROMANIA				
SLOVAKIA				
SLOVENIA				
SPAIN				
SWEDEN				
UNITED KINGDOM				
NORWAY				
SWITZERLAND				
TOTAL NUMBER	5	12	6 + Flanders and Wallonia	6

¹¹ The above data are used from a Draft for consultation: “The state of implementation of electricity disclosure and Guarantees of Origin across Europe” (A report prepared as part of the EIE project “A European Tracking System for Electricity – Phase II (E-TRACK II)”, Mark Draeck, IT Power Ltd, UK – March 30, 2009, <http://www.e-track-project.org/docs/E-TRACKII%20WP2%20Report%2009.15.pdf>)



Table 2

Signatory countries of the Energy Community Treaty with regard to the level of implementation of the disclosure systems and/or certificate of origin

<i>Level of the Implementation of the ELECTRICITY DISCLOSURE SYSTEM (EDS) or/and CERTIFICATE OF ORIGIN (CoO)</i>		NO PRIMARY LEGISLATION PASSED	PRIMARY LEGISLATION PASSED	OPERATIONAL
<i>per countries</i>				
ALBANIA ¹²				
BOSNIA AND HERZEGOVINA	F BiH ¹³			
	RS ¹⁴		CoO	
CROATIA ¹⁵			EDS	
KOSOVO – UNMIK ¹⁶			CoO	
MACEDONIA ¹⁷			CoO	
MONTENEGRO ¹⁸				
SERBIA ¹⁹				
TOTAL NUMBER		3 + BiH (F BiH)	3 + BiH (RS)	0

¹² Law on Power Sector, No. 9072, dated 22.05.2003,
<http://www.seenergy.org/index.php?/countries&stat=1&type=3&col=2121>

¹³ Electric Power Law of F BiH, August 23 , 2002
http://www.derk.ba/userFiles/Fed%20Law%20on%20Electricity%20April%202002%20FINAL%20translation%207_20_04.pdf

¹⁴ Law on Energy, No 49/09, Article 29, paragraph 1, <http://www.reers.ba/node/225>

¹⁵ Law on Electricity market – clean text, Article 26, paragraph 5,
http://www.hep.hr/opskrba/Zakon_o_trzistu_procisceni_tekst.pdf

¹⁶ Assembly of Kosovo, Law on Electricity, No. 2004/ 10,
http://www.unmikonline.org/regulations/2004/re2004_22ale04_10.pdf

¹⁷ Law on Energy, No 63/2006, Article 140, <http://www.erc.org.mk/vertikalEn.asp?verID=1>

¹⁸ Energy Law, June 2003, <http://www.gom.cg.yu/eng/minekon/vijesti.php?akcija=rubrika&rubrika=53>

¹⁹ Energy Law, No 84/2004, 24 July, 2004, <http://www.aers.org.yu/IndexEng.asp?a=2>