Energy Traders Europe Legal Committee Meeting Q1/2024
7 & 8 March 2024

Hosted by Engie in Paris,
held in a hybrid format

Participants List
(present in person)

1.	Giorgia Perdicaro	DXT Commodities SA	**19.**	Michaela Duve	Energy Traders Europe
2.	Safina Smak Gregoor	Vattenfall	**20.**	Sonia Auguscik	Energy Traders Europe
3.	Julie Gjern Weiss	Energi Danmark A/S	**21.**	Róisín Campbell	Energy Traders Europe
4.	Flaviano Crescenzo	Guvnor	**22.**	Dagmara Dragan	Energy Traders Europe
5.	Judith Asiama	RWE	**23.**	Coline Gailleul	Energy Traders Europe
6.	Raluca Dirjan	Total Energies Gas & Power	**24.**	Jan Michek	CEZ
7.	Adeline Lemarchand	Total Energies Gas & Power	**25.**	Julie Rabonova	CEZ
8.	Léonor Baillie	BP	**26.**	Caroline Lebon	Engie
9.	Rosana Bovia	Iberdrola Energía Españ	**27.**	Benjamin Dargnies	Engie
10.	Anne-Sybil Grunthaler	EDF Trading	**28.**	Pierre Laspalles	Engie
11.	Adriana Nyamleu	Axpo Solutions	**29.**	Alex Yew	Chevron Products UK Ltd
12.	Vincent Buyse	Axpo Solutions	**30.**	Felix Diem	EVN AG
13.	Illya Merzlyakov	Ezpada	**31.**	Michael Dellmour	EVN AG
14.	Christoph Sänger	E.ON SE	**32.**	Minja Zhang	Natixis
15.	Hubert Pardo	VITOL SA			
16.	Jaime Macros	Centrica			
17.	Matej Komora	EP Commodities	**Guest speakers:**		
18.	Eleonara Bezzi	DXT Commodities SA	**33.**	Magali Lucas	Engie

Furthermore, about 48 people dialled into the meeting, including guest speakers: Mark Simmons (Board Member of Energy Traders Europe, day 1), Ray-Shio Ho (Reed Smith, day 1), Peter Zaman (HFW, day 2), Anaïs Suso (Engie, day 2), Guido Kleve and Michael Cieslarczyk (DLA Piper, day 2), Anya Bissessur (Stakfraft and Chair of EMIR WG, day 2), Stuart Beeston (Energy Traders Europe, day 2), Lorenzo Biglia (Energy Traders Europe, day 2) and Doug Wood (Energy Traders Europe, day 2).

General remark: slides from day 1 & day 2 along with additional meeting materials are available at the dedicated EFET page: https://efet.org/home/documents?id=710.

Meeting Day 1

1. Opening and approval of the last A&D list (Michaela Duve, Energy Traders Europe)

Michaela opened the meeting with a *tour de table* and an introduction to the agenda. The rebranding of EFET to Energy Traders Europe was emphasised. It was clarified that the new name should not be abbreviated and should be spelled out in full, either as Energy Traders Europe or energy traders europe. Given the longer name, the subject lines of emails will be marked with "Legal Committee" to accommodate IT requirements of member companies. The General Agreements will remain under the name of EFET General Agreements.

Michaela explained that the Legal Committee asked members whether there is a need for further actions or clarifications regarding CBAM. The responses received confirmed that members do not currently see a need for this, but do not rule out doing so in the future. Questions addressed to members on the need for further action also concerned STOR regime as established by REMIT II. Seven members confirmed their interest in this topic but they did not provide any further guidance – the next steps are to contact those who expressed interest, clarify the scope and ask to prepare specific questions on the subject. It was reported that an update request has been sent to DLA Piper regarding the legal memo on the German Control and Profit Transfer Agreement (CPTA), which is expected soon. If members have not received an email from the Legal Committee, their question(s)/comment(s) have been provided to DLA Piper.

Revision of the Legal Committee's Terms of Reference, the inclusion of shipping in the EU ETS and EMIR Risk Mitigation Techniques Agreement will be covered in the ongoing meeting. Members were invited to provide comments or remarks on the minutes of the last Legal Committee meeting held in Dusseldorf on 14 & 15 December.

Decision: the A&D list from the previous Legal Committee meeting, held in Dusseldorf (in a hybrid format) on December 14 & 15, 2023 was unanimously approved by members, subject to no comments.

2. Report from Board; Board Insights and Governance Framework (Mark Simmons, TotalEngie Gas & Power, Board Member of Energy Traders Europe and Chair of the Oversight Committee)

Mark Simmons provided an update on the revisions to the Board Composition bye-laws and outlined the new objectives of the Board for 2024. These bye-laws are expected to be released in the coming months. Notably, the revisions alter the composition of the board. Detailed information regarding these changes can be found on the meeting slides, accessed **here**.

Of particular importance to the Legal Committee is the adjustment regarding the Chair's position. Under the revised bye-laws, the Chair of the Legal Committee will no longer hold a co-opted position on the board. However, it will be stipulated in the bye-laws that senior secretariat members (mainly the committee chairs) will be allowed to attend Board meetings, ensuring that the Legal Committee's voice continues to be represented.

Given that transition Board elections are scheduled for November 2024, Mark encouraged members to inquire within their respective companies if there are individuals interested in standing for election.

3. **Introduction of new colleagues (Michaela Duve, Energy Traders Europe)**

Michaela welcomed two new colleagues, Dagmara Dragan and Róisín Campbell, to the Legal Committee Secretariat team. Both colleagues are working three days a week. A new division of supervision among Working Groups was introduced during the meeting and can be found on the slides.

Michaela also requested members to ensure that emails in the coming months continue to include herself and Sonia in cc, or the LC Secretariat email, as the new colleagues familiarise themselves with the topics of the Working Groups and the Legal Committee more generally. For the Legal Opinion Working Group, please continue to cc Sonia at s.augusicik@efet.org and for the Biogas Working Group and the Hydrogen Working Group, please continue to cc Michaela at m.duve@efet.org.

Note: members are invited to contact Dagmara (d.dragan@efet.org) and Róisín (r.campbell@efet.org), with a copy to LCSectariat@efet.org

4. **Revision of Terms of Reference (Michaela Duve, Energy Traders Europe)**

Michaela provided an overview of the drafting process and amendments to the Terms of Reference. For detailed information, please refer to the accompanying slides.

In the revised draft circulated ahead of the Q1/2024 meeting, three options — 10%, 30%, and 50% — for the minimum participation in the Election of Chair/Vice-Chair (if applicable) and document endorsement were included. Responding to previous member requests for unanimous voting preference, members were asked in the ongoing meeting to vote via the online platform Menti.

The minimum participation votes for the Election of Chair/Vice-Chair (if applicable) of the Legal Committee and document endorsement (both in person and electronically) were sought, limited to one vote per member company.

- Document endorsement: Members voted in favour of 30% participation with the breakdown as follows: **10% (9 votes), 30% (14 votes), and 50% (8 votes).**
- Vote for Chair/Vice Chair: Members voted in favour of a 30% minimum participation, with the breakdown as follows: **10% (4 votes), 30% (16 votes), and 50% (5 votes).**

After the vote, members engaged in lively discussions concerning the minimum participation threshold. Michaela clarified that "participation" encompasses: yes, no, and abstain votes. She highlighted a historical discrepancy between interest in initiatives and participation in voting, noting instances where the 10% minimum quorum for participation was difficult to meet for documents now widely used, such as various EFET Gas Appendices.

One member suggested granting discretion to the Chair of the Legal Committee to advance initiatives that may not have garnered sufficient interest. However, it was emphasised that Energy Traders Europe, being a member-driven association, must ensure that initiatives not in the members' interest are not pursued. Another member proposed streamlining the process and boosting participation by (i) including executive summaries of document contents when sent out for review in preparation of an endorsement vote and (ii) a presentation of a document by a member company.

After a thorough discussion, Michaela proposed to implement the new 30% quorum for 2024, with a planned review at the end of the calendar year for evaluation, which received support from members.

Action: Documents for endorsement shall be distributed by the LC Secretariat in a timely manner accompanied by an executive summary. Any such documentation initiatives shall be presented by a designated member during an LC meeting.

Members were then asked to vote on the endorsement of the revised Terms of Reference (version 2024) and the endorsement of the annual budget allocation presented during the Q4/2023 Legal Committee meeting.

- ToR: the new minimum participation threshold of 30% (currently 21 members) was met, and the document was endorsed. The voting results were as follows: **Yes (17 votes) and Abstain (12 votes) No (0 votes).**
- Budget: The new minimum participation threshold was met, and the document received a positive endorsement. The voting results were as follows: **Yes (13 votes) and Abstain (14 votes) No (0 votes).**

Decision: members voted in favour of a 30% minimum participation quorum for the election of Chair/Vice-Chair and the endorsement of documents, respectively. The new Terms of Reference and the budget allocation for 2024 were endorsed, respectively. The new Terms of Reference can be found [here].

5. **Update on the new website and Legal Opinions (Sonia Auguscik, Energy Traders Europe)**

Sonia provided an update on the new Energy Traders Europe website, scheduled for later in 2024. The website will feature several enhancements aimed at improving user experience. The new website features include enhanced connectivity between the member section and the public domain, strengthened search functionality, and improved organisation of netting opinions and standard agreements.

The legal opinions section will undergo restructuring by country, featuring the three most recent opinions per jurisdiction, while older opinions will be archived for reference. Members seeking access to archived opinions can reach out to the Legal Committee Secretariat for assistance. Several further restructuring and organisational changes have been made to the Legal Committee section.

Note: For a complete overview of all changes, please kindly refer to the slides from the meeting, in particular slides 21-24 (day 1).

Concerns regarding the current website, particularly login issues for members without accounts or facing difficulties with password resets, were acknowledged. Unfortunately, a definitive resolution for these issues is not available until the new website goes live. Consequently, members encountering difficulties and requiring access to documents are urged to directly contact the Secretariat, where their requests will be promptly addressed. The Legal Committee extends its apologies for any inconvenience caused.

Update: as a temporary solution, members encountering difficulties with the current website are asked to request the necessary documents directly from the Legal Committee Secretariat, at LCSecretariat@efet.org

Sonia provided an update on the netting opinions and highlighted the changes to the instruction letter. There are no material changes, but there are structural improvements aimed at clearly outlining expectations to law firms, to make the legal opinions more user-friendly and clearer. In 2023, law firms were dissatisfied with the number of drafting rounds. However, this was largely because the netting opinion did not align with our instruction letter. Moving forward, initial drafts of netting opinions will only be accepted, and the number of drafting rounds will be limited if the netting opinion conforms with the instruction letter provided.

Further updates from the WG include the publication of the netting opinion for Poland and the closing of the review for the netting opinion for Italy. Following the requests of members, the finalisation of the netting opinions for France and Greece is treated as a priority. The overview of the netting opinions can be accessed here.

6. **Overview of developments regarding Russian-related trade restrictions: European Union, United Kingdom and United States (Ray-Shio Ho, Reed Smith)**

Ray-Shio provided an update on relevant EU, UK and US sanctions developments since 2023. The restrictions were narrowed down to those that are relevant for the European energy industry. A member asked a question about the sale of ships in relation to EU sanctions. Ray-Shio explained the content of art. 3q of the EU G7 Price Cap Regime, noting that no EU person can sell a tanker to a Russian entity or for use in Russia without pre-authorisation from the relevant EU Member State authority. According to art. 3q(4), every other sale needs to be notified to the relevant EU Member State authority. These provisions apply only to sales (nit time charter) and only in relation to third (non-EU) countries. As of now, there are no EU sanctions against Russian LNG. During the discussion, Ray-Shio explained that there have been talks on reducing reliance on Russian LNG. However, currently, there are no indications that Russian LNG will be subjected to EU sanctions.

Ray-Shio referred to the §7(a) Trade Restriction Clause from the EFET General Agreement, confirming its enforceability in the current legal state. Michaela clarified that the objective is not to reopen the discussion on the §7(a) Trade Restriction clause but rather to ascertain whether the clause remains enforceable and applicable. She proposed asking this question during the revision process of the General Agreement for both English and German law. The points raised in the presentation echoed discussions from the Committee in 2014 during the drafting of the Trade Restriction clause. Michaela explained that certain aspects of the clause were tailored from a German law perspective, reflecting the composition of players in the energy market at the time, particularly in the gas market. Therefore, in the interest of members, these inquiries will be included in the ongoing General Agreement revision.

Action: During the ongoing revision of the General Agreement, the LC Secretariat will seek opinions from Reed Smith regarding English law and from DLA Piper regarding German law to determine the enforceability of the Trade Restriction clauses in their current form.

Ray-Shio pointed out that the current market players are significantly different from those in 2014, suggesting that the concerns raised about direct applicability are unlikely to pose practical issues.

Meeting Day 2

7. **Update Report Fit for 55 - impact of the Directive 2023/959 on shipping and aviation industry, impact of the delayed transposition of the Directive 2023/959 into national law, suitability of the Emissions Allowances Appendix (Peter Zaman, HFW law firm)**

Peter presented the findings of his analysis regarding the influence of Directive 2023/959 on the shipping industry. The deadline for the transposition of this directive by Member States into national law was 31 December 2023, but as of 25th January 2024, 26 member states have not communicated full transposition. EU Commission has issued an infringement decision.

The central issue raised by Peter was that once the ISDA amendments come into force[1], there will be a significant disconnect between the EFET and ISDA EU ETS documentation. Peter explained that EFET members must decide whether additionally to include the possibility of trading Swiss allowances in the EFET Allowances Appendix. Another issue raised was the need to modify EFET Allowances Appendix to reflect new regulatory requirements, especially new types of allowances.

Peter highlighted the latest provisions for the EU ETS and the new compliance calendar.

Note: to see the details on Fit for 55 and its impact on the current industry EU carbon trading documentation, kindly refer to the meeting slides from the September 2023 LC Meeting held in London, available here

Peter explained the reasons behind and the process of integrating the shipping industry into the EU ETS. He emphasized that the shipping industry will be the first to be fully covered by the EU ETS provisions without having a right to the allocation of free allowances. Peter then explained how the EU ETS will apply to the shipping industry. The inclusion to the system will be gradual, with a finishing line set in 2027 when 100% of emissions from this industry will be subject to reporting. Only specific types of vessels and voyages fall under the scope of the EU ETS. It is also important to identify the entity responsible under the EU ETS for compliance, bearing costs and having general responsibility, including responsibility relating to regulatory aspects.

[1] ISDA published the new EU Emission Allowances Documentation on 8 March 2024

Peter described the legal and practical effects of the delayed transposition of Directive 2023/959.

After the Legal Committee Meeting in London and feedback received afterwards, it was decided to set up a dedicated task force to review the EFET Allowance Appendices.

Action: the Legal Committee Secretariat will open registration for members interested in taking part in EFET Allowances Appendices revision and then proceed with further discussion on potential changes.

8. **Supply chain obligations and due diligence: need for standard contract wording? (Anaïs Suso, Ethics & Compliance Officer, and Magali Lucas, Senior Legal Counsel, Engie; Guido Kleve and Michael Cieslarczyk, DLA Piper)**

- France: Anaïs Suso and Magali Lucas (Engie) delivered a presentation on French law on the duty of vigilance and its consequences for Engie. In 2017, France introduced a new obligation to establish, implement and publish a vigilance plan. Pending litigations in France regarding the new obligation were brought up. The actions taken by Engie to meet its new obligations were also discussed, which included in particular: establishing new policies, adapting mitigation measures and contractual clauses, and certification of certain suppliers and energy sources.

  During the discussion, questions regarding specific practical aspects regarding drafting of ethical clauses were raised. Magali explained that ethical clauses are mandatory in Engie's contract, but their content depends on the type, duration and general characteristics of the contract. It is necessary to ensure that subcontractors and further contractors are also bound by these provisions and obligations by using a cascading clause. The discussion also raised the issue of the application of ethical clauses in the case of virtual point trading. Magali pointed out that although there is always a risk involved in such cases, there is also an entity responsible for the trade in a virtual point. The discussion also touched on how the type and source of a commodity affect the risk of fulfilling this obligation.

- Germany and EU: Guido Kleve and Michael Cieslarczyk (DLA Piper) presented the main principles concerning the Germany Supply Chain Act, and EU's supply chain & due diligence obligations. Significant changes have been made to the project of the Directive on Corporate Sustainability Due Diligence (CS3D), including its scope and civil liability provisions. The responsibilities of in-scope companies and their suppliers under German LkSG were outlined. Michael outlined two potential options concerning EFET documentation: Industry Framework Agreement and Industry Supplier Code of Conduct.

  During the discussion, there were concerns raised about the contractual provisions between the parties regarding supply chain and due diligence, and how they need to be aligned across multiple jurisdictions. Guido suggested that a possible solution to these concerns could be to create baseline and general provisions that can be applied to many different jurisdictions, instead of developing very detailed provisions that are tailored to only one jurisdiction.

Following the findings of the discussion held during this Legal Committee meeting and the one in Amsterdam, in June 2023, Michaela asked members to consider whether they are interested in creating a standard clause regarding supply chain and due diligence obligations. She also proposed the establishment of a dedicated task force to hold further discussions on this matter.

Action: LC Secretariat to initiate a call for interest to set-up a Task Force for the development of a generic high level clause regarding the supply chain and due diligence obligations that can be applied to many different jurisdictions, giving members sufficient time for internal discussion (four weeks).

9. Market Supervision Committee: follow-up report on the provisional agreement reached for EMIR 3.0 (Anya Bissessur, Statkraft, Chair of the EMIR WG)

The Council and the Parliament announced on 7 February 2024 that a provisional political agreement on EMIR 3.0 had been reached. It is expected that the full text of EMIR 3.0 will be adopted by the Parliament on April 22nd, 2024 and published in Q2 or Q3 of 2024.

Anya summarised the most important changes planned for the adoption of EMIR 3.0 related to its scope, MTM reporting and margining obligation, reporting rules and new penalties. New rules enhancing the transparency and predictability of margin calls were also discussed. Anya also outlined the role of ESMA in the process of implementing EMIR 3.0.

During the discussion, the pending revision process of the UK's EMIR and its discrepancy with EU EMIR was raised.

Explanatory note: There is no view yet on an EMIR 3 in the UK. The only work currently ongoing is the UK EMIR Refit reporting that will enter into force in September 2024. The updated UK rules are very similar to the EU rules (entering into force 29/04) and there are only minor divergences on a few reporting fields. The FCA has released a draft Q&A in this framework, which is available here, and regularly hold discussions with the industry (attended by some member firms of Energy Traders Europe).

Note: If you require further information on UK EMIR, please contact members of the dedicated Task Force: Mike Bostan (m.bostan@efet.org) and Antonella Del Figliolo (a.delfigliolo@efet.org)

10. Updated EMIR Risk Mitigation Techniques Agreement – Sonia Auguscik, Energy Traders Europe

After the Legal Committee meeting held in December 2023 in Dusseldorf, a survey was circulated among the members. The survey revealed that there was an interest in adding Unique Transaction Identifier (UTI) generation and communication, as well as counterparty static data to the EMIR Risk Mitigation Techniques Agreement (EMIR RMTA). Members also took the initiative in adding Unique Product Identifier (UPI) communication.

However, consensus was lacking on whether the EMIR RMTA should address reporting for complex derivatives. Members raised concerns regarding the definition of complex derivatives, noting the challenges in reaching a common agreement due to differing perspectives among experienced market players. Therefore, work on adding alignment on reporting complex derivatives to the EMIR RMTA will not continue for the time being.

Sonia elaborated on drafting approach to clauses regarding UTI generation and communication, UPI communication and counterparty static data and key documents, guidelines, and regulations in this matter. Anya Bissessur pointed out that the scope of EFET EMIR RMTA is quite vast, and it can be applied to any transaction under any master agreement, including transactions on OTC derivatives. Although not all members may use it, its possibility of use is extensive.

Action: the Legal Committee Secretariat will circulate the draft of the revised EMIR RMTA with comments following the LC meeting, in the Templates Development and Maintenance WG. Members are kindly encouraged to provide their comments.

11. Update reports from Legal Committee Working Groups

Hydrogen Working Group (Michaela Duve, Energy Traders Europe): On March 12, a workshop with the Hydrogen Council is scheduled from 14:00-15:30 CET to discuss the contract template for ship-delivered hydrogen. Participants who have registered for this Working Group have been sent a save-the-date notification, and the workshop link will be circulated once received from the Hydrogen Council. Although there was an initial expectation to review the document before the workshop, the Hydrogen Council was unable to finalise it for circulation.

LNG & Natural Gas Working Group (Michaela Duve, Energy Traders Europe): There was an issue with a French Decree from 11.03.2021 on the requirements for companies holding or applying for a license for gas or power supply in France. The transitional period for the new decree ends 14 March 24. This decree requires that such companies *have human and material resources in the EU, EEA or in a country which has either an agreement with a similar effect or an agreement providing for the supply of energy*. It was relatively easy to solve this for UK-based companies as the DGEC confirmed that the EU-UK Trade Cooperation Agreement is considered an agreement with a similar effect. The current sunset date of the TCA is 30.06.2026.

Following the intervention by the Legal Committee, DGEC confirmed in writing (email) for Swiss-based companies, that the so called 2009 Agreement is recognised as sufficient agreement for electricity and gas within new French provisions. As a result, Swiss companies having human resources and materials in Switzerland are already compliant with the French decree without undertaking any additional activities.

Templates and Document Maintenance Working Group (Michaela Duve, Energy Traders Europe): Numerous comments have been received on the General Agreement revision, which are currently being consolidated and incorporated into the document. Michaela aims to distribute the next round of the document to Legal Committee members within the next 10 days following the Legal Committee meeting.

This is in addition to the ongoing work on the EMIR Risk Mitigation Techniques Agreement in working group.

Contract Digitalisation Working Group (Michaela Duve, Energy Traders Europe): Previously, there was a proposal for Faster Settlement which aimed at reducing payment periods significantly by ensuring that deliveries are settled on D+5. The Operations Committee is currently in the testing phase of this initiative. The Working Group has emphasised to the Operations Committee that drafting a contractual rule prior to the completion of testing phase would be premature. It has also been clarified that failure to pay, regardless of the payment frequency, can lead to the termination of the General Agreement and therefore, rigorous testing is essential. Several questions by LC members were posed to the Operations Committee. Depending on the outcomes of the testing phase, it is anticipated that this group will have tasks to address, likely in the latter part of the year.

PPA & Electricity Working Group (Sonia Auguscik, Energy Traders Europe): A joint meeting was held between the Electricity Committee and the Legal Committees PPA Standardisation Working Group on February 8, 2024, to discuss Article 19ab of the Electricity Market Design. The Regulation appoints ACER to assess the need for PPA standardisation annually, with a three-month timeline from the Regulation's entry into force for the first assessment. It has just been announced that this timeline has been delayed by two weeks, with the Regulation expected to come into force in mid-April. ACER's first assessment report is anticipated to be delivered by mid-July.

Note: when reviewing the accompanying slides, please note that there has been a two-week adjustment in the entry into force of the EMD, shifting from the start of April to mid-April.

ACER has been tasked to collaborate closely with relevant stakeholders and institutions, providing an opportunity for Energy Traders Europe to engage. Clear support from members has been received to participate in discussions with ACER and contribute constructively to the process.

There are two phases for involvement. The first phase concerns ACER's determination of the need for standardisation, with a subsequent phase if ACER concludes that PPA contracts are necessary. The specific timeline for this second phase is currently unclear. If ACER determines a need for PPA standardisation, they will conclude these contracts, which are initially voluntary but may evolve into widely adopted or mandatory standards over time. While it is likely that only physical PPAs are covered, clarity on this matter is lacking.

A strategy has been developed and is undergoing internal review. It will be shared with the Electricity Committee Renewables Working Group and the Legal Committee PPA Standardisation Working Group. A call is scheduled next week with the RE-source Platform to align positions. An official meeting between Energy Traders Europe and ACER is planned for late March, pending confirmation of the specific date due to ACER's availability. This meeting aims to discuss the scope, expected timelines, the potential for contributions, and share experiences with PPA standardisation. Following this, specific feedback from members will be sought, potentially in April.

The desired outcome would be for ACER to determine that the market is sufficiently providing its own standards or multiple standards. However, we must abide by the law as determined and work to mitigate any findings from ACER. Many aspects remain unclear and will require clarification once we engage in discussions with ACER. If required, a specialised subgroup of experts will be established to engage directly with ACER on PPA-related matters.

Note: Legal Committee members interested in this matter are encouraged to register for the PPA & Electricity Working Group to stay informed with regular updates. Members can sign up for the workstream(s) of their interests via the registration link.

Legal Opinions Review Working Group (Sonia Auguscik, Energy Traders Europe): Please refer to Section 5 above for the update on the working group concerning revisions to the instruction letter.

12. Updates on other Energy Traders Europe Committee's

- Gas Committee – update on national measures regarding Russian gas (Doug Wood, Energy Traders Europe)

Doug Wood, Chair of the Gas Committee, briefly spoke on the German storage levy at interconnection points. This levy was raised earlier this year and is expected to be raised again in July. Member States have warned that if the Commission allows for the levy in Germany, they may introduce similar fees at interconnection points. In a Council meeting held on March 7, Member States expressed their concern that the levy infringes EU rules. The Commission is investigating infringement procedures and exploring alternative mechanisms to the current regulation which permits recovery of certain costs at domestic points only. The Commission has received analysis from ACER supporting the case and remains confident that grounds for an infringement procedure can be found. The Gas Committee will continue to monitor developments closely.

Doug also briefly explained the issue of gas transit and the banning of Russian gas. The issue that may be addressed by the Legal Committee is the way to demonstrate the source of gas. Doug elaborated on the solution developed in Austria that requires the supplier to submit a declaration of honour (a similar approach had been taken for AggregateEU). There is also a discussion of proving documentation concerning the origin of gas purchased at virtual points. It is similar to the obligation coming from the methane emission regulation to demonstrate the source of gas. This is an issue that the Gas Committee is currently working on, however, they will likely seek the assistance of the Legal Committee on this matter in the future to revise whether there are any additional transparency clauses required.

During the discussion, a member asked whether there is a possibility to schedule a meeting on the methane emissions regulation that will come into force in June 2024 and its definition of importer. Doug confirmed that Gas Committee may share presentations and other materials regarding this issue. Doug also pointed out that Energy Traders Europe came out to the EC with a list of transactions that need specific clarification. There is also a delegated act that still needs to be adopted, thus there is also a possibility to still influence this matter. Mariana Liakopoulou from the Gas Committee mentioned that she will share a presentation on this matter prepared by EDF Trading with members of the Gas Committee and with the Legal Committee to start cooperation on introducing this regulation.

Action: The LC Secretariat will receive a presentation and accompanying materials from the Gas Committee regarding methane emissions regulation, and subsequently disseminate these materials among its members.

- Electricity Committee – update on 15-minute Market Time for Single Day Ahead Coupling (Lorenzo Biglia, Energy Traders Europe)

Lorenzo Biglia, Manager for European Electricity Markets, explained the transition to 15-minute market time units, which impacts day-ahead, intra-day and balancing markets. While there has been discussion to potentially postpone the scheduled entry date of January 1, 2025, NEMOs have confirmed that this remains the target date. Other spot market developments impacting the trading activities of members can be found on the slides. These include the electricity market transition to a flow-based mechanism, intraday auctions, and accession to balancing platforms which have influenced balancing settlement prices (there are expected delays due to recent spikes). There will be a recoupling of Ireland, with both Ireland and Great Britain remaining on a 30-minute basis. The EU (excluding Ireland) will have a clearing price on a 15-minute resolution, with further technical documents from NEMOs expected in the summer 2024. There will still be an hourly price published in parallel to 15-minute prices, however, the clearing price will be only 15-minutes, with the central SDAC algorithm ensuring prices are linked. Therefore, each 60-minute price will be the result of average mechanisms of the 15-minute prices.

Michaela stated that the LC will reach out to brokers if these new 60-minute price requires an adjustment to the composition of the price or a discontinuation of current reference prices potentially impacting trading agreements. Members are encouraged to engage in internal discussions to assess whether brokers should be contacted regarding whether they will make amendments to their price development methodologies.

- Operations Committee – general update on the current issues (Stuart Beeston, Energy Traders Europe)

The highest priority is the changes arising from EMIR REFIT changes that go live in April in EU and in September in UK. The standard we control for that is called the Electronic Regulatory Reporting (ERR) and the Committee is reasonably confident that that standard will be updated in time for those regulatory changes.

13. AOB and next Legal Committee Meeting

The next Legal Committee meeting will take place on 25 and 26 June 2024, in Amsterdam and will be associated with the celebration of the 25th anniversary of Energy Traders Europe.

All the Committees will be opening registration for this meeting in the forthcoming weeks. Please note, however, that there are registration limitations. Details regarding this will be furnished upon the commencement of the registration process.

Michaela and Sonia will conduct a legal masterclass at the ETCSEE conference in Budapest on 5th of June 2024. During the workshop, they will delve into the details of the General Agreements. Any interested members can register for the masterclass, but there is no discount on the registration fee for members of Energy Traders Europe. https://www.energytradingcsee.com/programme/efet-workshop.