

Agency for the Cooperation of Energy Regulators. Third energy package

2007/0197(COD) - 22/04/2009 - Text adopted by Parliament, 2nd reading

The European Parliament approved as amended, under the second reading of the codecision procedure, the Council's common position for adopting a regulation of the European Parliament and of the Council establishing an Agency for the Cooperation of Energy Regulators.

The amendments are the result of a compromise negotiated with the Council on the package of energy market legislation.

The compromise gives Member States the possibility to choose between three options for separating supply and production activities from network operations - both for gas and electricity markets: (a) full ownership unbundling; (b) the independent system operator (ISO); (c) the independent transmission operator (ITO).

The main amendments are as follows:

General tasks: the Agency may, upon a request from the European Parliament, the Council, the Commission or on its own initiative, provide an opinion or a recommendation to the European Parliament, the Council and the Commission on all issues related to the purpose for which it has been established.

Tasks as regards the cooperation of transmission system operators: the Agency shall monitor progress in the implementation of projects to create new interconnector capacity. It shall monitor the implementation of the 10 year network development plans. If it identifies inconsistencies between the plan and its implementation, it shall inquire into the reasons for the inconsistencies and make recommendations to the transmission system operators concerned and national regulatory authorities or other competent bodies with a view to implementing the investments in accordance with the 10 year network development plans.

Tasks as regards the national regulatory authorities: the Agency shall provide a framework within which national regulatory authorities can cooperate. It shall promote cooperation between the national regulatory authorities and between regulatory authorities at regional and Community level.

Consultations and transparency: the Agency shall ensure that the public and any interested parties are given objective, reliable and easily accessible information, in particular with regard to the results of its work, where appropriate. It shall make public, on its own website, at least the agenda, the background documents and, where appropriate, the minutes of the meetings of the Administrative Board, of the Board of Regulators and of the Board of Appeal.

The Agency should consult interested parties, where appropriate, and provide them with a reasonable opportunity to comment on proposed measures, such as network codes and rules.

Monitoring and reporting on the electricity and natural gas sectors: the Agency, in close cooperation with the Commission, Member States and relevant national authorities including the national regulatory authorities and without prejudice to the competences of competition authorities, shall monitor the internal markets in electricity and natural gas, in particular the retail prices of electricity and gas, access to the

network including access of electricity produced from renewable energy sources, and compliance with the consumers' rights set out in the Directive concerning common rules for the internal market in electricity and the Directive concerning common rules for the internal market in natural gas.

The Agency shall make public an annual report on the results of its monitoring activity. When making public its annual report, the Agency may submit to the European Parliament and to the Commission an opinion on the measures that might be taken to remove any barriers.

The Agency should also contribute to the efforts of enhancing energy security.

Administrative Board: this shall be composed of nine members. Two members and their alternates shall be appointed by the Commission, two members and their alternates by the European Parliament and five members and their alternates by the Council. No member of the Administrative Board shall also be a Member of the European Parliament.

The Administrative Board should act independently and objectively in the public interest and should not seek or take political instructions.

Board of Regulators: the Board of Regulators should act independently from any market interest, should avoid conflicts of interests and should not seek or take instructions and not accept recommendations from any government of a Member State, the Commission or from any other public or private entity. The decisions of the Board of Regulators should, at the same time, be in compliance with Community legislation concerning energy, the environment, the internal energy market and competition. The Board of Regulators should report to the Community institutions as regards its opinions, recommendations and decisions.

Only one representative per Member State from the national regulatory authority may be admitted to the Board of Regulators.

Tasks of the Board of Regulators: the European Parliament may invite, while fully respecting his independence, the chairman of the Board of Regulators or his deputy to make a statement before its competent committee and answer questions put by members of that committee.

Director: the European Parliament may invite the Director to make a statement before its competent committee and answer questions put by members of that committee. The Director shall submit the draft work programme of the Agency to the European Parliament.

Report: the Commission should submit to the European Parliament and to the Council at the latest three years after the first director has taken up his duties, and every four years thereafter, a report on the Agency's specific tasks and the results achieved, accompanied by any appropriate proposals. In that report, the Commission should make suggestions on additional tasks for the Agency.