Basic information

1991/0384(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Electricity: common rules for the internal market Repealed by 2001/0077(COD) **Subject** 3.60.03 Gas, electricity, natural gas, biogas	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENER Research, Technological Development and Energy	DESAMA Claude J.-M.J. (PSE)	02/10/1996

Council of the European Union

Council configuration	Meetings	Date
Budget	1945	1996-07-25
Energy	1807	1994-11-29
Energy	1938	1996-06-20
Energy	1894	1995-12-20
Energy	1850	1995-06-01
Energy	1921	1996-05-07
Fisheries	1983	1996-12-19

Key events

Date	Event	Reference	Summary
21/02/1992	Legislative proposal published	COM(1991)0548	Summary
06/04/1992	Committee referral announced in Parliament, 1st reading		
08/10/1993	Vote in committee, 1st reading		
16/11/1993	Debate in Parliament		Summary
07/12/1993	Modified legislative proposal published	COM(1993)0643	Summary
29/11/1994	Debate in Council		
01/06/1995	Debate in Council		Summary

20/12/1995	Resolution/conclusions adopted by Council		Summary
25/07/1996	Council position published	08811/2/1996	Summary
05/09/1996	Committee referral announced in Parliament, 2nd reading		
19/11/1996	Vote in committee, 2nd reading		Summary
19/11/1996	Committee recommendation tabled for plenary, 2nd reading	A4-0380/1996	
10/12/1996	Debate in Parliament		Summary
19/12/1996	Act approved by Council, 2nd reading		
19/12/1996	Final act signed		
19/12/1996	End of procedure in Parliament		
30/01/1997	Final act published in Official Journal		

Technical information

Procedure reference	1991/0384(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by 2001/0077(COD)
Legal basis	EC Treaty (before Amsterdam) E 066 EC Treaty (before Amsterdam) E 057-p2 EC Treaty (before Amsterdam) E 100A
Stage reached in procedure	Procedure completed
Committee dossier	ENER/4/08141

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A3-0281/1993 OJ C 296 01.11.1993, p. 0004	08/10/1993	
Text adopted by Parliament, 1st reading/single reading		T3-0640/1993 OJ C 329 06.12.1993, p. 0093-0150	17/11/1993	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0380/1996 OJ C 380 16.12.1996, p. 0005	19/11/1996	
Text adopted by Parliament, 2nd reading		T4-0665/1996 OJ C 020 20.01.1997, p. 0045-0055	11/12/1996	Summary

Council of the EU

Document type	Reference	Date	Summary
	08811/2/1996		

Council position	OJ C 315 24.10.1996, p. 0018	25/07/1996	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1991)0548	21/02/1992	Summary
Reconsultation	COM(1993)0570	10/11/1993	
Modified legislative proposal	COM(1993)0643	07/12/1993	Summary
Commission communication on Council's position	SEC(1996)1409	04/09/1996	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1996)0710	12/12/1996	Summary
Follow-up document	COM(1999)0198	04/05/1999	
Follow-up document	SEC(1999)0712	10/05/1999	
Follow-up document	SEC(2001)1957	03/12/2001	Summary
Document attached to the procedure	SEC(2002)1038	01/10/2002	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0077/1993 OJ C 073 15.03.1993, p. 0031	27/01/1993	Summary
EESC	Economic and Social Committee: opinion, report	CES0577/1994 OJ C 195 18.07.1994, p. 0082	28/04/1994	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 1996/0092
OJ L 027 30.01.1997, p. 0020

Summary

Electricity: common rules for the internal market

1991/0384(COD) - 28/04/1994

Electricity: common rules for the internal market

1991/0384(COD) - 17/11/1993 - Text adopted by Parliament, 1st reading/single reading

The plenary assembly adopted the report by Mr Claude Desama (PSE, B) and confirmed the main approach set out by the Committee on Energy, Research and Technology. Harmonisation would initially be given precedence over liberalisation, whilst liberalisation would occur over a transitional period finishing at the end of 1998. Harmonisation involved establishing common rules on production, transport and distribution (electricity) together with storage, transport and distribution (gas). It included defining rules for the organisation and operation of these sectors, tasks of general interest and access to the market. It particularly targeted environmental protection, taxation and transparent accounting.

Electricity: common rules for the internal market

1991/0384(COD) - 07/12/1993 - Modified legislative proposal

The amended Commission proposal incorporated many of the amendments adopted by the European Parliament and took account of the six principles which the Council wanted: - security of supply; - protection for the environment; - protection for small consumers (by strengthening public service requirements); - transparency and non-discrimination; - recognition of the differences between the existing national systems; - transitional provisions (a transitional period was scheduled from 1 July 1994 to 31 December 1998 at the earliest). The Commission's main amendments in the electricity sector basically concerned: - the structure of the proposal: a special chapter was devoted to the rules for access to networks; - third-party access to the network. The regulated access provided for in the initial proposal was replaced by the possibility of negotiated access, with arbitration mechanisms if there were problems in negotiating or implementing the contract; - the introduction of a work programme allowing the Commission, during the second phase of market liberalisation, to draw up the harmonisation proposals needed for the successful operation of the market; - strengthening the references to public service requirements; - unbundling: separate management was abolished; separate accounting was maintained, however, and supplemented by giving the competent authorities right of access to companies' internal documents; - the introduction of tendering procedures as an option when allocating new transport and production capacity; - the simplification of the rules relating to use of the transport and distribution networks. The Commission did not accept Parliament's amendments on the following: - the requirement for the Member States to set up an Electricity and Gas Council; - the link between the transition to the final phase of liberalisation and prior harmonisation in the environmental and taxation fields; - allowing the distribution companies to keep the supply monopoly.

Electricity: common rules for the internal market

1991/0384(COD) - 20/12/1995

The Council held a discussion on the proposal for a directive on the common rules for the internal electricity market, at the close of which the Presidency drew the following conclusions: ‘In accordance with the amended proposals for directives concerning common rules for the internal market in electricity and in gas, having consulted the European Parliament and the Economic and Social Committee and in accordance with the conclusions adopted by the Energy Councils on 30 November 1992, 29 November 1994 and 1 June 1995, the Presidency: 1. stresses the importance of achieving the internal market in electricity in terms of the competitiveness of the industry and economic development; 2. considers that the negotiations on the Directive concerning the internal market in electricity have reached a final stage enabling it to believe that adoption of a common position will be possible at the next meeting of the Energy Council; 3. notes that this progress was made possible by a substantial convergence of the positions of the various Member States and considerable clarification of the operation envisaged for the electricity systems of the Member States and is grounds for viewing the last compromise text of the Spanish Presidency as a valid basis for future proceedings; 4. considers it necessary to give further thought to the consequences of giving distributors rights and obligations similar to those of major consumers, taking account basically of the criteria of market opening, the task of public services, the general economic interest and the possibility of choice for the consumer. In this connection, it is essential that an equivalent and satisfactory degree of opening of the various electricity systems be gradually achieved; 5. notes that work will continue without interruption during the Italian Presidency, which will convene a meeting early in 1996 to discuss the question of the internal market in electricity with a view to achieving a common position’.

Electricity: common rules for the internal market

1991/0384(COD) - 04/09/1996 - Commission communication on Council's position

The Commission approved the common position, which followed the same approach as its own proposals. The amendments by the Council balanced the approach without affecting the basic principles on which the amended proposal was based. However, the Commission regretted that not all distributors were eligible to take part in the new organization of the market and that the Council had eliminated new transmitting capacities from the scope of the directive. It also deplored the fact that regular consultation with residential consumers, independent producers, the social partners, environmental protection organizations etc. had been deleted. The Commission reaffirmed its intention of presenting a report on harmonization requirements by the required date.

Electricity: common rules for the internal market

1991/0384(COD) - 21/02/1992 - Legislative proposal

Electricity: common rules for the internal market

1991/0384(COD) - 11/12/1996 - Text adopted by Parliament, 2nd reading

In adopting the recommendation for second reading by Mr Claude DESAMA (PSE, B), Parliament approved the common position of the Council on the proposal for a Directive concerning liberalization of the internal market in electricity. For want of a sufficient majority Parliament was unable to adopt the amendments tabled by its Committee on Research, Technological Development and Energy covering, in particular, harmonization of rules concerning environmental protection, taxation and social protection of workers, transparency of company accounts, employment protection and regional planning, the public-service obligation, long-term contracts between State and local or regional authorities, and co-generation (combined heat and electricity production).

Electricity: common rules for the internal market

1991/0384(COD) - 19/12/1996 - Final act

OBJECTIVE: to promote the completion of the internal market in electricity. COMMUNITY MEASURE: European Parliament and Council Directive 96 /92/EC concerning common rules for the internal market in electricity. SUBSTANCE: the Directive establishes common rules for the production, transmission and distribution of electricity. It lays down the rules relating to the organization and functioning of the electricity sector, access to the market, the criteria and procedures applicable to calls for tender and the granting of authorizations, and the operation of systems. The internal market in electricity will initially be subject to a gradual market opening so that the electricity sector can adapt to its new environment. Member States may impose on undertakings operating in the electricity sector public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies, and to environmental protection. For the construction of new generating capacity, Member States may choose between an authorization procedure and a tendering procedure; the criteria should be objective, transparent and non-discriminatory. To grant access to the grids, Member States may choose between 'negotiated third party access' and the 'single buyer' systems. Member States should designate a system operator responsible for operating, maintaining and developing the transmission system in a given area, and its interconnectors, with other systems in order to guarantee security of supply. As regards distribution system operation, Member States may impose on companies an obligation to supply certain customers, and regulate the tariffs applicable to certain categories of customers; they may require the distribution system operator to give priority to generating installations using renewable energy sources or producing combined heat and power. As regards unbundling and transparency of accounts, the Directive requires integrated electricity undertakings, in their internal accounting, to keep separate accounts for their generation, transmission and distribution activities, and to include a balance sheet and a profit and loss account for each activity in notes to their accounts. In the event of a sudden crisis in the energy market a Member State may temporarily take the necessary safeguard measures. Member States may qualify for a transitional regime where commitments or guarantees of operation given before the entry into force of the Directive may not be honoured, and may qualify for derogations for their small isolated systems. The Directive will be the subject of a review, on the basis of a report by the Commission, in order to allow the Council and the EP to consider the possibility of a further opening of the market which would be effective nine years after the entry into force of the Directive. DATE OF ENTRY INTO FORCE: 19 February 1997. DEADLINE FOR TRANSPOSITION: 19 February 1999. Belgium, Greece and Ireland will have an additional period of respectively 1 year, 2 years and 1 year.

Electricity: common rules for the internal market

1991/0384(COD) - 12/12/1996 - Commission opinion on Parliament's position at 2nd reading

La Commission called on the Council to adopt definitively the directive on common rules for the internal market in electricity. The European Parliament did not adopt any amendments to the common position.

Electricity: common rules for the internal market

1991/0384(COD) - 01/06/1995

‘Following the modified proposals for Directives on setting up common rules for the internal gas and electricity market, after consultation of the European Parliament and of the Economic and Social Committee, and while confirming the conclusions adopted by the Council on 30 November 1992 and 29 November 1994, the Council: 1) reaffirms the 4 points of agreement as identified in the Council conclusions of 29 November 1994, keeping in mind the need for further discussion and clarification with regard to market liberalisation beyond the production sector and other aspects of the Directive, for instance that of harmonisation and taking into account the fact that each of these 5 key topics should represent part of an overall agreed solution; 2) recalls that, in the abovementioned conclusions of 29 November 1994, the Council requested further discussion on how to open the markets beyond the area of electricity production, especially on the question of the possible simultaneous introduction of a negotiated TPA and a so--called single--buyer system. In this context it agreed to verify that both approaches, in a spirit of reciprocity, lead to equivalent economic results and, therefore, to a directly comparable level in the opening of markets and to a directly comparable degree of access to electricity markets, and that they conform to the provisions of the Treaty; 3) notes the Commission’s working paper on the organisation of the internal electricity market, following the request expressed by the Energy Council at its meeting on 29 November 1994; 4) confirms, in the light of this working paper, that one of the Directive’s main objectives concerning the internal electricity market is to increase competition in the interests of all consumers, and that, to this end, European electricity systems must progressively take market mechanisms into account, allowing in particular for the situation of independent producers and eligible consumers, in the framework of flexible and pragmatic solutions that will: - permit the performance of public service obligations imposed on electricity undertakings in the general economic interest, including objectives set by each Member State regarding security of supply and environmental protection. The implementation of these obligations, in accordance with the Treaty, and in particular with Article 90(2) thereof taken as a whole, will include, for those Member States that so wish, the implementation of long--term planning, as cited by the Commission and in line with the Council conclusions of 30 November 1992, as being a means of ensuring these objectives. The development of trade must not be affected to an extent that would be contrary to the interests of the Community; - take into consideration the principle of subsidiarity and the different situations and forms of organisation in the various Member States in this sector as well as endogenous resource utilisation; - take into account the question of transitional arrangements, in accordance with the conclusions of the Council at its meeting on 30 November 1992; 5) considers that the two systems, both within the European Community and within those countries of the European Community that so wish, can co-exist subject to certain conditions, intended to ensure reciprocity between the two systems and equivalent effects, being met as indicated in paragraph 2. There is agreement on the following points without prejudice to the discussions to be continued on these conditions, as indicated in paragraph 6: - the single buyer must purchase electricity under objective conditions that guarantee, in particular, transparent transport prices and a total lack of discrimination; - a system of authorisations granted to independent producers, based on transparent criteria, will be introduced along with competitive bidding procedures in the zone covered by the single buyer, while complying with the provisions of paragraph 4; - within a single--buyer system, eligible consumers in accordance with the principle of equivalence referred to above, will be able to negotiate supply contracts abroad, while complying with the provisions of paragraph 4; - the appropriate conditions for transparency in transport and distribution will be defined in both systems so as to guarantee that any sort of discrimination or predatory behaviour, in particular in intra--Community trade, is avoided; - appropriate and effective regulatory and control mechanisms and mechanisms for the settlement of disputes will be introduced in both systems so as to avoid any abuse of a dominant position to the detriment in particular of consumers; - in the single--buyer system, producers who are not bound by contract with the single buyer should be able to export their electricity via the network of the single buyer, provided that there is sufficient transport capacity on that network and that this is technically feasible; 6) considers that further discussions are necessary on the following points: - the building and use of direct lines; - the question of the definition of independent producers; - the question of the definition of all eligible consumers and of their rights and responsibilities; - the concrete conditions for accepting or rejecting authorisations for independent producers in relation to planning and to the capacity of the system and the conditions under which independent producers may negotiate supply contracts with eligible consumers; - the question of possible quantitative limits on the electricity imported by eligible consumers; - the issue of integrated companies in both systems, as regards production, transport and distribution, so as to avoid discrimination, cross--subsidisation and unfair competition; - the question of who will be responsible, in both systems, for the organisation of the tender procedures; - the detailed procedures as regards transitional periods and arrangements; - the problem of stranded investments; - the conclusions to be drawn in particular from the working document submitted on 11 May 1995 by the Commission on the specific nature of small systems, notably small highly interconnected systems, in particular as regards the realisation of direct lines; 7) invites the Permanent Representatives Committee to finalise its work on the basis of these conclusions to enable the Council to adopt a common position before the end of the year.'

Electricity: common rules for the internal market

1991/0384(COD) - 03/12/2001

The European Council at Stockholm requested a detailed evaluation of the situation in the electricity sector relating to market opening. This has been carried out in the form of a benchmarking report considering in detail the regimes in place in different Member States for electricity. The report has been compiled using information collected from market players and government agencies following a detailed survey. The report reveals that almost all Member States have passed appropriate legislation to transpose the Directive. In terms of market opening, a number of Member States have either already opened their markets more rapidly than the minimum requirements of the Directive or plan to do so. All Member States except France, Portugal and Greece envisage full market opening in a legal sense before 2008. However, in terms of detailed measures, a number of key barriers to competition have been identified in the report as follows: - excessively high network tariffs, which forms a barrier to competition by discouraging third party access and may provide revenue for cross subsidy of affiliated businesses in the competitive market, - a high level of market power of existing generation companies combined with a lack of liquidity in wholesale and balancing markets which is likely to expose new entrants to the risk of high imbalance charges, - network tariff structures which are not published in advance or subject to ex-ante approval this may lead to uncertainty and create costly and time consuming disputes unless combined with full ownership unbundling, - insufficient unbundling, which may obscure discriminatory charging structures and lead to possible cross subsidy. In addition to the barriers to competition within Member States, there are also several contraints on cross border transactions. The report examines the rules in place at borders for the following conclusion: there exists the beginnings of a coherent system for both cross border tariffs and capacity allocation. However, more development is needed in terms of a more cost effective reflective tariff structure, more information provision, greater integration of capacity allocation procedures between countries and integration with power exchanges. In conclusion, the analysis would seem to indicate that the Member States which have adopted policies along the lines of the Commission's proposal have experienced better performance of the electricity market in terms of customers exercising the right to choose. In addition for the Nordic countries, prices have reduced the most rapidly and are generally lower than average as a result.

Electricity: common rules for the internal market

1991/0384(COD) - 01/10/2002

This Report provides initial results for the second benchmarking report on the implementation of the internal electricity and gas market. The report shows that: 1) for electricity, only four Member States do not intend to fully open their market, and of those, Italy expects market opening to all non-households by 2004. The European electricity market is therefore around 70% open to competition at present and this will rise to 82% by 2005 even without the measures agreed at Barcelona. There has been some progress in the electricity sector since the first report in terms of the general functioning of the market particularly in Germany, Austria and the Netherlands. However, there remain areas that are causing particular difficulties as follows: - differential rates of market opening continue to reduce the scope of benefits to customers from competition, leading to higher prices than otherwise to small businesses and households, and also promote distortion of competition between energy companies by allowing the possibility of cross-subsidies at a time when companies are restructuring themselves into pan-European suppliers; - disparities in access tariffs between network operators which, due to the lack of transparency caused by insufficient unbundling and inefficient regulation, may form a barrier to competition; - the high level of market power among existing generating companies associated with a lack of liquidity in wholesale and balancing markets which impedes new entrants; - insufficient interconnection infrastructure between Member States and, where congestion exists, unsatisfactory methods for allocating scarce capacity. 2) for gas, other than Finland, Portugal and Greece, which are emerging or non connected markets and have certain derogations in place, all Member States except France and Luxembourg envisage full market opening. On average 80% of EU gas demand is now, in principle, open to competition and this is already scheduled to increase to around 90% by 2005. Regarding structural measures, the regulator has recently taken responsibility for access to the gas network in both Austria and Ireland. This means that all Member States except Germany have a system of access involving independent regulation for electricity, and all but Germany and France for gas. As far as gas is concerned, there has been less progress since last year than for electricity, the most significant barriers being as follows: - similar concerns to those for electricity about the unequal level of market opening; - inappropriate tariff structures and large and unexplained disparities in network access tariffs between countries and regions for transportation and distribution transactions which form a barrier to competition and provide revenue for cross-subsidies; - lack of transparency regarding the availability of infrastructure capacity, both internally and cross-border, as well as capacity reservation procedures which do not allow third parties the flexibility to change their gas sources or their customer base without incurring increased costs; - concentration of gas production and import in a few companiesand slow development of gas trading hubs which often means that new entrants find it very difficult to buy wholesale gas on reasonable terms; - balancing regimes which are unnecessarily stringent, being non-market based and not reflective of the costs incurred. 3) As regards public service issues : terms of the measures being taken to ensure public service in a competitive market. It shows that Member States are aware of the need to ensure security of supply, to deliver high levels of service to all customers and to defend the Community's environmental objectives. Key issues being addressed in Member States include: - the projected security of supply position for electricity in certain regions such as the Nordic countries and Ireland as well as the longer term issues relating to gas supplies from outside the EU; - continuing attention on the need to ensure low income customers should benefit from competition and continue to have access to electricity at an affordable price and that disconnection should be a last resort; - measures to increase the share of renewable energy and combined heat and power (CHP), and to encourage demand management. In conclusion, the report states that his analysis again supports the hypothesis that full market opening, when combined with appropriate structural measures relating to unbundling and regulation, is necessary to deliver consistent benefits across all consumer groups. In particular, it is clear that smaller consumers in markets without full and effective market opening are unable to benefit from competitive conditions and are likely to suffer in relative terms as a consequence.

Electricity: common rules for the internal market

1991/0384(COD) - 25/07/1996 - Council position

The common position roughly corresponds to the Commission's amended proposal and incorporates a number of amendments adopted by Parliament at first reading. It provides for the gradual stepping up of competition on the electricity market, while guaranteeing the supply of essential services to the public. The text of the common position is based on the following general framework: - separation of the Directive on the internal market in electricity from the Directive on the internal market in gas; - the internal market in electricity will initially be subject to a gradual market opening over nine years; - Member States may invoke either a tendering procedure or an authorization procedure when granting licences to construct new general capacity; - Member States may invoke either the 'negotiated third party access' or the 'single buyer' systems to grant access to the grids; - all issues related to public service obligations are addressed in a specific Article; - with due regard to the principle of subsidiarity, Member States have been given a larger role in the implementation provisions. More specifically, the amendments introduced by the Council concern the following points: - general rules for the organization of the sector: opening up of the market to competition, a balance between competition and public service obligations and the scope of public service, with the introduction of procedures for the identification of public service obligations at the level of the Member States; - transmission system operation: elimination from the scope of the Directive of new transmitting capacity; objective, transparent and non-discriminatory criteria for the construction of new generating capacity; possibility for Member States to choose between the authorization procedure and the tendering procedure; - distribution system operation: Member States may impose on distribution companies an obligation to supply customers located in a given area, and regulate the tariff applicable to certain categories of customers; the distribution system operator may give priority to generating installations using renewable energy sources or producing combined heat and power; - unbundling and transparency of accounts: clarification of unbundling of accounts, which is maintained outside the scope of the Directive; obligation of integrated electricity undertakings, in the internal accounting, to keep separate accounts for their generation, transmission and distribution activities, and to publish, in notes to the annual accounts, a balance sheet and a profit and loss account for each of the electrical activities in which they are engaged; total independence of operation under the single buyer system; independence of operation under the negotiated access system; - organization of access to the system: obligation on system operators to publish an indicative range of prices for use of the transmission systems under the negotiated access system; Member States may opt for a regulated system of access procedure on the basis of published tariffs; single buyer system as an alternative to negotiated access; - opening up of the market: introduction of rules and mechanisms for the gradual and regular opening of the electricity market over a period of six years: the initial opening rate will reach approximately 22%, calculated on the basis of an average Community share (40 GWh) obligatory for all Member States, and will gradually rise to 33% (9 GWh) after six years; in the event of a larger opening decided at the national level, a safeguard clause, reviewed by the Commission after four and a half years, will prevent imbalance between the markets; - final provisions: introduction of rules covering the transitional regime applicable when commitments or guarantees of operation given before the entry into force of the Directive may not be honoured, and covering small isolated systems; abolition of the regular consultation procedures, but clarification of the review procedures, so that the Council and the EP would be able to consider the possibility of a further opening of the market which would be effective nine years after the entry into force of the Directive. .

Electricity: common rules for the internal market

1991/0384(COD) - 27/01/1993

Electricity: common rules for the internal market

1991/0384(COD) - 20/06/1996

After a lengthy debate, and on the basis of a general compromise from the presidency, the Council succeeded in achieving a political agreement by unanimous decision. The German delegation kept open the option of confirming its agreement by 1 July 1996 at the latest. The common position was to be formally adopted after some final legal and linguistic editing of the text. It would then be submitted to Parliament for a second reading under the codecision procedure. It was recalled that the Commission’s initial proposal dated back to February 1992, while the amended proposal was put forward in February 1994. The agreement that had just been reached therefore represented the temporary culmination of several years of difficult negotiations.