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EU rules threaten German gas market

European Commission proposals to regulate more closely over-the-counter (OTC) energy markets will undermine Germany's gas market, according to participants at an industry conference in Berlin last month.

Most companies now active in the market will have to leave should stricter regulations be enforced, participants said at the gathering, which discussed the possible impact of the reviews of the markets in financial instruments directive, the market abuse directive, and of a new European market infrastructure regulation.

Just the big companies will be left in the gas market under the proposed legislation because they will be the only ones able to afford the stricter conditions for derivatives trade, delegates said. Companies are likely to have to stick to a maximum volume of derivative trading — which will be small — if they want to avoid regulation. But most gas supply contracts hold some kind of derivative element (AGC, 3 December 2009, p6).

'Out of business'

"Typically, you will combine your supply with some kind of hedging offer," law firm Scholtka and Partner energy expert Solveig Hinsch said. "Small and medium-sized companies will be out of business because of the regulation," a manager at German utility RWE said (AGC, 10 February, p4).

Conditions such as mandatory underlying capital, and the

need for staff with specialist banking skills, will hold back most small and medium-sized companies from considering applying for derivative trading permission under the proposed regulations, a manager at Berlin regional gas company Gasag said.

Final straw

Most German municipal utilities, known as stadtwerte, usually have just two managing directors — a "technical" chief and a "commercial" leader — an official from municipal utility association VKU said. Hiring a banker would be the final straw for many, the VKU delegate said. "We have been floored by the three proposals," the delegate said.

Germany's gas market has grown over the past two years, with liquidity, the number of participants and the importance of hub prices as benchmark prices surpassing expectations held two years ago. "The government must ask itself whether it wants to end all this," the Gasag manager said. Delegates complained that utilities were not responsible for the financial crisis — which triggered this legislative action in Brussels — but must bear the brunt for mismanagement that happened elsewhere.

The need for regulating OTC derivatives in the energy sector is exaggerated, energy exchange EEX legal and compliance director Wolfgang von Rintelen said. Energy companies present no systemic risk comparable with banks obliging them to be saved at public cost, he said.

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