

EUROPEAN PARLIAMENT

2004



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Committee on the Internal Market and Consumer Protection

2007/0198(COD)

9.4.2008

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Industry, Research and Energy

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity (COM(2007)0531 – C6-0320/2007 – 2007/0198(COD))

Draftsman: Leopold Józef Rutowicz

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SHORT JUSTIFICATION

The Regulation of the European Parliament and of the Council serves to implement the decisions made by the Council and Parliament, which in a resolution of 10 July 2007 expressed strong support for a common energy policy. This policy requires:

- effective separation of supply and production activities from the network operation;
- further harmonisation of the powers and enhanced independence of the national energy regulators;
- establishment of an independent mechanism for cooperation among national regulators;
- creation of a mechanism for transmission system operators to improve the coordination of network operation and grid security, cross-border trade and grid operation;
- greater transparency in energy market operations.

The Regulation creates the practical conditions for achieving the above objectives by setting up the Agency for the Cooperation of Energy Regulators to monitor the execution of the tasks earmarked for the European Network of Transmission System Operators for Electricity. Implementation of the Regulation will create the conditions for improved competitiveness, better quality of supplies, energy conservation and improved energy security.

Electricity differs fundamentally from other traded goods, because it is a network-based product that is impossible or very costly to store. That is why the energy economy requires the introduction of independent mechanisms for cooperation and decision-making at the level of national regulators and regulation within the framework of the European market. That is why the introduction of formal structures for cooperation in this area under the amended Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity is justified. These changes do not resolve all the problems of cross-border exchanges in electricity, but they introduce measures which in a limited way should increase efficiency and adapt network operations to market needs. The detailed technical and market codes included among the tasks of the European Network of Transmission System Operators for Electricity and the activities of the agency monitoring the execution of these tasks should ensure the added value for the European economy. The above measures should facilitate the emergence of well-functioning and transparent cross-border retail and wholesale markets.

The Regulation of the European Parliament and of the Council amending Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity should help to regulate the internal electricity market, with due regard for the interests of consumers and operators, by means of:

- lower transmission costs and greater competitiveness, so that energy can be provided to consumers at lower prices while ensuring stability and security of energy supplies;

- setting up the Agency for the Cooperation of Energy Regulators and the European Network of Transmission System Operators for Electricity through coordination of national transmission systems. This should ensure better functioning of the European market and national systems by reducing energy transmission losses and promoting the development of small-scale energy based on renewable energy sources;
- development of electricity transmission networks, which will also lead to the necessary development of nuclear power stations, ensuring energy supplies at reasonably stable and low prices, and thereby undoubtedly enhancing the competitiveness and development of the European economy, while at the same time reducing CO₂ emissions. A sharp increase in oil or gas prices and heavy dependence on the political situation for supplies of these resources could threaten to destabilise the European economy and lead to a fall in real incomes.

Accordingly, the amendment of the Regulation will have a direct bearing on improved organisation of the electricity market and access to the network for cross-border exchanges in electricity, while the benefits to consumers will be determined by the detailed technical and market codes set out and advocated in the Regulation and their proper implementation.

AMENDMENTS

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

Amendment 1

Proposal for a regulation – amending act

Recital 4

Text proposed by the Commission

(4) The Communication of the Commission to the European Parliament and the Council entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in electricity and to create a level playing field for all electricity companies in the Community. The Communication from the Commission to the European Parliament and to the Council on prospects for the internal gas and electricity market and the Communication from the Commission "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the

Amendment

(4) The Communication of the Commission to the European Parliament and the Council entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in electricity and to create a level playing field for all electricity companies in the Community. The Communication from the Commission to the European Parliament and to the Council on prospects for the internal gas and electricity market and the Communication from the Commission "Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the

European gas and electricity sectors (Final Report)" showed that the present rules and measures do not provide the necessary framework to achieve the objective of a well functioning internal market.

European gas and electricity sectors (Final Report)" showed that the present rules and measures do not provide the necessary framework to achieve the objective of a well functioning, **effective and open** internal market.

Justification

It is important to ensure an effective and open internal market, not just a well functioning market. It is important to have a market which is open for new entrants and to have effective competition for all participants.

Amendment 2

Proposal for a regulation – amending act Recital 6

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 3

Proposal for a regulation – amending act Recital 7

Text proposed by the Commission

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

Amendment 4

Proposal for a regulation – amending act Recital 7 a (new)

Text proposed by the Commission

Amendment

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

(7a) Cooperation at regional level between Member States and neighbouring

countries with a European perspective should be promoted so as to ensure stability and security of supply, as well as the effectiveness of networks at that level.

Justification

The promotion of cooperation at regional level between Member States and neighbouring countries with a European perspective is very important for stability of countries and ensuring high level of regional economic cooperation.

Amendment 5

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

Text proposed by the Commission

Amendment

(8a) Regarding the consultation process, consumers and consumer organisations should engage more decisively in the implementation of the tasks of the European Network of Transmission System Operators for Electricity, in particular in preparing technical and market codes and its annual work programme.

Justification

Consumers and consumer organisations should also be engaged in the consultation process, because they are important stakeholders, since they are household end users.

Amendment 6

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

Text proposed by the Commission

Amendment

(8b) To ensure greater transparency of the situation regarding the entire electricity transmission network in Europe, the Commission should draw up, publish and update a road map for the electricity network in Europe. All feasible

electricity transmission networks and possible regional connections should be included in this road map.

Amendment 7

Proposal for a regulation – amending act Recital 9

Text proposed by the Commission

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

Amendment

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

Justification

Clarification of the text.

Amendment 8

Proposal for a regulation – amending act Recital 11

Text proposed by the Commission

(11) To enhance trust in the market, its participants need to be sure that abusive behaviour can be sanctioned. Competent authorities should be enabled to effectively investigate allegations of market abuse. Therefore access to data ***to the competent authorities is necessary*** that provides information on operational decisions made by supply undertakings. In the electricity market many relevant decisions are made by the generators, who should keep this information available to the competent authorities for fixed period of time. Small generators with no real possibility to distort the market should be exempt from this

Amendment

(11) To enhance trust in the market, its participants need to be sure that abusive behaviour can be sanctioned ***effectively***. Competent authorities should be enabled to effectively investigate allegations of market abuse. Therefore access ***by the competent authorities*** to data that provides information on operational decisions made by supply undertakings ***is necessary***. In the electricity market many relevant decisions are made by the generators, who should keep this information available to ***and easily accessible by*** the competent authorities for ***a*** fixed period of time. ***Furthermore, the competent authorities***

obligation.

should regularly monitor system operators' compliance with the rules.
Small generators with no real possibility to distort the market should be exempt from this obligation.

Justification

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

Amendment 9

Proposal for a regulation – amending act
Recital 12

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 10

Proposal for a regulation – amending act
Article 1 – point 3

Regulation (EC) n° 1228/2003
Article 2c – paragraph 3 – point b

Text proposed by the Commission

(b) grid connection and access rules;

Amendment

(b) grid connection and access rules,

paying attention to the protection of the interests of TSO customers which are small and medium-sized enterprises;

Justification

Small and medium-sized enterprises often suffer from discrimination in the energy market

Amendment 11

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) n° 1228/2003

Article 2c – paragraph 3 – point g

Text proposed by the Commission

Amendment

(g) rules for trading;

(g) rules for trading, *paying attention to the protection of the interests of TSO customers which are small and medium-sized enterprises;*

Justification

Small and medium-sized enterprises often suffer from discrimination in the energy market

Amendment 12

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) n° 1228/2003

Article 2c – paragraph 5

Text proposed by the Commission

Amendment

5. The European Network of Transmission System Operators for Electricity shall publish a Community-wide 10-year network investment plan **every two years**. The investment plan shall include the modelling of the integrated network, scenario development, a generation adequacy report and an assessment of the resilience of the system. The investment plan shall, in particular, build on national investment plans and on the Guidelines for

5. The European Network of Transmission System Operators for Electricity shall publish, **every two years**, a Community-wide 10-year network investment plan, **with the possibility of extension of this timeframe where necessary**. The investment plan shall include the modelling of the integrated network, scenario development, a generation adequacy report and an assessment of the resilience of the system. The investment plan shall, in

Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to cross border capacities.

particular, build on national investment plans and on the Guidelines for Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to cross border capacities.

Justification

In many cases, large-scale investments and the development of the related networks require more than 10 years from conception to completion

Amendment 13

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) n° 1228/2003

Article 2c – paragraph 5

Text proposed by the Commission

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

Amendment

5. The European Network of Transmission System Operators for Electricity shall publish a Community-wide 10-year network investment plan every two years. The investment plan shall include the modelling of the integrated network, scenario development, a generation adequacy report and an assessment of the resilience of the system. The investment plan shall, in particular, build on national investment plans and on the Guidelines for Trans-European energy networks in accordance with Decision No 1364/2006/EC of the European Parliament and of the Council. The investment plan shall identify investment gaps, notably with respect to cross border capacities. ***The investment plan shall be linked to a strategic energy scenario for the next 20 to 25 years.***

Amendment 14

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) n° 1228/2003

Article 2d – paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 15

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) n° 1228/2003

Article 2e – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 16

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) n° 1228/2003

Article 2f – paragraph 1

Text proposed by the Commission

1. In carrying out its tasks, the European Network of Transmission System Operators for Electricity shall consult

Amendment

1. In carrying out its tasks, the European Network of Transmission System Operators for Electricity shall consult

extensively, at an early stage and in an open and transparent manner, in particular while preparing **the technical and market codes and** its annual work programme referred to in Article 2c(1) and (3), with all appropriate market participants; the consultation shall include supply and generation undertakings, customers, system users, distribution system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

extensively, at an early stage and in an open and transparent manner, in particular while preparing its annual work programme referred to in Article 2c(1) and (3), with all appropriate market participants; the consultation shall include supply and generation undertakings, customers, **consumers, consumer organisations,** system users, distribution system operators, including relevant (industry) associations, technical bodies and stakeholder platforms.

Amendment 17

Proposal for a regulation – amending act

Article 1 – point (3)

Regulation EC 1228/2003

Article 2h – paragraph 2

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 18

Proposal for a regulation – amending act

Article 1 – point 4

Regulation (EC) n° 1228/2003

Article 5 – paragraph 6

Text proposed by the Commission

6. Generation companies which own or operate generation assets, of which one has an installed capacity of at least 250 MW, shall keep at the disposal of the national regulatory authority, the national competition authority and the Commission, for five years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and OTC markets. The per plant and per hour information to be stored includes, but is not limited to, data on available generation capacity and committed reserves, including allocation of these committed reserves on a per plant level, at the time the bidding is carried out and when production takes place.

Amendment

6. Generation companies which own or operate generation assets, of which one has an installed capacity of at least 250 MW, shall keep at the disposal of the national regulatory authority, the national competition authority, **the Agency** and the Commission, for five years all hourly data per plant that is necessary to verify all operational dispatching decisions and the bidding behaviour at power exchanges, interconnection auctions, reserve markets and OTC markets. The per plant and per hour information to be stored includes, but is not limited to, data on available generation capacity and committed reserves, including allocation of these committed reserves on a per plant level, at the time the bidding is carried out and when production takes place.

Amendment 19

Proposal for a regulation – amending act

Article 1 – point (7)

Regulation EC 1228/2003

Article 7a – paragraph 1

Text proposed by the Commission

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

Amendment

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

Justification

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

PROCEDURE

Title	Conditions for access to the network for cross-border exchanges in electricity	
References	COM(2007)0531 – C6-0320/2007 – 2007/0198(COD)	
Committee responsible	ITRE	
Opinion by Date announced in plenary	IMCO 11.10.2007	
Drafts(wo)man Date appointed	Leopold Józef Rutowicz 31.1.2008	
Discussed in committee	28.2.2008	2.4.2008
Date adopted	8.4.2008	
Result of final vote	+: 39	–: 0
	0: 2	
Members present for the final vote	Cristian Silviu Buşoi, Charlotte Cederschiöld, Gabriela Creţu, Mia De Vits, Janelly Fourtou, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Anna Hedh, Edit Herczog, Iliana Malinova Iotova, Pierre Jonckheer, Alexander Lambsdorff, Kurt Lechner, Lasse Lehtinen, Toine Manders, Arlene McCarthy, Nickolay Mladenov, Catherine Neris, Zita Pleštinská, Giovanni Rivera, Zuzana Roithová, Heide Rühle, Leopold Józef Rutowicz, Christel Schaldemose, Andreas Schwab, Eva-Britt Svensson, Marianne Thyssen, Jacques Toubon, Bernadette Vergnaud, Barbara Weiler, Marian Złotea	
Substitute(s) present for the final vote	Emmanouil Angelakas, Colm Burke, Giovanna Corda, Bert Doorn, Brigitte Fouré, Joel Hasse Ferreira, Olle Schmidt	
Substitute(s) under Rule 178(2) present for the final vote	Bilyana Ilieva Raeva, Bogusław Sonik, Janusz Wojciechowski	