

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

2007/0198(COD) - 13/07/2009 - Final act

**PURPOSE:** to provide a harmonised framework for cross-border exchanges of electricity (third package of legislative measures concerning the internal energy market).

**LEGISLATIVE ACT:** Regulation (EC) No 714/2009 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.

**CONTENT:** the Council unanimously adopted the package of legislative measures concerning the internal energy market, approving all of the European Parliament's second-reading amendments. The legislative package also includes: (i) a [Directive](#) concerning common rules for the internal market in electricity; (ii) a [Regulation](#) establishing an Agency for the Cooperation of Energy Regulators; (iii) a [Directive](#) concerning common rules for the internal market in natural gas; and (iv) a [Regulation](#) on conditions for access to the natural gas transmission networks.

The third package of legislative measures on the internal energy market aims to:

- supplement the existing rules so as to ensure that the internal market operates smoothly for all consumers and to enable the EU to achieve a more secure, competitive and sustainable energy supply;
- give energy consumers more protection and the benefit of the lowest possible energy prices;
- promote sustainability by stimulating energy efficiency and guaranteeing that small companies, too, in particular those investing in renewable energy, will have access to the energy market;
- ensure fair competition between EU companies and third country companies.

This Regulation aims at:

- setting fair rules for cross-border exchanges in electricity, thus enhancing competition within the internal market in electricity, taking into account the particular characteristics of national and regional markets. This will involve the establishment of a compensation mechanism for cross-border flows of electricity and the setting of harmonised principles on cross-border transmission charges and the allocation of available capacities of interconnections between national transmission systems;
- facilitating the emergence of a well-functioning and transparent wholesale market with a high level of security of supply in electricity. It provides for mechanisms to harmonise the rules for cross-border exchanges in electricity.

The main provisions of the Regulation are as follows:

**Establishment of the European network of transmission system operators for electricity (ENTSO):** all transmission system operators shall cooperate at Community level through the ENTSO for Electricity, in order to promote the completion and functioning of the internal market in electricity and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European electricity transmission network.

By 3 March 2011, the transmission system operators for electricity shall submit to the Commission and to the Agency the draft statutes, a list of members and draft rules of procedure. 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.

**Cooperation and coordination among transmission system operators:** increased cooperation and coordination among transmission system operators is provided for 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 in nature (framework guidelines) and which are developed by the Agency for the Cooperation of Energy Regulators. The Agency should have a role in reviewing, based on matters of fact, draft network codes, including their compliance with the framework guidelines, and it should be enabled to recommend them for adoption by the Commission. The Agency should assess proposed amendments to the network codes and it should be enabled to recommend them for adoption by the Commission. Transmission system operators should operate their networks in accordance with those network codes.

**Tasks of the ENTSO for Electricity:** the ENTSO for Electricity shall elaborate network codes in the areas referred to in the Regulation upon a request addressed to it by the Commission. The network codes shall be developed for cross-border network issues and market integration issues and shall be without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade.

The ENTSO for Electricity shall adopt:

- common network operation tools to ensure coordination of network operation in normal and emergency conditions, including a common incidents classification scale, and research plans;
- a **non-binding Community-wide ten-year network development plan**, (Community-wide network development plan), including a European generation adequacy outlook, every two years. 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;
- recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators;
- an annual work programme and an annual report;
- annual summer and winter generation adequacy outlooks.

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:** the Agency shall monitor the execution of the tasks of the ENTSO for Electricity and report to the Commission. 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.

**Inter-transmission system operator compensation mechanism:** transmission system operators shall receive compensation for costs incurred as a result of hosting cross-border flows of electricity on their networks. The compensation shall be paid by the operators of national transmission systems from which cross-border flows originate and the systems where those flows end. Compensation payments shall be made on a regular basis with regard to a given period of time in the past. Ex-post adjustments of compensation paid shall be made where necessary, to reflect costs actually incurred. The Commission shall decide on the amounts of compensation payments payable.

**Charges for access to networks:** charges applied by network operators for access to networks shall be transparent, take into account the need for network security and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner.

When setting the charges for network access, the following shall be taken into account:

- payments and receipts resulting from the inter-transmission system operator compensation mechanism;
- actual payments made and received as well as payments expected for future periods of time, estimated on the basis of past periods.

**Provision of information:** transmission system operators shall put in place coordination and information exchange mechanisms to ensure the security of the networks in the context of congestion management. They shall publish relevant data on aggregated forecast and actual demand, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, and on balancing power and reserve capacity.

**Penalties:** the Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation. The penalties provided for must be effective, proportionate and dissuasive.

**Commission report:** the Commission shall monitor the implementation of this Regulation. In its report referred to in Directive 2009/72/EC, the Commission shall also report on the experience gained in the application of this Regulation.

ENTRY INTO FORCE: 03/09/2009.

APPLICATION: from 03/03/2011.