

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

2007/0199(COD) - 09/07/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 642 votes to 32 with 31 abstentions, a legislative resolution amending 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 report had been tabled for consideration in plenary by Atanas **PAPARIZOV** (PES, BG), on behalf of the Committee on Industry, Research and Energy.

The main amendments – adopted under 1st reading of the codecision procedure – were 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. Parliament, however, felt that the Agency should have increased powers. Accordingly, it stipulated that the Agency would have powers to approve ENTSOG's submission of, inter alia: (a) draft network codes in the areas mentioned in the text, elaborated in cooperation with market participants and network users; (b) a 10-year investment plan including a supply and demand adequacy report, every two years; (c) measures to ensure the real-time coordination of grid operation in normal and emergency conditions; (d) 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.

Guidelines and network codes: Parliament deleted the clause on the establishment and evaluation of technical and market codes and inserted Articles on the development of guidelines and the development of network codes respectively. The Agency must **develop guidelines**, based on a priority list drawn up by the Commission, establishing principles for the harmonisation of rules on the prescribed issues. In drafting those guidelines, the Agency shall formally consult the ENTSOG and other stakeholders, in an open and transparent manner.

Within six months of the adoption of the guidelines by the Agency, the Commission shall mandate the ENTSOG to **develop draft network codes** in full compliance with the principles established in the guidelines. 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.

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.

Regional cooperation: regulatory authorities shall cooperate among themselves at all levels for the purpose of harmonising the market design and integrating their national markets at least at one or more regional levels, as a first and intermediate step towards a fully liberalised internal market. In particular, they shall promote the cooperation of transmission network operators at a regional level and facilitate their regional integration with a view to creating a competitive European market, facilitating harmonisation of their regulatory and technical frameworks and, in particular, integrating persisting gas islands.

Comitology: Parliament 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: national regulatory authorities must 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.

Guidelines on third-party access services: the application of guidelines on third-party access will reflect differences between national gas systems, and therefore not require uniform detailed conditions of third party access at Community level. They may, however, set minimum requirements to be met to achieve non-discriminatory and transparent network access conditions necessary for an internal gas market, which may be applied in the light of differences between national gas systems.

Transparency requirements: 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.

In order to ensure transparent and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the LNG and storage facility operators or relevant regulatory authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodologies and structure of tariffs for infrastructure under regulated third-party access.

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 regulatory authority shall grant or refuse the authorisation on a case-by-case basis, taking into account in particular the need to respect legitimate commercial confidentiality and the objective of creating a competitive internal market for gas. If the authorisation is granted, available storage and/or LNG facility capacity shall be published without indicating the numerical data that would contravene confidentiality.