

Energy: rules for the internal market in electricity. 'Electricity Directive'

2001/0077(COD) - 03/02/2003 - Council position

The common position takes on board the parliamentary amendments splitting the Commission proposal in two separate texts, one amending the Electricity Directive 96/62/EC and one amending the Gas Directive 98/30/EC (please refer to COD/2001/0077A). Although the European Parliament adopted some of these amendments in relation to the Gas proposal the Council was of the opinion that they were also relevant to the Electricity one. The main elements of the common position are the following :

- 1) Public service obligations : the Council retained as a general principle, the protection of final customers and ensuring a high level of consumer protection. Examples of measures contributing to high standards of consumer protection and information are presented in an Annex (Annex A) which is mandatory for household customers. Moreover, household customers and, where Member States deem it appropriate, small enterprises, shall enjoy "universal service", i.e. the right to be supplied with electricity of a specified quality of reasonable prices. While this concept of universal service, and more generally, public service requirements, can be interpreted on a national basis, they have to be implemented in a transparent and non-discriminatory way. PSOs and universal service shall also be the subject of a detailed Commission report. The Council specified that information on the contribution of each energy source to the overall fuel mix has to be made available to final customers, as well as the reference to publicly available sources, such as web-pages, where information on the environmental impact of CO₂ emissions and radioactive waste resulting from electricity production can be found.
- 2) Unbundling of transmission system operators and unbundling of distribution system operators : distribution system operators serving 100 000 customers or less may be exempted from these provisions; the Commission will review this threshold in the framework of its reporting exercise. Besides Member States may postpone on the implementation of legal unbundling for DSOs until the full market opening. Furthermore in the context of the review procedure provided for in the Directive, a Member State may, under certain conditions related to the manner in which it has carried out network access, request to the Commission to be exempted from requirements such as the legal unbundling of DSOs. This request may lead to the Commission submitting proposals to the Parliament and Council to amend the relevant provisions of the Directive or provide for other appropriate means.
- 3) Market opening : the Council followed the two-step opening proposed by the Commission, with 2004 for all non-household customers and 2007 for all customers. Member States should take into account the situation of certain groups of non-household customers during the first step by applying for an 18-month derogation. By 1 January 2006 the Commission is due to produce a detailed reporting addressing i.a. public service and universal service issues as well as various issues related to the implementation and consequences of the market opening. The Directive shall be implemented no later than 1 July 2004.
- 4) Regulatory authorities : the common position, whilst confirming it is left to the Member States to define the institutional arrangements appropriate to carry out the regulatory tasks, states that the independent regulatory authorities are at least responsible for ensuring non-discrimination, effective competition and the efficient functioning of the market, by least monitoring various rules and conditions listed in the Commission proposal. These authorities are also responsible for approving ex-ante at least the methodologies underlying the terms and conditions for connection and access to networks and for balancing services, and have the authority to require ex-post modifications of these terms and conditions. The text also clarifies the provisions and concerning the prompt handling of complaints by administrative bodies.
- 5) New capacity : Member States have to ensure the possibility, in the interests of security of supply to provide for a new capacity or energy efficiency/demand side management measures through a tendering or equivalent procedure. Moreover, Member States may also ensure the possibility of tendering in the interests of environmental protection and the promotion of infant new technologies.
- 6) Unbundling of accounts : undertakings have to keep separate accounts for each of their transmission and distribution activities and for other electrical activities. Supply activities to eligible and to non-eligible customers shall be separated in the accounts of these undertakings until full market opening.
- 7) Derogations : further to

derogations granted under Directive 96/92/EC (e.g. for small isolated systems), the common position introduces the possibility of derogation for micro isolated systems (consumption less than 500 Gwh in 1996).