



E-CONTROL

**National Report 2012
to the
European Commission
AUSTRIA**

*Summary of
the major developments in 2011*

2 August 2012



1 Major developments in 2011

1.1 Legal basis and regulatory framework

E-Control Act

The E-Control Act¹ came into force at the same time as the Electricity Act 2010², replacing the previous Energy Regulatory Authorities Act³ released in 2000. It was first amended⁴ when the Natural Gas Act 2011⁵ was issued. The necessity for a new legal regulatory basis was largely created by EU policy developments: both the third Electricity Directive⁶ and the third Gas Directive⁷ provide that there can only be **one** national regulatory authority per member state. In Austria, however, there had been two: E-Control GmbH and the E-Control Commission.

This situation has been amended, and *Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft* (E-Control) is now the only national regulatory authority. It takes the form of a public authority with three bodies: Executive Board, Regulation Commission and Supervisory Board. This new structure is in line with the stipulations on independence contained in the third package.

¹ Bundesgesetz über die Regulierungsbehörde in der Elektrizitäts- und Erdgaswirtschaft (Energie-Control-Gesetz [E-Control Act]), Federal Law Gazette (FLG) I no 110/2010.

² Bundesgesetz, mit dem die Organisation auf dem Gebiet der Elektrizitätswirtschaft neu geregelt wird (Federal Act providing new rules for the organisation of the electricity sector) (Elektrizitätswirtschafts- und -organisationsgesetz [Electricity Act] 2010), FLG I no 110/2010.

³ Bundesgesetz über die Aufgaben der Regulierungsbehörden im Elektrizitätsbereich und die Errichtung der Elektrizitäts-Control GmbH und der Elektrizitäts-Control Kommission (Energie-Regulierungsbehördengesetz [Energy Regulatory Authorities Act]), FLG I no 121/2000.

⁴ FLG I no 107/2011.

⁵ Bundesgesetz, mit dem Neuregelungen auf dem Gebiet der Erdgaswirtschaft erlassen werden (Federal Act providing new rules for the natural gas sector) (Gaswirtschaftsgesetz [Natural Gas Act] 2011), FLG I no 107/2011.

⁶ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC, OJ L 211, 14.8.2009, p. 55.

⁷ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, OJ L 211, 14.8.2009, p. 94.



Electricity Act 2010 and Natural Gas Act 2011

The Electricity Act 2010 entered into force on 3 March 2011, followed by the Natural Gas Act 2011 on 22 November of that same year. They align Austrian regulatory law with the third package, particularly the Electricity and Gas Directives. The Acts provide for a number of ordinances to be issued, some of which have already been released. They regulate matters such as quality standards for system operators and gas market monitoring.

Given the devolution of powers in Austria, the Electricity Act 2010 (just as the previous Electricity Acts) contains numerous constitutional and framework provisions, the latter of which had to be transposed in the federal provinces' implementing legislation by 24 June 2011. Both Acts contain major new rules on unbundling, system charges and consumer rights. In addition, the Natural Gas Act 2011 introduces a completely new market model.

New gas market model

European legislation triggered a revision of the Austrian gas market model. The Gas Regulation⁸ forbids system charges to be set on the basis of transport paths. Therefore, the previous point-to-point system is abolished and an entry-exit system introduced instead. This entails a complete reorganisation of the gas market into a model that will go live on 1 January 2013.

What are now control areas will be transformed into market areas. These comprise the systems of a variety of system operators and enable flexible use of booked capacity at predefined entry and exit points. This means that shippers will in future book entry and exit capacity rather than transport paths.

The introduction of a virtual trading point (VTP) is hoped to increase gas market liquidity. The VTP is a notional point in the market area at which natural gas can be traded within the market area after injection and before offtake. It is not a physical entry/exit point but enables natural gas buyers and sellers to purchase and sell natural gas without the need to book capacity.

To put this new model into practice, a number of new market players must be established: market area managers as the actors responsible for market

⁸ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, OJ L 2011, 14.8.2009, p. 36.



areas with transmission lines, distribution area managers as control area manager-type institutions at distribution level, and an operator for the VTP.

Legally, the detailed new rules (for system access, capacity management and balancing) are enshrined in the *Gas-Marktmodell-Verordnung* (Gas Market Model Ordinance) 2012, which was published in the Federal Law Gazette on 29 May 2012.

Electricity balancing

At the beginning of 2011, the grid area Vorarlberg - formerly a separate control area - was merged into the eastern control area. It is now overseen by APG as the only control area manager in Austria. As far as control and balancing energy are concerned, the basis for market-based procurement of secondary control to start in 2012 was laid. Balancing energy expenses decreased by € 4.3 million (m), a drop mainly due to the general low in market prices.

System charges

The 2012 *Systemnutzungsentgelteverordnung* (System Charges Ordinance) brought a small relief in terms of **electricity** system charges: they went down by 0.5% on average over all grid levels. This corresponds to savings of € 8m compared to the previous year. Overall, E-Control's regulatory activities since 2001 make for a total of € 600m which Austrian consumers did not have to pay in system charges. The downward trend in consumption of the previous years, caused by the financial and economic crisis, came to a halt and consumption recovered, thereby reducing the pressure on tariff rates. Even so, it will be very difficult to realise further reductions in system charges in the years to come; rather, the continuous need for electricity infrastructure investments will likely cause tariffs to edge upwards.

The 2011 **gas** system charges are laid down in the revised *Gas-Systemnutzungstarife-Verordnung* (2008 Gas System Charges [Amendment] Ordinance 2011). Given the development of infrastructure investment and consumption volumes in the framework of the incentive regulation regime, the 2011 system charges were 1% lower on average than the 2010 rates. Looking at the entire picture, tariffs for standard household consumers (15,000 kWh) have been brought down by more than 5% since the market was opened in October 2002.

The transmission tariffication regime introduced in 2007 foresees that the approved methodologies be reviewed every four years, and thus an assess-

ment was kicked off in 2011. And in line with the Natural Gas Act 2011, the point-to-point transmission tariffs will be transformed into entry and exit charges as of 1 January 2013.

At distribution level, preparations for the design of the incentive scheme for the next electricity and gas regulatory periods are in full swing. While it goes without saying that the principles of security of supply and efficiency continue to be of prime importance, it is also crucial that companies can rely on regulatory stability and investment security, including appropriate returns on the invested capital. The second regulatory period in gas distribution, starting in 2013, will provide continuity and stick with the company efficiency targets that were set for the first period. In electricity, the second period has almost elapsed; preparations for the third regulatory period involve detailed analyses and might cause the current model to be overturned in certain aspects.

1.2 Price trends

Wholesale prices

Electricity prices

Contradictory external influences in 2011 made for a moderate development of **spot prices** at the German and Austrian power exchange. While international energy (particularly oil) markets sent prices up, the good supply situation and ample availability of generation capacity dampened expectations in the first quarter of 2011. The upwards trend prevailed in spring, when the German moratorium on nuclear power plants caused stations to be taken offline towards the end of March. Then summer brought a price slide on the day-ahead market. By autumn, upwards and downwards trends seemed to offset each other.

Concerns of scarcity and rising prices during the first cold were soon alleviated by above-average temperatures in winter. 2011 spot prices closely tracked the forward prices for the 2011 annual contract. The mixed mood on the market kept day-ahead base prices (2011 average) almost identical to the base futures for 2011 (average of 2009-2010 trades).

In **futures** it is the traders' expectations that set the tone. Aggravated by the upwards trend on the gas market, prices rocketed when Germany announced its nuclear phase-out in 2011. This insecurity about the future of Germany's nuclear policy let upside risks explode and for a couple of days,



the German power exchange EEX recorded large quantities being sold in annual contracts.

Another strand of trading, the carbon emissions market proved a large influence on electricity futures prices as well. After peaking at the beginning of 2011, carbon prices collapsed at the end of the second quarter. It had become known that the market was glutted with certificates, and the expectation was that this situation, added to by the EU's aspirations to increase efficiency, would last at least until the end of the second phase of the EU ETS.

This, mounting recession concerns as the year progressed, and the relaxed mood on the gas market (due to the mild winter) slowed the electricity futures' upwards trend during the second half of 2011. From autumn onwards, the situation on most energy markets led to falling futures prices. The carbon emissions market was again a major factor in this: with recession looming in the minds of traders, expectations were for future demand for emission certificates to slump. Particularly in the industrial sector, 2012 will most likely see an abundance of certificates, which would bring down prices. In addition to the emissions market, the financial crisis and relatively low coal prices had their share in drawing down electricity futures prices towards the end of the year.

Over the past years, a long-term trend towards a much reduced base-peak spread has emerged. One factor in this might be the developments in generation: with PV gaining in importance, solar power covers some of the consumption peak at noon, especially during the summer months. However, the spread generally tends to be smaller in times of moderate prices than when prices are high.

Gas prices

Most Austrian natural gas suppliers still rely on long-term procurement contracts, but liquidity at European hubs has increased in 2011 and 2012 and they have developed into a serious alternative. This in turn impacts traditional procurement as wholesalers are convincing their upstream partners to factor hub gas prices into the price formation clauses in their long-term contracts.

Prices of **gas imports** to Austria again rose in 2011, showing an average year-on-year increase of 20%. This roughly reflects the price development of oil-indexed long-term contracts.

Gas prices at CEGH are influenced by the trends at NCG and PSV, with the latter usually driving CEGH prices up due to its own much higher price level.



The upheavals in Egypt and Libya had **gas spot prices** rise at the beginning of 2011, even though the main driver was the higher oil price, not increased gas demand. The earthquake in Japan was a large influence as well; expectations were that more LNG would be shipped to Japan to fuel the gas power plants that were to make up for the loss in nuclear capacity. The psychological insecurities about the Libyan and Japanese situations had hub prices going up, but they were already falling again in the second quarter. Since August 2011, spot prices have risen again, by up to 4 €/MWh, driven not by factors intrinsic to the natural gas market but rather by the financial markets crisis.⁹ This was most marked at the beginning of February 2012, when a cold wave hit Europe and upstream providers in Russia curtailed their gas supplies based on long-term contracts. During several days, CEGH spot prices exceeded those in the oil-indexed long-term contracts. But the February average reveals the latter to be more expensive. Traders drew heavily on storage, which brought spot prices down again.

In March 2011, the events in Japan caused month-ahead **futures** to fall below spot prices. The same situation occurred again in August/September. As backwardation prevailed, futures (annual contracts from TTF in 2010) were the less expensive procurement option for 2011.

The continuing spread between spot and futures prices and the long-term contracts kept pressuring Austrian wholesalers. Importing to Austria was 13% more expensive than short-term procurement at CEGH. Annual 2011 contracts (from TTF) were almost 30% cheaper than the average import price.

Retail prices

For household consumers, 2011 brought increasing **electricity prices**. When they came down in the first half of 2012, this was because the costs for the obligatory purchases of green electricity, paid by suppliers and then passed through to customers, had been lowered. Large customers, on the other hand, benefited from decreasing electricity prices in 2011.

Not so in **gas**, where both small and large consumers faced higher prices - some suppliers even upped household rates twice in 2011. When comparing with 2010, there were not only many more price increases in the year under

⁹ Following several weeks of haggling, the US Congress agreed to raise the limit on US borrowing and thereby averted the nation defaulting on its debts. When on 6 August 2011 ratings agency Standard and Poor's downgraded the USA's rating, stock exchanges crashed.

review but they were also much larger than previously, reaching 20% in some cases. In January 2011 and 2012, revised system charges came into force as well. In all, gas suppliers made more drastic changes to their prices than the electricity retailers.

1.3 Market development

Electricity market

As in the year before, there were 16 electricity suppliers that served small consumers in all of Austria (as of June 2012). When counting in those that do not supply customers everywhere, there were up to 17 suppliers per grid zone. No foreign retailer has entered Austria's small consumer market yet.

For industrial consumers individual contracts are offered by up to 12 suppliers in theory, but in practice customers usually receive about 6 offers, depending on whether they are attractive for suppliers or not. Only a small number of foreign suppliers operates in this segment, serving customers with an annual consumption of 10–20 GWh, generally on a site-specific basis.

The savings potential household customers can realise when switching electricity suppliers decreased year on year (except in the Energie Graz and Steweag Steg grid zones). Also the switching rate went down, both overall and for households only, and now rests at 1.5% (2010: 1.8%). About 1.6% of the other small consumers switched suppliers, which is a decline from the previous year also. Of all consumer groups, load-metered customers are the most active participants in the electricity market. Even so, only 4.6% of them switched suppliers in 2011 - only 2001 and 2002 showed lower rates. Looking for the causes of this resistance to switching, we find that prices had settled at a low level: the incentive to switch was weak, even in times of economic crisis.

Some Austrian market segments show a level of concentration above the thresholds for highly concentrated markets. For households and small businesses, it edged down from the previous year's score. There was some movement in terms of market shares: even though the market power still lies with the local players, alternative providers were able to draw customers with special offers for individual federal provinces or for new customers.

The past couple of years has seen many integrated companies establishing subsidiaries specialised in green power, such as Linz Öko-Energievertriebs GmbH, Salzburg Ökoenergie GmbH, Enamo Ökostrom GmbH, Naturkraft of

Energie Allianz, VKW-Ökostrom GmbH, Wels Strom Öko, and Solar Graz, a subsidiary of Energie Graz established in June 2012.

Gas market

In the gas market, there were increasing supplier numbers and a stronger interest of new players, particularly from Germany, to enter the market. They take advantage of the incumbent supplier's unfavourable situation with their traditional long-term procurement contracts, which are pricier than the gas new players can buy at hubs. There are 7 suppliers that serve household consumers in all of Austria, but on average there is a choice of 9.

End users reacted to the many marked price revisions in 2011 and there was more switching activity. Seeing that some gas retailers raised their prices even twice during that year, more consumers decided to switch, bringing the rate up to 1.1%.

Even so, the **small consumer segment** (i.e. for customers without load profile meters) is still highly concentrated. EnergieAllianz, with its sales companies WienEnergie, EVN and Begas, continued as to dominate the. In the **large consumer segment**, it is Econgaz that firmly sits the seat of dominant player.

Natural gas suppliers in Austria continued to feel the pressure that resulted from the price difference between the trading venues and their own long-term contracts in 2011: while the average spot price (day ahead) at CEGH was 23.84 €/MWh, the average import price was 27.02 €/MWh - that is about 13% more. Also average futures prices on the gas exchange (month ahead) were, at 24.53 €/MWh, below the import price. Like wholesalers in other parts of Europe, Austrian traders tried a variety of strategies to tackle the economic disadvantage created by oil indexation: undertakings such as Econgaz were successful in achieving price reductions as part of the regular revisions foreseen in their long-term contracts. STGW instituted an antitrust suit to push through more market-oriented contract clauses. Other suppliers allegedly started arbitration proceedings with their upstream contract partners. It remains to be seen which of these approaches will deliver a stable solution for companies in this situation.