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# EU power pricing algorithm targeted by antitrust complaint

Lawyer wants Austrian competition authority to probe how electricity prices are set on European power exchanges

by **Tristan Fiedler** · JAN 30 · 4 MINUTES READ

The algorithm that determines European electricity prices is the target of a [complaint](#) to Austrian antitrust regulators, alleging it hinders competition on European power exchanges and keeps prices high.

Lawyer Georg Zanger is demanding the publication of the code for the Pan-European Hybrid Electricity Market Integration Algorithm, known as Euphemia, which sets prices for the European Energy Exchange (EEX) as part of an effort to harmonize day-ahead power prices across the bloc. He alleges it may represent a price agreement that is “tacit and indirect through software or price algorithms” — which he says led to energy companies making excess profits.

“The fact that an AI is being used to determine the highest price gives rise to the suspicion that electricity from low-cost sources is being withheld in order to keep the price high,” Zanger told POLITICO. “The algorithm that determines the European electricity prices is a black box.”

Austria’s Federal Competition Authority told POLITICO that it was examining the complaint it received last month. It has separately [set up](#) a task force to monitor energy prices, which it said wasn’t related to individual complaints.

EEX’s EPEX SPOT unit said it couldn’t comment as it wasn’t aware of the complaint.

Zanger wants officials to investigate the Austrian electricity market and to pull in other European regulators because the pricing issue affects other EU authorities. His complaint is being backed by a [legal financing fund](#).

The complaint attacks the design of the electricity market, which Zanger said is fundamentally anticompetitive and hikes the price for green energy. Although Austria produces almost 80 percent of its energy from renewable sources and production costs haven’t changed significantly, power prices increased up to six times between August 2021 and the same month in 2022, he said.

“They produce the electricity under almost the same conditions as they did the year before. They could sell it cheaper. Nobody understands that fact. This seems to be a cartel,” Zanger said.



The EU's wholesale power market design uses the merit order principle, where the source of energy with the highest marginal costs needed to meet demand determines the overall price. When demand is low, cheap sources like renewables set the price. When demand rises, expensive gas-powered plants set the price. That's been a problem as first the post-pandemic recovery and then the Russian invasion of Ukraine caused a spike in gas prices and electricity demand, sending power prices across the bloc surging.

The price emergency created [political pressure](#) for a revamp of the system — led by countries like Spain and France — although others like the Netherlands are cautious about upending the current market design as it could deter investments in renewable energy projects and destabilize the market.

The Commission is due to lay out its formal proposal in March; it wants to “make the electricity market design fit for the future, allowing it to deliver the benefits of affordable clean energy,” Energy Commissioner Kadri Simson said last week.

Theodor Thanner, who stepped down as Austria's competition chief in 2021, said there's no legal basis for the merit order principle which “says the highest price on the exchange should equal the price consumers have to pay.”

“If all energy suppliers do charge the highest price anyway then it seems to be an agreement between companies that has competitive effects, to put it mildly,” he said.

Thanner sees Zanger's complaint as “a gateway for a reform of the European energy market.”

“Making the pricing determination through algorithms transparent would be a good first step,” he said. “In the long term, however, the EU must address the design of the electricity market and the merit order principle from a competitive perspective.”

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