

Bundesministerium für Wirtschaft und Technologie
Minister Dr. Werner Müller
Scharnhorststrasse 36
10115 Berlin
Germany

Open letter on Gas VV

August 8, 2000

Dear Dr. Mueller,

On 4 July 2000, the Agreement for Access to the Natural Gas Network (so-called Gas-Verbaendevereinbarung or Gas-VV) was signed by the four negotiating associations (BGW, VKU, BDI, and VIK). EFET's earlier fears, as expressed in our letter of 10th of April, 2000, have come to pass.

Even assuming legislative changes, it is clear that the Gas VV will not effectively implement the requirements of the EU Gas Directive and will not serve as a reasonable basis for liberalising the German gas market. As a consequence, German gas customers will not benefit from the decline in prices and the increase in choices that they have seen in electricity. There are three reasons for this:

New Entrants and Customers Will Bear Excessive Costs:

On the basis of reasonable international comparisons, EFET believes that the tariffs for gas transport under the Gas VV are extremely high – in many cases over three times as high as they are in comparable European markets. This may result from the fact that the methodology for calculating these tariffs appears to have no basis in the actual costs of transportation in Germany. The process of trying to determine the tariff is also extremely complicated and imposes high transaction costs on the party requesting network access in the following ways:

- there is no standard transport contract which means that each contract for use of the system must be negotiated from the beginning for each request;
- contract terms are for one year and two periods per year are set during which these contracts may commence. There is no economic justification for restricting the choice of customers in this.

- there is no central point for arranging access to the network; rather access must be negotiated with each network operator (as many as four!) along the pipeline route in question.
- the tariff is based on a point-to-point model which adds significant complexity to transport, makes trading of gas more difficult, and is only crudely cost-reflective. The problems of the point-to-point model were recognised by the parties negotiating access to the electricity network and were subsequently replaced with a more equitable point-of-connection charge in the Strom-VV2.

Newcomers and Customers will Face Significant Risks

The absence of a clear rules in several areas also creates significant uncertainty and risks and greatly reduces the incentives for customers and new gas suppliers to transact new business. Specifically:

- the system services covered by the Gas VV are incomplete. The lack of clear rules on access to and costs of storage, balancing, gas quality management make it impossible to know beforehand, what services are available as part of the VV tariff, and how much the total cost of transport will be.
- there is no clear delineation between the various types of pipelines and their functions; this results in very arbitrary decisions as to what the tariff will be.
- there is a complete absence of rules on denial of access and allocation of scarce capacity. This exposes new suppliers and their customers to the risks that they may not be able to deliver/receive gas and consequently makes it unlikely that a gas deal will be negotiated.

Insufficient Transparency May Lead to Anti-Competitive Behaviour

The Gas VV states the importance of providing network access on non-discriminatory terms, yet provides no rules on how this is to be guaranteed. Newcomers in the German gas market have no practical way of knowing whether the terms of their network use contract are at least as favourable as the conditions under which affiliated suppliers can transport their gas. Nor does the Gas VV provide means to ensure that their confidential business information is being treated as such. Despite the requirements of the EU Gas Directive, there is no detail in the Gas VV on what the main business conditions for network usage are and how these will be determined. There appears to be no requirement for publishing essential information on the status of the network, where congestion exists, and where and when capacity is available. Further, there are no provision to ensure that capacity, when physically available, is released to the market on a use-it-or-lose-it basis.

Gas suppliers that are affiliated with transport companies have an inherent advantage over new entrants that must transport their gas through competitors' networks. The competitive

playing field can be made fairer provided that information is made available on an equal basis. The Gas VV clearly fails in this respect.

Summary

Germany is one of Europe's largest gas markets. Its geographical location means that it is an essential building block for liberalisation of the entire European market. It is therefore with great concern that we note that the current Gas VV will simply not create the foundation for a liberalised gas market in Germany. Rather, it seems more probable that the Gas VV will allow the current gas incumbents to maintain their dominant positions in the market and deny German customers the choice and savings that are the promise of liberalisation.

In September of this year, it is expected that the negotiations for the next gas network agreement (Gas VV2) will commence. This offers the market a second – and perhaps last – opportunity for industry players and customers to work together to create conditions needed to liberalise the German gas market. Failing this, we can expect, and indeed, EFET will actively encourage, that the German government should take any and all necessary steps to open the gas market and regulate network access [netzzugangsverordnung]. However, before this step is considered, EFET has formally offered its services as the leading representative of energy traders in Europe to join the VV2 negotiations as the fifth association. We are firmly persuaded that EFET's broad membership, its deep expertise in gas markets, coupled with a sincere interest in fully liberalised markets will significantly improve the prospects, from the point of view of customers, for a successful conclusion to the VV2. We look forward to being welcomed by the other negotiating associations and to working constructively with them to create a solid framework for gas liberalisation in Germany.

Sincerely yours,

European Federation of Energy Traders

J.N.H. van Aken
Secretary General