

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0012/2005

26.1.2005

*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a regulation of the European Parliament and of the Council on conditions for access to the natural gas transmission networks
(11652/2/2004 – C6-0188/2004 – 2003/0302(COD))

Committee on Industry, Research and Energy

Rapporteur: Esko Seppänen

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***. 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). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a regulation of the European Parliament and of the Council on conditions for access to the natural gas transmission networks (11652/2/2004 – C6-0188/2004 – 2003/0302(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (11652/2/2004 – C6-0188/2004),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2003)0741)²,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Industry, Research and Energy (A6-0012/2005),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

Council common position

Amendments by Parliament

Amendment 1
Recital 6

(6) It is necessary to specify the criteria according to which tariffs for access to the network are determined, in order to ensure that they fully comply with the principle of non-discrimination and the needs of a well-functioning internal market and take fully into account the need for system integrity and reflect ***actual costs incurred, whilst ensuring appropriate incentives with respect to efficiency***, including appropriate return on investments, and where appropriate taking account of the benchmarking of tariffs by the regulatory authorities.

(6) It is necessary to specify the criteria according to which tariffs for access to the network are determined, to ensure that they fully comply with the principle of non-discrimination and the needs of a well-functioning internal market and take fully into account the need for system integrity and reflect ***costs which are efficiently incurred and transparent***, including appropriate return on investments, and where appropriate taking account of the benchmarking of tariffs by the regulatory authorities.

¹ OJ C ..., ..., p. .../Text Adopted, 20.4.2004, P5_TA(2004)0301.

² OJ C .../Not yet published in OJ.

Amendment 2
Recital 7

(7) In calculating tariffs for access to networks it is important to take account of **actual costs incurred**, as well as of the need to provide appropriate return on investments and incentives to construct new infrastructure. In this respect, and in particular if effective pipeline-to-pipeline competition exists, the benchmarking of tariffs will be a relevant consideration.

(7) In calculating tariffs for access to networks it is important to take account of **costs which are efficiently incurred and transparent**, as well as of the need to provide appropriate return on investments and incentives to construct new infrastructure. In this respect, and in particular if effective pipeline-to-pipeline competition exists, the benchmarking of tariffs **by the regulatory authorities** will be a relevant consideration.

Amendment 3
Article 2, paragraph 1, point 4

4. "unused capacity" means firm capacity which a network user has acquired under a transportation contract but which that user has not nominated;

4. "unused capacity" means firm capacity which a network user has acquired under a transportation contract but which that user has not nominated **by the deadline specified in the contract**;

Or. de

Justification

The definition proposed here clarifies the meaning of the term "unused capacity" and is in accordance with Article 5 (4) (long-term capacity) and with section 2.2 (1) of the Annex (short-term capacity).

Amendment 4
Article 3, paragraph 1, subparagraph 1

1. Tariffs, or the methodologies used to calculate them, applied by transmission 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 whilst ensuring appropriate incentives with respect to efficiency**, including appropriate return on investments,

1. Tariffs or the methodologies used to calculate the tariffs applied by transmission system operators, 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 **costs which are efficiently incurred and transparent**, including appropriate return on investments, and where appropriate taking account of the

and where appropriate taking account of the benchmarking of tariffs by the regulatory authorities. Tariffs, or the methodologies used to calculate them, shall be applied in a non-discriminatory manner.

benchmarking of tariffs by the regulatory authorities. Tariffs, or the methodologies used to calculate the tariffs shall be applied in a non-discriminatory manner.

Amendment 5
Article 4, paragraph 1, point a

(a) ensure that they offer services on a non-discriminatory basis to all network users. In particular, where a transmission system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised transportation contracts or a network code approved by the competent authority in accordance with the procedure laid down in Article 25 of Directive 2003/55/EC;

(a) ensure that they offer services on a non-discriminatory basis to all network users. In particular, where a transmission system operator offers the same services to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised transportation contracts or a **common** network code approved by the competent authority in accordance with the procedure laid down in Article 25 of Directive 2003/55/EC;

Justification

Common network codes are required in cases in which there are more than one network.

Amendment 6
Article 7, paragraph 3, subparagraph 1

3. Imbalance charges shall be **broadly** cost-reflective, whilst providing appropriate incentives on network users to balance their input and off-take of gas. They shall avoid cross-subsidisation between network users and shall not hamper the entry of new market entrants.

3. Imbalance charges shall be cost-reflective, whilst providing appropriate incentives on network users to balance their input and off-take of gas. They shall avoid cross-subsidisation between network users and shall not hamper the entry of new market entrants.

Justification

There is no reason for exception from the principle of cost-reflectivity, i.e. efficiently incurred costs.

Amendment 7
Article 7, paragraph 5

5. Penalty charges which exceed the **actual** balancing costs **incurred** shall be taken into account when calculating tariffs in a way that does not reduce the interest in balancing and shall be approved by the competent

5. Penalty charges which exceed the balancing costs **which are efficiently incurred and transparent** shall be taken into account when calculating tariffs in a way that does not reduce the interest in balancing

authorities.

and shall be approved by the competent authorities.

Amendment 8
Annex, section 1, point 4

(4) Transmission system operators shall implement standardised nomination and re-nomination procedures, ***once agreed within the European Association for the Streamlining of the Exchange of Energy Gas (EASEE-gas)***. They shall develop information systems and electronic communication means to provide adequate data to network users and to simplify transactions, such as nominations, capacity contracting and transfer of capacity rights between network users.

(4) Transmission system operators shall implement standardised nomination and re-nomination procedures. They shall develop information systems and electronic communication means to provide adequate data to network users and to simplify transactions, such as nominations, capacity contracting and transfer of capacity rights between network users.

Justification

The current common position would vest legislative powers upon a specific industry body that could place rules and obligations upon the Council. The reference to EASEE-Gas may therefore be an undue constraint and should be deleted.

Amendment 9
Annex, section 1, point 5

(5) Transmission system operators shall harmonise formalised request procedures and response times according to best industry practice with the aim of minimising response times. They shall provide for on-line screen based capacity booking and confirmation systems, nominations and re-nominations procedures no later than 1 July 2006 ***if such procedures have been agreed within EASEE-gas***.

(5) Transmission system operators shall harmonise formalised request procedures and response times according to best industry practice with the aim of minimising response times. They shall provide for on-line screen based capacity booking and confirmation systems, nominations and re-nominations procedures no later than 1 July 2006 ***after consultation with the relevant network users***.

Justification

There is no justification for such a delay. Furthermore, there is no reason to freeze any possibility of changing the Guidelines as laid down in the Annex of this Regulation.

PROCEDURE

Title	Council common position for adopting a regulation of the European Parliament and of the Council on conditions for access to the natural gas transmission networks
References	11652/2/2004 – C6-0188/2004 – 2003/0302(COD)
Legal basis	Article 251(2) EC
Basis in Rules of Procedure	Rule 62
Date of Parliament's first reading – P[5]	20.4.2004 P5_TA(2004)0301
Commission proposal	COM(2003)0741 - C5-0644/2003
Amended Commission proposal	
Date receipt of common position announced in plenary	18.11.2004
Committee responsible Date announced in plenary	ITRE 18.11.2004
Rapporteur(s) Date appointed	Esko Seppänen 28.7.2004
Previous rapporteur(s)	
Discussed in committee	22.11.2004 17.1.2005 25.11.2005
Date adopted	25.1.2005
Result of final vote	for: No final vote (Rules 152(2)(d) and 186) against: abstentions
Members present for the final vote	Richard James Ashworth, Ivo Belet, Šarūnas Birutis, Renato Brunetta, Philippe Busquin, Joan Calabuig Rull, Pilar del Castillo Vera, Giles Chichester, Lena Ek, Adam Gierek, Umberto Guidoni, András Gyürk, Fiona Hall, David Hammerstein Mintz, Rebecca Harms, Ján Hudacký, Romana Jordan Cizelj, Werner Langen, Anne Laperrouze, Pia Elda Locatelli, Eluned Morgan, Reino Paasilinna, Pier Antonio Panzeri, Vincent Peillon, Umberto Pirilli, Vladimír Remek, Herbert Reul, Paul Rübig, Andres Tarand, Patrizia Toia, Claude Turmes, Nikolaos Vakalis, Alejo Vidal-Quadras Roca, Dominique Vlasto
Substitutes present for the final vote	María del Pilar Ayuso González, Daniel Caspary, Jan Christian Ehler, Norbert Glante, Edit Herczog, Peter Liese, Lambert van Nistelrooij, Francisca Pleguezuelos Aguilar, Vittorio Prodi, Bernhard Rapkay, Esko Seppänen, Peter Skinner, Hannes Swoboda
Substitutes under Rule 178(2) present for the final vote	John Purvis, Marilisa Xenogiannakopoulou
Date tabled – A6	26.1.2005 A6-0012/2005
Comments	