

Basic information	
<p><b>2001/0077(COD)</b></p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p>	Procedure completed
<p>Energy: rules for the internal market in electricity. 'Electricity Directive'</p> <p>Repealing Directive 96/92/EC <a href="#">1991/0384(COD)</a> Repealed by <a href="#">2007/0195(COD)</a> Amended by <a href="#">2007/0141(COD)</a></p> <p><b>Subject</b></p> <p>3.60.03 Gas, electricity, natural gas, biogas</p>	

Key players				
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>
	<a href="#">ITRE</a> Industry, External Trade, Research, Energy		TURMES Claude (V/ALE)	29/05/2001
	<b>Former committee responsible</b>		<b>Former rapporteur</b>	<b>Appointed</b>
	<a href="#">ITRE</a> Industry, External Trade, Research, Energy		RAPKAY Bernhard (PSE)	29/05/2001
			TURMES Claude (V/ALE)	29/05/2001
	<b>Former committee for opinion</b>		<b>Former rapporteur for opinion</b>	<b>Appointed</b>
	<a href="#">ECON</a> Economic and Monetary Affairs		MARINOS Ioannis (PPE-DE)	19/06/2001
	<a href="#">JURI</a> Legal Affairs and Internal Market		CROWLEY Brian (UEN)	07/01/2002
	<a href="#">JURI</a> Legal Affairs and Internal Market		BEYSEN Ward (ELDR)	10/07/2001
	<a href="#">ENVI</a> Environment, Public Health, Consumer Policy		KRONBERGER Hans (NI)	21/05/2001
<a href="#">RETT</a> Regional Policy, Transport and Tourism		The committee decided not to give an opinion.		
Council of the European Union	<b>Council configuration</b>		<b>Meetings</b>	<b>Date</b>
	General Affairs		2518	2003-06-16

	Transport, Telecommunications and Energy	2465	2002-11-25
	Energy	2347	2001-05-14
	Industry	2433	2002-06-06
European Commission	Commission DG	Commissioner	
	Energy and Transport		

Key events			
Date	Event	Reference	Summary
13/03/2001	Legislative proposal published	COM(2001)0125 	
14/05/2001	Debate in Council		Summary
14/05/2001	Committee referral announced in Parliament, 1st reading		
26/02/2002	Vote in committee, 1st reading		
26/02/2002	Committee report tabled for plenary, 1st reading	A5-0077/2002	
12/03/2002	Debate in Parliament		
13/03/2002	Decision by Parliament, 1st reading	T5-0106/2002	
06/06/2002	Debate in Council		Summary
07/06/2002	Modified legislative proposal published	COM(2002)0304 	Summary
03/02/2003	Council position published	15528/2/2002	Summary
13/02/2003	Committee referral announced in Parliament, 2nd reading		
24/04/2003	Vote in committee, 2nd reading		Summary
24/04/2003	Committee recommendation tabled for plenary, 2nd reading	A5-0136/2003	
02/06/2003	Debate in Parliament		
04/06/2003	Decision by Parliament, 2nd reading	T5-0242/2003	Summary
16/06/2003	Act approved by Council, 2nd reading		
26/06/2003	Final act signed		
26/06/2003	End of procedure in Parliament		
15/07/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2001/0077(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation

<b>Legislative instrument</b>	Directive
<b>Amendments and repeals</b>	Repealing Directive 96/92/EC <a href="#">1991/0384(COD)</a> Repealed by <a href="#">2007/0195(COD)</a> Amended by <a href="#">2007/0141(COD)</a>
<b>Legal basis</b>	EC Treaty (after Amsterdam) EC 055 EC Treaty (after Amsterdam) EC 047-p2 EC Treaty (after Amsterdam) EC 095
<b>Stage reached in procedure</b>	Procedure completed
<b>Committee dossier</b>	ITRE/5/16091

<a href="#">Documentation gateway</a>				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0077/2002</a>	26/02/2002	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0106/2002</a> OJ C 047 27.02.2003, p. 0088-0350 E	13/03/2002	<a href="#">Summary</a>
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A5-0136/2003</a>	24/04/2003	
Text adopted by Parliament, 2nd reading		<a href="#">T5-0242/2003</a> OJ C 068 18.03.2004, p. 0148-0211 E	04/06/2003	<a href="#">Summary</a>
<b>Council of the EU</b>				
Document type		Reference	Date	Summary
Council statement on its position		<a href="#">05596/2003</a>	24/01/2003	
Council position		<a href="#">15528/2/2002</a> OJ C 050 04.03.2003, p. 0015-0035 E	03/02/2003	<a href="#">Summary</a>
<b>European Commission</b>				
Document type		Reference	Date	Summary
Legislative proposal		<a href="#">COM(2001)0125</a> 	13/03/2001	<a href="#">Summary</a>
Document attached to the procedure		<a href="#">SEC(2001)0438</a> 	13/03/2001	<a href="#">Summary</a>
Modified legislative proposal		<a href="#">COM(2002)0304</a> 	07/06/2002	<a href="#">Summary</a>
Document attached to the procedure		<a href="#">SEC(2002)1038</a> 	01/10/2002	<a href="#">Summary</a>
Commission communication on Council's position		<a href="#">SEC(2003)0161</a> 	07/02/2003	<a href="#">Summary</a>
		<a href="#">COM(2003)0429</a>		

Commission opinion on Parliament's position at 2nd reading		23/07/2003	<a href="#">Summary</a>
Follow-up document	COM(2004)0719 	26/10/2004	<a href="#">Summary</a>
Follow-up document	COM(2004)0863 	05/01/2005	<a href="#">Summary</a>
Follow-up document	COM(2005)0568 	15/11/2005	<a href="#">Summary</a>
Follow-up document	COM(2006)0841 	10/01/2007	<a href="#">Summary</a>
Follow-up document	COM(2009)0115 	11/03/2009	<a href="#">Summary</a>
Follow-up document	SEC(2009)0287 	11/03/2009	
Follow-up document	COM(2010)0084 	11/03/2010	<a href="#">Summary</a>
Follow-up document	SEC(2010)0251 	11/03/2010	

#### National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	<span style="border: 1px solid red; padding: 2px;">PT_PARLIAMENT</span>	COM(2010)0084	24/11/2010	

#### Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1311/2001 OJ C 036 08.02.2002, p. 0010	17/10/2001	

#### Additional information

Source	Document	Date
European Commission	EUR-Lex	

#### Final act

<a href="#">Directive 2003/0054</a> <a href="#">OJ L 176 15.07.2003, p. 0037-0055</a>	<a href="#">Summary</a>
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**Energy: rules for the internal market in electricity. 'Electricity Directive'**

2001/0077(COD) - 13/03/2002

The European Parliament has adopted with 351 votes in favour, 79 against, and 114 abstentions the Commission's proposal on the completion of the internal market in electricity and natural gas. The two rapporteurs, Claude TURMES (Greens/EFA, L) for electricity and Bernhard RAPKAY (PES, D) for gas, both agreed on the importance of creating a true functioning internal market for electricity and gas. With the vote, an important step towards an open, liberalised market in electricity and natural gas, was taken. After a lengthy and complicated vote with 160 amendments, the House agreed largely with the opinion of the Energy Committee and adopted most of the amendments submitted by that committee. Parliament agreed that: - The Commission's proposal should be separated into one proposal for Electricity and one for gas, - Member States should ensure that electricity and gas entities supplying final consumers specify certain minimum information, including the origin of the electricity and gas in the bills; - Member States should designate one or more competent bodies as regulatory authorities with the highest possible degree of independence from the Governments, and must be wholly independent of interests of the electricity and gas industry; - Member States should ensure legal unbundling and a fair and non-discriminatory network system; - Funds for decommissioning in the nuclear sector should not be allowed to be used for anything else; - Consideration should be given to initiatives and measures to encourage reciprocal arrangements for access to third country gas networks. - The Commission should come forward with proposals to regulate third-country access to the internal electricity and gas market to avoid price dumping; - Cross subsidisation of any kind shall be inadmissible; - Member States shall bring into force the laws etc necessary to comply with the Directive by 31 December 2002.

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

2001/0077(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 companies and 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.

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

2001/0077(COD) - 11/03/2009

The Commission presents its report on progress in creating the internal gas and electricity market. The liberalisation of the EU's electricity and gas markets, which began several years ago, has contributed to the rejuvenation of the energy sector. It has helped to develop entrepreneurial potential in this sector, with beneficial effects on a variety of energy-related activities ranging from the production of diverse forms of renewable energy to the creation of financial markets for energy derivatives. Market participants are now better prepared to adapt to the rapid economic and environmental changes – particularly in dealing with the specific challenges that climate change poses to the energy sector.

The present reports bears witness to the fact that, over the past five years, **significant improvements** have taken place in the EU electricity and gas market.

While these developments are encouraging, **the full potential of liberalisation has not yet been realised**.

The Commission is taking action to ensure the **correct implementation** of EU legislation at national level through the application of infringement procedures and complementing the internal market legislation with the **third internal energy market package** (see [COD/2007/0196](#) and [COD/2007/0199](#)). In June and July 2008, the package passed its first reading in the European Parliament; in October 2008, a political agreement was reached in the Council. The second reading started in January 2009, and is on course to be adopted by mid-2009. Thereafter, the third internal market package will need to be implemented in national law.

One of the purposes of the present report, therefore, is to identify the shortcomings of the current situation and to indicate the areas in which further action is needed.

More than four years after the deadline (1 July 2004), implementation of the second [Electricity](#) and Gas Directives is still not entirely complete. Several Member States, including Denmark, Luxembourg and the Netherlands, have now correctly implemented both Directives through appropriate national legislation. There has also been progress in other Member States: the Czech Republic, Finland, Germany, Greece, Latvia, Lithuania, Slovenia and the United Kingdom brought their national laws into line with EU legislation after a reasoned opinion was issued by the European Commission. In the case of some other Member States, the Commission has had to take legal steps to ensure the full and correct implementation of certain provisions.

In 2007 and 2008 a great deal of effort was put into enhancing competition on the wholesale market; significant progress was made through the regional initiatives. There also seems to be a new trend towards **building new energy infrastructure**. This is crucial to overcoming the longstanding fragmentation of EU energy markets. The trend is set to continue but it may take some time because the planning and building of such infrastructure requires long time horizons.

This report presents a **mixed picture** of the progress of completing the internal energy market. There are still a number of areas and Member States where significant obstacles to the efficient functioning of the electricity and gas market persist. A major concern is the incomplete implementation of European electricity and gas legislation. The recent experience of rising energy prices underlines the need to **make market integration and the enhancement of cross-border trade the top priorities**. It is therefore essential that the Electricity and Gas Regulations are properly implemented by all Member States. The Commission urges Member States, regulators and industry to **take the appropriate steps as quickly as possible**. The European Commission will consider initiating **infringement proceedings** for non-compliance with provisions in the gas and electricity Directives and Regulations.

With respect to **market concentration**, progress has generally been slow. A number of wholesale markets, in particular, still suffer from limited competition and the lack of liquidity.

On the electricity wholesale market, the three biggest generators still control more than 70% of generation capacity in 15 Member States. In the gas wholesale market, the concentration is even greater. The three largest wholesalers have a market share of 90% or more in 12 Member States.

There are signs that the situation on the **retail market** is about to improve. Member States should put even more effort into providing comprehensive data for supplier switching. Switching levels vary considerably across Member States, with some mature markets – such as the UK - experiencing relatively high rates and a number of others showing little or no activity. At the level of small industry and households, the reported figures suggest that electricity consumers tend to be more active than gas consumers.

A major issue in the reporting period was the **increase in energy prices**, in part due to the rising price of oil on the international market. This triggered major increases in energy end-prices. Industrial consumers in some Member States were faced with more severe price increases than in others. Prices for primary energy sources have fallen significantly since the summer of 2008. Competition and market opening should ensure that these lower prices are passed on to the end consumers.

While short-term solutions, such as **regulated prices**, might appear to be advantageous in the light of rapidly increasing energy prices, the present report has stressed the likely consequences of such measures: investor confidence is undermined, market entry is deterred and the full benefits of the internal energy market are placed at risk.

Lastly, if the EU is to continue to have a **secure energy supply**, major investments are needed over the next two decades. This is confirmed in the Commission's [Second Strategic Energy Review](#) and by the International Energy Agency (IEA).

Over the coming two decades, the EU - like other parts of the world - has to address the need for major investments in infrastructure. In the long term only a properly functioning internal electricity and gas market can send the right price signals to encourage investment.

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

2001/0077(COD) - 15/11/2005

The Commission presented its 2005 progress report on creating the internal gas and electricity market. The main conclusion of this report is that, whilst the initial opening period of energy markets has largely been a success to date, with, for example, electricity prices now being lower in real terms than in 1997 notwithstanding recent price rises for oil, gas and coal, more needs to be done to ensure that industry and citizens receive the full benefits flowing from market opening. This assessment is shared by energy regulators and most interested parties consulted during preparation of this report.

The most important persisting shortcoming is the lack of integration between national markets. Key indicators in this respect are the absence of price convergence across the EU and the low level of cross-border trade. This is generally due to the existence of barriers to entry, inadequate use of existing infrastructure and - in the case of electricity – insufficient interconnection between many Member States, leading to congestion. Moreover, many national markets display a high degree of concentration of the industry, impeding the development of effective competition. The gas market continues to suffer from a lack of liquidity of both gas and transport capacity. In this context, the effects of long-term gas contracts will have to be taken into account, both in terms of competition and the fact that such contracts may be necessary to underpin the financing of major new gas infrastructure.

Another indicator of the lack of real competition is that switching by customers remains limited in most Member States and that choosing a new supplier from another Member State remains the exception.

The most important cause of this is the failure of Member States to implement the second electricity Directives on time or with sufficient determination. A large number of Member States were up to a year late in implementing the Directives, others still have not done so, and many have taken a rather "minimalist" approach in implementing the Directives. This approach needs to be re-considered. The Commission opened infringement procedures against Member States for failure to implement the Directives and, in June 2005, took six Member States to the European Court of Justice : Spain (electricity and gas); Luxembourg (electricity and gas); Greece (electricity); Estonia (gas); Portugal (electricity) and Ireland (gas).

This Report shows that in economic terms, with very few exceptions, electricity and gas markets in the EU remain national in economic scope. Sufficient cross-border competition has not yet developed to provide a fully effective constraining influence on the economic power of companies in each national market. This issue needs to be addressed with determination, by the Commission, Member States, Regulators and Industry. The main immediate action that is necessary is the full and complete and effective implementation of the second Gas and Electricity Directives. It is therefore too early to decide whether additional legislative measures at Community level are necessary, such as those suggested by some respondents to the Commission's enquiries when preparing this report; for example additional unbundling or further powers to Regulators. It is first necessary to see the results of the implementation of the Second Directives in practice. The Commission will therefore, in addition to following-up closely the formal legal compliance with the Directives, carry-out detailed country-by-country reviews of the effectiveness in practice of legislative and regulatory measures, including specific additional national measures. This will lead to a further Report by the end of 2006 and, if necessary, proposals to redress any remaining requirements in 2007.

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

2001/0077(COD) - 23/07/2003 - Commission opinion on Parliament's position at 2nd reading

The Commission states that the conciliation procedure will not be invoked, since Parliament's amendments are acceptable to the Council. The Council approved on 16 June 2003 the amendments voted by Parliament. The Commission accepts all the amendments in full.

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

2001/0077(COD) - 07/02/2003

The main elements of the Commission proposal are retained in the common position. The Council has taken on board nearly all Parliament amendments which the Commission had accepted in its amended proposal, either in the same form or in a way that does not substantially alter the intention of the amendments. Most of the changes introduced by the Council strengthen or clarify the Commission's proposal, without changing its substance. The most important differences with the Commission proposal are the delay in the date for full market opening until July 2007 - as opposed to 2005 proposed by the Commission and supported by Parliament - and the delay in the legal unbundling for distribution system operators until July 2007 - as opposed to 1 January 2004 as proposed by the Commission and supported by Parliament. The Commission is able to support the common position on these points in the spirit of a general compromise. It has to be pointed out that the date of 2007 for full market opening is unconditional and will not be rediscussed. The Commission has made two declarations which have been attached to the minutes of the Council meeting. These declarations aim to give an indication of the interpretation that the Commission will make of certain provisions. The first concerns new infrastructures (Article 22 of the Gas Directive) as well as on future long-term contracts (Article 32 of the Gas Directive).

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

2001/0077(COD) - 04/06/2003 - Text adopted by Parliament, 2nd reading

The European Parliament passed a resolution adopting some of the amendments in a report by Claude TURMES (Greens/EFA, L). The Council modified its common position enabling compromise amendments to be agreed. These include the following: - equality of access for EU electricity companies to national consumers; - the parent companies of the transmission system operator and the distribution system operator will be able to approve the annual financial plans and set global limits on the levels of indebtedness of its subsidiary. The parent company will not be able to give instructions regarding day-to-day operations; - the audit must verify the obligation to avoid discrimination and cross-subsidies is respected - until 2010, the relevant authorities of the Member States will provide the Commission with a report on market dominance, predatory and anti-competitive behaviour. This report will also review the changing ownership patterns and any practical measures taken at national level to ensure a sufficient variety of market actors or practical measures taken to enhance interconnection and competition. From 2010 onwards, the relevant authorities will provide such a report every two years. - national regulatory authorities shall contribute to the development of the internal market and of a level playing field by cooperating with each other and with the Commission in a transparent manner; - on the question of the Commission report, Parliament stipulated this must include the scope and modalities of labelling provisions including e.g. the way in which reference is made to existing reference sources and the content of these sources, and notably on the manner in which the information on the environmental impact in terms of at least emissions of CO<sub>2</sub> and the radioactive waste resulting from the electricity production from different energy sources could be made available in a transparent manner throughout the European Union and on the manner in which the measures taken by the Member States to control the accuracy of the information provided by suppliers could be streamlined, and measures to counteract negative effects of market dominance and market concentration; - Commission proposals to ensure the independence of distribution system operators should also concern measures to address issues of market dominance, market concentration and predatory or anti-competitive behaviour.

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

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).

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

2001/0077(COD) - 13/03/2001

This internal working document considers the main elements which the Commission service used as a basis for preparing the proposals of the new legislation. Firstly, the document makes a point on the implementation of the directives currently in force relating to gas and electricity. Then, it provides more information on public services in the electricity sector, and in particular on the different objectives of public service, such as universal public service obligations, security of public utilities and environmental protection. Lastly, the document examines many crucial questions, such as evolution of prices, the effects on competition and employment in the energy sector and the exchanges with third countries. At the time of the preparation of the present communication, and before coming to any conclusions, the Commission believed that it was important to take into consideration the opinions of all the parties concerned, that is the social partners, the electricity producers, gas producers, transport systems operators (TSO), distributors, consumers and other interested parties.

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

2001/0077(COD) - 26/06/2003 - Final act

PURPOSE : to establish rules relating to the organisation and functioning of the electricity sector. COMMUNITY MEASURE : Directive 2003/54/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing directive 96/92/EC. CONTENT : This Directive aims to arrive at a level playing field for all market actors on the electricity markets in the EC. Whilst Directive 96/92/EC has produced benefits for large consumers in terms of lower prices and better service standards, it has left open to Member States certain choices in terms of market opening, organisation of access to the network and regulation of the market. Experience has demonstrated that this situation leads to distortion of competition, as some Member States' markets are more open to competition than others. This Directive seeks to achieve full progressive opening of the electricity market, high standards of public service and a universal service obligation in electricity. It abolishes the choice of negotiated access to the electricity networks and obliges Member States legally to separate the transmission and distribution network operators from other parts of the business. In addition, all Member States must establish a regulatory authority with a minimum set of competencies. The directive provides for the liberalisation of Community electricity markets for non-household users by 1 July 2004, and a complete opening for all users by 1 July 2007. It establishes provisions on the unbundling of transmission and distribution operators, public service obligations, and regulatory tasks. The main points are as follows: - distribution and transmission systems must be operated through legally separate entities where vertically integrated undertakings exist; - Member States may appoint a supplier of last resort, which may be the sales division of a vertically integrated undertaking, so long as it meets the unbundling

requirements of the Directive; - independent management structures must be put in place between distribution system operators and any generation /supply companies; - small companies may be exempt from the legal distribution unbundling requirements; - tariffs must be applicable to all system users on a non-discriminatory basis; - regulatory authorities must have the competence to fix or approve tariffs; - common minimum standards regarding public service requirements are specified in the Directive. These take into account the objectives of common protection, security of supply, environmental protection and equivalent levels of competition in all Member States; - the Commission must publish a report on an annual basis analysing measures taken at national level to achieve public service objectives and comparing their effectiveness; - Member States must take the necessary measures to protect vulnerable customers. These may include specific measures relating to the payment of electricity bills or more general measures taken in the context of the social security system. DATE OF TRANSPOSITION : 01/07/04. ENTRY INTO FORCE : 04/08/03.

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

2001/0077(COD) - 06/06/2002

The Council held a debate, on the basis of a questionnaire from the Presidency, on the key elements of the proposal for a Directive aimed at accelerating the liberalisation of the electricity and gas sectors. It was informed of progress on the proposal for a Regulation on conditions for access to the network for cross-border exchanges in electricity. Following the discussion, the Council asked the Permanent Representatives Committee to examine the proposed Directive further so that it could be adopted if possible by the end of the year. The Commission also presented to the Council the outline of an amended proposal which it intends to submit very rapidly to the European Parliament and the Council. The discussion covered the following questions: - protection of final customers and universal service; - legal separation between the different activities; - activities in regard to non-eligible customers prior to total market opening; - principles relating to market opening; - regulatory tasks.

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

2001/0077(COD) - 13/03/2001

PURPOSE : to revise amending Directives 96/92/EC and 98/30/EC concerning common rules for the internal market in electricity and natural gas with a view to completing the internal energy market. CONTENT : in response to the Lisbon European Council's call for the energy markets to be opened up more rapidly, the European Commission has proposed a set of measures aiming to open up gas and electricity markets fully by 2005 for the benefit of European consumers. These measures include bringing forward the schedule, reinforcing the conditions which encourage real and fair competition, and introducing a genuine single market (refer also to COD/2001/0078). By amending the Directives governing the internal market in gas and electricity, the Commission is now proposing the following schedule: - 2003: freedom for all non-domestic customers to choose their electricity supplier - 2004: freedom for all non-domestic customers to choose their gas supplier - 2005: all consumers, without exception, should be able to choose their gas and electricity suppliers. For competition to be genuine, consumers and competing producers need to enjoy non-discriminatory access to the gas and electricity transmission and distribution grids. The Commission is therefore proposing that: - management of these grids be legally separate from production and sales activities, and that they operate entirely independently. This requirement will not apply to small-scale distribution companies; - network access tariffs be set, published and approved by national regulators before entering into force; - each Member State have such a regulator. Regulators will need to be independent of Member State administrations. They will be given the requisite basic competence. They will inter alia set the tariffs and conditions for access to the gas and electricity transmission grids. They will thus play an important role in preventing distortions of competition. They will bring continuity and transparency to the market. To provide the people and businesses with a gas and electricity market which is not only open, but also gives them the best protection, the Commission is proposing specific additional measures regarding security of supply and public service. The Commission also proposes measures to add to the safety nets already provided by the existing Directives. These measures are designed inter alia to oblige the Member States and the Commission: - to carefully monitor the balance between supply and demand; - if and when necessary, to launch public tenders for the creation of new electricity and gas production capacity. To make quite sure that the opening-up of the gas and electricity market serves the interests of all the people of Europe, the Commission has decided to add to the Directives' existing provisions on the quality of public service. The aim is to provide the highest level of consumer protection, in all the Member States of the Union. The new proposals require Member States inter alia: - to guarantee a secure supply for all consumers; - to take steps to protect vulnerable persons, such as the elderly or disabled; - to take steps to protect the rights of energy consumers: energy supply contracts governed by strict rules; transparent information on prices; simple, low-cost and transparent procedures for dealing with consumer complaints.

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

2001/0077(COD) - 11/03/2010

The Commission presents its report on progress in creating the internal gas and electricity market. It states that the financial crisis of 2008 and 2009 had a direct impact on the demand for energy, causing unpredicted falls in the price of oil on the international markets. This, in turn, impacted on gas and electricity prices. A dispute between two companies outside the EU (Gazprom of Russia and Naftogaz of Ukraine) led to an unprecedented crisis in the EU's gas supply, affecting several Member States. 2009 was also an important year because the third internal energy market package was adopted on 13 July 2009.

This report discusses how these developments have affected the EU electricity and gas markets over the past year and how they are likely to affect market developments in the future.

**Implementation of legislation:** In June 2009, the Commission initiated infringement procedures against 25 Member States for electricity and against 21 Member States for gas. The key violations identified lack of transparency, insufficient coordination efforts by transmission system operators to make

maximum interconnection capacity available, absence of regional cooperation, lack of enforcement action by the competent authorities in Member States and the lack of adequate dispute settlement procedures<sup>4</sup>. In October 2009, the Commission launched further infringement proceedings against two Member States; these proceedings related to gas transit and storage.

**Impact of the crisis:** the financial crisis had a significant impact on the internal energy market during the reporting period. Year on year, the EU-27 electricity consumption remained relatively stable, but fell by 12% and 7% in April and May, respectively. The decline in gas consumption was even more significant. Between January and March 2009, gas consumption (in EU-27) dropped by around one fourth. This drop is partly due to the interruption of gas supplies from Russia via Ukraine, but even after the crisis in March 2009 EU-27 gas consumption was still more than 16% down on the March 2008 level.

The financial crisis has had a serious impact on the internal market for energy during the reporting period:

- on the one hand, it puts pressure on planned investments – due to possible financing difficulties and uncertainties affecting the supply side – and has resulted in a fall in demand, which is more pronounced for gas than for electricity;
- on the other hand, it has created new opportunities for competition, since more gas is available at lower prices on liquid hubs;
- furthermore, the situation with excess supply in gas markets may pave the way for final consumers to see gas prices that are based on the supply and demand for gas rather than on the price of oil.

**Price trends:** although reduced gas and electricity consumption has had an impact on end-user prices, the fall witnessed in wholesale energy costs has not been entirely reflected in end user prices. Overall, prices in the first half of 2009 were still higher than in the first half of 2008. The trend in retail prices was quite diverse, suggesting perhaps an insufficient level of market integration at retail level.

**Customer dimension:** the information available for the number of consumers having switched supplier makes it difficult to gain an overall picture of the changes that have occurred across Member States. There are significant differences between the member states with more mature markets, such as the UK, which have relatively high switching rates, and a number of others showing little or no activity. At the level of small industry and households, the reported figures suggest that electricity consumers tend to be more active than gas consumers.

**National regulatory authorities:** the work of national regulatory authorities tends to shift the focus towards the consumer, including the **roll-out of smart meters** as the key to smart grids in the internal energy market. This is a welcome trend for the deployment of active participation by customers in the internal energy market and increased energy efficiency and large-scale integration of renewables, as well as additional energy services, increased market transparency and easier supplier switching.

Additionally, cooperation between European power exchanges, as well as the ongoing trend of increasing trade, is a promising sign of functioning markets. However, even if there are positive signs on the retail and wholesale level, **the degree of market concentration has not changed very much**. On gas wholesale markets, the concentration remains high. In 10 Member States, the three largest wholesalers have a market share of 90% or more. In the electricity retail market, the market share of the three largest companies in the retail market as a whole was above 80% in 14 Member States.

**Security of supply:** a major challenge in the context of the economic crisis is to **maintain the investments in energy infrastructure**. The financial crisis risk resulting in postponed or annulled energy infrastructure investments and as a result the EU faces an increased risk of lack of or delay in construction of infrastructure to meet future supply needs. This is a particular concern in a situation where the energy sector needs to be reshaped to address the challenges of climate change and energy security. In order to help to address this risk and to help economic recovery, the EU is facilitating the financing of energy infrastructure projects via the Economic Recovery Plan. In particular, the Plan includes 2 365 billion to support a number of key electricity and gas interconnection projects. The Commission's commitment to encourage infrastructure investments will continue with the adoption, at the end of 2010, of an infrastructure package.

**Internal market:** the third package adopted in 2009 also provides for clearer sector specific rules and thus for incentives to invest. The Commission is preparing for the application of the third package in developing, together with ERGEG and ENTSO-E and ENTSO-G, pilot framework guidelines and codes. The Commission will assist Member States in implementing the third package and will continue to pursue the full and correct implementation of the second package, including through formal infringement procedures.

Not only investments but also the implementation of more active transmission and distribution systems in the form of smart meters and smart grids are central to the development of the internal market for energy. If needed, the Commission will not limit its action to energy regulation and will not hesitate to use its powers under competition law.

## 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 too 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 for 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.

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

2001/0077(COD) - 26/10/2004 - Follow-up document

The European Commission is presenting this Report in response to Parliamentary concerns over the use of funds set aside for the decommissioning of nuclear power plants by the Member States. The issue was raised within the context of debates relating to the common rules for the internal market in electricity. One of the issues of particular concern was whether or not these financial resources could lead to a distortion of competition. All of the EU institutions, the Parliament, Council and Commission are committed to ensuring that the funds set aside for decommissioning are actually available for the purpose for which they have been established and are managed in a transparent way. In other words they must not create obstacles to fair competition in the energy market.

When assessing this matter the Commission notes that decommissioning is a technically complex operation requiring considerable funding. The amount needed to rehabilitate a site is estimated to be around 10-15% of the initial investment cost for each reactor to be decommissioned. The sums are so large that as soon as a nuclear installation's productive life begins the operator has to factor in the cost of decommissioning.

The results of a consultation exercise with the Member States on the use of these funds revealed widely differing situations. Some Member States have opted for the immediate decommissioning of nuclear installations, whilst others have opted for a deferred decommissioning strategy. Six Member States have chosen immediate decommissioning, namely Finland, Germany, Italy, Lithuania, Slovenia and Spain. In their case the funds must be available as soon as decommissioning begins. Four Member States, the Czech Republic, Hungary, the Netherlands and Slovakia, have opted to defer their decommissioning. Lastly, there are those countries for which no definitive decommissioning strategy is foreseen. They are Belgium, France, Sweden and the United Kingdom.

Concerning the management of the financial resources, the Commission has identified three main management structures – external management, internal management and other modes. Ten Member States have chosen to have their finances managed by external operators. According to the Commission this offers the greatest transparency and, probably, the best guarantee as to the ultimate use of financial resources – particularly in the event of the operator going bankrupt. France and Germany rely on internal management, with the financial resources earmarked for decommissioning entered in the accounts for the electricity producers in the form of provisions. This means that the nuclear operator has both financial and technical responsibility for the finances. The Commission is concerned that such a management structure is neither transparent, nor that the finances for decommissioning will be available when needed. Technically, the Commission suggests, internal management could give rise to anti-competitive practices on the internal market in electricity.

Belgium has opted to organize its finances in such a way that the State holds a "golden share" enabling it to enter a veto if it considers that the management of resources is liable to compromise security.

To conclude, the Commission notes that the main purpose of dedicating financial resources to decommissioning is to make sure that it will be possible to carry out the decommissioning when the time comes, while ensuring a high level of nuclear safety. One future priority should be to ensure that the resources, once set aside, are managed in accordance with Community law. In 2005 the Commission intends to present a Recommendation asking the Member States to take certain measures, ensuring that:

- Financial resources are set-aside during the operating period of nuclear power plans.
- The resources set aside are available and sufficient to cover the cost of decommissioning work.
- These resources are used for the purpose for which they have been set aside and that the management thereof is transparent.

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

2001/0077(COD) - 14/05/2001

The Council held a debate on completing the internal markets for electricity and gas. The Presidency concluded the debate noting the following: - there is a broad consensus on the fact that the market opening concerning both gas and electricity should be actively pursued and accelerated. To this end, the Swedish Presidency, in consultation with the incoming Belgian and Spanish Presidencies, will take initiatives to find ways and means within the existing Council framework to accelerate this process and will come back with appropriate ideas to be presented to the Council; - quantitative measures related to market opening (such as thresholds) and qualitative aspects (such as unbundling, Third Party Access and regulators, potential socio-economic impact) are interdependent; - as always, when deciding on measures to be taken at Community level, the cost of the various options needs to be assessed; - the principle of unbundling meets general agreement, whereas its concrete modalities still have to be clarified; unbundling of the gas sector may not necessarily follow the same model/approach as for electricity; - non discriminatory third party access to the grid without transparent and published tariffs is not feasible; public service obligations need to be taken into account when defining the practical modalities of tariffication systems; - to ensure improved security of supply through further integration at Community level, infrastructure requirements need to be carefully assessed, with particular regard to the revised TEN programme; - benchmarking and monitoring are useful tools for ensuring a proper assessment of progress and follow-up, in particular with respect to public service obligations and security of supply and congestion management, which can be facilitated by increasing the transparency on available interconnection capacity; - a fully functioning single market for gas and electricity can not be achieved without efficient cross-border trade. Rules to that effect should be sought at an appropriate level, which are based on simplicity, non discrimination, transparency and effective reflection of costs, allowing for proper allocation signals and ensuring adequate reciprocity; - when deciding on the most appropriate way to deal with trade (in electricity) with third countries proper consideration should be given to environmental issues, reciprocity and legal implications; - although a legally binding framework is required to address several of the issues raised by the achievement of the internal market, the Florence and Madrid processes have demonstrated their usefulness and we expect them to continue to do so.

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

2001/0077(COD) - 05/01/2005

The European Commission has published its Annual Report on the Implementation of the Gas and Electricity Internal Market.

The new electricity and gas Directives were due to be transposed by Member States by July 2004 and the Regulation on cross border electricity exchanges also came into effect. The new rules are aimed at achieving to a competitive electricity and gas sector across the whole European Union as envisaged by the Lisbon Council objectives.

However, many aspects of implementation remain disappointing. In October 2004, eighteen Member States had to be sent a letter warning that they had still not fully notified to the Commission the legal measures taken to transpose the latest Directives. This delay is unsatisfactory since it is now clear that the provisions of the previous Directives have not been adequate to achieve the objective of competition, even for larger users. Such customers would normally be expected to negotiate with suppliers on a regular basis. However after five years of competition for electricity and over three years for gas, fewer than 50% have switched supplier in most Member States. In addition, many are unsatisfied with the range of services being offered. In many cases, customers have only been able to change to another domestic supplier with the result that penetration of national markets by foreign

companies is also disappointing in many cases, reflecting a lack of integration of markets and missing infrastructure links. In most cases, foreign suppliers represent less than 20% of market share.

Although electricity prices are lower than 1995 in real terms, they have increased in the last 18 months, partly due to increased prices for primary energy sources. At the same time, gas prices are higher than in 1995 due to the ongoing linkage with oil. Although such price fluctuations are normal, increases are unpalatable to customers where the prospects for changing supplier appear to be limited by regulatory barriers and where the negotiating power of customers is weak due to an unfavourable market structure. Particular concerns exist among the largest users that suppliers are failing to offer an adequate range of contract structures, especially longer term arrangements.

A key issue relates to the failure to fully integrate national energy supply into a wider European market. In this context it is vital for rules on cross border electricity exchanges to continue to be improved to ensure that existing infrastructure is utilised to its maximum possible extent. Likewise for gas, the adoption and implementation of the proposed Regulation is similarly important. New investment in infrastructure is also needed and progress in this regard remains slow, as was also noted in the Commission Communication on Energy Infrastructure and Security of Supply.

Secondly, Member States are still failing to deal with the issue of market structure. As has been highlighted in previous reports, the gas and electricity markets in too many Member States are dominated by one or two companies, and there is often inadequate capacity for cross border competition. It is imperative that solutions are found to such problems.

Thirdly, although much process has already been made in terms of unbundling of network operators and the introduction of regulated third party access, there are still certain aspects which remain unsatisfactory. A fully independent transmission system operator is crucial for a well functioning market. Likewise distribution system operators need to be adequately separated from supply companies to ensure cost reflective tariffs and the removal of any cross subsidies. The independence of regulators is crucial in this respect in order to ensure fair network access in terms of tariff levels and structure. In this respect the gas sector is measurably behind that for electricity.

A final group of issues which may tend to be an obstacle to the internal market is the continued existence of a regulated end user prices for electricity and gas alongside the competitive market and associated long term power purchase arrangements (PPAs). Although such controls are a valuable transitional measure during the initial phase of market opening, there are risks that such an approach will stifle competition, constrain investment and confuse and contradict unbundling measures.

The report states that Member States need to maintain their commitment to this objective in the decisions they make regarding the implementation of the Directives and restructuring of the industry. It is only by doing this that the objective of a competitive and secure market will be achieved. With this in mind, the issue of investment in infrastructure and the sound operation of networks, in support of the competitive market, remains a critical issue. Although some of these issues have been addressed the concerns which were expressed in previous Communications and the proposed Directive on Infrastructure and Security of Supply remain pertinent and progress, in some form or another, is required on this issue. The role of independent regulators remains a crucial component of the introduction of competition and their decisions relating to network tariffs and other important market rules will continue to shape the development of the market. In this context it remains important to ensure that authorities have sufficient resources and competences. Whether the improvements made under the Directives are adequate to achieve the objectives of the internal market remains to be seen, especially if Member States take a minimalist approach to the transposition of the current legislation. One thing that is certain is that in the new global environment of higher primary energy prices it is more important than ever for the Community to live up to its commitment to a competitive market.

## 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 for 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 accept 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.