GHR RECHTSANWÄLTE

Energy Trading in Switzerland

Emergence of trade in energy

Trade in energy was only made possible by the liberalization of the European energy market in 1998. From then on, the pricing of energy was effected on the free market, at least in Europe. As a consequence, trade in energy has seen rapid expansion in the last few years.

In Switzerland, the liberalization of the energy market has not yet been completed. Since 2009, large-scale consumers are free to choose their power supply company. The complete opening of the market for all consumers will only take place as of 2014.

Tradable goods

Swiss power companies initially traded only in physical energy, i.e., in electricity, oil, gas and coal (so-called spot market, also known as short-term trade). Apart from energy volumes, CO_2-certificates and green certificates for energy from renewable sources are also traded by means of spot market sales. The increasing opening of the energy market and consequent free pricing resulted both in an increasingly liquid spot market and high volatility in energy prices. On this basis, an energy-based futures and options market became relevant, as has long been the case in the financial sector. In the futures and options market, electricity is not physically traded. Instead, transactions are made on a financial basis by means of so-called derivatives. Derivatives are financial products whose price depends on the value of one or even several underlying assets. If the price of the so-called underlying asset, the actual particular energy product, increases or decreases, the price of the derivate increases or decreases, as the case may be, as well. This pertains to transactions relating to the purchase or sale of energy which are concluded today but will only be effected at a later date (so-called futures or forwards transactions) as well as to transactions concerning purchase rights (so-called options).

Trading platforms and OTC

As Switzerland does not have its own energy exchange, the exchange trading of both physical energy and also energy derivatives takes place predominantly via European trading platforms, notably via the European Energy Exchange (EEX) in Leipzig. In Europe there are approx. twenty energy exchanges.

However, the far greater trading volume is transacted off-market (over the counter/OTC). This means that, instead of trading through a trading platform, transactions are performed directly with counterparties, usually through an intermediary (so-called broker).

Regulation and supervision

On 1 January 2008, in the course of the liberalization of the Swiss energy market, the Federal Electricity Supply Act (StromVG) came into force which at the same time created the Swiss Federal Electricity Commission (ElCom). This authority is independent and is invested with judicial functions. The Electricity Supply Act aims at creating the conditions for a secure electricity supply and a competitive electricity market (Art. 1 StromVG). The ElCom is responsible for monitoring compliance with the provisions of the Electricity Supply Act (Art. 22 par. 1 StromVG). Notable among these are aspects of security of supply, i.e. a nationwide and secure power supply at affordable prices (Art. 22 par. 3 StromVG).

Supervision of the Swiss financial market and thus of the trade in (energy) derivatives is the responsibility of the Swiss Financial Market Supervisory

Authority (FINMA). Indeed, exchange trading in energy derivatives is conducted mainly at foreign exchanges, as has been stated, but those Swiss energy supply companies trading as securities brokers in the area of energy derivatives at foreign exchanges[1] are answerable to FINMA's monitoring and are subject to the Federal Act on Stock Exchanges and Securities Trading (SESTA).

OTC-transactions are not regulated or monitored by FINMA.

Possible risks of the energy trade

Liquid trading and increased volatility in the energy market entail more opportunities but also higher risks[2]. These are mainly credit and market risks. On the energy market, credit risks are a particular issue as clients regularly pay at a later date. Market risks arise from the possible change of market prices, worsening market liquidity or they are related to currencies.

Thus the question arises whether there is a possible risk of illiquidity of Swiss energy supply companies because of massive losses from proprietary trading and, resulting from this, a threat to security of supply in Switzerland. What the consequences of an insolvency of a Swiss energy supply company could be is uncertain as the opening of the market, as stated above, is still in its beginning phase.

On 21 February 2012, ElCom published a report on market observation of risks in the energy trade in relation to security of supply (downloadable under this Link; available only in German). In its preparation, ElCom worked in conjunction with the Federal Office of Energy (SFOE) and also with FINMA. Within the framework of the investigations for this report, clarification was sought from larger electricity supply companies which had recorded considerable proprietary trade in energy and it was investigated whether risks existed which would demand regulatory or legislative action. The companies reviewed were trading predominantly in electricity. In addition, they were also engaged in trade with gas, CO_2-certificates as well as coal and oil.

ElCom concluded that, compared to the rest of Europe, Swiss energy companies were well capitalized and that the risks taken represent a justifiable ratio of their risk capacity. Because of this it does not seem likely that security of supply in Switzerland is under threat – certainly not at present.

[1] cf. definition of the concept of Securities Broker Art.1 d) SESTA.

[2] cf. for instance motion of MP Paul Rechsteiner of 25 September 2009, no. 09/3923: Lowering the risk of trade in energy derivatives.

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