INTERVIEW WITH WALTER BOLTZ, CHAIR OF THE AUSTRIAN ENERGY REGULATORY AUTHORITY

Market integration: An uphill struggle

By Dafydd ab Iago in Athens

Following the entry into force of the third legislative package of liberalisation measures in the field of energy in early September, European energy regulators have a charged agenda. At the World Forum on Energy Regulation, Europolitics *interviewed Walter Boltz, chair of the Austrian regulator E-Control, on the progress of the gas sector towards an open market. Boltz also heads up the Gas Working Group of the Council of European Energy Regulators (CEER).*

Do you now have the legal tools to do your job?

The third package allows for a system of harmonised framework rules across Europe established by the Agency for the Cooperation of Energy Regulators (ACER), the European Commission and the comitology procedure. The procedures may not be as fast or simple as we wished, but they should be effective. We will see if results can be achieved faster by getting TSOs [transmission system operators] to agree without the need to formally establish rules by the comitology procedure.

With the third package, though, we can, for example, override conflicting national rules established by TSOs. There are many such rules. One example is the German gas market that disallows auctions if the price is too high.

How open are European gas markets? How much work do you have ahead?

At times, it can seem like a difficult task. Traditionally, gas industry and producers had a tacit agreement to treat countries as separate markets. This decided the price, producers offered specific buyers minus transportation prices. Everybody in the gas field had a key interest in keeping markets separate so as to maintain end prices. This only started to change after the EU intervened against so-called destination clauses.

But the EU now forbids these destination clauses, prohibiting European companies from reselling outside the recipient country.

Many gas companies are motivated to behave as if destination clauses still existed. They normally only sell in their territory. There may also be other special systems. ENI, for instance, was in the past prohibited from selling gas contractually in Austria. Now they do not contractually own gas passing from Russia through Austria. It's not by chance that ENI now faces a case brought by DG COMP for foreclosure. ENI does not appear to have any interest whatsoever in importing additional gas into Italy as this would push down their prices. There are other similar arrangements across Europe.

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Boltz: Greater harmonisation at EU level will take time

How much of a concern is infrastructure for you as regulators?

Gas infrastructure was generally built with the purpose of delivering gas to the specific country from the source, whether Algeria, Norway or Russia. The infrastructure was not built to be flexible to allow switching from one country to another. Gas companies have not been very keen to build the infrastructure necessary for this purpose. This has resulted in a major barrier for market integration.

There is also the issue of congestion management. Many pipelines are only contractually congested. In reality, only 70% of capacity is being used. Some companies prefer to pay not to use capacity in order to prevent others from using that capacity and thereby reducing prices. As European regulators, we are proposing a set of rules to make it easier to use the physical capacity.

Where is market integration most advanced in Europe?

Market integration has more readily occurred in Northern Europe. Competing sources of gas, from Norway, Russia and the UK, has resulted in more competition and market integration. The further you move away from this region, the less integration you see. In the past five or so years, almost no significant cross-border infrastructure has been built. TSOs are not very motivated and appear keen to ensure that there is no excess capacity.

Regulators are criticised for concentrating on market issues. What about customers?

Liberalisation of markets for retail customers only took place in 2007, whilst the markets for large customers have been open since 2002. You must also realise that wholesale markets influence prices for retail customers. The third package is proving an important tool with its many customer-friendly provisions, such as those for vulnerable customers or the shorter period to change suppliers. We have been working hard on these issues for the past year. We were very active in London at the retail forum on energy issues. It will, though, take time before there is greater harmonisation at EU level.

Better functioning EU markets is one side of the coin. What about reciprocity, in particular concerning Gazprom?

This is not just a question of Russia, but also other countries, including Algeria. The third package foresees the possibility of examining the reciprocity of potential investments from vertically integrated companies from third countries. When TSO certification occurs - and for the third-country clause this will be from 2013 - Gazprom will have to comply with the same rules as others as regards unbundling. Gazprom will not be handled in a discriminatory way. If we force European companies to comply, then non-European companies should comply as well. ■