

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

2007/0199(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 Gas 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.

Transparency and confidentiality: the Commission proposed full transparency in the use of storage and LNG facilities. The Council provided that storage system operators may be exempted from publishing information on storage use if there is only one storage user, if publication would damage his commercial position and if the regulator approves non-publication. Parliament has proposed the inclusion of an article that allows storage and LNG system operators not to publish data if this would be in breach of confidentiality.

In the Commission's view, the amendment by Parliament is not restrictive enough and gives preference to confidentiality over transparency, whereas a competitive market requires transparency to be the rule and confidentiality the exception. The Council's amendment is acceptable for this particular case of single users of storage facilities, as these are usually small storage facilities that system operators manage primarily for their own use.

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.

Powers of the national regulatory authorities: Parliament has proposed extending the powers of regulatory authorities, by increasing their role in control over capacity allocation and congestion management for storage and LNG, as well as their role in enforcement of the Regulation.