



ELECTRICITY

INDUSTRY AND LEGAL UPDATE

KALIKOVA & ASSOCIATES

Information for effective business solutions

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Industry Updates

The establishment of “Kambarata Hydro Power Plant-2” OJSC with 100% state interest in the charter capital impedes attraction of investments into its construction

On April 15, 2009 by the decision of the general meeting of shareholders of “Electricheskie stancii” OJSC it has been approved to establish “Kambaratinskaya GES - 2” OSJC.

The in-kind contribution of incomplete plant to the charter capital of “Kambaratinskaya GES - 2” OSJC is subject to approval by the Parliament. On June 19, 2009 the deputies adopted resolution on 100% interest of state in the charter capital of the OSJC.

However, this violates rights of other shareholders of “Electricheskie stancii” OJSC and contradicts to certain provisions of legislation. As a result, it impedes attraction of investments into the construction of Kambarata hydro power plant – 2.

The Government notes that it has to be taken into account that while the total price of the project is \$372,7 millions, presently \$ 87.5 millions (23.5%) have been spent by the “Electricheskie stancii” OJSC. Attraction of additional investments of \$100 millions from the funds of the Development Fund of the Kyrgyz Republic for launching of the first hydro aggregate will increase the total expenses up to \$187,5 millions, which will make 50% of total required financing of the project. Consequently, shortage of own funds for completion of construction and putting of all aggregates of Kambarata-2 into operation indicates that additional investments shall be attracted.

Currently, attraction of investments is impossible since according to the Law “On construction and exploitation of Kambarata hydro power plants” the state interest in the charter capital of the established enterprise cannot be sold, exchanged for the repayment of external debt of the country, and be subject to any form of disposal or change, thereby cannot be even subject of pledge as a security mechanism.

In contrast, establishment of “Kambaratinskaya GES - 2” OSJC with “Electricheskie stancii” OJSC as a shareholder would have enabled attraction of

Legal Updates

The Decree N 294 of the Ministry of industry, energy and fuel resources of the Kyrgyz Republic “On observance of restrictions on electric energy consumption” dated September 28, 2009

For the purposes of implementation of restrictions on electric energy consumption and preservation of water in the Toktogul reservoir within the volume of 7,5 - 7,8 billion m³ by April 1, 2010 the general directors of “Electricheskie stancii” OJSC (Balkibekov S.E.), “NESK” OJSC (Sydykov A. Ch.), “Severoelektro” OJSC (Raimzhanov T. M.), “Vostokelektro” OJSC (Muhademzhanov R. K.), “Oshelektro” OJSC (Avazov S. A.) and “Jalalabatelektro” OJSC were instructed to execute established restrictions on energy consumption, introduce limits on supply of electric energy starting from October 1, 2009 from 24.00 until 05.00 strictly in accordance with the Provisional Instruction “On procedure of application of schedules of energy cutoff in restriction of energy consumption by the regions of the Kyrgyz Republic”.

The Resolution N 1430-IV of the Kyrgyz Parliament “On adoption of the Law of the Kyrgyz Republic “On recognition of the Law of the Kyrgyz Republic “On construction and exploitation of Kambarata Hydro Power Plants 1 and 2” ineffective“” dated October 9, 2009

In accordance with the Resolution the “On construction and exploitation of Kambarata Hydro Power Plants 1 and 2” is recognized ineffective.

Furthermore, “Development Fund of the Kyrgyz Republic” CJSC has been instructed to provide monthly information to the Kyrgyz Parliament about the procedure of refinancing of Kambarata hydro power plant - 2.

investments, as well as obtaining credit from the Development Fund of the Kyrgyz Republic for completion of the first hydro aggregate of "Kambaratinskaya GES - 2".

Having in mind significance of the project for the state economy, the State Committee of the Kyrgyz Republic on management of state property proposes adoption of the Government Decree and recognition of the Law "On construction and exploitation of Kambarata hydro power plants" ineffective.

The equipments of Thermal power plant became extremely out of date

About 90% of equipments of Thermal power plant are over used and in need of urgent repair. This has been reported by the director of the Thermal power plant of Bishkek city Yuriy Frick.

According to him all the equipments have been in operation since soviet times, the service life of these equipments has already expired. There is a necessity for total reconstruction of the plant approximately estimated to \$300 millions.

The Parliament found the Law "On construction and exploitation of Kambarata Hydro Power Plants" ineffective

Such decision has been taken on the session of the Parliament. Pursuant to head of the State Committee on management of state property Tursun Turdumambetov, the law currently in force does not enable to attract investments for the completion of the construction of the "Kambarata-2" hydro power plant, and is in contradiction to the Law "On joint-stock companies".

"There is a need for pledge in order to make fundraising. However, pursuant to effective legislation the property of "Kambarata-2 hydro power plant" cannot be disposed, thus, we cannot attract investments, Furthermore, under the Law "On joint-stock companies" we have to redeem shares of more than 20 000 participants of "Elektricheskie stancii" OJSC, which requires additional finances, which cannot be covered by the state budget."

The Development Fund of the Kyrgyz Republic allocates \$ 20 million for financing of Kambarata 2 project

The funds are to be provided in the form of "collateral loan". The decision on providing loan has been taken on August 25, 2009 on the meeting of the Board of Directors of the Development Fund. "Elektricheskie stancii" requested \$100 millions; the Development Fund offered 20% of requested funds. For the further financing of the project the Development Fund has outlined the following terms:

1. Establishment of "Kambaratinskaya GES-2" OJSC with 100% participation of "Elektricheskie stancii" OJSC in its charter capital. The incomplete hydro power plant

The Decree N 511 of the President of the Kyrgyz Republic "On payment of monetary compensation to certain categories of citizens due to the change of state tariff policy on energy resources" dated November 13, 2009

The Decree outlines that monthly individual compensations in exchange to benefits granted to certain categories of citizens (veterans and disabled persons of the Great Patriotic War, Heroes of the USSR and the Kyrgyz Republic awarded for battle merits and other) will be paid from January 1, 2010. The monthly amount of payments depend on the category of citizens starting from 1000 soms (for instance, for visually handicapped persons and persons hard of hearing) up to 7000 soms (for disabled persons and veterans of Great Patriotic War).

The Decree N 509 of the President of the Kyrgyz Republic "On establishment of compensatory payments in light of change of tariff policy" dated November 13, 2009

According to the Decree from January 1, 2010 monthly compensatory payments of 200 soms for electric energy will be paid in addition to pensions of up to 4000 soms pursuant to the Law of the Kyrgyz Republic "On the state pension social insurance".

The Decree N 512 of the President of the Kyrgyz Republic "On establishment of additional payment to salaries of employees of government-financed organizations in light of change of tariff policy on energy resources" dated November 13, 2009

For the purposes of providing social support for employees of government-financed organizations from January 1, 2010 monthly additional payment of 200 soms to salaries of employees of government-financed organizations, whose salaries do not exceed 5000 soms, has been established.

The Resolution N 621 of the Government of the Kyrgyz Republic "On sale of state shares of "Vostokelektro", "Jalalabatelektro" and "Oshelektro" OJSCs" dated

became in-kind contribution into the charter capital of OJSC;

2. Abolition of legislative restrictions over turnover of stocks and assets of "Kambaratinskaya GES-2";

3. Submission of business plan with unconditional recoupment of the project within 7 years;

4. Submission of confirmation of applicant's ability to sell entire volume of produced energy under prices and tariffs that enable economic efficiency of the project, including technical and commercial solutions;

5. Submission of the program for attraction of additional financing for the construction and startup of the second and third hydro aggregates of hydro power plant;

6. Issuance of additional stocks by "Kambaratinskaya GES-2" OJSC for the redemption by the Fund for the purposes of equity financing of the project;

7. An agreement will be concluded with "Elektricheskie stancii" OJSC for redemption of stocks of the Fund in hydro power plant within the specified timeframe of repayment of financing;

8. "Kambaratinskaya GES-2" OJSC will get additional credit under the pledge of hydro power plant which under construction.

Akylbek Tyumenbaev: small hydro power plants generate only 0.5% of all produced electric energy in the Kyrgyzstan

"Small hydro power plants generate only 0.5% of all produced electric energy in the Kyrgyzstan" said deputy minister of industry, energy and fuel resources Akylbek Tyumenbaev.

Pursuant to his statement, nowadays small hydro power plants generate 60 million KW/h of energy, while large hydro power plants produce 12 billion.

The reduction of price value of stocks of large energy companies of Kyrgyzstan occurred in 2009

Pursuant to the analytical Update of "Stock Exchange Kyrgyzstan-BTS" CJSC the value of the stocks of most energy companies in the Kyrgyzstan dropped within 9 months of year 2009 due to their unprofitable work.

The prices for stocks of "Elektricheskie stancii" OJSC fell within 3 quarters: at the beginning of the year it was 3.40 soms, in the second quarter - 1.90 soms, at the end of the third quarter - 1.60 soms per stock.

The prices for stocks of "Nacionalnaya elektricheskaya cet' Kyrgyzstana" OSJC, a national energy supply company, dropped within 3 quarters of 2009. In the first quarter it was 1.20 soms, at the end of the second quarter 0.80 soms, and, finally, at the end of the third quarter - 0.60 soms per stock.

The quotation of "Bishkekteploset" OJSC dropped from

October 8, 2009

Pursuant to the Resolution the State Committee for the management of state property has been instructed to sell state shares (80,49% of interest in charter capital of each joint-stock companies) of Vostokelektro", "Jalalabatelektro" and "Oshelektro" OJSCs at the investment auction.

The Parliament of the Kyrgyz Republic has approved draft law aimed at developing the country's renewable energy sources. This decision has been adopted at the meeting of the Parliament when reviewing the amendments to the Law on Renewable Energy Sources"

According to the draft law a timeframe up to 10 years is proposed to be established for recoupment of projects on renewable energy sources (RES); oblige distributors to purchase all electricity generated using RES and non-consumable machineries for their own needs; determine that the only possible purchaser of such energy is a distribution company, to the network of which such machineries are connected; in case energy is supplied directly to the consumer or to a network of other energy company, the energy shall be purchased by the distribution company, which dominates at the energy distribution market of administrative-territorial entity, where the machineries on the use of RES are situated.

The renewable energy will be supplied to end-users on the price that the Government has established, i.e., at 1,5 soms per 1 KW/h of energy. In addition, for the development of RES companies that import into the country such machineries shall be exempt from customs duties.

Resolution of the Government of the Kyrgyz Republic N 656 dated October 19, 2009 "On amendments to the Resolution of the Government of the Kyrgyz Republic N 518 dated September 17, 2008 " On State Property Privatization Program in the Kyrgyz Republic for 2008-2012"

The objects of privatization of strategic importance for the Kyrgyz Republic have been specified. The list of such objects includes trunk railways, major pipelines, the national power network, hydropower plant (Naryn cascade of hydro power plant). Privatization of these objects is carried out in accordance with the programs approved by the Parliament of the Kyrgyz Republic. The privatization method of strategic objects of the Kyrgyz Republic is established by the decision of the Government of the Kyrgyz Republic.

0.30 soms to 0.1 som per stock, stock price of "Vostokelektro" OJSC decreased from 0.15 soms to 0.03 soms, stock price of "Oshelektro" OJSC from 0.05 soms to 0.03 soms, the stock price of "Severoelektro" OJSC from 0.52 soms to 0.30 soms, yet, stock price of "Djalalabadelektro" OJSC increased from 0.22 soms per stock to 0.5 soms.

From January 1, 2010 the tariff on electric energy for end-users in Kyrgyzstan will be 1.5 soms for 1 KW/h

A uniform tariff of 1.5 soms for 1 KW/h of energy has been set for all consumers (citizens, industry, government-financed organization, agricultural consumers, pumping stations and other consumers) which will be effective from January 1, 2010. As an exception 0.1 som for 1 KW/h was approved only for citizens of Toktogul district, Karakul city and Jazykechuu village.

With the support of Malaysia Kyrgyzstan plans to build 20 small Hydro Power Plants ("HPPs") within the next 3-5 years

According to the Ministry of Foreign Affairs of the Kyrgyz Republic ("KR") the agreement signed in Kuala Lumpur between the Directorate of the project on development of small and medium-energy of KR and the Malaysian "Seloga Holdings" company prescribes construction of 20 small HPPs. The parties agreed to establish a joint venture. The project has been approved by the Malaysian corporation on external trade development.

According to the Executive Director of Seloga Holdings Samsudin Bin Abu Hassan, the total value of the joint project is \$ 300 million. The total capacity of planned 20 small stations will be 240 megawatts. In the near future a group of specialists of "Seloga Holdings" will arrive to Kyrgyzstan in order to prepare business projects for the construction of small HPPs at the selected sites.

Annual losses of energy sector of Kyrgyzstan is about 1.5 billion soms

Each year, the energy sector of Kyrgyzstan incurs losses of \$ 1 billion 482 million soms, said Kubanychbek Turdubaev, deputy director of the State Department on fuel and energy regulation under the Ministry of Energy of the Kyrgyz Republic. Therefore, the tariff increase is necessary to preserve the industry.

According to K. Turdubaeva, the proposed rate of 1.5 soms per 1 KW/h of electricity (the tariff is valid from January 1 to July 1, 2010) included 0.43 soms for the cost of electric energy production by the "Elektricheskie stancii" OJSC, which includes all hydro and thermal plants, 0.25 soms for the transfer of electricity, 0.11 soms sales tax, 0.18 soms for the electricity loss, which

The Resolution of the Government of the Kyrgyz Republic N 699 "On the Medium Term Tariff Policy of the Kyrgyz Republic for electricity and heat for the period 2010-2012" dated November 12, 2009

The new medium-term tariff policy has been adopted in connection with the increase of electricity tariffs to ensure sustainability of the energy sector, the shortage of funds which at the beginning of 2009 amounted to 1 billion 482.2 million soms. According to the aforesaid Resolution the Ministry of Energy of KR together with public companies "Elektricheskie stancii", "Severelektro", "Oshelektro", "Vostokelektro", "Jalalabatelektro", "Bishkekteploset" state enterprise "Kyrgyzjilkommunsoyuz" public utilities "Bishkekteploenergo" by 2011 shall ensure realization of electric and thermal energy on prepaid basis as well as shall provide the Government of the Kyrgyz Republic proposals on separation of Thermal power plants of Bishkek and Osh, and the state enterprise "Kyrgyzjilkommunsoyuz" from "Elektricheskie Stancii" OJSC. The medium-term tariff policy prescribes that the tariffs for heat and electricity shall be the same for all consumers, and higher tariffs for electricity and heat shall be carried out in 2 stages: 1) 1 January 2010 and 2) from 1 July 2010.

have been set within 21%, and finally 0.42 soms tariff for distribution and sale of electricity.

In addition, the cost price of production of thermal energy produced by "Elektricheskie stancii" OJSC is 1154.2 soms (Rates from July 12, 2010 will be set at 2,500 soms per 1 Gcal), the sales tax is 28,9 soms, technical losses are 645.3 soms, which constitute 25%, the costs of "Bishkekteploset" OJSC for the distribution and sale of thermal energy are 374 soms, VAT is 297,4 soms.

The total number of subscribers of thermal energy in the country is 156 000 people, out of which 100 238 are subscribers in Bishkek, 7745 - in the city of Osh, and 48 000 - in the regions and provinces.

A large-scale explosion has been carried out At Kambar-Ata-2 in order to create a dam

On December 22, 2009 a large-scale bombing by the shift of large volumes of soil has been carried out to create a dam at the construction site Kambar-Ata HPP-2 in the Toktogul region. According to preliminary estimations, as a result of explosion 3.8 million cubic meters of rock shifted into the valley. The height of the dam will be 60 meters, additionally 10 meters of concrete construction will be built. Explosion has been organized and prepared by "Korporaciya soyuzgidrospetsstroy" JSC (Russia). According to experts explosion occurred as planned, the dam fell in the right direction.

The volume of power generation at Kambarata-2 will be 360 MW

The Minister of Energy, Ilyas Davydov, said that the volume of power generation in Kambarata-2 will be 360 MW, which will supply 3 hydroaggregates, one of which is to be launched in May-June 2010. Pursuant to Ilyas Davydov electricity will be supplied through the distribution network of Toktogul HPP to the south part of the country providing light and warmth almost to the entire region.

The first hydro aggregate at Kambarata-2 will be put into operation in May 2010

Kyrgyzstan puts into operation the first hydro aggregate Kambarata-2 in May 2010. According to Albert Abazbekov, the General Director of Naryngidrostroya", introduction of the first hydro aggregate will substantially facilitate the introduction of the second and third phases of the energy potential of Kambarata-2.

State Agency of antitrust regulation

under the Government of the Kyrgyz Republic will regulate the monopolies of electric and thermal energy sectors

In connection with the reforms of public administration the State Agency of antitrust regulation under the Government of KR ("State Agency") has become the only body in charge of antitrust regulation. The powers of State Agency include antitrust regulation of industries such as electricity and heat. Previously, the power of antitrust regulation of these sectors was with the Department for fuel and energy regulation under the Ministry of Energy of KR.

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