

Agency for the Cooperation of Energy Regulators. Third energy package

2007/0197(COD) - 09/01/2009 - Council position

The Council unanimously adopted its common position. Concerning the 73 amendments adopted by the European Parliament at first reading, the Council followed the Commission in accepting, in part or in full, 25 amendments, and in rejecting 25 other amendments.

Regarding the European Parliament amendments where the Council has deviated from the Commission position, the Council accepted one amendment and rejected 23.

The Council also introduced modifications to the Commission proposal so as to provide for a regulatory Agency, independent from the Member States and the Commission, with well circumscribed tasks that strictly reflect the tasks entrusted to the Agency by the Electricity and Gas Directives and Regulations. These modifications are as follows:

- the Agency focuses on issues involving more than one Member State as far as binding decision-making is concerned. Its involvement in technical matters (establishment of network codes) has been strengthened, but is still of an advisory nature;
- in all these tasks, market participants and authorities at national levels are duly consulted and due account is taken of the outcomes of regional cooperation between Transmission System Operators (TSOs) and between regulators;
- the common position provides for a strong Regulatory Board, composed of senior representatives of national regulators, and a Director of the Agency acting in accordance with the Regulatory Board. It also foresees a lean and efficient Administrative Board, consisting of 6 members (as suggested by the EP), five of them being appointed by the Council and one by the Commission, with partial rotation ensuring adequate participation of Member States over time;
- with a view to improving democratic accountability, transparency provisions have been significantly strengthened, e.g. on the interests of Board members;
- lastly, the common position introduces a review mechanism with a strong input from the Regulatory Board.