

Press release

December 7, 2018

Energi Danmark pays fine for manipulation with the electricity market

The energy company Energi Danmark A/S has accepted to pay a fine for on ten counts having manipulated on a part of the Nordic wholesale energy market for electricity in 2015.

The State Prosecutor for Serious Economic and International Crime has charged Energi Danmark A/S with a fine of 750,000 DKK (approximately 100,000 euros). Energi Danmark A/S has accepted the fine, and thus, the case has been brought to a close. In addition, the State Prosecutor for Serious Economic and International Crime has confiscated the revenue obtained through the 10 counts of market manipulation. The revenue amounts to 354,000 DKK (approximately 47,000 euros).

The Danish Utility Regulator transferred the case to the State Prosecutor for Serious Economic and International Crime in March this year due to a suspicion that Energi Danmark A/S had breached the prohibition of market manipulation in article 5 of the EU Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) of 2011.

The case concerns so-called capacity hoarding, where the company hoarded capacity on the interconnectors for electricity by trading with itself managed to exclude trades and thereby hindered competition. These trades led to or had the potential of creating misleading or artificial prices on the intraday wholesale energy market for electricity.

Carsten Smidt, Director General at the Danish Utility Regulator, notes that the seize of the fine along with the way the case has been handled by the police and prosecution service send a clear signal that capacity hoarding can be criminally punishable.

- Breach of the prohibition against market manipulation in the REMIT regulation is serious. Energi Danmark A/S's capacity hoarding has excluded other market participants from trading, which is detrimental to the competition and in the end detrimental to the energy consumers, says Carsten Smidt.

- There remains very limited jurisprudence in terms of REMIT-breaches in Denmark as well as in the rest of the EU. It is my hope that the present case may help energy companies trading electricity and gas on the international wholesale energy market to better understand what is allowed within the REMIT regulation. The regulation's purpose is ultimately to ensure that the consumers are paying the correct prices for energy says Carsten Smidt.

Capacity hoarding and the connection with the prohibition against market manipulation in the REMIT regulation is an area subject to great awareness amongst the national regulatory authorities in Europe as well as the market participants. The EU Agency ACER issued a guidance note regarding capacity hoarding on 22 March 2018.

Along with the present case, The Danish Utility Regulator transferred another case to the State Prosecutor for Serious Economic and International Crime also due to reasonable suspicion that the same kind of

market manipulation had been carried out in the intraday wholesale market for electricity by a different market participant. As this case is still under investigation by the police, the Danish Utility Regulator cannot further comment on this particular case.

Facts

The REMIT regulation's definition of and prohibition of market manipulation (excerpts):

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

[...]

2) market manipulation' means: :

a) entering into any transaction or issuing any order to trade in wholesale energy products which:

(i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;

(ii) secures or attempts to secure, by a person, or persons acting in collaboration, the price of one or several wholesale energy products at an artificial level, unless the person who entered into the transaction or issued the order to trade establishes that his reasons for doing so are legitimate and that that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned; or

(iii) employs or attempts to employ a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products;

[...]

Article 5

Prohibition of market manipulation

Any engagement in, or attempt to engage in, market manipulation on wholesale energy markets shall be prohibited.

Fixed penalty notice (unofficial translation)

The ten counts of market manipulation are as follows (DURs translation from the fixed penalty-notice issued by the State Prosecutor for Serious Economic and International Crime):

- 1) On 5 May 2015 at 9.18 AM in relation to the product PH-20150505-15 on Nord Pool's intraday market, Elbas, for delivery on 5 May 2015 from 2.00 PM to 3.00 PM, carrying out a trade with itself as counterpart without a genuine need through buying 202.3 MWh in bidding zone FI from bidding zone DK2, whereby the entire available transmission capacity on the interconnector between bidding zones SE1 to bidding FI was occupied, which hindered buy orders in bidding zone FI from

being matched with sell orders in the rest of the Nordics and Germany. Energi Danmark A/S' internal trade created or was likely to create a price difference between the bidding zones.

- 2) On 5 May 2015 at 1.59 PM in relation to the product PH-20150505-19 on Nord Pool's intraday market, Elbas, for delivery on 5 May 2015 from 6.00 PM to 7.00 PM, carrying out a trade with itself as counterpart without a genuine need through buying 326.6 MWh in bidding zone FI from bidding zone DK2, whereby the entire available transmission capacity on the interconnector between bidding zones SE1 to FI was occupied, which hindered buy orders in bidding zone FI from being matched with sell orders in the rest of the Nordics and Germany until 4.51 PM, where Energi Danmark A/S carried out a trade with itself as counterpart through buying 97.1 MWh in bidding zone DK2 from bidding zone FI. The first mentioned internal trade by Energi Danmark A/S created or was likely to create a price difference between the bidding zones.
- 3) On 6 May 2015 at 3.42 PM in relation to the product PH-20150507-10 on Nord Pool's intraday market, Elbas, for delivery on 7 May 2015 from 9.00 AM to 10.00 AM, carrying out a trade with itself as counterpart without a genuine need through buying 230 MWh in bidding zone FI from bidding zone DK1, whereby the entire available transmission capacity on the interconnector between bidding zones SE1 to FI was occupied, which hindered buy orders in bidding zones FI, EE, LV, and LT from being matched with sell orders in the rest of the Nordics and Germany. Energi Danmark A/S' internal trade created or was likely to create a price difference between the zones.
- 4) On 6 May 2015 at 3.45 PM in relation to the product PH-20150507-16 on Nord Pool's intraday market, Elbas, for delivery on 7 May 2015 from 3.00 PM to 4.00 PM, carrying out a trade with itself as counterpart without a genuine need through buying 300 MWh in bidding zone FI from bidding zone DK1, whereby the entire available transmission capacity on the interconnector between bidding zones SE1 to FI was occupied, which hindered buy orders in bidding zones FI, EE, LV, and LT from being matched with sell orders in the rest of the Nordics and Germany. Energi Danmark A/S' internal trade created or was likely to create a price difference between the bidding zones.
- 5) On 10 May 2015 at 3.36 PM in relation to the product PH-20150511-17 on Nord Pool's intraday market, Elbas, for delivery on 11 May 2015 from 4.00 PM to 5.00 PM, carrying out a trade with itself as counterpart without a genuine need through buying 140.2 MWh in bidding zone FI from bidding zone DK2, whereby the entire available transmission capacity on the interconnector between bidding zones SE3 to FI was occupied, which hindered buy orders in bidding zone FI from being matched with sell orders in the rest of the Nordics and Germany. Energi Danmark A/S' internal trade created or was likely to create a price difference between the bidding zones.
- 6) On 15 June 2015 at 2.01 PM in relation to the product PH-20150616-15 on Nord Pool's intraday market, Elbas, for delivery on 16 June 2015 from 2.00 PM to 3.00 PM, carrying out a trade with itself as counterpart without a genuine need through buying 262.6 MWh in bidding zone FI from bidding zone SE3, whereby the entire available transmission capacity on the interconnector between bidding zones SE3 to FI was occupied, which hindered buy orders in bidding zone FI from being matched with sell orders in the remaining bidding zones until 12.55 PM, where Energi Danmark A/S carried out a trade with itself as counterpart through buying 192.6 MWh in bidding zone SE3 from bidding zone FI. The first mentioned internal trade by Energi Danmark A/S created or was likely to create a price difference between the bidding zones.
- 7) On 15 June 2015 at 2.07 PM in relation to the product PH-20150616-15 on Nord Pool's intraday market, Elbas, for delivery on 16 June 2015 from 2.00 PM to 3.00 PM, carrying out a trade with

itself as counterpart without a genuine need through buying 133 MWh in bidding zone DK1 from bidding zone SE3, whereby the entire available transmission capacity on the interconnector between bidding zones SE3 to DK1 was occupied, which hindered buy orders in zone bidding DK1 from being matched with sell orders in the remaining bidding zones in the Nordic area until 12.48 PM, where Energi Danmark A/S carried out a trade with itself as counterpart through buying 133 MWh in bidding zone SE3 from bidding zone DK1. The first mentioned internal trade by Energi Danmark A/S created or was likely to create a price difference between the bidding zones.

- 8) On 1 September 2015 at 9.57 AM and 9.58 AM, respectively, in relation to the product PH-20150901-14 on Nord Pool's intraday market, Elbas, for delivery on 1 September 2015 from 1.00 PM to 2.00 PM, carrying out (two) trades with itself as counterpart without a genuine need through buying 400 MWh and 37,8 MWh in bidding zone DK1 from bidding zone NO2, whereby the entire available transmission capacity on the interconnector between bidding zones NO1 to SE3 was occupied, which hindered sell orders in Norway from being matched with buy orders in the rest of the Nordic area and bidding zone DE. Energi Danmark A/S' internal trade created or was likely to create a price difference between the bidding zones.
- 9) On 1 September 2015 at 9.57 AM and 10.00 AM, respectively, in relation to the product PH-20150901-17 on Nord Pool's intraday market, Elbas, for delivery on 1 September 2015 from 4.00 PM to 5.00 PM, carry out two trades with itself as counterpart without a genuine need through buying 400 MWh and 146.9 MWh in bidding zone DK1 from bidding zone NO2, whereby the entire available transmission capacity on the interconnector between bidding zones SE3 to DK1 was occupied, which hindered buy orders in bidding zones DK1 and DK2 from being matched with sell orders in the rest of the Nordic area. Energi Danmark A/S' internal trade created or was likely to create a price difference between the zones.
- 10) On 1 September 2015 at 9.57 AM and 11.10 AM, respectively, in relation to the product PH-20150901-18 on Nord Pool's intraday market, Elbas, for delivery on 1 September 2015 from 5.00 PM to 6.00 PM, carrying out two trades with itself as counterpart without a genuine need through buying 400 MWh and 123.7 MWh in bidding zone DK1 from bidding zone NO2, whereby the entire available transmission capacity on the interconnector between bidding zones SE3 to DK1 as well as bidding zones SE4 to DK2 were occupied, which hindered buy orders in bidding zones DK1 and DK2 from being matched with sell orders in the rest of the Nordics until 3.55 PM, where Energi Danmark A/S carried out (two) trades with itself as counterpart through buying 116 MWh in bidding zone NO2 from bidding zone DK1. The first mentioned internal trade by Energi Danmark A/S created or was likely to create a price difference between the zones.

Further information

- [Read the fixed penalty-notice issued by the State Prosecutor for Serious Economic and International Crime \(in Danish\)](#)
- [Read the Danish Utility Regulator's news bulletin on the referral of the case to the State Prosecutor for Serious Economic and International Crime \(in Danish\)](#)
- [Read ACER's Guidance Note on capacity hoarding](#)

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