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**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks  
(COM(2007)0532 – C6-0319/2007 – 2007/0199(COD))

Committee on Industry, Research and Energy

Rapporteur: Atanas Paparizov

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks  
(COM(2007)0532 – C6-0319/2007 – 2007/0199(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0532),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0319/2007),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Economic and Monetary Affairs and the Committee on the Internal Market and Consumer Protection (A6-0253/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

#### **Proposal for a regulation – amending act Recital 1**

*Text proposed by the Commission*

(1) The internal market for gas, which has been progressively implemented since 1999, aims at delivering real choice for all consumers in the Community, be they citizens or business, new business opportunities and more cross-border trade, so as to achieve efficiency gains, competitive prices, higher standards of service, and to contribute to security of supply and sustainability.

*Amendment*

(1) The internal market for gas, which has been progressively implemented since 1999, aims at delivering real choice for all consumers in the Community, be they citizens or business, new business opportunities and more cross-border trade, so as to achieve efficiency gains, competitive prices, higher standards of service ***and access for as many people as possible***, and to contribute to security of

supply and sustainability.

*Justification*

*Access to affordable gas to as many people as possible is very important.*

**Amendment 2**

**Proposal for a regulation – amending act  
Recital 3**

*Text proposed by the Commission*

(3) However, at present, the right to sell gas in any Member State on equal terms, without discrimination or disadvantage cannot be guaranteed to any company in the Community. In particular, non-discriminatory network access and an equally effective level of regulatory supervision in each Member State do not yet exist.

*Amendment*

(3) However, at present, the right to sell gas in any Member State on equal terms, without discrimination or disadvantage cannot be guaranteed to any company in the Community. In particular, non-discriminatory network access and an equally effective level of regulatory supervision in each Member State do not yet exist ***and isolated markets persist.***

**Amendment 3**

**Proposal for a regulation – amending act  
Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) A sufficient level of cross-border gas interconnection capacity should be achieved as a first step towards integrating markets and in order to complete the internal energy market.***

*Justification*

*This new recital would be in line with the Presidency conclusions of the Brussels European Council of 8/9 March 2007, whilst recognizing that in practice the level of necessary interconnection capacity will vary between the different regions of the EU.*

**Amendment 4**

**Proposal for a regulation – amending act**  
**Recital 4**

*Text proposed by the Commission*

(4) The Communication of the Commission to the European Parliament and the Council entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in natural gas and to create a level playing field for all gas companies in the Community. The Communication from the Commission to the European Parliament and to the Council on prospects for the internal gas and electricity market and the Communication from the Commission "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report)" showed that the present rules and measures **do not provide the necessary framework to achieve** the objective of a *well functioning* internal market.

*Amendment*

(4) The Communication of the Commission to the European Parliament and the Council entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in natural gas and to create a level playing field for all gas companies in the Community. The Communication from the Commission to the European Parliament and to the Council on prospects for the internal gas and electricity market and the Communication from the Commission "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report)" showed that the present rules and measures **have not been sufficiently transposed in all Member States, with the result that** the objective of a *well-functioning* internal **energy** market **has not yet been satisfactorily achieved**.

*Justification*

*The sectoral review was carried out in July 2005, at a time when most Member States had not yet completely transposed the Gas Directive, and in December 2006 the Commission certified (see MEMO/06/481) that 16 of the 25 Member States had not – or had not satisfactorily – transposed the existing legislation. The existing Community law must be properly transposed into national law.*

**Amendment 5**

**Proposal for a regulation – amending act**  
**Recital 6**

*Text proposed by the Commission*

(6) In particular, increased cooperation and coordination among transmission system operators **is** required to ensure progressive compatibility of the technical and commercial codes for providing and managing effective access to the

*Amendment*

(6) In particular, **both the creation of physical connections between gas networks and** increased cooperation and coordination among transmission system operators **are** required to ensure progressive compatibility of the technical

transmission networks across borders, and to ensure coordinated and sufficiently forward looking planning and sound technical evolution of the transmission system in the Community, with due regard to the environment, and promote energy efficiency and research and innovation notably with respect to ensuring penetration of renewables and dissemination of low carbon technology. Transmission system operators should operate their networks according to these compatible technical and market codes.

and commercial codes for providing and managing effective **and transparent** access to the transmission networks across borders, and to ensure coordinated and sufficiently forward looking planning and sound technical evolution of the transmission system in the Community, with due regard to the environment, and promote energy efficiency and research and innovation notably with respect to ensuring penetration of renewables and dissemination of low carbon technology. Transmission system operators should operate their networks according to these compatible technical and market codes.

## Amendment 6

### Proposal for a regulation – amending act Recital 7

#### *Text proposed by the Commission*

(7) In order to ensure an optimal management of the gas transmission network in the Community a European network of the transmission system operators should be established. Its tasks should be carried out in compliance with Community competition rules which remain applicable to the decisions of the European network of the transmission system operators. Its tasks should be well-defined and their working method should be such as to ensure efficiency, representativity and transparency. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with codes and investment plans at Community level. ***Cooperation within such regional structures presupposes effective unbundling of network activities from production and supply activities in***

#### *Amendment*

(7) In order to ensure an optimal management of the gas transmission network in the Community a European network of the transmission system operators should be established. Its tasks should be carried out in compliance with Community competition rules which remain applicable to the decisions of the European network of the transmission system operators. Its tasks should be well-defined and their working method should be such as to ensure efficiency, representativity and transparency. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with codes and investment plans at Community level. ***Member States should promote cooperation and monitor the effectiveness of the network at regional***



*the absence of which regional level. cooperation between transmission system operators gives rise to a risk of anti-competitive conduct.*

*Justification*

*The Member States' promotion of the cooperation at regional level and the obligation to monitor the effectiveness of the network is very important in ensuring a true internal cross border market and cooperation. Furthermore effective ownership unbundling is not a necessary condition for ensuring regional cooperation. The cooperation can exist and can be effective without ownership unbundling.*

**Amendment 7**

**Proposal for a regulation – amending act  
Recital 8**

*Text proposed by the Commission*

*Amendment*

*(8) All market participants have an interest in the work expected of the European network of transmission system operators. The consultation process is therefore essential and existing structures set up to facilitate and streamline the consultation process, such as EASEE—gas (the European Association for the Streamlining of Energy Exchange), should play an important role.* **deleted**

*Justification*

*Public consultations at EU level are currently undertaken by ERGEG. Therefore the Agency should undertake this task as it has already well established rules and experience in carrying out public consultations. Moreover the Agency is acting in the interest of all market participants, while TSOs are potentially an interested party. In order to ensure efficiency of the process, it should also be emphasized that the creation of too many consultation bodies might lead to duplication of consultation.*

**Amendment 8**

**Proposal for a regulation – amending act  
Recital 11**

*Text proposed by the Commission*

(11) Market monitoring undertaken over recent years by the national regulatory authorities and by the Commission has shown that current transparency requirements and rules on access to infrastructure are not sufficient.

*Amendment*

(11) Market monitoring undertaken over recent years by the national regulatory authorities and by the Commission has shown that current transparency requirements and rules on access to infrastructure are not sufficient ***to secure a genuine, open and efficient internal market.***

*Justification*

*Clarification of the text.*

**Amendment 9**

**Proposal for a regulation – amending act  
Recital 13**

*Text proposed by the Commission*

(13) To enhance trust in the market, its participants need to be sure that abusive behaviour can be sanctioned. Competent authorities should be *enabled to effectively* investigate allegations of market abuse. Therefore access to data *by the competent authorities is necessary* that provides information on operational decisions made by supply undertakings. In the gas market all *these* decisions are communicated to the system operators in the form of capacity reservations, nominations and realised flows. System operators should keep this information available to the competent authorities for a fixed period of time.

*Amendment*

(13) To enhance trust in the market, its participants need to be sure that abusive behaviour can be sanctioned ***effectively.*** *The* competent authorities should be *given the competence effectively* to investigate allegations of market abuse. Therefore access *by the competent authorities* to data that provides information on operational decisions made by supply undertakings *is necessary.* In the gas market, all *such* decisions are communicated to the system operators in the form of capacity reservations, nominations and realised flows. System operators should keep information *in relation thereto* available to ***and easily accessible by*** the competent authorities for a fixed period of time. ***The competent authorities should, furthermore, regularly monitor the compliance of the system operators with the rules.***

### *Justification*

*The competent authorities should have easy access to important information from supply undertakings and shall monitor that the supply undertakings comply with the rules, in order to ensure a non-discriminating, transparent and effective market.*

#### **Amendment 10**

##### **Proposal for a regulation – amending act Recital 14**

###### *Text proposed by the Commission*

(14) Competition for household-consumers requires that suppliers not be blocked when they want to enter new retail markets. Therefore rules and responsibilities governing the supply chain need to be known to all market parties, and they need to be harmonised with a view to enhancing Community market integration.

###### *Amendment*

(14) Competition for household-consumers requires that suppliers not be blocked when they want to enter new retail markets. Therefore rules and responsibilities governing the supply chain need to be known to all market parties, and they need to be harmonised with a view to enhancing Community market integration. ***The competent authorities should regularly monitor the compliance of market participants with the rules.***

### *Justification*

*The addition is necessary in order to clarify a responsibility for the Complement authority, and to ensure the enforcement of the rules.*

#### **Amendment 11**

##### **Proposal for a regulation – amending act Recital 15**

###### *Text proposed by the Commission*

(15) Access to gas storage facilities and LNG facilities is insufficient, and therefore rules ***need*** to be improved. Monitoring by the European Regulators' Group for electricity and gas (EREG) *concluded* that the voluntary guidelines for good *third party access practice for storage system operators*, agreed by all stakeholders at the Madrid Forum, are being *insufficiently* applied and therefore need to be made binding.

###### *Amendment*

(15) Access to gas storage facilities and LNG facilities is insufficient ***in some Member States***, and therefore ***the implementation of the existing*** rules ***needs*** to be ***radically*** improved. Monitoring by the European Regulators' Group for electricity and gas (EREG) *has shown* that the *storage system operators'* voluntary guidelines for good *practices for third-party access*, which were agreed by all stakeholders at the Madrid Forum, are ***in***

*some cases* being *inadequately* applied and therefore need to be made binding. *Even though the voluntary guidelines are currently being almost completely transposed throughout European Union, lending them binding character would increase operators' confidence in non-discriminatory access to storage.*

#### *Justification*

*The voluntary guidelines for good third party access practice for storage system operators are currently being transposed in many Member States. However, market players have thus far developed little faith in this storage access system that is functioning in practice. Juridification of these rules will therefore be a confidence-building measure.*

### **Amendment 12**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 1**

Regulation (EC) No 1775/2005

Article 1 – point c

*Text proposed by the Commission*

(c) facilitating the emergence of *well functioning* and transparent ***cross-border retail markets and a well functioning and transparent*** wholesale market; *it provides mechanisms to harmonise these rules in order to allow trading and supplying gas to retail customers across borders.*

*Amendment*

(c) facilitating the emergence of *a well-functioning* and transparent wholesale market ***with a high level of security of gas supply and providing mechanisms to harmonise the network access rules for cross-border exchange in gas.***

### **Amendment 13**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 2 – point -a (new)**

Regulation (EC) No 1775/2005

Article 2 – paragraph 1 – point 1

*Text proposed by the Commission*

*Amendment*

***(-a) in paragraph 1, point 1 shall be replaced by the following:***

**"1. 'transmission' means the transportation of natural gas through a transit pipeline or through a pipeline network, which mainly contains high pressure pipelines, excluding transportation through an upstream pipeline or pipeline network and also excluding pipelines or pipeline networks connecting storage to local distribution and generally excluding transportation through pipelines primarily used in the context of local distribution of natural gas. [...]"**

*Justification*

*The current definition of "transmission" is unclear and misleading and should therefore be clarified.*

**Amendment 14**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) N°1775/2005

Article 2a

*Text proposed by the Commission*

All transmission system operators shall cooperate at Community level through establishing the European Network of Transmission System Operators for Gas in order to ensure the optimal management and sound technical evolution of the European gas transmission network

*Amendment*

All transmission system operators shall cooperate at Community level through establishing the European Network of Transmission System Operators for Gas in order to ensure the optimal management, ***coordinated operation*** and sound technical evolution of the European gas transmission network ***and to promote the completion of the internal market for gas, cross-border trade and the functioning of the energy markets.***

**Amendment 15**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2 b – paragraph 1

*Text proposed by the Commission*

1. By [...] at the latest the transmission system operators for gas shall submit to the Commission and to the Agency the draft of statutes, a list of future members and draft rules of procedure, **including the rules of procedure on the consultation of other stakeholders**, of the European Network for Transmission System Operators for Gas to be established.

*Amendment*

1. By [...] at the latest the transmission system operators for gas shall submit to the Commission and to the Agency the draft of statutes, a list of future members and draft rules of procedure of the European Network of Transmission System Operators for Gas to be established.

*Justification*

*Consultation at EU level until now has been a task of ERGEG. This task should be given to the future Agency entrusted with safeguarding the public interest.*

**Amendment 16**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) N°1775/2005

Article 2b – paragraph 2

*Text proposed by the Commission*

2. Within **six weeks** from receipt, the Agency shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure.

*Amendment*

2. Within **two months** from receipt, the Agency, **after formally consulting the organisations representing all stakeholders, in particular the system users and customers**, shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure.

**Amendment 17**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2 b – paragraph 3

*Text proposed by the Commission*

3. The Commission shall deliver an opinion on the draft statutes, list of members and draft rules of procedure within three months *from the receipt of the opinion of the Agency*.

*Amendment*

3. The Commission shall deliver an opinion on the draft statutes, list of members and draft rules of procedure, ***taking into account the opinion of the Agency delivered under paragraph 2 and within three months of receipt thereof.***

*Justification*

*The Commission should - through the opinion expressed by the Agency - take account of the views expressed by system users and customers to the Agency in deciding on the statutes, members and rules of procedure for the ENTSOG.*

**Amendment 18**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2 c

*Text proposed by the Commission*

1. The European Network of Transmission System Operators for Gas shall ***adopt***:

(a) ***technical and market*** codes in the areas mentioned in paragraph 3;

(b) common network operation tools and research plans;

(c) a 10-year investment plan every two

*Amendment*

1. ***In order to achieve the objectives set out in Article 2a, the European Network of Transmission System Operators for Gas shall agree and submit to the Agency for approval following the procedure provided for in Article 2d in conjunction with Article 6(3) of Regulation (EC) No ... establishing the Agency for the Cooperation of Energy Regulators:***

(a) ***draft network*** codes in the areas mentioned in paragraph 3, ***elaborated in cooperation with market participants and network users;***

(b) common network operation tools and research plans;

(c) a 10-year investment plan ***including a supply and demand adequacy report,***

years;

(d) an annual work programme;

(e) an annual report;

(f) annual summer and winter supply outlooks.

2. The annual work programme referred to in paragraph 1(d) shall contain a list and description of the **technical and market** codes, a plan on common operation of the network and research and development activities, to be drawn up in that year and an indicative calendar.

3. The detailed **technical and market** codes shall cover the following areas, according to the priorities defined in the annual work programme:

(a) security and reliability rules;

(b) grid connection and access rules;

**(c) data exchange and settlement rules;**

**(d) interoperability rules;**

**(e) operational procedures in an emergency;**

(f) capacity allocation and congestion management rules;

**(g) rules for trading;**

(h) transparency rules;

(i) balancing rules **including rules on nominations procedures, rules for imbalance charges and rules for operational balancing between**

every two years;

**(ca) measures to ensure the real-time coordination of grid operation in normal and emergency conditions;**

**(cb) guidelines on the coordination of technical cooperation between Community and third-country transmission system operators;**

(d) an annual work programme **based on the priorities set by the Agency;**

(e) an annual report;

(f) annual summer and winter supply outlooks.

2. The annual work programme referred to in paragraph 1(d) shall contain a list and description of the **network** codes, a plan on common operation of the network and research and development activities, to be drawn up in that year and an indicative calendar.

3. The detailed **network** codes shall cover the following areas, according to the priorities defined in the annual work programme:

(a) security and reliability rules **including interoperability rules and operational procedures for emergency situations;**

(b) grid connection and access rules;

(f) **cross-border** capacity allocation and congestion management rules;

(h) **network-related** transparency rules;

(i) balancing **and settlement** rules;



*transmission system operators systems;*

*(j) rules regarding harmonised transportation tariff structures*

(k) energy efficiency regarding gas networks.

4. The **European Network of Transmission System Operators for Gas** shall monitor the implementation of the **technical and market codes and include the results of its monitoring activities in the annual report referred to in paragraph 1(e).**

5. The European Network of Transmission System Operators for Gas shall publish a Community-wide 10-year network investment plan every two years. The investment plan shall include the modelling of the integrated network, scenario development, a supply and demand adequacy report and an assessment of the resilience of the system. The investment plan shall, in particular, build on national investment plans **and on** the Guidelines for Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to *cross border* capacities.

(k) energy efficiency regarding gas networks.

4. The **Agency** shall monitor the implementation of the **network codes by the European Network of Transmission System Operators for Gas.**

5. The European Network of Transmission System Operators for Gas shall publish a Community-wide 10-year network investment plan every two years **following its approval by the Agency.** The investment plan shall include the modelling of the integrated network, **taking into account storage and LNG facilities,** scenario development, a supply and demand adequacy report and an assessment of the resilience of the system. The investment plan shall, in particular, build on national investment plans **taking into account regional and Community aspects of network planning including** the Guidelines for Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to *cross-border* capacities **and shall include investments in interconnection, in particular, and as a priority, connections between 'energy islands' and gas networks in the European Union and investments in other infrastructure necessary for effective trading, competition and security of supply. A review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices shall be annexed to the investment plan. The transmission system operators shall implement the**

6. *Upon request of the Commission*, the European Network of Transmission System Operators for Gas *shall advise the Commission on the adoption of Guidelines as laid down in Article 9.*

*published investment plan.*

6. The European Network of Transmission System Operators for Gas, *on its own initiative, may propose to the Agency draft network codes in any area other than those listed in paragraph 3, with a view to achieving the objectives set out in Article 2a. The Agency shall subsequently adopt the network codes following the procedure set out in Art 2ea (development of network codes) while ensuring that those codes are not in contradiction with the guidelines adopted under Article 2e (development of guidelines).*

## Amendment 19

### Proposal for a regulation – amending act

#### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2 d – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The European Network of Transmission System Operators for Gas shall submit the draft *technical and market* codes, the draft 10-year investment plan and the draft annual work programme, *including the information regarding the consultation process*, to the Agency.

The Agency shall *provide a duly justified opinion to the Commission where it considers that the draft* annual work programme *or the draft* 10-year investment plan *do not ensure non-discrimination, effective competition and the efficient functioning of the market.*

2. The European Network of Transmission System Operators for Gas shall submit the draft *network* codes *and the documents referred to in Article 2c(1)*, to the Agency *for approval.*

The Agency shall *monitor the implementation of the technical codes, the 10-year investment plan and the annual work programme and shall include the results of that monitoring in its annual report. In the event of non-compliance with the network codes by the transmission system operators*, the 10-year investment plan *or the annual work programme of the European Network of Transmission System Operators for Gas the Agency shall provide information thereof to the Commission.*

## Amendment 20

### Proposal for a regulation – amending act

#### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2 e

*Text proposed by the Commission*

*Amendment*

#### ***Establishment and evaluation of technical and market codes***

1. After consulting the Agency, the Commission *may invite the European Network of Transmission System Operators for Gas, within a reasonable period of time, to prepare codes in the areas listed in Article 2c(3) where it considers that such codes are necessary for the efficient functioning of the market.*

2. *The Agency shall provide a duly justified opinion to the Commission where it considers that:*

*(a) a technical or market code adopted by the European Network of Transmission System Operators for Gas in the areas listed in Article 2c(3) does not ensure non-discrimination, effective competition and the efficient functioning of the market;*

*(b) the European Network of Transmission System Operators for Gas fails to agree within a reasonable period of time on a technical or market code in the areas listed in Article 2c(3);*

*(c) the transmission system operators fail to implement a technical or market code adopted by the European Network of Transmission System Operators for Gas in the areas listed in Article 2c(3).*

#### ***Development of guidelines***

1. After consulting the Agency, the Commission *shall establish an annual priority list identifying issues of primary importance for the development of the internal market for gas.*

2. *Having regard to the priority list, the Commission shall mandate the Agency to develop, within no more than six months, draft guidelines establishing basic, clear and objective principles for the harmonisation of rules, as set out in Article 2c.*

**3. The Commission may adopt, on its own initiative or upon recommendation of the Agency, guidelines on the areas listed in Article 2c(3) when it considers that:**

**(a) a technical or market code adopted by the European Network of Transmission System Operators for Gas in the areas listed in Article 2c(3) does not ensure non-discrimination, effective competition and the efficient functioning of the market;**

**(b) the European Network of Transmission System Operators for Gas fails to agree within a reasonable period of time on a technical or market code in the areas listed in Article 2c(3);**

**(c) the transmission system operators fail to implement a technical or market code adopted by the European Network of Transmission System Operators for Gas in the areas listed in Article 2c(3).**

**Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).**

**4. Paragraph 3 shall be without prejudice to the Commission's right to adopt and amend guidelines as laid down in Article 9.**

**3. In drafting those guidelines, the Agency shall formally consult the European Network of Transmission System Operators for Gas and other stakeholders in an open and transparent manner.**

**4. The Agency shall adopt draft guidelines on the basis of that consultation. It shall specify the observations received during the consultation and explain how they were taken into account. It shall give reasons where observations have not been taken into account.**

**4a. On its own initiative or at the request of the Agency, the Commission may initiate the same procedure to update the guidelines.**

**Amendment 21**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2 e a (new)

*Text proposed by the Commission*

*Amendment*

**Article 2ea**

***Development of network codes***

- 1. Within six months of the adoption of the guidelines by the Agency in accordance with Article 2e, the Commission shall mandate the European Network of Transmission System Operators for Gas to develop draft network codes in full compliance with the principles established in the guidelines.***
- 2. In drafting those codes, the European Network of Transmission System Operators for Gas shall take into consideration technical expertise from market participants and network users and shall keep them informed of progress.***
- 3. The European Network of Transmission System Operators for Gas shall submit the draft codes to the Agency.***
- 4. The Agency shall conduct a formal consultation in relation to the draft network codes in an open and transparent manner.***
- 5. The Agency shall adopt the draft codes on the basis of that consultation. It shall specify the observations received during the consultation and explain how they were taken into account.***
- 6. On the Agency's own initiative or at the request of the European Network of Transmission System Operators for Gas, a revision of the existing codes may be undertaken following the same procedure.***
- 7. In the event that the Commission considers that transmission system operators have failed to implement a network code, it may, on the recommendation of the Agency, submit***

*that network code to the Committee referred to in Article 13(1) for its final adoption in accordance with the procedure referred to in Article 13(2).*

## Amendment 22

### Proposal for a regulation – amending act

#### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2 f

#### *Text proposed by the Commission*

1. In carrying out its tasks, the **European Network of Transmission System Operators for Gas** shall consult ***extensively, at an early stage and*** in an open and transparent manner, ***in particular while preparing the technical and market codes and its annual work programme referred to in Article 2c(1) and (3), with*** all appropriate market participants; the consultation shall include supply undertakings, customers, system users, distribution system operators, LNG system operators and storage system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.
2. All documents and minutes of meetings related to the issues referred to in paragraph 1 shall be made public.
3. Before adopting the ***annual work programme and the technical and market codes referred to in Article 2c(1) and (3), the European Network of Transmission System Operators for Gas*** shall ***indicate*** the observations received ***in*** the consultation and how ***these*** observations are taken into ***consideration***. It shall give a ***reasoned*** opinion where observations have not been taken into account.

#### *Amendment*

1. In carrying out its tasks, the **Agency** shall ***formally*** consult in an open and transparent manner all appropriate market participants; the consultation shall include supply undertakings, customers, system users, distribution system operators, LNG system operators and storage system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.
2. All documents and minutes of meetings related to the issues referred to in paragraph 1 shall be made public.
3. Before adopting the ***guidelines and network codes, the Agency*** shall specify the observations received during the consultation and explain how they were taken into account. It shall give reasons where observations have not been taken into account.

#### ***3a. The European Network of Transmission System Operators for Gas***

*shall cooperate with market participants and network users in accordance with Article 2ea(2).*

## Amendment 23

### Proposal for a regulation – amending act

#### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2 h

#### *Text proposed by the Commission*

1. Transmission system operators shall establish regional cooperation within the European Network *for* Transmission System Operators for Gas to contribute to the tasks mentioned in Article 2c(1). In particular, **they** shall publish a regional investment plan every two years, and may take investment decisions based on the regional investment plan.

The regional investment plan may not be contradictory to the 10 year investment plan referred to in Article 2c(1)(c).

2. Transmission system operators shall promote operational arrangements in order to ensure optimum management of the network, and promote the development of energy exchanges, the allocation of cross-border capacity **through implicit auctions** and the **integration** of balancing mechanisms.

**3. The geographical area covered by each regional cooperation structure may be defined by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).**

**For that purpose, the Commission may consult the European Network of**

#### *Amendment*

1. Transmission system operators shall establish regional cooperation within the European Network *of* Transmission System Operators for Gas to contribute to the tasks mentioned in Article 2c(1). In particular, **the transmission system operators for gas** shall publish a regional investment plan every two years, and may take investment decisions based on the regional investment plan.

The regional investment plan may not be contradictory to the 10 year investment plan referred to in Article 2c(1)(c).

2. Transmission system operators shall promote operational arrangements in order to ensure optimum management of the network, and promote the development of energy exchanges, the **coordinated** allocation of cross-border capacity and the **compatibility** of **cross-border** balancing mechanisms.

*Transmission System Operators for Gas  
and the Agency.*

*3a. Member States' regulatory authorities and other relevant national authorities shall cooperate among themselves at all levels for the purpose of harmonising the market design and integrating their national markets at least at one or more regional levels, as a first and intermediate step towards a fully liberalised internal market. In particular, they shall promote the cooperation of transmission network operators at a regional level and facilitate their regional integration with a view to creating a competitive European market, facilitating harmonisation of their regulatory and technical frameworks and, in particular, integrating persisting gas islands.*

**Amendment 24**

**Proposal for a regulation – amending act**

**Article 1 – point 3 a (new)**

Regulation (EC) No 1775/2005

Article 3 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

*(3a) Article 3(1), subparagraph 1 shall be replaced by the following:*

**"1. Tariffs, or the methodologies used to calculate them, applied by transmission system operators and LNG system operators and approved by the regulatory authorities pursuant to Article 25(2) of Directive 2003/55/EC, as well as tariffs published pursuant to Article 18 (1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable**



**network operator and are transparent, whilst including appropriate return on investments[...]. Tariffs, or the methodologies used to calculate them, shall be applied in a non-discriminatory manner."**

*(Amends existing Article 3, paragraph 1 of Regulation 1775/2005)*

*Justification*

*Existing provisions in Article 3 on the benchmarking of tariffs in cases where effective pipeline-to-pipeline competition exists has led to non-cost-based tariffs in a large number of transmission systems throughout Europe. The negative impact on gas consumers in the form of higher grid charges or energy prices is difficult to determine but it can be considered to be substantial.*

**Amendment 25**

**Proposal for a regulation – amending act**

**Article 1 – point 3 b (new)**

Regulation (EC) No 1775/2005

Article 3 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

***(3b) Article 3(1), subparagraph 3 shall be replaced by the following:***

**"Tariffs, or the methodologies used to calculate them, shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks. *This may cover special regulatory treatment for new investment.*"**

*(Introduces additional text to the existing Article 3, paragraph 1, subparagraph 3 of Regulation 1775/2005.)*

*Justification*

*Existing provisions in Article 3 on the benchmarking of tariffs in cases where effective pipeline-to-pipeline competition exists has led to non-cost-based tariffs in a large number of transmission systems throughout Europe. The negative impact on gas consumers in the form*

*of higher grid charges or energy prices is difficult to determine but it can be considered to be substantial.*

## **Amendment 26**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 4**

Regulation (EC) No 1775/2005

Article 3 - paragraph 1 - subparagraph 4

#### *Text proposed by the Commission*

Tariffs for network users shall be set separately and independently per entry point into or exit point out of the transmission system. Network charges shall not be calculated on the *basis of* contract paths.

#### *Amendment*

Tariffs for network users shall be set separately and independently per entry point into or exit point out of the transmission system. Network charges shall not be calculated on the *basis of* contract paths. ***Access to the network shall be open to new entrants on a non-discriminatory basis.***

#### *Justification*

*To ensure transparency and effective competition with equal opportunities and without discrimination is important.*

## **Amendment 27**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 4**

Regulation (EC) No 1775/2005

Article 3 – paragraph 1 – subparagraph 4 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***Tariffs, or the methodologies used to calculate them, shall be applied in a non-discriminatory manner and shall be transparent.***

*(In Article 3 - paragraph 1, a fifth subparagraph is added)*

#### *Justification*

*Transparency on the tariffs and the methodologies used to establish them is a key prerequisite of a well functioning internal market.*

## Amendment 28

### Proposal for a regulation – amending act

#### Article 1 – point 6

Regulation (EC) No 1775/2005

Article 4 a – paragraph 1 – point a

#### *Text proposed by the Commission*

(a) ensure that they offer services on a non-discriminatory basis to all network users that accommodate market demand; in particular, where an LNG or storage system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;

#### *Amendment*

(a) ensure that they offer services on a non-discriminatory basis to all network users that accommodate market demand; in particular, where an LNG or storage system operator offers the same service to different customers **simultaneously**, it shall do so under equivalent contractual terms and conditions;

#### *Justification*

*Contractual terms and conditions vary over time, so it is only possible to compare terms and conditions for similar services offered at a particular point in time.*

## Amendment 29

### Proposal for a regulation – amending act

#### Article 1 – point 6

Regulation (EC) No 1775/2005

Article 4a - paragraph 1 - point b

#### *Text proposed by the Commission*

(b) offer services that are compatible with the use of the interconnected gas transportation systems and facilitate access through cooperation with the transmission system operator;

#### *Amendment*

(b) offer services that are compatible with the use of the interconnected gas transportation systems and facilitate **easy** access through cooperation with the transmission system operator;

#### *Justification*

*Easy access is important.*

## Amendment 30

**Proposal for a regulation – amending act**

**Article 1 – point 6**

Regulation (EC) No 1775/2005

Article 4a - paragraph 1 - point c

*Text proposed by the Commission*

(c) make relevant information public, in particular data on the use and availability of services, in a time frame compatible with the storage and LNG facility users' reasonable commercial needs.

*Amendment*

(c) make relevant information public, in particular data on the use and availability of services, in a time frame compatible with the storage and LNG facility users' reasonable commercial needs, ***subject to the monitoring of such publication by the competent authority.***

*Justification*

*It is necessary that the competent authority monitor the publication of the necessary information, to ensure the effectiveness and enforcement of the rules.*

**Amendment 31**

**Proposal for a regulation – amending act**

**Article 1 – point 7 – point a (new)**

Regulation (EC) No 1775/2005

Article 5 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

***(aa) paragraph 2(a) shall be replaced by the following:***

***"(a) provide appropriate economic signals for efficient and maximum use of technical capacity, facilitate investment in new infrastructure and facilitate cross-border trade in gas."***

*(This amendment introduces additional text to the existing Article 5, paragraph 2 point (a), 3 of Regulation 1775/2005.)*

*Justification*

*Access to transport capacity and thus the application of appropriate capacity allocation mechanisms (CAM) and congestion management procedures (CMP) which ensure efficient use of the existing infrastructure are crucial for the development of a single European gas market. Art. 5 should be amended by including the cross-border dimension of capacity allocation mechanisms and congestion management procedures.*

## Amendment 32

### Proposal for a regulation – amending act

#### Article 1 – point 7 – point b

Regulation (EC) No 1775/2005

Article 5 – paragraph 3

#### *Text proposed by the Commission*

3. Transmission system operators shall implement and publish non-discriminatory and transparent congestion management procedures which ***are based on the following principles:***

***(a) in the event of*** contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead ***and interruptible*** basis;

***(b) network users who wish to re-sell or sublet their unused contracted capacity on the secondary market shall be entitled to do so. Member States may require notification or information of the transmission system operator by network users.***

#### *Amendment*

3. Transmission system operators shall implement and publish non-discriminatory and transparent congestion management procedures which ***facilitate cross-border trade in gas on a non-discriminatory basis and in accordance with the principles of free competition.***

***To prevent*** contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead basis.

#### *Justification*

*Access to transport capacity and thus the application of appropriate capacity allocation mechanisms (CAM) and congestion management procedures (CMP) which ensure efficient use of the existing infrastructure are crucial for the development of a single European gas market. Art. 5 should be amended by including the cross-border dimension of capacity allocation mechanisms and congestion management procedures.*

## Amendment 33

### Proposal for a regulation – amending act

#### Article 1 – point 7

Regulation (EC) No 1775/2005

Article 5 – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. Transmission system operators shall regularly assess market demand for new investment. When planning new investments, transmission system operators shall assess market demand.

6. Transmission system operators shall regularly assess market demand for new investment. When planning new investments, transmission system operators shall assess market demand ***and take into account security of supply criteria.***

*Justification*

*Market demand shouldn't be the only criterion to be considered when planning new investments. Security of supply is a key issue and it cannot be guaranteed if infrastructures are just designed to supply demand, but they don't take into account, for example, the case of a fault in a transmission infrastructure.*

### **Amendment 34**

**Proposal for a regulation – amending act**

**Article 1 – point 7 – point d**

Regulation (EC) No 1775/2005

Article 5 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***6a. In the event of long-term physical congestion, the transmission system operators shall relieve congestion by adding new capacities according to market demand. In order to assess market demand, the transmission system operators shall undertake open-season procedures.***

*Justification*

*The new paragraph 6a Article 5 states that the network operators' obligation to manage congestion also implies relieving long-term congestion by investing in new infrastructure in accordance with market demand, assessed by open season procedures (which serve to ascertain the needs of the market and where necessary to allocate capacity or grant access to third parties in as transparent and non-discriminatory a way as possible). Network operators are thus obliged to organise open season procedures.*

### **Amendment 35**

**Proposal for a regulation – amending act**  
**Article 1 – point 7 – point d**  
Regulation (EC) No 1775/2005  
Article 5 – paragraph 6 b (new)

*Text proposed by the Commission*

*Amendment*

***6b. The national regulatory authorities shall monitor congestion management within national gas systems and interconnectors.***

***The transmission system operators shall submit their congestion management procedures, including capacity allocation, for approval to the national regulatory authorities. The national regulatory authorities may request amendments to those procedures before approving them.***

*(This amendment introduces a new subparagraph to existing Article 5 of Regulation 1775/2005.)*

*Justification*

*The formal approval of congestion management procedures by regulators should be clearly stated in the Regulation 1775/2005 in order to ensure an efficient implementation.*

**Amendment 36**

**Proposal for a regulation – amending act**  
**Article 1 – point 8**  
Regulation (EC) No 1775/2005  
Article 5a - paragraph 3 - point a

*Text proposed by the Commission*

*Amendment*

(a) the system operator shall offer unused LNG facility and storage capacity on the primary market; for storage facilities this shall be at least on a day-ahead and interruptible basis,

(a) the system operator shall offer unused LNG facility and storage capacity on the primary market ***without delay***; for storage facilities this shall be at least on a day-ahead and interruptible basis,

*Justification*

*To avoid hoarding of gas.*

**Amendment 37**

**Proposal for a regulation – amending act**

**Article 1 – point 8**

Regulation (EC) No 1775/2005

Article 5 a – paragraph 3 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Those measures shall take into account the integrity of the system concerned as well as security of supply.***

*Justification*

*According to the principle recognised in the guidelines concerning congestion management principles for transmission networks, congestion management rules should take account of shippers' commitments towards final customers and the physical specificities of infrastructures.*

**Amendment 38**

**Proposal for a regulation – amending act**

**Article 1 – point 9 – point c**

Regulation (EC) No 1775/2005

Article 6 – paragraph 7

*Text proposed by the Commission*

*Amendment*

7. Transmission system operators shall make public ex-ante and ex-post supply and demand information, based on nominations, forecasts and realised flows in and out of the system. The level of detail of the information that is made public shall reflect the information available to the transmission system operator.

Transmission system operators shall ***make public*** measures taken as well as costs incurred and revenues generated to balance the system.

The market participants concerned shall provide the transmission system operators with the data referred to in this Article.

7. Transmission system operators shall make public ex-ante and ex-post supply and demand information, based on nominations, forecasts and realised flows in and out of the system. The level of detail of the information that is made public shall reflect the information available to the transmission system operator. ***The competent authority shall ensure that all necessary information is published.***

Transmission system operators shall ***inform the national regulatory authority, on request, of*** measures taken as well as ***of*** costs incurred and revenues generated to balance the system.

The market participants concerned shall provide the transmission system operators with the data referred to in this Article.



*Justification*

*This information is commercially sensitive and could place the Transmission System Operators at a disadvantage on the market.*

**Amendment 39**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6a - paragraph 2

*Text proposed by the Commission*

2. For the services provided, each LNG and storage system operator shall make public information on contracted and available storage and LNG facility capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.

*Amendment*

2. For the services provided, each LNG and storage system operator shall make public information on contracted and available storage and LNG facility capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner. ***The competent authority shall ensure that all necessary information is published.***

*Justification*

*It is necessary that the competent authority ensure that necessary information is published, in order to secure transparency and openness in the gas market.*

**Amendment 40**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6 a – paragraph 4

*Text proposed by the Commission*

4. All LNG and storage system operators shall make public the amount of gas in each storage or LNG facility, inflows and outflows, and the available storage and LNG facility capacities, including for those facilities exempted from third party access. The information shall also be communicated to the transmission system operator who shall make it public on an

*Amendment*

4. All LNG and storage system operators shall make public the amount of gas in each storage ***facility or group of storage facilities in the same balancing zone*** or LNG facility, inflows and outflows, and the available storage and LNG facility capacities, including for those facilities exempted from third party access. The information shall also be communicated to

aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least every day.

the transmission system operator who shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least every day.

#### *Justification*

*Storage system operators may sell their capacities by site or by group of sites. In the latter case, the publication of information 'by site' is not relevant for storage users. This principle was taken up in the GGSSO: publication by site or by group of sites. Were publication only to be authorised by site, it could encourage short-termist commercial behaviour (arbitrage, speculation).*

#### **Amendment 41**

##### **Proposal for a regulation – amending act**

##### **Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6 a – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the LNG and storage facility operators or relevant national regulatory authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodologies and structure of tariffs for infrastructure under regulated third-party access. LNG and storage facility operators shall submit their congestion management procedures including capacity allocation for approval to the regulatory authorities. The regulatory authorities may request amendments to those procedures before approving them.***

#### *Justification*

*The transparency provision should not only apply to transmission infrastructures, but also to LNG and storage facilities, given the fact that these infrastructures are also subject to regulated access (except for exempted infrastructures and infrastructures under negotiated TPA according to article 19 of Directive 55/2003) and tariffs information must be equally*

*made transparent to all the agents.*

## **Amendment 42**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6 a – paragraph 4 b (new)

*Text proposed by the Commission*

*Amendment*

***4b. Where a LNG or storage facility operator considers that it is not entitled, for reasons of confidentiality, to make public all the data required, it shall seek an authorisation of the competent authorities to limit publication with respect to the point or points in question.***

***The competent authorities shall grant or refuse the authorisation on a case-by-case basis, taking into account in particular the need to respect legitimate commercial confidentiality and the objective of creating a competitive internal market for gas. If the authorisation is granted, available storage and/or LNG facility capacity shall be published without indicating the numerical data that would contravene confidentiality.***

#### *Justification*

*The Commission's proposal does not provide for a procedure to deal with commercial secrets in connection with LNG and storage activities. A fair balance has to be struck between the interests of the market and the interests of commercial confidentiality.*

## **Amendment 43**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 12**

Regulation (EC) No 1775/2005

Article 8 – paragraph 1

*Text proposed by the Commission*

*Amendment*

Each transmission, storage and LNG

Each transmission, storage and LNG

system operator shall take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade. Each such operator shall develop harmonised transportation, LNG facility and storage contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users.

system operator shall take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade.

***Trading shall take place in accordance with the principles of transparency and non-discrimination.*** Each such operator shall develop harmonised transportation, LNG facility and storage contracts and procedures on the primary market to facilitate secondary trade of capacity and recognise the transfer of primary capacity rights where notified by system users.

#### *Justification*

*The principles of transparency and non-discrimination ensure equal conditions for all operators and guarantee the protection of consumer rights.*

#### **Amendment 44**

##### **Proposal for a regulation – amending act**

##### **Article 1 – point 13**

Regulation (EC) No 1775/2005

Article 8a

#### *Text proposed by the Commission*

In order to facilitate the emergence of well functioning and transparent ***cross border retail*** markets on a regional and Community scale, Member States shall ensure that the roles and responsibilities of transmission system operators, distribution system operators, supply undertakings and customers and if necessary other market participants are defined with respect to contractual arrangements, commitment to customers, data exchange and settlement rules, data ownership and metering responsibility.

*These* rules shall be made public, ***be designed with the aim of harmonising access to customers across borders*** and be subject to review by the regulatory authorities.

#### *Amendment*

In order to facilitate the emergence of well functioning, ***effective*** and transparent markets on a regional and Community scale, Member States shall ensure that the roles and responsibilities of transmission system operators, distribution system operators, supply undertakings and customers and if necessary other market participants are defined ***in detail*** with respect to contractual arrangements, commitment to customers, data exchange and settlement rules, data ownership and metering responsibility.

*Those* rules shall be made public and be subject to review by the regulatory authorities.

## Justification

*The objective of harmonised cross border retail markets is not necessary for the development of well functioning regional and Community wholesale markets, which should remain the priority. The implications of such a regulatory objective would need to be fully assessed, and the costs and benefits carefully analysed, since it is probable there would be significant stranded costs, outweighing the benefits.*

### Amendment 45

#### Proposal for a regulation – amending act

##### Article 1 – point 14

Regulation (EC) No 1775/2005

Article 9

#### *Text proposed by the Commission*

##### Guidelines

1. Where appropriate, guidelines providing the minimum degree of harmonisation required to achieve the aim of this Regulation shall specify:

*(a) details of third party access services including the character, duration and other requirements of these services, in accordance with Articles 4 and 4a;*

*(b) details of the principles underlying capacity allocation mechanisms and on the application of congestion management procedures in the event of contractual congestion, in accordance with Articles 5 and 5a;*

*(c) details on the provision of information and definition of the technical information necessary for network users to gain effective access to the system and the definition of all relevant points for transparency requirements, including the information to be published at all relevant points and the time schedule according to which this information shall be published,*

#### *Amendment*

##### Guidelines *on third party access services*

1. Where appropriate, *the Commission may adopt* guidelines providing the minimum degree of harmonisation required to achieve the aim of this Regulation, *which* shall specify details of *third-party* access services including the character, duration and other requirements of these services, in accordance with Articles 4 and 4a.

*in accordance with Articles 6 and 6a;*

*(d) details on tariff methodology, in accordance with Article 3;*

*(e) details on balancing rules, in accordance with Article 7;*

*(f) details on procedures on the primary market to facilitate trading of capacity on the secondary market and the transfer of primary capacity rights between network users, in accordance with Articles 8;*

*(g) details on the retail market issues covered by Article 8a;*

*(h) details on the topics listed in Article 2c(3).*

2. Guidelines on *the issues listed in paragraph 1(a), (b) and (c)* are laid down in the Annex with respect to transmission system operators.

*The Commission may amend the guidelines referred to in the first subparagraph and adopt guidelines on the issues listed in paragraph 1. Those measures designed to amend non-essential elements of this Regulation inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).*

3. The application and amendment of Guidelines adopted pursuant to this **Regulation** shall reflect differences between national gas systems, and shall therefore not require uniform detailed terms and conditions of third party access at Community level. They may, however, set minimum requirements to be met to achieve non-discriminatory and transparent network access conditions necessary for an internal gas market, which may then be applied in the light of differences between national gas systems.

2. The Guidelines on *third-party access referred to in paragraph 1* are laid down in the Annex with respect to transmission system operators.

3. The application and amendment of Guidelines *on third-party access* adopted pursuant to this **Article** shall reflect differences between national gas systems, and shall therefore not require uniform detailed terms and conditions of third party access at Community level. They may, however, set minimum requirements to be met to achieve non-discriminatory and transparent network access conditions necessary for an internal gas market, which may then be applied in the light of differences between national gas systems.

## Amendment 46

### Proposal for a regulation – amending act

#### Article 1 – point 14 a (new)

Regulation (EC) No 1775/2005

Article 13 – paragraph 1

*Text proposed by the Commission*

*Amendment*

***(14a) In Article 13, paragraph 1 shall be replaced by the following:***

***"The Member States shall ensure that national regulatory authorities established under Article 25 of Directive 2003/55/EC have the competence to effectively ensure compliance with this Regulation by providing them with the power, in relation to any single breach, either to impose effective, dissuasive and proportionate penalties of up to 10 % of the system operator's annual turnover in its domestic market or to revoke the operator's licence. The Member States shall inform the Commission thereof by 1 January 2010 and shall inform it without delay of any subsequent amendments."***

*(Article 13 - paragraph 1 of Regulation 1775/2005 must be adapted)*

#### *Justification*

*The current state of implementation of Regulation 1775/2005 shows shortcomings because of missing effective sanctions implemented by Member States. There shall be no room for negotiation in case of non-compliance and regulators should have the power to make effective use of their enforcement powers.*

## EXPLANATORY STATEMENT

### Regulation amending Regulation n°1775/2005 on conditions for access to the natural gas transmission networks

#### General evaluation

- The whole provisions aim at introducing European tools to improve cooperation and to strengthen the functioning of the internal market via the coordination of the transmission system operators and the harmonisation of the rules for storage system operators. The aim of the proposal is also to increase transparency and long-term perspectives, so as to secure gas supply, investment planning and prevent from severe disruptions. The Rapporteur can generally adhere at the level of principles to those objectives.
- When examining the whole set of proposals related to the gas market in the 3<sup>rd</sup> energy package, the Rapporteur is convinced that one has to bear in mind the protection of consumers by adopting transparent and socially adequate measures. The Regulation, however, is related to technical measures aiming at creating the technical regulatory framework for access to networks. The Directive should be adequately used as the correct legislative vehicle for addressing consumer concerns at EU level. (Article 3 on public service obligations). Alternatively consumers can be protected or by the means of specific national measures which have to be compatible with EU competition law.
- The Commission is also concerned about the level of concentration in wholesale and retail activities, but it fails to address the feature of the market, integration of retail with gas wholesale and electricity generation, which is likely to cement the positions of the dominant companies. Increasingly across Europe, markets are being dominated by integrated wholesale retail companies active in both electricity and gas markets. Access of the SMEs to the networks has to improve significantly.
- Finally, one of the major concerns is that the different stages of implementation between Member States of the present 2<sup>nd</sup> energy package are not duly taken into account. The conditions to ensure the implementation of the third package present more of a challenge since the 2<sup>nd</sup> round of liberalisation has not been fully enforced yet. Adopting additional measures could be therefore a source of legal uncertainty. Practical remedies would have to be found to ensure implementation in addition to legal infringement procedures.

**I. Cooperation between transmission system operators:** the creation of the European Network of transmission system operators for gas (ENTSOG) as a structure in charge of compulsory tasks is an important step forward.

*(i) balance of powers between the ENTSOG, national regulators and the Agency:* The Rapporteur considers that the area of cooperation of the ENTSOG is too broadly defined (adoption of harmonised technical and market codes covering security rules but also rules for trading, coordination of grid operations, adoption of a 10-year investment plan, publication of network development plans). He believes that the action of ENTSOG - as a form of co-regulation parallel to the activity of the European Commission - should be limited to technical issues related to network third party access, security and reliability and interoperability rules, operational procedures. The Rapporteur suggests a more stringent scope for the codes and



rules to be drafted by the ENTSOG, limited to transmission network operations.

In this context, the Rapporteur considers that the establishment of the Agency being a vital step forward to an integrated market, its powers could be strengthened to approve the working programme developed by ENTSOG, to monitor and review TSO's initiatives regarding regional cooperation and to coordinate the drafting of the 10-year investment plan. The Rapporteur suggests also that the Agency endorses the codes drafted by the ENTSOG.

*(ii) involvement of other operators and stakeholders in gas market:* Additional provisions ensuring the proper mechanism of prior consultation of the stakeholders should be envisaged with the involvement amongst others of the EASEE-gas association. The full range of interested parties shall be consulted, including producers, network operators, suppliers and consumers.

The Agency should also have the responsibility to consult all stakeholders when it makes proposals and recommendations.

**II. Integration of the market through regional initiatives:** the new regulatory framework promotes regional initiatives between transmission system operators and regulatory authorities, so as to ensure optimum management of the network and appropriate investment planning and delivery.

*(i) a necessary step towards an internal integrated market:* The Rapporteur considers that the dimension of the regional cooperation is not clearly defined in the proposal, though it is an important step to an internal integrated market. It is essential to link up "energy islands" like the Baltic States or the Iberian peninsula.

The Rapporteur therefore suggests that the gas Regulation should impose on the TSOs a precise calendar coupled with concrete objectives to be implemented at regional level, so as to achieve the setting-up of single user interfaces. The Rapporteur is also concerned by the role of the Agency on the TSOs' initiatives regarding regional cooperation and would empower the Agency to ensure the necessary convergence of the technical and regulatory frameworks between the regions as well as the supervision of the regional investment plan.

*(ii) how can the Regulation make "regional initiatives" practically operational?* The Commission's proposals could be strengthened through: the set up of single user interfaces (e.g. one stop shop), ensuring commercial functions in the name of several TSOs, at the regional level. Areas should be more clearly identified in which TSOs are obliged to cooperate. The TSOs could consider setting up regional entities with defined responsibilities.

**III. Security of supply:** For the Rapporteur, it is imperative that the provisions of the Regulation are examined from the perspective of security of supply.

**- Planning of the investments:** according to the draft Regulation, the 10 year - voluntary - network development scheme would be drawn up at the EU level by the ENTSOG.

*(i) Necessity to reinforce investment development plan:* Planning of investment will need to be driven by the viewpoints and needs of market users, at national level where TSOs plan their independent investment and also at European level. The Rapporteur is of the opinion that those plans would have to be approved by national regulators - and not only submitted for advice to the Agency - and strictly monitored if we want them to become effective; the

coordination between national, regional, and European plans should be clarified.

*(ii) Investments plans must be equally developed by all TSOs regardless of the structures of the market finally adopted in the Directive (ownership unbundling, ISO and other solutions).* The investment plan should be monitored by the Agency and the NRA to ensure that the needed investment is carried out on a timely basis. However, at his stage, the Rapporteur considers that his Report has to progress in parallel with the parliamentary works on the relevant provisions of the proposed Directive on natural gas market. He deemed too early to introduce specific mechanism about the implementation of the investments, the link between national plans and European plans and the approval mechanisms of investments by national regulators. For the time being, the Rapporteur proposes additional measures to involve at least the Agency in the preparation of the European 10-year investment plans.

**- Access to storage:** The regulatory framework for storage system operators would be harmonised according to good practices and guidelines already established by the ERGEG. The existing provisions of the current Regulation concerning TSO would be extended to storage operators and extensively to LNG terminals so as to create a common approach to third party access.

*(i) The Rapporteur considers that the rules for access to storage must not jeopardize the long-term security of supply.* A clause introducing some safeguards has been added to the provisions of Art. 5a, in relation to Directive 2004/67/EC concerning security of gas supply.

*(ii) Rules on congestion management applied by TSO, storage and LNG operators (on the basis of interruptible capacity and on a day-to-day access) should be firmly defined and should at least take into account the existence of long-term contracts and flexibility mechanisms.*

**IV. Transparency requirements:** the proposed regulation extends the transparency requirements already existing for TSO to cover commercial gas stocks, forecasts of demand on and availability of capacities, costs for balancing the network and trading capacity. New provisions also apply to TSO with regards to ex-ante and ex-post supply and demand information and to measures taken to balance the system.

Though those provisions are an important milestone on the way to increase operational transparency benefiting all market players and though the right of access is legitimate, the Rapporteur estimates that provided the appropriate commercial confidentiality is guaranteed the publication of such data will generally strengthen the market. It must, however, be recalled that certain gas transactions are very commercially sensitive. Some safeguards have been introduced when deemed necessary.

**V. Institutional aspects:** The Regulation is not clear enough regarding comitology process as for prerogatives of the ENTSOG:

(i) on the one hand, if ENTSOG has the task to elaborate codes, the Commission can intervene under precise circumstances via a comitology procedure when it is deemed that technical or market codes adopted by the ENTSOG will not ensure non-discrimination, effective competition and the efficient functioning of the service;

(ii) on the other hand, the Commission can take the initiative under Article 9 and adopt "guidelines" in the same area, whatever the circumstances are, in order to specify details on third party access services, capacity allocation mechanisms, congestion management

procedure, etc.

Taking into account the wide range of subjects where the adoption of Guidelines is envisaged, the Rapporteur proposes that a clear and robust "ex-ante" procedure should frame and prepare the comitology process, in cooperation with the Agency and in consultation with stakeholders. The Commission should define and prioritize the list of subjects in cooperation with the proposed Agency (ACER) and the draft Guidelines should be subject to public consultation or if appropriate regular assessments by the Commission and ACER.

## ANNEX: GENERAL CONTEXT OF THE GAS SECTOR IN EU

### (i) The place of gas in the European energy mix is crucial:

- from 23% of the European energy mix today, gas will amount to 28% in 2030;
- gas accounts for one-fifth of all electricity generated,
- no alternative to gas demand growth: gas demand has increased by 35% in 10 years;

### (ii) The specific issue for gas is to ensure security of supply:

- domestic production is declining and gas is mainly purchased from a few and powerful leading extra EU producers under long-term contracts: gas is mostly imported from third countries (62% in 2006),
- Europe's dependency on imports will increase to more than 80% in 2030;

### (iii) Energy security should be achieved in the context of a competitive market based on transparent rules taking into account the basic interests of the consumers:

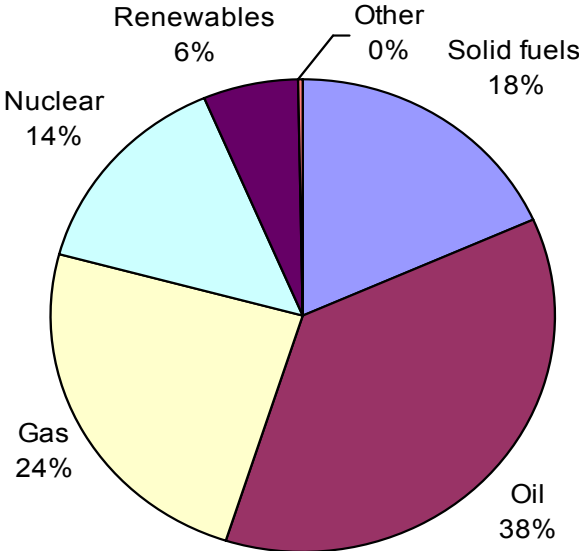
### (iv) a significant need of investments:

according to IEA Europe should invest 400 billion \$ for the period 2005 – 2030 so as to ensure security of supply, from which around 160 billion \$ in the transmission and distribution networks, 20 billion \$ in LNG facilities and 220 billion \$ in upstream operations.

### (iii) Technical problems to overcome in the gas sector:

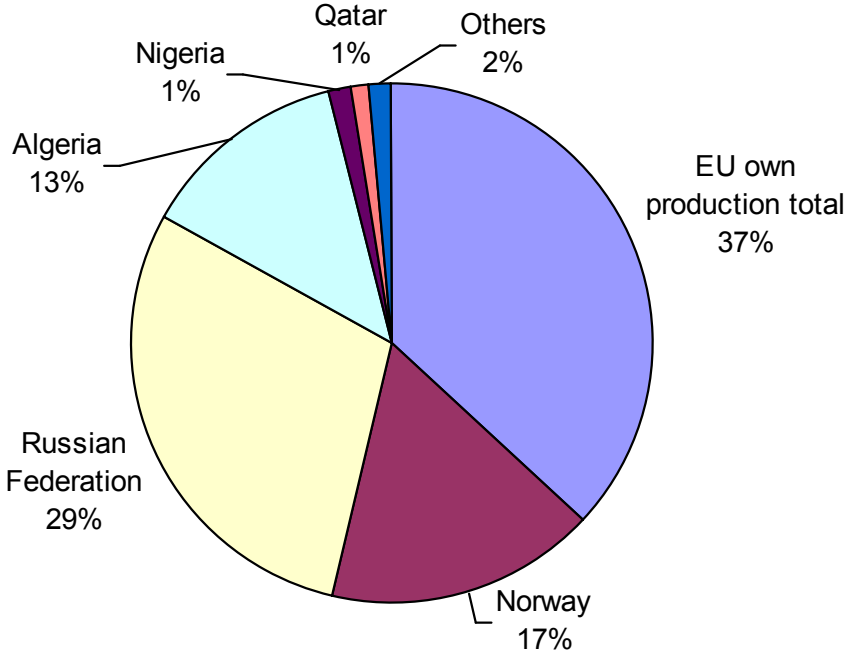
- lack of harmonisation of technical standards and of national regulator prerogatives;
- lack of prospective vision at the EU level to forecast investment needs: exploration and production of new gas fields, pipeline networks, tankers and LNG terminals as well as underground storage facilities;
- insufficient coordination, especially on cross-border issues.

**EU-27 Total Primary Energy Supply (2004): about 1 800 Mtoe**



Source: European Commission DG TREN, Eurostat

**EU-27 Origin of Natural Gas (2004)**



Source: European Commission DG TREN, Eurostat

8.5.2008

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks  
(COM(2007)0532 – C6-0319/2007 – 2007/0199(COD))

Draftsman: Christian Ehler

### **SHORT JUSTIFICATION**

The Commission justifies and explains the proposals it has put forward to amend the legislation in connection with the internal market package on the grounds that the current legislation on the internal market in energy, despite the progress that can be observed, does not seem sufficient to complete the internal market.

The Commission proposal amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks aims to extend the objectives of the legal framework to include:

- setting non-discriminatory rules for access conditions to LNG facilities and storage facilities,
- facilitating the emergence of a well-functioning and transparent cross-border retail market, and
- facilitating the emergence of a well-functioning and transparent wholesale market.

This opinion explicitly supports the call to complete the internal market as soon as possible. The internal market serves to increase security of supply at affordable prices. However, the instruments and rules that the Commission proposes in the draft regulation cannot be comprehensively endorsed.

Criticism can be directed in particular at:

- the impact assessments submitted,
- the failure at times to observe the subsidiarity principle,
- the inconsistent allocation of powers between the European structures, and
- extension of the powers of the Commission and the comitology procedures to set guidelines.

Without going into the detail of your draftsman's amendments, it should be noted that the open questions with regard to the plausibility of the impact assessments, which in particular were formulated by the Committee on Industry, Research and Energy, have not been answered satisfactorily. When legislation is proposed in future it is essential to ensure that if the investigations and analyses do not withstand critical inspection, the impact assessment and thus the Commission proposal will not be recognised.

There is a failure to observe the subsidiarity principle, particularly with regard to the proposed rules on retail markets. The proposed harmonisation makes substantial inroads into the Member States' areas of competence. Instead of aspiring to harmonisation at European level, the aim of improved cross-border access to transparent retail markets should be achieved through national regulation. The opinion introduces a new legislative obligation to encourage and ensure cross-border access to customers through provisions in various areas of the law.

A further focus of this opinion is to show the costs of the proposed rules more transparently and to clarify divisions of responsibilities and tasks in new European structures. Thus an amendment has been formulated to the effect that funding should come not from uncontrollable price rises but directly from the EU budget. With regard to the division of tasks, duplication of responsibilities has been replaced by clear attributions to the Commission, national regulatory authorities, the Agency and the Network of Transmission System Operators for Gas that is to be set up.

A third focus of these amendments is to set legal limits for the Commission's action. The former procedure under this Regulation, that guidelines were adopted by Parliament and the Council and could be adjusted later by the Commission using a standard procedure, should not be abandoned. These amendments create the conditions that the Commission needs for technical issues. For issues of great social and political interest, however, the normal legislative procedure must apply. So as not to hinder ongoing legislative consultation, the Commission must be enabled to introduce further provisions or to seek to adopt guidelines as amendments to the new regulation in a further procedure.

The opinion also aims to indicate a new approach to a more rapid development of network capacities. It is important to note that, in addition to more investment by network operators, simpler and cheaper authorisation procedures could clear bottlenecks rapidly. For a better overview of the time taken by authorisation procedures and their associated costs throughout Europe, and also to identify regulations that hinder the development of the cross-border network, the Network of Transmission System Operators for Gas that is to be set up should be given a monitoring function in this area. In the form of best practice or legislative provisions, efforts should be made to work towards improved framework conditions for the authorisation procedure.

## AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation – amending act

##### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2c – paragraph 1 – subparagraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) technical and market codes in the areas mentioned in paragraph 3;

(a) **network-related** technical and market codes in the areas referred to in paragraph 3;

*Justification*

*Rules more focused on the network.*

### Amendment 2

#### Proposal for a regulation – amending act

##### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2c – paragraph 1 – subparagraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) a 10-year investment plan every **two** years;

(c) a 10-year investment **plan for network development** every **three** years;

*Justification*

*Rules more focused on the network.*

### Amendment 3

#### Proposal for a regulation – amending act

##### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2c – paragraph 1 – subparagraph 1 a (new)



*Text proposed by the Commission*

*Amendment*

***Within the first year and every three years thereafter, the European Network of Transmission System Operators for Gas shall conduct a survey of the duration of authorisation procedures in the network area and of the national rules or the different national formulations of rules which delay or hinder cross-border network development or increase its cost.***

*Justification*

*The addition of point fa serves to take account of the problem that cross-border network development is hindered by differing national rules on authorisation procedures. The existing situation must be monitored in order to develop the necessary solutions or bring about improvements through identifying best practice.*

#### **Amendment 4**

##### **Proposal for a regulation – amending act**

##### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2 c – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The annual work programme referred to in paragraph 1(d) shall contain a list and description of the technical and market codes, a plan on coordination of operation of the network and research and development activities, to be drawn up in that year and an indicative calendar.

2. The annual work programme referred to in paragraph 1(d) shall contain a list and description of the ***network-related*** technical and market codes, a plan on coordination of operation of the network and research and development activities, to be drawn up in that year and an indicative calendar.

*Justification*

*Clarification of the fact that the tasks concern network-related aspects.*

#### **Amendment 5**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2c – paragraph 3 – introductory wording

*Text proposed by the Commission*

*Amendment*

3. The detailed technical and market codes shall cover the following areas, according to the priorities defined in the annual work programme:

3. The detailed **network-related** technical and market codes shall cover the following areas, according to the priorities defined in the annual work programme:

*Justification*

*Clarification of the fact that the tasks concern network-related aspects.*

**Amendment 6**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2c – paragraph 3 – point a

*Text proposed by the Commission*

*Amendment*

(a) security and reliability rules;

(a) **energy network** security and reliability rules;

*Justification*

*Clarification of the fact that the tasks concern network-related aspects.*

**Amendment 7**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2c – paragraph 3 – point g

*Text proposed by the Commission*

*Amendment*

(g) rules for trading;

(g) rules for **capacity** trading;

*Justification*

*Clarification of the fact that the tasks concern network-related aspects.*

## Amendment 8

### Proposal for a regulation – amending act

#### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2c – paragraph 3 – point h

*Text proposed by the Commission*

*Amendment*

(h) transparency rules;

(h) **network-related** transparency rules;

*Justification*

*Clarification of the fact that the tasks concern network-related aspects.*

## Amendment 9

### Proposal for a regulation – amending act

#### Article 1 – point 3

Regulation (EC) No 1775/2005

Article 2c – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The European Network of Transmission System Operators for Gas shall publish a Community-wide 10-year *network* investment plan every **two** years. The investment plan shall include the modelling of the integrated network, scenario development, a supply and demand adequacy report and an assessment of the resilience of the system. The investment plan shall, in particular, build on national investment plans and on the Guidelines for Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to cross border capacities.

5. The European Network of Transmission System Operators for Gas shall publish a Community-wide 10-year investment plan *for network development* every **three** years. The investment plan shall include the modelling of the integrated network, scenario development, a supply and demand adequacy report and an assessment of the resilience of the system. The investment plan shall, in particular, build on national investment plans and on the Guidelines for Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to cross border capacities. ***An annex to the investment plan shall summarise the obstacles to cross-border network development caused by differing authorisation procedures or practices.***

### *Justification*

*Updating the investment plan every three years should enable the required information to be provided without creating unnecessary bureaucracy.*

*The addition of article 2c, paragraph 1, point fa serves to take account of the problem that cross-border network development is hindered by differing national rules on authorisation procedures. The existing situation must be monitored in order to develop the necessary solutions or bring about improvements through identifying best practice.*

### **Amendment 10**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2c – paragraph 6

#### *Text proposed by the Commission*

6. Upon request of the Commission, the European Network of Transmission System Operators for Gas shall advise the Commission on the **adoption** of Guidelines as laid down in Article 9.

#### *Amendment*

6. Upon request of the Commission, the European Network of Transmission System Operators for Gas shall advise the Commission on the **amendment** of Guidelines as laid down in Article 9.

### *Justification*

*To bring the regulation into line with the amendments proposed for Article 9.*

### **Amendment 11**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2e – paragraph 3 – introductory wording

#### *Text proposed by the Commission*

3. The Commission may adopt, **on its own initiative or** upon recommendation of the Agency, guidelines on the areas listed in Article 2c(3) when it considers that:

#### *Amendment*

3. The Commission may adopt, upon recommendation of the Agency, guidelines on the areas listed in Article 2c(3) when it considers that:

### *Justification*

*To ensure an unambiguous division of responsibilities.*

## **Amendment 12**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2e – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. Paragraph 3 shall be without prejudice to the Commission's right to **adopt and** amend guidelines as laid down in Article 9.

4. Paragraph 3 shall be without prejudice to the Commission's right to amend guidelines as laid down in Article 9.

*Justification*

*To bring the text of the regulation into line with the proposed amendments to Article 9.*

## **Amendment 13**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2e – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. The Commission shall notify the European Parliament and the Council when it intends to adopt guidelines pursuant to paragraph 3.***

*Justification*

*Commission action pursuant to article 2e, paragraph 3 of the regulation suggests that the Network of Transmission System Operators for Gas, which is financed from public funds, is not adequately fulfilling its obligations under this regulation. In this event the European Parliament and the Council should receive comprehensive information so that they can introduce any necessary amendments.*

## **Amendment 14**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2g

*Text proposed by the Commission*

*Amendment*

The costs related with the activities of the European Network of Transmission System Operators for Gas mentioned in Articles 2a to 2h shall be borne by the **transmission system operators and shall be taken into account in the calculation of tariffs.**

The costs related with the activities of the European Network of Transmission System Operators for Gas mentioned in Articles 2a to 2h shall be borne by the **general budget of the European Union.**

*Justification*

*The newly inserted Articles 2a to 2h are intended to create a new structure that requires funding. As the new network will be linked up at EU level, this must be financed from the EU budget. Financing from tariffs would not make it possible to monitor costs or eventually to evaluate the new structure.*

## **Amendment 15**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2h – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. The geographical area covered by each regional cooperation structure may be defined by the Commission. That measure, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).**

**deleted**

**For that purpose, the Commission may consult the European Network of Transmission System Operators for Gas and the Agency.**

*Justification*

*Regional cooperation will be organised within the network. How cooperation is organised and at what organisational levels it takes place must be laid down in the articles of association of the Network. A special decree from the Commission is not necessary or appropriate.*

## Amendment 16

### Proposal for a regulation – amending act

#### Article 1 – point 7

Regulation (EC) No 1775/2005

Article 5 – paragraph 3 – point a

*Text proposed by the Commission*

(a) in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis;

*Amendment*

(a) in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis, ***insofar as this does not prevent the implementation of a long-term supply contract;***

*Justification*

*The design of congestion management rules should take account of shippers' commitments towards final customers and security of supply (existence of long term supply contracts).*

## Amendment 17

### Proposal for a regulation – amending act

#### Article 1 – point 8

Regulation (EC) No 1775/2005

Article 5a – paragraph 3 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Those measures shall take into account the integrity of the system concerned as well as security of supply.***

*Justification*

*As already recognized in the guidelines on congestion management principles for transmission networks, the design of congestion management rules should take account of shippers' commitments towards final customers and the physical specificities of infrastructures.*

## Amendment 18

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6a – paragraph 4

*Text proposed by the Commission*

4. All LNG and storage system operators shall make public the amount of gas in each storage or LNG facility, inflows and outflows, and the available storage and LNG facility capacities, including for those facilities exempted from third party access. The information shall also be communicated to the transmission system operator who shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least every day.

*Amendment*

4. All LNG and storage system operators shall make public the amount of gas in each storage **facility or group of storage facilities in a same balancing zone** or LNG facility, inflows and outflows, and the available storage and LNG facility capacities, including for those facilities exempted from third party access. The information shall also be communicated to the transmission system operator who shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least every day.

*Justification*

*Shippers expect the publication of data corresponding to the commercial offers. Storage operators may sale their storage capacities by site (physical facility) or by group of storage sites. In the latter case the publication “by site” is generally not relevant for users. This was recognized in the GGPSSO.*

*A publication of storage volumes by site tends to foster short-term trading behaviours, by providing information on the system internal fine tuning. This leads to an increased price volatility.*

**Amendment 19**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6 b

*Text proposed by the Commission*

Transmission system operators, storage system operators and LNG system operators shall keep at the disposal of the national regulatory authority, the national competition authority and the Commission

*Amendment*

Transmission system operators, storage system operators and LNG system operators shall keep at the disposal of the national regulatory authority, the national competition authority and the Commission



all information referred to in Article 6 and 6a, and in part 3 of the Annex for a period of **five years**.

all information referred to in Article 6 and 6a, and in part 3 of the Annex for a period of **three years**.

*Justification*

*A three-year period seems sufficient for the objective of better control.*

**Amendment 20**

**Proposal for a regulation – amending act**

**Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6 c (new)

*Text proposed by the Commission*

*Amendment*

**Article 6c**

***Restriction on the publication of information***

***If the operator of a transmission network, storage facility or LNG facility considers that for reasons of confidentiality it does not have the right to publish all the required data, it shall apply to the relevant authorities to authorise a restriction of the publication of the data concerned.***

***The relevant authorities shall grant or refuse authorisation on a case-by-case basis, taking account of the need to protect legitimate trade secrets on the one hand and the aim of creating a natural gas market that is open to competition on the other.***

***Authorisation within the meaning of this Article shall not be granted where three or more users have contracted capacity at the same point.***

*Justification*

*In certain cases, publication may contravene national data protection rules or counteract the objective of a natural gas market that is open to competition. It therefore seems appropriate in exceptional cases to allow individual circumstances to be examined.*

## Amendment 21

### Proposal for a regulation – amending act

#### Article 1 – point 13

Regulation (EC) No 1775/2005

Article 8a – subparagraph 2

*Text proposed by the Commission*

These rules shall be **made public, be** designed with the aim of **harmonising** access to customers across borders **and be subject to** review by the regulatory authorities.

*Amendment*

These rules shall be designed with the aim of **promoting and ensuring** access to customers across borders. **They shall be published after** review by the regulatory authorities.

*Justification*

*The Member States remain responsible for the retail markets and for framework conditions, including those for transmission system operators. As in the services market, cross-border access to customers can be ensured even without European harmonisation.*

## Amendment 22

### Proposal for a regulation – amending act

#### Article 1 – point 14

Regulation (EC) No 1775/2005

Article 9 – paragraph 1 – point g

*Text proposed by the Commission*

**(g) details on the retail market issues covered by Article 8a;**

*Amendment*

**deleted**

*Justification*

*The Member States should retain responsibility for the necessary regulation of retail markets.*

## Amendment 23

### Proposal for a regulation – amending act

#### Article 1 – point 14

Regulation (EC) No 1775/2005

Article 9 – paragraph 1 – point h

*Text proposed by the Commission*

*Amendment*

**(h) details on the topics listed in Article 2c(3).** **deleted**

*Justification*

*The power to adopt guidelines for Article 2c(3) is laid down in Article 2e(3). As the other guidelines listed in Article 9(1) may be amended, but not adopted, by the Commission, a reference to them in Article 9 should be deleted, on the grounds of consistency.*

## **Amendment 24**

### **Proposal for a regulation – amending act**

#### **Article 1 – point 14**

Regulation (EC) No 1775/2005

Article 9 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

2. Guidelines on the issues listed in paragraph 1(a) to (c) are laid down in the Annex with respect to transmission system operators.

2. Guidelines on the issues listed in paragraph 1(a) to (c) with respect to transmission system operators are laid down in the Annex. **The guidelines on the issues listed in paragraph 1(a) to (c) with respect to storage facility operators and LNG facility operators, and guidelines on the issues listed in paragraph 1(d) to (f), shall be adopted at a later date by the ordinary procedure and shall be set out in a supplemental Annex to this Regulation.**

*Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary. The Commission describes the guidelines as necessary to achieve the aims of the regulation, therefore they should be laid down within the framework of the regulation. The Commission is free to propose any necessary additions during the current procedure.*

## Amendment 25

### Proposal for a regulation – amending act

#### Article 1 – point 14

Regulation (EC) No 1775/2005

Article 9 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

The Commission may amend the guidelines referred to in the first subparagraph **and adopt guidelines on the issues listed in paragraph 1**. Those measures designed to amend non-essential elements of this Regulation inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).

#### *Amendment*

The Commission may amend the guidelines referred to in the first subparagraph. Those measures designed to amend non-essential elements of this Regulation inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 14(2).

#### *Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary. The Commission describes the guidelines as necessary to achieve the aims of the regulation, therefore they should be laid down within the framework of the regulation.*

## Amendment 26

### Proposal for a regulation – amending act

#### Article 1 – point 14

Regulation (EC) No 1775/2005

Article 9 – paragraph 2 – subparagraph 2 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***Before the Commission amends the guidelines, as provided for in the second subparagraph, or before proposing to adopt the guidelines referred to in the first subparagraph, it shall ensure that impact assessments have been carried out and that all the relevant parties have been consulted, including, as appropriate, supply undertakings, customers, system users, transmission system operators, distribution system operators, LNG system***

***operators and storage system operators, relevant (industry) associations, technical bodies and stakeholder platforms. The Commission shall also ask the Agency for its opinion.***

*Justification*

*If the Commission's power of execution is extended to the entire scope of the Regulation, it is preferable to also introduce some transparency and consultation mechanisms, as it is the case for ENTSOG, especially when it is about very technical issues, for instance related to access to infrastructures. .*

## PROCEDURE

<b>Title</b>	Conditions for access to the natural gas transmission networks		
<b>References</b>	COM(2007)0532 – C6-0319/2007 – 2007/0199(COD)		
<b>Committee responsible</b>	ITRE		
<b>Opinion by</b> Date announced in plenary	ECON 11.10.2007		
<b>Drafts(wo)man</b> Date appointed	Christian Ehler 23.10.2007		
<b>Discussed in committee</b>	29.1.2008	26.2.2008	1.4.2008
<b>Date adopted</b>	6.5.2008		
<b>Result of final vote</b>	+: 28	–: 1	0: 7
<b>Members present for the final vote</b>	Mariela Velichkova Baeva, Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Manuel António dos Santos, Jonathan Evans, Elisa Ferreira, Jean-Paul Gauzès, Robert Goebbels, Donata Gottardi, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Wolf Klinz, Christoph Konrad, Guntars Krasts, Kurt Joachim Lauk, Andrea Losco, Astrid Lulling, Florencio Luque Aguilar, Gay Mitchell, John Purvis, Alexander Radwan, Bernhard Rapkay, Margarita Starkevičiūtė, Ivo Strejček, Ieke van den Burg, Cornelis Visser		
<b>Substitute(s) present for the final vote</b>	Valdis Dombrovskis, Harald Ettl, Ján Hudacký, Alain Lipietz, Diamanto Manolakou, Gianni Pittella, Bilyana Ilieva Raeva, Andreas Schwab		

9.4.2008

## **OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION**

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks

(COM(2007)0532 – C6-0319/2007 – 2007/0199(COD))

Draftsman: Emmanouil Angelakas

### **SHORT JUSTIFICATION**

This proposed Regulation is amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks (COM(2007)532). The proposal is part of the "Energy package" ("The Electricity & Gas Markets: third legislative package"), which the Commission presented in September 2007. The Draftsperson supports the Energy package in general. The package is very important in finalising the ongoing European liberalisation processes in the energy and gas sectors and thereby ensuring a genuine, transparent and open internal market.

Although the Draftsperson supports the Energy package he is of the opinion that it is difficult to achieve the ownership unbundling goals all over Europe, as there are major differences between the European countries. In some countries the effects of the second energy package remains to be seen as it is not implemented or enforced properly yet. It is therefore difficult to use synchronized ownership unbundling criteria in all Member States. Furthermore some Member States have long-term contracts (some for 50-years), which complicates the unbundling goals as well. Finally the Draftsperson is not convinced that unbundling will lead to price reduction and thereby make any difference to the consumer's benefit.

In accordance with that point of view your Draftsperson suggests amendments along the following line:

- Regional efficient cooperation is very important in ensuring a true internal market. The Draftsman therefore supports the establishment of a European network of transmission system operators, where the basis for the cooperation is to ensure

efficiency, representativity and transparency of the European gas market. The Draftsman considers it very important that the Member States promote and monitor the network operators at a regional level. The draftsman is also of that opinion that cooperation within the transmission network does not presuppose unbundling of network activities from production and supply. The transmission network can easily be effective without ownership unbundling in all the participating Member States.

- Furthermore there are structural differences between the gas and electricity markets, and different measures need to be applied. The application of further unbundling measures for the gas sector is not straightforward, and specific solutions are needed to enable the completion of the internal market in the gas sector.
- Access to affordable energy for as many people as possible is a key issue for the Draftsman. The Draftsman also supports that the European Network of Transmission System Operators for Gas shall consult stakeholders in an open and transparent way when preparing their work. The Draftsman suggests that consumers/and consumer's organisation shall be consulted as well, because they are important stakeholders, as they are the household end users.
- The Draftsman is furthermore convinced of that security of supply is important to avoid fluctuations in prices, and thereby demolish the insecurity of prices for European consumers. The security of supply can be - together with other measures - achieved by avoiding market concentration and in securing a genuine and open energy trading market.
- Therefore the issue of securing open LNG and storage facilities with an open access for new entrants is another key issue for the Draftsman. Transparent information about storage facilities and capabilities are important in order to secure an internal energy trading market. That will ensure fair prices and a genuine open market to the benefit of consumers. The publication of information shall be monitored by the Competent Authorities.
- Finally the Draftsman believes there is a need of having a public, updated European "road map" of all European gas pipelines, and the Commission shall publish and update it. It has to be easier to see all existing and coming regional pipelines in Europe to secure transparency and better information on "energy holes" (lack of pipelines or connections) and to suggest possible new cross border connections. This will strengthen the network planning in Europe.



## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

### Amendment 1

#### Proposal for a regulation – amending act Recital 1

##### *Text proposed by the Commission*

(1) The internal market for gas, which has been progressively implemented since 1999, aims at delivering real choice for all consumers in the Community, be they citizens or business, new business opportunities and *more* cross-border trade, so as to achieve efficiency gains, competitive prices, higher standards of service, and to contribute to security of supply and sustainability.

##### *Amendment*

(1) The internal market for gas, which has been progressively implemented since 1999, aims at delivering real choice for all consumers in the Community, be they citizens or business, new business opportunities and *greater* cross-border trade, so as to achieve efficiency gains, competitive prices, higher standards of service ***and access for as many people as possible***, and to contribute to security of supply and sustainability.

##### *Justification*

*Access to affordable gas to as many people as possible is very important.*

### Amendment 2

#### Proposal for a regulation – amending act Recital 4

##### *Text proposed by the Commission*

(4) The Communication of the Commission to the European Parliament and the Council entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in natural gas and to create a level playing field for all gas companies in the Community. The Communication from the Commission to

##### *Amendment*

(4) The Communication of the Commission to the European Parliament and the Council entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in natural gas and to create a level playing field for all gas companies in the Community. The Communication from the Commission to

the European Parliament and to the Council on prospects for the internal gas and electricity market and the Communication from the Commission "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report)" showed that the present rules and measures do not provide the necessary framework to achieve the objective of a well functioning internal market.

the European Parliament and to the Council on prospects for the internal gas and electricity market and the Communication from the Commission "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report)" showed that the present rules and measures do not provide the necessary framework to achieve the objective of a well functioning, **effective and regulated** internal market.

### *Justification*

*If the internal market in gas is to function well, free competition is not the only factor; the main requirement is a regulator of this market.*

### **Amendment 3**

#### **Proposal for a regulation – amending act Recital 6**

##### *Text proposed by the Commission*

(6) In particular, increased cooperation and coordination among transmission system operators is required to ensure progressive compatibility of the technical and commercial codes for providing and managing effective access to the transmission networks across borders, and to ensure coordinated and sufficiently forward looking planning and sound technical evolution of the transmission system in the Community, with due regard to the environment, and promote energy efficiency and research and innovation notably with respect to ensuring penetration of renewables and dissemination of low carbon technology. Transmission system operators should operate their networks according to these compatible technical and market codes.

##### *Amendment*

(6) In particular, increased cooperation and coordination among transmission system operators is required to ensure progressive compatibility of the technical and commercial codes for providing and managing effective **and transparent** access to the transmission networks across borders, and to ensure coordinated and sufficiently forward looking planning and sound technical evolution of the transmission system in the Community, with due regard to the environment, and promote energy efficiency and research and innovation notably with respect to ensuring penetration of renewables and dissemination of low carbon technology. Transmission system operators should operate their networks according to these compatible technical and market codes.

### *Justification*

*A transparent access to the transmission networks across borders is crucial for the development of an efficient and open market. Lack of transparent access can create barriers and have an impact of the level of competition.*

#### **Amendment 4**

#### **Proposal for a regulation – amending act Recital 7**

##### *Text proposed by the Commission*

(7) In order to ensure an optimal management of the gas transmission network in the Community a European network of the transmission system operators should be established. Its tasks should be carried out in compliance with Community competition rules which remain applicable to the decisions of the European network of the transmission system operators. Its tasks should be well-defined and their working method should be such as to ensure efficiency, representativity and transparency. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with codes and investment plans at Community level. ***Cooperation within such regional structures presupposes effective unbundling of network activities from production and supply activities in the absence of which regional cooperation between transmission system operators gives rise to a risk of anti-competitive conduct.***

##### *Amendment*

(7) In order to ensure an optimal management of the gas transmission network in the Community a European network of the transmission system operators should be established. Its tasks should be carried out in compliance with Community competition rules which remain applicable to the decisions of the European network of the transmission system operators. Its tasks should be well-defined and their working method should be such as to ensure efficiency, representativity and transparency. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with codes and investment plans at Community level. ***The Member States should promote cooperation at regional level, and monitor the effectiveness of the network at that level.***

### *Justification*

*The Member States' promotion of the cooperation at regional level and the obligation to monitor the effectiveness of the network is very important in ensuring a true internal cross border market and cooperation. Furthermore effective ownership unbundling is not a necessary condition for ensuring regional cooperation. The cooperation can exist and can be*

*effective without ownership unbundling.*

#### **Amendment 5**

#### **Proposal for a regulation – amending act Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8a) Regarding the consultation process, professional end-users, consumers and consumer organisations should participate in a more decisive and active manner in the framework of the implementation of the tasks of the European Network of Transmission System Operators for Gas, in particular in preparing technical and market codes and its annual work programme.***

*Justification*

*The consumers and consumer organisations should be consulted as well in the consultation process, because they are important stakeholders, as they are the household end users.*

#### **Amendment 6**

#### **Proposal for a regulation – amending act Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) To ensure greater transparency of the entire gas pipe line situation in Europe, the European Network of Transmission System Operators, in cooperation with the Commission, should draw up, publish and update a road map for the gas network in Europe. All pipelines and possible regional connections should be included in this road map. The Agency for the Cooperation of Energy Regulators should be consulted in the development of the road map, in particular in checking its consistency with the 10-year investment plans. The road map should be submitted to the Commission for review.***

### *Justification*

*The European Network of Transmission System Operators should draw up, publish and update a "road map" for the gas network in Europe, including possible regional connections, in order to secure transparency, better information on "energy holes" (lack of pipelines or connections) and to be able to suggest possible new cross border connections.*

### **Amendment 7**

#### **Proposal for a regulation – amending act Recital 11**

##### *Text proposed by the Commission*

(11) Market monitoring undertaken over recent years by the national regulatory authorities and by the Commission has shown that current transparency requirements and rules on access to infrastructure are not sufficient.

##### *Amendment*

(11) Market monitoring undertaken over recent years by the national regulatory authorities and by the Commission has shown that current transparency requirements and rules on access to infrastructure are not sufficient ***in order to secure a genuine, open and effective internal market.***

### *Justification*

*Clarification of the text.*

### **Amendment 8**

#### **Proposal for a regulation – amending act Recital 13**

##### *Text proposed by the Commission*

(13) To enhance trust in the market, its participants need to be sure that abusive behaviour can be sanctioned. Competent authorities should be enabled to effectively investigate allegations of market abuse. Therefore access to data *by the competent authorities is necessary* that provides information on operational decisions made by supply undertakings. In the gas market all these decisions are communicated to the system operators in the form of capacity reservations, nominations and realised flows. System operators should keep this information available to the competent

##### *Amendment*

(13) To enhance trust in the market, its participants need to be sure that abusive behaviour can be sanctioned ***properly.*** Competent authorities should be enabled to effectively investigate allegations of market abuse. Therefore access *by the competent authorities* to data that provides information on operational decisions made by supply undertakings *is necessary.* In the gas market all these decisions are communicated to the system operators in the form of capacity reservations, nominations and realised flows. System operators should keep this information

authorities for a fixed period of time.

available to, ***and easily accessible by***, the competent authorities for a fixed period of time. ***The competent authorities should regularly monitor system operators' compliance with the rules.***

*Justification*

*The competent authorities should have easy access to important information from supply undertakings and shall monitor that the supply undertakings comply with the rules, in order to ensure a non-discriminating, transparent and effective market.*

**Amendment 9**

**Proposal for a regulation – amending act  
Recital 14**

*Text proposed by the Commission*

(14) Competition for household-consumers requires that suppliers not be blocked when they want to enter new retail markets. Therefore rules and responsibilities governing the supply chain need to be known to all market parties, and they need to be harmonised with a view to enhancing Community market integration.

*Amendment*

(14) Competition for household-consumers requires that suppliers not be blocked when they want to enter new retail markets. Therefore rules and responsibilities governing the supply chain need to be known to all market parties, and they need to be harmonised with a view to enhancing Community market integration. ***The competent authorities should regularly monitor market actors' compliance with the rules.***

*Justification*

*The addition is necessary in order to clarify a responsibility for the Complement authority, and to ensure the enforcement of the rules.*

**Amendment 10**

**Proposal for a regulation – amending act  
Recital 15**

*Text proposed by the Commission*

(15) Access to gas storage facilities and LNG facilities is insufficient, and therefore rules need to be improved. Monitoring by the European Regulators' Group for

*Amendment*

(15) Access to gas storage facilities and LNG facilities is insufficient, and therefore rules need to be ***radically*** improved. Monitoring by the European Regulators'

electricity and gas (ERGEG) concluded that the voluntary guidelines for good third party access practice for storage system operators, agreed by all stakeholders at the Madrid Forum, are being insufficiently applied and therefore need to be made binding.

Group for electricity and gas (ERGEG) concluded that the voluntary guidelines for good third party access practice for storage system operators, agreed by all stakeholders at the Madrid Forum, are being insufficiently applied and therefore need to be made binding.

#### *Justification*

*It is necessary to improve the rules radically regarding the access to gas storage facilities and LNG facilities, to secure a genuine internal market.*

### **Amendment 11**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2f - paragraph 1

#### *Text proposed by the Commission*

1. In carrying out its tasks, the European Network of Transmission System Operators for Gas shall consult extensively, at an early stage and in an open and transparent manner, in particular while preparing the technical and market codes and its annual work programme referred to in Article 2c(1) and (3), with all appropriate market participants; the consultation shall include supply undertakings, customers, system users, distribution system operators, LNG system operators and storage system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

#### *Amendment*

1. In carrying out its tasks, the European Network of Transmission System Operators for Gas shall consult extensively, at an early stage and in an open and transparent manner, in particular while preparing the technical and market codes and its annual work programme referred to in Article 2c(1) and (3), with all appropriate market participants; the consultation shall include supply undertakings, customers, **consumers, consumer organisations**, system users, distribution system operators, LNG system operators and storage system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

#### *Justification*

*It is important to ensure an effective and varied consultation process. Therefore consumers and consumer organisations shall be consulted as well, because they are important stakeholders, as they are household end users of gas.*

### **Amendment 12**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2g

*Text proposed by the Commission*

The costs related *with* the activities of the European Network of Transmission System Operators for Gas mentioned in Articles 2a to 2h shall be borne by the transmission system operators and shall be taken into account in the calculation of tariffs.

*Amendment*

The costs related *to* the activities of the European Network of Transmission System Operators for Gas mentioned in Articles 2a to 2h shall be borne by the transmission system operators and shall ***not*** be taken into account in the calculation of tariffs ***for the end consumers***.

*Justification*

*The creation of a European Network of Transmission System Operators for Gas should not entail an increase in prices for end consumers.*

**Amendment 13**

**Proposal for a regulation – amending act**

**Article 1 – point 3**

Regulation (EC) No 1775/2005

Article 2h - paragraph 2

*Text proposed by the Commission*

2. Transmission system operators shall promote operational arrangements in order to ensure optimum management of the network, and promote the development of energy exchanges, the allocation of cross-border capacity through implicit auctions and the integration of balancing mechanisms.

*Amendment*

2. Transmission system operators shall promote operational arrangements in order to ensure optimum management of the network, and promote the development of energy exchanges, the allocation of cross-border capacity through implicit auctions and the integration of balancing mechanisms. ***The network shall be promoted and monitored by the Member States.***

*Justification*

*The Member States' promotion of the network and the obligation to monitor the effectiveness of the network is very important in ensuring a true internal cross border market and cooperation.*

**Amendment 14**



**Proposal for a regulation – amending act**

**Article 1 – point 4**

Regulation (EC) No 1775/2005

Article 3 - paragraph 1 - subparagraph 4

*Text proposed by the Commission*

Tariffs for network users shall be set separately and independently per entry point into or exit point out of the transmission system. Network charges shall not be calculated on the basis of contract paths.

*Amendment*

Tariffs for network users shall be set separately and independently per entry point into or exit point out of the transmission system. Network charges shall not be calculated on the *basis of* contract paths. ***Access to the network shall be open to new entrants on a non-discriminatory basis.***

*Justification*

*To ensure transparency and effective competition with equal opportunities and without discrimination is important.*

**Amendment 15**

**Proposal for a regulation – amending act**

**Article 1 – point 6**

Regulation (EC) No 1775/2005

Article 4a - paragraph 1 - point b

*Text proposed by the Commission*

(b) offer services that are compatible with the use of the interconnected gas transportation systems and facilitate access through cooperation with the transmission system operator;

*Amendment*

(b) offer services that are compatible with the use of the interconnected gas transportation systems and facilitate ***easy*** access through cooperation with the transmission system operator;

*Justification*

*Easy access is important.*

**Amendment 16**

**Proposal for a regulation – amending act**

**Article 1 – point 6**

Regulation (EC) No 1775/2005

Article 4a - paragraph 1 - point c

*Text proposed by the Commission*

*Amendment*

(c) make relevant information public, in particular data on the use and availability of services, in a time frame compatible with the storage and LNG facility users' reasonable commercial needs.

(c) make relevant information public, in particular data on the use and availability of services, in a time frame compatible with the storage and LNG facility users' reasonable commercial needs. ***The publication of the necessary information shall be monitored by the competent authority.***

*Justification*

*It is necessary that the competent authority monitor the publication of the necessary information, to ensure the effectiveness and enforcement of the rules.*

**Amendment 17**

**Proposal for a regulation – amending act**

**Article 1 – point 8**

Regulation (EC) No 1775/2005

Article 5a - paragraph 3 - point a

*Text proposed by the Commission*

*Amendment*

(a) the system operator shall offer unused LNG facility and storage capacity on the primary market; for storage facilities this shall be at least on a day-ahead and interruptible basis,

(a) the system operator shall offer unused LNG facility and storage capacity on the primary market ***without delay***; for storage facilities this shall be at least on a day-ahead and interruptible basis,

*Justification*

*To avoid hoarding of gas.*

**Amendment 18**

**Proposal for a regulation – amending act**

**Article 1 – point 9 - point c**

Regulation (EC) No 1775/2005

Article 6 - paragraph 7 - subparagraph 1

*Text proposed by the Commission*

*Amendment*

7. Transmission system operators shall make public ex-ante and ex-post supply

7. Transmission system operators shall make public ex-ante and ex-post supply

and demand information, based on nominations, forecasts and realised flows in and out of the system. The level of detail of the information that is made public shall reflect the information available to the transmission system operator.

and demand information, based on nominations, forecasts and realised flows in and out of the system. The level of detail of the information that is made public shall reflect the information available to the transmission system operator. ***The competent authority shall ensure that the necessary information is published.***

#### *Justification*

*It is necessary that the competent authority ensure that necessary information is published, in order to secure transparency and openness in the gas market.*

### **Amendment 19**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 10**

Regulation (EC) No 1775/2005

Article 6a - paragraph 2

#### *Text proposed by the Commission*

2. For the services provided, each LNG and storage system operator shall make public information on contracted and available storage and LNG facility capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.

#### *Amendment*

2. For the services provided, each LNG and storage system operator shall make public information on contracted and available storage and LNG facility capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner. ***The competent authority shall ensure that the necessary information is published.***

#### *Justification*

*It is necessary that the competent authority ensure that necessary information is published, in order to secure transparency and openness in the gas market.*

### **Amendment 20**

#### **Proposal for a regulation – amending act**

##### **Article 1 – point 13**

Regulation (EC) No 1775/2005

Article 8a - paragraph 1

*Text proposed by the Commission*

In order to facilitate the emergence of well functioning and transparent *cross border* retail markets on a regional and Community scale, Member States shall ensure that the roles and responsibilities of transmission system operators, distribution system operators, supply undertakings and customers and if necessary other market participants are defined with respect to contractual arrangements, commitment to customers, data exchange and settlement rules, data ownership and metering responsibility.

*Amendment*

In order to facilitate the emergence of well functioning, ***effective*** and transparent *cross-border* retail markets on a regional and Community scale, Member States shall ensure that the roles and responsibilities of transmission system operators, distribution system operators, supply undertakings and customers and if necessary other market participants are defined with respect to contractual arrangements, commitment to customers, data exchange and settlement rules, data ownership and metering responsibility.

*Justification*

*To secure that cross border retail markets will work effectively as well.*

## PROCEDURE

<b>Title</b>	Conditions for access to the natural gas transmission networks		
<b>References</b>	COM(2007)0532 – C6-0319/2007 – 2007/0199(COD)		
<b>Committee responsible</b>	ITRE		
<b>Opinion by</b> Date announced in plenary	IMCO 11.10.2007		
<b>Drafts(wo)man</b> Date appointed	Emmanouil Angelakas 21.11.2007		
<b>Discussed in committee</b>	22.1.2008	28.2.2008	2.4.2008
<b>Date adopted</b>	8.4.2008		
<b>Result of final vote</b>	+: 40	-: 0	0: 1
<b>Members present for the final vote</b>	Cristian Silviu Buşoi, Charlotte Cederschiöld, Gabriela Creţu, Mia De Vits, Janelly Fourtou, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Anna Hedh, Edit Herczog, Iliana Malinova Iotova, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Toine Manders, Arlene McCarthy, Nickolay Mladenov, Catherine Neris, Zita Pleštinská, Giovanni Rivera, Zuzana Roithová, Heide Rühle, Leopold Józef Rutowicz, Christel Schaldemose, Andreas Schwab, Eva-Britt Svensson, Marianne Thyssen, Jacques Toubon, Bernadette Vergnaud, Barbara Weiler, Marian Zlotea		
<b>Substitute(s) present for the final vote</b>	Emmanouil Angelakas, Colm Burke, Giovanna Corda, Bert Doorn, Brigitte Fouré, Joel Hasse Ferreira, Bilyana Ilieva Raeva, Olle Schmidt, Bogusław Sonik, Janusz Wojciechowski		

## PROCEDURE

<b>Title</b>	Conditions for access to the natural gas transmission networks			
<b>References</b>	COM(2007)0532 – C6-0319/2007 – 2007/0199(COD)			
<b>Date submitted to Parliament</b>	19.9.2007			
<b>Committee responsible</b> Date announced in plenary	ITRE 11.10.2007			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ECON 11.10.2007	ENVI 11.10.2007	IMCO 11.10.2007	
<b>Not delivering opinions</b> Date of decision	ENVI 9.10.2007			
<b>Rapporteur(s)</b> Date appointed	Atanas Paparizov 9.10.2007			
<b>Discussed in committee</b>	21.11.2007	19.12.2007	23.1.2008	29.1.2008
	31.1.2008	27.2.2008	26.3.2008	6.5.2008
<b>Date adopted</b>	28.5.2008			
<b>Result of final vote</b>	+: -: 0:	44 1 3		
<b>Members present for the final vote</b>	Jan Březina, Philippe Busquin, Jerzy Buzek, Jorgo Chatzimarkakis, Giles Chichester, Dragoş Florin David, Pilar del Castillo Vera, Den Dover, Adam Gierek, Norbert Glante, Umberto Guidoni, András Gyürk, Fiona Hall, Erna Hennicot-Schoepges, Ján Hudacký, Romana Jordan Cizelj, Werner Langen, Anne Laperrouze, Eugenijus Maldeikis, Eluned Morgan, Angelika Niebler, Reino Paasilinna, Atanas Paparizov, Aldo Patriciello, Francisca Pleguezuelos Aguilar, Anni Podimata, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Teresa Riera Madurell, Paul Rübig, Andres Tarand, Patrizia Toia, Catherine Trautmann, Claude Turmes, Adina-Ioana Vălean, Alejo Vidal-Quadras			
<b>Substitute(s) present for the final vote</b>	Gabriele Albertini, Ivo Belet, Danutė Budreikaitė, Manuel António dos Santos, Robert Goebbels, Satu Hassi, Pierre Pribetich, Bernhard Rapkay, Silvia-Adriana Ţicău			
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Emmanouil Angelakas, Mihaela Popa			