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LEGAL MEANS OF PROTECTING COMPETITION IN THE FIELD OF ELECTRICITY

ALIAKSANDRA VALIAUKA, ALIAKSANDR DZENISEVICH
Belarusian State University, Minsk

The article is devoted to the legal means of protection of competition in the electricity market. Particular attention is paid to the draft law "On electricity", which should be adopted within the framework of the implementation of the single electricity market of the Eurasian economic Union(EAEU).

The Belarusian energy system is a constantly developing, high-tech complex consisting of regional power systems with a single centralized operational dispatch management, organizations engaged in the construction, installation, repair, commissioning and reconstruction of electric power facilities, research and development, design and construction of power facilities.

The general management of the energy complex is carried out by the Ministry of Energy of the Republic of Belarus. The functions of managing the economic activity of the Belarusian energy system are assigned to the state production association of the electric power industry (GPO) "Belenergo", subordinated to the Ministry of Energy.

The structure of the state production association of the electric power industry includes 6 RUEs (by regions) which, earlier and as of January 1, 2019, are natural monopolists and provide services for the transmission and distribution of electrical and thermal energy, formed on a territorial basis and are vertically integrated companies, which include as the structural units of the power plant, electrical and thermal networks.

In the field of electric power industry (electricity supply), the issue of developing competitive relations, preventing violations of antitrust laws in general is particularly important.

In the Republic of Belarus, the body that monitors compliance with antimonopoly legislation is the MAR of Belarus.

In accordance with Article 13 of the Law "On Counteraction to Monopolistic Activities and Development of Competition", the antimonopoly body monitors compliance with the antimonopoly legislation by business entities, officials of business entities - legal entities, government bodies, their officials, legal entities not related to business entities their officials, individuals who are not related to economic entities;

- reveals violations of antimonopoly legislation, takes measures to counter monopolistic activities, unfair competition, other violations of antimonopoly legislation by business entities, officials of business entities - legal entities, government bodies, their officials, legal entities not related to business entities, their officials, individuals who are not related to business entities;

- promotes the development of competition [1].

The most common means (measure) to protect competition in the electricity sector is to issue a prescription based on the decision of the antimonopoly authority.

From the practice of Ministry of Antimonopoly Regulation and Trade (MART), the following examples can be given:

Among the most frequently encountered are the issuance of instructions by MART to stop the violation of antitrust laws, namely, concerted actions to limit the access of economic entities to the commodity market for the production of electricity and to take actions aimed at ensuring competition. In turn, the subjects in respect of whom such orders are imposed will appeal against them in court.

Price regulation is also an important way to ensure competition in the field of electric power (electricity).

Currently, the Decree of the President of the Republic of Belarus of February 25, 2011 No. 72 "On some issues of price regulation (tariffs) in the Republic of Belarus" has established that prices (tariffs) for electric energy are regulated by the Council of Ministers of the Republic of Belarus (for public services provided to the population (power supply), the Ministry of Antimonopoly Regulation and Trade (for electricity supplied by the organizations of the state production association of electric power industry "Belenergo" (except for energy, supplied to the population), as well as the electric energy produced in the Republic of Belarus legal persons, not members of the association, and individual entrepreneurs, and releases the energy supply companies of the association)[2].

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One of the problems existing today is the absence of a law on electric power industry, which precisely should create a legal basis for the operation of the common electricity market in the EAEU. In turn, the electricity market of the EAEU uses mechanisms based on market relations and fair competition as one of the main instruments for the formation of a sustainable system to meet the demand for electric energy (power). The draft law "On Electric Power Industry" has long been prepared and approved by the government by the lion.

For example, in accordance with the substantiation of the need to adopt the draft Law "On Electric Power Industry", certain legal entities produce electricity for their own needs [3]. The excess of the electrical energy produced by them must be realized. However, the law does not specify which entities belong to the producers of electrical energy, their rights and obligations, the procedure for connecting these legal entities to the power grids owned by the state.

The energy sector in Belarus is a natural monopoly, including a vertical of all types of economic activity, including the production of electric and thermal energy, its transmission and distribution, as well as sales. The essence of the changes to be implemented in the Belarusian energy system is as follows: the rejection of the state's monopoly in generating electricity, but while maintaining the state monopoly on the transportation and sale of electricity.

The formation of two markets: wholesale and retail, in which electricity will be sold on a competitive basis.

The draft law proclaims the formation of an electricity market in Belarus with non-discriminatory access to it by subjects of the electric power industry and electricity consumers who will cooperate on the basis of contractual obligations. It includes the wholesale and retail markets, where electricity is viewed as a commodity (and not a service, as it is now).

The government will continue to regulate electricity prices for individuals. In turn, the Ministry of Antimonopoly Regulation (MART) will set prices for electricity produced in the combined production of electricity and heat when it is sold on the wholesale electricity market, as well as on electricity sold by energy supplying organizations to consumers in the retail market, and tariffs for services transmission of electricity. The document proposes to apply free prices in the wholesale and retail markets only for a part of electricity that is not covered by government regulation.

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