

Conditions for access to the natural gas transmission networks. Third energy package

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The Committee on Industry, Research and Energy adopted a report drafted by Atanas **PAPARIZOV** (PES, BG) and amended, in the framework of 1st reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks.

The main amendments are as follows :

Objective: MEPs specify that the Regulation should aim at facilitating the emergence of a well-functioning and transparent wholesale market with a high level of security of gas supply and providing mechanisms to harmonise the network access rules for cross-border exchange in gas.

Extension of powers of the Agency for the Cooperation of Energy Regulator: the Commission proposal had created the ENTSOG with power to adopt, inter alia, a 10-year investment plan. The committee, however, felt that the Agency should have increased powers. Accordingly, it stipulated that the Agency would have powers to approve ENTSOG's submission of (a) a 10-year investment plan including a supply and demand adequacy report, every two years; (b) measures to ensure the real-time coordination of grid operation in normal and emergency conditions; (c) guidelines on the coordination of technical cooperation between Community and third-country transmission system operators; (d) an annual work programme based on the priorities set by the Agency.

The Agency will monitor the implementation of the network codes by ENTSOG.

The committee deleted the clause on the establishment and evaluation of technical and market codes and inserted a clause stating that the Agency must develop guidelines, based on a priority list drawn up by the Commission, establishing basic, clear and objective principles for the harmonisation of rules on the prescribed issues. Members also inserted a clause on the **development of network codes**. ENTSOG must submit the draft codes to the Agency, which will conduct a formal consultation and adopt the draft codes on the basis of that consultation.

Monitoring: the Agency will monitor the implementation of the network codes by ENTSOG. It will also monitor the implementation of the technical codes, the 10-year investment plan and the annual work programme and include the results of that monitoring in its annual report. In the event of non-compliance with the network codes by the transmission system operators, the 10-year investment plan or the annual work programme of ENTSOG, the Agency will provide information to the Commission.

The Agency should also have the responsibility to consult all stakeholders when it makes proposals and recommendations.

Investment plan: this must identify investment gaps, notably with respect to cross-border capacities and will include investments in interconnection, in particular, and as a priority, connections between 'energy islands' and gas networks in the European Union and investments in other infrastructure necessary for effective trading, competition and security of supply. A review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices shall be annexed to the investment plan. The transmission system operators shall implement the published investment plan.

Comitology: the committee deleted the comitology provisions with regard to the adoption of codes. It also deleted them with regard to guidelines on third party access to LNG and storage.

Regulatory authorities: Member States shall ensure that national regulatory authorities have the competence to effectively ensure compliance with the Regulation by providing them with the power, in relation to any single breach, either to impose effective, dissuasive and proportionate penalties of up to 10 % of the system operator's annual turnover in its domestic market or to revoke the operator's licence.

Physical congestion: in the event of long-term physical congestion, the transmission system operators shall relieve congestion by adding new capacities according to market demand. In order to assess market demand, the transmission system operators shall undertake open-season procedures.

Transparency requirements: the committee states that transmission system operators shall inform the national regulatory authority, on request, (rather than make public, as the Commission had proposed) of measures taken as well as of costs incurred and revenues generated to balance the system. Members felt that this information is commercially sensitive and could place the Transmission System Operators at a disadvantage on the market. In addition, all LNG and storage system operators shall make public the amount of gas **in each storage facility or group of storage facilities in the same balancing zone** or LNG facility, inflows and outflows, and the available storage and LNG facility capacities, including for those facilities exempted from third party access. Members felt that storage system operators may sell their capacities by site or by group of sites. In the latter case, the publication of information 'by site' is not relevant for storage users.

Moreover, a new clause states that where a LNG or storage facility operator considers that it is not entitled, for reasons of confidentiality, to make public all the data required, it shall seek an authorisation of the competent authorities to limit publication with respect to the points in question. The committee considered that the Commission's proposal does not provide for a procedure to deal with commercial secrets in connection with LNG and storage activities. A fair balance has to be struck between the interests of the market and the interests of commercial confidentiality.