

April 2021

LEGISLATIVE CHANGES AFFECTING ENERGY TRADING IN HUNGARY AND THE REGULATOR'S INTERPRETATION

About the changes in brief

On 25 February 2021, important changes were introduced in the Hungarian legal system. The changes have a noticeable impact on energy trading.¹ The core amendments include the following:

Entry into force	Subject
1 March 2021	<p><u>The category of "limited power trading license" was deleted from the Hungarian Electricity Act.</u> It means that from 1 March 2021, only full-scale licenses can be obtained, with less stringent conditions if a trader does not supply end-users.</p> <p>Despite this change in power trading, no amendments have been adopted to the limited natural gas trading licenses, which means they are and will be available in the future.</p>
28 March 2021	<p><u>The statutory regulatory fee of energy traders has been increased from 0.075% of the net turnover of the previous year to 0.085%.</u></p> <p>The amendment declares that the rules of calculating the statutory regulatory fee for 2021 are applicable with the condition that the fee payable after the period between 1 January 2021 and 31 March 2021, and the fee payable after the period following 1 April 2021 shall be calculated <i>pro rata temporis</i> pursuant to the prevailing rules that are in force during the given period. Therefore, when calculating the supervisory fee, energy traders must apply the 0.075% rate for the period which lasted until 31 March 2021, and the new 0.085% rate is applicable for the rest of the year, i.e. for the period between 1 April 2021 and 31 December 2021.</p>

We have been constantly monitoring these issues given that important questions remained unanswered. On the one hand, it has been unclear what will happen to the existing limited power trading licenses, i.e. whether a) they will be converted automatically by the Hungarian Energy and Public Utility Regulatory Authority ("HEPURA", in Hungarian: *Magyar Energetikai és Közműszabályozási Hivatal* or *MEKH*), similar to how it occurred with the e-mobility licenses a few months ago, or b) the traders will have to apply for a new license and go through an entire licensing process.

¹ Act No. II of 2021 in Official Gazette No. 30/2021.

On the other hand, it has been ambiguous how the new 0.085% rate will affect the fees payable in 2021, especially for the first and second quarter of the year, given that these had to be determined by 31 January and paid by 1 March 2021. Therefore, the difference between the new rate (applicable partially for Q1 and Q2 as well) and the already paid amounts would need to be debited somewhere.

We have been trying to resolve these issues, however, no executive regulations or HEPURA interpretations have been adopted up until today. Now, we can provide an update.

Official interpretation of the HEPURA

In the afternoon of 9 April 2021, we received an official statement from the HEPURA making it clear that the authority interprets the above changes as follows:

1. The difference between the already paid amounts of the 2021 Q1 and Q2 fees and the fee payable due to the increased rate for the same period will be debited on the 2021 Q3 and Q4 amounts payable until 30 June 2021. It means energy traders must anticipate that besides the general 0.085% rate applicable for the second half of the year, they will also be required to compensate for the difference calculated for the first half of the year due to the new legislation.
2. The already existing limited power trading licenses, i.e. those that have been obtained until 1 March 2021, are not affected by the amendments. These licenses will remain in force without any change, and the license holders can further continue their licensed activity. They are not required to adopt a business code, nor to set-up a customer service center.

Conclusion

Taking into account the above, it is now clear that the difference in the statutory regulatory fee missing from the first and second quarter of 2021 will have to be paid in the second half of the year, as well as that the existing limited power trading licenses are not affected by the changes.

The HEPURA is open for further cooperation given that some parts of the amendment seem to be discriminatory against Hungarian domestic energy traders. For example, the amendment gives an exemption for the foreign energy traders from some reporting and customer cut-off related obligations, irrespective of whether they supply end-users or not. This might be a legislative mistake and the provisions might be limited for wholesale energy trading in the future. Furthermore, it will be interesting to see whether these changes about the limited licenses will be transplanted into the Hungarian Gas Act, which was one of our focal points when talking with the authority.

We will continuously observe the pertinent processes and discuss the topics at the relevant forums and inform you as soon as there is an update.

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