

EEX Position Paper on the Energy Sector Inquiry

I. Introduction

1. On February 16th, 2006, the European Commission (DG Competition and DG Environment) presented the preliminary findings of the energy sector inquiry and launched a public consultation on the issue.
2. The European Energy Exchange (EEX) welcomes the Commission's move to discuss the issues of *price formation*, *transparency* and *market integration* in part "C. Electricity" of the sector inquiry and to bring them to the forefront of the political debate. They were especially stressed by Neelie Kroes, Commissioner for Competition, in her opening speech on February 16th.

This document presents EEX's views on the findings concerning these issues. Due to the fact that the sector inquiry addresses further significant points, which have to be discussed, we want to express our interest in a continuing active and open discussion.

3. Numbers and pagination in brackets take reference to the relevant points in the sector inquiry.

II. Numbers and Figures

4. It is important to emphasize that the energy markets under consideration are highly dynamic. Numbers and figures given in the energy sector inquiry might be outdated today and not reflect the current situation properly. If latest data is required, EEX is more than happy to provide it.

III. Price Formation

5. (366) EEX is de facto and de jure an independent exchange. Prices are the result of supply and demand (*bid and offer*) and subject to thorough state supervision. EEX has a range of participants which include utilities, municipal suppliers, industrial corporations, large consumers, financial service providers and trading companies.
6. (Table 18, 19) At EEX market participants that are not based in Germany represent more than 50% of all participants. On the Spot Market non-German companies (EnBW and Vattenfall being counted as German) generate about 40% of the trading volume. 139 participants from 17 countries trading at EEX do represent a broad market opinion.
7. (367): Under this point the sector inquiry cites an anonymous customer, that in his view "forward and futures prices at EEX do not react to supply and demand..."

First of all, we think that it is not appropriate that in an inquiry which gives a basis for further (objective) assessment an anonymous source is given the possibility to issue such strong and unproven isolated criticisms, even if it is just for illustration purposes. Consequence of this could be that an opinion of a single and anonymous person will be treated as a fact.

We solicit you – as we did already in reaction to the sector inquiry issue paper – that this citation is not published again, or that the name of the person and the company it stands for is revealed.

Secondly, in order to have an unbiased reflection of the facts in your paper, we want to state that, as a regulated exchange subject to the German Exchange Act, EEX is obliged to admit any company to its market that fulfils the admission requirements. Therefore, whoever is convinced that the prices are not correct is free to take advantage from a supposed price differential through arbitrage trades. This again would lead to equilibrium and a correction of the prices.

8. (p.134) In part II.2. of the sector inquiry the conclusion is drawn that *“customers have little trust in the functioning of wholesale markets”* and that *“they suspect market manipulation on the spot and forward market by large generators to be the main reasons for recent price increases”* can not be asserted by EEX. In fact 2005 more than 100 sellers were active in the EEX Spot Market. Further the current open interest (open short and long positions) on the Derivatives Market of more than 200 TWh, worth about 13 Billion Euro, shows the great confidence participants have into the EEX.

Further you can say that there is no other market in Europe which is under better surveillance. The rules and regulations of EEX, approved by the Exchange Council, are public, and compliance with these rules is monitored by the Market Surveillance Office and the Ministry of Economic Affairs and Labour of Saxony. The German Financial Supervisory Authority, BaFin, monitors the behaviour of market participants in accordance with the German Securities Trading Act (WpHG), as does the Federal Cartel Office on several occasions.

The Exchange Council as an official exchange body is elected every three years among all 139 companies that are admitted to EEX.

9. (Figure 41, 42; table 16, p.111): The final trade volume at EEX Spot Market (86 TWh) as percentage of national consumption was about 17 % in 2005.
10. (357) It has to be taken into consideration that great volumes of electricity are bound by long term bilateral contracts when calculating EEX Spot Market share. In this context, probably more than 75% of the remaining free daily available electricity is traded via EEX.
11. (Table 17) For clarification, although this comparison is difficult to draw due the nature of derivatives, the volume of the EEX Derivatives Market as percentage of national consumption in 2005 was about 98% (2005: 517 TWh were traded at EEX Derivatives Market and the national consumption was about 527 TWh).
12. (354) This volume is achieved without any kind of political incentive to trade via the exchange. There is no clause in German law which states directly or indirectly that electricity has to be or should be traded via EEX.

IV. Transparency

(Please find attached an overview of the information EEX is currently publishing.)

13. (516) The issue of transparency, which is discussed in the sector inquiry, is of special importance to EEX. We share the opinion that transparency is essential for electricity markets to develop and we support the creation of a common set of market information in Europe to ensure that all market participants have the same information at their disposal. That is why we systematically follow the path of providing more transparency.
14. (515-535, Annex H) The latest development in this field we can announce is, that since April 10th EEX displays on its homepage data on generation provided by EnBW, E.ON, RWE and Vattenfall. Herewith generators continue consequently the process of strengthening confidence in the market which has been initiated by EEX since its formation and which is actively pushed by EEX. We are confident that in the future more generators will join this initiative.

The edited data contains:

- Sum of the installed electric net-capacity aggregated for each energy source
 - The available capacity aggregated for the next day and the following 364 days
 - Effective net electricity generation per hour of the seven previous days.
15. (539) EEX recently made significant steps in its own area of responsibility towards more transparency. Under www.eex.de, the interested public has now access to the aggregated bidding curves of the hourly auctions for electricity.

New is that EEX issues detailed information regarding market making, such as quotation obligations and current quotations. Further information on fast market situations is provided.
 16. (535) In general terms we want to point out that EEX is independent from market participants. It has not a direct commercial interest in the markets it operates and therefore can gain no advantage in withholding information.
 17. (540) As stated above, activities at the Exchange are monitored internally and subject to state supervision.
 18. (520) EEX agrees with the European Regulatory Group for Electricity and Gas (ERGEG)¹ that "information should generally be made available to market participants, unless there is a clear reason against it [...] or a proven fact that the cost of providing the information is significantly higher than the expected benefits".

¹ On March 15th, 2006, ERGEG published Guidelines for Good Practice on Information Management and Transparency in Electricity Markets and launched a public consultation on the issue.

V. Market Integration

19. (317-319): Concerning congestion management, EEX welcomes the efforts which are currently made to amend the Guidelines in this field.
20. (318) Together with the German Regulator, EEX actively supports the working group "*congestion management*" in order to develop a proper set up of market coupling around Germany. In fact, it was EEX who introduced the *Open Market Coupling* concept which is basis of this working group.