

# Infrastructure & Energy Europe – Regulatory Compass

Selected regulatory developments in European energy and infrastructure

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## White & Case insights and publications

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We are pleased to introduce the inaugural edition of our White & Case Energy & Infrastructure Regulatory Update. This newsletter provides you with timely insights on key regulatory developments across Europe, as well as highlights of recent publications from our team. Our aim is to keep you informed of the latest trends, challenges and opportunities in the energy and infrastructure sectors – helping you anticipate changes, navigate complex regulations and make informed decisions for your business.

## Recent Energy & Infrastructure regulatory developments at a glance

### Spain – New regulatory framework governing remuneration for electricity networks

The CNMC has approved new Circulars establishing the remuneration framework for electricity transmission and distribution activities for the 2026 – 2031 regulatory period. Most importantly:

- **Methodology for the Remuneration of Electricity Distribution (Circular 8/2025):** Establishes a TOTEX-based remuneration model, incorporating incentives for efficiency and quality of supply. Its adoption generated significant debate, having been approved notwithstanding objections classified as essential by the Council of State. The shift from a CAPEX-only approach integrates operational expenditure into the regulated cost base, with the aim of creating stronger incentives for network operators to pursue efficiency gains across their full cost structure.
- **Financial Remuneration Rate (Circular 9/2025):** Sets a nominal post-tax WACC of 4.94 per cent. and a financial remuneration rate of 6.58 per cent. for electricity transmission, system operation and distribution activities.

Companies and investors operating in or financing regulated electricity networks should factor the new TOTEX framework and financial remuneration rate into their financial models and asset valuations. The mid-period recalibration mechanisms recommend careful monitoring throughout the period.

### Spain – Reform of gas transport and distribution remuneration in Spain

The CNMC is updating Spain's natural gas remuneration framework to adapt regulated revenues for transport and distribution networks to a changing market. The reform is intended to better align tariffs and remuneration with a business environment marked by lower gas demand, the gradual decarbonisation of the energy system, and the expected growth of renewable and low-carbon gases such as biomethane.

For investors, the key issue is not only the level of remuneration, but also the new way it is likely to be calculated. Future returns are likely to depend more closely on updated demand forecasts, the economic value of existing assets, and the regulatory treatment of new investments. In other words, the CNMC seems to be moving toward a framework that should be more closely linked to the actual use and future role of the gas grid.

The reform is also important from a visibility standpoint. The new methodology is expected to set the basis for the 2027 – 2032 regulatory period, so it will be a central reference point for assessing cash flow, profitability and investment incentives across the gas network.

### Germany – Major changes in network regulation

The German energy regulator (the Bundesnetzagentur) will comprehensively amend the legal framework for regulated networks in the power and gas sectors. Following an ECJ ruling of 2021, which strengthened the

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Bundesnetzagentur's independency, the regulator published its so-called "NEST decisions" in December 2025. The NEST decisions revise the incentive regulation and revenue cap regulation of network operators, e.g. by shortening the regulatory periods from five to three years and introducing a WACC model to determine the allowed cost of capital. The NEST decisions are applicable from the fifth regulatory period onwards, starting in 2028 for the gas sector and in 2029 for the electricity sector. The shortening of the regulatory periods only applies from the sixth regulatory period onwards.

In addition, the Bundesnetzagentur initiated the so-called "AgNes process", which is going to determine how allowed costs under NEST decisions are distributed among network users. In particular, the regulator aims to introduce network tariffs for the feed-in of electricity and setting special network tariffs for BESS, which are currently exempted until 2029.

The Ministry of Economic Affairs and Energy ("BMWE") drafted a new legislative "Network Package". It aims in particular to update the rules for network connection in view of scarce connection capacities as a result of renewables expansion, which will affect renewables generation, BESS and data centre projects. The BMWE intends to abolish the "first-come, first-served" approach for network connection requests in favour of more flexible prioritisation schemes to be applied by network operators. In this context, we also note that just recently, the four German onshore TSOs have published a new "first-ready, first-served" allocation procedure (*Reifegradverfahren*) designed to prioritise projects with a high probability of realisation. For BESS specifically, the Network Package aims to facilitate so-called "grid-neutral storage" in co-location. Where a BESS is installed at the same network connection point without increasing the existing maximum capacity, the network operator may then not refuse connection by reference to existing or anticipated capacity constraints. The draft is not official yet.

## **UK – Transmission Connection Queue Reform – Delays and Uncertainty Continue**

The process to rationalise and reorder the transmission connection queue in mainland Great Britain continues but has been subject to further delays and uncertainty. The National Energy System Operator ("NESO"), the electricity transmission operator, is implementing the reform process to remove so-called "zombie projects" (projects with no realistic hope of being completed) and introduce a new gated application process for transmission connections. Replacing the previous "first-come, first-served" system, the new gated process will introduce application windows and will require applicants to satisfy "needed" and "ready" criteria before they can proceed to a firm connection offer (a Gate 2 offer). A project which does not yet meet the criteria will receive a Gate 1 Offer, which will be provisional and unconfirmed.

As part of the implementation of these reforms, the existing connection queue has had to be reordered, in a process known as "Gate 2 to Whole Queue" ("G2TWQ"). G2TWQ started early in 2025 and involved the suspension of the connection process for all projects that were waiting for connection. Each holder of a connection offer had the option to make an application for a Gate 2 offer during the spring and summer of last year and the original plan was for Gate 2 Offers (setting out confirmed connection dates, location and capacity) to be issued to successful applicants from December 2025 onwards.

In January this year, NESO announced that it was suspending its previously published timeline and has recently re-issued the timeline for the issue of Gate 2 Offers. These offers will be issued by expected connection date, with the final transmission Gate 2 Offers (for connection dates after 2030) issued September 26 to January 2027 (a delay of around six months).

Further, Ofgem has recently published a letter admonishing NESO for its failure to maintain connection dates for so-called "protected offers". Protected offers are offers which are high priority and previously had a connection date in 2026 or 2027. NESO issued confirmations of protected status to qualifying projects last year, stating that their connection dates would remain in 2026/2027. According to the Ofgem letter, approximately two-thirds of protected projects have been told that their connection date may not be protected after all.

The letter from Ofgem was issued in response to a request from NESO for relief from its licence obligations. The request was denied, and as yet we do not have any further feedback from NESO or Ofgem. The potential delay to protected dates poses potentially significant issues for projects which have committed to contractual

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obligations on the basis of those protected dates, and the market in general is considering its options going forward.

## Italy – Update on Infrastructure and Energy Regulation

### Update on Energy / Energy-transition

- **Renewable Energy Communities (“CER”):** The CER Decree, issued by the Ministry of Energy and Environment, effective 24 January 2024, intended to stimulate the establishment and development of Renewable Energy Communities as well as self-consumption in Italy. The Decree offers a direct grant of up to 40 per cent. of eligible costs, available to communities whose plants are built in municipalities with fewer than 5,000 inhabitants. It is expected to support the development of a total of two Gigawatts. The Decree also offers an incentive tariff for renewable energy that is produced and shared. The two benefits can be combined. mixes upfront CAPEX support with a premium on shared energy. Overall, the measure is expected to facilitate the development of around five gigawatts of new renewable energy capacity. In practice: neighbourhood projects close their financing, municipalities become conveners, and banks get a scalable playbook. This scheme was approved by the European Commission under the Guidelines on State aid for climate, environmental protection and energy (case SA.106777).
- **Renewables Push via FER-X:** A new wave of tender is about to kick off following the EU Commission’s green light under the TCTF (case SA.115179). The FER-X Transitory Decree of the Ministry of Energy and Environment, which was in force until December 2025, supported the realisation of renewable energy plants such as photovoltaic, solar and wind power with generation costs close to market competitiveness. For sponsors and lenders, this means clearer price visibility, lower regulatory risk and a fast lane for permit-ready assets. The final FER-X Decree is expected in the coming months.
- **“Green” Antitrust Enforcement on 29 July 2025:** The Antitrust Authority found a margin squeeze between charge-point operators and mobility service providers (Enel X), conduct which was detrimental to both competition and the energy transition. Also in connection with the energy industry, the Authority challenged excessive tariffs in some city networks. Local natural monopolies must justify pricing formulas and transparency, with potential re-benchmarks and commitments. Last but not least, concentrations in the energy sector have been closely scrutinised and deals such as Italgas/2i Rete Gas and Hera/Aimag were cleared with remedies.
- **REMIT and market conduct:** The Italian Energy Regulation Authority (ARERA) opened a proceeding on suspected capacity withholding against A2A, one of the main energy distributors in Italy on 25 July 2025. Generators should tighten bid governance, dispatch logic and evidencing of marginal costs.
- **Reduction of gas and electricity costs:** On February 21, 2026, a law aimed at reducing the cost of electricity and gas for households and businesses entered into force. For 2026 and 2027, electricity suppliers *may* grant their low-income residential customers a contribution to cover the cost of energy, in the form of a discount on the bill. Although the scheme is formally voluntary, it creates a significant reputational incentive: participating suppliers receive a specific certificate that can be used for commercial purposes, and ARERA publishes and monitors the list of such suppliers on its institutional portal for the period 2026–2027. The cost of the contribution is not reimbursed by the State and remains the responsibility of the supplier. Additionally, a 2% tax increase is imposed on electricity and gas supply companies for 2026 and 2027. To encourage long-term contracting of energy from renewable sources by companies, including SMEs, an existing platform will include a dedicated demand-side section for contracts with a duration of at least three years, under which guarantees may be issued by SACE S.p.A. (an insurance/finance group directly controlled by the Ministry of Economy and Finance) to minimise and transfer risk for the contracting parties, up to a maximum of €250 million for 2026. The Power Purchase Agreement (PPA) framework offers selling companies new commercial opportunities but requires standardised contractual structures, demand aggregation capabilities and the management of counterparty risk over multi-year periods. However, the cap on the available guarantees could prove insufficient in the event of widespread uptake by SMEs.

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## Update on Transports / Infrastructures

- Rail – access charges. In December 2024, the Authority for Transport Regulation (“ART”) defined the 2025 – 2029 tariff framework for railway infrastructure with a quality bonus/penalty. The direct addressee of this decision is the National Railway Infrastructure Operator (Rete Ferroviaria Italiana, “RFI”); however, this tariff system will indirectly benefit railway operators, not only the vertically integrated national operator Trenitalia but also third parties. The Italian high-speed railway market was the first to open to private operators with the entrance of NTV already in 2012. Now, Trenitalia and NTV are in fierce competition and a third operator (the French SNCF) will soon join in 2026.
- Rail – competition. The Italian Competition Authority is probing RFI on potential obstacles to a new high-speed entrant (the French SNCF), abusing its monopoly position and favouring its vertically integrated Trenitalia. Translation: slots, capacity and station access rules are in the spotlight, with implications for market regulation and fair competition. On 3 March 2026, The Italian Competition Authority (“AGCM”) made binding the commitments offered by Rete Ferroviaria Italiana (“RFI”) in proceedings concerning alleged abuse of a dominant position under Article 102 TFEU, which focused on RFI’s capacity allocation practices on the high-speed rail network that were deemed potentially capable of blocking access to new operators. The approved commitments require RFI to guarantee a new market entrant a minimum of 18 hourly slots on key high-speed routes for ten years, to update its Network Statement in line with European competition principles, and to adopt transitional rules prioritising the allocation of available capacity to new and future entrants, with the overall aim of making the high-speed passenger rail market more open, fair, and competitive.
- Airports – charge oversight. Fiumicino and Palermo airport fee plans have been re-checked under the latest models. Expect tighter discipline on investment plans, quality metrics and airline consultations.
- Ports – antitrust scrutiny: A transaction in the Port of Genoa was “called-in” (meaning it was below the threshold for notification) by the Italian Competition Authority and later partly overturned in court. In the first instance, the judgment was upheld by the Council of State by a judgment dated 30 December 2025.
- The vertical links and bargaining power of major liners are being closely scrutinised. The White & Case Milan Antitrust Team actively advises Italian ports and terminal operators.

Electronic tolling – opening the market. The Italian Competition Authority made binding commitments on 28 June 2023 to open electronic toll (“telepedaggio”) to multiple providers: non-discriminatory access, technical upgrades and user information. Expect competition on services and data portability for fleets and consumers.

## France – Update on Infrastructure and Energy Regulation

### France – Hydropower reform

France is moving to replace the historic concession regime for large hydropower assets above 4.5 MW with a new authorization-based regime, following an August 2025 agreement in principle with the European Commission.

The bill provides for the termination of existing concession contracts, while keeping the assets in State ownership and granting current operators 70-year real rights over the facilities. It also requires at least 40% of France’s installed hydropower capacity to be made available to EDF’s competitors, with EDF to offer 6 GW of “virtual hydropower” for the first ten years under regulatory oversight.

Procedurally, the text was adopted by the National Assembly on 5 February 2026, amended by the Senate committee on 1 April 2026, and is due in Senate plenary on 13 April 2026; entry into force is expected by decree, and in any event no later than 1 September 2026.

### France – PPE 3 sets France’s 2026-2035 energy roadmap

France’s third Multiannual Energy Program (“PPE 3”), published on 13 February 2026, sets the core planning framework for the next decade. It targets a shift from roughly 60% fossil fuel energy in final consumption in 2023 to around 60% low-carbon energy by 2030, while decarbonized electricity production is expected to rise to 650-693 TWh by 2035. The 2035 installed-capacity targets are 55-80 GW for solar, 35-40 GW for onshore

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wind, 15 GW for offshore wind, and 28.7 GW for hydropower; for nuclear, the central scenario is 380 TWh, with a higher-case target above 420 TWh.

PPE 3 therefore confirms a strongly electrification-led strategy, combining renewable build-out with a reinforced nuclear backbone.

### **France – New renewable tenders: move from targets to procurement**

On 2 April 2026, the French government launched a 12 GW renewables package under PPE 3: seven offshore wind projects totaling 10 GW, plus 1.2 GW of solar and 0.8 GW of onshore wind. PPE 3 already mapped the underlying tender architecture: offshore wind AO9, originally planned for summer 2026 for 1.5 GW, and AO10, originally planned for end-2026 for roughly 8-10 GW across several maritime façades, have been merged in a single procedure. The government also said the new tenders will integrate resilience, sustainability and cybersecurity criteria designed to strengthen European supply chains.

### **France – Draft framework transport bill**

The draft, introduced on 11 February 2026, would introduce transport programming laws lasting at least ten years, redirect around €2.5 billion per year from motorway concessions from 2032 into wider transport investment, and add €1.5 billion per year for rail network regeneration and modernisation, bringing annual rail effort to €4.5 billion. The bill also includes procedural simplification for major transport projects, including earlier assessment of the “reason of overriding public interest” in order to reduce late-stage litigation risk.

## **White & Case insights and publications** (a selection of recent White & Case publications on European Energy & Infrastructure regulation)

### **Regulating space: a closer look at the proposed EU Space Act – 26 March 2026**

Authors: *Petr Polášek, Sara Nordin, William De Catelle, Mats Cuvelier, Antonio Fuentes Máiquez*

[Link to the full Alert](#)

### **EU State aid reform continues in the energy sector: Spotlight on the proposed new General Block Exemption Regulation – 20 March 2026**

Authors: *Mark Powell, Christoph Arhold, William De Catelle, Claire Turgot, Peter Citron*

[Link to the full Alert](#)

### **EU proposes Industrial Accelerator Act, implementing “Made in EU” strategy – 13 March 2026**

Authors: *Sara Nordin, Erasmus Hoffmann, William De Catelle, Mats Cuvelier, Franziska Weires*

[Link to the full Alert](#)

### **Battery energy storage systems – the changing regulatory framework in Germany – 10 March 2026**

Authors: *Thomas Burmeister, Dr. Gustav Ollinger, Erasmus Hoffmann, Dr. Petra Iffert, Dr. Karen Sievert, Dr. Nicole Krellmann*

[Link to the full Alert](#)

### **Simplified, not abandoned: EU Corporate Sustainability after the Omnibus I Package – 06 March 2026**

Authors: *Genevra Forwood, Clare Connellan, Sara Nordin, Dr. Julia Sitter, Stephen Shergold, Erasmus Hoffmann, Anna Burghardt-Kaufmann, William De Catelle, Antonio Fuentes Máiquez*

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### **AI Watch: Global regulatory tracker**

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