

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

2001/0077(COD) - 07/06/2002 - Modified legislative proposal

The Commission's amended proposal accepts in principle or in part a large number of amendments adopted by the Parliament at first reading. The amendments of the European Parliament have been incorporated as follows: 1) Recitals : the Commission has accepted the amendments which: - specify in which areas obstacles to a functioning market remain; - underline the need to ensure a level playing field in generation and protecting small and vulnerable customers' rights and of disclosure on fuel sources; - underline the importance of non-discriminatory access to the network and the existence of favourable investment conditions; - state that construction and maintenance of network infrastructure will contribute to a stable supply; - emphasise the existence of effective regulation and the necessity to establish at least legally binding methodologies underlying transmission and distribution tariffs, instead of stressing the existence of national regulatory authorities with the competence to set or approve tariffs; - require national regulatory authorities to set up market based mechanisms for balancing power as soon as the electricity market is sufficiently liquid; - state that national regulatory authorities are given the task to ensure that, in approving/fixing transmission and distribution tariffs, they take account of the benefits of distributed generation and demand-side management measures; - specify the provisions on the examination of the security of supply situation in the Community, taking into account the interconnection capacity between Member States. It is specified that this monitoring should be carried out early enough to allow any necessary actions to be taken in due time; - call for consideration to be given to the increased external dependence of the Union on natural gas and to consider measures to encourage reciprocal arrangements for access to networks of third countries; - call for admission to the gas network for biogas and gas from biomass for environmental reasons provided this is compatible with the secure and efficient operation of the network on environmental grounds; - state that long-term 'take-or-pay' contracts will remain an important and necessary part of the gas supply of Member States and should be maintained as an option; - include in Article 1 of the amended Gas Directive the reference that the Directive shall also apply to apply biogas and gas from biomass. The Commission can accept this addition, but adds a clause to the effect that this applies to these gases insofar as they can be technically and safely injected into the natural gas system. 2) Universal and Public Service Obligations: the amendments accepted aim to : - add sustainable development to the scope of the Directive; - introduce climate change, energy efficiency and research and development among the subjects to which public service obligations may relate; - mention the fact that public service obligations shall not unduly restrict competition; - reinforce the provisions on the protection of vulnerable customers and oblige Member States to guarantee that effective procedures are in place to enable individual customers to switch supplier; - introduce the obligation to specify fuel sources into the body of the Directive; - oblige Member States to set minimum criteria for delays within which system operators must effectuate connections and repairs; - specify that Member States shall notify all their measures to fulfil public and universal service obligations upon implementation and subsequently every two years any modifications to those measures; - specify that customers shall be informed about their rights regarding universal service; 3) Authorisation procedures (electricity) : the Commission accepted the principle of the amendment which calls for simplified authorisation procedures for small or embedded generation under 15 MW. 4) Tendering (electricity) : the Commission accepts the amendment which adds to the tendering option a possibility to tender explicitly for energy efficiency/demand side management measures in the interest of security of supply and environmental protection. 5) Monitoring of Security of Supply (gas, electricity) : the Commission accepted the amendments which : - suggest the creation of a European Regulatory Group for the European electricity and gas markets by the Commission. The Commission has the intention to create such a consultative body shortly, through a Commission decision; - include the environment and public service requirements in addition to security of supply as a reason to monitor the demand/supply balance; - adds in the report by the Commission on security of supply in natural gas, an examination of issues relating to system capacity levels. 6) Unbundling of Transmission

and Distribution System Operators: the Commission accepts the amendments which : - proposes that the system operator shall have efficient decision making rights as to the assets necessary to maintain and develop the network; - specifies that at least the methodologies for the establishment of tariffs and terms for balancing the gas system shall be approved or fixed by the national regulatory authority. The tariffs and terms shall be published; - calls for admission to the gas network for biogas and gas for biomass for environmental reasons on condition that this is compatible with the secure and efficient operation of the network on environmental grounds. 7) Maintenance and Development of the network by the TSOs : the costs of connecting producers of electricity from renewables and combined heat and power shall be objective and non-discriminatory. The Commission is of the opinion that the costs of connection of all producers should be non-discriminatory, but that, in addition, the specific characteristics and the costs and benefits of connecting producers from renewables and combined heat and power. 8) Unbundling of Accounts : the national regulatory authority shall have access to the accounts of generation, transmission, distribution and supply undertakings. 9) Access to the Network: the amendments accepted aim to : - introduce the notion that tariffs should 'reflect long-term, marginal avoided network costs from decentralised electricity production and demand side management measures; - oblige system operators to quote terms for reinforcing the network; - add access to flexibility instruments to access to storage, which is one of the most important flexibility instruments in most Member States. 10) Regulation: the amendments concerning the national regulatory authority can be supported in part. With respect to the independence of the national regulatory authority, the Commission proposes that it is important that the regulatory authority is independent from the interests of industry. Other amendments : - add to the tasks of the national regulatory authority the reporting on market dominance, market concentration and predatory and anti competitive behaviour; state that transmission and distribution system operators shall be placed 'under a positive obligation' to release information on capacity allocation. The amendment on the prohibition of cross-subsidisation is accepted in principle. 11) EU imports : the reporting obligation on imports of electricity is changed from once a year to once every three months. The Commission is, in principle, willing to except a shorter periodicity for the reporting obligation. 12) Reports : the amendments accepted specify the provisions on the examination of the security of supply situation in the Community, taking into account the interconnection capacity between Member States. It is specified that this monitoring should be carried out early enough to allow any necessary actions to be taken in due time. The Commission supports these specifications. 13) Annex : the amendments contain some provisions of the annex on consumer protection. Most of these can be accepted. It should be noted that the amendments relating to, or implying, the splitting of the proposal of the Commission into two separate proposals, one amending the Electricity Directive 96/92/EC and one amending the Gas Directive 98/30/EC are not accepted.