

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

2007/0198(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 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003.

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:

Cooperation and coordination among transmission system operators: increased cooperation and coordination among transmission system operators is required to create network codes for providing and managing effective and transparent access to the transmission networks across borders, and to ensure coordinated and sufficiently forward-looking planning and sound technical evolution of the transmission system in the Community, including the creation of interconnection capacities, with due regard to the environment. Those network codes should be in line with framework guidelines which are non-binding by nature.

Cooperation at regional level: Member States should promote cooperation and monitor the effectiveness of the network at regional level. Cooperation at regional level should be compatible with progress towards a competitive and efficient internal market in electricity.

Network development plan: in order to ensure greater transparency regarding the entire electricity transmission network in the Community, the European Network of Transmission System Operators (ENTSO) for Electricity should draw up, publish and regularly update a network development plan. Viable electricity transmission networks and necessary regional interconnections, relevant from a commercial or security of supply point of view, should be included in that network development plan.

Establishment of the ENTSO for Electricity: the Agency, after formally consulting the organisations representing all stakeholders, in particular the system users, including customers, shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure.

Establishment of network codes: the Commission shall request the Agency to submit to it within a reasonable period of time not exceeding six months a non-binding framework guideline setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. Each framework guideline shall contribute to non-discrimination, effective competition and the efficient functioning of the market. The Agency shall formally consult the ENTSO for Electricity and the other relevant stakeholders in regard to the framework guideline.

Once the Agency is satisfied that the network code is in line with the relevant non-binding framework guidelines, the Agency shall submit the network code to the Commission and may recommend that it be adopted within a reasonable time period. If the Commission does not adopt the code, it shall state the reasons why.

Modification of Network Codes: the Agency shall consult all stakeholders in accordance with the Regulation establishing an Agency for the Cooperation of Energy Regulators.

Tasks of the ENTSO for Electricity: the ENTSO for Electricity shall adopt, inter alia: (i) common network operation tools to ensure co-ordination of network operation in normal and **emergency conditions** ; (ii) recommendations on the coordination of technical cooperation between Community and third-country transmission system operators.

The ENTSO for Electricity shall monitor and analyse the **implementation of the network codes** and the guidelines adopted by the Commission in accordance with the Regulation, and their effect on the harmonisation of applicable rules aimed at facilitating market integration. The ENTSO for Electricity shall report its findings to the Agency and include the results of the analysis in the annual report.

The Agency shall also provide an **opinion on the national 10-year network development plans** to assess their consistency with the non binding Community wide 10-year network development plan. If the Agency identifies inconsistencies between a national 10-year network development plan and the non binding Community wide 10-year network development plan, it shall recommend amending the national network development plan or the non binding Community wide 10-year network development plan as appropriate.

Monitoring by the Agency: where the ENTSO for Electricity has failed to implement any such network codes, the Agency shall request the ENTSO for Electricity to provide a duly reasoned explanation as to why it has failed to do so. The Agency shall inform the Commission of this explanation and provide its opinion thereon.