

# EUROPEAN PARLIAMENT

2004



2009

---

*Session document*

**A6-0257/2008**

13.6.2008

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

on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/55/EC concerning common rules for the internal market in natural gas  
(COM(2007)0529 – C6-0317/2007 – 2007/0196(COD))

Committee on Industry, Research and Energy

Rapporteur: Romano Maria La Russa

### ***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.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	102
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS.....	106
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION.....	144
PROCEDURE.....	191



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/55/EC concerning common rules for the internal market in natural gas (COM(2007)0529 – C6-0317/2007 – 2007/0196(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0529),
  - having regard to Article 251(2), Article 47(2) and Articles 55 and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0317/2007),
  - 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 (A6-0257/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

### **Amendment 1**

**Proposal for a directive – amending act**

#### **Recital 3**

*Text proposed by the Commission*

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

*Amendment*

(3) However, at present, the right to sell gas in any Member State on equal terms and without discrimination or disadvantages cannot be guaranteed to **all companies in all Member States**. In particular, non-discriminatory network access and an equally effective level of regulatory supervision in each Member State do not yet exist, since the current legal framework is insufficient.

### *Justification*

*The wording proposed by the Commission gives the impression that the competition problems addressed by the Commission exist in all Member States throughout the EU.*

#### **Amendment 2**

##### **Proposal for a directive – amending act Recital 5**

*Text proposed by the Commission*

(5) Without effective separation of networks from activities of production and supply, there is ***an inherent*** risk of discrimination not only in the operation of the network but also in the incentives for vertically integrated companies to invest adequately in their networks.

*Amendment*

(5) Without effective separation of networks from activities of production and supply, there is ***a*** risk of discrimination not only in the operation of the network but also in the incentives for vertically integrated companies to invest adequately in their networks.

#### **Amendment 3**

##### **Proposal for a directive – amending act Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) The Member States should promote cooperation at regional level, and monitor the effectiveness of the network at that level. Several Member States have already put forward a proposal that would fulfil such an objective.***

### *Justification*

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

#### **Amendment 4**

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

*Text proposed by the Commission*

(6) The rules on legal and functional

*Amendment*

(6) The rules on legal and functional

unbundling currently in place have not led to effective unbundling of the transmission system operators. At its meeting in Brussels on 8 and 9 March 2007, the European Council invited the Commission to develop legislative proposals for the effective separation of supply and production activities from network operations.

unbundling currently in place have not **yet** led to effective unbundling of the transmission system operators **in each Member State, partly due to lack of implementation of existing Community legislation**. At its meeting in Brussels on 8 and 9 March 2007, the European Council invited the Commission to develop legislative proposals for the effective separation of supply and production activities from network operations.

#### *Justification*

*It should be mentioned that one reason for insufficient functioning of the European energy markets is the insufficient implementation of the current rules, which was also stressed in Para 151 to 153 and 478 of the Sector Enquiry Report as of 10 Jan 2007.*

#### **Amendment 5**

##### **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 producers and transmission system operators, in order to create incentives for the necessary investments and guarantee the access of new market entrants under a transparent and efficient regulatory regime 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. The necessary Investment will only be done, if there are not conflict of interests between generators and TSO.*

#### **Amendment 6**

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

*Text proposed by the Commission*

*Amendment*

***(7b) Gas is mainly, and increasingly, imported into the European Union from third countries. Community law should take account of the specific integration of the gas sector into the world market, including the differences in the upstream and downstream markets.***

*Justification*

*Both the European Parliament and the European Council have called for sufficient account to be taken of the differences between electricity and gas.*

**Amendment 7**

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

*Text proposed by the Commission*

*Amendment*

(8) Since ownership unbundling requires, in some instances, the restructuring of undertakings, Member States should be granted additional time to apply the relevant provisions. In view of the vertical links between the electricity and gas sectors, the unbundling provisions should apply, moreover, across the two sectors.

(8) Since ownership unbundling requires, in some instances, the restructuring of undertakings, Member States ***that decide to implement ownership unbundling*** should be granted additional time to apply the relevant provisions. In view of the vertical links between the electricity and gas sectors, the unbundling provisions should apply, moreover, across the two sectors.

*Justification*

*The new wording takes into account that ownership unbundling is only one option.*

**Amendment 8**

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

*Amendment*

***(8a) Member States that so wish may***



*apply the provisions of this Directive that relate to the effective and efficient separation of transmission systems and transmission system operators. Such separation is effective as far as it helps to ensure the independence of transmission system operators, and is efficient as far as it provides a more appropriate regulatory framework to guarantee fair competition, sufficient investment, access for new market entrants and the integration of natural gas markets. It is based on a pillar of organisational measures and measures relating to the governance of transmission system operators and on a pillar of measures relating to investment, connecting new production capacities to the network and market integration through regional cooperation. It is in line with the requirements laid down by the European Council at its meeting in Brussels on 8 and 9 March 2007.*

#### *Justification*

*The effective and efficient separation of transmission systems and of transmission system operators (TSOs) helps guarantee TSO independence through measures that are compatible with national constitutions, the proportionality principle and the free movement of capital. Coupled with measures to encourage investment and market integration, it provides an overall response and one that the directive must therefore put forward to the Member States.*

#### **Amendment 9**

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

*Text proposed by the Commission*

*Amendment*

*(8b) Member States should promote regional cooperation, with the possibility of designating a regional coordinator in charge of facilitating dialogue between competent national authorities.  
Furthermore, new power plants should be connected to the grid in due course in an effective manner.*

### *Justification*

*The third "Energy package" is very important in finalising the ongoing European liberalisation processes in the energy and gas sectors and thereby ensuring a genuine, transparent and open internal market.*

### **Amendment 10**

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

*Text proposed by the Commission*

*Amendment*

***(8c) In order to ensure proper implementation of this Directive, the Commission should assist those Member States that encounter problems therewith.***

### *Justification*

*In some Member States the effects of the second energy package remain to be seen; the second package has not been implemented or enforced properly yet due to certain national specificities.*

### **Amendment 11**

#### **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 production 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.

(10) The setting up of system operators independent from supply and production 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, ***or efficient and effective unbundling is implemented***, and detailed regulation and extensive regulatory control mechanisms are put in place.

### *Justification*

*An alternative way to ensure the independence of TSOs within integrated companies has to be introduced.*

## Amendment 12

### 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 production 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 production 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 **three options: ownership unbundling, the establishment of an independent system operator or effective and efficient unbundling.**

*Justification*

*Member States should have the choice between three options of unbundling the transmission network: ownership unbundling, the independent system operator (ISO) model, effective and efficient unbundling (EEU). All three options are equally appropriate in order to guarantee non discriminatory access to the system, to solve conflicts of interest within the integrated undertaking and to encourage investment into the network.*

## Amendment 13

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

*Text proposed by the Commission*

*Amendment*

**(11a) In order to develop competition on**

*the internal market for gas, non-household customers should be able to choose their suppliers as well as enter into contracts to secure their gas requirements with several suppliers. Such customers should be protected against exclusivity clauses, the effect of which 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 energy bills.*

**Amendment 14**

**Proposal for a directive – amending act  
Recital 12**

*Text proposed by the Commission*

(12) The implementation of effective unbundling should respect the principle of *non discrimination* between the public and private sectors. To this effect, the same person should not be able to exercise any influence, solely or jointly, over the composition, voting or decision of the bodies of both transmission system operators and supply undertakings. ***Provided that the Member State in question can demonstrate that this requirement is respected, two distinct public bodies could control on the one hand generation and supply activities and on the other transmission activities.***

*Amendment*

(12) The implementation of effective unbundling should respect the principle of *non-discrimination* between the public and private sectors. To this effect, the same person should not be able to exercise any influence, solely or jointly, over the composition, voting or decision of the bodies of both transmission system operators and supply undertakings.

*Justification*

*All public sector companies are subordinated to the national / regional / local Government through a strict hierarchical decision line. Usually strategic decisions of public energy companies are relevant for the whole economy of the country and are therefore adopted at a political level. The assignment of ownership and operation to different bodies of the same Public Administration is nonsense.*

## Amendment 15

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

*Text proposed by the Commission*

(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 production 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.

*Amendment*

(13) Separation of network and supply activities should apply throughout the Community. 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 **Agency for the Cooperation of Energy Regulators ("the Agency")** should have the right to review the decisions on certification taken by the regulatory authorities.

## Amendment 16

### 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 gas market. Use of the network is essential for gas to reach EU citizens. Functioning gas markets and in particular the networks and other assets associated with gas 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

*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 gas market **and to the integration of Member States' isolated markets**. Use of the network is essential for gas to reach EU citizens. Functioning, **open** gas markets **with genuine trading possibilities**, and in particular the networks and other assets associated with gas supply are essential for public security, for the competitiveness of

international obligations of the Community, the Community considers that the gas 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.

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 gas 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 17**

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

*Text proposed by the Commission*

*Amendment*

***(16a) Member States should take concrete measures to assist the wider use of biogas and gas from biomass, the producers of which must be granted non-discriminatory access to the gas system, provided that such access is compatible with the relevant technical rules and safety standards on an ongoing basis.***

*Justification*

*In order to meet the EU's 2020 energy target active support of biogas and gas from biomass will be necessary. This will support will exceed measure to ensure compatibility and ensuring non-discrimination.*

### **Amendment 18**

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

*Text proposed by the Commission*

*Amendment*

(18) Energy regulators need to be able to take decisions on all relevant regulatory issues if the internal market is to function

(18) Energy regulators need to be able to take decisions on all relevant regulatory issues if the internal market is to function

correctly, and to be fully independent from any other *public or private* interests.

correctly, and to be fully independent from any other interests *of public or private companies*.

#### *Justification*

*Energy regulators should be bound to the public interest.*

### **Amendment 19**

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

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

(19) Energy regulators should have the power to issue binding decisions on *gas undertakings* and to impose effective, appropriate and dissuasive sanctions on *natural gas 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 to ensure high standards of public service in compliance with market opening, the protection of vulnerable 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.

##### *Amendment*

(19) Energy regulators should have the power to issue binding decisions on *network operators* and to impose effective, appropriate and dissuasive sanctions on *network operators* 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 *regarding the access to networks with the aim of* effective competition necessary for the proper functioning of the market; as well as to ensure high standards of public service in compliance with market opening, the protection of vulnerable 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.

### **Amendment 20**

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

*Text proposed by the Commission*

*Amendment*

***(19a) Energy and financial market regulators should cooperate in order to allow each other an overview of their respective markets. They should have the power to obtain relevant information from natural gas undertakings through appropriate and sufficient investigations, to settle disputes, and impose effective sanctions.***

*Justification*

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

**Amendment 21**

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

*Text proposed by the Commission*

*Amendment*

***(21a) The structural rigidities of the gas market which arise from the concentration of suppliers, the long-term contracts that underpin deliveries, and the lack of downstream liquidity, generate non-transparent pricing structures. In order to bring clarity to the cost structure, more transparency is needed in the price formation, and a trading obligation should therefore be mandatory.***

*Justification*

*In order to facilitate market access for new and smaller gas companies and to create more transparency on the gas market and prices.*



## Amendment 22

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

*Text proposed by the Commission*

*Amendment*

***(22) Prior to adoption by the Commission of guidelines defining further the record 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 gas supply contracts and gas derivatives should be subject to pre and/or post-trade transparency requirements and if so what the content of those requirements should be.***

***deleted***

*Justification*

*See justification to amendment to Article 24f.*

## Amendment 23

### Proposal for a directive – amending act Recital 23 a (new)

*Text proposed by the Commission*

*Amendment*

***(23a) The public service requirements and the common minimum standards that follow from them need to be further strengthened to make sure that gas services are accessible to the public and to small and medium-sized enterprises.***

*Justification*

*It is extremely important for the price of accessing the gas infrastructure not to be prohibitive for households or for SMEs dependent for their energy on the provision of those services.*

## Amendment 24

### Proposal for a directive – amending act Recital 23 b (new)

*Text proposed by the Commission*

*Amendment*

***(23b) Member States should ensure that individual smart meters are installed, as provided for in 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.***

<sup>1</sup> OJ L 114, 27.4.2006, p. 64.

#### *Justification*

*Smart meters give the consumers a better insight in their actual gas consumption and therefore contribute to a more considered use of gas.*

## Amendment 25

### Proposal for a directive – amending act Recital 23 c (new)

*Text proposed by the Commission*

*Amendment*

***(23c) Consumers should be at the centre of this Directive. Existing rights for consumers need to be strengthened and guaranteed, and should include greater transparency and representation. 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 which do not comply with consumer protection and competition rules.***

#### *Justification*

*Consumers should be empowered, and should be at the centre of the EU energy policy.*

## Amendment 26

### Proposal for a directive – amending act Recital 24

*Text proposed by the Commission*

(24) In order to contribute to security of supply whilst maintaining a spirit of solidarity **between Member States**, notably in the event of an energy supply crisis, **it is important to provide a framework for regional solidarity cooperation.**

*Amendment*

(24) In order to contribute to security of supply, **Member States should**, whilst maintaining a spirit of solidarity, notably in the event of an energy supply crisis, **work together closely. For this purpose, Council Directive 2004/67/EC of 26 April 2004 concerning measures to safeguard security of natural gas supply<sup>1</sup> should serve as a basis.**

<sup>1</sup> OJ L 127, 29.4.2004, p. 92.

*Justification*

*Directive 2004/67 EG covers comprehensively aspects of security of supply.*

## Amendment 27

### Proposal for a directive – amending act Recital 25

*Text proposed by the Commission*

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

*Amendment*

(25) In view of the creation of an internal market for gas, Member States should foster the integration of their national markets and the cooperation of network operators at European and regional level. **Regional integration initiatives are an essential intermediate step in achieving integration of Community 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 constructive intermediate step making it possible to improve the way the internal natural gas market works. By allowing TSOs and NRAs to harmonise access and the rules 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 28**

**Proposal for a directive – amending act  
Recital 25 a (new)**

*Text proposed by the Commission*

*Amendment*

***(25a) The development of a truly pan-Community pipeline network should be the goal of this Directive and, to that end, 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 29**

**Proposal for a directive – amending act  
Recital 27 a (new)**

*Text proposed by the Commission*

*Amendment*

***(27a) Member States should consider with the social partners concerned the implications of amending Directive 2003/55/EC, in particular the different models to ensure independent transmission system operators, in terms of the employment, working conditions and information, consultation and participation rights of workers, with a view to mitigating the negative consequences.***

## *Justification*

*Experience has shown that new rules have consequences for the workers concerned in the sector as for example demonstrated in the report on the Employment effects of opening the electricity and gas markets for the European Commission (2007).*

### **Amendment 30**

#### **Proposal for a directive – amending act Recital 32**

*Text proposed by the Commission*

*Amendment*

***(32) As regards Directive 2003/55/EC, power should be conferred on the Commission in particular to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of this Directive. Since those measures are of general scope and are designed to supplement Directive 2003/55/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 31**

#### **Proposal for a directive – amending act Article 1 – point -1 (new) Directive 2003/55/EC Article 1 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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

**"2. The rules established by this Directive for natural gas, including liquefied natural gas (LNG), shall also apply in a non-discriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system."**

*(Adding a clarification to Article 1 - paragraph 2 of Directive 2003/55/EC)*

*Justification*

*Assuming the technical and chemical safety threshold for the different gases are met the need for non-discrimination for access between the gases from different sources must be emphasised.*

## **Amendment 32**

**Proposal for a directive – amending act**

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

Directive 2003/55/EC

Article 2 – point 3

*Text proposed by the Commission*

*Amendment*

***(-a) point 3 shall be replaced by the following:***

***“3. ‘transmission’ means the transport of natural gas through a [...]network containing mainly high pressure pipelines, other than an upstream pipeline network and other than the part of high pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;”***

*Justification*

*The current definition of ‘transmission’ in Directive 2003/55/EC differs from the definition of ‘transmission’ in the Regulation 1775/2005. The proposed amendment changes the definition in the Directive to be the same as the one in the Regulation.*

## **Amendment 33**

**Proposal for a directive – amending act**  
**Article 1 – point 1 – point - a a (new)**  
Directive 2003/55/EC  
Article 2 – point 9

*Text proposed by the Commission*

*Amendment*

*(-aa) point 9 shall be replaced by the following:*

**"9. 'storage facility' means a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used *exclusively* for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions;"**

*Justification*

*Wording needs to be tightened to ensure that storage operators are not able to argue that as most of their facility is used for production operations, it should therefore not be subject to regulated or negotiated third party access (RTPA/NTPA).*

#### **Amendment 34**

**Proposal for a directive – amending act**  
**Article 1 – point 1 – point -a b (new)**  
Directive 2003/55/EC  
Article 2 – point 14

*Text proposed by the Commission*

*Amendment*

*(-ab) point 14 shall be replaced by the following:*

**"14. 'ancillary services' means all services necessary for access to and the operation of transmission and/or distribution networks and/or LNG facilities and/or storage facilities including load balancing, blending *and injection of inert gases*, but excluding facilities reserved exclusively for transmission system operators carrying out their functions;"**

*(Amending Article 2 point 14 of Directive 2003/55/EC)*

*Justification*

*Wording needs to be tightened to ensure that 'blending' is not restricted to the mixing of natural gas streams but also includes nitrogen injection, which is the main way of converting high calorific value gas to low calorific gas (H gas to L gas). Given the de facto monopoly in the L gas market, access to quality conversion is essential to creating competition.*

**Amendment 35**

**Proposal for a directive – amending act**

**Article 1 – point 1 – point -a c (new)**

Directive 2003/55/EC

Article 2 – point 17

*Text proposed by the Commission*

*Amendment*

***(-ac) point 17 shall be replaced by the following:***

***"17. 'interconnector' means a long-distance gas pipeline which crosses or spans a border between Member States for the main purpose of connecting the national transmission systems of these Member States;"***

*Justification*

*The current definition may be appropriate for interconnectors in electricity networks, but with the exception of underwater pipelines there are no natural gas pipelines whose sole purpose is to link two Member States.*

**Amendment 36**

**Proposal for a directive – amending act**

**Article 1 – point 1 – point b**

Article 2 – point 36 – second subparagraph (new)

*Text proposed by the Commission*

*Amendment*

***For the avoidance of doubt, the holding of a long-term transport contract by an undertaking that holds interests in production or supply activities shall not itself imply control of a transmission system.***



### *Justification*

*The amendment seeks to exclude from the concept of 'control' any long-term contracts concerning supply or production, since it is deemed necessary to protect such multi-annual contracts that are typical of the gas sector and not of the electricity sector.*

### **Amendment 37**

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

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

Directive 2003/55/EC

Article 2 – point 36 a (new)

*Text proposed by the Commission*

*Amendment*

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

***"36a. 'isolated market' means a Member State with no interconnection to other Member States' national transmission systems and/or whose gas supply is controlled by a person or persons from a third country;"***

### **Amendment 38**

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

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

Directive 2003/55/EC

Article 2 – point 36 b (new)

*Text proposed by the Commission*

*Amendment*

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

***"36b. 'project of European interest' means a gas infrastructure project which results in new gas resources becoming available to the Community and in greater diversification of gas supplies in more than one Member State;"***

### *Justification*

*In Europe, demand for transmission capacity is growing, and investment in new infrastructure is therefore essential. Well developed infrastructure is vital for genuine European competition on the gas market. "Projects of European interest" must therefore be defined and the strategic and political decisions required for them must be taken.*

## Amendment 39

### Proposal for a directive – amending act

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

Directive 2003/55/EC

Article 2 – point 36 c (new)

*Text proposed by the Commission*

*Amendment*

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

***"36c. 'fair and undistorted competition in an open market' means common opportunities and equal access for all providers within the European Union for which the Member States, national regulatory authorities and the Agency shall be responsible;"***

## Amendment 40

### Proposal for a directive – amending act

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

Directive 2003/55/EC

Article 2 – point 36 d (new)

*Text proposed by the Commission*

*Amendment*

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

***"36d. '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;"***

*Justification*

*Due to a lack of definition many Member States do not officially collect data on the number of citizens who are in energy poverty. In supporting a common definition, Member States will be aware of the scale of the problem and should be encouraged to take measures to tackle it. This definition, based on research undertaken by a group of European academics, ensures a calculation which can be applied across the EU. It is aimed at low income households who pay proportionally more for their energy*

## Amendment 41

**Proposal for a directive – amending act**

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

Directive 2003/55/EC

Article 2 – point 36 e (new)

*Text proposed by the Commission*

*Amendment*

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

***"36e. 'affordable price' means a price defined by Member States at national level in consultation with national regulatory authorities, social partners and relevant stakeholders while taking account of the definition of energy poverty provided for in point 36d."***

*Justification*

*This should be determined at member state level as this is clearly a matter for subsidiarity.*

**Amendment 42**

**Proposal for a directive – amending act**

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

Directive 2003/55/EC

Article 2 – point 36 f (new)

*Text proposed by the Commission*

*Amendment*

***(bf) the following point shall be added:***

***"36f. 'industrial site' means a privately owned geographical area with a natural gas grid which is primarily destined to supply industrial consumers on that site."***

*Justification*

*Today, operators of energy grids on industrial sites do not have to comply with a series of obligations concerning the operation of the grid in all EU Member States. This practice has no clear EU legal basis. Therefore, EU legislation should formally enable Member States to provide derogations for industrial sites as this would ensure legal certainty. The differentiated treatment of industrial grids is important as it 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 (less than 50).*

## Amendment 43

### Proposal for a directive – amending act

#### Article 1 – point 1 a (new)

Directive 2003/55/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 gas sector, in the general economic interest, public service obligations which may relate to security, including security of supply, regularity *and* quality [...], and environmental protection, including energy efficiency and climate protection. [...]"**

*(Adding new elements to Article 3 paragraph 2 of Directive 2003/55/EC)*

*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 44

### Proposal for a directive – amending act

#### Article 1 – point 1 b (new)

Directive 2003/55/EC

Article 3 – paragraph 3

*Text proposed by the Commission*

*Amendment*

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

**"3. Member States shall take appropriate measures to protect final customers and to ensure high levels of consumer protection, and shall, in**

**particular, ensure that there are adequate safeguards to protect vulnerable customers, including appropriate measures *including those related to payment terms* to help them avoid disconnection. [...]"**

*(Adding new elements to Article 3 paragraph 3 of Directive 2003/55/EC)*

*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 45**

**Proposal for a directive – amending act**

**Article 1 – point 1 c (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

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

***"3a. Member States shall take appropriate measures to address energy poverty in national action plans in order to ensure that the number of people in energy poverty decreases in real terms and shall communicate such measures to the Commission. Each Member State shall be responsible for providing, according to the principle of subsidiarity, a definition of energy poverty at national level, in consultation with regulatory authorities and stakeholders with reference to Article 2(36d). Such measures may include benefits in social security systems, support to energy efficiency improvements and energy production at the lowest possible prices, and shall not impede the opening of the market set out in Article 23. The Commission shall provide guidance to monitor the impact of such measures on***

*energy poverty, and on the functioning of the market. "*

#### **Amendment 46**

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

##### **Article 1 – point 1 d (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

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

***"3b. Member States shall ensure that all customers are entitled to have their gas provided by a supplier, subject to the supplier's agreement, irrespective of the Member State in which the supplier is approved as a supplier. In this regard, Member States shall take all necessary measures to ensure that undertakings which are approved as suppliers in another Member State can supply their citizens without having to comply with any further conditions."***

*Justification*

*Suppliers encounter different preconditions for the supply of customers in the various Member States; these different market rules constitute substantial barriers to entry to markets. In order to facilitate unrestricted access to the market the country-of-origin principle should apply.*

#### **Amendment 47**

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

##### **Article 1 – point 1 e (new)**

Directive 2003/55/EC

Article 3 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***(1e) In Article 3, paragraph 4 shall be replaced by the following:***

***"4. Member States shall implement***

**appropriate measures to achieve the objectives of social and economic cohesion which shall lower the cost of gas provided to low-income household customers and guarantee the same conditions for the customers living in remote areas, and the objectives of environmental protection. Those measures include energy efficiency/demand-side management measures and means to combat climate change, and security of supply, and may also include, in particular, the provision of adequate economic incentives, using, where appropriate, all existing national and Community tools, for the maintenance and construction of necessary network infrastructure, including interconnection capacity."**

#### **Amendment 48**

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

##### **Article 1 – point 1 f (new)**

Directive 2003/55/EC

Article 3 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

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

***"4a. In order to promote energy efficiency, national regulatory authorities shall mandate natural gas undertakings to introduce pricing formulas which increase for 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 aimed at optimising the use of gas, 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 customers, in particular household customers suffering energy poverty."*

## **Amendment 49**

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

#### **Article 1 – point 1 g (new)**

Directive 2003/55/EC

Article 3 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

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

***"5a. The implementation of this Directive shall not have negative consequences for the employment, working conditions and information, consultation and participation rights of the workers concerned. Member States shall consult the social partners concerned on the implementation of any amendments to this Directive to mitigate negative consequences for the workers concerned. The Commission shall report to the sectoral social dialogue committees for gas and for electricity on the consultations and measures taken."***

*(Adding a new paragraph after paragraph 5 of Article 3 of Directive 2003/55/EC)*

*Justification*

*Safeguards are needed to protect workers concerned in the sector from any adverse effects of opening up the electricity and gas markets. To mitigate possible negative consequences it is important that these are discussed with the social partners.*

## **Amendment 50**

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

#### **Article 1 – point 2**

Directive 2003/55/EC

Article 3 – paragraph 7

PE400.700v02-00

32/185

RR\729132EN.doc



*Text proposed by the Commission*

*Amendment*

**(2) In Article 3, the following paragraph 7 is added:**

**deleted**

***"7. 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 30 (3).***

## **Amendment 51**

**Proposal for a directive – amending act**

**Article 1 – point 2 a (new)**

Directive 2003/55/EC

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(2a) In Article 4, paragraph 2 shall be replaced by the following:***

***"2. Where Member States have a system of authorisation, they shall lay down objective and non discriminatory criteria which shall be met by an undertaking applying for an authorisation to build and/or operate natural gas facilities or applying for an authorisation to supply natural gas. Member States shall in no way be entitled to bind the authorisation to criteria which give the competent authorities discretionary powers. The non discriminatory criteria and procedures for the granting of authorisations shall be made public. Member States shall ensure that authorisation procedures for facilities, pipelines and associated equipment take into account the importance of the project for the internal market in energy."***

*(Changes wording of Article 4 paragraph 2 of Directive 2003/55/EC)*

### *Justification*

*A big obstacle to the completion of the internal market in energy is the lack of sufficient infrastructure. In many Member States, projects for the construction of new and the upgrading of existing infrastructure cannot be realised in reasonable time due to problems with authorisation procedures.*

#### **Amendment 52**

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

##### **Article 1 – point 3**

Directive 2003/55/EC

Article 5a – paragraph 1

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

1. In order to safeguard a secure supply on the internal market of natural gas, Member States shall cooperate in order to promote regional and bilateral solidarity.

##### *Amendment*

1. In order to safeguard a secure supply on the internal market of natural gas, Member States shall, ***without imposing a disproportionate burden on market participants***, cooperate in order to promote regional and bilateral solidarity.

### *Justification*

*Solidarity agreements should ensure that they do not distort the market and that pricing signals continue to be effective especially in periods of high demand.*

#### **Amendment 53**

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

##### **Article 1 – point 3**

Directive 2003/55/EC

Article 5a – paragraph 3

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

3. The Commission shall be kept informed of this cooperation.

##### *Amendment*

3. The Commission, ***the other Member States and the market participants*** shall be kept informed of this cooperation.

### *Justification*

*Amendment is intended to ensure principles of good regulatory practice and transparency regarding the rules/guidelines for such co-operation and mutual assistance.*

## Amendment 54

### Proposal for a directive – amending act

#### Article 1 – point 3

Directive 2003/55/EC

Article 5 a – paragraph 4

*Text proposed by the Commission*

*Amendment*

**4. The Commission may adopt guidelines for regional solidarity cooperation. 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 30 (3).**

*deleted*

*Justification*

*These measures exceed the scope of comitology. The issue is neither a simple implementation measure, nor does it concern "non-essential elements". It is the role of the Commission to develop the appropriate regulatory framework concerning regional solidarity cooperation under the adequate decision-making procedure.*

## Amendment 55

### Proposal for a directive – amending act

#### Article 1 – point 3

Directive 2003/55/EC

Article 5 b

*Text proposed by the Commission*

*Amendment*

**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) No1775/2005.**

**1. Member States' 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 and intermediate 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 internal market, facilitating the harmonisation** of their legal, regulatory and technical framework **and, above all, integrating the gas islands that persist in**

*the European Union. Member States shall also promote the cooperation of national regulatory authorities at cross-border and regional level."*

*2. The Agency shall cooperate with national regulatory authorities and transmission system operators in accordance with Chapters III and IV to ensure the convergence of regulatory frameworks between the regions with the aim of creating a competitive internal 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 24d."*

#### **Amendment 56**

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

##### **Article 1 – point 4**

Directive 2003/55/EC

Article 7 – 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 57**

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

##### **Article 1 – point 4**

Directive 2003/55/EC

Article 7 – 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 production or supply, and to directly or indirectly exercise control or hold any interest in or exercise any right

##### *Amendment*

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

over a transmission system operator,

## **Amendment 58**

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

#### **Article 1 – point 4**

Directive 2003/55/EC

Article 7 – 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 production 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 production or supply;

## **Amendment 59**

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

#### **Article 1 – point 4**

Directive 2003/55/EC

Article 7 – 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 production 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 production or supply;

## **Amendment 60**

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

#### **Article 1 – point 4**

Directive 2003/55/EC

Article 7 – 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 management contract or exercise influence in any other way of non-ownership, and directly or indirectly to exercise control or hold any interest in or exercise any right over an undertaking performing any of the functions of production or supply."***

## **Amendment 61**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/55/EC

Article 7 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

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

## **Amendment 62**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/55/EC

Article 7 – 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 transmission systems have created a joint venture which acts as a transmission system operator in several Member States for the transmission systems concerned. **No**

5. The obligation set out in *point (a) of* paragraph 1 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.

*other undertaking may be part of the joint venture, unless it has been approved under Article 9a as an independent system operator.*

### **Amendment 63**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/55/EC

Article 7 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

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

### **Amendment 64**

**Proposal for a directive – amending act**

**Article 1 – point 4**

Directive 2003/55/EC

Article 7 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

*6a. Where on the date of entry into force of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas], the transmission system belongs to a vertically integrated undertaking, Member States may decide not to apply paragraph 1.*

*In such a case, Member States shall either:*

*(a) designate an independent system*

*operator in accordance with Article 9; or  
(b) comply with the provisions of Chapter IVa.*

*Vertically integrated undertakings that own a transmission system may not in any event be prevented from taking steps to comply with paragraph 1.*

## **Amendment 65**

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

#### **Article 1 – point 5**

Directive 2003/55/EC

Article 7a – paragraph 2

*Text proposed by the Commission*

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.

*Amendment*

2. An agreement *aimed at establishing a common framework for investing in the energy sector and opening the energy market of a third country, including as regards undertakings established within the European Union*, concluded with one or several third countries to which the Community is a party may allow for a derogation from paragraph 1.

*Justification*

*The notion of agreement between Community and third Countries shall be clarified, in order for it to unequivocally refer to a specific agreement in energy matters, providing for correct rule of law in both European and external markets, reciprocity as and a comprehensive discipline for investment protection.*

## **Amendment 66**

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

#### **Article 1 – point 5**

Directive 2003/55/EC

Article 7b – 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**

*Amendment*

**deleted**



***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 30(3).***

*Justification*

*This should not be decided by the Commission through the comitology process, but by codecision.*

**Amendment 67**

**Proposal for a directive – amending act**

**Article 1 – point 5**

Directive 2003/55/EC

Article 7b – paragraph 13 a (new)

*Text proposed by the Commission*

*Amendment*

***13a. The procedures set out in this Article with particular reference to the limitations set out in paragraph 2, shall not apply to upstream pipelines solely aimed at directly connecting gas supply networks of countries of origin to a landing point within the territory of the Community, and to their upgrades.***

*Justification*

*Upstream pipelines directly landing in the territory of the Community shall not undergo the certification procedure. Development of major gas production and transport project is generally carried out by international consortia to which foreign producing companies take part.*

**Amendment 68**

**Proposal for a directive – amending act**

**Article 1 – point 6**

Directive 2003/55/EC

Article 8 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) operate, maintain and develop under

(a) operate, maintain and develop under

economic conditions secure, reliable and efficient transmission, storage and/or LNG facilities, 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.**

economic conditions secure, reliable and efficient transmission, storage and/or LNG facilities **to secure an open market for new entrants**, with due regard to the environment.

#### *Justification*

*The task of transmission network, storage and/or LNG system operators is to guarantee a safe, reliable and efficient infrastructure. Objectives over and above these tasks cannot be achieved by operators. They fall within the sphere of responsibility either of the relevant Member States or of other market participants.*

### **Amendment 69**

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

##### **Article 1 – point 6 a (new)**

Directive 2003/55/EC

Article 8 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***(6a) In Article 8, paragraph 3 shall be replaced by the following:***

***"3. Member States may, through their national regulatory authorities, require transmission system operators to comply with minimum standards for the maintenance and development of the transmission system, including interconnection capacity. National regulatory authorities should be given broader powers for the purpose of ensuring consumer protection within the European Union."***

#### *Justification*

*Consumer protection must be a priority when maintenance decisions are being taken to ensure that there are no detrimental effects for end users. Currently many National Regulatory Authorities have no remit to care for the European consumer so all decisions are taken only with the national consumer in mind, this will need to change if a truly European energy market is to succeed.*

## Amendment 70

### Proposal for a directive – amending act

#### Article 1 – point 8

Directive 2003/55/EC

Article 9

*Text proposed by the Commission*

*Amendment*

#### *Article 9*

*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 7(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 7(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 7(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 8;*

*(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 1775/05 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission network\* 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 7a and 9(2) shall be approved and designated as independent system operators by Member States. The certification procedure in Article 7b shall be applicable.*

*4. Where the Commission has taken a decision in accordance with the procedure in Article 7b 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 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 9(1).*

*5. Each independent system operator shall be responsible for granting and managing third party access, including the collection of access charges and congestion rents, for operating, maintaining and developing the transmission system, as well as 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 that it owns and are managed by the independent system operator, 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.*

## **Amendment 71**

**Proposal for a directive – amending act**

**Article 1 – point 8**

Directive 2003/55/EC

Article 9a

*Text proposed by the Commission*

*Amendment*

*Article 9a*

*deleted*

***Unbundling of transmission system owner and storage system operator***

***1. Transmission system owners, where an independent system operator has been appointed, and storage system operators 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 and storage. This Article shall only apply to storage facilities that are technically and/or economically necessary for providing efficient access to the system for the supply of customers pursuant to Article 19.***

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

***(a) those persons responsible for the management of the transmission system owner and storage system operator may not participate in company structures of the integrated natural gas undertaking responsible, directly or indirectly, for the***

*day-to-day operation of the production, distribution and supply of natural gas;*

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

*(c) the storage system operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the storage facilities. This shall not preclude the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the parent company in respect of return on assets regulated indirectly in accordance with Article 24c(4) in a subsidiary are protected. In particular, this shall enable the parent company to approve the annual financial plan, or any equivalent instrument, of the storage system operator and to set global limits on the levels of indebtedness of its subsidiary. It shall not permit the parent company to give instructions regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of storage facilities, that do not exceed the terms of the approved financial plan, or any equivalent instrument;*

*(d) the transmission system owner and storage system operator 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 and of the storage operator 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 30(3)."***

*Justification*

*The Independent System operator model implies bureaucracy and costly regulatory control and is therefore not a viable alternative to full ownership unbundling.*

**Amendment 72**

**Proposal for a directive – amending act**

**Article 1 – point 9**

Directive 2003/55/EC

Article 10 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Commercially sensitive information shall be determined by using objective and transparent criteria.***

*Justification*

*Transparency within the internal gas market is beneficial when it fits the purpose of supporting a functioning market. Any additional data sharing requirements should respect the confidentiality of business sensitive information and not contravene competition law.*

**Amendment 73**

**Proposal for a directive – amending act**

**Article 1 – point 9 a (new)**

Directive 2003/55/EC

Article 12 – paragraph 1

*Text proposed by the Commission*

*Amendment*

***(9a) In Article 12, paragraph 1 shall be replaced by the following:***



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

*Justification*

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

**Amendment 74**

**Proposal for a directive – amending act**

**Article 1 – point 9 b (new)**

Directive 2003/55/EC

Article 12 – paragraph 4

*Text proposed by the Commission*

*Amendment*

***(9b) In Article 12, paragraph 4 shall be replaced by the following:***

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

**Amendment 75**

**Proposal for a directive – amending act**

**Article 1 – point 9 c (new)**

Directive 2003/55/EC

Article 12 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(9c) In Article 12, the following paragraph shall be inserted:***

***"4a. The distribution system operator shall submit to the relevant regulatory***

*authority, within one year of the entry into force of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas], a proposal describing the appropriate information and communication systems to be implemented in order to provide the information mentioned in paragraph 4. This proposal shall facilitate, inter alia the use of bi-directional electronic meters, which shall be rolled out to all customers within 10 years after entry into force of that Directive, the active participation of final customers and distributed producers 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 production, network and demand resources."*

## **Amendment 76**

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

#### **Article 1 – point 9 d (new)**

Directive 2003/55/EC

Article 12 – paragraph 4 b (new)

*Text proposed by the Commission*

*Amendment*

***(9d) In Article 12, the following paragraph shall be inserted:***

***"4b. Within two years of the entry into force of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas], national regulatory authorities shall approve or reject the proposals referred to in paragraph 4a. National regulatory authorities shall ensure full interoperability of the information and communication systems to be implemented. For this purpose, they may issue guidelines and may call for***

*amendments to the proposals referred to in paragraph 4a."*

## **Amendment 77**

**Proposal for a directive – amending act**

**Article 1 – point 9 e (new)**

Directive 2003/55/EC

Article 12 – paragraph 4 c (new)

*Text proposed by the Commission*

*Amendment*

***(9e) In Article 12, the following paragraph shall be inserted:***

***"4c. Prior to notification to the distribution system operator of its decision concerning the proposal referred to in paragraph 4a, the national regulatory authority shall inform the Agency or, if the Agency is not yet in operation, the Commission thereof. The Agency or the Commission shall ensure that the information and communication systems to be implemented facilitate the development of the internal market for gas and do not introduce any new technical barriers."***

## **Amendment 78**

**Proposal for a directive – amending act**

**Article 1 – point 9 f (new)**

Directive 2003/55/EC

Chapters IV a and, IV b (new)

*Text proposed by the Commission*

*Amendment*

***(9f) Chapter IVa, Articles 12a to 12i, and Chapter IVb, Article 12j shall be inserted:***

***"CHAPTER IVa***

***Independent Transmission Operators***

## *Article 12a*

### *Scope*

*The provisions of this Chapter shall apply when a Member State decides not to apply Article 7(1) in accordance with Article 7(6a) and does not designate an independent system operator in accordance with Article 9, subject to approval by the Commission.*

## *Article 12b*

### *Assets, equipment, staff and identity*

*1. Transmission system operators shall be equipped with all human, physical and financial resources necessary for fulfilling their obligations under this Directive and carrying out the business of gas transmission, provided that:*

*(a) assets that are necessary for the business of gas transmission, including the transmission network, shall be owned by the transmission system operator;*

*(b) personnel necessary for the business of gas transmission, including the performance of all corporate tasks, shall be employed by the transmission system operator;*

*(c) leasing of personnel and rendering of services, to and from any other parts of the vertically integrated undertaking shall be prohibited;*

*(d) appropriate financial resources for future investment projects and/or for the replacement of existing assets shall be kept available notably by the vertically integrated undertaking following an appropriate request from the transmission system operator in the framework of the annual financial plan referred to in Article 12f;*

*(e) transmission system operators shall not use the same external contractors or consultants as the vertically integrated undertaking and they must not share information technology systems or*

*equipment, physical premises and security access systems.*

*2. The business of gas transmission shall at least include the following activities in addition to those listed in Article 8:*

*(a) representation of the transmission system operator and contacts to third parties and the regulatory authorities;*

*(b) representation of the transmission system operator within the European network of transmission system operators;*

*(c) granting and managing third party access;*

*(d) collection of all charges related to the transmission system including the access charges, balancing charges for ancillary services such as gas treatment, purchasing of services (balancing costs, energy for losses);*

*(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) setting up appropriate joint ventures, including with one or more transmission system operators, gas exchanges, etc. pursuing the objective to develop the creation of regional markets or to facilitate the liberalization process;*

*(h) all corporate services, including legal services, accountancy and IT services.*

*3. Transmission system operators shall be organised in the legal form of a limited liability company as referred to in Article 1 of Directive 68/151/EEC.*

*4. The transmission system operator shall not, in its corporate identity, communication, branding and premises, create confusion in respect of the separate identity of the vertically integrated undertaking.*

***5. The accounts of transmission system operators shall be audited by an auditor other than the one auditing the vertically integrated undertaking or any part of it.***

***Article 12c***

***Independence of the transmission system operator***

***1. Without prejudice to the powers of the members of the supervisory body appointed by the vertically integrated undertaking under Article 12f, the transmission system operator shall have effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain or develop the network. The transmission system operator shall have the power to raise money on the capital market in particular through borrowing and capital increase in the framework of the annual financial plan referred to in Article 12f.***

***2. Subsidiaries of the vertically integrated undertaking performing functions of production or supply shall not have any direct or indirect shareholding in the transmission system operator. The transmission system operator shall neither hold direct or indirect shares in any subsidiary of the vertically integrated undertaking performing functions of production or supply, nor receive dividends or any other financial benefit from such a subsidiary except for the revenues derived from the use of the network.***

***3. The overall management structure and the corporate statutes of the transmission system operator shall ensure effective independence of the transmission system operator as referred to in this Chapter. The vertically integrated undertaking shall not determine, whether directly or indirectly, the competitive behaviour of the transmission system operator in relation to the day-to-day activities of the transmission system operator and***

*management of the network, or in relation to activities necessary for the preparation of the 10-year investment plan developed pursuant to Article 12h.*

*4. Any commercial and financial relations between the vertically integrated undertaking and the transmission system operator, including loans from the transmission system operator to the vertically integrated undertaking, shall be subject to market conditions. The transmission system operator shall keep detailed records of such commercial and financial relations and make them available to the regulatory authority on request.*

*5. The transmission system operator shall submit to the regulatory authority all commercial and financial agreements with the vertically integrated undertaking.*

*6. The transmission system operator shall inform the regulatory authority of the available financial resources referred to in Article 12b(1)(d).*

*7. An undertaking which has been certified by the regulatory authority as complying with the requirements of this Chapter shall be approved and designated as a transmission system operator by the Member State concerned. The certification procedure in Article 7b shall be applicable.*

*8. Transparency shall be mandatory to ensure non-discrimination, in particular in relation to references for tariffs, third-party access services, capacity allocation and balancing. Vertically integrated undertaking shall be required to refrain from any activities that impede the transmission system operators in fulfilment of those obligations.*

#### *Article 12d*

*Independence of the staff and the management of the transmission system operator*

***1. Decisions regarding appointment and renewal, working conditions including remuneration and termination of the term of office of the persons responsible for the management and/or members of the administrative bodies of the transmission system operator shall be taken by the supervisory body of the transmission system operator appointed in accordance with Article 12f.***

***2. The identity and the conditions governing the term, the duration and the termination of office of the persons nominated by the supervisory body for appointment or renewal as persons responsible for the management and/or as members of the administrative bodies of the transmission system operator, and the reasons for any proposed decision terminating such term of office, shall be notified to the regulatory authority. Those conditions and the decisions referred to in paragraph 1 shall become binding only if, within a period of three weeks after notification, the regulatory authority has not objected to them. The regulatory authority may object if serious doubts arise as to the professional independence of a nominated person responsible for the management and/or member of the administrative bodies, or in the case of premature termination of his/her term of office, if serious doubts exist regarding its justification.***

***3. The persons responsible for the management and/or the members of the administrative bodies of the transmission system operator appointed by the supervisory body shall hold no professional position or responsibility, interest or business relationship, directly or indirectly, in or with the vertically integrated undertaking or any part of it or its controlling shareholders other than the transmission system operator for a period of five years before their appointment.***

***4. The persons responsible for the management and/or members of the***



*administrative bodies, and employees of the transmission system operator shall hold no other professional position or responsibility, interest or business relationship, directly or indirectly, in or with any part of the vertically integrated undertaking or with its controlling shareholders.*

*5. The persons responsible for the management and/or members of the administrative bodies, and employees of the transmission system operator shall hold no interest in or receive financial benefit from any part of the vertically integrated undertaking, whether directly or indirectly, other than the transmission system operator. Their remuneration shall not depend on activities or results of the vertically integrated undertaking other than those of the transmission system operator.*

*6. Effective rights of appeal to the regulatory authority shall be guaranteed for any complaints by the persons responsible for the management and/or members of the administrative bodies of the transmission system operator against premature terminations of their term of office.*

*7. After termination of their term of office in the transmission system operator, the persons responsible for its management and/or members of its administrative bodies shall have no professional position or responsibility, interest or business relationship, directly or indirectly, in or with any part of the vertically integrated undertaking other than the transmission system operator, or its controlling shareholders for a period of no less than five years.*

#### *Article 12e*

##### *Trustee*

*1. An independent Trustee shall be appointed by the regulatory authority on the proposal and at the expense of the*

*vertically integrated undertaking. The Trustee shall act exclusively in the legitimate interest of the vertically integrated undertaking in the preservation of the asset value of the transmission system operator, while safeguarding the independence of the transmission system operator from the vertically integrated undertaking. In the exercise of its functions, the Trustee shall not have regard to the interest of the production and supply business of the vertically integrated undertaking.*

*2. The Trustee shall have no professional position or responsibility, interest or business relationship, directly or indirectly, in or with the vertically integrated undertaking or any part of it, or its controlling shareholders, or with any undertaking performing functions of production or supply, for a period of 5 years before its appointment.*

*The terms of the mandate of the trustee, including the duration, the conditions for termination and the financial conditions, shall be subject to approval by the regulatory authority.*

*During its mandate, the Trustee may have no other professional position or responsibility, interest or business relationship, directly or indirectly, in or with any part of the vertically integrated undertaking or with its controlling shareholders.*

*Following termination of the mandate, the trustee shall have no professional position or responsibility, interest or business relationship, directly or indirectly, in or with any part of the vertically integrated undertaking or its controlling shareholders for a period of no less than five years.*

*3. The Trustee shall be responsible for:*

*(a) the appointment, renewal and dismissal of the members, other than those referred to in Article 12f(2)(a), of*

*the supervisory body of the transmission system operator; and*

*(b) the exercise of its voting rights in the supervisory body.*

#### *Article 12f*

##### *Supervisory Body*

*1. The transmission system operator shall have a supervisory body which shall be in charge of taking decisions which may have a significant impact on the value of the assets of the shareholders within the transmission system operator, in particular decisions regarding the approval of the annual financial plan, the level of indebtedness of the transmission system operator and the amount of dividends distributed to shareholders.*

*2. The supervisory body shall be composed of*

*(a) members representing the vertically integrated undertaking,*

*(b) members representing third party shareholders,*

*(c) members representing the transmission system operator,*

*(d) the Trustee, and*

*(e) where the relevant legislation of a Member State so provides, members representing other interested parties such as employees of the transmission system operator.*

*3. The Trustee shall have the right of veto with respect to decisions that in his/her view may significantly reduce the asset value of the transmission system operator. When assessing whether a decision may significantly reduce the value of the assets, the annual financial plan and the amount of debts of the transmission system operator shall be of particular importance. Two thirds of the Members of the Supervisory Body may overrule such veto, in which case Article 12h(7) applies.*

**4. Article 12d2) to (7) shall apply to the members of the Supervisory Body.**

**Article 12g**

**Compliance programme and compliance officer**

**1. Member States shall ensure that transmission system operators establish and implement a compliance programme which sets out the measures taken in order to ensure that discriminatory conduct is excluded, and ensure that the compliance with this programme is adequately monitored. The programme shall set out the specific obligations of employees to meet this objective. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulatory authority,, compliance with the program shall be independently monitored by the compliance officer.**

**2. The Supervisory Body shall appoint a compliance officer. The compliance officer may be a natural or a legal person. Article 12d(2) to (7) shall apply to the compliance officer. The regulatory authority may object to the appointment of a compliance officer for reasons of lack of independence or professional capacity.**

**3. The compliance officer shall be in charge of:**

**(a) monitoring the implementation of the compliance programme;**

**(b) elaborating an annual report, setting out the measures taken in order to implement the compliance programme and submitting it to the regulatory authority;**

**(c) reporting to the Supervisory Body and issuing recommendations on the compliance programme and its implementation;**

**(d) reporting to the regulatory authority on any commercial and financial relations between the vertically integrated**

*undertaking and the transmission system operator.*

*4. The compliance officer shall submit the proposed decisions on the investment plan or on individual investments in the network to the regulatory authority. This shall occur at the latest when the management and/or the competent administrative body of the transmission system operator submit them to the Supervisory Body.*

*5. Where the vertically integrated undertaking, in the general assembly or through the vote of the members of the Supervisory Body it has appointed, has prevented the adoption of a decision with the effect of preventing or delaying investments in the network, the compliance officer shall report this to the regulatory authority.*

*6. The conditions governing the mandate or the employment conditions of the compliance officer shall be subject to approval by the regulatory authority and shall ensure the independence of the compliance officer.*

*7. The compliance officer shall regularly report, either orally or in writing, to the regulatory authority and shall have the right to regularly report, either orally or in writing, to the Supervisory Body of the transmission system operator.*

*8. The compliance officer may attend all meetings of the management or administrative bodies of the transmission system operator and those of the Supervisory Body and the general assembly. The compliance officer shall attend all meetings that address the following matters:*

*(a) conditions for access to the network, as defined in Regulation (EC) No 1775/2005, in particular regarding tariffs, third party access services, capacity allocation and congestion management, transparency, balancing and secondary*

*markets;*

*(b) projects undertaken in order to operate, maintain and develop the transmission grid system, including investments in new transport connections, in expansion of capacity and in optimisation of existing capacity;*

*(c) energy purchases or sales necessary for the operation of the transmission system.*

*9. The compliance officer shall monitor the compliance of the transmission system operator with Article 10.*

*10. The compliance officer shall have access to all relevant data and to the offices of the transmission system operator and to all the information necessary for the fulfilment of its task.*

*11. After prior approval by the regulatory authority, the Supervisory Body may dismiss the compliance officer.*

*12. Obligations of the transmission system operator and vertically integrated undertaking in particular for commercial and financial agreements between transmission system operator and vertically integrated undertaking should only be notified to the regulatory authority and should not be submitted for approval. Appointment, working conditions of management and compliance officer should be notified to the regulatory authority but not approved by the regulatory authority.*

#### *Article 12h*

*Network development and powers to make investment decisions*

*1. Every year, transmission system operators shall submit to the regulatory authority a 10-year network development plan based on existing and forecast supply and demand after having consulted all the relevant stakeholders. The plan shall contain efficient measures in order to guarantee the adequacy of the system and*

*the security of supply.*

*2. The 10-year network development plan shall in particular:*

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

*(b) contain all the investments already decided and identify new investments which have to be executed in the next three years.*

*(c) provide for a time frame for all investment projects.*

*3. When elaborating the 10-year network development plan, the transmission system operator shall make reasonable assumptions about the evolution of its production, supply, consumption and exchanges with other countries, taking into account investment plans for regional and European-wide networks, as well as investment plans for storage and LNG regasification facilities.*

*4. The regulatory authority shall consult all actual or potential network users on the 10-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential users may be required to substantiate such claims. It shall publish the result of the consultation process, in particular possible needs for investments.*

*5. The regulatory authority shall examine whether the 10-year network development plan covers all investment needs identified during the consultation process, and whether it is consistent with the Community-wide 10-year network development plan referred to in Article 2c(1) of Regulation (EC) No 1775/2005. If any doubt arises as to the consistency with the Community-wide 10-year network development plan, the regulatory authority shall consult the Agency. The regulatory authority may require the transmission system operator to amend its*

*plan.*

***6. The regulatory authority shall monitor and evaluate the implementation of the 10-year network development plan.***

***7. In circumstances where the transmission system operator, other than for overriding reasons beyond its control, does not execute an investment, which, according to the 10-year network development plan, was supposed to be executed in the following three years, Members States shall ensure that the regulatory authority has the obligation to take at least one of the following measures to ensure that the investment in question is made:***

***(a) require the transmission system operator to execute the investments in question in coherence with the annual financial plan referred to in Article 12f, or,***

***(b) organise a tender procedure open to any investors for the investment in question.***

***When the regulatory authority has made use of its powers under point (b), it may oblige the transmission system operator to accept the following:***

- financing by any third party,***
- construction by any third party,***
- building the respective new assets,***
- operating the respective new asset.***

***The transmission system operator shall provide the investors with all information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment project.***

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

***8. When the regulatory authority has made use of its powers under paragraph***



***7, the relevant tariff regulations shall cover the costs of the investments in question.***

#### ***Article 12i***

***Decision making powers regarding the connection of storage facilities, LNG regasification facilities and industrial consumers to the transmission network***

***1. Transmission system operators shall be obliged to establish and publish transparent and efficient procedures and tariffs for non-discriminatory connection of storage facilities, LNG regasification facilities and industrial consumers to the network. The procedures shall be subject to approval by the regulatory authority.***

***2. Transmission system operators shall not be entitled to refuse the connection of a new storage facility, LNG regasification facility or industrial consumer on the grounds of possible future limitations to available network capacities or additional costs linked with necessary capacity increase. The transmission system operator shall be obliged to ensure sufficient entry and exit capacity for the new connection.***

***3. Transmission system operators shall grant and manage third party access to the grid, especially the access for new market operators and producers of biogas with respect to the safety rules of the network.***

#### ***CHAPTER IVb***

#### ***Article 12j***

#### ***Revision Clause***

***1. The Agency shall, no later than [five years after entry into force of Directive .../.../EC], submit to the European Parliament and Council, a detailed report outlining the extent to which the unbundling requirements under this Directive have been successful in ensuring full and effective independence***

*of transmission system operators.*

*2. For the purpose of its assessment under paragraph 1, the Agency shall take into account in particular the following criteria: fair and non-discriminatory network access, effective regulation, the development of the network, investments and undistorted incentives to invest, the development of interconnection infrastructure, and the security of supply situation in the Community.*

*3. Where appropriate, and in particular in the event that the detailed report referred to in paragraph 1 determines that the conditions referred to in paragraph 2 have not been guaranteed in practice, the Commission shall submit proposals to the European Parliament and the Council to ensure full and effective independence of transmission system operators before [seven years after entry into force of Directive .../.../EC].*

#### **Amendment 79**

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

##### **Article 1 – point 10 – point (c)**

Directive 2003/55/EC

Article 13 – 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*

*deleted*

*procedure with scrutiny referred to in Article 30(3).*

#### *Justification*

*As core provisions of the liberalisation of energy markets, the unbundling provisions cannot be subject to an amendment through guidelines. That is also underlined by the fact that the Commission's competence to adopt such guidelines would entitle the Commission to interfere with company law.*

#### **Amendment 80**

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

##### **Article 1 – point 12**

Directive 2003/55/EC

Article 19

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

(12) *In* Article 19(1), the following *subparagraph is added*:

*Member States shall define and publish criteria according to which **it may be determined whether** access to storage facilities **and linpack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers.** Member States shall make public, or oblige storage **and transmission system** operators to make public, which storage facilities, or which parts of those storage facilities, **and which***

##### *Amendment*

(12) Article 19 *shall be replaced by* the following:

**"1. For the organisation of access to storage facilities [...] when technically and/or economically necessary for providing efficient access to the system for the supply of customers [...], Member States shall decide if they choose either the regulated access procedure as described in paragraph 4, or the negotiated access procedure referred to in paragraph 3. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria. National regulatory authorities shall observe compliance with these criteria.**

*National regulatory authorities shall define and publish criteria according to which **the** access **regime** to storage facilities **may be determined, notably addressing if competition between storage facilities takes place in the relevant market, and if such organisation is arranged through an independent infrastructure operator that provides open access.** National regulatory authorities shall monitor compliance with these*

*linepack* is offered under the different procedures referred to in paragraphs 3 and 4.”

*criteria and* make public, or oblige storage operators to make public which storage facilities, or which parts of those storage facilities *are* offered under the different procedures referred to in paragraphs 3 and 4.

**2. The provisions of paragraph 1 shall not apply to ancillary services and temporary storage that are related to LNG facilities and are necessary for the re-gaseification process and subsequent delivery to the transmission system.**

**3. In the case of negotiated access, national regulatory authorities shall take the necessary measures for natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to storage [...], when technically and/or economically necessary for providing efficient access to the system [...]. The parties shall be obliged to negotiate access to storage [...] in good faith.**

**Contracts for access to storage [...] shall be negotiated with the relevant storage system operator [...]. National regulatory authorities shall require storage system operators [...] to publish their main commercial conditions for the use of storage [...] within the first six months following implementation of this Directive and on an annual basis every thereafter. The development of these conditions shall take into consideration the views of system users, who have the right to object to them to the national regulatory authority.**

**4. In the case of regulated access, national regulatory authorities shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage [...] on the basis of published tariffs and/or other terms and obligations for use of that storage**

[...], when technically and/or economically necessary for providing efficient access to the system [...]. *The development of these tariffs and other terms and obligations shall take into consideration the views of system users, who have the right to object to them to the national regulatory authority. This right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking.*

## Amendment 81

### Proposal for a directive – amending act

#### Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 – introductory part

#### *Text proposed by the Commission*

1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted, for a **limited** period of time, from the provisions of Articles 7, 18, 19, 20, and 24c(4), (5) and (6) under the following conditions:

#### *Amendment*

1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted, for a **defined** period of time, from the provisions of Articles 7, 18, 19, 20, and 24c(4), (5) and (6) under the following conditions:

## Amendment 82

### Proposal for a directive – amending act

#### Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 – point (e a) (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(ea) the project is of an European interest and crosses at least one national border***

*within the European Union.*

*Justification*

*Projects of European interest must cross the border between at least two Member States.*

**Amendment 83**

**Proposal for a directive – amending act**

**Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 2

*Text proposed by the Commission*

2. Paragraph 1 shall apply also to significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of ***new sources of gas supply***.

*Amendment*

2. Paragraph 1 shall apply also to ***all*** significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of ***increased and additional quantities***.

*Justification*

*It needs to be made clear that not only new sources of supply but also new supply contracts, even for gas from the same source / country, must comply with the EU gas legislation. They are absolutely vital to security of gas supply.*

**Amendment 84**

**Proposal for a directive – amending act**

**Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

3. The regulatory authority referred to in Chapter VIa may, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, the Agency shall exercise the tasks conferred on the regulatory authority by the present Article.

*Amendment*

3. The regulatory authority referred to in Chapter VIa may, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, the Agency shall exercise the tasks conferred on the regulatory authority by the present Article. ***The Agency's decision shall be subject to prior consultation of***

*the relevant regulatory authorities and the applicant.*

## **Amendment 85**

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

#### **Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 2

#### *Text proposed by the Commission*

An exemption may cover all or *part* of, the capacity of the new infrastructure, or of the existing infrastructure with significantly increased capacity.

#### *Amendment*

An exemption may cover all or *only certain specific parts* of the capacity of the new infrastructure, or of the existing infrastructure with significantly increased capacity.

#### *Justification*

*Regulatory authorities and gas undertakings should both be consulted by the Agency before a decision is taken. The results of an open season procedure should form the basis for the allocation of capacity to third parties which have indicated a firm interest in the capacity offered under the procedure. As yet, no such firm interest has been forthcoming, which makes it hard for investors to make reliable plans.*

## **Amendment 86**

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

#### **Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 4

*Text proposed by the Commission*

Before granting an exemption the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the facility to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1(a), (b) and (e) of this Article, the regulatory authority shall take into account the results of that capacity allocation procedure.

*Amendment*

Before granting an exemption the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity, ***which may, if necessary, be amended during the period in which the infrastructure is exempted from the above-mentioned provisions, in order to make adjustments to economic and market-relevant needs.*** The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the facility to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1(a), (b) and (e) of this Article, the regulatory authority shall take into account the results of that capacity allocation procedure, ***where third parties have indicated a firm commitment.***

*Justification*

*Regulatory authorities and gas undertakings should both be consulted by the Agency before a decision is taken. The results of an open season procedure should form the basis for the allocation of capacity to third parties which have indicated a firm interest in the capacity offered under the procedure. As yet, no such firm interest has been forthcoming, which makes it hard for investors to make reliable plans.*

**Amendment 87**

**Proposal for a directive – amending act**

**Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 4 – point (a)

*Text proposed by the Commission*

(a) the detailed reasons on the basis of

PE400.700v02-00

*Amendment*

(a) the detailed reasons on the basis of

RR\729132EN.doc

72/185



which the regulatory authority granted the exemption, including the financial information justifying the need for the exemption;

which the regulatory authority granted *or refused* the exemption *together with the reference to the specific Article on which such decision is based*, including the financial information justifying the need for the exemption;

#### *Justification*

*A national regulatory authority should be required to explain the reasons for refusal, not only for granting of an exemption. Explanation in relation to specific articles and not only to exemption in general will add clarity to the NRA's submitted reasoning.*

### **Amendment 88**

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

##### **Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 4

#### *Text proposed by the Commission*

The Commission's *approval of an* exemption decision shall lose its effect *after two years from its adoption if construction of the infrastructure has not yet started, and after five years* if the infrastructure has not become operational.

#### *Amendment*

The Commission's exemption decision shall lose its effect if the infrastructure has not become operational *five years after all national and regional decisions and authorisations have been issued, unless the delay is due to circumstances beyond control of the person to whom the exemption has been granted.*

### **Amendment 89**

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

##### **Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 5 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

*5a. The derogations referred to in paragraph 1 shall automatically apply to derogations granted pursuant to this Article at the date of entry into force of Directive .../.../EC [amending Directive*

***2003/55/EC concerning common rules for the internal market in natural gas]. Conditions of an exemption approval granted under this Article shall not be changed retrospectively without the agreement of all parties concerned.***

*Justification*

*With this amendment new investments are not discriminated against. Conditions of exemption approvals should not be changed retrospectively unless all parties involved in granting the exemption (holder of the exemption, NRA and Commission) agree.*

**Amendment 90**

**Proposal for a directive – amending act**

**Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 6

*Text proposed by the Commission*

*Amendment*

***6. The Commission may adopt guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. 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 30 (3).***      ***deleted***

*Justification*

*The proposed comitology procedure would restrict the influence of the European Parliament, thus removing essential decisions on the form of the internal market in energy from the scope of the legislative procedure. The rules on the granting of exemptions from TPA and unbundling legislation concerning new infrastructure are too important to count as ‘technical’ or ‘not decisive’. Consequently all amendments to this article should be dealt with through the ordinary decision-making procedure and not by comitology.*

## Amendment 91

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24 a

#### *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.
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.

#### *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:

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 **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 its term if it no longer fulfils the conditions set out in this Article or it has been guilty of serious misconduct **under national law**;

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

## Amendment 92

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24 b

#### *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 gas 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 natural gas 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 natural gas 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**

#### *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 gas market within the Community, and effective market opening for all consumers and suppliers in the Community, **and ensure energy supply networks operate in an effective, reliable way, taking in to 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 to **facilitate** unrestrained natural gas flow across the Community;

(d) ensuring, **in the most cost effective way**, the development of **customer orientated**, secure, reliable and efficient **grid** systems, promoting system adequacy **whilst ensuring energy efficiency and**

*renewable and low carbon technologies, in both short and long term;*

(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.

*integration of large and small scale renewables (e.g. biogas) and distributed production in both transmission and distribution grids;*

*(da) facilitating the access to the grid, in particular removing barriers that could prevent 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 *customer benefits through* the efficient functioning of their national market, promote effective competition in cooperation with competition authorities, *and ensure consumer protection;*

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

*(fb) harmonisation of necessary data exchange processes.*

## Amendment 93

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24 c – paragraph 1

*Text proposed by the Commission*

1. The regulatory authority shall have the following duties:

*Amendment*

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

(a) ensuring compliance of transmission **and** distribution system operators, and where relevant system owners, as well as of any natural gas undertakings, with their obligations under this Directive and other relevant Community legislation, including as regards cross border issues;

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

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

(d) reporting on a yearly basis on its activity and the fulfilment of its duties to the relevant authorities of the Member States, the Agency and the Commission. This report shall cover the steps taken and the results obtained as regards each of the tasks listed in this Article;

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

(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 of Regulation (EC) No 1775/2005;

(a) ensuring compliance of transmission, distribution system operators, and where relevant system owners, as well as of any natural gas undertakings, with their obligations under this Directive and other relevant Community legislation, including as regards cross border issues;

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

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

(d) reporting on a yearly basis on its activity and the fulfilment of its duties to the relevant authorities of the Member States, the Agency and the Commission. This report shall cover the steps taken and the results obtained as regards each of the tasks listed in this Article;

(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, storage, LNG and supply activities **as well as ensuring that distribution and transmission tariffs are set well in advance of the relevant periods during which they apply;**

(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 of Regulation (EC) No 1775/2005; **the investment plans of transmission system operators shall**

*ensure that the skills and number of the staff are sufficient to meet the service obligations; failure to honour the investment plan shall result in proportionate sanctions imposed on the transmission system operator in accordance with the guidelines issued by the Agency;*

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

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

(g) monitoring *compliance with* 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;

h) monitoring the level of transparency, ensuring compliance of *natural gas undertakings* with transparency obligations;

h) monitoring the level of transparency, ensuring compliance of *network operators* with transparency obligations;

*(i) monitoring the level of market opening and competition at wholesale and retail levels, including on natural gas 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;*

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

(j) monitoring the time taken by transmission and distribution undertakings

(j) monitoring the time taken by transmission and distribution undertakings

to make connections and repairs;

(k) monitoring **and reviewing** the access conditions to storage, linepack and other ancillary services as provided for in Article 19;

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

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

(n) 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;

(o) monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution system operators, suppliers and customers and other market parties pursuant to Article 8b of Regulation (EC) No 1775/2005;

(p) monitoring the correct application of the criteria that determine whether a

to make connections and repairs **and imposing sanctions in accordance with the guidelines issued by the Agency if these time periods are exceeded without due cause**;

(k) monitoring the access conditions to storage, linepack and other ancillary services as provided for in Article 19;

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

(m) publishing recommendations, at least on yearly basis, on compliance of supply tariffs with Article 3; **due attention shall be paid in these recommendations to the impact on the functioning of the market of regulated prices (wholesale and end-users' prices)**;

(n) ensuring **effective and equal** access to customer consumption data **including data on prices and any related expenditure for all market participants**, the application of **an easily understandable** harmonised format for **such** consumption data, **adequate prepayment that reflects the actual consumption** and **prompt** access **for all customers** to **such** data under **point** (h) of Annex A;

(o) monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution system operators, suppliers and customers and other market parties pursuant to Article 8b of Regulation (EC) No 1775/2005;

**(oa) fixing or approving network access tariffs and publishing the methodology used to set the tariffs;**

**(ob) ensuring that wholesale fluctuations in prices are transparent;**

(p) monitoring the correct application of the criteria that determine whether a



storage facility falls under Article 19(3) or 19(4).

storage facility falls under Article 19(3) or 19(4).

## Amendment 94

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24 c – paragraph 3

#### *Text proposed by the Commission*

3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraph 1 and 2 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers:

(a) to issue binding decisions on gas undertakings;

(b) to carry out in cooperation with the national competition authority investigations of the functioning of gas 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 gas release programs***;

(c) to request any information from natural gas undertakings relevant for the fulfilment of its tasks;

(d) to impose effective, appropriate and dissuasive sanctions to natural gas undertakings not complying with their obligations under this Directive or any decisions of the regulatory authority or of the Agency;

#### *Amendment*

3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraph 1 and 2 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers:

(a) to issue binding decisions on gas undertakings;

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

(c) to request any information from natural gas undertakings relevant for the fulfilment of its tasks;

(d) to impose effective, appropriate and dissuasive sanctions to natural gas undertakings not complying with their obligations under this Directive or any decisions of the regulatory authority or of the Agency, ***or to propose to a competent body to impose such sanctions; furthermore, to impose, or to propose to impose fines of up to 10% of the yearly turnover of the transmission system operator on the transmission system***

(e) to have appropriate rights of investigations, and relevant powers of instructions for dispute settlement under paragraphs 7 and 8;

(f) to approve safeguards measures as referred to in Article 26.

*operator or on the vertically integrated undertaking, as the case may be, for non compliance with their respective obligations pursuant to this Directive;*

(e) to have appropriate rights of investigations, and relevant powers of instructions for dispute settlement under paragraphs 7 and 8;

(f) to approve safeguards measures as referred to in Article 26.

***3a. In addition to the tasks and powers conferred on it under paragraphs 1 and 3, when a transmission system operator has been designated in accordance with Chapter IVa, the regulatory authority shall be granted at least the following tasks and powers:***

***(a) to impose sanctions including fines accordance with paragraph 3(d) for discriminatory behaviour in favour of the vertically integrated undertaking;***

***(b) to monitor communications between the transmission system operator and the vertically integrated undertaking so as to ensure compliance of the transmission system operator with its obligations;***

***(c) to act as a dispute settlement authority between the vertically integrated undertaking and the transmission system operator in respect of any complaint submitted pursuant to paragraph 7;***

***(d) to monitor commercial and financial relations including loans between the vertically integrated undertaking and the transmission system operator,***

***(e) to monitor all commercial and financial agreements on the condition that they comply with market conditions;***

***(f) to request justification from the vertically integrated undertaking when notified by the compliance officer in accordance with Article 12g(4). Such justification shall in particular include evidence to the end that no discriminatory***

*behaviour to the advantage of the vertically integrated undertaking has occurred;*

*(g) to carry out inspections on the premises of the vertically integrated undertaking and the transmission system operator;*

*(h) to assign all or specific tasks of the transmission system operator to an independent system operator appointed in accordance with Article 9 in case of a persistent breach by the transmission system operator of its obligations under this Directive, in particular in case of repeated discriminatory behaviour to the benefit of the vertically integrated undertaking;*

*(i) to request any information from the transmission system operator and to directly contact all staff of the transmission system operator; if doubts remain, the same rights shall apply for the vertically integrated undertaking and its subsidiaries;*

*(j) to conduct all necessary inspections of the transmission system operator and, if doubts remain, of the vertically integrated undertaking and its subsidiaries; the rules of Article 20 of Council Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty shall apply;*

*(k) to impose effective, appropriate and dissuasive sanctions to the transmission system operator and/or the vertically integrated undertaking not complying with their obligations under this Article or any decisions of the national regulatory authority; this power shall include the right to:*

*(i) impose effective, appropriate and dissuasive fines related to the turnover of the transmission system operator or the vertically integrated undertaking;*

*(ii) issue orders to remedy a discriminatory behaviour;*

*(iii) withdraw, at least partly, the licence of the transmission system operator in case of repeated breach of the unbundling provisions set out in this Article.*

## Amendment 95

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24c – 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, and terms, conditions and tariffs for access to LNG facilities. These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities;

(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,*** and terms, conditions and tariffs for access to LNG facilities ***including their methodologies, or alternatively, the methodologies and their monitoring for setting or approving the tariffs for access to LNG facilities.*** 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 and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities. ***These tariffs shall not discriminate against new entrants;***

(b) the provision of balancing services ***which shall reflect the cost and shall be revenue neutral to the extent possible, 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) the access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management. They shall have the authority to require the transmission system operators, to modify those terms and conditions.*

## Amendment 96

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24c – 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.

***5a. The regulatory authorities shall monitor congestion management within national gas transmission networks.***

***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 97

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 6

*Text proposed by the Commission*

6. Regulatory authorities shall have the authority to require transmission, **storage**, LNG 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, LNG 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.

*Justification*

*Deletion of 'storage', as the regulation of storage tariffs would discourage investment. Gas storage is not a monopoly: a functioning competitive market has developed in this area. Regulation would jeopardise existing competition and planned investments in the construction of additional gas storage plants, which are urgently needed to boost security of supply in the EU.*

**Amendment 98**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 7

*Text proposed by the Commission*

7. Any party having a complaint against a transmission, LNG 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.

*Amendment*

7. Any party having a complaint against a transmission, LNG, **storage** 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.

### *Justification*

*There should be a route to raise a complaint against a storage operator.*

#### **Amendment 99**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – 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 and** 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 100**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 9

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

9. Member States shall create appropriate and efficient mechanisms for **regulation**, control and transparency so as to avoid any abuse of a dominant position, in particular to the detriment of consumers, and any predatory behaviour. These mechanisms shall take account of the provisions of the

##### *Amendment*

9. Member States shall create appropriate and efficient mechanisms for control and transparency so as to avoid any abuse of a dominant position, in particular to the detriment of consumers, and any predatory behaviour. These mechanisms shall take account of the provisions of the Treaty, and

Treaty, and in particular Article 82 thereof.

in particular Article 82 thereof.

### *Justification*

*In many Member States, action to combat anti-competitive behaviour is a matter for the competition authorities. However, some Member States have allocated responsibility in this and other areas to the regulatory authorities. In the light of these differing legal systems, the wording of Article 24c (9) is incorrect.*

## **Amendment 101**

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

#### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – 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 ***fully reasoned and available to the public to allow for legal scrutiny***.

## **Amendment 102**

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

#### **Article 1 – point 14**

Directive 2003/55/EC

Article 24 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 independent national authority*** independent of the parties involved ***and of any government***.



## Amendment 103

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24 c – paragraph 14

*Text proposed by the Commission*

*Amendment*

**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 30(3).**

*deleted*

*Justification*

*The definition of the prerogatives of the national regulators goes far beyond the scope of measures that could be adopted by comitology procedure.*

## Amendment 104

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24d – paragraph 2

*Text proposed by the Commission*

*Amendment*

**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 gas exchanges and the allocation of cross-border capacity, and to ensure **a minimum** level of

**2. In order to ensure that where regional gas markets occur integration is mirrored by adequate regulatory structures, the national regulatory authorities concerned 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:**

**(a) cooperation** at least at a regional level to foster the creation of operational arrangements in order to ensure an optimal management of the network, develop joint gas exchanges and the allocation of cross-border capacity, and to ensure **an adequate** level of interconnection capacity **including**

interconnection capacity within the region to allow for effective competition *to develop*.

*through new interconnection*, within the region *and between regions* to allow for *the development of* effective competition *and the improvement of security of supply*.

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

*(c) harmonisation of the rules governing the management of congestion;*

*(d) adoption of rules to ensure that the owners and/or managers of gas exchange(s) which operate the relevant regional pool markets are fully independent of the owners and/or managers of production assets.*

*Regulatory authorities shall have the right to enter into agreements with each other to foster regulatory cooperation and the actions referred to in first subparagraph of paragraph 2 shall be carried out, as appropriate, in close consultation with other relevant national authorities and without prejudice to their specific competencies.*

## Amendment 105

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24 d – 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.*

*Amendment*

*deleted*

***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 30(3).***

*Justification*

*The regulatory regime for cross-border issues, which implies defining the extent of the duties of the regulatory authorities to cooperate with each other and with the Agency, is too fundamental to be simply determined by comitology process which only concerns "non-essential elements". The powers conferred on the Agency need a legal basis under the framework of classical decision-making process.*

**Amendment 106**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24e – 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*

*Shortening of deadline.*

**Amendment 107**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 1

*Text proposed by the Commission*

1. Member States shall require supply undertakings to keep at the disposal of the ***national regulatory authority, the national competition authority and the***

*Amendment*

1. Member States shall require supply undertakings to keep at the disposal of the ***competent authorities, to enable them to fulfil their duties***, for at least five years,

**Commission**, for at least five years, the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and transmission system operators as well as storage and LNG operators.

the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and transmission system operators as well as storage and LNG operators.

#### *Justification*

*The rules on the compilation of data in connection with wholesale contracts should be clearly defined and relate to the competent authorities' specific tasks. Moreover, the competent authorities may comprise bodies other than those referred to in the proposal for a directive.*

### **Amendment 108**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 2

#### *Text proposed by the Commission*

2. The data **shall** include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.

#### *Amendment*

2. The data **may** include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.

#### *Justification*

*Article 24f is intended solely to describe the framework conditions regarding the obligation to store data, not the precise content of the information concerned. This should take place within the framework of the relevant guidelines.*

### **Amendment 109**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24f – 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 30(3).** **deleted**

*Justification*

*The Commission's proposed power to adopt guidelines using the 'regulatory procedure with scrutiny' significantly restricts the rights of the European Parliament and should be rejected.*

#### **Amendment 110**

**Paul Rübiger**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 5

*Text proposed by the Commission*

*Amendment*

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

*Justification*

*Since Article 24f paragraph 2 describes sufficiently clear the data to be kept in record, no further specification by guidelines is required.*

#### **Amendment 111**

*Text proposed by the Commission*

*Amendment*

***(16a) Annex A shall be replaced by the following:***

**"Without prejudice to Community rules on consumer protection, in particular Directives 97/7/EC of the European Parliament and of the Council and Council Directive 93/13/EC, the measures referred to in Article 3 are to ensure that customers:**

- (a) have a right to a contract with their gas 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);**
  - *information on consumer rights, including all of the above, clearly***

*communicated through billing and electricity company web sites; and*  
*- details concerning the competent appeals authority and of the procedure to be followed by customer in case of 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:

(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 gas service provider;

(c) receive transparent information on applicable prices and tariffs and on standard terms and conditions, in respect of access to and use of gas services;

(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 paperwork;*

**(e) shall not be charged for changing supplier;**

**(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 gas 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;***

**(g) connected to the gas system are informed about their rights to be supplied, under the national legislation applicable, with natural gas of a specified quality at reasonable prices;**

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

**(i) shall be properly informed *at least quarterly* of actual gas consumption and costs. No additional costs can be charged to the consumer for this service. *The Member States shall ensure that roll-out of smart meters is completed with minimum disruption to consumers within 10 years after the entry into force of the Directive .../...EC and shall be the responsibility of the gas 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 to provide maximum benefit at minimum cost to consumers;*

*(j) deleted*

*(ja) shall receive a final closure account bill following switching of gas supplier no later than one month after informing the relevant supplier.*

## **Amendment 112**

### **Proposal for a directive – amending act Article 2 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2a. The Member States shall repeal any laws, regulations and administrative provisions which prevent any natural gas undertaking, regulatory or other authority from complying with their duties or fulfilling their powers or obligations under this Directive.*

*Justification*

*Regulatory authorities maybe unable to exercise their legitimate powers or duties under this Directive because of national legislation. Artificially low regulated tariffs, which are generally enshrined in national law, may prevent the national regulatory authority from ensuring no cross-subsidies, and national law may prevent particular measures (e.g. auctioning of gas capacity) in certain Member States. Implementation also entails removal of such obstacles to effective competition.*

## **Amendment 113**

**Proposal for a directive – amending act**  
**Article 2 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. The Commission shall report to the European Parliament and the Council annually on the formal and practical implementation of this Directive in each Member State.***

*Justification*

*This should ensure an effective implementation of regulations provided in the directive.*

**Amendment 114**

**Proposal for a directive – amending act**  
**Article 2 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

***2c. Where a publicly controlled entity is directly or indirectly involved in the acquisition of parts of a vertically integrated undertaking, the price in relation to the arrangement of such a transaction shall be notified to the Commission. Such notification shall include certification of the underlying asset value by an international auditing company. The Commission shall use such information solely to exercise control over State-aid.***

*Justification*

*It is essential that a real level-playing field between state-owned and private-owned companies is guaranteed.*

## **EXPLANATORY STATEMENT**

### **INTRODUCTION**

The gas and electricity markets are of vital importance to the European Union, which on several occasions has said that it wants to speak with a single voice as far as energy matters are concerned.

In order for the European Union to be able to achieve its objective of establishing an internal energy market, it is essential that it create a level playing field, in terms of competition, for all companies operating in the gas and electricity sectors.

To that end, the Commission has launched its 3rd energy package, which should implement that market liberalisation that previous packages have hitherto failed to do<sup>1</sup>.

### **THE SPECIFIC FEATURES OF THE GAS SECTOR**

The Commission proposal intends to take the same approach to both the gas and electricity sectors.

The proposal is certainly a valid one, in that it will establish a symmetrical, harmonised energy market, thereby helping to overcome the high concentration which still exists in a number of countries; it will make it easier for new companies to enter the market and will ensure conditions of competition which, in the long term, will lead to a reduction in prices to the benefit of the final consumer.

However, your rapporteur considers that, given the structural diversity of the two markets, the not inconsiderable dependence on non-EU countries in the gas sector, the different ways in which the Member States are implementing existing legislation and the existence of multi-annual supply contracts in the gas sector, a distinction should be made between the gas sector and the electricity sector.

In this regard, your rapporteur maintains that long-term supply contracts should be protected, in that they do not actually mean that the operator involved in the supply 'controls' the network. The Member States can therefore be free, in complying with their obligations under the Treaty, to promote agreements which help to improve the production and distribution of energy whilst ensuring that final consumers benefit and investments are profitable.

### **UNBUNDLING**

The key part of the package undoubtedly concerns the separation of ownership, which expressly prevents vertically integrated companies from holding an interest in both the supply and transmission of gas.

Existing legislation, which provides for the functional and legal separation of transmission

---

<sup>1</sup> The liberalisation process for the gas market began in 1999, although a landmark in the establishment of the European energy market was the introduction of the June 2003 directive.

system operators and supply operators, has not helped to resolve the conflict of interests in vertically integrated companies which use the network to maintain their dominant position on the market, since they have no incentive to invest in new networks and allow access to new operators.

Your rapporteur therefore takes the view that *the separation of ownership* is surely the best way of ensuring that transmission operators and supply operators are fully independent of each other; it is certainly also the most viable and efficient option compared with that of the independent system operator (ISO), which would require unwieldy and complex governance structures and strong regulatory control. It should also be remembered that in several Member States the ISO experiment has certainly not turned out to be a success.

Of equal urgency is the need to actually *separate storage and transmission system operators* from supply activities depending on vertically integrated companies, in order to ensure the transparent management of gas capacities and greater security of supply. Your rapporteur believes that in order to limit discriminatory behaviour towards new system operators, access to storage should be regulated rather than negotiated.

It is, however, vital that the liberalisation of the gas market be conducted symmetrically, providing for a harmonisation of the degree of openness of the national markets. Reciprocity should to a certain extent be applied also to third countries; in this regard, while your rapporteur approves of the safeguard clause laid down by the Commission, he considers it important for the agreements between the EU and non-EU countries, as potential investors, to be *better regulated* in both form and substance.

### **INDEPENDENCE OF NATIONAL REGULATORS**

With its third package, the Commission intends to give the national regulatory authorities a key role; they are to have legal personality, budgetary autonomy and will have to prove that they are totally independent in their management.

Your rapporteur **welcomes the Commission's proposals seeking to harmonise and strengthen the role of the national regulators.**

The national regulatory authorities should **also be given adequate powers of dissuasion and powers to impose sanctions, which should be uniform for all regulators.**

Your rapporteur believes that in carrying out fact-finding investigations on the functioning of the markets, the regulatory authorities should respect the remit of the Antitrust authorities.

Your rapporteur also agrees with the need to formalise cooperation obligations among regulators, leaving it up to the Commission, through the Agency, to ensure that such cooperation actually takes place.

### **INFRASTRUCTURE**

The role of infrastructure is certainly paramount in the establishment of an integrated European energy market.

We must not forget the circumstances of the new Member States which, having inadequate, or

sometimes non-existent, infrastructure, are totally dependent on third-country operators for their gas supplies.

The current legislation provides for a range of suggestions designed to encourage investments in infrastructure by new operators, by exempting them from the regulated third party access rules (TPA).

Your rapporteur is of the opinion that the ultimate aim of the exemptions granted should be to boost investment in infrastructure of vital importance for the establishment of an integrated European market, meaning not only cross-border investment but also investment in ***regasification plants and gas storage plants***.

In relation to the new proposal, which has been slightly modified in order to adapt it to the provisions on separation of ownership, your rapporteur believes that in order to avoid any ambiguous interpretations, the granting of exemptions should be based on full respect for the market, from a pro-competition standpoint, and on ***clear rules which have been laid down in advance*** in accordance with a specific time-frame. Your rapporteur also considers it necessary to protect investments that are in the process of being implemented, by extending the TPA exemption scheme to cover them.

While your rapporteur welcomes the Commission proposal providing for systematic cooperation between network operators, at least on a regional basis, he believes it is necessary to bring that cooperation into effect by making provision for the establishment of a single structure for managing the network on a regional basis. The Commission will have to be kept informed of that cooperation, in agreement with the Member States.

### **POWERS OF THE COMMISSION**

The directive on common rules for the market in gas provides for an extension of the Commission's powers regarding the adoption of binding guidelines through the so-called ***comitology*** procedure, in a wide range of cases from the designation and certification of transmission operators to monitoring compliance with obligations, implementing regulatory powers, granting exemptions for new infrastructure, and so on.

Although your rapporteur welcomes the fact that the Commission is ultimately responsible, should it have serious doubts, for settling disputes and conflicts of competence, and for imposing binding technical decisions, he nevertheless takes the view that in some parts of the directive the Commission is exceeding its powers; in particular, when it is called on to adopt the guidelines through the comitology procedure with right of scrutiny, a procedure which is actually envisaged for the adoption of general measures designed to amend ***non-essential*** elements of the directive.

### **TRANSPARENCY AND CONSUMER PROTECTION**

The internal markets in electricity and gas are suffering from a lack of transparency which hampers the efficient allocation of resources and prevents new operators from entering the market.

Bills are often illegible and in most cases consumers have no access to data concerning their

own consumption or to the tariffs applied by operators. Your rapporteur therefore stresses the need to increase confidence in the market, by giving consumers (also via specific websites) the greatest possible amount of information relating to supply contracts or derivatives, and making provision for the right of appeal.

Greater transparency would benefit not only consumers, who would have access to information, but also operators themselves, since they will be able to acquire information on the market interests of third-country operators, who will be subject to the same transparency obligations as European operators.

Your rapporteur deems it necessary to make operators more responsible with regard to the public service offered to consumers, so that, with the aim of assessing their quality of service, they provide for 'social' tariffs to protect vulnerable consumers.

23.4.2008

## **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 2003/55/EC concerning common rules for the internal market in natural gas (COM(2007)0529 – C6-0317/2007 – 2007/0196(COD))

Draftsman: Bernhard Rapkay

### **SHORT JUSTIFICATION**

#### **1. Background**

The level of competition and market integration achieved in the gas market by the First and Second Internal Energy Market Packages is as yet unsatisfactory, and so a further readjustment, in the form of the Third Internal Market Energy Package now before us, is most welcome. However, while there is a broad agreement on the objectives set out in the Commission proposal, the instruments chosen raise some questions.

#### **2. Unbundling provisions**

For example, the Commission proposal and the political discussion in general are dominated by the issue of ownership unbundling (OU). This measure is ascribed considerable positive effects which go far beyond the aspect of non-discriminatory market access. However, European transmission networks form a natural monopoly, and a change of owner to one who was not involved in production and distribution would not alter this. A proper level of regulation is a much more effective instrument to this end. Moreover, ownership unbundling of transmission system operators would amount in practice to expropriation, which would raise major constitutional problems at least in some Member States, and would more generally raise the issue of the proportionality of the means. It would lead to years of legal disputes with an untold impact on the investment behaviour of the firms concerned, as well as on security of supply. It is also questionable whether ownership unbundling would really have the effects in terms of *market integration* and promotion of competition the Commission hopes for.

As an alternative, second-string option, the Commission proposes the creation of “Independent System Operators”. This, however, is a less practicable solution. That being so

it is to be welcomed that some Member States have devised a model aimed at effective and efficient unbundling of network operators by tightening legal unbundling provisions. This model should be subjected to an unprejudiced examination, but must at any rate go considerably beyond the current legal unbundling model.

### **3. Regulatory framework**

In a general way, an intelligent structuring of the regulatory framework is of crucial importance to the creation of a properly functioning integrated internal market in energy, far more important than ownership unbundling. Accordingly the Commission proposal devotes extensive provisions to the issue of regulation, but it leaves a number of questions unanswered on the demarcation of competences *between* the various regulatory bodies.

- In particular, the Agency for the Cooperation of Energy Regulators, which is given only consultative powers, is unlikely in this form to fulfil its purpose of bridging the existing regulatory gap, mainly as regards interconnectors. The agency should have binding decision-making powers in a very clearly defined sphere. Mirroring the national regulatory authorities, it should also be independent not only of economic and political interests, but also of the Commission. Wider competences also imply that the Agency should have more extensive duties of accountability to Parliament and the Council.
- It is good to see that the Commission proposal strengthens the independence, and extent of competences, of the national regulatory authorities. Further harmonisation in this area is urgently needed.
- The role of the European Network of Transmission System Operators should not be exaggerated in relation to that of the Agency, and at any rate its regulatory powers should be restricted to drawing up technical codes, and references to any kind of 'quasi-self-regulation' should be avoided.
- Finally there is the question of what role the Commission should play in the future regulatory framework. In its proposal for a directive the Commission provides for the delegation of wide-ranging competences to itself through the issue of guidelines under the comitology procedure. In spite of its choice of the regulatory procedure with scrutiny, from Parliament's point of view the question arises of whether it can really be left to the Commission alone to issue guidelines, for example, on the *extent* of cooperation between the regulatory authorities (Article 24d(4)). Other guidelines might also affect the essential provisions of the directive, and their substance should therefore, as far as possible, be defined in the text of the directive itself and thus subject to the codecision procedure.

### **4. Comments on the procedure**

In view of the tight schedule, the amendments that the situation calls for – particularly as regards unbundling provisions – are not practicable at the present stage of this draft opinion. Your draftsman will accordingly table amendments for an alternative model at a later date.

## **AMENDMENTS**



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

## Amendment 1

### Proposal for a 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 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.

##### *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 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 incorrect to say that ownership unbundling is the quickest and easiest way of ensuring security of supply. Security of supply depends on much more diverse factors such as the correct degree of regulation. Even after ownership unbundling, the network remains a natural monopoly that requires regulation.*

### **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 legal unbundling, vertically integrated companies may retain ownership of network assets while ensuring, at the same time, 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 control mechanisms.***

### *Justification*

*The Member States must be allowed a third practicable option which does not represent a serious interference in the ownership structures of the Member States and enables vertically integrated undertakings to continue to operate the network in collaboration, subject to compliance with stringent conditions and obligations.*

### **Amendment 3**

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

*Text proposed by the Commission*

*Amendment*

***(10b) To facilitate efficient market integration, the process of unbundling should enable several transmission systems to be operated together, for example by an independent regional system operator.***

## *Justification*

*Effective separation between transmission operators and production or supply businesses is essential to ensure non-discriminatory access, but the process of unbundling must lead to market integration, not to market fragmentation. A new recital should be added to make this clear.*

### **Amendment 4**

#### **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 production 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 production 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 ownership unbundling, setting up system operators which are independent from supply and production interests, ***and effective and efficient legal unbundling of transmission system operators***. 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 production business, provided that the requirements resulting from ownership unbundling are complied with.

## *Justification*

*The Member States must be allowed a third practicable option which does not represent a serious interference in the ownership structures of the Member States and enables vertically integrated undertakings to continue to operate the network in collaboration, subject to compliance with stringent conditions and obligations.*

*All three options must also have equal status.*

## Amendment 5

### Proposal for a directive – amending act Recital 12

*Text proposed by the Commission*

(12) The implementation of effective unbundling should respect the principle of non-discrimination between the public and private sectors. To this effect, the same person should not be able to exercise any influence, solely or jointly, over the composition, voting or decision of the bodies of both transmission system operators and supply undertakings.  
***Provided that the Member State in question can demonstrate that this requirement is respected, two distinct public bodies could control on the one hand generation and supply activities and on the other transmission activities.***

*Amendment*

(12) The implementation of effective unbundling should respect the principle of non-discrimination between the public and private sectors. To this effect, the same person should not be able to exercise any influence, solely or jointly, over the composition, voting or decision of the bodies of both transmission system operators and supply undertakings.

*Justification*

*Equal treatment irrespective of ownership status.*

## Amendment 6

### Proposal for a directive – amending act Recital 32

*Text proposed by the Commission*

(32) As regards Directive 2003/55/EC, power should be conferred on the Commission in particular to adopt the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of this Directive. Since those measures are of general scope and are designed to supplement Directive 2003/55/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*

(32) As regards Directive 2003/55/EC, power should be conferred on the Commission in particular to adopt, ***to a limited extent***, the guidelines necessary for providing the minimum degree of harmonisation required to achieve the aim of this Directive. Since those measures are of general scope and are designed to supplement Directive 2003/55/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*

*It is sufficient in this connection that the Commission be empowered to adopt clearly delimited guidelines.*

**Amendment 7**

**Proposal for a directive – amending act**

**Article 1 – point -1 (new)**

Directive 2003/55/EC

Article 1 – paragraph 2

*Text proposed by the Commission*

*Amendment*

***(-1) Article 1(2) shall be replaced by the following:***

**“2. The rules established by this Directive for natural gas, including liquefied natural gas (LNG), shall also apply in a non-discriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system.”;**

*Justification*

*Assuming the technical and chemical safety threshold for the different gases are met the need for non-discrimination for access between the gases from different sources must be emphasized*

**Amendment 8**

**Proposal for a directive – amending act**

**Article 1 – point 1 a (new)**

Directive 2003/55/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**

gas 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 *and 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 gas companies to national consumers. *These obligations may in particular take the form of price regulation, including setting a maximum price for the supply of gas to end-users.* In relation to security of supply, energy efficiency/demand-side management and for the fulfilment of environmental 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*

*It is important explicitly to safeguard the Member States’ right to regulate their prices for gas as an essential service. In line with European legislation on mobile telephony, Member States must in particular be permitted to set a maximum price for the supply of gas to end users.*

#### **Amendment 9**

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

##### **Article 1 – point 2**

Directive 2003/55/EC

Article 3 – paragraph 7

*Text proposed by the Commission*

*Amendment*

**(2) In Article 3, the following paragraph 7 is added:**

**deleted**

***"7. 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 30 (3)”.*

*Justification*

*The general interest obligations are already regulated in the existing directive. Accordingly there is no need for Commission guidelines.*

**Amendment 10**

**Proposal for a directive – amending act**

**Article 1 – point 3**

Directive 2003/55/EC

Article 5a – paragraph 4

*Text proposed by the Commission*

4. The Commission may **adopt** guidelines for regional solidarity cooperation. 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 30 (3).

*Amendment*

4. The Commission may **amend** guidelines for regional solidarity cooperation. 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 30 (3).

*Justification*

*Seeks to ensure that the guidelines are adopted under the ordinary procedure by Parliament and the Council. The transfer of powers to the Commission should remain confined to any necessary amendments.*

**Amendment 11**

**Proposal for a directive – amending act**

**Article 1 – point 3 a (new)**

Directive 2003/55/EC

Article 6a (new)

*Text proposed by the Commission*

*Amendment*

**(3a) The following Article 6a shall be inserted:**

**“Article 6a**

**Provisions on the unbundling of transmission system operators**

*In order to guarantee the independence of transmission system operators, Member States shall ensure that, as from...\* vertically integrated undertakings comply with Article 7(1)(a) to (d) on full ownership unbundling, Article 9 on independent system operators, or Article 9b on effective and efficient legal unbundling..*

---

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

*Justification*

*The Member States must be allowed a third practicable option which does not represent a serious interference in the ownership structures of the Member States and enables vertically integrated undertakings to continue to operate the network jointly, subject to compliance with stringent conditions and obligations.*

**Amendment 12**

**Proposal for a directive – amending act**

**Article 1 – point 5**

Directive 2003/55/EC

Article 7b – 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 elements of this Directive by supplementing it shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

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 30(3).

*Justification*

*Seeks to ensure that the guidelines are adopted under the normal procedure by Parliament and the Council. The transfer of powers to the Commission should remain confined to any necessary amendments.*

**Amendment 13**



**Proposal for a directive – amending act**

**Article 1 – point 6 a (new)**

Directive 2003/55/EC

Article 8 – paragraph 1 - point ba (new)

*Text proposed by the Commission*

*Amendment*

***(6a) In Article 8(1) the following point shall be inserted:***

***“(ba) build sufficient interconnection capacity linking their transmission infrastructure in order to meet all reasonable demands for capacity, facilitate an efficient overall market, and fulfil the criteria for security of supply of gas;”***

*Justification*

*The tasks of TSOs need to be strengthened to ensure that use of existing capacity is maximized on a non-discriminatory basis and new infrastructure is built where there is a market demand. These changes are essential for the integration of the European energy market.*

**Amendment 14**

**Proposal for a directive – amending act**

**Article 1 – point 6 b (new)**

Directive 2003/55/EC

Article 8 – paragraphs 4a to 4h (new)

*Text proposed by the Commission*

*Amendment*

***(6b) In Article 8, the following paragraphs shall be added:***

***“4a. A 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 that should 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.*

*4b. 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.*

*4c. 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.*

*4d. 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.*

*4e. 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 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.*

*4f. The national regulatory authority shall monitor and evaluate the implementation of the investment plan.*

*4g. Transmission system operators shall be required to establish and publish transparent and efficient procedures for non-discriminatory connection of third parties to the grid. Those procedures shall be subject to the approval of national regulatory authorities.*

*4h. Transmission system operators shall not be entitled to refuse the access of third parties 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 this would 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 third parties and necessary investments in the grid always need to be guaranteed, regardless of who is the owner of the grid.*

## **Amendment 15**

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

#### **Article 1 – point 8**

Directive 2003/55/EC

Article 9a – paragraph 3

#### *Text proposed by the Commission*

3. The Commission may **adopt** guidelines to ensure full and effective compliance of the transmission system owner and of the storage operator 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 30(3).

#### *Amendment*

3. The Commission may **amend** guidelines to ensure full and effective compliance of the transmission system owner and of the storage operator with paragraph 2 of 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 30(3).

#### *Justification*

*Seeks to ensure that the guidelines are adopted under the normal procedure by Parliament and the Council. The transfer of powers to the Commission should remain confined to any necessary amendments.*

## **Amendment 16**

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

#### **Article 1 – point 8 a (new)**

Directive 2003/55/EC

Article 9b (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(8a) The following Article 9b shall be inserted:***

#### ***“Article 9b***

***Effective and efficient legal unbundling of transmission systems***

***Assets, equipment, staff and identity***

***1. Transmission system operators shall be equipped with all human, physical and financial resources of the vertically integrated undertaking necessary for the regular business of gas transmission. In particular, the transmission system operator shall:***

***(a) own assets necessary for the regular business of gas transmission;***

***(b) directly employ personnel necessary for the regular business of gas transmission;***

***c) ensure that appropriate financial resources for future investment projects will be available in accordance with annual financial planning.***

***The activities referred to in points (a) to (c) shall include, at least:***

***(i) representing the transmission system operator and contacts to third parties and the regulatory authorities;***

***(ii) granting and managing third-party access, in particular to new market participants from the biogas sector***

***(iii) collecting access charges, congestion rents and payments pursuant to the balancing mechanisms between transmission system operators set out in Article 7 of Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission networks\*;***

***(iv) operating, maintaining and developing the transmission system;***

***(v) investment planning ensuring the long-term ability of the system to meet reasonable demand and guaranteeing security of supply;***

***(vi) legal services;***

***(vii) accountancy and information technology services.***

***2. The transmission system operator may engage in no activities other than***

*transmission which might conflict with its tasks, including the possession of shares or participation in an undertaking or a part of the vertically integrated undertaking or in any other gas or electricity company. Exceptions to that rule shall require prior authorisation by the national regulatory authority and shall be confined to share ownership and participation in other network undertakings.*

*3. The transmission system operator shall have its own corporate identity, significantly distinct from the vertically integrated undertaking with separate branding, communication and premises.*

*4. The transmission system operator shall not provide the vertically integrated undertaking any sensitive information or information conferring a competitive advantage, unless it shares such information with all market participants in an equal and non-discriminatory manner. What types of information are covered by this definition shall be determined by the transmission system operator in collaboration with the national regulatory authority.*

*5. Transmission system operators' accounts shall be audited by an auditor other than the auditor of the vertically integrated undertaking and its affiliated companies.*

*Independence of the transmission system operator management, chief executive officer/executive board*

*6. Decisions on the appointment and on any premature termination of the employment of the transmission system operator's chief executive officer or members of the executive board and their respective contractual agreements of employment and their termination shall be notified to the national regulatory authority. Those decisions and agreements may become binding only if the regulatory authority has not used its*

*right of veto within three weeks of notification. The regulatory authority may use a veto in connection with appointments and their respective contractual agreements in the event that serious doubts arise in regard to the professional independence of a nominee for appointment as chief executive officer or member of the executive board on the one hand, or the justification for the premature termination of employment and corresponding contractual agreements on the other.*

*7. Effective rights of appeal to the regulatory authority or to a court shall be guaranteed for any complaints by the chief executive officer or members of the executive board of the transmission system operator against premature terminations of their employment.*

*8. The regulatory authority must take a decision on the appeal within six months. This time limit may only be exceeded for objectively justified reasons.*

*9. After termination of employment with the transmission system operator, chief executive officers or members of the executive board shall be prohibited from participating in any branch of the vertically integrated undertaking performing functions of production or supply for a period of not less than 3 years.*

*10. The chief executive officer or members of the executive board shall hold no interest in or receive any compensation from any undertaking of the vertically integrated company other than the transmission system operator. His, her or their remuneration shall in no part depend on activities of the vertically integrated undertaking other than those of the transmission system operator.*

*11. The chief executive officer or members of the executive board of the transmission system operator shall bear no responsibility, directly or indirectly, in*

*the day-to-day operation of any other branch of the vertically integrated undertaking.*

*12. Without prejudice to this Article, the transmission system operator shall have effective decision-making rights, independent from the integrated gas undertaking, with respect to assets necessary to operate, maintain or develop the network. This shall not prevent the existence of appropriate coordination mechanisms enabling the parent company to set global limits on the levels of indebtedness of its subsidiary. The parent company may not issue any instructions either regarding day-to-day operations, or with respect to individual decisions concerning the construction or upgrading of transmission gas pipelines, that exceed the terms of the approved financial plan, or any equivalent instrument.*

*Supervisory board and board of directors*

*13. Chairpersons 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 production or supply.*

*14. The members of the transmission system operator's supervisory board or board of directors shall include independent members appointed for a term of at least ten years. Their appointment shall be notified to the regulatory authority and shall become binding only subject to the conditions provided for in paragraph 7.*

*15. For the purposes of paragraph 13, a member of a transmission system operator's supervisory board or board of directors shall be deemed independent if he or she is free of any business or other relationship with the vertically integrated undertaking, its controlling shareholders or the management of either, that creates a conflict of interest such as to impair his or her judgement, and, in particular, he*



*or she:*

*(a) has not been an employee of any branch of the vertically integrated undertaking performing functions of production and supply in five years prior to his or her 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 transmission system operator;*

*(c) does not have any relevant business relationship with any branch of the vertically integrated company performing functions of energy supply during his or her appointment to the supervisory board or board of directors; and*

*(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.*

*Compliance officer*

*16. Member States shall ensure that transmission system operators establish and implement a compliance programme which sets out measures taken to ensure that discriminatory conduct is excluded. The programme shall set out the specific obligations of employees to meet 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 in case of inappropriate implementation of the compliance programme.*

*17. The transmission system operator's chief executive officer or executive board shall appoint a person or a body as a compliance officer in order to:*

*(a) monitor the implementation of the compliance programme;*

*(b) elaborate a detailed annual report, the criteria for which shall be determined by regulatory authority in agreement with the European Agency for the Cooperation of Energy Regulators, set out the measures taken in order to implement the compliance programme and submit the report to the regulatory authority; and*

*(c) issue 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 regularly to address the supervisory board or board of directors of the transmission system operator, the vertically integrated undertaking, and the regulatory authorities.*

*20. The compliance officer shall attend all sessions of the supervisory board or board of directors of the transmission system operator that address the following areas:*

*(a) conditions for access and connection to the network, including the collection of access charges, congestion rents and payments in accordance with the balancing mechanism between transmission system operators set out in Article 7 of Regulation (EC) No 1775/2005;*

*(b) projects undertaken in order to operate, maintain and develop the transmission network system, including interconnection and connection investments;*

*(c) balancing rules, including provisions on energy reserves; and*

*(d) energy purchases in order to cover energy losses.*

*21. During these meetings, the compliance officer shall prevent information about customers' or*

*suppliers' activities, which may be commercially advantageous, from being disclosed in a discriminatory manner to the supervisory board or board of directors.*

*22. The compliance officer shall have access to all the transmission system operator's relevant books, records and offices and to all the necessary information for the proper performance of his or her duties.*

*23. The compliance officer shall be nominated and removed from office by the chief executive officer or executive board only following the prior approval of the regulatory authority.*

*24. The compliance officer may have no kind of business dealings with the vertically integrated undertaking for at least five years after leaving office.*

*Network development and powers to make investment decisions*

*25. 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.*

*26. That ten-year 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.*

*27. In order to elaborate its ten-year network development plan, each transmission system operator shall make reasoned estimates about the evolution of supply, consumption and exchanges with other countries, taking into account regional and Europe-wide existing network investment plans. A transmission*

*system operator shall submit its estimates to the national regulatory authority within a reasonable time period.*

*28. The 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.*

*29. The 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.*

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

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

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

*- agree to third-party financing,*

*- agree to a third party building a new asset, or create the new asset in question, and/or*

*- operate the new asset.*

*The relevant financial arrangements shall be subject to the approval of the regulatory authority. In either case, tariff regulation shall allow for revenue that covers the costs of such investment.*

*31. The regulatory authority shall monitor and evaluate the implementation of the*

*investment plan.*

*Power of decision on third-party access to the transmission network*

*32. Transmission system operators shall be required to develop and publish transparent and efficient procedures for the non-discriminatory access of third parties to the network. Those procedures shall be subject to the approval of national regulatory authorities.*

*33. Transmission system operators shall not be entitled to refuse access the access of third parties on the grounds of possible future limitations to available network capacities, such as congestion in distant parts of the transmission network. The transmission system operator shall be required to supply necessary information.*

*34. Transmission system operators shall not refuse a new connection point on the sole ground that it will lead to additional costs linked to necessary capacity increase of network elements in the immediate vicinity of the connection point.*

*Regional Cooperation*

*35. If Member States opt for regional cooperation, they must impose precisely defined obligations on the transmission system operator, to be fulfilled within a clearly defined time frame. Such obligations must also lead gradually to the creation of a common regional dispatching centre, which shall be responsible for security and safety issues no later than ... \*\*.*

*36. Where there is cooperation between several Member States at regional level, the Member States in question shall appoint a regional coordinator in agreement with the Commission.*

*37. The regional coordinator shall promote cooperation at regional level between regulatory authorities and any other competent authorities, network operators, power exchanges, network*

*users and market participants. In particular, he shall:*

*(a) promote new, efficient investments in interconnection infrastructure. To that end, he shall help transmission network operators in setting up their regional interconnection infrastructure plan and shall contribute to the coordination of their investment decisions and, where appropriate, their open season procedure;*

*(b) promote the efficient and safe use of the network. To that end, he shall contribute, by drafting common rules and common safety mechanisms, to coordination between transmission system operators, national regulatory authorities and other competent national authorities;*

*(c) report annually to the Commission and the Member States in question on the progress made in the field and on any difficulties or obstacles which might impair progress;*

#### *Sanctions*

*38. In order to perform the duties imposed on it in this Article, the national regulatory authority shall have the right:*

*(a) to demand any information from the transmission system operator and to contact any member of the transmission system operator's staff directly; in case of doubt, it may also exercise this right over the vertically integrated undertaking and its branches;*

*(b) to carry out any necessary investigations of the transmission system operator and, in case of doubt, of the vertically integrated undertaking and its branches; the provisions of 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\*\*\* shall apply accordingly.*

*39. In order to perform its tasks under this Article, the national regulatory authority*

*shall have the right to impose effective, appropriate and deterrent penalties on the transmission system operator and/or the vertically integrated undertaking where they do not comply with their duties pursuant to this Article or to the decisions of the national regulatory authority. This right includes the right:*

*(a) to impose effective, appropriate and deterrent fines, calculated on the basis of the turnover of the transmission network operator;*

*(b) to impose orders to refrain from discriminatory behaviour.*

*\* OJ L 289, 3.11.2005, p. 1.*

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

*\*\*\* 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*

*The Member States must be given a third practicable option which does not represent a serious interference in the ownership structures of the Member States and permits vertically integrated undertakings to continue to operate the network in collaboration in accordance with strict conditions and obligations.*

#### **Amendment 17**

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

##### **Article 1 – point 10**

Directive 2003/55/EC

Article 13 – 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*

*deleted*

*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 30(3).*

*Justification*

*The adoption of such far-reaching guidelines is not appropriate here.*

**Amendment 18**

**Proposal for a directive – amending act**

**Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 5 – sub-paragraph 1

*Text proposed by the Commission*

5. Within two months after receiving a notification, the Commission may take a decision requiring the regulatory authority to amend or withdraw the decision to grant an exemption. That period shall begin on the day following the receipt of the notification. The two month period may be extended by two additional months where additional information is sought by the Commission. That period shall begin on the day following the receipt of the complete additional information. The two month period can also be extended with the consent of both the Commission and the regulatory authority. Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete.

*Amendment*

5. Within two months after receiving a notification ***relating to competition rules***, the Commission may take a decision requiring the regulatory authority to amend or withdraw the decision to grant an exemption. That period shall begin on the day following the receipt of the notification. The two month period may be extended by two additional months where additional information is sought by the Commission. That period shall begin on the day following the receipt of the complete additional information. The two month period can also be extended with the consent of both the Commission and the regulatory authority. Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete



### *Justification*

*It should not be the Commission's task but the task of ACER to authorise exemptions in this connection. The Commission should take decisions only in cases relating to the competition rules.*

### **Amendment 19**

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

##### **Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 6

#### *Text proposed by the Commission*

The Commission may **adopt** guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. 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 30 (3).

#### *Amendment*

The Commission may **amend** guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. 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 30 (3).

### *Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary.*

### **Amendment 20**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point b

#### *Text proposed by the Commission*

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

#### *Amendment*

(b) cooperating on cross-border issues with the regulatory authority or authorities of those Member States ***including to ensure that transmission system operators jointly and severally build sufficient interconnection capacity between their transmission infrastructure in order to***

***satisfy an efficient overall market assessment and gas security of supply criteria without discriminating between suppliers in different Member States;***

*Justification*

*Regulatory scrutiny, whether it is of publicly or privately owned TSOs, will need to ensure that decisions on investment and use of infrastructure take equal account of customers solely within the national boundaries and of customers using connected systems. In this respect paragraph 1.b is weak. The main purpose or objective of cooperation between National Regulatory Authorities needs to be made clear.*

**Amendment 21**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point k

*Text proposed by the Commission*

*Amendment*

(k) monitoring ***and reviewing*** the access conditions to storage, linepack and other ancillary services as provided for in Article 19;

(k) monitoring the access conditions to storage, linepack and other ancillary services as provided for in Article 19;

*Justification*

*The difference between “monitoring” and “reviewing” is unclear. The addendum “and reviewing” tends to create a legal basis for specific new ex ante powers on storage, linepack and other ancillary services, though the access regime for storage, linepack and ancillary services can be offered on a negotiated basis if states allow it. It is crucial that Member States have the choice to favour unregulated/market based mechanisms which are proved to be more inducive to investment in storage.*

**Amendment 22**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point n

*Text proposed by the Commission*

*Amendment*

(n) ensuring access to customer consumption data, the application of a

(n) ensuring ***efficient and equal*** access to customer consumption data ***for all market***

harmonised format for consumption data and the access to data under paragraph (h) of Annex A;

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

#### *Justification*

*More precise wording is needed to ensure that the natural-gas market is opened up to all market participants.*

### **Amendment 23**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point p

#### *Text proposed by the Commission*

(p) monitoring the correct application of the criteria that determine *whether a storage facility falls under Article 19(3) or 19(4)*.

#### *Amendment*

(p) monitoring the correct application of the criteria that determine *whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers*.

#### *Justification*

*This is for coherence with new provisions of article 19 §1 introducing an obligation for member states to define and publish criteria according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers.*

### **Amendment 24**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – 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 gas markets, and to *decide, in the absence of violations of competition rules,, of any*

#### *Amendment*

(b) to carry out in cooperation with the national competition authority, *and taking account of each authority's respective powers*, investigations of the functioning of gas markets, and to *propose to the*

appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, **including gas release programs**;

**competent authorities** appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market;

#### *Justification*

*Without a clear competition framework, this proposal would grant authorities an unrestricted and unpredictable power of intervention into the market, overlapping with national competences.*

*Gas release programs may create artificial sources of gas supply at short term in a given area, but their impact on final prices seems unpredictable in a free market. They are targeted on long-term gas import contracts, which would be threatened by a downward trend.*

*The differences in powers between the energy authority and the competition authority must be taken into account.*

### **Amendment 25**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 4 – point a

#### *Text proposed by the Commission*

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

#### *Amendment*

a) connection and access to national networks, including transmission and distribution tariffs, **methods for calculating these**, and terms, conditions and tariffs for access to LNG facilities. These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities;

#### *Justification*

*The methods for calculating transmission and distribution tariffs must be disclosed to the regulatory authority.*

### **Amendment 26**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 6

*Text proposed by the Commission*

6. Regulatory authorities shall have the authority to require **transmission, storage, LNG 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 **operators of infrastructure submitted to regulated third-party access under the provisions of Article 18, Article 19(4) and Article 20**, 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.

*Justification*

*This is to take account of the fact that the Directive allows for access to infrastructures not to be regulated in certain circumstances, i.e. when an exemption is granted under article 22 or when negotiated access regime to storage is chosen by a Member State (article 19§3).*

**Amendment 27**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – 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 **judicial body or other national authority** independent of the parties involved **and the government of the Member State concerned**.

*Justification*

*Where there are appeals against regulatory authority decisions, a body independent of private and political influence must help to reach a decision.*

## Amendment 28

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24c – 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 30(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 30(3).

#### *Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary.*

## Amendment 29

### Proposal for a directive – amending act

#### Article 1 – point 14

Directive 2003/55/EC

Article 24d – 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 30(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 30(3).

### *Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary.*

#### **Amendment 30**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24e – 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*

*Shorter time limit*

#### **Amendment 31**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24e – paragraph 9

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

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 30(3).

##### *Amendment*

9. The Commission shall **amend** 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 **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

### *Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council*

*under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary.*

## **Amendment 32**

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

#### **Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall require supply undertakings to keep at the disposal of the ***national regulatory authority, the national competition authority and the Commission***, for at least five years, the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and transmission system operators as well as storage and LNG operators.

#### *Amendment*

1. Member States shall require supply undertakings to keep at the disposal of the ***competent authorities, for the fulfilment of their tasks***, for at least five years, the relevant data relating to all transactions in gas supply contracts and gas derivatives with wholesale customers and transmission system operators as well as storage and LNG operators.

#### *Justification*

*The circumstances for collection of data related to wholesale contracts should be clearly defined and related to specific tasks of the competent authorities. Competent authorities may include other bodies than those mentioned in the Directive proposal.*

## **Amendment 33**

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

#### **Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 2

#### *Text proposed by the Commission*

2. The data ***shall*** include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.

#### *Amendment*

2. The data ***may*** include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled gas supply contracts and gas derivatives.



### *Justification*

*Article 24f 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 relevant guidelines that should also be set out by the European Parliament through further amendments.*

### **Amendment 34**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 4

#### *Text proposed by the Commission*

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 30(3).

#### *Amendment*

4. To ensure the uniform application of this Article, the Commission may **amend** 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 **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

### *Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary.*

### **Amendment 35**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 5

#### *Text proposed by the Commission*

5. With respect to transactions in gas derivatives of supply undertakings with wholesale customers and transmission system operators as well as storage and LNG operators, this Article shall only

#### *Amendment*

5. With respect to transactions in gas derivatives of supply undertakings with wholesale customers and transmission system operators as well as storage and LNG operators, this Article shall only

apply once *the Commission has adopted* the guidelines referred to in paragraph 4.

apply once the guidelines referred to in paragraph 4 *have been adopted*.

*Justification*

*This proposal is to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. Transfer of powers to the Commission should remain limited to any adjustments that may prove necessary.*

**Amendment 36**

**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 progress of the practical and formal implementation of this Directive in the individual Member States.***

## PROCEDURE

<b>Title</b>	Internal market in natural gas		
<b>References</b>	COM(2007)0529 – C6-0317/2007 – 2007/0196(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	Bernhard Rapkay 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	–: 5	0: 7
<b>Members present for the final vote</b>	Mariela Velichkova Baeva, Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Manuel António dos Santos, Christian Ehler, Jonathan Evans, Elisa Ferreira, 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>	Harald Ettl, Ján Hudacký, Alain Lipietz, Bilyana Ilieva Raeva, Gilles Savary		

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 2003/55/EC concerning common rules for the internal market in natural gas (COM(2007)0529 – C6-0317/2007 – 2007/0196(COD))

Draftsman: Toine Manders

### **SHORT JUSTIFICATION**

This proposed Directive is amending Directive 2003/55 and is "concerning common rules for the internal market in natural gas". It is part of the "energy package" ("The EU Electricity & Gas markets: third legislative package) which the Commission proposed in September 2007. Your draftsman welcomes the five proposals in the package and supports it in general terms, as it is very important in obtaining a true European energy internal market. The aims of the proposals are to ensure security of supply and to keep prices transparent and related to competitive markets to the benefits of all European consumers. In other words the aim is to support and further develop the ongoing liberalisation process in Europe, which the draftsman strongly supports

Though the Draftsman welcomes the proposal, he is of the opinion that there are room for further improvement, mainly focused on consumer protection issues, and therefore proposes amendments along the following lines:

- Affordable and easy access to energy for all European consumers has a high priority for the draftsman and the IMCO Committee. Consumer protection measures in the gas sector are therefore very important, especially it is important to ensure that consumers can easily and without any extra cost change supplier, and have easy access to their data of consumptions etc. Furthermore the Draftsman supports the 2006 requirements (in the 2006/32/EC Directive on energy end-use efficiency and energy services) and urges Member States to implement a "smart metering" system, and to ensure that consumers' prepayment is adequate and reflect their actual consumption of gas.
- In order to secure the enforcement of the consumer protection measures in Annex A, the National Regulatory Authorities must secure effective implementation and

enforcement of these measures. Furthermore the National Regulatory Authorities shall monitor it and sanction appropriately in case of non compliance with the rules. Quality of service should be a central goal for the gas undertakings.

- The Commissions proposal gives full independence to the regulatory authority. Under most judicial systems within the European Union, a legal court will only be able to check if the regulator has followed the right process in coming to a decision (marginal check), but will not be able to rule on the substance of the decision. The draftsman fears that this would give the regulatory authority a "carte blanche". This is against the general principles of checks and balances.
- The Draftsman is of the opinion that the security of supply to the benefits of European consumers can be best achieved by avoiding market concentration and ensuring establishing of an effective energy trading market. There are structural differences in the gas and the electricity sector. In the gas sector there is a concentration of suppliers and long-term contracts that underpin deliveries, and there is a lack of downstream liquidity. Therefore there is a need for a new trading system and to make the trading obligations mandatory.
- The Draftsman strongly supports the statement in the Resolution on Prospects for the internal gas and electricity market adopted by the Parliament 10 July 2007, that transmission unbundling is the most important tool to promote investments in infrastructures in a non discriminatory way.
- It is the obligation of the Member States to ensure a proper implementation and enforcement of this directive and the implementation of the 2nd energy package as well. The Draftsman strongly urges the Commission to sanction Member States that did not implement the 2nd Energy package yet.
- The Draftsman furthermore supports regional cooperation in order to secure a stronger integration of the gas pipelines in Europe. It has to be easier to reroute them in order to have a true functioning effective internal market. The Member States shall ensure and monitor the cooperation of the regional cooperation and ensure a minimum level of interconnections between the neighbouring Member States.
- In line with that there also have to be more transparency and more strict rules regarding the transmission, storage and/or LNG facilities, so it is easier for new entrants to enter the gas market.
- Finally the Draftsman welcomes the Commission's proposal regarding the exemption clause for new infrastructure (Article 22), but the article 22 should also imply for interconnectors between Member States and third countries.

## 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:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

---

### Amendment 1

---

<sup>1</sup> OJ C , , p..

**Proposal for a directive – amending act**  
**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) The Member States should promote cooperation at regional level, and monitor the effectiveness of the network at that level. Several Member States have already put forward a proposal that would fulfil this objective.***

*Justification*

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

**Amendment 2**

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

*Text proposed by the Commission*

*Amendment*

***(8a) In order to ensure the proper enforcement of ownership unbundling requirements, the Commission should monitor and report to the European Parliament on the unbundling process in the Member States. The Commission should also pursue Member States who have failed to implement legislation in the field of energy in force at the time of entry into force of this Directive.***

*Justification*

*The implementation of the second energy package showed that the Commission should more closely monitor the transposition process and the date of transposition of this directive by the Member States*

**Amendment 3**

**Proposal for a directive – amending act**  
**Recital 8 b (new)**

*Text proposed by the Commission*

*Amendment*

***(8b) Member States should promote***

*regional cooperation, with the possibility of designating a regional coordinator in charge of facilitating dialogue between competent national authorities.  
Furthermore, new power plants should be connected to the grid in due course and in an effective manner.*

*Justification*

*The third "Energy package" is very important in finalising the ongoing European liberalisation processes in the energy and gas sectors and thereby ensuring a genuine, transparent and open internal market.*

**Amendment 4**

**Proposal for a directive – amending act  
Recital 8 c (new)**

*Text proposed by the Commission*

*Amendment*

***(8c) In order to ensure proper implementation of the package, the Commission should assist those Member States which encounter problems in this field.***

*Justification*

*In some Member States the effects of the second energy package remain to be seen; the second package has not been implemented or enforced properly yet due to certain national specificities.*

**Amendment 5**

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

*Text proposed by the Commission*

*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 gas market. Use of the network is essential for gas to reach EU citizens. Functioning gas markets and in particular the networks and other assets associated with gas supply are

(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 gas market. Use of the network is essential for gas to reach EU citizens. Functioning ***open*** gas markets ***with genuine trading possibilities***, and in particular the networks and other

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 gas 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.

assets associated with gas 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 gas 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 6**

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

#### *Text proposed by the Commission*

(15) It is necessary to ensure the independence of storage system operators in order to improve third party access to storage facilities that are technically and/or economically necessary for providing efficient access to the system for the supply of customers. It is therefore appropriate that storage facilities are operated through legally separate entities that have effective decision making rights with respect to assets necessary to maintain, operate and develop storage facilities. It is also necessary to increase transparency in respect of the storage capacity that is offered to third parties, by obliging Member States to define and publish a non-discriminatory, clear framework that determines the appropriate regulatory regime applicable to storage facilities.

## **Amendment 7**

#### *Amendment*

(15) It is necessary to ensure the independence of storage system operators in order to improve third party access to storage facilities that are technically and/or economically necessary for providing efficient access to the system for the supply of customers. It is therefore appropriate that storage facilities are operated through legally separate entities that have effective decision making rights with respect to assets necessary to maintain, operate and develop storage facilities. It is also necessary to increase transparency **effectively** in respect of the storage capacity that is offered to third parties, by obliging Member States to define and publish a non-discriminatory, clear framework that determines the appropriate regulatory regime applicable to storage facilities.



**Proposal for a directive – amending act  
Recital 16**

*Text proposed by the Commission*

(16) *Non discriminatory* access to the distribution network determines downstream access to customers at retail level. The scope for discrimination as regards third party access and investment is however less significant at distribution level than at transmission level because at distribution level congestion and the influence of production interests are generally less important than at transmission level. Moreover, functional unbundling of distribution system operators became, according to Directive 55/2003/EC, compulsory only as of 1 July 2007 and its effects on the internal market still need to be evaluated. The rules on legal and functional unbundling currently in place can lead to effective unbundling provided they are more clearly defined, properly implemented and closely monitored. To create a level playing field at retail level, the activities of distribution system operators should therefore be monitored so that they are prevented from taking advantage of their vertical integration as regards their competitive position on the market, in particular in relation to small domestic and non-domestic customers.

**Amendment 8**

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

*Text proposed by the Commission*

*Amendment*

(16) *Non-discriminatory* access to the distribution network determines downstream access to customers at retail level. The scope for discrimination as regards third party access and investment is however less significant at distribution level than at transmission level because at distribution level congestion and the influence of production interests are generally less important than at transmission level. Moreover, functional unbundling of distribution system operators became, according to Directive 2003/55/EC, compulsory only as of 1 July 2007 and its effects on the internal market still need to be evaluated. The rules on legal and functional unbundling currently in place can lead to effective unbundling provided they are more clearly defined, properly implemented and closely monitored. To create a level playing field at retail level **and a genuine market**, the activities of distribution system operators should therefore be monitored so that they are prevented from taking advantage of their vertical integration as regards their competitive position on the market, in particular in relation to small domestic and non-domestic customers.

***(21a) The structural rigidities of the gas market which arise from the concentration of suppliers, the long-term contracts that underpin deliveries, and the lack of downstream liquidity result in an opaque pricing structure. In order to bring clarity to the cost structure, greater***

***transparency is needed in the setting of prices, and a trading obligation should therefore be mandatory.***

*Justification*

*In order to facilitate market access for new and smaller gas companies and to create more transparency on the gas market and prices*

**Amendment 9**

**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 rights for consumers need to be strengthened and guaranteed, and should include greater transparency and representation. 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 which do not comply with consumer protection and competition rules.***

*Justification*

*Consumers should be empowered, and should be at the centre of the EU energy policy.*

**Amendment 10**

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

*Text proposed by the Commission*

*Amendment*

***(21c) Consumer protection depends on the availability of effective channels of redress to all. Member States should introduce rapid and effective arbitration procedures, including extra-judicial procedures and a collective redress mechanism.***

### *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 11**

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

*Text proposed by the Commission*

*Amendment*

***(22a) All consumers should have the right to service delivery and complaint handling by their gas 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 12**

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

*Text proposed by the Commission*

*Amendment*

(23) The public service requirements and the common minimum standards that

(23) 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**.

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 natural gas**. **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 13**

#### **Proposal for a directive – amending act Recital 23 a (new)**

*Text proposed by the Commission*

*Amendment*

***(23a) 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.***

<sup>1</sup> *OJ L 114, 27.4.2006, p. 64.*

*Justification*

*Smart meters give the consumers a better insight in their actual gas consumption and therefore contribute to a more considered use of gas.*

**Amendment 14**

**Proposal for a directive – amending act  
Recital 23 b (new)**

*Text proposed by the Commission*

*Amendment*

***(23b) 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 2003/55/EC by means of the regulatory procedure with scrutiny. It should be possible to send a copy of the Charter to all consumers subscribing to new contracts.***

*Justification*

*Once established, the Charter on the Rights of Energy users should be regarded as a comprehensive list of consumer 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 15**

**Proposal for a directive – amending act  
Recital 23 c (new)**

*Text proposed by the Commission*

*Amendment*

***(23c) Regular dialogue between energy consumer organisations and all other stakeholders (social partners, energy regulators, government representatives and so on) on all issues of energy***

*consumer rights should be encouraged in order to ensure that the maximum is done to achieve a high level of energy consumer rights. Furthermore, consumer organisations and authorities responsible for consumer protection should cooperate to check the accuracy of the information provided by gas suppliers.*

*Justification*

*A stronger civil society would provide for a better consumer rights protection. It is imperative to encourage its growth in all Member States.*

**Amendment 16**

**Proposal for a directive – amending act  
Recital 24**

*Text proposed by the Commission*

(24) In order to contribute to security of supply whilst maintaining a spirit of solidarity between Member States, notably in the event of an energy supply crisis, it is important to provide a framework for regional solidarity cooperation.

*Amendment*

(24) In order to contribute to security of supply whilst maintaining a spirit of solidarity between Member States, notably in the event of an energy supply crisis, it is important to provide a **transparent and effective** framework for regional solidarity cooperation.

*Justification*

*Regional solidarity cooperation should be accessible to the public - transparency should allow a wider public scrutiny. Effective provision of solutions for eventual energy supply crisis is essential for the well-being of EU citizens.*

**Amendment 17**

**Proposal for a directive – amending act  
Recital 25**

*Text proposed by the Commission*

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

*Amendment*

(25) In view of the creation of an internal market for gas, Member States should **ensure and monitor** the integration of their national markets and the cooperation of network operators at European and regional

level.

## **Amendment 18**

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

#### **Article 1 – point -1 (new)**

Directive 2003/55/EC

Article 1 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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

***"1. This Directive establishes common rules for the transmission, distribution, supply and storage of natural gas, together with consumer protection provisions. To this end, it lays down the rules relating to the organisation and functioning of the natural gas sector, access to the market, the criteria and procedures applicable to the granting of authorisations for transmission, distribution, supply and storage of natural gas and the operation of systems."***

## **Amendment 19**

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

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

Directive 2003/55/EC

Article 2 – point 36 a (new)

*Text proposed by the Commission*

*Amendment*

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

***"36a. "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."***

### *Justification*

*Energy poverty is growing within the Member States of the European Union. We therefore need a clear and official definition of energy poverty at EU level to ensure harmonised standards of supply and consumer protection in all Member States.*

#### **Amendment 20**

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

##### **Article 1 – point 1 – point b b**

Directive 2003/55/EC

Article 2 – point 36 b (new)

*Text proposed by the Commission*

*Amendment*

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

***"36b. "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*

*An 'affordable price' must be established in all the Member States, so as to ensure the protection of vulnerable consumers.*

#### **Amendment 21**

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

##### **Article 1 – point 1 a (new)**

Directive 2003/55/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 gas 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 gas companies to national consumers. In relation to security of supply, energy efficiency/demand-side management and for the fulfilment of environmental 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."

## Amendment 22

### Proposal for a directive – amending act

#### Article 1 – point 1 b (new)

Directive 2003/55/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 take appropriate measures to ensure that all household customers and small enterprises enjoy the benefits of a universal service, in particular the right to be supplied with gas of a specified quality at affordable, easily and clearly comparable, transparent and non-discriminatory tariffs and prices, including prices and tariffs adjusted according to the respective indexation mechanisms. Those measures shall be based on actual energy consumption and the right to choice, fairness, representation and redress. Member States shall ensure that gas companies ensure quality of service.*

**Member States shall take all necessary measures to protect final customers and to ensure high levels of consumer**

protection, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers, including appropriate measures to help them avoid disconnection. In this context, they may take appropriate measures to protect customers in remote areas who are connected to the gas system. Member States may appoint a supplier of last resort for customers connected to the gas network. *Member States shall prohibit discriminatory charges on certain methods of payment, particularly for consumers charged by means of a pre-payment meter.* They shall ensure high levels of consumer protection, particularly with respect to transparency regarding general contractual terms and conditions, general information and dispute settlement mechanisms. Member States shall ensure that the eligible customer is effectively 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 strengthen the market position of domestic 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 23**

**Proposal for a directive – amending act**

**Article 1 – point 1 c (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(1c) in Article 3, the following paragraph shall be added:***

***"3a. Member States shall ensure high levels of consumer protection, particularly with respect to transparency regarding general contractual terms and conditions, general information and dispute settlement mechanisms. Member States shall ensure that the eligible customer is easily and effectively able to switch to a new supplier, within a period of a duration of not longer than one month and free of charge. For household customers, measures to these effects shall include the consumer protection measures set out in Annex A."***

*(This amendment is almost entirely based on the second part of existing Article 3, paragraph 3 of Directive 2003/55 EC)*

*Justification*

*It is imperative that customers are able to have the choice of changing suppliers without any cost, this would also enable a more competitive market.*

**Amendment 24**

**Proposal for a directive – amending act**

**Article 1 – point 1 d (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(1d) in Article 3, the following paragraph shall be added:***

***"3b. Member States shall ensure the transparency and predictability of published prices, tariffs (and parameters for calculating the tariffs), and any***

***indexation mechanisms and attached conditions through comprehensible and easily accessible calculation methods or through any other form of communication notified to and monitored or approved by the independent national regulator. These measures shall be communicated by the independent national regulator to the Agency for the Cooperation of Energy Regulators."***

*Justification*

*Transparency in tariffs of gas are needed to ensure consumer protection and that no surcharges are being made. It is of the responsibility of Member States to ensure that all tariffs or changes in tariffs are being communicated to the consumers.*

**Amendment 25**

**Proposal for a directive – amending act**

**Article 1 – point 1 e (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 c (new)

*Text proposed by the Commission*

*Amendment*

***(1e) in Article 3, the following paragraph shall be added:***

***"3c. Member States shall ensure that energy consumers receive transparent and easily comprehensible energy invoices based on actual energy consumption. Energy invoices shall be timely and frequent enough to provide accurate and comprehensible information. Member States shall develop standard invoicing with standardised information to be used by all suppliers in order to increase transparency and allow comparability. Consumers shall be informed, on a regular basis and at least every month, of their energy consumption. Information on the rights of consumers shall be displayed on the websites of gas companies or independent national regulators."***

### *Justification*

*To ensure better consumer protection, energy consumption should be based on actual energy consumption and available to consumer on a monthly basis. This would enable consumers to have a better insight in their actual gas consumption and therefore contribute to a more considered use of gas.*

### **Amendment 26**

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

#### **Article 1 – point 1 f (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 d (new)

*Text proposed by the Commission*

*Amendment*

***(1f) in Article 3, the following paragraph shall be added:***

***"3d. Member States shall ensure that suppliers or network operators install easily accessible help-lines to deal with connection problems and other service quality issues, as well as physical single entry points for any consumer information request. Member States shall ensure that suppliers and network operators put in place a common entry point for consumer complaints."***

### *Justification*

*Suppliers or network operators should be responsible for creating help-lines and help-desks to provide consumers with as much information as possible as well as any other help. A physical single entry point is of great importance for consumer protection.*

### **Amendment 27**

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

#### **Article 1 – point 1 g (new)**

Directive 2003/55/EC

Article 3 – paragraph 3 e (new)

*Text proposed by the Commission*

*Amendment*

***(1g) in Article 3, the following paragraph shall be added:***

***"3e. The Commission shall promote the***

*financing and implementation of the provision to individual consumers of smart meters, accurately reflecting actual energy consumption and time of use. Member States shall ensure the proper provision of such meters in order to give consumers accurate information about energy consumption and to secure end-user efficiency, in conformity with point (i) of Annex A."*

*Justification*

*Smart meters give consumers a more accurate idea of their actual gas consumption, thereby helping to achieve greater end-use efficiency.*

**Amendment 28**

**Proposal for a directive – amending act**

**Article 1 – point 2 a (new)**

Directive 2003/55/EC

Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) in Article 5, the following paragraph shall be added:*

*"1a. For reasons relating to security of supply, reciprocity between access to upstream market activities in third countries and downstream activities in the EU shall be ensured through adequate measures."*

**Amendment 29**

ARTICLE 1, POINT 3

Article 5a, paragraph 3 (Directive 2003/55/EC)

*Text proposed by the Commission*

*Amendment*

3. The Commission shall be kept informed of this cooperation.

3. The Commission shall be kept informed of this cooperation, *monitor it and report thereon to the European Parliament.*

**Amendment 30**

## Proposal for a directive – amending act

### Article 1 – point 3

Directive 2003/55/EC

Article 5a – paragraph 4

#### *Text proposed by the Commission*

4. The Commission **may** adopt **guidelines** for regional solidarity cooperation. **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 30 (3).

#### *Amendment*

4. The Commission **shall, by ... \***, adopt **measures** for regional solidarity cooperation. **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 30 (3).

*\* One year from the entry into force of the amending Directive.*

## Amendment 31

## Proposal for a directive – amending act

### Article 1 – point 3

Directive 2003/55/EC

Article 5b

#### *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 1775/2005.**

#### *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 designate, in agreement with all Member States concerned, 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 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, 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 32**

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

##### **Article 1 – point 6**

Directive 2003/55/EC

Article 8 – paragraph 1, point (a)

#### *Text proposed by the Commission*

(a) operate, maintain and develop under economic conditions secure, reliable and efficient transmission, storage and/or LNG facilities, 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

#### *Amendment*

(a) operate, maintain and develop under economic conditions secure, reliable and efficient transmission, storage and/or LNG facilities **to secure an open market for new entrants**, with due regard to the environment, and promote energy efficiency and research and innovation notably with respect to ensuring penetration



carbon technology.

of renewables and dissemination of low carbon technology.

*Justification*

*The market access for smaller and new companies should be guaranteed.*

**Amendment 33**

**Proposal for a directive – amending act**

**Article 1 – point 8**

Directive 2003/55/EC

Article 9

*Text proposed by the Commission*

*Amendment*

*Article 9*

*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 7(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 7(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 7(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 8;;*

*c) the candidate operator has committed to complying with a ten year network development plan proposed by the regulatory authority; 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 1775/05 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission network\* 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 7a and 9(2) shall be approved and designated as independent system operators by Member States. The certification procedure in Article 7b shall be applicable.*

*4. Where the Commission has taken a decision in accordance with the procedure in Article 7b 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 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 9(1).*

*5. Each independent system operator shall be responsible for granting and managing third party access, including the collection of access charges and congestion rents, for operating, maintaining and developing the transmission system, as well as 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 that it owns and are managed by the independent system operator, 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.*

#### **Amendment 34**

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

##### **Article 1 – point 13**

Directive 2003/55/EC

Article 22 – paragraph 3 - subparagraph 1

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

3. The regulatory authority referred to in Chapter VIa *may*, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, the Agency shall exercise the tasks conferred on the regulatory authority by the present Article.

#### **Amendment 35**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24b – point (a)

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

(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 gas market within the Community, and effective market opening for all consumers and suppliers in the Community;

#### **Amendment 36**

##### *Amendment*

3. The regulatory authority referred to in Chapter VIa *shall*, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, the Agency shall exercise the tasks conferred on the regulatory authority by the present Article.

##### *Amendment*

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

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24b – point (b)

*Text proposed by the Commission*

(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);

*Amendment*

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

*Justification*

*Regional markets should provide gas market which is transparent to the public, and which effectively and at reasonable prices provides energy supplies to all consumers in the Community.*

**Amendment 37**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24b – point (d)

*Text proposed by the Commission*

(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*

(d) ensuring the development of secure, **transparent**, 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 38**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point (b)

*Text proposed by the Commission*

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

*Amendment*

(b) cooperating on cross-border issues with the regulatory authority or authorities of those Member States, **with a view to ensuring, inter alia, that TSOs jointly**

***build sufficient interconnection capacity between their respective transmission infrastructures so as to ensure efficient overall market performance and security of supply without discriminating between suppliers in different Member States;***

*Justification*

*Regulatory scrutiny, whether it is of publicly or privately owned TSOs, will need to ensure that decisions on investment and use of infrastructure take equal account of customers solely within the national boundaries and of customers using connected systems. In this respect paragraph 1.b is weak. The main purpose or objective of cooperation between National Regulatory Authorities needs to be made clear.*

**Amendment 39**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – 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, who will then have a real benefit from more consistent and transparent regulation.*

**Amendment 40**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point (i)

*Text proposed by the Commission*

(i) monitoring the level of market opening and competition at wholesale and retail

*Amendment*

(i) monitoring the level of ***effective*** market opening and competition at wholesale and

levels, including on natural gas 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;

retail levels, including on natural gas 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 41**

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

##### **Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

#### *Text proposed by the Commission*

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

#### *Amendment*

(l) without prejudice to the competence of other national regulatory authorities, ensuring ***across the EU even, transparent and*** high standards of public service for natural gas ***consumers, and ensuring*** the protection of vulnerable customers, and that consumer protection measures set out in Annex A are effective ***and are implemented properly in the interests of consumers, penalties being imposed for non-compliance by supply companies in accordance with the provisions in force***;

#### *Justification*

*The regulatory authorities must ensure not only the effectiveness of, but also compliance with, consumer protection measures.*

#### **Amendment 42**

## Proposal for a directive – amending act

### Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (n)

#### *Text proposed by the Commission*

(n) 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*

(n) ensuring access to customer consumption data, **including on prices and 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*

*Consumers pay their gas in advance, e.g. every month. Often this upfront payment does not reflect the actual consumption by the consumer. Energy companies therefore receive an interest free loan from consumers. With new technologies - such as smart metering - energy companies can ask for more adequate pre payments.*

## Amendment 43

## Proposal for a directive – amending act

### Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – introductory part

#### *Text proposed by the Commission*

3. Member States shall ensure that regulatory authorities are granted *the* powers enabling them to carry out the duties referred to in paragraph 1 and 2 in an efficient and expeditious manner. **For this purpose, the** regulatory authority shall have at least the following powers:

#### *Amendment*

3. Member States shall ensure that regulatory authorities are granted powers enabling them to carry out the duties referred to in paragraph 1 and 2 **within the defined framework and within their national legal mandate** in an efficient and expeditious manner. **The** regulatory authority shall have at least the following powers:

## Amendment 44

## Proposal for a directive – amending act

### Article 1 – point 14

Directive 2003/55/EC

Article 24c – 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 gas 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 gas release programs;

*Amendment*

(b) to carry out in co-operation with the national competition authority investigations ***into*** the functioning of gas markets, and to decide, ***based on such investigations, on*** any measures necessary and proportionate to promote effective competition and to ensure the proper functioning of the market, including gas release programs. ***In the absence of a violation of competition rules, those measures shall be taken in cases where less than 20 % of the inflow of gas into a Member State or relevant market is offered to the wholesale market through a transparent and non-discriminatory process, e.g. an exchange;***

*Justification*

*Under most judicial systems within the European Union, a legal court will only be able to check if the regulator has followed the right process in coming to a decision (marginal check). Furthermore in order to facilitate market access for new and smaller gas companies and to create more transparency on the gas market.*

**Amendment 45**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

*Text proposed by the Commission*

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

*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 transmission and distribution tariffs,*** and terms, conditions and tariffs for access to LNG facilities, ***including their methodologies, or alternatively, the methodologies, and the monitoring thereof, for setting or approving tariffs for access to LNG facilities.*** These tariffs shall

allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities. ***This may cover special regulatory treatment for new investments;***

*Justification*

*It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving transmission and distribution tariffs and their methodologies, or alternatively, the methodologies for setting or approving the transmission and distribution tariffs including the monitoring of the application of the methodologies for the setting of tariffs. The same shall apply for access to LNG facilities.*

**Amendment 46**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – paragraph 9

*Text proposed by the Commission*

9. Member States shall create appropriate and efficient mechanisms for regulation, control and transparency so as to avoid any abuse of a dominant position, in particular to the detriment of consumers, and any predatory behaviour. These mechanisms shall take account of the provisions of the Treaty, and in particular Article 82 thereof.

*Amendment*

9. Member States shall create appropriate and efficient mechanisms for regulation, control and transparency so as ***to ensure a genuine open gas market and*** to avoid any abuse of a dominant position, in particular to the detriment of consumers, and any predatory behaviour. These mechanisms shall take account of the provisions of the Treaty, and in particular Article 82 thereof.

**Amendment 47**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24c – 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, 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*

*The powers of Regulatory Authorities are listed in 24.c (3), without adequate control in the test as to how these far-reaching powers can be exercised, other than clause 12 which states “Decisions taken by regulatory authorities shall be motivated”.*

**Amendment 48**

**Proposal for a directive – amending act**

**Article 1 – point 14**

Directive 2003/55/EC

Article 24f – paragraph 3

*Text proposed by the Commission*

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.***

*Amendment*

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 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 49**

**Proposal for a directive – amending act**

**Article 1 – point 16 a (new)**

Directive 2003/55/EC

Annex A – point (a) – indent 7 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) in Annex A, point (a), the following indent shall be added:***

***“– that the expiry date shall be mentioned on the bill, in cases where contract conditions require a minimum contract***

*duration."*

*Justification*

*It is imperative that contract duration is stated on the bill to provide consumers with the opportunity to plan ahead.*

**Amendment 50**

**Proposal for a directive – amending act**

**Article 1 – point 16 b (new)**

Directive 2003/55/EC

Annex A – point (a) – indents 7 b and c (new)

*Text proposed by the Commission*

*Amendment*

*(16b) in Annex A, point (a), the following indents shall be added:*

*"– available payment parameters and facilities;*

*– specification on appropriate metering and informative billing that accurately reflects individual consumers' consumption;"*

*Justification*

*The purpose of this amendment is to provide consumers with information on their supply contracts that are clearer and more transparent.*

**Amendment 51**

**Proposal for a directive – amending act**

**Article 1 – point 16 c (new)**

Directive 2003/55/EC

Annex A – point (a) – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*(16c) in Annex A, point (a), the following subparagraph shall be added:*

*"All information obliged to be given in the pre-contractual phase shall be presented to the consumer on paper or other durable medium in due time before signing of the contract and shall apply to*

*all elements of the contract. Consumers shall be explicitly notified in writing or another durable medium, in due time before signing of the contract, of any changes between the pre-contractual and the contractual information."*

*Justification*

*It is important to have a consistency between pre-contractual information and the contract, in order to provide transparency and protection against fraud to the consumer*

**Amendment 52**

**Proposal for a directive – amending act**

**Article 1 – point 16 d (new)**

Directive 2003/55/EC

Annex A – point (c a) (new)

*Text proposed by the Commission*

*Amendment*

*(16d) in Annex A, the following paragraph shall be added:*

*"(ca) can benefit from the creation of an internet tool enabling them to compare prices and hence make informed choices;"*

*Justification*

*Providing consumers with an internet tool where they can compare prices will enable them to learn about the different companies on the market and to educate them on the differences of prices. This will be beneficial for the market as it will encourage competitiveness between the gas companies.*

**Amendment 53**

**Proposal for a directive – amending act**

**Article 1 – point 16 e (new)**

Directive 2003/55/EC

Annex A – point (f)

*Text proposed by the Commission*

*Amendment*

*(16e) 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 gas 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 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 54**

**Proposal for a directive – amending act**

**Article 1 – point 17**

Directive 2003/55/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 available energy in a specific area and all national and Community measures promoting energy efficiency.*** The party responsible for data management is obliged to give these data to the undertaking. Member States shall define ***an easily understandable*** format for the data and a procedure for suppliers and consumers to have ***ready*** access to the data. No additional costs can be charged to the consumer for this service.

### *Justification*

*This type of information will encourage responsible behaviour in terms of environmental impact and will enhance the beneficial influence of consumers on the market trends in this sector. This information will be provided under the future Charter on the Rights of Energy Consumers on subscribing to a new contract. Furthermore, in order to avoid confusion arising from difference tariffs, it is essential for Member States to establish a consumption data layout which is readily comprehensible to users.*

### **Amendment 55**

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

#### **Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (h a) (new)

*Text proposed by the Commission*

*Amendment*

***(ha) shall only prepay an amount that adequately reflects actual consumption.***

### **Amendment 56**

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

#### **Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (h b) (new)

*Text proposed by the Commission*

*Amendment*

***(hb) shall have access to consumer rights on the websites of gas suppliers.***

### *Justification*

*Gas suppliers should be involved in the protection of consumer's rights and therefore should provide all needed information on their own website to educate their customers.*

### **Amendment 57**

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

#### **Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (h c) (new)

*Text proposed by the Commission*

*Amendment*

***(hc) shall have access to tariff simulators***

*on the websites of suppliers and the independent national regulators.*

*Justification*

*Educating consumers on their energy consumption is of great importance and therefore all companies and national regulators shall provide consumers with simulators of their energy consumption.*

**Amendment 58**

**Proposal for a directive – amending act**

**Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (i)

*Text proposed by the Commission*

(i) shall be properly informed every month of actual gas 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 gas consumption and costs, ***which may include the supply of available energy in a specific area and all national and Community measures promoting energy efficiency.*** No additional costs *may* be charged to the consumer for this service.

*Justification*

*All consumers should every month receive detailed description of their consumption. By 2015 all households should be equipped with an "intelligent meter" which will provide consumers with detailed information on their gas consumption and therefore contribute to a more considered use of gas.*

**Amendment 59**

**Proposal for a directive – amending act**

**Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j)

*Text proposed by the Commission*

(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.

*Amendment*

(j) can change supplier at any time in the year ***without additional costs***, 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.

## **Amendment 60**

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

#### **Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j a) (new)

*Text proposed by the Commission*

*Amendment*

***(ja) receive details of how they will be provided with up-dated information on available energy efficiency improvement measures, comparative end-user profiles and/or objective technical specifications for energy-using equipment.***

*Justification*

*Consumers should be provided with information on any new technology or system available to them, especially in the case of improving energy efficiency.*

## **Amendment 61**

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

#### **Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j b) (new)

*Text proposed by the Commission*

*Amendment*

***(jb) receive conditions referring to price changes allowing them easily to understand the effects of those changes.***

*Justification*

*Consumers should be aware of all possible price change in order to understand and make informed decisions.*

## **Amendment 62**

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

#### **Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j c) (new)

*Text proposed by the Commission*

*Amendment*

***(jc) receive information on energy supply without entailing excessive or costly inquiries.***

*Justification*

*All information on energy supply should be available free of charge to all European consumers.*

### **Amendment 63**

**Proposal for a directive – amending act**

**Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j d) (new)

*Text proposed by the Commission*

*Amendment*

***(jd) shall have easy access to updated information on:***

***- the energy supply available in their area;  
and***

***- all national programmes, mechanisms and financial and legal frameworks promoting energy efficiency.***

*Justification*

*Updated information should be provided to all European energy consumers, more specifically on the different suppliers of energy in their area and all issues surrounding the promotion of energy efficiency.*

### **Amendment 64**

**Proposal for a directive – amending act**

**Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j e) (new)

*Text proposed by the Commission*

*Amendment*

***(je) benefit from extra-judicial dispute settlement mechanisms, such as out-of court settlements, administrative***

*procedures or mediation, which enable disputes to be settled fairly, promptly (within a period of 3 months) and at no cost to the consumer.*

*Justification*

*A mechanism for out of court settlement should be established to provide consumers with the chance to fight any wrong doing from any gas suppliers.*

**Amendment 65**

**Proposal for a directive – amending act**

**Article 1 – point 17**

Directive 2003/55/EC

Annex A – point (j f) (new)

*Text proposed by the Commission*

*Amendment*

*(jf) shall receive clarification regarding the role of energy regulators in dispute settlement and shall be informed thereof without delay.*

**Amendment 66**

**Proposal for a directive – amending act**

**Article 1 – point 17 b (new)**

Directive 2003/55/EC

Annex A – paragraph 1 a (new) – point (a)

*Text proposed by the Commission*

*Amendment*

*(17b) in Annex A, the following paragraph shall be added:*

*"1a. The Commission:*

*(a) 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 consumer's rights in the energy sector, and so employed by all national and European authorities when regulating energy service providers.*

### **Amendment 67**

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

#### **Article 1 – point 17 b (new)**

Directive 2003/55/EC

Annex A – paragraph 1 a (new) – point (b)

*Text proposed by the Commission*

*Amendment*

***(b) may adopt measures for the implementation of this Annex, including, inter alia, where further standards are developed relating to point (f) of paragraph 1, 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 30(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.*

### **Amendment 68**

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

#### **Article 1 – point 17 c (new)**

Directive 2003/55/EC

Annex A – paragraph 1 b (new) – point (a)

*Text proposed by the Commission*

*Amendment*

***(17c) in Annex A, the following***

*paragraph shall be added:*

***"1b. The Member States shall ensure that:***

***(a) existing measures for the benefit of vulnerable consumers are well targeted and periodically assessed. They shall be well balanced so as not to prevent market opening, create discriminations among European energy suppliers, distort competition, restrict resale or result in the discriminatory treatment of other consumers."***

*Justification*

*As the status of vulnerable consumers is constantly changing it is therefore necessary to regularly review the protection criteria.*

#### **Amendment 69**

**Proposal for a directive – amending act**

**Article 1 – point 17 c (new)**

Directive 2003/55/EC

Annex A – paragraph 1 b (new) – point (b)

*Text proposed by the Commission*

*Amendment*

***(b) competent bodies at national level monitor the gas offers available on the market. They shall present the results of price monitoring once a year to the public in a manner allowing for comparison of prices and the basic conditions of the available offers.***

*Justification*

*Monitoring of prices by national body is needed to provide consumers with relevant information on the evolution of prices.*

#### **Amendment 70**

**Proposal for a directive – amending act**

**Article 1 – point 17 c (new)**

Directive 2003/55/EC

Annex A – paragraph 1 b (new) – point (c)

*Text proposed by the Commission*

*Amendment*

***(c) where gas supply meets basic household needs, a definition of vulnerable consumers is adopted and published, and applied, including by all suppliers of gas. The Commission shall start infringement procedures against Member States which do not adopt and apply this definition.***

*Justification*

*This amendment seeks for more protection of vulnerable consumers. It is of the role of the Member States to define who the vulnerable consumers are according to national criteria.*

#### **Amendment 71**

**Proposal for a directive – amending act**

**Article 1 – point 17 b (new)**

Directive 2003/55/EC

Annex A – paragraph 1 b (new) – point (d)

*Text proposed by the Commission*

*Amendment*

***(d) prices and conditions for well-defined categories of consumer with special needs are such that those consumers have systematic access to the lowest offer on the market.***

*Justification*

*Consumers in remote areas should be subject to the same supply and price conditions as consumer in major agglomeration.*

#### **Amendment 72**

**Proposal for a directive – amending act**

**Article 1 – point 17 d (new)**

Directive 2003/55/EC

Annex A – paragraph 1 c (new) – point (a)

*Text proposed by the Commission*

*Amendment*

***(17d) in Annex A, the following paragraph shall be added:***

***"1c. The following consumer issues shall***

*also be taken into account:*

*(a) best ways to promote the official organisation of energy consumer representation shall be developed and shall contribute to the regular tracking and assessment of market developments."*

*Justification*

*A stronger civil society would provide for a better consumer rights protection. It is imperative to encourage its growth in all Member States.*

**Amendment 73**

**Proposal for a directive – amending act**

**Article 1 – point 17 d (new)**

Directive 2003/55/EC

Annex A – paragraph 1 c (new) – point (b)

*Text proposed by the Commission*

*Amendment*

*(b) promotion offers shall ensure that European energy consumers to a large extent benefit from metering facilities reflecting actual consumption and information on the time of use.*

**Amendment 74**

**Proposal for a directive – amending act**

**Article 1 – point 17 d (new)**

Directive 2003/55/EC

Annex A – paragraph 1 c (new) – point (c)

*Text proposed by the Commission*

*Amendment*

*(c) natural gas is provided to consumers against payment. Disconnection shall be considered as a remedy of last resort in case of non-payment.*

*Justification*

*Disconnection should be avoided when possible and replaced by some alternative option. Disconnection could have grave consequences on households and therefore should be avoided especially in the coldest months of the year.*

## PROCEDURE

<b>Title</b>	Internal market in natural gas			
<b>References</b>	COM(2007)0529 – C6-0317/2007 – 2007/0196(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	Toine Manders 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:	34 2 3		
<b>Members present for the final vote</b>	Cristian Silviu Buşoi, Charlotte Cederschiöld, Gabriela Creţu, Mia De Vits, Janelly Fourtou, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Anna Hedh, Edit Herczog, Iliana Malinova Iotova, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Toine Manders, Arlene McCarthy, Nickolay Mladenov, Catherine Neris, Zita Pleštinská, Giovanni Rivera, Zuzana Roithová, Heide Rühle, Leopold Józef Rutowicz, Christel Schaldemose, Andreas Schwab, Eva-Britt Svensson, Marianne Thyssen, Jacques Toubon, Bernadette Vergnaud, Barbara Weiler, Marian Zlotea			
<b>Substitute(s) present for the final vote</b>	Emmanouil Angelakas, Bert Doorn, Joel Hasse Ferreira, Bilyana Ilieva Raeva, Olle Schmidt, Bogusław Sonik			



## PROCEDURE

<b>Title</b>	Internal market in natural gas			
<b>References</b>	COM(2007)0529 – C6-0317/2007 – 2007/0196(COD)			
<b>Date submitted to Parliament</b>	19.9.2007			
<b>Committee responsible</b> Date announced in plenary	ITRE 11.10.2007			
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	ECON 11.10.2007	ENVI 11.10.2007	IMCO 11.10.2007	
<b>Not delivering opinions</b> Date of decision	ENVI 9.10.2007			
<b>Rapporteur(s)</b> Date appointed	Romano Maria La Russa 9.10.2007			
<b>Discussed in committee</b>	21.11.2007	19.12.2007	23.1.2008	29.1.2008
	31.1.2008	26.3.2008	21.4.2008	6.5.2008
<b>Date adopted</b>	5.6.2008			
<b>Result of final vote</b>	+: 31	–: 16	0: 2	
<b>Members present for the final vote</b>	Šarūnas Birutis, Jan Březina, Jerzy Buzek, Jorgo Chatzimarkakis, Dragoş Florin David, Den Dover, Lena Ek, Norbert Glante, András Gyürk, Fiona Hall, Rebecca Harms, Erna Hennicot-Schoepges, Mary Honeyball, Romana Jordan Cizelj, Werner Langen, Anne Laperrouze, Romano Maria La Russa, Eugenijus Maldeikis, Eluned Morgan, Angelika Niebler, Atanas Papanizov, Aldo Patriciello, Miloslav Ransdorf, Herbert Reul, Teresa Riera Madurell, Mechtild Rothe, Paul Rübig, Britta Thomsen, Patrizia Toia, Nikolaos Vakalis, Adina-Ioana Vălean, Alejo Vidal-Quadras			
<b>Substitute(s) present for the final vote</b>	Daniel Caspary, Göran Färm, Juan Fraile Cantón, Robert Goebbels, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Gunnar Hökmark, Esko Seppänen, Peter Skinner, Hannes Swoboda, Silvia-Adriana Țicău, Lambert van Nistelrooij			
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Robert Evans, Catherine Neris, Antolín Sánchez Presedo, Glenis Willmott			