

Energy: internal market in electricity, cross-border exchanges, access to network. 'Electricity Regulation'

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The Commission presents a Staff Working Document on Article 22 of Directive 2003/55/EC concerning common rules for the internal market in natural gas and Article 7 of Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity.

Directive No 2003/55/EC and Regulation (EC) No 1228/2003 are based on the general principle of a regulated access regime to gas and electricity infrastructure. Both legal acts, however, allow for exemptions from provisions enshrining this overall rule, as well as from provisions establishing ex ante and ex post tariff regulation.

This document provides information on the Commission's assessment of exemption decisions taken by national authorities according to Article 22 of the Gas Directive and Article 7 of the Electricity Regulation. It explains the general framework and analyses the assessment criteria, the information to be provided by the relevant authorities and conditions that may be imposed.

The experience with granting exemptions for new major infrastructure has shown that the conditions of Article 22 of the Gas Directive and of Article 7 of the Electricity Regulation are not always sufficiently clear to the national authorities and market participants, in particular the interpretation of the assessment criteria, the information that needs to be submitted and the conditions that may be imposed to meet the criteria. The Commission services have therefore decided to revise the interpretative note issued in 2004, and replace it by the current one.

The present document does not modify the general exemption policy regarding Article 7 of the Electricity Regulation and Article 22 of the Gas Directive but gives better guidance in the light of the practical experience gained since the publication of the previous note. The objective is to provide transparency and guidance to national authorities and market participants and to facilitate the procedures for assessing exemptions.

This document is not intended to restrict or change the criteria for awarding exemptions. Nor is it intended to give an exhaustive interpretation of the various assessment criteria that are applied in the light of the facts and circumstances of each individual case. It applies to all types of infrastructure eligible for an exemption according to Article 22 of the Gas Directive and Article 7 of the Electricity Regulation.