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Legal issues of investment conditions in cross-border electricity supply

Summary

The article constitutes an analysis of the legal aspects of certain investments in the electricity infrastructure of Poland and the European Union. It identifies the need for investments in a particular type of cross-border infrastructure that connects individual EU Member States. These “interconnectors enable the exchange of energy between connected countries and allow the creation of a common energy market in the European Union. From the legal point of view there are two types of interconnectors – regulated interconnectors, which are built by energy companies that are obliged to build them, like for example transmission system operators, and commercial interconnectors that are built by private entrepreneurs. Both types of interconnectors are characterized by specific legal regulations arising from European Union as well as Polish energy law. In addition, cross-border infrastructure investments are associated with particular types of investment conditions and risk. The specific conditions and the risk and also the investment motivation are associated with a particular type of interconnector, even though the stages of the decision-making process are similar in both types of interconnectors. The paper ends with a European model for creating a common energy market which assumes the sustainable development of the regulated interconnectors together with the incentives encouraging investment in commercial interconnectors. In this regard the article sets out the legal and practical solutions adopted in Poland which contribute to the unsatisfactory development of interconnectors in the Polish energy sector.

Keywords: infrastructure investments – cross-border electricity exchange – merchant interconnector – regulated interconnector