

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

2007/0198(COD) - 09/01/2009 - Council position

The Council unanimously adopted its common position in the form of a recast of Regulation (EC) No 1228/2003 (the current legislative act will therefore be repealed). To the extent possible the Council has followed the Commission's approach regarding an identical treatment of the electricity and gas sectors.

Concerning the 32 amendments adopted by the European Parliament at first reading, the Council has followed the Commission in accepting, in part or in full, 7 amendments and in rejecting 6 other amendments.

Regarding the European Parliament amendments where the Council has deviated from the Commission position, the Council accepted, in part, one amendment, and rejected 18.

The Council also introduced the following modifications to the Commission proposal:

Certification of Transmission System Operators (TSOs): the Council considered it appropriate to transfer the part of the certification procedure which sets out the role of the Commission in this procedure from the Electricity Directive to the new Regulation.

Establishment and modification of network codes: the common position sets out more in detail the procedure for the establishment of network codes and another - shorter - procedure for the modification of network codes. It has given a clear role to the Agency which should develop non-binding framework guidelines as a basis for the network codes to be established by the European Network of Transmission System Operators (ENTSO), review the draft network codes and assess proposed modifications to the network codes. If necessary, the Commission may adopt those codes through the committee procedure in order to make them binding.

Monitoring by the Agency: the Council introduced two paragraphs setting out the monitoring role of the Agency in relation to the implementation of the network codes by ENTSO.

Exemptions for new interconnectors: with regard to granting exemptions for new interconnectors between Member States, the Council considered it appropriate to involve the Agency only in those cases where the national regulatory authorities concerned do not find an agreement or submit a joint request to the Agency. Moreover, Member States should have the possibility to provide, if they so wish, that the formal decision on the exemption is taken by another relevant body of the Member State, on the basis of the opinion of the regulator.

Retail markets: the Council considered it appropriate to take out the cross-border reference, and transfer it from the Regulation to the electricity Directive.

Other issues: the Council considered it appropriate to use the term "network development plan" instead of "investment plan" and to clarify that these plans are of a non-binding nature.