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

2001/0077(COD) - 10/01/2007

In the course of 2006, the Commission has continued to monitor the internal market for electricity and gas which, since 1999, has been subject to a number of EU regulatory initiatives.

Positive results of competition: The Commission notes that liberalisation of the electricity and gas market has clearly led to some efficiency in energy supply – although that liberalisation is not being implemented quickly enough. The report, therefore suggests that it is questionable whether gas and electricity prices are the result of a truly competitive process rather than being the direct result of companies leading the market. On the matter of "Security of Supply" the report proposes that the pan-European black out in November 2006 can be prevented through: adopting a proposal on legally binding operational security rules; the development of a framework for the electricity network as part of its energy strategy; and improving co-operation between EU electricity grid operators.

Improper implementation of the current legal framework: The report cautions that unless European legislation is properly implemented the markets will not be able to ensure that they are in a position to be fully opened up to all consumers as from 1 July 2007. The Commission has launched 34 infringement procedures against 20 Member States for violation and non-transposition of existing Directives. Sixteen Member States (including all of the largest) have been sent 26 reasoned opinions. The main infringements relate to the transposition of the new internal market Directives including: regulating prices and thereby preventing the entry of new market players; the insufficient unbundling of transmission and distribution system operators; discriminating against third party access to the network, in particular as far as preferential access being granted to incumbents for historical long term contracts is concerned; the non-transmission of information to the Commission on public service obligations – especially as far as regulated supply tariffs are concerned; and an insufficient indication of the origin of electricity.

Obstacles to competition: Concerning the issue of market entry, both the sector inquiry and the country reviews conducted by the Commission in 2006 have unearthed a variety of specific examples, demonstrating the shortcomings of the existing regulatory structure. Some of the shortcomings are as follows: Large companies have an advantage in terms of the information they have access to. For smaller companies they often receive information to late to be able to adjust their positions; TSO's often maintain localised separate balancing zones rather than facilitating the integration of national and cross border level; low TSO investment in cross-border capacity; an emphasis on short term national concerns rather than the development of integrated markets; the inability of smaller Member States to introduce competition in isolation of their neighbours; and lastly distribution system operators appear to be poorly prepared for the opening of competition to households as from July 2007. As a result of these widespread shortcomings incumbent electricity and gas companies largely maintain their dominant positions on "their" national markets.

Key outstanding issues: The report identifies a number of issues that need to be addressed. They are: ensuring non-discriminatory access to networks through unbundling; improving network access at national and EU level through regulation; reducing the scope for unfair competition; enhancing co-ordination between transmission system operators; and providing a clear framework for investment in generation plant/gas import and transmission infrastructure.

Conclusion: The Commission's assessment, outlined above, is based on experience gathered over the last seven years. The creation of a competitive European market for electricity and gas has, according to the

Commission, been an unqualified success. While there are some positive results, the outcome of the inquiry and the country reviews have given the Commission a substantial insight into the current state of the liberalisation process, which has shown, despite significant shortcomings, some progress and considerable further potential benefits. The Commission is of the view that the only way to deliver a secure and sustainable energy future for Europe is to have a coherent electricity and gas market consisting of 500 million consumers, all operating according to the same competition and regulatory framework. As such, the Commission has already initiated an impact assessment procedure to identify the most suitable methods fro implementing those methods. The Commission, therefore, calls on the Council and European Parliament to confirm that the key objectives to be pursued in completing the internal energy market are those identified by the Commission and to endorse further measures.