

Update on the regulation of the Moroccan electricity sector

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As host of the upcoming COP22, Morocco has been pursuing the liberalisation of its energy sector. On 4 May 2016, Morocco's House of Counsellors adopted the law No.48-15 (the "**Law**") in order to regulate the electricity sector by establishing a National Authority for the Regulation of the Electricity Sector (*Autorité Nationale de Régulation du secteur de l'Electricité*, "**ANRE**"). The Law has been enacted by the Dahir No.1.60.60 dated 24 May 2016 and published in the Official Gazette dated 9 June 2016.

The electricity market in Morocco is mature and, as such, a regulating authority was needed to ensure fair competitiveness, continuity of service and compliance by the electricity operators with regulatory requirements.

Morocco is pursuing the liberalisation of the energy sector triggered by the law No.13-09 followed by the law No.58-13, which granted the possibility for private operators to develop electricity production projects from renewable sources and to commercialise the produced electricity through access rights to "very high voltage", "high voltage", and "medium voltage" electric networks.

As highlighted by the Minister of Energy, Mining, Water and the Environment, Mr. Abdelkader Amara, in his introductory remarks, the Law's objective is to enhance the attractiveness of renewable energy sector through the creation of a regulation authority and the implementation of the principles necessary for such regulation.

Main Principles

Articles 2 to 16 of the Law supplements the principles that are already set by laws No.13-09 and No.58-13 by setting out mandatory obligations and responsibilities for the national electricity transport network's (*Réseau Electrique National de Transport*, the "**NET Network**") operator. The National Office for Electricity and Drinking Water (*Office National de l'Electricité et de l'Eau Potable*, "**ONEE**") is the sole operator of the NET Network until its management is transferred to a different entity created for this specific purpose.

The principles and obligations underline the importance of the right of access to the grid (Chapter 4 of the Law).

Entry into force

Article 59 of the Law contains provisions relating to dates of entry into force of the Law's provisions as well as certain stated principles:

- any provisions relating to the creation of ANRE are effective starting from the publication of the Law, which is 9 June 2016; and
- provisions that relate to the functioning of ANRE and its attributions will be effective 6 months after the effective beginning of its operation (not set yet).

Creation of the National Authority for the Regulation of the Electricity Sector

ANRE will have the status of an administrative independent authority with financial autonomy. The nature of its resources is detailed under Article 39 of the Law.

Regulatory attributions

As stated under Article 18 of the Law, ANRE will have many regulatory attributions, among which the main attributions are **(i)** the fixation of the usage tariff of the national electric transport network and the usage tariffs of the medium voltage electric networks of distribution, **(ii)** the approval of the plurennial programme of investments of the NET Network's operator as well as the monitoring of such a programme, and **(iii)** the approval of the NET Network's code.

Consultative attributions

Article 19 of the Law provides that ANRE will also have consultative attributions regarding any law, draft law, or regulatory provisions related to the electricity sector.

It will be consulted by the government, take initiative to make comments or propose the texts itself, and make any studies related to the electricity sector and publish such studies for informational purposes.

Supervisory, dispute resolution and sanction attributions

ANRE will have supervisory power over the operators under its tutelage and the Law provided means for such power to be effective.

Article 20 of the Law allows ANRE to make injunctions against any operator that is submitted to its authority to produce any document or information it deems relevant to its control. Article 21 allows it to operate "on-the-spot" and desk checks to ensure the compliance by the operators with the legislative and regulatory provisions they are subject to.

ANRE has a competent committee which has jurisdiction according to Article 30 to solve any disputes between the NET Network's operator and any user of such network or between an electricity distribution network operator and a user of the medium voltage electric networks for distribution.

The same committee can impose sanctions in the instances listed under Article 36 of the Law. Such sanctions are pronounced by the President of ANRE in accordance with the prior opinion issued the committee.

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