

# EUROPEAN PARLIAMENT

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

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity  
(COM(2007)0528 – C6-0316/2007 – 2007/0195(COD))

Committee on Industry, Research and Energy

Rapporteur: Eluned Morgan

### ***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 directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity (COM(2007)0528 – C6-0316/2007 – 2007/0195(COD))

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0528),
  - having regard to Article 251(2) and Articles 47(2), 55 and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0316/2007),
  - 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 (A6-0191/2008),
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 Commission.

### Amendment 1

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

*Text proposed by the Commission*

*Amendment*

***(3a) A secure supply of electricity is of a vital importance for the development of European society, for the implementation of a sustainable climate change policy as well as for fostering competitiveness within the internal market. To this end, cross-border interconnections should be further developed to secure the supply of all energy sources at the lowest possible prices to consumers and industry within***

*the European Union.*

## **Amendment 2**

### **Proposal for a directive – amending act Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***(3b) A functioning internal market for electricity should provide producers with the appropriate incentives for investing in new power generations and consumers with adequate measures to promote more efficient use of energy; a secure supply of energy being a precondition for this.***

## **Amendment 3**

### **Proposal for a directive – amending act Recital 3 c (new)**

*Text proposed by the Commission*

*Amendment*

***(3c) Given that renewable energy sources are continuous sources, it is essential to develop electricity interconnection capacity at European Union level, paying special attention to the most isolated countries and regions in the Union's energy market, in order to provide the Member States with the means to achieve the objective of 20% renewable energy by 2020.***

*Justification*

*The link between the interconnection percentage and the installed capacity for renewable energy generation is vital to achieving the objective of 20% renewable energy.*

## **Amendment 4**

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

*Text proposed by the Commission*

*Amendment*

***(3d) The internal market should increase trade in and the flow of electricity across borders in order to secure the best use of available power generation and the lowest possible prices. At the same time, this must not be an excuse for Member States and producers not to invest in new and modern technology for the generation of electricity.***

*Justification*

*It is of utmost importance that incentives to invest in non CO2 emitting power generation are maintained, in order guarantee the energy supply demand.*

**Amendment 5**

**Proposal for a directive – amending act**  
**Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) In order to secure competition and the supply of electricity at the lowest possible price, while at the same time avoiding market dominance by large actors, Member States and national regulatory authorities should facilitate cross-border access for new providers of different energy sources as well as new power generation.***

*Justification*

*This will open up the markets in member states, in particular those with dominant market players and ensure fair access to other market players.*

## Amendment 6

### Proposal for a directive – amending act Recital 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(7a) Any future system for unbundling should be effective in removing any conflict of interests between generators and transmission system operators and should not create an onerous and cumbersome regulatory regime for national regulatory authorities that would be difficult and expensive to implement.***

*Justification*

*Any system that is introduced must be effective and simple.*

## Amendment 7

### Proposal for a directive – amending act Recital 10

*Text proposed by the Commission*

*Amendment*

***(10) The setting up of system operators independent from supply and generation interests should enable vertically integrated companies to maintain their ownership of network assets whilst ensuring an effective separation of interests, provided that the independent system operator performs all the functions of a network operator and detailed regulation and extensive regulatory control mechanisms are put in place.*** ***deleted***

*Justification*

*Ownership unbundling of national transport grids is the only possibility to guarantee the independence of administrators of national transport grids and to enhance transparency. It also would enable administrators of national transport grids to become more effective market facilitators. In an ISO system, the ownership of national transport grids and commercial activities remains in the same hands. Although national transport activities are strictly regulated, this results in a multitude of rules.*



## Amendment 8

### Proposal for a directive – amending act Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

***(11a) In order to develop competition in the internal market for electricity, non-household consumers should be able to choose their suppliers as well as to contract for their electricity requirements with several suppliers. Consumers should be protected against exclusivity clauses in contracts whose effect is to exclude competing and/or complementary offers.***

*Justification*

*The Directive must aim at allowing consumers to benefit from lower energy prices and therefore should prevent incumbent dominant suppliers from providing exclusivity provisions in contracts with clients. Exclusivity provisions prevent non household customers to call on a mix of suppliers that allow significant savings on their electricity bills.*

## Amendment 9

### Proposal for a directive – amending act Recital 13

*Text proposed by the Commission*

*Amendment*

(13) Full separation of network and supply activities should apply throughout the Community, so that any network operator in the Community or its affiliated companies should be prevented from having any supply or generation activities in any Member State. This should apply equally to EU and non-EU companies. To ensure that network and supply activities throughout the Community are kept separate, regulatory authorities should be empowered to refuse certification to transmission system operators that do not comply with the unbundling rules. To

(13) Full separation of network and supply activities should apply throughout the Community, so that any network operator in the Community or its affiliated companies should be prevented from having any supply or generation activities in any Member State. This should apply equally to EU and non-EU companies. To ensure that network and supply activities throughout the Community are kept separate, regulatory authorities should be empowered to refuse certification to transmission system operators that do not comply with the unbundling rules. To

ensure a consistent application across the Community and the respect of the international obligations of the Community, *the Commission* should have the right to review the decisions on certification taken by the regulatory authorities.

ensure a consistent application across the Community and the respect of the international obligations of the Community, *the Agency for the Cooperation of Energy Regulators ("the Agency")* should have the right to review the decisions on certification taken by the regulatory authorities.

#### *Justification*

*The Agency can be used as an honest broker to ensure that all member states are working on the same basis. The Agency would be equipped with more technical skills than the Commission.*

### **Amendment 10**

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

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

(14) The safeguarding of energy supply is an essential element of public security and is therefore inherently connected to the efficient functioning of the EU electricity market. Electricity can only reach EU citizens through the network. Functioning electricity markets and in particular the networks and other assets associated with electricity supply are essential for public security, for the competitiveness of the economy and for the well-being of the citizens of the Community. Without prejudice to the international obligations of the Community, the Community considers that the electricity transmission system sector is of high importance to the Community and therefore additional safeguards are necessary regarding the influence of third countries in order to avoid any threats to Community public order and public security and the welfare of the citizens of the Community. Such measures are also necessary for ensuring compliance with the rules on effective unbundling.

##### *Amendment*

(14) The safeguarding of energy supply is an essential element of public security and is therefore inherently connected to the efficient functioning of the EU electricity market ***and eliminating the market's geographical isolation***. Electricity can only reach EU citizens through the network. Functioning electricity markets and in particular the networks and other assets associated with electricity supply are essential for public security, for the competitiveness of the economy and for the well-being of the citizens of the Community. Without prejudice to the international obligations of the Community, the Community considers that the electricity transmission system sector is of high importance to the Community and therefore additional safeguards are necessary regarding the influence of third countries in order to avoid any threats to Community public order and public security and the welfare of the citizens of the Community. Such measures are also necessary for ensuring compliance with the

rules on effective unbundling.

## Amendment 11

### Proposal for a directive – amending act Recital 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) Any harmonisation of the powers of national regulatory authorities should include incentives that can be offered and sanctions that can be imposed on energy companies. The Agency should be given the appropriate powers to take the lead in ensuring there is parity in the incentives and sanctions across all Member States, and provide guidelines on such measures.***

*Justification*

*The Agency must ensure a common approach on these measures.*

## Amendment 12

### Proposal for a directive – amending act Recital 18

*Text proposed by the Commission*

*Amendment*

(18) Energy regulators should have the power to issue binding decisions on electricity undertakings and to impose effective, appropriate and dissuasive sanctions on electricity undertakings which fail to comply with their obligations. They must also be granted the powers to decide, irrespective of the application of competition rules, on any appropriate measures ***promoting*** effective competition necessary for the proper functioning of the market; as well as ensure high standards of universal and public service in compliance with market opening, the protection of vulnerable customers, and that consumer protection measures are fully effective.

(18) Energy regulators should have the power to issue binding decisions on electricity undertakings and to impose effective, appropriate and dissuasive sanctions on electricity undertakings which fail to comply with their obligations. They must also be granted the powers to decide, irrespective of the application of competition rules, on any appropriate measures ***ensuring customer benefits through the promotion of*** effective competition necessary for the proper functioning of the market; as well as ensure high standards of universal and public service in compliance with market opening, the protection of vulnerable

These provisions should be without prejudice to both the Commission's powers concerning the application of competition rules including the examination of mergers with a Community dimension, and the rules on the internal market such as the free movement of capital.

customers, and that consumer protection measures are fully effective. These provisions should be without prejudice to both the Commission's powers concerning the application of competition rules including the examination of mergers with a Community dimension, and the rules on the internal market such as the free movement of capital.

#### *Justification*

*Promotion of effective competition must not be a goal in itself, but should be oriented towards the interests of the customers in terms of enhanced choice, lower prices and better quality of service.*

### **Amendment 13**

#### **Proposal for a directive – amending act Recital 19**

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

(19) The internal electricity market is suffering from a lack of liquidity and transparency hindering the efficient allocation of resources, risk hedging and new entry. Trust in the market, its liquidity and the number of market participants need to increase, ***and therefore regulatory oversight over undertakings active in the supply of electricity need to be increased. Such requirements should be without prejudice to, and compatible with, the existing Community legislation on financial markets. Energy Regulators and Financial Market Regulators need to cooperate in order to enable each other to have an overview over the markets concerned.***

##### *Amendment*

(19) The internal electricity market is suffering from a lack of liquidity and transparency hindering the efficient allocation of resources, risk hedging and new entry. Trust in the market, its liquidity and the number of market participants need to increase.

## Amendment 14

### Proposal for a directive – amending act Recital 19 a (new)

*Text proposed by the Commission*

*Amendment*

***(19a) Energy regulators and financial market regulators need to cooperate in order to enable each other to have an overview of the markets concerned, and should have the power to obtain relevant information from energy companies, appropriate and sufficient investigatory powers and the power to settle disputes and to impose effective sanctions.***

*Justification*

*Lack of implementation of current directives remains of concern. To ensure the effective opening up of the internal market in electricity National Regulatory authorities must be able to cooperate with other relevant regulatory authorities allowing them to effectively monitor the electricity market, and where appropriate they must be able to impose effective, appropriate and dissuasive sanctions against electricity undertakings in cases of non-compliance with any of the obligations set out in this Directive.*

## Amendment 15

### Proposal for a directive – amending act Recital 20 a (new)

*Text proposed by the Commission*

*Amendment*

***(20a) In order to prevent dominant incumbent suppliers from foreclosing the opening of the market, it is important to enable the development of new business models, for instance the ability to contract simultaneously with several suppliers.***

## Amendment 16

**Proposal for a directive – amending act  
Recital 21**

*Text proposed by the Commission*

(21) The public service requirements and the common minimum standards that follow from them need to be further strengthened to make sure that all consumers can benefit from competition. A key aspect in supplying customers is access to consumption data, and consumers must have access to their data so that they can invite competitors to make an offer based on these data. Consumers also should have the right to be properly informed about their energy consumption. **Regularly provided information** on energy costs will create incentives for energy savings because it will give customers direct feedback on the effects of investment in energy efficiency and change of behaviour.

*Amendment*

(21) The **universal and** public service requirements and the common minimum standards that follow from them need to be further strengthened to make sure that all consumers, **especially vulnerable ones**, can benefit from competition **and fairer prices**. **The public service requirements should be defined at national level, taking into account national circumstances, however, Community law and the common minimum standards must be respected by the Member States. EU citizens and small and medium-sized enterprises (SMEs) should be able to enjoy public service guarantees, in particular with regard to security of supply and reasonable tariffs.** A key aspect in supplying customers is access to **objective and transparent** consumption data, and consumers must have access to their **consumption** data, **associated prices and service costs** so that they can invite competitors to make an offer based on these data. Consumers also should have the right to be properly informed about their energy consumption **and prepayments should be adequate and reflect actual consumption of electricity**. **Information** on energy costs **provided to consumers at least on a quarterly basis and based on common criteria** will create incentives for energy savings because it will give customers direct feedback on the effects of investment in energy efficiency and change of behaviour.

## Amendment 17

### Proposal for a directive – amending act Recital 21 a (new)

*Text proposed by the Commission*

*Amendment*

***(21a) Consumer interests should be at the heart of this Directive. Existing rights of consumers need to be strengthened and guaranteed, and should include greater transparency and representation. Consumer protection must ensure that all consumers benefit from a competitive market. Consumer rights should be enforced by national regulatory authorities by creating incentives and imposing sanctions on companies which do not comply with consumer protection and competition rules.***

## Amendment 18

### Proposal for a directive – amending act Recital 21 b (new)

*Text proposed by the Commission*

*Amendment*

***(21b) Energy poverty is a growing problem in the European Union. Member States should, therefore, develop national action plans to tackle energy poverty and ensure the necessary energy supply for vulnerable customers. In doing so, an integrated approach is needed and measures should include social policies, tariff policies and energy efficiency improvements for housing. At the very least, this Directive should allow national positive discrimination policies, in terms of pricing models, for vulnerable customers.***

### *Justification*

*As energy poverty is an increasing problem in the European Union the current proposal has to deal with the issue and make energy affordable for all Europeans.*

## Amendment 19

### Proposal for a directive – amending act Recital 21 c (new)

*Text proposed by the Commission*

*Amendment*

***(21c) Greater consumer protection is guaranteed by the availability of effective channels of redress for all. Member States should introduce rapid and effective arbitration procedures.***

*Justification*

*Effective channels of redress are essential to ensure proper consumer protection. These measures, which should be of a legally binding nature, must also be included among the constituent elements of the future Charter on the Rights of Energy Consumers currently being drawn up, which should ideally be presented by the Commission no later than six months after adoption of this Directive.*

## Amendment 20

### Proposal for a directive – amending act Recital 21 d (new)

*Text proposed by the Commission*

*Amendment*

***(21d) Market prices should give the right incentives for the development of the grid and for investing in new power generation.***

*Justification*

*Better access to the market and increased competition will naturally lead to more choice and better quality for consumers.*

## Amendment 21



**Proposal for a directive – amending act  
Recital 21 e (new)**

*Text proposed by the Commission*

*Amendment*

***(21e) Promoting fair competition and easy access for different suppliers as well as granting capacity for new power generation should be of the utmost importance for Member States in order to allow consumers to fully grasp the opportunities of a liberalised internal market for electricity. At the same time, Member States should be responsible for developing national actions plans and social policies.***

*Justification*

*Social policy should be the responsibility of the Member States.*

**Amendment 22**

**Proposal for a directive – amending act  
Recital 22**

*Text proposed by the Commission*

*Amendment*

(22) In ***view of*** the creation of an internal market for electricity, Member States should foster the integration of their national markets and the cooperation of network operators at European and ***regional*** level.

(22) In the creation of an internal market for electricity, ***regional energy markets can constitute a first step.*** Member States should ***therefore*** foster ***at European, and also at regional level where possible,*** the integration of their national markets and the cooperation of network operators at European and ***national*** level. ***Regional integration initiatives are an essential intermediate step in achieving European integration of energy markets, which remains the final objective. The regional level contributes towards accelerating the integration process by making it possible for the actors concerned, particularly the Member States, the national regulatory authorities and the transmission system operators, to cooperate on specific issues.***

### *Justification*

*Regional initiatives are a significant and constructive intermediate step making it possible to improve the way the internal market works at European level. By allowing TSOs and NRAs to harmonise access and the rules on balancing in the region concerned or even to create a regional transmission structure, these initiatives will help the network to work more efficiently and facilitate cross-border trade and investment.*

### **Amendment 23**

#### **Proposal for a directive – amending act Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) The development of a truly European grid should be the goal of this Directive and regulatory issues on cross border interconnections and regional markets should, therefore, be the responsibility of the Agency.***

### *Justification*

*In order to ensure that cross border interconnections and regional markets are developed and managed in a clear, transparent and non-discriminatory way they should be regulated by the Agency.*

### **Amendment 24**

#### **Proposal for a directive – amending act Recital 22 b (new)**

*Text proposed by the Commission*

*Amendment*

***(22b) To secure common rules for a truly European internal market, the development of a common grid and a broad supply of energy accessible to everyone should be the main goals of this Directive. To this purpose, undistorted market prices would provide the best incentives for cross border interconnections and for investments in new power generation while leading, in the long term, to price convergence. Regulatory issues on cross-border interconnections and regional markets***

***should be the responsibility of the Agency.***

*Justification*

*In order to ensure that cross border interconnections and regional markets are developed and managed in a clear, transparent and non-discriminatory way they should be regulated by the Agency.*

**Amendment 25**

**Proposal for a directive – amending act  
Recital 22 c (new)**

*Text proposed by the Commission*

*Amendment*

***(22c) Increased regional cooperation should be the first step in the development of a fully integrated European electricity grid, ultimately incorporating the electricity islands currently present in the Union.***

*Justification*

*A truly European electricity network should be the goal of this Directive and as such the linking up of these regions is a vital step.*

**Amendment 26**

**Proposal for a directive – amending act  
Recital 23**

*Text proposed by the Commission*

*Amendment*

(23) Regulatory authorities should provide information to the market also to permit the Commission to exercise its role of observing and monitoring the European electricity market and its short, medium and long term evolution, including aspects such as generation capacity, different sources of electricity generation, transmission and distribution infrastructures, cross-border trade, the investments, wholesale and consumers prices, market liquidity, environmental and efficiency improvements.

(23) Regulatory authorities should provide information to the market also to permit the Commission to exercise its role of observing and monitoring the European electricity market and its short, medium and long term evolution, including aspects such as generation capacity, different sources of electricity generation, transmission and distribution infrastructures, ***quality of service and supply***, cross-border trade, ***congestion management***, the investments, wholesale and consumers prices, market liquidity,

environmental and efficiency improvements.

*Justification*

*Consumers will benefit from the active involvement of regulatory authorities in the monitoring of quality of service and electricity supply. We need to ensure the efficient coordination between NRAs in the capacity allocation mechanisms and, more generally, in congestion management.*

**Amendment 27**

**Proposal for a directive – amending act  
Recital 26**

*Text proposed by the Commission*

*Amendment*

***(26) The measures necessary for the implementation of Directive 2003/54/EC as amended by this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.***

***deleted***

**Amendment 28**

**Proposal for a directive – amending act  
Recital 27**

*Text proposed by the Commission*

*Amendment*

***(27) In particular power should be conferred on the Commission to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of Directive 2003/54/EC. Since those measures are of general scope and are designed to supplement Directive 2003/54/EC by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.***

***deleted***

## Amendment 29

### Proposal for a directive – amending act

#### Article 1 – point –1 (new)

Directive 2003/54/EC

Article 1

*Text proposed by the Commission*

*Amendment*

***(–1) Article 1 shall be replaced by the following:***

***"This Directive establishes common rules for the generation, transmission, distribution and supply of electricity, together with consumer protection provisions, with a view to improving and integrating competitive energy markets, connected by a common grid, in the European Union. It lays down the rules relating to the organisation and functioning of the electricity sector, open access to the market, the criteria and procedures applicable to calls for tenders and the granting of authorisations and the operation of systems. It also lays down universal service obligations and the rights of electricity consumers and clarifies competition requirements."***

*(Same wording as of Article 1 Directive 2003/54/EC, adding new elements to existing text)*

*Justification*

*The scope should be extended to ensure market integration and to guarantee that consumers are central to the Directive. The link with competition obligation should also be underlined.*

## Amendment 30

### Proposal for a directive – amending act

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

Directive 2003/54/EC

Article 2 – point 12

*Text proposed by the Commission*

*Amendment*

***(–a) point 12 shall be replaced by the following:***

***"12. 'eligible customers' means customers who are free to purchase electricity from the supplier of their choice within the meaning of Article 21 of this Directive as well as to contract simultaneously with several suppliers; "***

*(Same wording as of Article 2 paragraph 12 of Directive 2003/54/EC, adding new elements to existing text)*

*Justification*

*Consumers must have the possibility of simultaneously contracting with several suppliers.*

### **Amendment 31**

**Proposal for a directive – amending act**

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

Directive 2003/54/EC

Article 2 – point 34 a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) The following point shall be added:***

***"34a. 'industrial site' means a privately owned geographical area with a power grid which is primarily designed to supply industrial consumers in that area."***

*(Adding new point 34a to Article 2 of Directive 2003/54/EC)*

*Justification*

*Operators of energy grids on industrial sites do not have to comply with obligations on the operation of the grid in all EU Member States. This has no legal basis. EU legislation should enable Member States to provide derogations for industrial sites to ensure legal certainty. The differentiated treatment of industrial grids ensures proportionate efforts while not compromising the aims of liberalisation. This amendment does not compromise the rights of end consumers on industrial sites. Typically, there are few independent end consumers supplied from industrial sites.*

## Amendment 32

### Proposal for a directive – amending act

#### Article 1 – point 1 – point (b b) (new)

Directive 2003/54/EC

Article 2 – point 34 b (new)

*Text proposed by the Commission*

*Amendment*

***(bb) The following point shall be added:***

***"34b. 'fair and undistorted competition in an open market' means common opportunities and equal access for all providers within the Union. Member States, national regulatory authorities and the Agency should be responsible for this."***

*(Adding new point 35 to Article 2 of Directive 2003/54/EC)*

## Amendment 33

### Proposal for a directive – amending act

#### Article 1 – point 1 – point (b c) (new)

Directive 2003/54/EC

Article 2 – point 34 c (new)

*Text proposed by the Commission*

*Amendment*

***(bc) The following point shall be added:***

***"34c. 'electricity undertaking' means any natural or legal person carrying out at least one of the following functions: production, transmission, distribution, supply or purchase of electricity; and responsible for the commercial, technical and/or maintenance tasks related to those functions; it shall not include final customers."***

*(Adding new point 36 to Article 2 of Directive 2003/54/EC)*

## Amendment 34

### Proposal for a directive – amending act

#### Article 1 - point 1 – point (b d) (new)

Directive 2003/54/EC

Article 2 – point 34 d (new)

*Text proposed by the Commission*

*Amendment*

***(bd) The following point shall be added:***

***"34d. 'energy poverty' means the situation where a household cannot afford to heat its home to an acceptable standard based on the levels recommended by the World Health Organisation;"***

*(Adding new point 37 to Article 2 of Directive 2003/54 EC)*

*Justification*

## Amendment 35

### Proposal for a directive – amending act

#### Article 1 – point 1 – point (b e) (new)

Directive 2003/54/EC

Article 2 – point 34 e (new)

*Text proposed by the Commission*

*Amendment*

***(be) The following point shall be added:***

***"34e. 'virtual power plant' means an electricity release programme whereby an undertaking generating electricity is obliged either to sell or make available a certain volume of electricity or to grant access to part of its generation capacity to interested suppliers for a certain period of time."***

*(Adding new point 38 to Article 2 of Directive 2003/54/EC)*

## Amendment 36



**Proposal for a directive – amending act**  
**Article 1 – point 1 a (new)**  
Directive 2003/54/EC  
Article 3 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(1a) In Article 3, paragraph 2 shall be replaced by the following:***

**“2. Having full regard to the relevant provisions of the Treaty, in particular Article 86 thereof, Member States may impose on undertakings operating in the electricity sector, in the general economic interest, public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies and environmental protection, including energy efficiency, *renewable energy* and climate protection. Such obligations shall be clearly defined, transparent, non discriminatory, verifiable and shall guarantee equality of access for EU electricity companies to national consumers. In relation to security of supply, energy efficiency/demand-side management and for the fulfilment of environmental *and renewable energy targets*, as referred to in this paragraph, Member States may introduce the implementation of long term planning, taking into account the possibility of third parties seeking access to the system.”**

*(Adding new elements to Article 3 paragraph 2 of Directive 2003/54/EC)*

*Justification*

*The proposal to adopt binding targets for the use of renewable energy, 20% by 2020, will require specific action in the electricity sector, which maybe different from those relating to environmental protection.*

## Amendment 37

### Proposal for a directive – amending act

#### Article 1 - point 1 b (new)

Directive 2003/54/EC

Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

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

**”3. Member States shall ensure that all household customers and [...] small enterprises, (namely enterprises with fewer than 50 occupied persons and an annual turnover or balance sheet not exceeding EUR 10 million), enjoy universal service, that is the right to be supplied with electricity of a specified quality within their territory at *cost-based and easily and clearly comparable, transparent and non-discriminatory prices. These customers shall have access to choice, fairness, representation and redress. Quality of service shall be a central responsibility of electricity undertakings.* To ensure the provision of universal service, Member States may appoint a supplier of last resort. Member States shall impose on distribution companies an obligation to connect customers to their grid under terms, conditions and tariffs set in accordance with the procedure laid down in Article 23(2). Nothing in this Directive shall prevent Member States from strengthening the market position of the domestic, small and medium-sized consumers by promoting the possibilities of voluntary aggregation of representation for this class of consumers.”**

*(Adding new elements to Article 3, paragraph 3, Directive 2003/54 EC)*

*Justification*

*Energy is crucial for the daily life of consumers and guaranteeing access to electricity at an*

*affordable price is essential. Due to the particular circumstances affecting the opening up of the electricity market consumer's rights must be ensured. Universal service is a vital means of ensuring consumer protection. Clear guidelines should be provided to ensure a truly universal service which highlights the concerns for low income and vulnerable customers.*

## **Amendment 38**

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

#### **Article 1 – point 1 c (new)**

Directive 2003/54/EC

Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(1c) In Article 3, the following paragraph 3a shall be inserted:***

***"3a. Member States should ensure that all customers are entitled to have their electricity provided by a supplier, subject to the supplier's agreement, regardless of the Member State in which the supplier is registered. In this regard, Member States must take all measures necessary to ensure that companies registered in their territories can supply customers without having to fulfil any further conditions."***

*Justification*

*In each Member State, suppliers have to meet different conditions in order to be able to supply customers. These varying market rules and legal requirements place a substantial restriction on market access. In order to allow unrestricted market access, the country-of-origin principle should be applied, i.e. a supplier registered as such in a Member State should be able to supply customers in other Member States without having to fulfil any further conditions.*

## **Amendment 39**

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

#### **Article 1 – point 1 d (new)**

Directive 2003/54/EC

Article 3 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(1d) In Article 3, the following paragraph***

*3b shall be inserted:*

*“3b. Member States should ensure that:*

*(a) where a customer wishes to change supplier, the change is effected by the operator(s) concerned within two weeks, and*

*(b) customers are entitled to receive all relevant consumption data.*

*Member States should ensure that the rights referred to in points (a) and (b) are granted to all customers in a non-discriminatory way as regards cost, effort or time.”*

*Justification*

*When it is complicated and time-consuming for customers to change supplier, this can have a negative effect on their willingness to switch. It should therefore be ensured that customers have non-discriminatory access to their data and can benefit from a simple switching procedure. The changeover process should also occur as quickly as possible, ideally taking no longer than two weeks.*

**Amendment 40**

**Proposal for a directive – amending act**

**Article 1 – point 1 e (new)**

Directive 2003/54/EC

Article 3 – paragraph 5

*Text proposed by the Commission*

*Amendment*

*(1e) In Article 3, paragraph 5 shall be replaced by the following:*

**"5. Member States shall take appropriate measures to protect final customers, and shall in particular ensure that there are adequate safeguards to protect vulnerable customers, including appropriate measures such as those relating to payment terms to help them avoid disconnection. In this context, Member States may take measures to protect final customers in remote areas. They shall ensure high levels of**

**consumer protection, particularly with respect to transparency regarding contractual terms and conditions, general information and dispute settlement mechanisms. Member States shall ensure that the eligible customer is in fact able to switch to a new supplier. As regards at least household customers, these measures shall include those set out in Annex A."**

*(Amends Article 3 paragraph 5 of Directive 2003/54/EC adding new elements to existing text)*

*Justification*

*By moving the reference to price of supplies from the considerations of public service obligations to the considerations relating to vulnerable customers, the amendment aims to ensure that measures relating to price of supplies are targeted at the most vulnerable of consumers. By targeting more specifically, the end result should benefit those most in need of customer protection.*

**Amendment 41**

**Proposal for a directive – amending act**

**Article 1 - point 1 f (new)**

Directive 2003/54/EC

Article 3 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(1f) In Article 3, the following paragraph 5a shall be inserted:***

***"5a. Member States shall take appropriate measures to address energy poverty in National Energy Action Plans in order to ensure that the number of people suffering energy poverty decreases and shall communicate such measures to the Commission. Each Member State shall be responsible for providing, in accordance with the subsidiarity principle, a definition of energy poverty at national level, in consultation with regulators and stakeholders with reference to Article 2 (34d). Such measures may include benefits in social security systems, support for energy efficiency improvements and***

*energy production at the lowest possible prices. Such measures shall not impede the opening of the market set out in Article 21. The Commission shall provide indicators to monitor the impact of such measures on energy poverty, and on the functioning of the market."*

*(Adding a new paragraph 5a to Article 3, Directive 2005/54 EC)*

## **Amendment 42**

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

#### **Article 1 - point 1 g (new)**

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 1 – point (a)

*Text proposed by the Commission*

*Amendment*

*(1g) In the first subparagraph of Article 3(6), point (a) shall be replaced by the following:*

**"(a) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year in a harmonised and comprehensible manner within Member States so as to allow for easy comparison;"**

*(Same wording as that of Directive 2003/54 (EC), adding "in a harmonised and comprehensible manner within member states so as to allow for easy comparison")*

*Justification*

*Providing clear and easy to understand information is essential for customers to be able to make like for like comparisons of suppliers.*

## **Amendment 43**

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

#### **Article 1 – point 1 h (new)**

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 1 - point (b)

*Text proposed by the Commission*

*Amendment*

***(1h) In the first subparagraph of Article 3(6), point (b) shall be replaced by the following:***

***“(b) [...] information on the environmental impact, in terms of at least emissions of CO<sub>2</sub> and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year [...].”***

*(Deleting some elements to Article 3 - paragraph 6 - point (b) of Directive 2003/54/EC)*

*Justification*

*Information on the environmental impact of electricity production should be prominently displayed on all material and advertising and not require the consumer to search elsewhere for it. Similar requirements are made in other sectors, such as for the sale of cars or white goods.*

#### **Amendment 44**

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

##### **Article 1 – point 1 i (new)**

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 1 – point (b a) (new)

*Text proposed by the Commission*

*Amendment*

***(1i) In the first subparagraph of Article 3(6), the following point shall be added:***

***“(ba) information concerning their rights and the channels of appeal available to them in the event of a dispute.”***

*Justification*

*Effective consumer protection depends on improving the channels of appeal. These provisions must be contained in the future Charter on the Rights of Energy Consumers providing them with a reference document regarding their rights.*

## Amendment 45

### Proposal for a directive – amending act

#### Article 1 - point 1 j (new)

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

***(1j) In Article 3(6), subparagraph 3 shall be replaced by the following:***

***"National regulatory authorities shall take the necessary steps to ensure that the information provided by suppliers to their customers pursuant to this Article is reliable. Rules relating to the provision of information shall be harmonised within Member States and relevant markets."***

*(Adding new elements to Article 3, paragraph 6, Directive 2003/54 EC)*

#### *Justification*

*In order for consumers to exercise their right to have real choice they should have access to data which will contribute to both social and environmental goals. Consumer choice should mean being able to make like for like comparisons. The presentation of data should be harmonised across electricity suppliers. Consistency will ensure transparency and improve the customer's ability to switch suppliers and make an informed choice about their supplier.*

## Amendment 46

### Proposal for a directive – amending act

#### Article 1 - point 1 k (new)

Directive 2003/54 (EC)

Article 3 – paragraph 7

*Text proposed by the Commission*

*Amendment*

***(1k) In Article 3, paragraph 7 shall be replaced by the following:***

***"7. Member States shall implement appropriate measures to achieve the objectives of social and economic cohesion which shall reduce the cost of energy to low income households and guarantee the same conditions for those living in remote areas and environmental***



**protection. *Such measures shall include energy efficiency/demand-side management measures and means to combat climate change, and security of supply. Such measures may include, in particular, the provision of adequate economic incentives, using, where appropriate, all existing national and Community tools, for the maintenance and construction of the necessary network infrastructure, including interconnection capacity.***"

*(Amends Article 3, paragraph 7 (Directive 2005/54 EC) adding "must ensure the prevention of discrimination in particular against those on low income")*

#### **Amendment 47**

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

#### **Article 1 - point 1 l (new)**

Directive 2003/54/EC

Article 3 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(1l) In Article 3, the following paragraph 7a shall be inserted:***

***"7a. In order to promote energy efficiency, national regulatory authorities shall mandate electricity undertakings to introduce pricing formulas which increase in the cases of greater levels of consumption and shall ensure the active participation of customers and distribution system operators in system operations by supporting the introduction of measures to optimize the use of energy, particularly during peak hours. Such pricing formulas, combined with the introduction of smart meters and grids, shall promote energy efficiency behaviour and the lowest possible costs for household consumers, in particular households suffering energy poverty."***

*(Adding a new paragraph 7a to Article 3, Directive 2005/54 EC)*

## **Amendment 48**

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

#### **Article 1 – point 1 m (new)**

Directive 2003/54/EC

Article 3 – paragraph 7 b (new)

*Text proposed by the Commission*

*Amendment*

***(1m) in Article 3, the following paragraph 7b shall be inserted:***

***"7b. Member States shall ensure the provision of single points of contact to provide consumers with all necessary information concerning their rights, current legislation and the channels of appeal available to them in the event of a dispute."***

*Justification*

*Proper consumer information is dependent on an easily accessible information centre making it possible to obtain details of the legislation in force and the rights of consumers. It will enable consumers to obtain detailed information concerning matters already referred to in the context of the future Charter on the Rights of Energy Consumers.*

## **Amendment 49**

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

#### **Article 1 - point 1 n (new)**

Directive 2003/54/EC

Article 3 – paragraph 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(1n) In Article 3, the following paragraph shall be added:***

***"9a. Where it can be proved that electricity undertakings have passed on to their customers the costs of emissions trading scheme certificates that have been allocated free of charge, Member States may demand re-imbusement from these undertakings through additional taxation."***

***The proceeds should be used to promote energy efficiency in the collecting Member State."***

*(Adding a new paragraph 9a to Article 3 Directive 2005/54 EC)*

*Justification*

*Many companies have made windfall profits from the Emissions Trading Scheme where they have been allocated ETS certificates free of charge, but have nevertheless passed on the nominal costs of these certificates to consumers.*

**Amendment 50**

**Proposal for a directive – amending act**

**Article 1 – point 2**

Directive 2003/54/EC

Article 3 – paragraph 10

*Text proposed by the Commission*

*Amendment*

***(2) In Article 3, the following paragraph 10 is added:*** ***deleted***

***"10. The Commission may adopt guidelines for the implementation of this Article. This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3)"***

*Justification*

*Deletion of comitology procedure.*

**Amendment 51**

**Proposal for a directive – amending act**

**Article 1 – point 2 a (new)**

Directive 2003/54/EC

Article 3 – paragraph 10 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) In Article 3, the following paragraph***

*shall be inserted:*

***“10a. In order to help consumers to reduce their energy costs, Member States may require that electricity revenues from domestic consumers are spent to fund energy efficiency and demand side measurement programmes for domestic consumers.”***

*(Adding a new paragraph 10b to Article 3 of Directive 2003/54/EC)*

*Justification*

*There is a tendency in the liberalised electricity market for an increase in electricity demand. As the transaction costs for introducing efficient energy services to domestic customers are higher than for bigger electricity consumers, the most appropriate way of promoting energy efficiency at this level is the creation of a fund. This type of instrument has produced extremely positive results in DK, UK, NL and a number of USA States in terms of environment, overall costs and job creation.*

**Amendment 52**

**Proposal for a directive – amending act**

**Article 1 – point 2 b (new)**

Directive 2003/54/EC

Article 4

*Text proposed by the Commission*

*Amendment*

***(2b) Article 4 shall be replaced by the following:***

***“Member States shall ensure the monitoring of security of supply issues. Where Member States consider it appropriate, they may delegate this task to the regulatory authorities referred to in Article 23(1). This monitoring shall, in particular, cover the supply/demand balance on the national market, including detailed forecast of future demand and available supplies, envisaged additional capacity being planned or under construction, and the quality and level of maintenance of the networks, the access of distributed and micro generation, as well as measures to***

**cover peak demand and to deal with shortfalls of one or more suppliers. The competent authorities shall publish, by 31 July each year at the latest a report outlining the findings resulting from the monitoring of these issues, as well as any measures taken or envisaged to address them and shall forward this report to the Commission forthwith.”**

*(Adding some elements on forecasts and the access of distributed and micro generation into Article 4 of Directive 2003/54/EC)*

*Justification*

*In order to meet security of supply objectives greater reliance on distributed and micro generation is expected. These developments need non-discriminatory access to the networks and monitoring needs to ensure this occurs.*

**Amendment 53**

**Proposal for a directive – amending act**

**Article 1 – point 2 c (new)**

Directive 2003/54/EC

Article 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(2c) The following Article -5a shall be inserted:***

***"Article -5a***

***"National regulatory authorities shall ensure that technical operational criteria are defined and that technical rules establishing adequate reliability and security levels and operational requirements for the operation of generating installations, distribution systems, directly connected consumers' equipment, interconnector circuits and direct lines are developed and made public. These technical rules shall ensure the interoperability of systems and shall be objective and non-discriminatory. Where the Agency considers that harmonisation of these rules is required,***

***it shall make appropriate recommendations to the respective national regulatory authorities."***

*Justification*

*Article 5 only addresses connection issues, although operational issues (i.e. the post-connection phase) are equally important and should be dealt with here.*

**Amendment 54**

**Proposal for a directive – amending act**

**Article 1 - point 3**

Directive 2003/54/EC

Article 5a

*Text proposed by the Commission*

***Member States*** shall cooperate among themselves for the purpose of integrating their national markets at least at ***the*** regional ***level***. In particular, ***Member States*** shall promote the cooperation of network operators at a regional level, and ***foster the consistency*** of their legal ***and*** regulatory framework.

*Amendment*

***1. National regulatory authorities*** shall cooperate among themselves for the purpose of ***harmonising the market design and*** integrating their national markets at least at ***one or more*** regional ***levels, as a first step towards a fully liberalised internal market***. In particular, ***they*** shall promote the cooperation of network operators at a regional level and ***facilitate their integration at regional level with the aim of creating a competitive European market, facilitating the harmonisation*** of their legal, regulatory ***and technical*** framework ***and, above all, integrating the electricity islands currently present in the Union. Member States shall therefore promote the cross-border and regional cooperation of national regulatory authorities.***

*Justification*

*Regional cooperation could foster market integration and establish a competitive European market. To ensure that regional cooperation leads to reconcilable and to a true pan-European market, inter-regional cooperation should also be required from regulators, TSO's and ACER.. ACER should also be empowered to make appropriate recommendation to facilitate market integration. Any move towards regional markets must not become exclusive and there must be a clear regulatory framework for these markets, otherwise there is a danger of a regulatory gap developing.*

## Amendment 55

### Proposal for a directive – amending act

#### Article 1 - point 3

Directive 2003/54/EC

Article 5a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***"The Agency shall cooperate with national regulatory authorities and transmission system operators in accordance with Chapter IV of this Directive to ensure the convergence of regulatory frameworks between the regions with the aim of creating a competitive European market. Where the Agency considers that binding rules on such cooperation are required, it shall make appropriate recommendations. In regional markets the Agency shall become the competent authority in the areas specified in Article 22d."***

*(Adding new paragraph 2 to Article 5a, Directive 2003/54 EC)*

## Amendment 56

### Proposal for a directive – amending act

#### Article 1 – point 3 a (new)

Directive 2003/54/EC

Article 6 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

***(3a) In Article 6(2), the introductory part shall be replaced by the following:***

***'2. Member States shall lay down the criteria for the granting of authorisations for the construction of generating capacity in their territory. These criteria shall relate to:'***

*(Adding new elements to paragraph 2, subparagraph 1 of Article 6 of Directive 2003/54/EC)*

*Justification*

*The criteria for granting authorisation must be binding in character.*

**Amendment 57**

**Proposal for a directive – amending act**

**Article 1 - point 3 b (new)**

Directive 2003/54/EC

Article 6 – paragraph 2 - point (i a) (new)

*Text proposed by the Commission*

*Amendment*

***(3b) In Article 6(2), the following point shall be added:***

***"(ia) the Member States' contribution to meeting a target of 20% for renewables by 2020;"***

*(Adding new paragraph to Article 6, paragraph 2, Directive 2003/54 EC)*

*Justification*

*Member states must take in to account their obligations vis-à-vis the 20% renewable energy target set out in the Council conclusions of 8th and 9th March 2007 when assessing new generating capacity. These targets could be subject to change through the legislative process.*

**Amendment 58**

**Proposal for a directive – amending act**

**Article 1 - point 3 c (new)**

Directive 2003/54/EC

Article 6 – paragraph 2 - point (i b) (new)

*Text proposed by the Commission*

*Amendment*

***(3c) In Article 6(2), the following point shall be added:***

***"(ib) the need for generators to take account of the emissions trading scheme."***



*(Adding new paragraph (2k) to Article 6, Directive 2003/54 EC)*

*Justification*

*Member states must take in to account the impact of the EU Emissions Trading Scheme when assessing new generating capacity.*

**Amendment 59**

**Proposal for a directive – amending act**

**Article 1 – point 3 d (new)**

Directive 2003/54/EC

Article 6 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(3d) In Article 6, paragraph 3 shall be replaced by the following:***

***“3. Member States shall ensure that small decentralised and/or distributed generators shall benefit from simplified authorisation procedures. These simplified procedures should apply to all facilities generating less than 50 MW and to all embedded generators.”***

*(Amending Article 6 paragraph 3 of Directive 2003/54/EC)*

*Justification*

*To encourage the development of decentralised energy sources while acknowledging the more limited environmental impact that the smaller power sources have, an accelerated set of procedures should be developed.*

**Amendment 60**

**Proposal for a directive – amending act**

**Article 1 - point 3 e (new)**

Directive 2003/54/EC

Article 7 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***(3e) Article 7(5) shall be replaced by the following:***

***“5. Member States shall designate an***

**authority or a public body or a private body independent from electricity generation, transmission, distribution and supply activities, which may be a national regulatory authority referred to in Article 22a(1), to be responsible for the organisation, monitoring and control of the tendering procedure referred to in paragraphs 1 to 4. [...] This authority or body shall take all necessary steps to ensure confidentiality of the information contained in the tenders."**

*(Amends Article 7, Paragraph 5 (Directive 2005/54 EC) deleting "where a transmission system operator is fully independent from other activities not relating to the transmission system in ownership terms, the transmission system operator may be designated as the body responsible for organising and controlling the tendering procedure")*

*Justification*

*This should be the responsibility of the NRA and not the TSO.*

**Amendment 61**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – point (b) - introductory part

*Text proposed by the Commission*

(b) the same person or the same persons are not entitled:

*Amendment*

(b) the same person or the same persons are not entitled, ***either individually or jointly***:

**Amendment 62**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – point (b) – point (i)

*Text proposed by the Commission*

(i) to directly or indirectly exercise control over an undertaking performing any of the

*Amendment*

(i) to directly or indirectly exercise control over an undertaking performing any of the

functions of generation or supply, and to directly or indirectly exercise control or hold any interest in or exercise any right over a transmission system operator *or over a transmission system*, or

functions of generation or supply, and to directly or indirectly exercise control or hold any interest in or exercise any right over a transmission system operator, or

### **Amendment 63**

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

##### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – point (b) - point (ii)

#### *Text proposed by the Commission*

(ii) to directly or indirectly exercise control over a transmission system operator *or over a transmission system*, and to directly or indirectly exercise control or hold any interest in or exercise any right over an undertaking performing any of the functions of generation or supply;

#### *Amendment*

(ii) to directly or indirectly exercise control over a transmission system operator, and to directly or indirectly exercise control or hold any interest in or exercise any right over an undertaking performing any of the functions of generation or supply;

### **Amendment 64**

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

##### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – point (c)

#### *Text proposed by the Commission*

(c) the same person or the same persons are not entitled to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking, of a transmission system operator *or a transmission system*, and to directly or indirectly exercise control or hold any interest in or exercise any right over an undertaking performing any of the functions of generation or supply;

#### *Amendment*

(c) the same person or the same persons are not entitled to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking, of a transmission system operator, and to directly or indirectly exercise control or hold any interest in or exercise any right over an undertaking performing any of the functions of generation or supply;

## Amendment 65

### Proposal for a directive – amending act

#### Article 1 – point 4

Directive 2003/54/EC

Article 8 – paragraph 1 – point (d a) (new)

*Text proposed by the Commission*

*Amendment*

***"(da) the same person or the same persons are not entitled to operate the transmission system via a management contract or exercise influence in any other way of non-ownership, or to directly or indirectly exercise control or hold any interest in or exercise any right over an undertaking performing any of the functions of generation or supply."***

## Amendment 66

### Proposal for a directive – amending act

#### Article 1 – point 4

Directive 2003/54/EC

Article 8 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***'3a. Member States shall monitor the process of unbundling vertically integrated companies and shall submit a report to the Commission on the progress achieved.'***

## Amendment 67

### Proposal for a directive – amending act

#### Article 1 – point 4

Directive 2003/54/EC

Article 8 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. The obligation set out in paragraph 1(a) is deemed to be fulfilled in a situation where several undertakings which own

5. The obligation set out in paragraph 1 *point* (a) is deemed to be fulfilled in a situation where several undertakings which

transmission systems have created a joint venture which acts as a transmission system operator in several Member States for the transmission systems concerned. ***No other undertaking may be part of the joint venture, unless it has been approved under Article 10 as an independent system operator.***

own transmission systems have created a joint venture which acts as a transmission system operator in several Member States for the transmission systems concerned.

## **Amendment 68**

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

#### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***"5a. For the purpose of this Article, where the person referred to in points (b) to (d) of paragraph 1 is the Member State or a public body, two separate public bodies exercising control over a transmission system operator or over a transmission system and over an undertaking performing any of the functions of generation or supply, are not deemed to be the same person or the same persons."***

## **Amendment 69**

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

#### **Article 1 – point 5**

Directive 2003/54/EC

Article 8b – paragraph 13

*Text proposed by the Commission*

*Amendment*

***13. The Commission shall adopt guidelines setting out the details of the procedure to be followed for the application of paragraphs 6 to 9. This measure designed to amend non-essential***

***deleted***

*elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).*

*Justification*

*It is suggested to transfer, for legal reasons, at least paragraphs 7 to 10 and 13 to Regulation 1228/2003; paras 11 and 12 have to be in both the Directive and the Regulation*

**Amendment 70**

**Proposal for a directive – amending act**

**Article 1 – point 6**

Directive 2003/54/EC

Article 9 – point (a)

*Text proposed by the Commission*

(a) ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity, operating, maintaining and developing under economic conditions secure, reliable and efficient transmission systems 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.

*Amendment*

(a) ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity, operating, maintaining and developing under economic conditions secure, reliable and efficient transmission systems with due regard to the environment, with respect to ***integrating*** renewables, ***embedded generation*** and low carbon technology ***in the grid system, and promotion of energy efficiency and research and innovation.***

**Amendment 71**

**Proposal for a directive – amending act**

**Article 1 – point 6 a (new)**

Directive 2003/54/EC

Article 9 – point (c)

*Text proposed by the Commission*

*Amendment*

***(6a) In Article 9, point (c) shall be replaced by the following:***

***"(c) managing energy flows on the system, taking into account exchanges with other interconnected systems and common standards coordinated at***

***European level. To that end, the transmission system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services, including those provided by demand response based on common standards insofar as this availability is independent from any other transmission system with which its system is interconnected;***

*(Adding the concept of "demand response" to Article 9 point (c) of Directive 2003/54/EC)*

## **Amendment 72**

**Proposal for a directive – amending act**

**Article 1 – point 6 b (new)**

Directive 2003/54/EC

Article 9 – point (d)

*Text proposed by the Commission*

*Amendment*

***(6b) In Article 9, point (d) shall be replaced by the following:***

***"(d) providing to the operator of any other system with which its system is interconnected sufficient information to ensure the secure and efficient operation and the interoperability of the interconnected system, making common use of this information;"***

*(Same wording as that of Article 9 point d) of Directive 2003/54/EC, changing elements to existing text)*

## **Amendment 73**

**Proposal for a directive – amending act**

**Article 1 – point 6 c (new)**

Directive 2003/54/EC

Article 9 – point (f)

*Text proposed by the Commission*

*Amendment*

***(6c) In Article 9, point (f) shall be replaced by the following:***

***"(f) providing system users with the information they need for efficient access to the system, on the basis of common standards."***

*(Same wording as that of Article 9 point f) of Directive 2003/54/EC, changing elements to existing text)*

#### **Amendment 74**

**Proposal for a directive – amending act**

**Article 1 - point 6 d (new)**

Directive 2003/54/EC

Article 9 - point (f a) (new)

*Text proposed by the Commission*

*Amendment*

***(6d) In Article 9, the following point shall be added:***

***"(fa) collecting congestion rents and payments under the inter transmission system operator compensation mechanism, in compliance with Article 3 of Regulation (EC) No 1228/2003, granting and managing third party access and giving reasoned explanations when it denies such access, which shall be monitored by the national regulatory authorities; in carrying out their tasks under this Article transmission system operators shall primarily facilitate market integration and optimise socio-economic welfare gains."***

*(Adding new point (fa) to Article 9, Directive 2003/54 EC)*



## **Amendment 75**

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

#### **Article 1 - point 8**

Directive 2003/54/EC

Article 10

*Text proposed by the Commission*

*Amendment*

#### **Article 10**

**deleted**

##### ***Independent system operators***

***1. Where the transmission system belongs to a vertically integrated undertaking on entry into force of this Directive, Member States may grant derogations from Article 8(1), provided that an independent system operator is designated by the Member State upon a proposal from the transmission system owner and subject to approval of such designation by the Commission. Vertically integrated undertakings which own a transmission system may not in any event be prevented from taking steps to comply with Article 8(1).***

***2. The Member State may approve and designate an independent system operator only where:***

***(a) the candidate operator has demonstrated that it complies with the requirements of Article 8(1)(b) to (d);***

***(b) the candidate operator has demonstrated that it has at its disposal the required financial, technical and human resources to carry out its tasks under Article 9;***

***(c) the candidate operator has committed to complying with a ten year network development plan proposed by the regulatory authority;***

***(d) the transmission system owner has demonstrated its ability to comply with its obligations under paragraph 6. To this effect, it shall provide all the draft contractual arrangements with the***

*candidate undertaking and any other relevant entity;*

*(e) the candidate operator has demonstrated its ability to comply with its obligations under Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity\* including the cooperation of transmission system operators at European and regional level.*

*3. Undertakings which have been certified by the regulatory authority as having complied with the requirements of Articles 8a and 10(2) shall be approved and designated as independent system operators by Member States. The certification procedure in Article 8b shall be applicable.*

*4. Where the Commission has taken a decision in accordance with the procedure in Article 8b and finds that the regulatory authority has not complied with its decision within two months, it shall, within a period of six months, designate, on a proposal from the Agency for the Cooperation of Energy Regulators and after having heard the views of the transmission system owner and the transmission system operator, an independent system operator for a period of 5 years. At any time, the transmission system owner may propose to the regulatory authority the designation of a new independent system operator pursuant to the procedure in Article 10(1).*

*5. Each independent system operator shall be responsible for granting and managing third party access, including the collection of access charges, congestion rents, and payments under the inter transmission system operator compensation mechanism in compliance with Article 3 of Regulation (EC) No 1228/2003, as well as for operating, maintaining and developing*

*the transmission system, and for ensuring the long term ability of the system to meet reasonable demand through investment planning. When developing the network the independent system operator is responsible for planning (including authorisation procedure), construction and commissioning of the new infrastructure. For this purpose, it shall act as a transmission system operator in accordance with this Chapter.*

*Transmission system owners may not be responsible for granting and managing third party access, nor for investment planning.*

*6. Where an independent system operator has been designated, the transmission system owner shall:*

*(a) provide all the relevant cooperation and support to the independent system operator for the fulfilment of its tasks, including in particular all relevant information;*

*(b) finance the investments decided by the independent system operator and approved by the regulatory authority, or give its agreement to financing by any interested party including the independent system operator. The relevant financing arrangements shall be subject to approval by the regulatory authority. Prior to this approval, the Regulatory Authority shall consult the asset owner together with other interested parties;*

*(c) provide for the coverage of liability relating to the network assets, excluding the liability relating to the tasks of the independent system operator;*

*(d) provide guarantees to facilitate financing any network expansions with the exception of those investments where, pursuant to paragraph b, it has given its agreement to financing by any interested party including the independent system operator.*

**7. In close cooperation with the regulatory authority, the relevant national competition authority shall be granted all relevant powers to effectively monitor compliance of the transmission system owner with its obligations under paragraph 6.**

*Justification*

*The Independent System operator model implies bureaucracy and costly regulatory control and is therefore not a viable alternative to full ownership unbundling. The Rapporteur will consider in addition to full ownership unbundling any other model that can give assurance to competitors who enter the market, ensures that no conflict of interest arises and is as effective as ownership unbundling model.*

**Amendment 76**

**Proposal for a directive – amending act**

**Article 1 - point 8**

Directive 2003/54/EC

Article 10a

*Text proposed by the Commission*

*Amendment*

**Article 10a**

**deleted**

**Unbundling of transmission system owners**

**1. Transmission system owners, where an independent system operator has been appointed, which are part of vertically integrated undertakings shall be independent at least in terms of their legal form, organisation and decision making from other activities not relating to transmission.**

**2. In order to ensure the independence of the transmission system owner referred to in paragraph 1, the following minimum criteria shall apply:**

**(a) those persons responsible for the management of the transmission system owner may not participate in company structures of the integrated electricity undertaking responsible, directly or**

*indirectly, for the day-to-day operation of the generation, distribution and supply of electricity;*

*(b) appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of the transmission system owner are taken into account in a manner that ensures that they are capable of acting independently;*

*(c) transmission system owner shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The programme shall set out the specific obligations of employees to meet this objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to the regulatory authority and shall be published.*

*3. The Commission may adopt guidelines to ensure full and effective compliance of the transmission system owner with paragraph 2 of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3)."*

## **Amendment 77**

**Proposal for a directive – amending act**  
**Article 1 - point 8 a (new)**  
Directive 2003/54/EC  
Article 11 – paragraph 2

*Text proposed by the Commission*

*Amendment*

*(8a) Article 11(2) shall be replaced by the following:*

**"2. The dispatching of generating**

**installations and the use of interconnectors shall be determined on the basis of criteria which *shall* be approved by *national regulatory authorities* and which must be objective, published and applied in a non-discriminatory manner which ensures the proper functioning of the internal market in electricity. They shall take into account the economic precedence of electricity from available generating installations or interconnector transfers and the technical constraints on the system."**

*(Same wording as that of Article 11, paragraph 2 of Directive 2003/54 EC, changing elements to existing text)*

*Justification*

*Independent National Regulatory Authorities are in a better position to be objective than Member State governments.*

## **Amendment 78**

**Proposal for a directive – amending act**

**Article 1 - point 8 b (new)**

Directive 2003/54/EC

Article 11 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(8b) Article 11(3) shall be replaced by the following:***

***"3. A national regulatory authority shall require the system operator, when dispatching generating installations, to give priority to generating installations using renewable energy sources or waste or producing combined heat and power except when technical balancing requirements or the safety and reliability of the grid would be compromised."***

*(Same wording as that of Article 11, paragraph 3 of Directive 2003/54 EC, changing elements to existing text)*

## **Amendment 79**

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

#### **Article 1 - point 8 c (new)**

Directive 2003/54/EC

Article 11 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***(8c) Article 11(5) shall be replaced by the following:***

***"5. Member States shall, through the national regulatory authorities, require transmission system operators to comply with minimum standards for the operation, maintenance and development of the transmission system, including interconnection capacity. National regulatory authorities should be given a wider remit to ensure that the European consumer is taken into account in its work."***

*(Same wording as that of Article 11, paragraph 5 of Directive 2003/54 EC, changing element to existing text)*

## **Amendment 80**

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

#### **Article 1 – point 8 d (new)**

Directive 2003/54/EC

Article 11 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(8d) In Article 11, the following paragraph shall be added:***

***"7a. Transmission system operators shall facilitate participation of large final customers and final customers' aggregators in reserve and balancing markets. Whenever generation and***

***demand bids have the same price, priority shall be given to demand.”***

*(Adding a new paragraph 7a to Article 11 of Directive 2003/54/EC)*

*Justification*

*To improve energy efficiency, it is important that consumers actively participate in ancillary services markets, particularly when they are able to reduce demand at certain critical moments (peak load, emergencies). Large final consumers may participate directly or indirectly in such markets. Small consumers cannot participate directly in such markets unless if someone (e.g. the supplier) is able to aggregate a large number of them and is able to effectively control part of their demand.*

**Amendment 81**

**Proposal for a directive – amending act**

**Article 1 – point 8 e (new)**

Directive 2003/54/EC

Article 11 – paragraph 7 b (new)

*Text proposed by the Commission*

*Amendment*

***(8e) In Article 11, the following paragraph shall be added:***

***"7b. National regulatory authorities shall ensure that balancing rules and tariffs are appropriately harmonised throughout all Member States by ... \*. In particular, they shall ensure that large final customers, final customers' aggregators and distributed generators are able to effectively contribute to balancing and other relevant ancillary services.***

***\* Two years after the entry into force of this Directive."***

*(Adding a new paragraph 7b to Article 11 of Directive 2003/54/EC)*

*Justification*

*According to Article 23, regulatory authorities are responsible for “fixing or approving (...) at least the methodologies used to calculate or establish the terms and conditions for (...) the provision of balancing services”. Since harmonisation of balancing services is a crucial element for the proper functioning of the internal market, regulatory authorities, in close cooperation with transmission system operators, shall enforce the appropriate degree of*



*harmonisation.*

## **Amendment 82**

**Proposal for a directive – amending act**

**Article 1 – point 9**

Directive 2003/54/EC

Article 12 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Commercial information of essential importance to competition in the market, and in particular information enabling the point of delivery to be identified, information on installed capacity and information on subscribed capacity, shall be accessible to all electricity supply operators on the market. Where necessary, the national regulatory authority shall require incumbents to supply such information to the persons concerned.***

## **Amendment 83**

**Proposal for a directive – amending act**

**Article 1 - point 9 a (new)**

Directive 2003/54/EC

Article 14 – paragraph 1

*Text proposed by the Commission*

*Amendment*

***(9a) Article 14(1) shall be replaced by the following:***

***"1. The distribution system operator shall be responsible for ensuring the long term ability of the system to meet reasonable demands for the distribution of electricity, operating, maintaining and developing under economic conditions a secure, reliable and efficient electricity distribution system in its area with due regard for the environment, and promotion of energy efficiency."***

*(Same wording as that of Article 14, paragraph 1 of Directive 2003/54 EC, changing elements to existing text)*

*Justification*

*The DSO should have the same responsibilities as the TSO to fulfil the criteria set out above.*

**Amendment 84**

**Proposal for a directive – amending act**

**Article 1 – point 9 b (new)**

Directive 2003/54/EC

Article 14 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(9b) Article 14(3) shall be replaced by the following:***

**"3. The distribution system operator shall provide system users with the information they need for efficient access to *and use of* the system."**

**Amendment 85**

**Proposal for a directive – amending act**

**Article 1 – point 9 c (new)**

Directive 2003/54/EC

Article 14 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(9c) In Article 14, the following paragraph 3a shall be inserted:***

***"3a. The distribution system operator shall submit to the relevant regulatory authority, within one year of the entry into force of Directive .../.../EC [amending Directive 2003/54/EC concerning common rules for the internal market in electricity], a proposal describing the appropriate information and communication systems to be implemented in order to provide the***

*information mentioned in paragraph 3. This proposal shall facilitate, inter alia the use of bi-directional electronic meters, which shall be rolled out to all consumers within 10 years of the entry into force of that Directive, the active participation of final customers and distributed generators in system operation and the flow of real-time information between distribution and transmission system operators with the aim of optimising the use of all available generation, network and demand resources."*

*(Adds new paragraph 3a to Article 14 of Directive 2003/54/EC)*

## **Amendment 86**

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

#### **Article 1 – point 9 d (new)**

Directive 2003/54/EC

Article 14 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

*(9d) In Article 14, the following paragraph 3b shall be inserted:*

*"3b. Within two years of the entry into force of Directive .../.../EC [amending Directive 2003/54/EC concerning common rules for the internal market in electricity], national regulatory authorities shall approve or reject the proposals referred to in paragraph 3a. National regulatory authorities shall ensure the full interoperability of the information and communication systems to be implemented. For this purpose, they may issue guidelines and call for amendments to the proposals referred to in paragraph 3a."*

*(Adds new paragraph to article 14 of Directive 2003/54/EC)*

## **Amendment 87**

**Proposal for a directive – amending act**

**Article 1 – point 9 e (new)**

Directive 2003/54/EC

Article 14 – paragraph 3 c (new)

*Text proposed by the Commission*

*Amendment*

***(9e) In Article 14, the following paragraph 3c shall be inserted:***

***"3c. Prior to notification to the distribution system operator of its decision concerning the proposal referred to in paragraph 3, the national regulatory authority shall inform the Agency or, if it is not yet in operation, the Commission. The Agency or the Commission shall ensure that the information and communication systems to be implemented facilitate the development of the internal electricity market and do not introduce any new technical barriers."***

*(Adds new paragraph to article 14 of Directive 2003/54/EC)*

**Amendment 88**

**Proposal for a directive – amending act**

**Article 1 - point 9 f (new)**

Directive 2003/54/EC

Article 14 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(9f) In Article 14, the following paragraph 4a shall be inserted:***

***"4a. Member States shall encourage the modernisation of distribution networks which shall be built in a way that encourages decentralised generation and ensures energy efficiency."***

*(Adding new paragraph 4 subparagraph (b) to Article 14, Directive 2003/54 EC)*

*Justification*

*Member States should do more to encourage combined heat and power in particular.*

## Amendment 89

### Proposal for a directive – amending act

#### Article 1 - point 10 - point (c)

Directive 2003/54/EC

Article 15 – paragraph 3

#### *Text proposed by the Commission*

3. Where the distribution system operator is part of a vertically integrated undertaking, **Member States** shall ensure that the activities of the distribution system operator is monitored so that it cannot take advantage of its vertical integration to distort competition. In particular, vertically integrated distribution system operators shall not, in their communication and branding, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking.

#### *Amendment*

3. Where the distribution system operator is part of a vertically integrated undertaking, **national regulatory authorities** shall ensure that the activities of the distribution system operator is monitored so that it cannot take advantage of its vertical integration to distort competition. In particular, vertically integrated distribution system operators shall not, in their communication and branding, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking.

#### *Justification*

*NRAs should take the responsibility for overseeing the unbundling provisions for Distribution System Operators to ensure the independence of the DSO.*

## Amendment 90

### Proposal for a directive – amending act

#### Article 1 – point 10 - point (c)

Directive 2003/54/EC

Article 15 – paragraph 4

#### *Text proposed by the Commission*

***4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot***

#### *Amendment*

***deleted***

*take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).*

#### *Justification*

*According to this provision, the European Commission will adopt guidelines through comitology to ensure (i) the independence of the DSOs, (ii) the absence of discriminatory behaviour and (iii) that supply activities of the vertically integrated undertaking cannot take unfair advantages of its vertical integration. All these measures are to be adopted with the involvement of the Council and the European Parliament since an excessive use of comitology could amplify regulatory uncertainty.*

#### **Amendment 91**

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

##### **Article 1 – point 11 a (new)**

Directive 2003/54/EC

Article 19 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(11a) Article 19(3) shall be replaced by the following:***

**“3. Electricity undertakings shall, in their internal accounting, keep separate accounts for each of their transmission and distribution activities as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross subsidisation and distortion of competition. They shall also keep accounts, which may be consolidated, for *each* electricity activity not relating to transmission or distribution. Until 1 July 2007, they shall keep separate accounts for supply activities for eligible customers and supply activities for non-eligible customers. Revenue from ownership of the transmission/distribution system shall be specified in the accounts. Where**

**appropriate, they shall keep consolidated accounts for other, non-electricity activities. The internal accounts shall include a balance sheet and a profit and loss account for each activity.”**

*(Amending one word (each) in Article 19(3) of Directive 2003/54/EC)*

*Justification*

*As a result of the growth of multinational energy companies in Europe it is necessary to specify that the individual accounts of each national energy company be published and not incorporated into the accounts of the parent company.*

**Amendment 92**

**Proposal for a directive – amending act**

**Article 1 – point 11 b (new)**

Directive 2003/54/EC

Article 20 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(11b) Article 20(2) shall be replaced by the following:***

***"2. The operator of a transmission or distribution system may refuse access where it lacks the necessary *physically available* capacity. Duly substantiated reasons must be given for such refusal, based on objective, technically and economically justified criteria. The national regulatory authority shall ensure that these criteria are consistently applied and that the system user who has been refused access has a right of appeal. The national regulatory authority shall ensure, where appropriate and when refusal of access takes place, that the transmission or distribution system operator provides relevant information on measures that would be necessary to reinforce the network. The party requesting such information may be charged a reasonable fee reflecting the cost of providing such information."***

*(Adds new elements to Article 20(2) of Directive 2003/54/EC)*

*Justification*

*Any refusal of access should be made by the operator of the system and be based on duly reasoned technically and economically justified criteria. Refusal should only be based where there is insufficient physical available capacity. The regulatory authority should have a duty to ensure that access refusal criteria are consistently applied and to recommend capacity or connection related investment to improve connection provision, where economically justified.*

**Amendment 93**

**Proposal for a directive – amending act**

**Article 1 – point 11 c (new)**

Directive 2003/54/EC

Article 21 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(11c) In Article 21, the following paragraph shall be added:***

***"2a. Eligible consumers shall have the right to contract simultaneously with several suppliers."***

*(Adds new paragraph 2a to article 21 of Directive 2003/54/EC)*

*Justification*

*Consumers must have the possibility of simultaneously contracting with several suppliers.*

**Amendment 94**

**Proposal for a directive – amending act**

**Article 1 – point 11 d (new)**

Directive 2003/54/EC

Article 21 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

***(11d) In Article 21, the following paragraph shall be added:***

***"2b. The Agency shall perform real-time monitoring of all organised wholesale electricity markets established in the Union, in the EEA and in neighbouring***



***countries in order to detect market power abuses or market design flaws and to promote internal market efficiency improvements."***

*(Adds new paragraph 2a to Article 21 of Directive 2003/54/EC)*

#### *Justification*

*Market monitoring is a powerful tool to detect abuses of market power. It is important to ensure that monitoring of national markets is performed by national regulatory authorities according to harmonised criteria and methodologies. Very often, however, national regulatory authorities do not have the necessary resources to monitor markets on a permanent, real-time basis, thus relying on monthly or even yearly analysis. The Agency should have, at its disposal, all the necessary resources to perform this crucial task.*

#### **Amendment 95**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22a

#### *Text proposed by the Commission*

1. Each Member State shall designate a single national regulatory authority.
2. Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For this purpose, Member State shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive, the regulatory authority is legally distinct and functionally independent from any other public or private entity, and that its staff and the persons responsible for its management act independently from any market interest and shall not seek or take instructions from any government or other public or private entity.

#### *Amendment*

1. Each Member State shall designate a single national regulatory authority.
2. Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For this purpose, Member State shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive ***and related legislation***, the regulatory authority:

***(a)*** is legally distinct and functionally independent from any other public or private entity, and

3. In order to protect the independence of the regulatory authority, Member States shall in particular ensure that:

(a) the regulatory authority has legal personality, **budgetary** autonomy, and adequate human and financial resources to carry out its duties;

(b) **its management is** appointed for a non-renewable fixed term of at least five years, **and** may only be relieved from office during **its** term if **it** no longer **fulfills** the conditions set out in this Article or **it has** been guilty of serious misconduct.

(b) that its staff and the persons responsible for its management act independently from any market interest and

(c) shall not seek or take **direct** instructions from any government or other public or private entity **when carrying out the regulatory tasks**.

3. In order to protect the independence of the regulatory authority, Member States shall in particular ensure that:

(a) the regulatory authority has legal personality, **financial** autonomy and adequate human and financial resources to carry out its duties;

(b) **the members of the board of the regulatory authority are** appointed for a non-renewable fixed term of at least five years **but no more than seven years. For the first mandate, this term shall be two and a half years for half of the members. The members** may only be relieved from office during **their** term if **they** no longer **fulfil** the conditions set out in this Article or **have** been guilty of serious misconduct **under national law**.

## Amendment 96

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22a – paragraph 3 – point (b a) (new)

*Text proposed by the Commission*

*Amendment*

***"(ba) the budgetary needs of the regulatory authority are met by direct revenues from energy market operations."***

## Amendment 97

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22b

*Text proposed by the Commission*

In carrying out the regulatory tasks specified in this Directive, the regulatory authority shall take all reasonable measures to achieve the following objectives:

(a) the promotion, in close cooperation with the Agency, regulatory authorities of other Member States and the Commission, of a competitive, secure and environmentally sustainable internal electricity market within the Community, **and** effective market opening for all consumers and suppliers in the Community;

(b) the development of competitive and properly functioning **regional** markets within the Community in view of the achievement of the objective mentioned in point (a);

(c) the suppression of restrictions to electricity trade between Member States, including the development of appropriate cross border transmission capacities to meet demand, enhance integration of national markets **and to enable** unrestrained electricity flow across the Community;

(d) ensuring the development of secure, reliable and efficient systems, promoting **energy efficiency**, system adequacy, **and research and innovation to meet demand and the development of innovative renewable and low carbon technologies**, in both **short and long term**;

*Amendment*

In carrying out the regulatory tasks specified in this Directive, the regulatory authority shall take all reasonable measures to achieve the following objectives:

(a) the promotion, in close cooperation with the Agency, regulatory authorities of other Member States and the Commission, of a competitive, secure and environmentally sustainable internal electricity market within the Community, effective market opening for all consumers and suppliers in the Community, **and ensuring that energy supply networks operate in an effective, reliable way, taking into account long term objectives**;

(b) the development of competitive and properly functioning markets within the Community in view of the achievement of the objective mentioned in point (a);

(c) the suppression of **any** restrictions to electricity trade between Member States, including the development of appropriate cross border transmission capacities to meet demand **and** enhance **the** integration of national markets **so as to facilitate** unrestrained electricity flows across the Community;

(d) ensuring, **in the most cost-effective way**, the development of **consumer oriented**, secure, reliable and efficient **grid** systems, promoting system adequacy, **whilst ensuring energy efficiency and the integration of large and small scale renewables and distributed generation** in both **transmission and distribution grids**;

**(da) facilitating access to the grid for new generation capacity, in particular removing barriers that could prevent**

(e) ensuring that network operators are granted adequate incentives, in both the short and the long term, to increase efficiencies in network performance and foster market integration;

(f) ensuring the efficient functioning of their national market, **and to promote** effective competition in cooperation with competition authorities.

***access for new market entrants and renewable energies;***

(e) ensuring that network operators are granted adequate incentives, in both the short and the long term, to increase efficiencies in network performance and foster market integration;

(f) ensuring ***that customers benefit through*** the efficient functioning of their national market, ***promoting*** effective competition in cooperation with competition authorities, ***and ensuring consumer protection;***

***(fa) helping to achieve high standards of universal and public service in electricity supply, contributing to the protection of vulnerable customers, and helping to ensure that the consumer protection measures set out in Annex A are effective;***

***(fb) harmonising necessary data exchange processes.***

## **Amendment 98**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - introductory part

*Text proposed by the Commission*

1. The regulatory authority shall have the following duties:

*Amendment*

1. The regulatory authority shall have the following duties ***which it shall carry out, where appropriate, in close consultation with other relevant national and European authorities, transmission system operators and other market stakeholders and without prejudice to the specific competencies of the latter:***

## **Amendment 99**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (– a) (new)

*Text proposed by the Commission*

*Amendment*

***(–a) setting or approving, independently and in accordance with transparent criteria, regulated network tariffs and network tariff components;***

*Justification*

*The task of setting regulated network tariffs, without any interference from external powers, is one of the qualifying powers of a really independent Authority. This principle should be explicitly stated in the Directive, as a first real step towards the creation of a true harmonisation of the national regulatory frameworks.*

#### **Amendment 100**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (b)

*Text proposed by the Commission*

*Amendment*

(b) cooperating on cross-border issues with the regulatory authority or authorities of ***those*** Member States;

(b) cooperating on cross-border issues with the regulatory authority or authorities of Member States ***and with the Agency, including ensuring that there is sufficient interconnection capacity between transmission infrastructures to satisfy an efficient overall market assessment and security of supply criterion, without discriminating between supply undertakings in different Member States;***

#### **Amendment 101**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (c)

*Text proposed by the Commission*

(c) complying with, and implementing, decisions of the Agency and of the Commission;

*Amendment*

(c) complying with, and implementing, **any relevant binding** decisions of the Agency and of the Commission;

## **Amendment 102**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (e)

*Text proposed by the Commission*

(e) ensuring that there are no cross subsidies between transmission, distribution, and supply activities;

*Amendment*

(e) **monitoring compliance with unbundling requirements under this Directive and other relevant Community legislation and** ensuring that there are no cross subsidies between transmission, distribution, and supply activities **as well as ensuring that distribution and transmission tariffs are set well in advance of the periods during which they are to apply**;

## **Amendment 103**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (f)

*Text proposed by the Commission*

(f) reviewing investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plan of the transmission system operators as regards its consistency with the European-wide 10-year network **development** plan mentioned in Article 2c(1) of Regulation (EC) No 1228/2003;

*Amendment*

(f) reviewing investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plan of the transmission system operators as regards its consistency with the European-wide 10-year network **investment** plan mentioned at Article 2c(1) of Regulation (EC) No 1228/2003; **the 10-year investment plan shall create incentives for the promotion**

*of investments, and ensure that the quality and size of the workforce are sufficient to meet service obligations; failure to honour the 10-year investment plan by the relevant operator shall result in proportionate sanctions imposed by the regulatory authority on the operator in accordance with recommendations issued by the Agency;*

#### **Amendment 104**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point (f a) (new)

*Text proposed by the Commission*

*Amendment*

*"(fa) approving the annual investment plans of the transmission system operators;"*

#### **Amendment 105**

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

##### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (g)

*Text proposed by the Commission*

*Amendment*

(g) monitoring network security and reliability, and reviewing network security and reliability rules;

(g) monitoring **compliance with** network security and reliability **requirements, setting or approving standards and requirements for quality of service and supply** and reviewing **past performance in terms of quality of service and supply** and network security and reliability rules;

#### **Amendment 106**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (h a) (new)

*Text proposed by the Commission*

*Amendment*

***"(ha) encouraging the development of European interruptible supply contracts;"***

*Justification*

*The European interruptible supply contract specified in Directive 2003/54/EC gives priority to reducing energy consumption, in accordance with the goals with regard to promoting energy efficiency.*

*The European interruptible supply contract establishes a means whereby an electricity consumer can undertake to temporarily interrupt consumption following a request from its equilibrium manager and or from the regulatory authority, and therefore to suspend activity until the supply and demand of electricity are once more in equilibrium in the equilibrium zone and or on the network.*

**Amendment 107**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22 c – paragraph 1 – point (i)

*Text proposed by the Commission*

*Amendment*

(i) monitoring the level of market opening and competition at wholesale and retail levels, including on electricity exchanges, household prices, switching rates, disconnection rates and household complaints in an agreed format, as well as any distortion or restriction of competition in cooperation with competition authorities, including providing any relevant information, bringing any relevant cases to the attention of the relevant competition authorities;

(i) monitoring the level of ***effective*** market opening and competition at wholesale and retail levels, including on electricity exchanges, household prices, switching rates, ***adequate prepayment conditions reflecting actual consumption, connection and*** disconnection rates, ***maintenance charges*** and household complaints in an agreed format, as well as any distortion or restriction of competition in cooperation with competition authorities, including providing any relevant information, bringing any relevant cases to the attention of the relevant competition authorities;



*Justification*

*Empowering the authority to monitor a wider range of rates and charges is in the interests of greater consumer choice.*

**Amendment 108**

**Proposal for a directive – amending act**

**Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph - point (i a) (new)

*Text proposed by the Commission*

*Amendment*

***“(ia) monitoring the occurrence of restrictive contractual practices, including exclusivity clauses, which may prevent non-household customers from contracting simultaneously with more than one supplier or restrict their choice to do so; where appropriate the national regulatory authorities shall inform the national competition authorities of such practices;“***

*Justification*

*Allowing non-household customers to choose their suppliers and not be restricted through exclusivity clauses will help develop competition on the internal market.*

**Amendment 109**

**Proposal for a directive – amending act**

**Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (i b) (new)

*Text proposed by the Commission*

*Amendment*

***“(ib) recognising contractual freedom with regard to long term contracts and the possibility to conclude asset based contracts provided that they are compatible with Community law.”***

### *Justification*

*There is a need to develop new capacity, especially by new entrants, and long term contracts with base load customers could be necessary to ensure part of the financing of such investments. Further some high energy users need to have access to long term, predictable energy contracts to remain competitive with other regions where these are available.*

### **Amendment 110**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (j)

#### *Text proposed by the Commission*

(j) monitoring the time taken by transmission and distribution undertakings to make connections and repairs;

#### *Amendment*

(j) monitoring the time taken by transmission and distribution undertakings to make connections and repairs **and imposing sanctions in accordance with the guidelines provided by the Agency if it is prolonged without due cause**;

### *Justification*

*There must be effective, appropriate and dissuasive sanctions in place to use against electricity undertakings in cases of non-compliance with any of the obligations set out in this Directive.*

### **Amendment 111**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point (k)

#### *Text proposed by the Commission*

(k) without prejudice to the competence of other national regulatory authorities, **ensuring** high standards of universal and public service for electricity, the protection of vulnerable customers, **and that consumer protection measures set out in Annex A are effective**;

#### *Amendment*

(k) without prejudice to the competence of other national regulatory authorities, **monitoring** high standards of universal and public service for electricity **and** the protection of vulnerable customers;

### *Justification*

*Some duties are to be fulfilled first by governments as they deal more with social measures than retail market regulation. Regulators do not feel they have the competence to define social policy. However powers should be vested upon regulators to ensure Annex A provisions are effectively enforced. At the very least, it should be made clear that responsibility of implementing Annex A on customer protections falls within the regulators' scope.*

### **Amendment 112**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point (k a) (new)

*Text proposed by the Commission*

*Amendment*

***"(ka) ensuring that the consumer protection measures set out in Annex A are effective and enforced;"***

### *Justification*

*'Measures on consumer protection' set out in Annex A must be effectively enforced by the national regulatory authorities.*

### **Amendment 113**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point (l)

*Text proposed by the Commission*

*Amendment*

(l) publishing recommendations, at least on a yearly basis, on compliance of supply tariffs with Article 3;

(l) publishing recommendations, at least on a yearly basis, on compliance of supply tariffs with Article 3, ***paying due attention in these recommendations to the impact on the functioning of the market of regulated prices (wholesale and end-user prices)***;

## Amendment 114

### Proposal for a directive – amending act

#### Article 1 - point 12

Directive 2003/54/EC

Article 22c – paragraph 1 - point (1 a) (new)

*Text proposed by the Commission*

*Amendment*

***"(1a) reporting to the national competition authorities and the Commission those Member States in which regulated tariffs are lower than the market price;"***

*Justification*

*To assist with the development of the internal market regulated tariffs that are set below market price should be abolished to open up the market. There must be effective, appropriate and dissuasive sanctions in place to use against electricity undertakings in cases of non-compliance with this*

## Amendment 115

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22 c – paragraph 1 – point (m)

*Text proposed by the Commission*

*Amendment*

(m) ***ensuring*** access to customer consumption data, the application of *a* harmonised format for ***consumption*** data and ***the*** access to data under paragraph (h) of Annex A;

(m) ***establishing standardised rules governing relationships between final customers and suppliers, distributors and metering system operators, which cover at least*** access to customer consumption data, ***including prices and any related expenditure***, the application of ***an easily understandable*** harmonised format for ***such*** data, ***adequate prepayment that reflects actual consumption*** and ***prompt*** access ***for all customers*** to ***such*** data under paragraph (h) of Annex A;

*Justification*

*Further clarifications in the duties of the authority serve the functioning of the market and ultimately benefit the consumer.*

## **Amendment 116**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point (o a) (new)

*Text proposed by the Commission*

*Amendment*

***"(oa) enjoying a right of veto over decisions to appoint or dismiss persons responsible for the general management of a transmission system operator;"***

*Justification*

*By giving national regulatory authorities the right to veto TSO management appointments and dismissals, the directive would help to ensure that due account is taken of the professional interests of the persons responsible for running TSOs and, accordingly, that they are in a position to carry out their duties in a fully independent manner.*

## **Amendment 117**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (o b) (new)

*Text proposed by the Commission*

*Amendment*

***"(ob) fixing or approving network access tariffs and publishing the methodology used to set such tariffs."***

*Justification*

*NRAs must be able to fix or approve tariffs to ensure fair access for all actors in the electricity market, and the methodology behind setting these tariffs must be transparent and published in accordance with paragraph 4 of this article.*

## **Amendment 118**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (o c) (new)

*Text proposed by the Commission*

*Amendment*

***"(oc) setting or approving standards for quality of service, monitoring implementation and imposing sanctions for non-compliance;"***

*Justification*

*Quality of service is one of the two (another one is price) main items that must be regulated (if not regulated, quality may deteriorate). Regulatory authority should have the power to set and approve the quality standards, to monitor implementation of the said standards and impose sanctions for non-compliance.*

#### **Amendment 119**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (o d) (new)

*Text proposed by the Commission*

*Amendment*

***"(od) monitoring the implementation of safeguard measures referred to in Article 24;"***

*Justification*

*Former paragraph (3f) amended.*

#### **Amendment 120**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 – point (o e) (new)

*Text proposed by the Commission*

*Amendment*

***"(oe) harmonising data exchange***

***processes for the most important market processes at regional level;"***

*Justification*

*The EU is seeking to establish cross-border market regions. For this purpose, harmonisation of all data exchange processes is essential. In the liberalised market, effective data exchange processes are the fundamental precondition for roadmap management, clearing, settlement of accounts, change of supplier and many other purposes. The absence of coordinated data exchange processes hampers the establishment of cross-border market regions.*

**Amendment 121**

**Proposal for a directive – amending act**

**Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (o f) (new)

*Text proposed by the Commission*

*Amendment*

***"(of) imposing price caps in uncompetitive markets for a defined, limited period in order to protect customers against market abuses, fixing such caps at a sufficiently high level so as not to discourage new entrants or expansion of existing competitors;"***

*Justification*

*NRAs must be able to impose price caps where there is excessive market power, but these must be sufficiently high so as not to discourage new entry and expansion of existing competitors and the development of the internal market in electricity.*

**Amendment 122**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point (o g) (new)

*Text proposed by the Commission*

*Amendment*

***"(og) auditing transmission system operators' maintenance policies;"***

### *Justification*

*The maintenance policies of electricity transmission system operators are of essential importance to security of supply. They can, however, be used for discriminatory purposes when maintenance programmes are drawn up. With a view to ensuring the neutrality of maintenance policies vis-à-vis all network users, as well as security of supply, the remit of national regulatory bodies should be extended to include such policies.*

### **Amendment 123**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (o h) (new)

*Text proposed by the Commission*

*Amendment*

***"(oh) developing, in conjunction with relevant planning authorities, guidelines regarding a time limited licensing procedure in order to encourage new entrants to engage in generation and trading;"***

### *Justification*

*Many new entrants currently find difficulty in accessing the generation and trading market.*

### **Amendment 124**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 - point (o i) (new)

*Text proposed by the Commission*

*Amendment*

***"(oi) ensuring that wholesale fluctuations in prices are transparent."***

### *Justification*

*To ensure a level playing field for all market actors any changes in wholesale prices must be available.*

### **Amendment 125**



**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***"1a. If a Member State so provides, the monitoring duties referred to in paragraph 1 may be carried out by an authority other than the regulatory authority. In such a case, the information resulting from this monitoring shall be made available to the regulatory authority as soon as possible.***

***In accordance with the principles of better regulation, the regulatory authority shall, as appropriate, consult with transmission system operators and closely cooperate with other relevant national authorities when carrying out the duties mentioned in paragraph 1, while preserving their independence and without prejudice to their own specific competencies."***

*Justification*

*Wording has been transferred from the chapeau to paragraph 1a.*

## **Amendment 126**

**Proposal for a directive – amending act**  
**Article 1 – point 12**  
Directive 2003/54/EC  
Article 22c – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***"2a. When monitoring national electricity markets in accordance with point (i) of paragraph 1, including the monitoring of wholesale and retail prices, national regulatory authorities shall adopt harmonised methodologies agreed and approved by the Agency."***

*(Adds new paragraph 2a to Article 22c of Directive 2003/54/EC)*

*Justification*

*Market monitoring is a powerful tool to detect abuses of market power. It is important to ensure that monitoring of national markets is performed by NRAs according to harmonised criteria and methodologies. Very often, however, national regulatory authorities do not have the necessary resources to monitor markets on a permanent, real-time basis, thus relying on monthly or even yearly analysis. The Agency should have, at its disposal, all the necessary resources perform this crucial task.*

**Amendment 127**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 3 – point (b)

*Text proposed by the Commission*

(b) to carry out in cooperation with the national competition authority investigations of the functioning of electricity markets, and to decide, ***in the absence of violations of competition rules***, of any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, ***including virtual power plants***;

*Amendment*

(b) to carry out in cooperation with the national competition authority investigations of the functioning of electricity markets, and to decide of any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market;

*Justification*

*Amended wording maintains the strong and balanced regulatory oversight of the market as originally proposed (including ex ante measures), without the risk of confusing the roles of regulatory and competition authorities.*

**Amendment 128**

**Proposal for a directive – amending act**

**Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 3 - point (c)

*Text proposed by the Commission*

(c) to ***request*** any information from

*Amendment*

(c) to ***obtain*** any information from

electricity undertakings relevant for the fulfilment of its tasks;

electricity undertakings relevant for the fulfilment of its tasks, ***including justifications for any refusal to grant third party access, and any information on measures necessary to reinforce the network, and to cooperate with financial market regulators where necessary;***

#### *Justification*

*To ensure that NRAs are able to monitor the functioning of the electricity market they should be able to obtain any relevant information from electricity undertakings.*

### **Amendment 129**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 4

#### *Text proposed by the Commission*

4. The regulatory authorities shall be responsible for fixing or approving prior to their entry into force the terms and conditions for:

(a) connection and access to national networks, including transmission and distribution tariffs. These tariffs shall allow the necessary investments in the networks to be carried out in a manner allowing these investments to ensure the viability of the networks;

(b) the provision of balancing services.

#### *Amendment*

4. The regulatory authorities shall be responsible for fixing or approving prior to their entry into force the terms and conditions for:

(a) connection and access to national networks, including transmission and distribution tariffs ***and their methodologies or, alternatively, the methodologies and their monitoring for setting or approving the transmission and distribution tariffs.***

***These tariffs shall reflect the actual costs incurred, insofar as such costs correspond to those of an efficient operator, and shall be transparent. They*** shall allow the necessary investments in the networks to be carried out in a manner allowing these investments to ensure the viability of the networks. ***These tariffs shall not discriminate against new entrants;***

(b) the provision of balancing services ***which shall, as far as possible, be cost-reflective and revenue-neutral, whilst providing appropriate incentives for network users to balance their input and offtakes; they shall be fair and non-***

*discriminatory and based on objective criteria;*  
*(ba) access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management.*  
*The regulatory authorities shall have power to require transmission system operators to modify those terms and conditions.*

### **Amendment 130**

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

##### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 5

#### *Text proposed by the Commission*

5. In fixing or approving the tariffs, the regulatory authorities shall ensure that network operators are granted adequate incentive, over both the short and long term, to increase efficiencies, foster market integration and support the related research activities.

#### *Amendment*

5. In fixing or approving ***the terms and conditions or methodologies of*** the tariffs, ***and the balancing services***, the regulatory authorities shall ensure that network operators are granted adequate incentive, over both the short and long term, to increase efficiencies, foster market integration, ***ensure security of supply***, and support the related research activities.

### **Amendment 131**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 5 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***"5a. The regulatory authorities shall monitor congestion management within national electricity systems and interconnectors.***

***Transmission system operators shall submit their congestion management procedures, including capacity allocation,***

*to the national regulatory authorities for approval. National regulatory authorities may request amendments to these procedures before approving them."*

## **Amendment 132**

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

#### **Article 1 - point 12**

Directive 2003/54/EC

Article 22c – paragraph 6

#### *Text proposed by the Commission*

6. Regulatory authorities shall have the authority to require transmission and distribution system operators, if necessary, to modify the terms and conditions, ***including tariffs*** referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner.

#### *Amendment*

6. Regulatory authorities shall have the authority to require transmission and distribution system operators, if necessary, to modify the terms and conditions referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner. ***In the event of delay in the setting of transmission and distribution tariffs, regulatory authorities shall have the power to set transmission and distribution tariffs on a preliminary basis and to decide on the appropriate compensatory measures if the final tariffs deviate from these provisional tariffs.***

#### *Justification*

*National Regulators should have this power to ensure that appropriate action is taken by TSOs and DSOs.*

## **Amendment 133**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 7

#### *Text proposed by the Commission*

7. Any party having a complaint against a

#### *Amendment*

7. Any party having a complaint against a

transmission or distribution system operator may refer the complaint to the regulatory authority which, acting as dispute settlement authority, shall issue a decision within two months after receipt of the complaint. This period may be extended by two months where additional information is sought by the regulatory authorities. This period may be extended with the agreement of the complainant. Such a decision shall have binding effect unless and until overruled on appeal.

transmission or distribution system operator *in relation to that operator's obligations under this Directive* may refer the complaint to the regulatory authority which, acting as dispute settlement authority, shall issue a decision within two months after receipt of the complaint. This period may be extended by two months where additional information is sought by the regulatory authority. This period may be extended with the agreement of the complainant. Such a decision shall have binding effect unless and until overruled on appeal.

## Amendment 134

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22c – paragraph 8

#### *Text proposed by the Commission*

8. Any party who is affected and who has a right to complain concerning a decision on methodologies taken pursuant to this Article or, where the regulatory authority has a duty to consult, concerning the proposed methodologies, may, at the latest within two months, or a shorter time period as provided by Member States, following publication of the decision or proposal for a decision, submit a complaint for review. Such a complaint shall not have suspensive effect.

#### *Amendment*

8. Any party who is affected and who has a right to complain concerning a decision on methodologies taken pursuant to this Article or, where the regulatory authority has a duty to consult, concerning the proposed *tariffs or* methodologies, may, at the latest within two months, or a shorter time period as provided by Member States, following publication of the decision or proposal for a decision, submit a complaint for review. Such a complaint shall not have suspensive effect.

#### *Justification*

*Like under the current regulatory regime, Member States shall have the choice to establish a regulatory control over either the tariffs themselves or the tariff methodologies*

## Amendment 135

### Proposal for a directive – amending act

#### Article 1 - point 12

Directive 2003/54/EC

Article 22c – paragraph 12

*Text proposed by the Commission*

12. Decisions taken by regulatory authorities shall be *motivated*.

*Amendment*

12. Decisions taken by regulatory authorities shall be *duly reasoned and available to public to allow for legal scrutiny*.

## Amendment 136

### Proposal for a directive – amending act

#### Article 1 - point 12

Directive 2003/54/EC

Article 22c – paragraph 13

*Text proposed by the Commission*

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved.

*Amendment*

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a *national judicial body or other independent national authority* independent of the parties involved *and of any government*.

## Amendment 137

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22c – paragraph 14

*Text proposed by the Commission*

*14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this*

*Amendment*

*deleted*

*Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3)*

## Amendment 138

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22d - paragraph 2

*Text proposed by the Commission*

**2. Regulatory authorities shall cooperate** at least on a regional level to foster the creation of operational arrangements in order to ensure an optimal management of the network, develop joint electricity exchanges and the allocation of cross-border capacity, and to ensure a minimum level of interconnection capacity within the region to allow for effective competition **to develop.**

*Amendment*

**2. In order to ensure that, where regional electricity markets occur, their integration is mirrored by adequate regulatory structures. The relevant national regulatory authorities shall ensure, in close cooperation with and under the guidance of the Agency, that at least the following regulatory tasks are performed in relation to their regional markets:**

**(i) cooperation** at least on a regional level to foster the creation of operational arrangements in order to ensure an optimal management of the network, develop joint electricity exchanges and the allocation of cross-border capacity, and to ensure **an adequate** level of interconnection capacity **including through new interconnection,** within the region **and between regions** to allow for **the development of** effective competition **and the improvement of security of supply;**

**(ii) harmonisation at least at the relevant regional level of all technical and market codes for the relevant transmission system operators and other market actors;**

**(iii) harmonisation of the rules governing the management of congestion and the fair redistribution of revenues and/ or costs of congestion management among all market actors;**

**(iv) rules to ensure that the owners and/or**



*managers of power exchange(s) which operate the relevant regional pool market are fully independent of the owners and/or managers of generation assets; 2a. National regulatory authorities shall have the right to enter into agreements with each other to foster regulatory cooperation, and the actions referred to in paragraph 2a) shall be carried out, as appropriate, in close consultation with other relevant national authorities and without prejudice to their specific competencies.*

#### **Amendment 139**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22d - paragraph 4

*Text proposed by the Commission*

*Amendment*

***4. The Commission may adopt guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).***

***deleted***

*Justification*

*It needs to be clarified that the exception to article 8.1 will not mean the automatic creation of a differentiated ISO for each vertically integrated undertaking if requested in the framework of Article 10.*

#### **Amendment 140**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22e - paragraph 9

*Text proposed by the Commission*

*Amendment*

**9. The Commission shall adopt guidelines setting out the details of the procedure to be followed for the application of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).**

**deleted**

*Justification*

*This proposal is intended to ensure that the guidelines are adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

**Amendment 141**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22f – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. The regulatory authority *may decide to make available* to market participants *elements of this information provided* that commercially sensitive information on individual market players or individual transactions is not released. *This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.***

**3. The regulatory authority *shall report on the outcome of its investigations or its request* to market participants *whilst ensuring* that commercially sensitive information on individual market players or individual transactions is not released.**

*Justification*

*To ensure that there is always transparency in decision making while at the same time commercial confidentiality is respected, paragraph 3 needs to be amended.*

## **Amendment 142**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22f – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).** **deleted**

*Justification*

*The powers proposed here by the Commission to issue guidelines through the regulatory procedure with scrutiny significantly curb the rights of the European Parliament and should be rejected.*

## **Amendment 143**

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

#### **Article 1 – point 12**

Directive 2003/54/EC

Article 22f – paragraph 5

*Text proposed by the Commission*

*Amendment*

**5. With respect to transactions in electricity derivatives of supply undertakings with wholesale customers and transmission system operators, this Article shall only apply once the Commission has adopted the guidelines referred to in paragraph 4.** **deleted**

*Justification*

*Article 22f should simply describe the framework conditions pertaining to compulsory record*

keeping, and not specify the exact content of the data concerned. This should be done through the relevant guidelines.

#### **Amendment 144**

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

##### **Article 1 - point 13 a (new)**

Directive 2003/54/EC

Article 26 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(13a) Article 26(2) shall be replaced by the following:***

**"2. A Member State which, after the Directive has been brought into force, for reasons of a technical nature has substantial problems in opening its market for certain limited groups of the non-household customers referred to in Article 21(1)(b) may apply for derogation from this provision, which may be granted to it by the Commission for a period not exceeding 12 months after the date referred to in Article 30(1). In any case, such derogation shall end on the date referred to in Article 21(1)(c)."**

*(Same wording as that of Article 26, paragraph 2 of Directive 2003/54 EC, shortening the deadline to 12 months)*

*Justification*

*12 months should be enough time for Member States to overcome any technical barriers.*

#### **Amendment 145**

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

##### **Article 1 – point 13 b (new)**

Directive 2003/54/EC

Article 26 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(13b) In Article 26, the following***

*paragraph shall be added:*

***"2a. The Member States may exempt industrial sites from the provisions of Chapters III, IV, V, VI, and VII. The principle of third party access shall not be affected by such derogations. Furthermore, the derogations may not interfere with the task of public distribution systems."***

*(Adds new paragraph 2 a to article 26 of Directive 2003/54/EC)*

*Justification*

*Special rules should be possible for industrial sites, as this relates primarily to use by industrial consumers within this sector.*

**Amendment 146**

**Proposal for a directive – amending act**

**Article 1 - point 14 a (new)**

Directive 2003/54/EC

Annex A - point (a)

*Text proposed by the Commission*

*Amendment*

***(14a) In Annex A, point (a) shall be replaced by the following:***

***"(a) have a right to a contract with their electricity service provider that specifies:***

- the identity and address of the supplier;***
- the services provided, the service quality levels offered, as well as the time for the initial connection;***
- [...] the types of maintenance service offered;***
- the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;***
- the duration of the contract, the conditions for renewal and termination of services and of the contract, the***

existence of any right of withdrawal  
*without charge;*

- any compensation and the refund  
arrangements which apply if contracted  
service quality levels are not met  
*including inaccurate and delayed billing;*  
[...]

- the method of initiating procedures for  
settlement of disputes in accordance  
with point (f); *and*

- *information on consumer rights,*  
*including all of the above, clearly*  
*communicated through billing and*  
*electricity companies' web sites;*

- *details concerning the competent*  
*appeals authority and of the procedure to*  
*be followed by consumers in the event of a*  
*dispute."*

**Conditions shall be fair and well known  
in advance. In any case, this information  
should be provided prior to the  
conclusion or confirmation of the  
contract. Where contracts are  
concluded through intermediaries, the  
above information shall also be provided  
prior to the conclusion of the contract;**

*(Same wording as that of Annex A(a), Directive 2003/54 EC, adding last indent)*

#### **Amendment 147**

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

#### **Article 1 - point 14 b (new)**

Directive 2003/54/EC

Annex A - point (b)

*Text proposed by the Commission*

*Amendment*

***(14b) In Annex A, point (b) shall be  
replaced by the following:***

***"(b) are given adequate notice of any  
intention to modify contractual  
conditions and are informed about their  
right of withdrawal when the notice is  
given. Service providers shall notify***

**their subscribers directly of any increase in charges, at an appropriate time no later than one normal billing period after the increase comes into effect *in a transparent and comprehensible manner*. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new conditions notified to them by their electricity service provider;"**

*(Same wording as that of Annex A(b), Directive 2003/54 EC, adding "in a transparent and comprehensible manner")*

## **Amendment 148**

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

#### **Article 1 - point 14 c (new)**

Directive 2003/54/EC

Annex A - point (d)

*Text proposed by the Commission*

*Amendment*

***(14c) In Annex A, point (d) shall be replaced by the following:***

***"(d) are offered a wide choice of payment methods, which shall not discriminate against customers. Any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems. General terms and conditions shall be fair and transparent. They shall be given in clear and comprehensible language. Customers shall be protected against unfair or misleading selling methods including non-contractual barriers imposed by the trader, for example excessive contractual documentation;"***

*(Same wording as that of Annex A(d), Directive 2003/54 EC adding " so as not to discriminate against vulnerable customers, which shall include prepaid meters and tariff calculators without charge where applicable" and " including non contractual barriers imposed by the trader ")*

## Amendment 149

### Proposal for a directive – amending act

#### Article 1 - point 14 d (new)

Directive 2003/54/EC

Annex A - point (f)

*Text proposed by the Commission*

*Amendment*

***(14d) In Annex A, point (f) shall be replaced by the following:***

***"(f) benefit from transparent, simple and inexpensive procedures for dealing with their complaints. In particular, all consumers shall have the right to service delivery and complaint handling by their electricity service provider. Such procedures shall enable disputes to be settled fairly and promptly, and within three months, with provision, where warranted, for a system of reimbursement and/or compensation. They should follow, wherever possible, the principles set out in Commission Recommendation 98/257/EC;"***

*(Same wording as that of Annex A(f), Directive 2003/54 EC, adding "with a period of three month")*

## Amendment 150

### Proposal for a directive – amending act

#### Article 1 - point 15

Directive 2003/54/EC

Annex A - point (h)

*Text proposed by the Commission*

*Amendment*

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking ***with a supply license*** access to its metering data. The party responsible for data management is obliged to give ***these*** data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to

(h) ***are easily able to switch to a new supplier and*** have at their disposal their consumption data and shall be able to, by explicit agreement and free of charge, give any ***authorised supply*** undertaking access to its metering data. The party responsible for data management is obliged to give ***this*** data to the undertaking. Member States shall define a format for the data and a



have access to the data. No additional costs can be charged to the consumer for this service.

procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

## Amendment 151

### Proposal for a directive – amending act

#### Article 1 - point 15

Directive 2003/54/EC

Annex A - point (i)

#### *Text proposed by the Commission*

(i) shall be properly informed **every month** of actual electricity consumption and costs. No additional costs can be charged to the consumer for this service.

#### *Amendment*

(i) shall be properly informed **at least quarterly** of actual electricity consumption and costs. No additional costs can be charged to the consumer for this service. ***The Member States shall ensure that the roll-out of smart meters is completed with minimum disruption to consumers within 10 years of the entry into force of the Directive and shall be the responsibility of the electricity distribution or supply companies. National regulatory authorities shall be responsible for monitoring the process of such development and for laying down common standards for that purpose. Member States shall ensure that standards establishing the minimum technical design and operational requirements for meters address interoperability issues so as to provide maximum benefit at minimum cost to consumers.***

## Amendment 152

### Proposal for a directive – amending act

#### Article 1 – point 15

Directive 2003/54/EC

Annex A – point (j)

*Text proposed by the Commission*

*Amendment*

***(j) can change supplier at any time in the year, and a customer's account with the previous supplier shall not be settled later than one month following the last supply by this previous supplier.***

***deleted***

### **Amendment 153**

**Proposal for a directive – amending act**

**Article 1 – point 15**

Directive 2003/54/EC

Annex A – point (j a) (new)

*Text proposed by the Commission*

*Amendment*

***"(ja) shall receive a final closure account following any change of electricity supplier no later than one month after informing the relevant supplier."***

## EXPLANATORY STATEMENT

1. Without a proper functioning electricity and gas market the European Union will find it increasingly difficult to ensure security of supply, a sustainable, low carbon energy market and ensure global competitiveness.
2. Before looking at the appropriate model for the market we need to ask “why we are insisting on this change?” We need this change so consumers receive a fair deal, to level the playing field for all market actors, producers and consumers, to ensure better conditions for investment ensuring security of supply and better access for renewables, and we need to reduce the concentration of power of large energy companies allowing SMEs better access to the grid. This requires a twofold approach: better regulation and governance of electricity and gas markets regarding operation of network monopolies and market design; and assertive application of competition law to reduce market concentration.

### **I - Consumer protection and social impact**

3. Any model is likely to see an increase in energy prices. The impact of the EU ETS, the 20% renewables obligation, and increasingly tight oil supply with prices around \$100 a barrel will mean prices are likely to increase.
4. Although energy poverty and the protection of vulnerable customers is an area of national competence, there is clearly a link with EU policy. The EU must set out a clear definition of energy poverty, and insist that Member State energy poverty plans are submitted and monitored by the Commission. However the tools used to protect vulnerable customers must work with, and support, the pre-requisites of open, competitive markets. We need to guarantee that customers, particularly pensioners, who are unable to pay will not be cut off and there is no discrimination in terms of pricing models against poor consumers. Combating fuel poverty can be done best through promoting energy efficiency and energy saving measures and we should explore how to strengthen the link between this directive and energy efficiency requirements.
5. Increased transparency is needed in terms of consumer rights. The annex to the Directive must be implemented, monitored and policed by National Regulatory Authorities (NRAs) and overseen by the new European regulatory body. Quality of service should be a central feature of electricity companies’ responsibilities. Clear sanctions for lack of implementation should be enacted, including the withdrawal of license or equivalent at the national level. The proposed European Energy Consumer Charter should be enforced through the electricity and gas directives and thereby given legal weight. A statutory energy Consumer body should be set up in every Member State.

## II- What energy model?

6. Full ownership unbundling is the only model that can give an assurance to competitors who want to enter the market and ensure no conflict of interest arises.
7. The potential for unfair discrimination will always exist where a company is involved both in competitive and monopolistic practices. But this needs to go hand in hand with increased transparency, coordination of network operators, harmonisation of market rules and convergence of national regulations including competition policy.
8. The Commission proposal does not require the forced privatisation of state-owned transmission networks following ownership unbundling.
9. The Independent Systems Operator model, where a company can own but not run an electricity network, implies bureaucracy and costly regulatory control and is therefore not a viable alternative to full ownership unbundling.

### a) Investment

10. The experience of Member States indicates that full ownership unbundling leads to increased investment and improved network performance.
11. The ten year investment plans required under the regulation should ensure that long term strategies are set in place which put the needs of consumers first and not those of share holders. This investment strategy should ensure that the quality and numbers of the workforce are sufficient to deliver service obligations. It should be approved and monitored by NRAs and overseen by the new European Regulatory Agency. Investment plans should take account of the need to ultimately work towards a European network.

### b) Renewables and decentralised generation

12. The full ownership unbundling model will ensure better access to grids for renewable energy, however we should go further and ensure that renewable energy and micro generation should have priority access to the grids, except when technical balancing issues make this impossible.
13. We must ensure that power is returned to the people through support for local and micro generation and local combined heat and power plants. This will require massive investments in smart grids. Today, vertically integrated electricity companies have no incentive to make these investments, as they will not be building or controlling much of this local generation.
14. Modernization of distribution networks is essential for the development of decentralized generation and for improving energy efficiency. The Directive should ensure that district systems can be encouraged.

### **III - Implementation and the regulators**

15. The Commission should rigorously pursue Member States who have failed to implement current directives. Policing and clear sanctions are necessary to ensure that the next model is successful; this is particularly true for energy networks, which are natural monopolies.
16. National regulators must be truly independent from both government and industry, and minimum standards in the harmonisation of their powers should be achieved via the establishment of common rules on transparency and accountability. They should also be given responsibility for ensuring that the needs of European consumers are taken into account when taking decisions notably on cross-border investments.
17. NRAs should be able to impose measures to stimulate competition, and be responsible for reviewing which companies enjoy significant market dominance. NRAs should be given the tools to achieve a more competitive outcome, through close cooperation with national and EU cartel authorities, and should be legally empowered to enter in to agreements with other EU and national regulatory authorities (e.g. on sharing data).
18. EU legislation should set out clearly the policy objectives and precise scope of NRAs' duties and powers, covering the power to fix or approve network access tariffs and the methodology used to set the tariffs. NRAs must each have the power to obtain relevant information from gas and electricity companies and impose effective sanctions together with appropriate rights of investigation and sufficient powers for dispute settlement.
19. National regulators should be encouraged to use the right to impose price caps in uncompetitive markets for a defined and limited period where member states are slow to implement EU laws so customers remain protected against market abuse. Commission authorities should prosecute regulated tariffs lower than the market rate as this impedes competition and distorts competition especially amongst high-energy users within the EU.
20. The Commission suggests a number of provisions, which would delegate powers to the Commission to adopt binding guidelines through Comitology. However legislative powers should be addressed through codecision where appropriate, and not through Comitology, so as not to undermine the European Parliament's powers.

### **IV - The European Regulatory Energy Agency (Agency)**

21. Clear duties of national and European regulatory bodies should be set out to ensure no duplication. The Regulatory Authority should monitor any conditions set out in the Directive for National Regulators. Failure to comply with the rules set out in the directive should lead to clear sanctions. The powers and independence of the proposed European Regulatory Agency should be assured through accountability to the European Parliament.

22. On cross border issues there is a need to recognise the regulatory gap and the need for better interconnections in parts of the European market. Thus the proposal to give the Agency the power to decide on exemptions for interconnectors and on exemptions if the infrastructure is located on the territory of more than one Member State is welcome. If the competent NRAs are unable to reach agreement on an appropriate regulatory regime the European Agency may put essential interconnectors out to tender in consultation with the appropriate authorities. Costs should be passed on to the consumer in a regulated and transparent framework. The Agency should have a more active role in regulation of cross-border issues.

### **V - Regional Electricity Markets**

23. Ultimately our goal should be to work towards a single European network in electricity through appropriate, clear and incremental steps. It should be made clear that this should be carried out along with full ownership unbundling and not considered an alternative model.
24. TSOs should be given a clear route map and timetable to ensure that this is moved on. A balance has to be found on which powers are with the TSOs and which are with regulatory authorities. In general regulators are better placed to define codes for commercial activities – e.g. balancing rules, congestion rules whereas technical codes should be the responsibility of TSOs. Development of an EU grid code would ensure that regional markets would not drift apart.
25. Defining regions and stimulating regional cooperation to ensure a smoothly integrated market in the wider European context is crucial. It is essential to link up "energy islands" like the Baltic states which have not been connected to the UCTE (Union for the Co-ordination of Transmission of Electricity) grid. We need incentives in place to tackle the obstacles that cause delays in the creation of new energy import and export infrastructure. The Agency should thus operate also with respect to the regional dimension.

### **VI - Third Country ownership**

26. Energy is undoubtedly an area where national and European interests should be considered paramount in particular in the context of security of supply. There is a further need for clarification on what the impact of this clause would be in relation to current third country investments in EU transmission systems, and the limitation on an investment pool for the buying up of divested infrastructure as a result of the unbundling requirements. The rapporteur should point out that her preferred option for ownership of infrastructure would be a majority holding by the public sector.

22.4.2008

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

for the Committee on Industry, Research and Energy

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity (COM(2007)0528 – C6-0316/2007 – 2007/0195(COD))

Draftsman: Ján Hudacký

### **SHORT JUSTIFICATION**

#### **Current situation**

The European legislator decided in 1996, in its first "energy package", to gradually liberalise the then monopoly-based European energy system. In its 2003 "second package" Parliament and Council decided to extend market opening to all consumers by mid-2007, thereby giving detailed provisions on the regulatory approach. However, the European markets for gas and electricity still show dysfunctions concerning fair access to transmission grids, interconnection between national energy markets (cross border interconnections) and the maintenance of security of supply.

The current Commission proposal, the "third energy package", therefore suggests several measures as to how to overcome these dysfunctions and to move forward in the creation of a fully integrated internal market.

#### **Unbundling provisions**

It goes without saying that legal, functional and management unbundling provisions, as provided by the "second energy package", are of fundamental importance and must be implemented effectively in all Member States. However, the discussion on the future design of the internal market sometimes seems to be centred too exclusively on the possible merits of unbundling provisions. It is doubtful if ownership unbundling (OU) as practiced in certain Member States, where it has been developed as part of national competition law, can be used as a model for the whole of the EU. In fact, the Commission impact assessment does not provide enough evidence to conclude that OU is really the *most appropriate* measure to both, increase competition and to create a functioning internal market. Furthermore, it could cause

problems in Member States concerning the protection of property rights as laid down in their respective constitutions. That is why we suggest giving Member States the option to choose a regulatory model which is most appropriate to their own economy. Apart from OU and Independent Systems Operators (ISO), the two models contained in the original Commission proposal, a comprehensive *third option*, elaborated by several Member States, is proposed.

This should lead to an internal market where different models could coexist. All models would be subject to strict regulation at EU level through the Agency for the Cooperation of Energy Regulators (ACER) in close cooperation with the National Regulatory Agencies (NRAs) as well as the national and EU competition authorities. This approach could ensure transparent and fair access to the grid and provide a liberalized EU energy market.

### **Transparent access to the transmission networks and investment opportunities**

Transmission System Operators (TSOs) should be responsible for transparent non-discriminatory procedures for connection to the grids. These procedures should be approved by NRAs. TSOs should be obliged to provide all necessary information to all interested companies seeking to connect new power plants (including nuclear ones), transport the electricity through the TSO's grids or invest in the transmission systems interconnections (thereby enhancing security of supply). Regional cooperation could be promoted for better and smoother coordination within and between the regions by NRAs and ACER.

### **A balanced regulatory approach: ENTSO, NRAs, ACER, Commission**

The right regulatory balance, in particular if Members States opt for models other than OU, plays the most important role in the creation of an internal energy market. In order to protect the public interest it seems crucial that the NRAs as well as ACER dispose of the highest degree possible of independence, bereft of any political or business interference.

Furthermore, it must be guaranteed that the regulatory model is coherent, disposing of a clear-cut repartition of competencies and responsibilities. It is in this regard that the Commission proposal does not give a satisfactory answer: It foresees, on the one hand, to assign ACER an almost purely advisory role, leaving it very limited scope to take individual decisions which are legally binding on third parties. On the other hand however, very wide scope is given to the European Network of Transmission System Operators (ENTSO), which means that TSOs are assigned a role of "para self-regulation", a role which TSOs, following their various position papers, are not inclined to assume. The entire approach leads to a regulatory framework which is unclear and unbalanced, leaving ACER in a very weak position vis-à-vis both, the Commission and ENTSO.

Finally, it is questionable from Parliament's point of view whether, as foreseen by the Commission, such a big number of key regulatory issues should be dealt with by Comitology procedure.

### **The Regional Approach**

In its proposal the Commission does not seem to back the idea of Regional markets wholeheartedly. However, regional markets could be a viable *intermediary* step to the



creation of a fully integrated European energy market. The creation of Regional Systems Operators (RSOs) would be a strong vector to provide investment for transmission systems and, in particular, cross border interconnections, thereby improving security of supply. RSOs should provide regional investment plans which should be monitored by NRAs and ACER to guarantee effective coordination.

In order to enhance the role of Regional Markets, ACER could establish "regional committees" (similar to the ones of the Agency's forerunner, ERGEG) which could be responsible for "Regional regulatory supervision".

## 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:

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### Amendment 1

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

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

(7) Only the removal of the inherent incentive for vertically integrated companies to discriminate against competitors as regards network access and investment can ensure effective unbundling. Ownership unbundling, which implies the network owner being appointed as the network operator and being independent from any supply and production interests, is **clearly the most** effective and stable way to solve the inherent conflict of interest and to ensure security of supply. For this reason, the European Parliament in its Resolution on *Prospects* for the internal gas and electricity market adopted on 10 July 2007 referred to ownership unbundling at transmission level as the most effective tool to promote investments in

##### *Amendment*

(7) Only the removal of the inherent incentive for vertically integrated companies to discriminate against competitors as regards network access and investment can ensure effective unbundling. Ownership unbundling, which implies the network owner being appointed as the network operator and being independent from any supply and production interests, is **an** effective and stable way to solve the inherent conflict of interest and to ensure security of supply. For this reason, the European Parliament in its Resolution on *prospects* for the internal gas and electricity market adopted on 10 July 2007 referred to ownership unbundling at transmission level as the most effective tool to promote investments in infrastructures in a non-discriminatory

infrastructures in a non-discriminatory way, fair access to the grid for new entrants and transparency in the market. Member States should therefore be required to ensure that the same person or persons are not entitled to exercise control, including through minority blocking rights on decisions of strategic importance such as investments, over a production or supply undertaking and, at the same time, hold any interest in or exercise any right over a transmission system operator or transmission system. Conversely, control over a transmission system operator should preclude the possibility of holding any interest in or exercising any right over a supply undertaking.

way, fair access to the grid for new entrants and transparency in the market. Member States should therefore be required to ensure that the same person or persons are not entitled to exercise control, including through minority blocking rights on decisions of strategic importance such as investments, over a production or supply undertaking and, at the same time, hold any interest in or exercise any right over a transmission system operator or transmission system. Conversely, control over a transmission system operator should preclude the possibility of holding any interest in or exercising any right over a supply undertaking.

#### *Justification*

*It is not correct to say that ownership unbundling is the simplest and quickest way to bring about security of supply, which depends on a much wider variety of conditions, including for example a proper degree of regulation. Even after its ownership has been unbundled, a network remains a natural monopoly that has to be regulated.*

## **Amendment 2**

### **Proposal for a directive – amending act Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) Assuming that they comply with the provisions on effective and efficient corporate unbundling, vertically integrated companies can continue to own network assets while ensuring an effective separation of interests, provided that the network company performs all the functions of a network operator and necessary provision is made for detailed regulation and comprehensive regulatory oversight mechanisms.***

#### *Justification*

*Member States must be allowed a third practicable option which, without encroaching*

*massively on their ownership structures, would enable vertically integrated companies, assuming that they satisfied stringent conditions and requirements, to continue operating their networks within their integrated set-up.*

### **Amendment 3**

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

*Text proposed by the Commission*

(11) Where the undertaking owning a transmission system is part of a vertically integrated undertaking, Member States should therefore be given a choice between ***ownership unbundling and, as a derogation, setting up system operators which are independent from supply and generation interests. The full effectiveness of the independent system operator solution needs to be assured by way of specific additional rules. To preserve fully the interests of the shareholders of vertically integrated companies, Member States should have the choice of implementing ownership unbundling either by direct divestiture or by splitting the shares of the integrated company into shares of the network company and shares of the remaining supply and generation business, provided that the requirements resulting from ownership unbundling are complied with.***

*Amendment*

(11) Where the undertaking owning a transmission system is part of a vertically integrated undertaking, Member States should therefore be given a choice between ***different options.***

*Justification*

*Introduction of new measures to complete the internal market in energy.*

### **Amendment 4**

#### **Proposal for a directive – amending act Recital 20**

*Text proposed by the Commission*

(20) Prior to adoption ***by the Commission*** of guidelines defining further the *record*

*Amendment*

(20) Prior to the adoption of guidelines defining further the *record-keeping*

*keeping* requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate **and advise the Commission on** the content of the guidelines. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in electricity supply contracts and electricity derivatives should be subject to *pre* and/or post-trade transparency requirements and if so what the content of those requirements should be.

requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate the content of the guidelines **and act in an advisory capacity**. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in electricity supply contracts and electricity derivatives should be subject to *pre-* and/or post-trade transparency requirements and if so what the content of those requirements should be.

#### *Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

#### **Amendment 5**

##### **Proposal for a directive – amending act Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) Regional cooperation should be developed further in order to achieve a fully integrated European electricity grid, enabling the national electricity markets in the European Union to be joined together.***

#### *Justification*

*A truly European electricity network should be the goal of this Directive and as such the linking up of these regions is a vital step.*

#### **Amendment 6**

**Proposal for a directive – amending act  
Recital 27**

*Text proposed by the Commission*

*Amendment*

***(27) In particular power should be conferred on the Commission to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of Directive 2003/54/EC. Since those measures are of general scope and are designed to supplement Directive 2003/54/EC by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.***

***deleted***

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

**Amendment 7**

**Proposal for a directive – amending act  
Article 1 – point 2  
Directive 2003/54/EC  
Article 3 – paragraph 10**

*Text proposed by the Commission*

*Amendment*

***2. In Article 3, the following paragraph 10 is added:***

***deleted***

***“10. The Commission may adopt guidelines for the implementation of this Article. This measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3)”***

### *Justification*

*Public interest obligations are already dealt with in the directive currently in force. In this context Commission guidelines would not be appropriate.*

### **Amendment 8**

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

#### **Article 1 – point 3**

Directive 2003/54/EC

Article 5a

#### *Text proposed by the Commission*

Member **States** shall cooperate among themselves for the purpose of integrating their national markets at least at the regional level. In particular, **Member States** shall **promote** the cooperation of network operators at a regional level, and foster the consistency of their legal and regulatory framework. **The geographical area covered by regional cooperations shall be in line with the definition of geographical areas by the Commission in accordance with Article 2h(3) of Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.**

#### *Amendment*

**1. Member States' authorities and regulators** shall cooperate among themselves for the purpose of integrating their national markets at least at the regional level. In particular, **they** shall **ensure** the cooperation of network operators at a regional level, and foster the **convergence and** consistency of their legal and regulatory frameworks.

### *Justification*

*The Directive should promote regional initiatives for market integration as an indispensable intermediary step in achieving a single European energy market.*

*Initiatives such as the coupling of electricity markets between Belgium, the Netherlands, Luxembourg, France and Germany, favour competition and security of supply, by optimising the use of infrastructure, greater transparency and market liquidity. The objective is ultimately to establish a single European energy market.*

### **Amendment 9**

**Proposal for a directive – amending act**

**Article 1 – point 3**

Directive 2003/54/EC

Article 5a – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) On the joint request of Member States between which significant difficulties have arisen in the course of cooperation at a regional level, the Commission may designate a regional coordinator, in agreement with all Member States concerned.***

*Justification*

*Regional coordinators could play an important role in facilitating the dialogue between Member States, notably as regards cross-border investments.*

**Amendment 10**

**Proposal for a directive – amending act**

**Article 1 – point 3**

Directive 2003/54/EC

Article 5a – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***(1b) The regional coordinator shall promote, at a regional level, the cooperation of regulatory authorities and any other competent public authorities, network operators, power exchanges, grid users and market parties. In particular, he or she shall:***

***(a) promote new efficient investment in interconnections. To this end, he or she shall assist transmission system operators in elaborating their regional interconnection plans and contribute to the coordination of their investment decisions and, where appropriate, of their open-season procedure.***

***(b) promote the efficient and safe use of the networks. To this end, he or she shall***

*contribute to the coordination between transmission system operators, national regulatory authorities and other competent national public authorities with the elaboration of common allocation and common safeguard mechanisms.*

*(c) submit an annual report to the Commission and the Member States concerned on the progress achieved in the region and on any difficulties or obstacles that may hinder progress.*

#### *Justification*

*This constitutes an additional way to achieve the goal of a single market. Regional coordinators could play an important role in facilitating the dialogue between Member States, notably as regards cross-border investments.*

#### **Amendment 11**

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

##### **Article 1 – point 3 a (new)**

Directive 2003/54/EC

Article 7a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) The following Article 7a shall be inserted:***

***“Article 7a***

***In order to ensure the independence of transmission system operators, Member States shall ensure that from ... \*, vertically integrated undertakings must comply either with the provisions of Article 8(1)(a) to (d) on ownership unbundling (OU) and Article 10 on independent system operators (ISO) or with Article 10b on effective and efficient unbundling (EEU).***

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***\* One year after the date of transposition.”***

#### **Amendment 12**



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

### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – point b – point i

#### *Text proposed by the Commission*

(i) *to* directly or indirectly exercise control over an undertaking performing any of the functions of generation or supply, and *to* directly or indirectly exercise control ***or hold any interest in*** or exercise any right over a transmission system operator or over a transmission system,

#### *Amendment*

(i) directly or indirectly *to* exercise control over an undertaking performing any of the functions of generation or supply, and directly or indirectly *to* exercise control or exercise any right over a transmission system operator or over a transmission system,

#### *Justification*

*It is understood that is not necessary to prevent minority shares as long as they do not interfere with the activity control. The existence of minority shares does not compromise the operators' independence.*

## **Amendment 13**

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

### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – point b – point ii

#### *Text proposed by the Commission*

(ii) *to* directly or indirectly exercise control over a transmission system operator or over a transmission system, and *to* directly or indirectly exercise control ***or hold any interest in*** or exercise any right over an undertaking performing any of the functions of generation or supply;

#### *Amendment*

(ii) *to* directly or indirectly exercise control over a transmission system operator or over a transmission system, and *to* directly or indirectly exercise control or exercise any right over an undertaking performing any of the functions of generation or supply;

#### *Justification*

*It is understood that is not necessary to prevent minority shares as long as they do not interfere with the activity control. The existence of minority shares does not compromise the operator's independence.*

## **Amendment 14**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The **interests and** rights referred to in paragraphs 1(b) shall include, in particular:

2. The rights referred to in paragraphs 1(b) shall include, in particular:

**(a) the ownership of part of the capital or of the business assets, or**

(b) the power to exercise voting rights, or

(b) the power to exercise voting rights, or

(c) the power to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking, **or**

(c) the power to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking.

**(d) the right to obtain dividends or other shares of the benefits.**

*Justification*

*The operator's independence is not compromised with the ownership of part of the capital, of the business assets or with the right to obtain dividends or other shares of the benefits. In return the power to exercise voting rights or the power to appoint members of the supervisory board, the administrative board or bodies legally representing the undertaking is decisive for the control of the operator.*

**Amendment 15**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. Member States may allow for derogations from paragraphs 1(b) and 1(c) until [date of transposition plus two years], provided that transmission system operators are not part of a vertically integrated undertaking.**

**deleted**

## *Justification*

*While ownership unbundling is a desirable goal in the long run, full OU can cause considerable delays in adopting the new directive as it faces constitutional obstacles in many member states. The amendment would allow avoiding these problems while still achieving a working separation of functions and internal market through banning the control over the transmission network system to any undertakings performing functions of generation or supply.*

### **Amendment 16**

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

##### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 5

#### *Text proposed by the Commission*

***5. The obligation set out in paragraph 1(a) is deemed to be fulfilled in a situation where several undertakings which own transmission systems have created a joint venture which acts as a transmission system operator in several Member States for the transmission systems concerned. No other undertaking may be part of the joint venture, unless it has been approved under Article 10 as an independent system operator.***

#### *Amendment*

***5. With respect to the goal of achieving regional cooperation as laid down in Article 5a, Member States shall favour and support any collaboration or cooperation between transmission system operators and regulators aiming to harmonise the access and balancing rules (favouring the integration of balancing zones) within and across several neighbouring Member States, in accordance with Article 2h(3) of Regulation (EC) No 1228/2003. Such cooperation may take the form of a common structure between transmission system operators concerned to cover several neighbouring territories. In such a case, Member States shall ensure that the common structure of the transmission system operators concerned complies with Articles 8 and 10a.***

## *Justification*

*The challenge of building larger and more liquid markets necessitates strong guidance. Whereas voluntary cooperation of system operators at regional level may in some case give results, we consider however that a more robust framework on regional system operation is therefore needed.*

*The possibility to set up ultimately a regional/European system operator should be given by*

*the Directive. It is also essential to ensure inter-regional cooperation to enable a truly pan-European market to emerge.*

## **Amendment 17**

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

#### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***5a. Where the shareholder of an undertaking referred to in 1(a) is a Member State, the obligations set out in paragraph 1(b) and (c) shall be deemed to be fulfilled provided that the undertaking performing any of the functions of generation or supply and the transmission system operator or transmission system are legally separate state entities and comply with paragraph 1(b) and (c).***

*Justification*

*The networks separation does not imply the privatization of the activities. The public sector should be given the same opportunity to assure the generation or supply and the transmission as long as the separation of the two networks is assured.*

## **Amendment 18**

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

#### **Article 1 – point 5**

Directive 2003/54/EC

Article 8a – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. An agreement concluded with one or several third countries to which the Community is a party may allow for a derogation from paragraph 1.

2. An agreement concluded with one or several third countries to which the Community is a party may allow for a derogation from paragraph 1 ***in accordance with the provisions of the Treaty.***

### *Justification*

*Since they relate to the Community's economic policy and internal security, these agreements need to be communicated to and approved by the Union's legislative bodies, pursuant to the provisions of the Treaty.*

#### **Amendment 19**

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

##### **Article 1 – point 5**

Directive 2003/54/EC

Article 8b – paragraph 13

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

13. The Commission **shall adopt** guidelines setting out the details of the procedure to be followed for the application of paragraphs 6 to 9. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

##### *Amendment*

13. The Commission **may amend** guidelines setting out the details of the procedure to be followed for the application of paragraphs 6 to 9. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

### *Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

#### **Amendment 20**

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

##### **Article 1 – point 6 a**

Directive 2003/54/EC

Article 9 – paragraph 1 – point f a (new)

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

##### *Amendment*

**(6a) In Article 9(1), the following point shall be added:**

**"(fa) ensuring that the benefit to the region in which it is operating is duly taken into account. Without prejudging shareholders' rights as regards investment profitability and equity needs, operational**

*and investment decisions taken by a transmission system operator shall be consistent with the Community-wide and regional investment plans pursuant to Articles 2c and 2d of Regulation (EC) No 1228/2003 and shall facilitate market development, market integration and optimise socio-economic welfare gains at least at regional level."*

*Justification*

*Article 9(1)(f a) (new) to ensure that transmission system operators always consider as first priority the needs of the region they operate in. In particular, they should ensure that the socio-economic welfare is improved inside their region and even beyond (across regions).*

**Amendment 21**

**Proposal for a directive – amending act**

**Article 1 – point 6 b (new)**

Directive 2003/54/EC

Article 9 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(6b) In Article 9, the following paragraph shall be added:***

***“1a. Each transmission system operator shall elaborate a ten-year network development plan at least every two years. It shall provide efficient measures in order to guarantee system adequacy and security of supply. That development plan shall, in particular:***

***(a) indicate to market participants the main transmission infrastructures to be built over the next ten years.***

***(b) include all the investments already decided upon and identify new investments for which an implementation decision has to be taken during the following three years.***

***In order to elaborate its ten-year network development plan, each transmission***

*system operator shall make reasonable estimates about the evolution of generation, consumption and exchanges with other countries, taking into account regional and European-wide existing network investment plans. A transmission system operator shall submit its estimates to the national regulatory authority within a reasonable time period.*

*The national regulatory authority shall consult all relevant network users on the basis of a draft ten-year network development plan in an open and transparent manner and may publish the result of the consultation process, in particular as regards possible investment needs.*

*The national regulatory authority shall examine whether the ten-year network development plan covers all investment needs identified in the consultation and may require that the transmission system operator amend its plan.*

*If a transmission system operator refuses to implement a specific investment that is listed in the ten-year network development plan for execution during the following three years, Member States shall ensure that the regulatory authority has the competence to:*

*(a) request the transmission system operator to execute its investment obligations using its financial capacities;  
or*

*(b) invite independent investors to tender for a necessary investment in a transmission system, possibly requiring the transmission system operator to agree to:*

*- third-party financing;*

*- a third party building a new asset;*

*- a third party operating a new asset;  
and/or*

***- a capital increase to finance the necessary investments and allow independent investors to participate in the capital.***

***The relevant financial arrangements shall be subject to the approval of the regulatory authority.***

***Whether the transmission system operator or a third party makes a specific investment, tariff regulation shall allow for revenue that covers the costs of such investment.***

***The national regulatory authority shall monitor and evaluate the implementation of the investment plan.***

***Transmission system operators shall be required to establish and publish transparent and efficient procedures for non-discriminatory connection new power plants to the grid. Those procedures shall be subject to the approval of national regulatory authorities.***

***Transmission system operators shall not be entitled to refuse the connection of new power plants on the grounds of possible future limitations to available network capacities, such as congestion in distant parts of the transmission grid.***

***Transmission system operators shall be required to supply necessary information.***

***Transmission system operators shall not be entitled to refuse a new connection point on the sole ground that it will lead to additional costs linked with necessary capacity increase of grid elements in the close-up range to the connection point.”***

#### *Justification*

*Even though the Effective and Efficient Legal Unbundling option already contains several strict provisions for those TSOs, a big part of these provisions need to be valid for ownership unbundled TSOs and TSOs under the ISO-option as well. Anti-discriminatory access of new power plants and necessary investments in the grid always need to be guaranteed, regardless of who is the owner of the grid.*



## **Amendment 22**

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

#### **Article 1 – point 8**

Directive 2003/54/EC

Article 10a – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. The Commission may adopt guidelines to ensure full and effective compliance of the transmission system owner with paragraph 2 of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).”**

**deleted**

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

## **Amendment 23**

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

#### **Article 1 – point 8**

Directive 2003/54/EC

Article 10 b (new)

*Text proposed by the Commission*

*Amendment*

#### **Article 10b**

***Effective und efficient corporate unbundling of transmission systems***

***Assets, plant, staff, and identity***

***1. Transmission system operators shall be equipped with all the human, material, and financial resources of the vertically integrated company necessary in order to carry on the proper business of electricity transmission. The following in particular shall be ensured:***

***(a) All assets necessary for the proper business of electricity transmission shall be owned by the transmission system operator;***

***(b) All staff necessary for the proper business of electricity transmission shall be employed directly by the transmission system operator;***

***(c) Sufficient funds for future investment projects shall remain available as provided for in the annual financial planning.***

***The fields of activity covered by points (a) to (c) shall encompass at least:***

***(i) representation of transmission system operators and contacts with third parties and regulatory authorities;***

***(ii) guaranteeing and regulating third-party access, in particular for new market entrants from the renewable energy sector;***

***(iii) collection of access charges, revenue from congestion management, and payments under the inter-transmission system operator compensation mechanism in accordance with Article 3 of Regulation (EC) No 1228/2003;***

***(iv) operation, maintenance, and development of the transmission grid;***

***(v) investment planning to guarantee the long-term ability of the grid to meet commensurate demand and ensure security of supply;***

***(vi) legal advice and representation;***

***(vii) accounting and IT services.***

***2. The transmission system operator may not carry on any businesses or activities other than transmission likely to be incompatible with its tasks, including ownership of shares or interests in a company belonging to, or a part of, the vertically integrated company or in any other electricity or gas undertaking.***

*Exceptions to the above shall require the prior consent of the national regulatory authority and shall be confined to ownership of shares and interests in other network companies.*

*3. The transmission system operator shall have its own corporate identity, which shall be clearly distinct from the vertically integrated company, with separate branding, communication, and business premises.*

*4. The transmission system operator may not supply the vertically integrated company with any sensitive information or information constituting a competitive advantage unless it has shared that information with all market participants, on an equal footing and without discrimination. The types of information covered by this provision shall be determined by the transmission system operator together with the national regulatory authority.*

*5. The account books of transmission system operators shall be inspected by an auditor other than the one who inspects the vertically integrated company and all of its affiliated companies.*

*Independence of the management, the chief executive, or the board of executive directors of the transmission system operator*

*6. Decisions concerning the appointment or any early termination of the employment of the chief executive or of members of the board of executive directors of the transmission system operator and the contractual agreements to that effect for the purposes of employment or termination thereof shall be notified to the national regulatory authority. Such decisions and agreements shall not be binding unless the regulatory body has refrained from exercising its right to object in the three weeks following the notification. The regulatory*

*authority may object to appointments and contractual agreements to that effect if serious doubts arise as to the professional independence of the chief executive appointed, or of the member of the board of executive directors, or, where employment and the contractual agreements to that effect have been terminated before the scheduled date, there are serious doubts about the justification for that measure.*

*7. The chief executive, and members of the board of executive directors, of the transmission system operator shall be allowed an effective right to appeal to the regulatory authority or a court if their employment has been terminated before the scheduled date.*

*8. The regulatory authority must rule on any appeal within six months. That time limit may not be exceeded without factual justification.*

*9. For no less than three years after they have ceased to be employed with the transmission system operator, the chief executive concerned, or the members of the board of executive directors, may not work in any establishment of the vertically integrated company performing the functions of generation or supply.*

*10. The chief executive and members of the board of executive directors shall not hold any shares in, or receive any form of payment from, any undertaking belonging to the vertically integrated company apart from the transmission system operator. No portion of the salary paid to the chief executive or members of the board of executive directors shall depend on fields of activity in which the vertically integrated company operates, apart from those of the transmission system operator.*

*11. The chief executive or members of the board of executive directors shall not be empowered to assume direct or indirect responsibility in the routine operations of*

*any other establishment of the vertically integrated company.*

*12. Notwithstanding the above provisions, the transmission system operator, independent from the integrated electricity undertaking, shall have full decision-making powers regarding the assets necessary for the operation, maintenance, and development of the grid. The foregoing shall apply without prejudice to appropriate coordination procedures enabling the parent company to lay down general limits on the amount of debt that its subsidiary may incur. The parent company may not give any instructions exceeding the scope of the approved budget or any equivalent arrangement as regards routine operations or individual decisions to construct or modernise transmission lines.*

*Supervisory board/Administrative board*

*13. A Chairperson of the transmission system operator's supervisory board or board of directors shall not participate in any branch of the vertically integrated undertaking performing functions of generation or supply*

*14. The transmission system operator's supervisory board or board of directors shall include independent members, appointed for a term of at least five years. Their appointment shall be notified to the regulatory authority or any other competent national public authority and shall become binding subject to the conditions set out in paragraph 6.*

*15. For the purposes of paragraph 14, a member of the supervisory board/administrative board shall be deemed to be independent if he or she does not stand in any business or other relationship to the vertically integrated company or its majority shareholders or the board of executive directors of the vertically integrated company or its majority shareholders of a nature likely to*

*influence his or her power of judgement. The following conditions in particular must be satisfied:*

*(a) within the five years preceding his/her appointment to the supervisory board/administrative board he or she must not have been employed in an establishment of the vertically integrated company performing the functions of generation and supply;;*

*(b) he or she must not hold any shares in or receive any form of payment from the vertically integrated company or any of its affiliates apart from the transmission system operator;*

*(c) while serving on the supervisory board /administrative board, he or she must not stand in any relevant business relationship to any establishment of the vertically integrated company performing energy supply functions;*

*(d) he or she must not serve on the board of executive directors of an undertaking in which the vertically integrated company appoints members of the supervisory board/administrative board.*

*Compliance (unbundling) officer*

*16. Member States shall ensure that transmission system operators draw up a compliance programme laying down measures serving to rule out discriminatory conduct. The programme shall set out the specific obligations of employees to attain that objective. It shall be subject to approval of the regulatory authority. Compliance with the programme shall be independently monitored by the compliance officer. The regulatory authority shall have the power to impose sanctions if the compliance programme is not properly implemented.*

*17. The chief executive or board of executive directors of the transmission system operator shall appoint a person or body to be a compliance officer*

*responsible for:*

*(a) monitoring implementation of the compliance programme;*

*(b) drawing up a detailed annual report, the criteria for which shall be laid down by the regulatory authority in agreement with the European Agency for the Cooperation of Energy Regulators; laying down the measures to implement the compliance programme and submitting the report to the regulatory authority;*

*(c) issuing recommendations on the compliance programme and its implementation.*

*18. The independence of the compliance officer shall be guaranteed in particular by the terms of his or her employment contract.*

*19. The compliance officer shall have the opportunity to regularly approach the supervisory boards/administrative boards of the transmission system operator and the vertically integrated company, and the regulatory authorities.*

*20. The compliance officer shall attend all meetings of the supervisory board/administrative board of the transmission system operator given over to the following areas:*

*(a) grid access and connection conditions, including collection of access charges, revenue from congestion management, and payments under the inter-transmission system operator compensation mechanism in compliance with Article 3 of Regulation (EC) No 1228/2003;*

*(b) projects undertaken in order to operate, maintain, and develop the transmission system, including investment in interconnection infrastructure and connections;*

*(c) balancing rules, including reserve*

*power rules;*

*(d) energy purchases to cover energy losses.*

*21. At those meetings, the compliance officer shall prevent information about generator or supplier activities that might prove economically advantageous from being disclosed in a discriminatory manner to the supervisory board/administrative board.*

*22. The compliance officer shall be given access to all relevant books, records, and offices of the transmission system operator, as well as to all the information required for the proper performance of his or her duties.*

*23. The compliance officer shall be appointed or dismissed by the chief executive/ board of executive directors only after prior approval by the regulatory authority.*

*24. The compliance officer may not have any form of business dealings with the vertically integrated company for at least five years after the termination of his or her appointment.*

*25. Transmission system operators shall draw up a ten-year network development plan at least every two years. They shall provide for efficient measures in order to guarantee that the grid will be adequate and ensure security of supply.*

*26. The ten-year network development plan shall, in particular:*

*(a) draw the attention of market participants to the main transmission infrastructure to be built in the next ten years;*

*(b) cover all investment already decided upon and identify new investment for which an implementation decision has to be taken in the next three years.*

*27. In order to draw up that ten-year*



*network development plan, each transmission system operator shall make reasonable assumptions as to the trend in generation, consumption, and exchanges with other countries, and shall take into account regional and Europe-wide investment plans for the existing network. The transmission system operator shall submit the draft in due time to the national regulatory authority.*

*28. The regulatory authority shall consult all relevant network users on the basis of a draft text of the ten-year network development plan in an open and transparent manner and may publish the outcome of the consultation procedure, in particular the possible investment needs.*

*29. The regulatory authority shall examine whether the ten-year network development plan fully covers the investment needs identified in the consultations. The authority may oblige the transmission system operator to alter its plan.*

*30. If the transmission system operator refuses to implement a specific investment listed in the ten-year network development plan to be undertaken in the next three years, the Member State concerned shall ensure that the regulatory authority has the necessary powers to implement one of the following measures:*

*(a) oblige the transmission system operator, by all legal means, to fulfil its investment obligations using its own financial resources,*

*(b) invite independent investors to tender for the necessary investment in a transmission system and, in so doing, oblige the transmission system operator*

*- to agree to financing by any third party;*

*- to agree to construction works by any third party or build the necessary new assets;*

*- to agree to operate the new assets.*

*The relevant financial arrangements shall be subject to the approval of the regulatory authority. In both cases, tariff regulation shall be such as to enable revenue to cover the investment costs.*

*31. The regulatory authority shall monitor and assess the implementation of the investment plan.*

*32. Transmission system operators shall be obliged to devise and publish transparent and efficient procedures for non-discriminatory connection of new power plants to the grid. Those procedures shall be subject to the approval of national regulatory authorities.*

*33. Transmission system operators shall not be entitled to refuse the connection of a new power plant on account of possible future limitations to available network capacities, e.g. congestion in remote parts of the transmission grid. The transmission system operator shall be obliged to supply the necessary information.*

*34. Transmission system operators shall not be entitled to refuse a new connection point solely on the grounds that the new connection would entail additional costs because of the need to increase the capacity of grid elements within close range of the new connection point.*

*Regional cooperation*

*35. If Member States opt to pursue regional cooperation, they must impose specific obligations on the transmission system operator, to be reflected in a clearly defined time-frame. Those obligations must, in addition, serve gradually to establish a common regional dispatching centre, which shall assume responsibility for security matters no later than...<sup>+</sup>.*

*36. Where several Member States*

*cooperate at regional level, they shall designate a regional coordinator in agreement with the Commission.*

*37. The regional coordinator shall promote cooperation at regional level among regulatory authorities and any other appropriate authorities, network operators, power exchanges, network users, and market participants. In particular he shall: be called upon to*

*(a) promote efficient new investment in interconnection infrastructure. To that end, he or she shall help transmission system operators to draw up their regional interconnection infrastructure plans and assist in the coordination of their investment decisions and, where applicable, their open-season procedure;*

*(b) encourage efficient and safe use of the grid. To that end, he or she shall help transmission system operators, national regulatory authorities, and other national authorities concerned to coordinate their activities by devising joint allocation procedures and safeguards;*

*(c) report every year to the Commission and the Member States concerned on the progress achieved in the region and on such difficulties or obstacles as might impede progress.*

#### *Sanctions*

*38. To enable them to fulfil the obligations imposed on it by this Article, the national regulatory authority shall be accorded the following rights:*

*(a) the right to demand any information from the transmission system operator and to approach all of the operator's staff directly; in case of doubt this right shall likewise be enforceable in relation to the vertically integrated company and its establishments;*

*(ii) the right to conduct all necessary investigations concerning the*

*transmission system operator and, in case of doubt, the vertically integrated company and its establishments; the provisions applicable shall be those set out in Article 20 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty\*.*

*39. To enable it to fulfil its obligations within the meaning of this Article, the national regulatory authority shall be given the right to impose effective, appropriate, and dissuasive sanctions on a transmission system operator and/or a vertically integrated company should they fail to comply with their obligations under this Article or with decisions of the national regulatory authority. This right shall comprise:*

*(i) the right to impose effective, appropriate, and dissuasive fines, the amount of which shall be determined according to the turnover of the transmission system operator;*

*(ii) the right to issue orders to refrain from discriminatory conduct.*

*+ OJ : Six years after the entry into force of this Directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity.*

*\* OJ L 1, 4.1.2003, p. 1. Regulation as last amended by Regulation (EC) No 1419/2006 (OJ L 269, 28.9.2006, p. 1).*

#### *Justification*

*Member States must be allowed a third practicable option which, without encroaching massively on their ownership structures, would enable vertically integrated companies, assuming that they satisfied stringent conditions and requirements, to continue operating their networks within their integrated set-up.*

#### **Amendment 24**

**Proposal for a directive – amending act**

**Article 1 – point 9 a (new)**

Directive 2003/54/EC

Article 14 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***(9a) Article 14(4) shall be replaced by the following:***

**“4. A Member State shall require the distribution system operator, when dispatching generating installations, to give priority to generating installations using renewable energy sources or waste or producing combined heat and power.”**

*Justification*

*In order to achieve the target that 20% of the EU’s energy should come from renewable energy sources by 2020, priority access to the grids for renewable energy must be guaranteed.*

**Amendment 25**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2003/54/EC

Article 15 – paragraph 3

*Text proposed by the Commission*

*Amendment*

“3. Where the distribution system operator is part of a vertically integrated undertaking, Member States shall ensure that the activities of the distribution system operator *is* monitored so that it cannot take advantage of its vertical integration to distort competition. In particular, vertically integrated distribution system operators shall not, in their communication **and branding**, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking.

“3. Where the distribution system operator is part of a vertically integrated undertaking, Member States shall ensure that the activities of the distribution system operator *are* monitored so that it cannot take advantage of its vertical integration to distort competition. In particular, vertically integrated distribution system operators shall not, in their communication, create confusion in respect of the separate identity of the supply branch of the vertically integrated undertaking

*Justification*

*Simplification.*

**Amendment 26**

**Proposal for a directive – amending act**

**Article 1 – point 10**

Directive 2003/54/EC

Article 15 – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).”** *deleted*

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

**Amendment 27**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22a – paragraph 3 – point b

*Text proposed by the Commission*

*Amendment*

(b) its management is appointed for a **non renewable fixed** term of at least five years, and may only be relieved from office during its term if it no longer fulfills the conditions

(b) its management is appointed for a term of at least five years, **renewable only once (or up to ten years, non-renewable)** and may only be relieved from office during its

set out in this Article or it has been guilty of serious misconduct.

term if it no longer fulfills the conditions set out in this Article or it has been guilty of serious misconduct.

*Justification*

*A 5-year term of office of the national regulator should be renewable once, given the long-term nature and need for stability in the energy market; longer appointments should be non-renewable.*

**Amendment 28**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point g

*Text proposed by the Commission*

(g) monitoring network security and reliability, and reviewing network security and reliability rules;

*Amendment*

(g) monitoring network security and reliability, ***setting or approving standards and requirements for quality of service and supply*** and reviewing ***performances for quality of service and supply***, network security and reliability rules;

*Justification*

*Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers, who will then have a real benefit from more consistent and transparent regulation.*

**Amendment 29**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 1 – point m

*Text proposed by the Commission*

(m) ensuring access to customer consumption data, the application of a harmonised format for consumption data and the access to data under paragraph (h) of Annex A;

*Amendment*

(m) ensuring ***that all market participants have efficient*** access on ***equal terms*** to customer consumption data, the application of a harmonised format for consumption data and the access to data under paragraph (h) of Annex A;

*Justification*

*The wording needs to be more precise so as to enable the natural gas market to be opened up to all market players.*

**Amendment 30**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 3 – point b

*Text proposed by the Commission*

(b) to carry out in cooperation with the national competition authority investigations of the functioning of electricity markets, and to decide, in the absence of *violations* of competition rules, *of any appropriate measures necessary and proportionate* to promote effective competition and ensure the proper functioning of the market, including virtual power plants;

*Amendment*

(b) to carry out in cooperation with the national competition authority investigations of the functioning of electricity markets, and, ***taking into account the authorities' respective powers and responsibilities***, to decide, in the absence of *any violation* of competition rules, *on any necessary and appropriate proportionate* measures to promote effective competition and ensure the proper functioning of the market, including virtual power plants;

*Justification*

*It is necessary to allow for the differences between the powers and responsibilities of energy and competition authorities.*

**Amendment 31**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 3 – point c

*Text proposed by the Commission*

(c) to request any information from electricity undertakings relevant for the fulfilment of its tasks;

*Amendment*

(c) to request any ***reasonable*** information from electricity undertakings relevant for the fulfilment of its tasks;



### *Justification*

*The tasks and responsibilities of national regulators should not be confused with those of other relevant authorities and due attention should be paid to parties that may be affected by regulatory decisions. In this respect, far-reaching structural measures such as virtual power plants should only be considered in the context of EC competition law and should be applied with the necessary checks and balances put in place.*

### **Amendment 32**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 3 – point d

#### *Text proposed by the Commission*

(d) to impose ***effective, appropriate and dissuasive*** sanctions to electricity undertakings not complying with their obligations under this Directive or any decisions of the regulatory authority or of the Agency;

#### *Amendment*

(d) to impose, ***where necessary, impartial, proportionate and consistent*** sanctions to electricity undertakings not complying with their obligations under this Directive or any ***binding*** decisions of the regulatory authority or of the Agency;

### *Justification*

*The tasks and responsibilities of national regulators should not be confused with those of other relevant authorities and due attention should be paid to parties that may be affected by regulatory decisions. In this respect, far-reaching structural measures such as virtual power plants should only be considered in the context of EC competition law and should be applied with the necessary checks and balances put in place.*

### **Amendment 33**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 4 – point a

#### *Text proposed by the Commission*

(a) connection and access to national networks, including transmission and distribution tariffs. These tariffs shall allow the necessary investments in the networks to be carried out in a manner allowing these investments to ensure the viability of

#### *Amendment*

(a) connection and access to national networks, including transmission and distribution tariffs, ***or preliminary tariffs in case the methodology to fix the tariff is assessed during a regulatory period before fixing the final tariff. The regulatory***

the networks.

***period shall not exceed five years.*** These tariffs shall allow the necessary investments in the networks to be carried out in a manner allowing these investments to ensure the viability of the networks.

#### *Justification*

*The regulatory authorities can also fix the methodology for the tariffs. This can however only be accepted if this is a preliminary step, of maximum five years, before deciding on the tariffs themselves.*

### **Amendment 34**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 13

*Text proposed by the Commission*

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved.

*Amendment*

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a ***national judicial body or other national independent authority***, independent of the parties involved ***and of any government.***

#### *Justification*

*Independence and integrity of NRA decisions should be undertaken by an independent and neutral body, such as the Courts, which is not subject to private or political influence in line also with Article 22a par 2 which sets out the independence of regulatory authorities from any other public or private entity, market interests or governments. Having appeals go through the Courts helps to establish the independence of regulatory decisions from political interference. This is also necessary given that in some countries local municipalities are involved in these decisions.*

### **Amendment 35**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22c – paragraph 14

*Text proposed by the Commission*

14. The Commission may **adopt** guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

*Amendment*

14. The Commission may **amend** guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

**Amendment 36**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22d – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Regulatory authorities shall have the right to enter into agreements with other EU regulatory authorities in order to foster regulatory cooperation.**

*Justification*

*Regulatory authorities need to be empowered under their national legislation to establish agreements with other EU regulatory authorities in order to foster greater regulatory cooperation and consistency.*

**Amendment 37**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22d – paragraph 4

*Text proposed by the Commission*

4. The Commission may **adopt** guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

*Amendment*

4. The Commission may **amend** guidelines on the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, and on the situations in which the Agency becomes competent to decide upon the regulatory regime for infrastructures connecting at least two Member States. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

**Amendment 38**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22e – paragraph 2

*Text proposed by the Commission*

2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within **four months**.

*Amendment*

2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within **two months**.

*Justification*

*Shortens the time limit.*

**Amendment 39**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22e – paragraph 9

*Text proposed by the Commission*

*Amendment*

**9. The Commission shall adopt guidelines setting out the details of the procedure to be followed for the application of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).**

**deleted**

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

**Amendment 40**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22f – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. To ensure the uniform application of this Article, the Commission may **adopt** guidelines which **define** the methods and arrangements for record keeping as well as the form and content of the data that **shall** be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

4. To ensure the uniform application of this Article, the Commission may **amend the** guidelines which **have defined** the methods and arrangements for record keeping as well as the form and content of the data that **should** be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

*Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the*

*Commission solely for the purposes of any necessary adjustments.*

#### **Amendment 41**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22f – paragraph 5

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

5. With respect to transactions in electricity derivatives of supply undertakings with wholesale customers and transmission system operators, this Article shall only apply once ***the Commission has adopted*** the guidelines referred to in paragraph 4. .

##### *Amendment*

5. With respect to transactions in electricity derivatives of supply undertakings with wholesale customers and transmission system operators, this Article shall only apply once the guidelines referred to in paragraph 4 ***have been adopted***.

##### *Justification*

*The above proposal is intended to ensure that the guidelines have to be adopted under the normal procedure by Parliament and the Council. Powers should be conferred on the Commission solely for the purposes of any necessary adjustments.*

#### **Amendment 42**

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

##### **Article 2 – paragraph 2 a (new)**

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

##### *Amendment*

***2a. The Commission shall report annually to the European Parliament and the Council on the progress of the practical and formal transposition of this Directive in the individual Member States.***

## PROCEDURE

<b>Title</b>	Internal market in electricity		
<b>References</b>	COM(2007)0528 – C6-0316/2007 – 2007/0195(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	Ján Hudacký 23.10.2007		
<b>Discussed in committee</b>	29.1.2008	26.2.2008	1.4.2008
<b>Date adopted</b>	21.4.2008		
<b>Result of final vote</b>	+: 18	–: 4	0: 10
<b>Members present for the final vote</b>	Gabriele Albertini, Mariela Velichkova Baeva, Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Manuel António dos Santos, Christian Ehler, Jonathan Evans, Elisa Ferreira, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Robert Goebbels, Donata Gottardi, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Othmar Karas, Piia-Noora Kauppi, Christoph Konrad, Guntars Krasts, John Purvis, Bernhard Rapkay, Antolín Sánchez Presedo, Olle Schmidt, Margarita Starkevičiūtė, Ivo Strejček, Ieke van den Burg, Cornelis Visser, Sahra Wagenknecht		
<b>Substitute(s) present for the final vote</b>	Daniel Dăianu, Harald Ettl, Ján Hudacký, Alain Lipietz, Bilyana Ilieva Raeva, Gilles Savary, Donato Tommaso Veraldi		

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 directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity (COM(2007)0528 – C6-0316/2007 – 2007/0195(COD))

Draftsman: Alexander Lambsdorff

### **SHORT JUSTIFICATION**

This proposal amends Directive 2003/54/EC and concerns Common rules for the internal market in electricity. It forms one of the five proposals in the EU Electricity & Gas markets third legislative package, which the Commission proposed in September 2007. Your Draftsman welcomes the five proposals in the package with strong support overall since the package is very important in obtaining a true European internal market in the field of electricity and therefore energy. The aim of the package is to ensure security of supply and to keep the prices low and transparent for all European consumers, in other words to support and further develop the ongoing liberalisation process in Europe, which your Draftsman also strongly supports. Although your Draftsman welcomes the proposal on common rules for the internal market in electricity, he is of the opinion that there is scope for improvement. Especially, the issue of ownership unbundling (OU) deserves consideration.

The proposals suggest measures to guarantee actual unbundling of networks (transmission systems or transmission system operators) from supply and production, in order to secure further liberalisation of the internal markets for electricity and natural gas and thereby benefit consumers. Your Draftsman accepts OU as an option of last resort to attain full liberalisation. However, given that the current data on employing OU as a means to accomplish full liberalisation of the internal energy market appears insufficient, other viable alternatives, that stand the chance of attaining the same goals, ought to be carefully considered and assessed. In this context, parts of the proposal of eight Member States on "effective and efficient unbundling" (EEU) are proposed in this opinion. Your Draftsman suggests that initially MSs



shall have the choice between OU and EEU. If, however, a MS opts for EEU and three years after the date of transposition, it materializes that EEU is insufficient to achieve a full liberalisation, OU shall become mandatory for the MSs concerned. The Community shall be alerted to such insufficiency by the Commission and a decision concerning the imposition of OU shall be decided in a legislative proceeding in which the Parliament is fully involved. The option of Independent System Operators (ISO), in the form it is proposed by the Commission, is not a feasible option, since it implies excessive regulatory cost.

The "reciprocity" clause in Article 8a of the proposal ensures that companies outside the EU cannot acquire significant stakes in EU transmission networks or their operators to avoid excessive dependency on these companies. Derogations are only possible, if the Community decides to conclude an agreement with a party from a third country. Your Draftsman believes that, for the sake of a coherent European energy policy, decisions over agreements with third countries should be dealt with at the Community level. He thus agrees with the Commission proposal.

Your Draftsman questions whether, although the Commission refers to the principle of non-discrimination between the public and the private sector (Recital 12), sufficient attention has been paid to ensure that public companies are subject to the same unbundling obligations as private companies, given that state authorities cannot be forced to privatise their companies. This raises the question of whether private competitors might be put at a disadvantage.

Your Draftsman is convinced that the protection of consumers requires strengthened measures and therefore suggests amendments which are improvements on these consumer protection issues. With regard to the duties and power of national regulatory authorities, the proposal sets out further measures regarding consumer protection. Your Draftsman seeks to strengthen and clarify the role of the authorities in order to attain improvements on these consumer protection issues.

The proposal is mainly concerned with the liberalisation of the wholesale market of electricity. However, your Draftsman also seeks to highlight the importance of ensuring the adequacy of energy generation to meet the rising demand. Furthermore, as recognized by the Commission, a fully functioning European retail market has not yet been achieved. Therefore, further concrete proposals are necessary to reach a true internal market.

## **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 directive – amending act  
Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) All consumers should have the right to service delivery and complaint handling by their electricity service provider in line with international standards ISO 10001, ISO 10002 and ISO 10003, and compliance with the guidelines established should be monitored by the national regulator. Further ISO standards developed in this field should also be added to the required standards. This Directive should adopt standards and practice from the proposal for a directive on certain aspects of mediation in civil and commercial matters (2004/0251(COD)).***

*Justification*

*ISO 10001 provides for customer satisfaction through establishing guidelines for codes of conduct. ISO 10002 provides guidelines for complaints handling. ISO 10003 provides guidelines for dispute resolution external to organisations. The development of a new ISO standard, to be designated ISO 10004, on monitoring and measuring customer satisfaction is currently underway, and this should be added to the required standards when completed, by means of the regulatory procedure with scrutiny.*

**Amendment 2**

**Proposal for a directive – amending act  
Recital 20 b (new)**

*Text proposed by the Commission*

*Amendment*

***(20b) Clear and comprehensible information should be made available to consumers concerning their rights in relation to the energy sector. In this context, the Commission should, after adoption of this Directive, establish a European Charter on the Rights of Energy Consumers. It should be possible to send a copy of the Charter to all consumers subscribing to new contracts.***

### *Justification*

*The European Charter on the Rights of Energy Consumers, which is currently being drawn up, must occupy a prominent position among European consumer protection mechanisms. It is therefore essential for the Commission to complete work on the Charter without delay and for a copy of the Charter to be sent to consumers, on a mandatory basis providing them with essential information regarding their rights on taking out any new contracts.*

### **Amendment 3**

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

#### **Recital 21**

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

(21) The public service requirements and the common minimum standards that follow from them need to be further strengthened to make sure that all consumers can benefit from competition. A key aspect in supplying customers is access to consumption data, and consumers must have access to their data so that they can invite competitors to make an offer based on these data. Consumers also should have the right to be properly informed about their energy consumption. **Regularly provided information** on energy costs will create incentives for energy savings because it will give customers direct feedback on the effects of investment in energy efficiency **and change of behaviour**.

##### *Amendment*

(21) The **universal and** public service requirements and the common minimum standards that follow from them need to be further strengthened to make sure that all consumers can benefit from competition **and fairer prices**. A key aspect in supplying customers is access to **objective and transparent** consumption data, and consumers must have access to their **consumption** data, **associated prices and service costs** so that they can invite competitors to make an offer based on these data. Consumers also should have the right to be properly informed about their energy consumption **and prepayments should be adequate and reflect actual consumption of electricity**. **Information on energy costs provided to consumers at least on a quarterly basis** will create incentives for energy savings because it will give customers direct feedback on the effects of investment in energy efficiency.

### *Justification*

*In pursuit of the objective of free and transparent competition, access to a range of data enables consumers to make an educated choice over their supplier of electricity. Furthermore, consumers should only be charged for the amount of energy they actually use every month.*

### **Amendment 4**

**Proposal for a directive – amending act  
Recital 21 a (new)**

*Text proposed by the Commission*

*Amendment*

***(21a) The Commission should establish, in consultation with the European Parliament and the Council, a European Charter on the Rights of Energy Consumers. This Charter should provide a reference for measures to be established by Member States, national regulators, the Agency and the Commission. In particular, rights established by the Charter should, where applicable, be adopted by the Commission as supplementary requirements under Annex A to Directive 2003/54/EC by means of the regulatory procedure with scrutiny.***

*Justification*

*Once established, the Charter on the Rights of Energy users should be regarded as a comprehensive list of consumer's rights in the energy sector, and so employed by all national and European authorities when regulating energy service providers. In particular all rights, where applicable, established by the Charter that are additional to those already in Annex A of this Directive, should be added to the Directive and given full legal force.*

**Amendment 5**

**Proposal for a directive – amending act  
Recital 21 b (new)**

*Text proposed by the Commission*

*Amendment*

***(21b) Consumers should be at the centre of this Directive. Existing consumer rights need to be underpinned and guaranteed and should include greater transparency and representation of consumer interests. Consumer protection means that all customers should benefit from a competitive market. Consumer rights should be enforced by national regulatory authorities by the creation of incentives and the imposition of sanctions on companies failing to comply with***

*consumer protection and competition rules.*

## **Amendment 6**

### **Proposal for a directive – amending act Recital 21 c (new)**

*Text proposed by the Commission*

*Amendment*

***(21c) Greater consumer protection is guaranteed by the availability of effective channels of redress for all. Member States should introduce rapid and effective arbitration procedures.***

*Justification*

*Effective channels of redress are essential to ensure proper consumer protection. These measures, which should be of a legally binding nature, must also be included among the constituent elements of the future Charter on the Rights of Energy Consumers currently being drawn up, which should ideally be presented by the Commission no later than six months after adoption of this Directive.*

## **Amendment 7**

### **Proposal for a directive – amending act Recital 21 d (new)**

*Text proposed by the Commission*

*Amendment*

***(21d) Member States should ensure the proper provision of individual meters (smart metering), as provided for by Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services<sup>1</sup>, in order to give consumers accurate information about energy consumption and to secure end-user efficiency.***

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<sup>1</sup> OJ L 114, 27.4.2006, p. 64.

### *Justification*

*Smart meters give consumers a better insight into their actual electricity consumption and therefore contribute to a more considered use of electricity.*

### **Amendment 8**

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

#### **Recital 27**

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

(27) In particular *power should be conferred on* the Commission to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of Directive 2003/54/EC. Since those measures are of general scope and are designed to supplement Directive 2003/54/EC by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

##### *Amendment*

(27) In particular, *the Commission should be empowered* to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of Directive 2003/54/EC, ***including through the supplementing of measures in Annex A with guidelines adopted, as applicable, from the European Charter on the Rights of Energy Users.*** Since those measures are of general scope and are designed to supplement Directive 2003/54/EC by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

### *Justification*

*Once established, the Charter on the Rights of Energy users should be regarded as a comprehensive list of consumer's rights in the energy sector. In particular all rights, where applicable, established by the Charter that are additional to those already in Annex A of this Directive, should be added to the Directive and given full legal force.*

### **Amendment 9**

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

#### **Article 1 – point -1 (new)**

Directive 2003/54/EC

Article 1

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

##### *Amendment*

***(-1) Article 1 shall be replaced by the following:***

## "Article 1

### Scope

**This Directive establishes common rules for the generation, transmission, distribution and supply of electricity, together with consumer protection provisions. To this end, it lays down the rules relating to the organisation and functioning of the electricity sector, access to the market, the criteria and procedures applicable to calls for tender and the granting of authorisations and the operation of systems. It also sets out universal obligations and the rights of electricity consumers and clarifies competition requirements."**

### *Justification*

*The scope must be extended to guarantee that consumers are central to the Directive.*

### **Amendment 10**

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

#### **Article 1 – point 1 – point b a (new)**

Directive 2003/54/EC

Article 2 – point 34 a (new)

*Text proposed by the Commission*

*Amendment*

*(ba) the following point shall be added:*

***“(34a) ‘energy poverty’ means a situation in which a residential user cannot afford to heat his home to an acceptable level. Member States shall evaluate this level in accordance with the recommendations of the World Health Organisation. This situation shall also be evaluated in light of the scope for customers to purchase other energy services for their homes at reasonable prices.”***

### **Amendment 11**

**Proposal for a directive – amending act**  
**Article 1 – point 1 – point b b (new)**  
Directive 2003/54/EC  
Article 2 – point 34 b (new)

*Text proposed by the Commission*

*Amendment*

***(bb) the following point shall be added:***  
***"(34b) 'affordable price' means a price defined by the Member States in consultation with national regulators, the social partners and other stakeholders, taking account of energy poverty. "***

*Justification*

*The notion of an affordable price, which must be a constituent element of the future Charter on the Rights of Energy Consumers, must nevertheless be established by each Member State, given that this is currently a question of subsidiarity.*

## **Amendment 12**

**Proposal for a directive – amending act**  
**Article 1 – point 1 a (new)**  
Directive 2003/54/EC  
Article 3 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(1a) Article 3(2) shall be replaced by the following:***

***"2. Having full regard to the relevant provisions of the Treaty, in particular Article 86 thereof, Member States may impose on undertakings operating in the electricity sector, in the general economic interest, public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies and environmental protection, including energy efficiency, Community targets for the use of renewable energy and climate protection. Such obligations shall be clearly defined, transparent, non discriminatory, verifiable and shall***



**guarantee equality of access for EU electricity companies to national consumers. In relation to security of supply, energy efficiency/demand-side management and for the fulfilment of environmental *and renewable energy* goals, as referred to in this paragraph, Member States may introduce the implementation of long term planning, taking into account the possibility of third parties seeking access to the system."**

*Justification*

*The proposal to adopt binding targets for the use of renewable energy, 20% by 2020, will require specific action in the electricity sector, which maybe different from those relating to environmental protection.*

**Amendment 13**

**Proposal for a directive – amending act**

**Article 1 – point 1 b (new)**

Directive 2003/54/EC

Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

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

**"3. Member States shall ensure that all household customers and [...] small enterprises, (namely enterprises with fewer than 50 occupied persons and an annual turnover or balance sheet not exceeding EUR 10 million), enjoy universal service, that is the right to be supplied with electricity of a specified quality within their territory at *affordable, easily and clearly comparable [...], transparent and non-discriminatory* prices. *Non-discrimination shall include a prohibition on discriminatory charges on certain methods of payment, particularly for consumers charged by means of a pre-payment meter. Those customers shall have access to choice, fairness,***

***representation and redress. Electricity undertakings shall ensure quality of service. To ensure the provision of universal service, Member States may appoint a supplier of last resort. Member States shall impose on distribution companies an obligation to connect customers to their grid under terms, conditions and tariffs set in accordance with the procedure laid down in Article 22c(4). [...] Member States shall strengthen the market position of [...] domestic, small and medium-sized consumers by allowing for and promoting the possibility of voluntary aggregation of representation for this class of consumer."***

*Justification*

*Vulnerable and low income consumers are more likely to be forced to pay their energy charges by means of a pre-payment meter. As such, discriminatory higher charges for such payment methods mean poor consumers frequently pay more than financially more secure consumers, in absolute terms as well as by proportion of income. Forms of collective action, such as the 'super complaint' system adopted for UK consumers, can provide an effective means for consumers to act to uphold their own rights.*

**Amendment 14**

**Proposal for a directive – amending act**

**Article 1 – point 1 c (new)**

Directive 2003/54/EC

Article 3 – paragraph 5

*Text proposed by the Commission*

*Amendment*

***(1c) Article 3(5) shall be replaced by the following:***

**"5. Member States shall take appropriate measures to protect final customers, and shall in particular ensure that there are adequate safeguards to protect vulnerable customers, including measures to help them avoid disconnection. In this context, Member States may take measures to protect final customers in remote areas. They**

**shall ensure high levels of consumer protection, particularly with respect to transparency regarding contractual terms and conditions, general information and dispute settlement mechanisms. Member States shall ensure that the eligible customer is in fact able to switch to a new supplier. As regards at least household customers, *the measures provided for by this Article shall include at a minimum the establishment of those rights set out in Annex A. Member States shall ensure that those rights are enforced by the national regulatory authority and are enforceable by the consumer.***"

*Justification*

*Clarifies that Annex A has full legal force as an intrinsic part of the Directive.*

**Amendment 15**

**Proposal for a directive – amending act**

**Article 1 – point 1 d (new)**

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

***(1d) in Article 3(6) the first subparagraph shall be replaced by the following:***

**"6. Member States shall ensure that electricity suppliers specify in or with the bills and in *all advertising and promotional materials and in documents regularly sent for information to customers:***

**(a) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year; *this shall be done in a harmonised and comprehensible manner across Member States so as to allow for easy comparison;***

**(b) [...] information on the environmental impact, in terms of at**

**least emissions of CO<sub>2</sub> and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year is publicly available *on their internet site*;**

*Justification*

*Information on the environmental impact of electricity production should be prominently displayed on all material and advertising and not require the consumer to search elsewhere for it. Similar requirements are made in other sectors, such as for the sale of cars or white goods.*

**Amendment 16**

**Proposal for a directive – amending act**

**Article 1 – point 1 e (new)**

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 1 – point (b a) (new)

*Text proposed by the Commission*

*Amendment*

***(1e) in the first subparagraph of Article 3(6), the following point shall be added:***

***"(ba) information concerning their rights and the channels of appeal available to them in case of dispute."***

*Justification*

*Effective consumer protection depends on improving the channels of appeal. These provisions must be contained in the future Charter on the Rights of Energy Consumers providing them with a reference document regarding their rights.*

**Amendment 17**

**Proposal for a directive – amending act**

**Article 1 – point 1 f (new)**

Directive 2003/54/EC

Article 3 – paragraph 6 – subparagraph 3

*Text proposed by the Commission*

*Amendment*

***(1f) in Article 3(6), the third subparagraph shall be replaced by the***

*following:*

***"The national regulatory authorities shall take the necessary steps to ensure that the information provided by suppliers to their customers pursuant to this Article is reliable. The rules concerning the presentation of information shall be harmonised across the Member States and the markets concerned. Their application shall be monitored by the Agency."***

*Justification*

*The ability of consumers to exercise their right to a real choice, depends on access to information which will contribute to both social and environmental objectives. The harmonisation of data regarding the various energy suppliers corresponds to the need for clear information, something which must be stipulated in the future Charter on the Rights of Energy Consumers.*

**Amendment 18**

**Proposal for a directive – amending act**

**Article 1 – point 1 g (new)**

Directive 2003/54/EC

Article 3 – paragraph 7

*Text proposed by the Commission*

*Amendment*

***(1g) Article 3(7) shall be replaced by the following:***

***"7. Member States shall implement appropriate measures to achieve the objectives of social and economic cohesion and environmental protection which guarantee prevention of discrimination, in particular with regard to those in the low income bracket, energy efficiency/demand-side management measures and means to combat climate change, and security of supply. Such measures may include, in particular, the provision of adequate economic incentives, using, where appropriate, all existing national and Community tools, for the maintenance and construction of the necessary network infrastructure,***

**including interconnection capacity."**

*Justification*

*Many consumers, particularly those in the lower income brackets or those living in certain geographical areas are currently subject to discrimination. The proposed measures should be included in the future Charter on the Rights of Energy Consumers.*

**Amendment 19**

**Proposal for a directive – amending act**

**Article 1 – point 1 h (new)**

Directive 2003/54/EC

Article 3 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(1h) in Article 3, the following paragraph shall be inserted:***

***"7a. Member States shall ensure the provision of single points of contact so as to provide consumers with all necessary information concerning their rights, current legislation and the channels of appeal available to them in case of dispute."***

*Justification*

*Proper consumer information is dependent on an easily accessible information centre making it possible to obtain details of the legislation in force and the rights of consumers. It will enable consumers to obtain detailed information concerning matters already referred to in the context of the future Charter on the Rights of Energy Consumers.*

**Amendment 20**

**Proposal for a directive – amending act**

**Article 1 – point 2**

Directive 2003/54/EC

Article 3 – paragraph 10

*Text proposed by the Commission*

*Amendment*

10. The Commission **may** adopt **guidelines** for the implementation of this Article. **This measure**, designed to amend non-essential

10. The Commission **shall, by ...\***, adopt **measures** for the implementation of this Article. **Those measures**, designed to

elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

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*\* One year from the entry into force of the amending Directive.*

### *Justification*

*In the interest of consumer protection, it is important that the Commission adopts such guidelines as soon as possible.*

## **Amendment 21**

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

#### **Article 1 – point 3**

Directive 2003/54/EC

Article 5a

#### *Text proposed by the Commission*

Member *States* shall cooperate among themselves for the purpose of integrating their national markets at least at the regional level. In particular, *Member States shall promote* the cooperation of network operators at a regional level, and foster the consistency of their legal and regulatory framework. *The geographical area covered by regional cooperations shall be in line with the definition of geographical areas by the Commission in accordance with Article 2h(3) of Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.*

#### *Amendment*

*1. Member States' authorities and regulators shall cooperate among themselves for the purpose of integrating their national markets at least at the regional level. In particular, they shall ensure the cooperation of network operators at a regional level, and foster the convergence and consistency of their legal and regulatory framework.*

*2. When cooperation between several Member States at regional level encounters significant difficulties, following the joint request of those Member States the Commission may, in agreement with all Member States*

*concerned, designate a regional coordinator.*

*3. The regional coordinator shall promote at regional level the cooperation of regulatory authorities and any other competent public authorities, network operators, power exchanges, grid users and market parties. In particular, it shall:*

*(a) promote new efficient investments in interconnections. To this end, it shall assist TSOs in working out their regional interconnection plan and contribute to the coordination of their investments decisions and, where appropriate, of their open season procedure;*

*(b) promote the efficient and safe use of networks. To this end, it shall contribute to coordination between TSOs, national regulatory authorities and other competent national public authorities in working out common allocation and safeguard mechanisms;*

*(c) submit a report every year to the Commission and the Member States concerned on progress achieved in the region and on any difficulty or obstacle thereto.*

#### *Justification*

*Regional coordinators could play an important role in facilitating the dialogue between Member States, notably as regards cross-border investments.*

#### **Amendment 22**

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

##### **Article 1 – point 4**

Directive 2003/54/EC

Article 8 – paragraph 1 – introductory part

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

1. Member States shall ensure that as from [date of transposition plus one year]:

##### *Amendment*

**1. *In order to ensure the independence of transmission system operators***, Member States shall ensure that as from [date of



transposition plus one year] ***vertically integrated undertakings have to comply:***

***- either with the provisions of Articles 8, 8a and 8b; or***

***- with the provisions of Articles 8a, 8b and 8c.***

***In the case of compliance with the provisions of Articles 8, 8a and 8b, Member States shall ensure that as from [date of transposition plus one year]:***

### *Justification*

*This change enables Member States to choose between ownership unbundling and effective and efficient unbundling. It is tied to the AMD on Art. 28, in which the Commission is asked to review whether effective and efficient unbundling is sufficient to attain effective competition and report back to the European Parliament and the Council.*

### **Amendment 23**

#### **Proposal for a directive – amending act Article 1 – point (5) – introductory part**

*Text proposed by the Commission*

The following ***Articles 8a and 8b*** are inserted:

*Amendment*

The following ***articles*** shall be inserted:

### **Amendment 24**

#### **Proposal for a directive – amending act Article 1 – point (5)**

Directive 2003/54/EC

Article 8 c (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 8c***

***Effective and efficient unbundling of transmission systems***

***1. TSOs shall be equipped with all the human, physical and financial resources of the vertically integrated undertaking***

*which are required for the regular business of electricity transmission, in particular:*

*(a) assets that are necessary for the regular business of electricity transmission shall be owned by the TSO;*

*(b) personnel required for the regular business of electricity transmission shall be employed by the TSO;*

*(c) the leasing of personnel and provision of services to and from any branch of the vertically integrated undertaking performing functions of generation or supply shall be limited to cases with no discriminatory potential and shall be subject to approval by the national regulatory authorities in order to exclude competition concerns and conflicts of interest;*

*(d) appropriate financial resources for future investment projects shall be made available in due time.*

*2. The activities deemed necessary for the regular business of electricity transmission referred to in paragraph 1 shall include at least:*

*(a) representation of the TSO and contacts with third parties and the regulatory authorities;*

*(b) granting and managing third party access;*

*(c) collection of access charges;*

*(d) collection of congestion rents and payments under the inter-transmission system operator compensation mechanism in accordance with Article 3 of Regulation (EC) No 1228/2003;*

*(e) operation, maintenance and development of the transmission system;*

*(f) investment planning ensuring the long-term ability of the system to meet reasonable demand and guaranteeing security of supply;*

*(g) legal services;*

*(h) accountancy and IT services.*

*3. The TSO shall have its own corporate identity, significantly different from the vertically integrated undertaking with separate branding, communication and premises.*

*4. The accounts of TSOs shall be audited by an auditor other than that auditing the vertically integrated undertaking and all its affiliated companies.*

*5. Decisions on the appointment and any premature termination of the employment of the chief executive officer and other members of the executive board of the TSO and contractual agreements regarding the employment and its termination shall be notified to the regulatory authority or any other competent national authority. Such decisions and agreements shall become binding unless the regulatory authority or any other competent national public authority uses its right of veto within a period of three weeks following notification. A veto may be issued in cases of appointment and contractual agreements if serious doubts arise as to the professional independence of the nominated chief executive officer or member of the executive board, or in the case of early termination of employment and contractual agreements, if serious doubts exist as regards the basis for such termination of employment or contractual agreement.*

*6. An effective right of appeal to the regulatory authority or any other competent national authority or court shall be guaranteed for any complaint by the management of the TSO regarding the early termination of their own employment contracts.*

*7. After termination of employment by the TSO, former chief executive officers and*

*members of the executive board of that TSO shall not work in any capacity in any branch of the vertically integrated undertaking performing functions of generation or supply for a period of not less than three years.*

*8. The chief executive officer and members of the executive board of the TSO shall not hold any interest in, or receive any compensation from, any undertaking forming part of the vertically integrated undertaking other than the TSO. Their remuneration shall in no part depend on activities of the vertically integrated undertaking other than those of the TSO.*

*9. The chief executive officer or the members of the executive board of the TSO may not bear responsibility, directly or indirectly, for the day-to-day operation of any other branch of the vertically integrated undertaking.*

*10. Without prejudice to the provisions of this Article, the TSO shall have effective decision-making powers independent of the integrated electricity undertaking with respect to the assets necessary for the operation, maintenance or development of the network. This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company are protected in respect of a return on assets in a subsidiary, as indirectly regulated in accordance with Article 22c. In particular, this shall enable the parent company to approve the annual financial plan or any equivalent instrument of the TSO and to set overall limits on the level of indebtedness of its subsidiary. If the annual financial plan, or any equivalent financial plan, is not approved or changed by the parent company, the case shall be referred to the regulatory authority for a decision. The parent company shall not be permitted to give instructions regarding day-to-day*

*operations, nor with respect to individual decisions concerning the construction or upgrading of transmission lines that do not exceed the terms of the approved financial plan or any equivalent instrument.*

*11. Chairmen of the supervisory board or the board of directors of the TSO shall not work in any capacity in any part of the vertically integrated undertaking performing functions of generation or supply.*

*12. The supervisory boards or boards of directors of a TSO shall include independent members appointed for a term of at least five years. Their appointment shall be notified to the regulatory authority or any other competent national authority and become binding under the conditions set out in paragraph 5.*

*13. For the purposes of paragraph 12, a member of the supervisory board or board of directors of a TSO shall be deemed independent if he is free of any business or other relationship within the vertically integrated undertaking, its controlling shareholders or the management of either that creates a conflict of interest such as to impair his judgement, and in particular:*

*(a) has not been an employee of any branch of the vertically integrated undertaking performing functions of generation and supply in the five years prior to his appointment to the supervisory board or board of directors;*

*(b) does not hold any interest in and does not receive any compensation from the vertically integrated undertaking or any of its affiliates except the TSO;*

*(c) does not have any relevant business relationship with any branch of the vertically integrated company performing functions of supply at the time of his*

*appointment to the supervisory board or board of directors;*

*(d) is not a member of the executive board of a company in which the vertically integrated undertaking appoints members of the supervisory board or board of directors.*

*14. Member States shall ensure that TSOs establish and implement a compliance programme which sets out measures taken to ensure that discriminatory conduct does not occur. The programme shall set out the specific obligations of employees to meet this objective. It shall be subject to the approval of the regulatory authority or any other competent national authority. Compliance with the program shall be independently monitored by the compliance officer. The regulatory authority shall have the power to impose sanctions in case of inappropriate implementation of the compliance program.*

*15. The chief executive officer or executive board of the TSO shall appoint a person or a body as a compliance officer in charge of:*

*(a) monitoring the implementation of the compliance programme;*

*(b) producing an annual report setting out the measures taken to implement the compliance programme, and submitting that report to the regulatory authority;*

*(c) issuing recommendations on the compliance programme and the implementation thereof.*

*16. The independence of the compliance officer shall be guaranteed in particular by the terms of his employment contract.*

*17. The compliance officer shall have the opportunity to regularly address the supervisory board or board of directors of the TSO and of the vertically integrated undertaking, and the regulatory*

*authorities.*

***18. The compliance officer shall be present at all meetings of the supervisory board or board of directors of the TSO that address the following issues:***

***(a) conditions for access and connection to the grid, including the collection of access charges, congestion rents and payments under the inter-transmission system operator compensation mechanism in accordance with Article 3 of Regulation (EC) No 1228/2003;***

***(b) projects undertaken in order to operate, maintain and develop the transmission grid system, including interconnection and connection investments;***

***(c) balancing rules, including reserve power rules;***

***(d) energy purchases made to cover energy losses.***

***19. During those meetings, the compliance officer shall prevent information about generator or supplier activities which may be commercially sensitive from being disclosed in a discriminatory manner to the supervisory board or board of directors.***

***20. Compliance officers shall have access to all relevant books, records and premises of the TSO, as well as to all information required for the proper performance of their duties.***

***21. The compliance officer shall be nominated and removed by the chief executive officer or executive board only with the prior approval of the regulatory authority.***

#### *Justification*

*Member States that have not implemented ownership unbundling are given the opportunity to further liberalise their markets without having to resort to ownership unbundling.*

## Amendment 25

### Proposal for a directive – amending act

#### Article 1 – point 6

Directive 2003/54/EC

Article 9– point a

*Text proposed by the Commission*

(6) Article 9 **paragraph a** shall be replaced as follows:

(a) ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity, operating, maintaining and developing under economic conditions secure, reliable and efficient transmission systems 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;

*Amendment*

(6) Article 9 shall be replaced by the following:

#### **1. Each TSO shall be responsible for:**

(a) ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity, operating, maintaining and developing under economic conditions secure, reliable and efficient transmission systems 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;

**(b) contributing to security of supply through adequate transmission capacity and system reliability;**

**(c) managing energy flows on the system, taking into account exchanges with other interconnected systems. To that end, the transmission system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services insofar as this availability is independent of any other transmission system with which its system is interconnected;**

**(d) providing to the operator of any other system with which its system is interconnected sufficient information to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected system;**



**(e) ensuring non-discrimination as between system users or classes of system users, particularly in favour of its related undertakings;**

**(f) providing system users with the information they need for efficient access to the system;**

***(fa) ensuring that the benefit of the region in which it operates is duly taken into account. Without prejudging the rights of shareholders related to investment profitability and equity needs, operational and investment decisions taken by a TSO shall be consistent with Community-wide and regional investment plans pursuant to Articles 2c and 2d of Regulation (EC) No 1228/2003, and shall facilitate market development, market integration and optimize socio-economic welfare gains at least at regional level.***

***2. TSOs shall elaborate a 10-year network development plan at least every two years. They shall provide efficient measures in order to guarantee system adequacy and security of supply.***

***3. The 10-year network development plan shall in particular :***

***(a) indicate to market participants the main transmission infrastructures that ought to be built over the next ten years;***

***(b) contain all investments in relation to which an implementation decision has already been taken and identify new investments for which an implementation decision has to be taken in the next three years.***

***4. In order to elaborate the 10-year network development plan, each TSO shall make a reasonable hypothesis as to the evolution of generation, consumption and exchanges with other countries, and shall take into account existing network investment plans at regional and European levels. Each TSO shall submit in due time a draft of the 10-year network***

*development plan to the competent national body.*

*5. The competent national body shall consult all relevant network users on the basis of the draft referred to in paragraph 4 in an open and transparent manner and may publish the result of the consultation process, in particular possible investment needs.*

*6. The competent national body shall examine whether the 10-year network development plan covers all investment needs identified in the consultation. The authority may oblige the TSO to amend its plan.*

*7. A competent national body for the purposes of paragraphs 4, 5 and 6 may be the national regulatory authority, any other competent national public authority or a network development trustee constituted by TSOs. In the latter case, TSOs shall submit the drafts of the statutes, of the list of members and of the rules of procedure for the approval of the competent national authority.*

*8. If the TSO rejects the implementation of a specific investment listed in the 10-year network development plan which is to be executed in the following three years, Members States shall ensure that the regulatory authority or any other competent national authority is competent to take one or other of the following measures:*

*(a) request the TSO to execute, by all legal means, its investment obligations using its financial capacities; or*

*(b) invite independent investors to tender for the necessary investment in the transmission system and, in so doing, may oblige the TSO :*

- to agree to financing by any third party;*
- to agree to the building by any third party of the new assets, or to build the*

*new assets; or*

*- to operate the new assets.*

*The relevant financial arrangements shall be subject to the approval of the regulatory authority or any other competent national authority.*

*In both cases, tariff regulation shall allow for revenues that cover the costs of such investments.*

*9. The competent national authority shall monitor and evaluate the implementation of the investment plan.*

*10. TSOs shall be obliged to establish and publish transparent and efficient procedures for non-discriminatory connection of new power plants to the grid. Those procedures shall be subject to the approval of national regulatory authorities or any other competent national authority.*

*11. TSOs shall not be entitled to refuse the connection of a new power plant on the grounds of possible future limitations on available network capacities, such as congestion in distant parts of the transmission grid. The TSO shall be obliged to supply the necessary information.*

*TSOs shall not be entitled to refuse a new connection point on the sole ground that it will lead to additional costs linked to the necessary capacity increase of grid elements within close range of the connection point.*

#### *Justification*

*As a second pillar of the EEU-option effective sanctions for regulators are introduced which guarantee that TSO is no more in a position that enables it to prevent investments into the grid or non-discriminatory access of new power plant projects to the grid. These provisions shall be applied to all TSOs. The proposed amendments ascertain in particular that necessary investments in the grid will be made, even against the will of the TSO, and that connections to the grid cannot be refused.*

## Amendment 26

### Proposal for a directive – amending act

#### Article 1 – point (8)

Directive 2003/54/EC

Article 10

*Text proposed by the Commission*

*Amendment*

#### *Article 10*

*deleted*

#### *Independent system operators*

*1. Where the transmission system belongs to a vertically integrated undertaking on entry into force of this Directive, Member States may grant derogations from Article 8(1), provided that an independent system operator is designated by the Member State upon a proposal from the transmission system owner and subject to approval of such designation by the Commission. Vertically integrated undertakings which own a transmission system may not in any event be prevented from taking steps to comply with Article 8(1).*

*2. The Member State may approve and designate an independent system operator only where:*

*(a) the candidate operator has demonstrated that it complies with the requirements of Article 8(1)(b) to (d);*

*(b) the candidate operator has demonstrated that it has at its disposal the required financial, technical and human resources to carry out its tasks under Article 9;*

*(c) the candidate operator has committed to complying with a ten year network development plan proposed by the regulatory authority;*

*(d) the transmission system owner has demonstrated its ability to comply with its obligations under paragraph 6. To this effect, it shall provide all the draft contractual arrangements with the*

*candidate undertaking and any other relevant entity;*

*(e) the candidate operator has demonstrated its ability to comply with its obligations under Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity including the cooperation of transmission system operators at European and regional level.*

*3. Undertakings which have been certified by the regulatory authority as having complied with the requirements of Articles 8a and 10(2) shall be approved and designated as independent system operators by Member States. The certification procedure in Article 8b shall be applicable.*

*4. Where the Commission has taken a decision in accordance with the procedure in Article 8b and finds that the regulatory authority has not complied with its decision within two months, it shall, within a period of six months, designate, on a proposal from the Agency for the Cooperation of Energy Regulators and after having heard the views of the transmission system owner and the transmission system operator, an independent system operator for a period of 5 years. At any time, the transmission system owner may propose to the regulatory authority the designation of a new independent system operator pursuant to the procedure in Article 10(1).*

*5. Each independent system operator shall be responsible for granting and managing third party access, including the collection of access charges, congestion rents, and payments under the inter transmission system operator compensation mechanism in compliance with Article 3 of Regulation (EC) No 1228/2003, as well as for operating, maintaining and developing*

*the transmission system, and for ensuring the long term ability of the system to meet reasonable demand through investment planning. When developing the network the independent system operator is responsible for planning (including the authorisation procedure), construction and commissioning of the new infrastructure. For this purpose, it shall act as a transmission system operator in accordance with this Chapter.*

*Transmission system owners may not be responsible for granting and managing third party access, nor for investment planning.*

*6. Where an independent system operator has been designated, the transmission system owner shall:*

*(a) provide all the relevant cooperation and support to the independent system operator for the fulfilment of its tasks, including in particular all relevant information;*

*(b) finance the investments decided by the independent system operator and approved by the regulatory authority, or give its agreement to financing by any interested party including the independent system operator. The relevant financing arrangements shall be subject to approval by the regulatory authority. Prior to this approval, the Regulatory Authority shall consult the asset owner together with other interested parties;*

*(c) provide for the coverage of liability relating to the network assets, excluding the liability relating to the tasks of the independent system operator;*

*(d) provide guarantees to facilitate financing any network expansions with the exception of those investments where, pursuant to paragraph (b), it has given its agreement to financing by any interested party including the independent system operator.*

**7. In close cooperation with the regulatory authority, the relevant national competition authority shall be granted all relevant powers to effectively monitor compliance of the transmission system owner with its obligations under paragraph 6.**

*Justification*

*The ISO option does not provide a viable alternative to ownership unbundling in light of its excessive regulatory cost.*

**Amendment 27**

**Proposal for a directive – amending act**

**Article 1 – point (8)**

Directive 2003/54/EC

Article 10 a

*Text proposed by the Commission*

*Amendment*

**Article 10a**

**deleted**

**Unbundling of transmission system owners**

**1. Transmission system owners, where an independent system operator has been appointed, which are part of vertically integrated undertakings shall be independent at least in terms of their legal form, organisation and decision making from other activities not relating to transmission.**

**2. In order to ensure the independence of the transmission system owner referred to in paragraph 1, the following minimum criteria shall apply:**

**(a) those persons responsible for the management of the transmission system owner may not participate in company structures of the integrated electricity undertaking responsible, directly or indirectly, for the day-to-day operation of the generation, distribution and supply of electricity;**

*(b) appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of the transmission system owner are taken into account in a manner that ensures that they are capable of acting independently;*

*(c) transmission system owner shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The programme shall set out the specific obligations of employees to meet this objective. An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring the compliance programme to the regulatory authority and shall be published.*

*3. The Commission may adopt guidelines to ensure full and effective compliance of the transmission system owner with paragraph 2 of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3)."*

*Justification*

*These provisions build on Article 10 and are not relevant if Article 10 is deleted.*

**Amendment 28**

**Proposal for a directive – amending act**

**Article 1 – point 8 a (new)**

Directive 2003/54/EC

Article 11 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(8a) in Article 11, the following paragraph shall be inserted:***



***"7a. Priority shall be given to electricity from renewable energy sources, combined heat and power and other embedded generation, and the costs of connecting new producers of electricity from renewable energy sources and combined heat and power shall be objective, transparent and non-discriminatory. A European benchmarking system shall ensure that there are no obstacles to the stimulation of dispersed generation."***

*Justification*

*The cost of connecting new renewable energy sources, especially offshore wind farms and cogeneration plants may reduce the attractiveness of investments. Clear and fair tariffs need to be set which take into consideration the additional benefits these technologies bring.*

**Amendment 29**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22 a – paragraph 2

*Text proposed by the Commission*

2. Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For this purpose, Member State shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive, the regulatory authority is legally distinct and functionally independent from any other public or private entity, and that its staff and the persons responsible for its management act independently from any market interest and shall not seek or take instructions from any government or other public or private entity.

*Amendment*

***2. Without prejudice to the provisions of Article 22c(4)(a),*** Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. For this purpose, Member State shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive, the regulatory authority is legally distinct and functionally independent from any other public or private entity, and that its staff and the persons responsible for its management act independently from any market interest and shall not seek or take instructions from any government or other public or private entity.

**Amendment 30**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22 c – paragraph 1 – point (e)

*Text proposed by the Commission*

(e) ensuring that there are no cross subsidies between transmission, distribution, and supply activities;

*Amendment*

(e) ensuring that there are no cross subsidies between transmission, distribution, and supply activities, ***without prejudice to the provisions of Article 22c(4)(a) concerning universal service;***

**Amendment 31**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22 c – paragraph 1 – point (g)

*Text proposed by the Commission*

(g) monitoring network security and reliability, and reviewing network security and reliability rules;

*Amendment*

(g) monitoring network security and reliability, ***setting or approving standards and requirements for quality of service and supply*** and reviewing ***performance in terms of quality of service and supply,*** network security and reliability rules;

*Justification*

*Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers. It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving transmission and distribution tariffs and their methodologies. Decisions taken by Regulatory Authorities should be publicly justified. Appeals should be undertaken by an independent and neutral body.*

**Amendment 32**

**Proposal for a directive – amending act**

**Article 1 – point 12**

Directive 2003/54/EC

Article 22 c – paragraph 1 – point (i)

*Text proposed by the Commission*

(i) monitoring the level of market opening and competition at wholesale and retail levels, including on electricity exchanges, household prices, switching rates, disconnection rates and household complaints in an agreed format, as well as any distortion or restriction of competition in cooperation with competition authorities, including providing any relevant information, bringing any relevant cases to the attention of the relevant competition authorities;

*Amendment*

(i) monitoring the level of **effective** market opening and competition at wholesale and retail levels, including on electricity exchanges, household prices, switching rates, **adequate prepayment conditions reflecting actual consumption, connection and** disconnection rates, **maintenance charges** and household complaints in an agreed format, as well as any distortion or restriction of competition in cooperation with competition authorities, including providing any relevant information, bringing any relevant cases to the attention of the relevant competition authorities;

*Justification*

*Empowering the authority to monitor a wider range of rates and charges is in the interests of greater consumer choice.*

**Amendment 33**

**Proposal for a directive – amending act**

**Article 1 – point (12)**

Directive 2003/54/EC

Article 22 c – paragraph 1 – point (k)

*Text proposed by the Commission*

(k) without prejudice to the competence of other national regulatory authorities, ensuring high standards of universal and public service for electricity, the protection of vulnerable customers, and that consumer protection measures set out in Annex A are effective;

*Amendment*

(k) without prejudice to the competence of other national regulatory authorities, ensuring, **across the EU even, transparent and** high standards of universal and public service for electricity **consumers, including citizens, and ensuring** the protection of vulnerable customers, and that **all** consumer protection measures set out in Annex A are effective;

*Justification*

*Further clarifications in the duties of the authority serve the functioning of the market and ultimately benefit the consumer.*

## Amendment 34

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22 c – paragraph 1 – point (m)

#### *Text proposed by the Commission*

(m) ensuring access to customer consumption data, the application of *a* harmonised format for *consumption* data and *the* access to data under paragraph (h) of Annex A;

#### *Amendment*

(m) ensuring access to customer consumption data, ***including on prices and any related expenditure***, the application of ***an easily understandable*** harmonised format for ***such*** data, ***adequate prepayment that reflects actual consumption*** and ***prompt*** access ***for all customers*** to ***such*** data under paragraph (h) of Annex A;

#### *Justification*

*Further clarifications in the duties of the authority serve the functioning of the market and ultimately benefit the consumer.*

## Amendment 35

### Proposal for a directive – amending act

#### Article 1 – point 12

Directive 2003/54/EC

Article 22 c – paragraph 3 – points (b), (c) and (d)

#### *Text proposed by the Commission*

(b) to carry out in cooperation with the national competition authority investigations ***of*** the functioning of electricity markets, and to decide, in the absence of violations of competition rules, ***of any appropriate*** measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, ***including virtual power plants***;

(c) to request any information from electricity undertakings relevant for the fulfilment of its tasks;

#### *Amendment*

(b) to carry out in cooperation with the national competition authority investigations ***into*** the functioning of electricity markets, and to decide, in the absence of violations of competition rules, ***on*** any measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market;

(c) to request any ***reasonable*** information from electricity undertakings relevant for the fulfilment of its tasks;

(d) to impose **effective, appropriate** and **dissuasive** sanctions to electricity undertakings not complying with their obligations under this Directive or any **decisions** of the regulatory authority or of the Agency;

(d) to **impartially** impose, **where necessary, proportionate** and **consistent** sanctions on electricity undertakings not complying with their obligations under this Directive or any **binding decision** of the regulatory authority or the Agency;

#### *Justification*

*The tasks and responsibilities of national regulators should not be confused with those of other relevant authorities and due attention should be paid to parties that may be affected by regulatory decisions. In this respect, far-reaching structural measures such as virtual power plants should only be considered in the context of EC competition law and should be applied with the necessary checks and balances put in place.*

### **Amendment 36**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22 c – paragraph 4 – point (a)

#### *Text proposed by the Commission*

(a) connection and access to national networks, including transmission and distribution tariffs. These tariffs shall allow the necessary investments in the networks to be carried out in a manner allowing these investments to ensure the viability of the networks;

#### *Amendment*

(a) connection and access to national networks, including transmission and distribution tariffs **and their methodologies, or, alternatively, the methodologies, and the monitoring thereof, for setting or approving the transmission and distribution tariffs.** These tariffs shall **ensure that universal service requirements can be met and** allow the necessary investments in the networks to be carried out in a manner allowing these investments to ensure the viability of the networks. **This may cover special regulatory treatment for new investments;**

#### *Justification*

*Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers. It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving transmission and distribution tariffs and their methodologies. Decisions taken by Regulatory Authorities should be publicly justified. Appeals should be undertaken by an*

*independent and neutral body.*

### **Amendment 37**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22 c – paragraph 12

#### *Text proposed by the Commission*

12. Decisions taken by regulatory authorities shall be ***motivated***.

#### *Amendment*

12. Decisions taken by regulatory authorities shall be ***justified and made public, proportionate and necessary, with due account being taken of the views of market participants and existing contractual obligations, as well as the expected costs and benefits of the decision.***

#### *Justification*

*Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers. It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving transmission and distribution tariffs and their methodologies. Decisions taken by Regulatory Authorities should be publicly justified. Appeals should be undertaken by an independent and neutral body.*

### **Amendment 38**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22 c – paragraph 13

#### *Text proposed by the Commission*

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved.

#### *Amendment*

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a ***national judicial body or other national authority*** independent of the parties involved ***and of any government.***

### *Justification*

*Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers. It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving transmission and distribution tariffs and their methodologies. Decisions taken by Regulatory Authorities should be publicly justified. Appeals should be undertaken by an independent and neutral body.*

### **Amendment 39**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22 f – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. An authority referred to in paragraph 1 may request data from a supply undertaking if that authority has a duly substantiated need to undertake an investigation.***

### *Justification*

*Regulators should have the ability to access wholesale market information, but if they were to do this unduly then it would be an unnecessary cost on business and an unwarranted barrier to new entrants. While not affecting the obligation to keep the data, the Directive should define how national regulatory and competition authorities and the Commission access this information.*

### **Amendment 40**

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

##### **Article 1 – point 12**

Directive 2003/54/EC

Article 22 f – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. The regulatory authority ***may decide to make available*** to market participants elements of this information ***provided*** that commercially sensitive information on individual market players or individual transactions is not released. ***This***

3. The regulatory authority ***shall report on the outcome of its investigations or its request*** to market participants *for* elements of this information, ***whilst ensuring*** that commercially sensitive information on individual market players or individual

***paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.***

transactions is not released.

#### *Justification*

*To ensure that there is always transparency in decision making while at the same time commercial confidentiality is respected, paragraph 3 needs to be amended.*

#### **Amendment 41**

**Proposal for a directive – amending act**

**Article 1 – point 14 a (new)**

Directive 2003/54/EC

Article 28 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(14a) in Article 28, the following paragraph shall be inserted:***

***"3a. By ... \*, the Commission shall request an independent professional assessment body to review, having consulted stakeholders, including consumer organisations, and determined its own criteria, the provisions concerning the unbundling of transmission systems and their impact on the functioning of the internal market for electricity. That body shall examine, in particular, whether the implementation of ownership unbundling and effective and efficient unbundling have resulted in fair and effective competition in the internal market for electricity. The Commission shall present the results of this review in the context of the report referred to in paragraph 1. The report shall consider, in particular, the need for the Commission to propose amendments to this Directive, having consulted the European Parliament. The conclusion as to whether amendments are necessary or not shall be accompanied by a detailed statement of reasons. If necessary, the report shall be accompanied by a legislative proposal.***



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***\* Six years from the date of transposition of the amending Directive."***

*Justification*

*This change asks the Commission to conduct a thorough review procedure of the impact of the unbundling provisions and in particular the success of effective and efficient unbundling. The Commission is asked to submit a report on the review and to propose, where appropriate, the necessary changes to the Directive in case effective and efficient unbundling proves to be insufficient.*

**Amendment 42**

**Proposal for a directive – amending act**

**Article 1 – point 14 b (new)**

Directive 2003/54/EC

Annex A – point (a)

*Text proposed by the Commission*

*Amendment*

***(14b) in Annex A, point (a) shall be replaced by the following:***

**"(a) have the right to a contract with their electricity service provider that specifies:**

- the identity and address of the supplier,**
- the services provided, the service quality levels offered as well as the time for initial connection,**
- [...] the types of maintenance service offered,**
- the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained,**
- the duration of the contract, the conditions for renewal and termination of services and of the contract, existence of any right of withdrawal *free of charge*,**
- any compensation and the refund arrangements which apply if contracted**

service quality levels are not met,  
*including inaccurate and late billing,*

- the method of initiating procedures for the settlement of disputes in accordance with point 8(f),
- *information on the rights of consumers, including those referred to above, to be provided regularly in a clear and readily comprehensible form by mail or e-mail, and*
- *details concerning the competent appeals authority and of the procedure to be followed by consumers in case of dispute."*

#### *Justification*

*The amendment is intended to guarantee consumers their basic right to transparency with regard to contracts. Access to this information is central to the protection of consumers, a point which must be made in the future Charter on the Rights of Energy Consumers.*

#### **Amendment 43**

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

##### **Article 1 – point 14 c (new)**

Directive 2003/54/EC

Annex A – point (b)

*Text proposed by the Commission*

*Amendment*

***(14c) in Annex A, point (b) shall be replaced by the following:***

***"(b) are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal *free of charge* when notice is given. Service providers shall notify their subscribers directly of any increase in charges at an appropriate time no later than one normal billing period after the increase comes into effect and in a transparent and comprehensible manner. Member States shall ensure that customers are free to withdraw from contracts if they do not***

**accept the new conditions notified to them by their electricity service provider;"**

*Justification*

*The amendment is intended to guarantee the basic rights of consumers to transparency regarding contracts. Access to clear and comprehensible information is essential for consumer protection, a point which must be made in the future Charter on the Rights of Energy Consumers.*

**Amendment 44**

**Proposal for a directive – amending act**

**Article 1 – point 14 d (new)**

Directive 2003/54/EC

Annex A – point (c)

*Text proposed by the Commission*

*Amendment*

***(14d) in Annex A, point (c) shall be replaced by the following:***

***"(c) receive transparent, independent and comparable information on applicable prices and tariffs and on standard terms and conditions in respect of access to and use of electricity services at national and Community level;"***

*Justification*

*Access to clear and comparable information is an essential element in ensuring consumer choice and hence consumer protection, a point which must be made in the future Charter on the Rights of Energy Consumers.*

**Amendment 45**

**Proposal for a directive – amending act**

**Article 1 – point 14 e (new)**

Directive 2003/54/EC

Annex A – point (d)

*Text proposed by the Commission*

*Amendment*

***(14e) in Annex A, point (d) shall be***

*replaced by the following:*

**"(d) are offered a wide choice of payment methods so as to avoid discriminating against vulnerable clients, including pre-pay meters and calculation systems free of charge where appropriate. Any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems. General terms and conditions shall be fair and transparent. They shall be given in clear and comprehensible language. Customers shall be protected against unfair or misleading selling methods pursuant to Directive 2005/29/EC, including any non-contractual obstacles imposed by the operator;"**

*Justification*

*It is essential to provide specific protection for vulnerable consumers, particularly against the sales methods referred to in Directive 2005/29/EC of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market. In view of this, the protection of vulnerable consumers should be a major element of the future Charter on the Rights of Energy Consumers.*

**Amendment 46**

**Proposal for a directive – amending act**

**Article 1 – point 14 f (new)**

Directive 2003/54/EC

Annex A – point (f)

*Text proposed by the Commission*

*Amendment*

***(14f) in Annex A, point (f) shall be replaced by the following:***

**"(f) benefit from transparent, simple and inexpensive procedures for dealing with their complaints. In particular, all consumers shall have the right to service delivery and complaint handling by their electricity service provider in line with International Standards ISO 10001, ISO 10002 and ISO 10003. Such procedures shall enable disputes to be settled fairly**

**and promptly, and within three months, with provision, where warranted, for a system of reimbursement and/or compensation. They should follow, wherever possible, the principles set out in Commission Recommendation 98/257/EC;"**

*Justification*

*ISO 10001 provides for customer satisfaction through establishing guidelines for codes of conduct. ISO 10002 provides guidelines for complaints handling. ISO 10003 provides guidelines for dispute resolution external to organisations.*

**Amendment 47**

**Proposal for a directive – amending act**

**Article 1 – point 15**

Directive 2003/54/EC

Annex A – point (h)

*Text proposed by the Commission*

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data. The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

*Amendment*

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data, ***which may include the supply of energy in a specific area and all national and Community mechanisms promoting energy efficiency.*** The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

*Justification*

*The inclusion of this type of information should encourage responsible behaviour in terms of environmental impact and enhance the beneficial influence of consumers on market trends. Consumers should be informed of the obligation to supply this information under the future Charter on the Rights of Energy Consumers, a copy of which should ideally be sent to customers subscribing to any new contracts.*

## Amendment 48

### Proposal for a directive – amending act

#### Article 1 – point 15

Directive 2003/54/EC

Annex A – point (i)

*Text proposed by the Commission*

(i) shall be properly informed every month of actual electricity consumption and costs. No additional costs *can* be charged to the consumer for this service.

*Amendment*

(i) shall be properly informed every month of actual electricity consumption and costs, ***which may include the supplier of available energy in a specific area and all national and Community measures promoting energy efficiency, and shall have ready access to this information throughout the month.*** No additional costs *may* be charged to the consumer for this service. ***Smart meters accurately recording the levels and times of energy consumption shall be installed in all homes.***

*Justification*

*Smart meters will provide suppliers with real consumption figures and inform consumers of actual consumption costs. This could enable consumers to reduce consumption during peak periods, thereby reducing their energy costs. The future Charter should refer to their existence and encourage their use.*

## Amendment 49

### Proposal for a directive – amending act

#### Article 1 – point 15 a (new)

Directive 2003/54/EC

Annex A – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(15a) in Annex A, the following paragraph shall be inserted:***

***"The Commission shall establish, in consultation with the European Parliament and the Council, a European Charter on the Rights of Energy Consumers. This Charter shall provide a reference for guidelines to be established***

***by Member States, national regulators,  
the Agency and the Commission."***

*Justification*

*Once established, the Charter on the Rights of Energy users should be regarded as a comprehensive list of consumers' rights in the energy sector, and so employed by all national and European authorities when regulating energy service providers.*

**Amendment 50**

**Proposal for a directive – amending act**

**Article 1 – point 15 b (new)**

Directive 2003/54/EC

Annex A – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***(15b) in Annex A, the following  
paragraph shall be inserted:***

***"The Commission may adopt measures for the implementation of this Annex, including, inter alia, where further standards are developed relating to point (f), for the incorporation of the rights articulated in the European Charter on the Rights of Energy Consumers and, where necessary, in the light of experience. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3)."***

*Justification*

*All applicable rights articulated in the European Charter on the Rights of Energy Consumers that are additional to those already in Annex A, further to the requirements set out in Article 3 of this Directive, should be added to the Directive and given full legal force. Annex A may require further updating in the light of the development of new standards, of experience with the operation of this Directive and any emerging consumer problems, as necessary to achieve the requirements of Article 3.*

## PROCEDURE

<b>Title</b>	Internal market in electricity			
<b>References</b>	COM(2007)0528 – C6-0316/2007 – 2007/0195(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	Alexander Lambsdorff 3.10.2007			
<b>Discussed in committee</b>	27.11.2007	22.1.2008	28.2.2008	2.4.2008
<b>Date adopted</b>	8.4.2008			
<b>Result of final vote</b>	+: -: 0:	35 3 2		
<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 Złotea			
<b>Substitute(s) present for the final vote</b>	Emmanouil Angelakas, Colm Burke, Giovanna Corda, Bert Doorn, Brigitte Fouré, Benoît Hamon, Joel Hasse Ferreira, Olle Schmidt, Gary Titley			
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Niels Busk, Bilyana Ilieva Raeva			



## PROCEDURE

<b>Title</b>	Internal market in electricity			
<b>References</b>	COM(2007)0528 – C6-0316/2007 – 2007/0195(COD)			
<b>Date submitted to Parliament</b>	19.9.2007			
<b>Committee responsible</b> Date announced in plenary	ITRE 11.10.2007			
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<b>Not delivering opinions</b> Date of decision	ENVI 9.10.2007			
<b>Rapporteur(s)</b> Date appointed	Eluned Morgan 9.10.2007			
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	31.1.2008	27.2.2008	26.3.2008	8.4.2008
	21.4.2008			
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<b>Result of final vote</b>	+: 31	–: 17	0: 2	
<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, Lena Ek, Nicole Fontaine, Norbert Glante, András Gyürk, Fiona Hall, David Hammerstein, Rebecca Harms, Erna Hennicot-Schoepges, Mary Honeyball, Ján Hudacký, Romana Jordan Cizelj, Werner Langen, Anne Laperrouze, Eugenijus Maldeikis, Eluned Morgan, Angelika Niebler, Reino Paasilinna, Atanas Papanizov, Aldo Patriciello, Francisca Pleguezuelos Aguilar, Anni Podimata, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Teresa Riera Madurell, Mechtild Rothe, Paul Rübig, Andres Tarand, Britta Thomsen, Catherine Trautmann, Claude Turmes, Nikolaos Vakalis, Adina-Ioana Vălean, Alejo Vidal-Quadras			
<b>Substitute(s) present for the final vote</b>	Daniel Caspary, Dorette Corbey, Göran Färm, Juan Fraile Cantón, Robert Goebbels, Gunnar Hökmark, Vittorio Prodi			
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Daniel Stroj			