

Conditions for access to the network for cross-border exchanges in electricity. Third energy package

2007/0198(COD) - 12/01/2009 - Commission communication on Council's position

The common positions adopted by the Council on the five texts that make up the Third Package contain all the essential components of the Commission's proposal that are needed to ensure the proper functioning of the internal gas and electricity market. They can therefore be generally supported by the Commission.

The Commission recalls that the first reading focused on obtaining agreement within the Council. The amendments adopted by the European Parliament were therefore not formally incorporated into the common position. Negotiations to this end will take place during the second reading.

Some amendments adopted by the European Parliament are taken into account in the common position concerning the Electricity Regulation:

Power of the Agency to develop framework guidelines and codes: both the common position of the Council and the amendments by the European Parliament change the Commission proposal regarding the process of establishing network codes. They introduce a new concept of framework guidelines, prepared by the Agency, which have to be applied by the TSOs when drafting European network codes.

Consultation and monitoring by the European Network of Transmission System Operators (ENTSO): the Common position clarifies the role of ENTSO compared to consultation and monitoring by the Agency. Parliament's amendments are in the same direction but are too restrictive to maintain sufficient scope for ENTSO consultation and monitoring.

Costs of ENTSO: both the common position and the amendments of the European Parliament add the requirement that the regulatory authorities must approve the costs of ENTSO provided they are reasonable and proportionate.

Use of congestion rents: the common position reintroduces the possibility of using congestion rents to reduce tariffs. However, the common position establishes a clear priority for the use of congestion rents for confirming cross-border capacity or for network investment over a reduction in network tariffs.

The Commission also considers that a number of EP amendments that are not covered should be taken into account in the second reading. These amendments are on the following points:

Power of the Agency regarding investment plans: the European Parliament proposes that the Agency should adopt a binding network investment plan, to be prepared by ENTSO. The Commission cannot agree to the Agency's being granted discretionary power to adopt a binding investment plan. The Commission could however support the Agency's adopting a non-binding investment plan, or playing a role in monitoring consistency between the national investment plans as approved by the national regulators and the 10-year network development plan of ENTSO.

Technical cooperation with third countries: Parliament's amendments propose monitoring of technical cooperation with third-country transmission system operators by the national regulatory authorities and the Agency.

Removal of administrative barriers to increase capacity: Parliament's amendments propose that Member States should review their procedures for the removal of administrative barriers to increase interconnection capacity.