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AMENDMENTS 38 - 177

Draft report
Romano Maria La Russa
(PE400.700v01-00)

Common rules for the internal market in natural gas

Proposal for a directive – amending act
(COM(2007)0529 – C6-0317/2007 – 2007/0196(COD))

AM_Com_LegReport

Amendment 38

Paul Rübig

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.

Or. en

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 39

Silvia-Adriana Țicău

Proposal for a directive – amending act

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Statistics recently published by Eurostat show that in 2005 the EU-27 was dependent on imports for 57.7% of its gas. Although gas production in the EU-27 remained relatively constant over the period 1995-2005, internal consumption of natural gas rose by 33%, with that need being covered by a 77% increase in imports of natural gas. Apart from Denmark and the Netherlands, which are

the only exporters of natural gas, and Great Britain, Romania and Poland, which have dependency rates for natural gas of 10%, 30% and 70% respectively, the other Member States have an 80% energy dependency rate for natural gas.

Or. ro

Justification

These statistical data are needed in order to illustrate the European market in natural gas and the Member States' energy dependency in respect of imports of natural gas.

Amendment 40

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

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

Text proposed by the Commission

(4) The Communication of the Commission of 10 January 2007 entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in natural gas and of creating a level playing field for all gas companies established in the Community. The Internal Energy Market Communication *and the final Report on the Competition Sectoral Enquiry* showed that the present rules and measures do not provide the necessary framework for achieving the objective of a well functioning internal market.

Amendment

(4) The Communication of the Commission of 10 January 2007 entitled "An Energy Policy for Europe" highlighted the importance of completing the internal market in natural gas and of creating a level playing field for all gas companies established in the Community. The Internal Energy Market Communication showed that the present rules and measures do not provide the necessary framework for achieving the objective of a well functioning internal market. *On the other hand, the final Report on the Competition Sectoral Enquiry and the impact assessment produced to support the third legislative package on the internal energy market provided no convincing evidence that made it possible to establish the best or only way to improve the way that market works.*

Or. fr

Justification

The impact assessment was heavily criticised when it was presented to the ITRE Committee, particularly on account of its highly debatable statistical correlations and its series of incomplete and unreferenced data. It put forward a partial observation of how natural gas markets in Europe work in reality and therefore did not make it possible to define one single way of improving the way those markets work.

Amendment 41 **Eluned Morgan**

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

Text proposed by the Commission

Amendment

(4a) Markets in many Member States are dominated by large players. National regulatory authorities should be given the power to identify market dominance by a gas undertaking and put forward a medium term plan to limit the share at any relevant market to 20%. The relevant market should be defined by the Commission and should take into account any changes to the geographic scope of the market.

Or. en

Justification

This will open up the markets in member states, in particular those with dominant market players and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand, so this provision will allow companies to grow as the markets become more integrated.

Amendment 42

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Markets in many Member States are dominated by large players. National regulatory authorities should be given the power to identify market dominance by gas undertakings and impose the necessary measures to ensure that no company holds more than 30%, the three largest companies do not hold more than 50% and the five largest companies not more than 66,7% of the relevant market share. The relevant market should be defined by the Commission and should take into account any changes to the geographic scope of the market.

Or. en

Justification

In order to prevent market manipulation on the pool prices in a relevant markets, not only the share of the largest company is important but also a certain de-concentration in the rest of the market; this market concentration is measured by competition authorities in terms of concentration rate 1, 3 and 5 (CR 1, CR3, CR5).

Amendment 43

Šarūnas Birutis

Proposal for a directive – amending act

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Markets in many Member States are dominated by large players. National regulatory authorities should be given the power to identify market dominance by a gas undertaking and put forward a medium term plan to limit the share at

any relevant market to 40% in line with the Commission's criteria for assessing significant market power. The relevant market should be defined by the Commission and should take into account any changes to the geographic scope of the market.

Or. en

Justification

This will open up the markets in member states, in particular those with dominant market players and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand, so this provision will allow companies to grow as the markets become more integrated.

**Amendment 44
Giles Chichester**

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

Text proposed by the Commission

Amendment

(4a) Markets in many Member States are dominated by large players. National regulatory authorities should be given the power to identify market dominance by a gas undertaking and put forward a medium term plan to limit the share at any relevant market to 50%, even further than the Commission's criteria for assessing significant market power. The relevant market should be defined by the Commission and should take into account any changes to the geographic scope of the market.

Or. en

Justification

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

the geographic size of the market will expand, so this provision will allow companies to grow as the markets become more integrated.

Amendment 45

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

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 an inherent risk of discrimination not only in the operation of the network but also in the incentives for companies to invest adequately in their networks. ***The main motivation for investing is the remuneration received by the operator. Should the national regulatory authority set a low level of remuneration, this would lead to a decrease in investment. On the other hand, should it set a fair and proportionate level of remuneration, ensuring that revenue covers costs and pays off such investment, it would automatically generate an increase in investment, regardless of whether the network operator belongs to an integrated group. Therefore, the primary major determining factor for investment resides in pricing regulation and in the role and powers of the national regulatory authorities, which should be reinforced in order to complete the internal market to the benefit of the consumer.***

Or. fr

Justification

The ownership structure of a company is not a determining factor for investment, which is made on the basis of the likelihood of paying off and making a return on investment.

Separation of ownership does not solve the problem posed by all monopolies, which is the risk that the situation might be exploited to maximise income from the monopoly. This risk exists independently of the ownership structure, whether or not it is a vertically integrated company.

Amendment 46

Erika Mann

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.

Or. en

Amendment 47

Paul Rübig, Hannes Swoboda

Proposal for a directive – amending act Recital 6

Text proposed by the Commission

(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.

Amendment

(6) The rules on legal and functional 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 European 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.

Or. en

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 48

Herbert Reul

Proposal for a directive – amending act

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) It was not possible for the impact assessment submitted to demonstrate conclusively that there was a causal connection in the energy sector between discrimination over access and ownership structure, between the volume of investment and ownership structure or between pricing and ownership structure. The empirical data available suggest, rather, that there is a causal connection between all these points and efficient regulation.

Or. de

Justification

The Impact Assessment submitted provides the data which form the empirical basis for the proposals under consideration. Even after careful examination of the content of the Impact Assessment and its background, it remains doubtful whether the proposed package of measures is likely to achieve its objectives.

Amendment 49
Paul Rübig, Hannes Swoboda

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 ***considered by the Commission as an*** effective and stable way to solve the inherent conflict of interest and to ensure security of supply. 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 ***an*** 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. ***Since the Community has no competence to order expropriations of undertakings and means of production and is bound by the fundamental right of property, Member States should, however, also be entitled to apply less intrusive and onerous mechanisms in order to resolve conflicts of interest and to ensure investment. Moreover, only such alternatives can ensure the equal treatment of public and private undertakings, one of the underlying principles of Community law.***

Or. en

Justification

Although ownership unbundling can be considered as an effective way to resolve the conflict of interest within integrated undertakings, all advocates of ownership unbundling have failed so far to demonstrate that the existing competition problems on the European energy markets can only be solved by ownership unbundling of the transmission system operators.

Amendment 50

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

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***

Amendment

(7) ***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 ***one*** way to solve the inherent conflict of interest. ***The*** European Parliament, in its resolution on prospects for the internal gas and electricity market, adopted on 10 July 2007, ***considered moreover that the application of further unbundling measures for the gas sector is not straightforward, and therefore urged the development of specific solutions to enable this sector to achieve the completion of the internal gas market, taking into account the differences between the upstream and downstream markets.***

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.

Or. fr

Justification

Ownership unbundling is one of the ways put forward by the Commission of solving the conflict of interest inherent to vertically integrated companies. It is not the only means of achieving this and should remain a choice among the others that are set out in the directive. No convincing evidence exists that ownership unbundling makes security of supply possible. No such evidence has been provided by a serious impact assessment.

Amendment 51
Herbert Reul

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

Any system that is introduced must be effective and simple.

Amendment 52
Hannes Swoboda

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

Text proposed by the Commission

Amendment

(7a) Any system to be implemented should be effective in removing any conflict of interests between generators and transmission system operators, in order to create incentives for the necessary investments and guarantee the access of newcomers under a transparent and efficient regulatory regime.

Or. en

Justification

The necessary Investment will only be done, if there are not conflict of interests between generators and TSO.

Amendment 53
Britta Thomsen

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

Any system that is introduced must be effective and simple.

Amendment 54

Alejo Vidal-Quadras

Proposal for a directive – amending act

Recital 7 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Any system that is introduced must be effective and simple.

Amendment 55

Erika Mann

Proposal for a directive – amending act

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Gas is mainly, and increasingly, imported into the Union from countries outside Europe; European regulation must take account of the specific integration of the gas sector into the world market, including the differences in the upstream and downstream markets.

Or. de

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 56

Herbert Reul

Proposal for a directive – amending act

Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) In its resolution of 10 July 2007 on the 'prospects for the internal gas and electricity market', the European Parliament recognised 'that the application of further unbundling measures for the gas sector is not straightforward' and that there was therefore a need for 'the development of specific solutions (...) taking into account the differences between the upstream and downstream markets'. Similarly, the European Council, meeting in Brussels on 8 and 9 March 2007, called upon the Commission to take account of the differences between electricity and gas. The differences arise in particular from the fact that gas mainly, and increasingly, has to be imported from countries outside Europe, whereas electricity is produced in Europe itself.

Or. de

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 57
Erika Mann

Proposal for a directive – amending act
Recital 8

Text proposed by the Commission

(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.***

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.

Or. en

Amendment 58
Herbert Reul

Proposal for a directive – amending act
Recital 8

Text proposed by the Commission

(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.***

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.

Or. de

Justification

The rules on unbundling have a far-reaching impact on security of supply in Europe. Sector-specific solutions should therefore not be ruled out in advance.

Amendment 59

Paul Rübig

Proposal for a directive – amending act

Recital 8

Text proposed by the Commission

(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.

Amendment

(8) Since ownership unbundling requires, in some instances, the restructuring of undertakings, Member States ***which 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.

Or. en

Justification

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

Amendment 60

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

Proposal for a directive – amending act

Recital 8 a (new)

Amendment

(8a) Member States that so wish may apply the provisions of this Directive relating to the effective and efficient separation of transmission systems and transmission system operators. This is effective because it helps ensure the independence of transmission system operators. It is efficient because it provides a more appropriate regulatory framework to guarantee fair competition, sufficient investment, access for new 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.

Or. fr

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 61

Lambert van Nistelrooij, Dorette Corbey

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.

deleted

Or. en

Amendment 62
Anne Laperrouze

Proposal for a directive – amending act
Recital 10

Text proposed by the Commission

(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.

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, ***or efficient and effective unbundling is implemented***, and detailed regulation and extensive regulatory control mechanisms are put in place.

Or. en

Justification

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

Amendment 63
Paul Rübig, Hannes Swoboda

Proposal for a directive – amending act
Recital 10

Text proposed by the Commission

(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

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, ***or***

detailed regulation and extensive regulatory control mechanisms are put in place.

efficient and effective unbundling is implemented, and detailed regulation and extensive regulatory control mechanisms are put in place.

Or. en

Justification

It should be stressed at this place of the recitals that transmission system owners which are not ownership unbundled should have the choice between the independent system operator and the effective and efficient unbundling (EEU) model.

Amendment 64

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

Proposal for a directive – amending act Recital 10

Text proposed by the Commission

(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.

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 ***or efficient and effective unbundling is implemented*** and detailed regulation and extensive regulatory control mechanisms are put in place.

Or. fr

Justification

Implementation of the efficient and effective unbundling introduced by recital 8a (new) can guarantee the independence of transmission system operators. That option is of equal value to ownership unbundling in respect of activities and the ISO.

Amendment 65

Bernhard Rapkay, Hannes Swoboda, Norbert Glante, Robert Goebbels, Atanas Paparizov, Anni Podimata, Catherine Trautmann

Proposal for a directive – amending act

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) In complying with the regulations on effective and efficient legal unbundling, and provided that the network undertaking performs all the functions of the network operator and detailed regulation and extensive regulatory control mechanisms are put in place, vertically integrated undertakings may maintain their ownership of network assets whilst at the same time ensuring an effective separation of interests.

Or. en

Justification

This refers to the amended article 8 paragraph 1.

Amendment 66

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Recital 11

Text proposed by the Commission

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 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 ***deleted***

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.

Or. en

Amendment 67

Paul Rübig, Hannes Swoboda

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.*

Or. en

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 68

Herbert Reul

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 *various options*.

Or. de

Amendment 69
Nikolaos Vakalis

Proposal for a directive – amending act
Recital 11

Text proposed by the Commission

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

Amendment

(11) Where the undertaking owning a transmission system is part of a vertically integrated undertaking, Member States should therefore be given a choice between ownership unbundling, setting up system operators which are independent from supply and generation interests, ***or effective and efficient unbundling which ensures effective separation of the transmission system operator without infringing ownership of network and without causing the sale of either the transmission system or the production of energy***. The full effectiveness of the independent system operator solution needs to be assured by way of specific additional rules. To preserve fully the interests of the shareholders of vertically integrated companies, Member States should have the choice of implementing ownership unbundling either by direct divestiture or by splitting the shares of the integrated company into shares of the network company and shares of the remaining supply and generation business, provided that the requirements resulting from ownership unbundling are complied with.

Or. en

Justification

This amendment introduces effective and efficient unbundling as a third alternative to ownership unbundling and to ISO.

Amendment 70

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

Proposal for a directive – amending act Recital 11

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

In order to guarantee the independence of transmission systems operators, Member States ensure that vertically integrated companies are required to comply with the provisions relating to ownership unbundling, effective and efficient unbundling or independent network users. These three options are of equal value and appear as such in this proposal for a directive.

Amendment 71

Bernhard Rapkay, Hannes Swoboda, Norbert Glante, Robert Goebbels, Atanas Paparizov, Anni Podimata, Catherine Trautmann

Proposal for a directive – amending act

Recital 11

Text proposed by the Commission

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

Amendment

(11) Where the undertaking owning a transmission system is part of a vertically integrated undertaking, Member States should therefore be given a choice between ownership unbundling, setting up system operators which are independent from supply and generation 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 generation business, provided that the requirements resulting from ownership unbundling are complied with.

Or. en

Justification

The establishment of independent network operators should be an equally valid option. Furthermore, this refers to the amended article 8 paragraph 1.

Amendment 72
Anne Laperrouze

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, ***effective and efficient 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.

Or. en

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).

Amendment 73
Herbert Reul

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 to contract for their gas requirements with several suppliers. Consumers should be protected against exclusivity clauses in contracts whose effect is to exclude competing and/or complementary offers.

Or. en

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 74
Teresa Riera Madurell

Proposal for a directive – amending act
Recital 12

Text proposed by the Commission

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.
Provided that the Member State in question can demonstrate that this

(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.

requirement is respected, two distinct public bodies could control on the one hand generation and supply activities and on the other transmission activities.

Or. en

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 75

Erika Mann

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.

Or. en

Amendment 76
Norbert Glante

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.

Or. de

Justification

Unequal treatment of public and private undertakings is discriminatory and unjustified.

Amendment 77
Paul Rübig, Angelika Niebler, Herbert Reul, Hannes Swoboda

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

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.
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.

operators and supply undertakings.

Or. en

Justification

The unequal treatment of public and private transmission system owners would be discriminatory. The recitals of the Commission's proposal distinguish between systems in state ownership and private ownership respectively.

Amendment 78 **Angelika Niebler**

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. 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. ***Where vertical integration is maintained through a Member State being in control of both the transmission system operator and undertakings performing the functions of generation or supply, effective legal unbundling requirements should remain***

obligatory for such entities.

Or. en

Amendment 79

Paul Rübig, Hannes Swoboda

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, 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.

Or. en

Justification

The Commission's proposal for a certification procedure for ownership unbundled transmission system operators and independent system operators is too onerous and bureaucratic. Due implementation of the unbundling rules can also be safeguarded through ongoing monitoring and supervision of the TSOs by regulatory authorities.

Amendment 80
Paul Rübig, Hannes Swoboda

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, 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 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.

Or. en

Justification

The Commission's proposal for a certification procedure for ownership unbundled transmission system operators and independent system operators is too onerous and bureaucratic. Due implementation of the unbundling rules can also be safeguarded through ongoing monitoring and supervision of the TSOs by regulatory authorities.

Amendment 81
Eugenijus Maldeikis

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** should have the right to review the decisions on certification taken by the regulatory authorities.

Or. It

Amendment 82
Herbert Reul

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

Amendment

(13) Full separation of network and supply activities should apply throughout the Community, so that any network operator in the Community or its affiliated companies should be prevented from having any supply or 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.

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 **Agency for the Cooperation of Energy Regulators ("Agency")** should have the right to review the decisions on certification taken by the regulatory authorities.

Or. en

Justification

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

Amendment 83

Edit Herczog

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

Amendment

(13) Full separation of network and supply activities should apply throughout the Community, so that any network operator in the Community or its affiliated companies should be prevented from having any supply or 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.

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 ("Agency")* should have the right to review the decisions on certification taken by the regulatory authorities.

Or. en

Justification

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

Amendment 84 **Herbert Reul**

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 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

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 essential for public security, for the competitiveness of the economy and for the well-being of the citizens of the Community. ***It is only long afterwards that misrouting in this field becomes apparent.*** 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

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.

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.

Or. de

Justification

The inflow of capital in the form of direct investment is economically desirable and strengthens EU economies. The so-called third-country clause, intended to protect European TSOs from takeovers by third-country companies, is protectionist, legally questionable and difficult to enforce.

Amendment 85 **Silvia-Adriana Țicău**

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 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

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 essential for public security, for the competitiveness of the economy and for the well-being of the citizens of the Community. ***Gas infrastructure forms part both of the critical infrastructure of the Member State on whose territory it is located, and of European critical infrastructure.*** Without prejudice to the international obligations of the Community, the Community considers that the gas transmission system sector is of high

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.

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.

Or. ro

Amendment 86
Eugenijus Maldeikis

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 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

(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 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 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 87
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) In a well-functioning market, the provision of storage services could be a competitive activity across most of Europe. Member States and national regulatory authorities need to ensure that conditions placed on storage operators aim to achieve the goal of a competitive storage market.

Or. en

Justification

Whilst transmission pipelines and networks are natural monopolies and must be regulated, gas storage can and should become a competitive activity through encouragement for new investments by new entrants.

Amendment 88
Angelika Niebler

Proposal for a directive – amending act
Recital 16

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

(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.

generally less important than at transmission level. ***Distribution networks should therefore be explicitly excluded from the scope of this directive.*** 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.

Or. de

Justification

It should be clearly stated that the distribution network level is not covered by the third internal energy market package.

Amendment 89

Herbert Reul

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

Text proposed by the Commission

Amendment

(16a) Any harmonisation of the powers of national regulatory authorities should include incentives that can be offered and sanctions that can be levelled against energy companies. The Agency for the Cooperation of Energy Regulators ("Agency") should be given the

appropriate powers to take the lead in ensuring there is parity in the incentives and sanctions across all Member States, and provide guidelines on such measures.

Or. en

Amendment 90
Hannes Swoboda

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

The Agency must ensure a common approach on these measures.

Amendment 91
Edit Herczog

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

Text proposed by the Commission

Amendment

(16a) Any harmonisation of the powers of national regulatory authorities should include incentives that can be offered and

sanctions that can be levelled against energy companies. The Agency for the Cooperation of Energy Regulators ("Agency") should be given the appropriate powers to take the lead in ensuring there is parity in the incentives and sanctions across all Member States, and provide guidelines on such measures.

Or. en

Justification

The Agency must ensure a common approach on these measures.

Amendment 92

Claude Turmes, Rebecca Harms

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, which must be granted non-discriminatory access to the gas system, provided such access is permanently compatible with the relevant technical rules and safety standards.

Or. en

Justification

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

Amendment 93
Hannes Swoboda

Proposal for a directive – amending act
Recital 18

Text proposed by the Commission

(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.

Amendment

(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 interests **of public or private companies**.

Or. en

Justification

Energy regulators should be bound to the public interest.

Amendment 94
Erika Mann

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

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

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.

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.

Or. en

Amendment 95
Nikolaos Vakalis

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 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 ***ensuring customer benefits through the promotion 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.

Or. en

Justification

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

Amendment 96

Alejo Vidal-Quadras

Proposal for a directive – amending act

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Energy regulatory authorities and financial market regulators need to cooperate in order to enable each other to have an overview over the markets concerned, and should have the power to obtain relevant information from energy companies through appropriate and sufficient powers for investigation and for dispute settlement, and to impose effective sanctions.

Or. en

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 97
Hannes Swoboda

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

Text proposed by the Commission

Amendment

(19a) Energy regulatory authorities and financial market regulators need to cooperate in order to enable each other to have an overview over the markets concerned, and should have the power to obtain relevant information from energy companies through appropriate and sufficient powers for investigation and for dispute settlement, and to impose effective sanctions.

Or. en

Justification

Lack of implementation of current directives remains of concern. To ensure the effective opening up of the internal market in gas the 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 y undertakings in cases of non-compliance with any of the obligations.

Amendment 98
Nikolaos Vakalis

Proposal for a directive – amending act
Recital 20

Text proposed by the Commission

Amendment

(20) Investments in major new infrastructures should be strongly promoted while ensuring the proper functioning of the internal market in natural gas. In order to enhance the positive effect of exempted infrastructure projects on competition and security of supply, market interest during the project

(20) Investments in major new infrastructures should be strongly promoted while ensuring the proper functioning of the internal market in natural gas. In order to enhance the positive effect of exempted infrastructure projects on competition and security of supply, market interest during the project

planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, ***the Agency for the Cooperation of Energy Regulators should handle the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling.*** Moreover, given the exceptional risk profile of constructing these exempt major infrastructure projects it should be possible to temporarily grant partial derogations to supply and production undertakings in respect of the unbundling rules for the projects concerned. This should in particular apply, for security of supply reasons, to new pipelines within the Community transporting gas from third countries into the Community.

planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, ***the exemption decision should be taken by the regulatory authorities or any relevant bodies of the Member States concerned after consultation between them, and approved by the Commission.*** Moreover, given the exceptional risk profile of constructing these exempt major infrastructure projects it should be possible to temporarily grant partial derogations to supply and production undertakings in respect of the unbundling rules for the projects concerned. This should in particular apply, for security of supply reasons, to new pipelines within the Community transporting gas from third countries into the Community.

Or. en

Justification

Any exemption request must be handled firstly by the regulatory authorities or any relevant bodies of the Member States concerned in order to facilitate and streamline the building of major new gas infrastructures and interconnectors, and then be submitted to the approval of the Commission, which is the best guarantee of the European interests due to its constitutive mission as guardian of the Treaties.

Amendment 99

Silvia-Adriana Țicău

Proposal for a directive – amending act Recital 20

Text proposed by the Commission

(20) Investments in major new infrastructures should be strongly promoted while ensuring the proper functioning of the internal market in natural gas. In order to enhance the

Amendment

(20) Investments in major new infrastructures should be strongly promoted while ensuring the proper functioning of the internal market in natural gas. ***Projects recognised by the***

positive effect of exempted infrastructure projects on competition and security of supply, market interest during the project planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, the Agency for the Cooperation of Energy Regulators should handle the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling. Moreover, given the exceptional risk profile of constructing these exempt major infrastructure projects it should be possible to temporarily grant partial derogations to supply and production undertakings in respect of the unbundling rules for the projects concerned. This should in particular apply, for security of supply reasons, to new pipelines within the Community transporting gas from third countries into the Community.

European Council to be a priority, such as Nabucco, will diversify the European Union's sources of natural gas supply and reduce the Union's energy dependence on third countries. In order to enhance the positive effect of exempted infrastructure projects on competition and security of supply, market interest during the project planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, the Agency for the Cooperation of Energy Regulators should handle the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling. Moreover, given the exceptional risk profile of constructing these exempt major infrastructure projects it should be possible to temporarily grant partial derogations to supply and production undertakings in respect of the unbundling rules for the projects concerned. This should in particular apply, for security of supply reasons, to new pipelines within the Community transporting gas from third countries into the Community.

Or. ro

Amendment 100 **Hannes Swoboda**

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

Text proposed by the Commission

(20) Investments in major new infrastructures should be strongly promoted while ensuring the proper functioning of the internal market in natural gas. In order to enhance the positive effect of exempted infrastructure

Amendment

(20) Investments in major new infrastructures should be strongly promoted while ensuring the proper functioning of the internal market in natural gas. In order to enhance the positive effect of exempted infrastructure

projects on competition and security of supply, market interest during the project planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, the Agency for the Cooperation of Energy Regulators should handle the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling. Moreover, given the exceptional risk profile of constructing these exempt major infrastructure projects it should be possible to temporarily grant partial derogations to supply and production undertakings in respect of the unbundling rules for the projects concerned. This should in particular apply, for security of supply reasons, to new pipelines within the Community transporting gas from third countries into the Community.

projects on competition and security of supply, market interest during the project planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, ***the Commission, after consulting*** the Agency for the Cooperation of Energy Regulators, should handle the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling. Moreover, given the exceptional risk profile of constructing these exempt major infrastructure projects it should be possible to temporarily grant partial derogations to supply and production undertakings in respect of the unbundling rules for the projects concerned. This should in particular apply, for security of supply reasons, to new pipelines within the Community transporting gas from third countries into the Community.

Or. en

Justification

The power to decide on the exemption of cross border infrastructures should not be transferred to the Agency since otherwise regulators from countries not affected could influence within the Agency the outcome of exemption decisions. Examples in the past show that national regulators very often pursue the national interest. Moreover, in the light of ECJ Case 9/56 Meroni [1958] ECR 133, decision making powers which imply discretion may not be conferred to bodies not foreseen in the Treaties.

Amendment 101
Silvia-Adriana Țicău

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

Text proposed by the Commission

Amendment

(20a) For any project concerning a natural gas pipeline that crosses the seas

adjacent to the European Union for the purpose of transporting gas from third countries to the Community, the European Commission and the Member States involved will conduct an environmental impact assessment to avoid the risk of environmental accidents, and will propose measures for the safe supply of natural gas under environmentally-protective conditions.

Or. ro

Amendment 102
Herbert Reul

Proposal for a directive – amending act
Recital 21

Text proposed by the Commission

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

Amendment

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

Or. de

Amendment 103
Britta Thomsen

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

Text proposed by the Commission

Amendment

(21a) Member States should consider with the social partners concerned the implications of the amendments to the Directive 2003/55/EC in terms of the employment, working conditions and information, consultation and participation rights of workers, with a view to mitigating the negative consequences.

Or. en

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 104
Toine Manders

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 opaque 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 105

Claude Turmes, Rebecca Harms

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

Text proposed by the Commission

Amendment

(21a) Energy regulators and financial market regulators need to cooperate in order to enable each other to have an overview over the markets concerned, and should have the power to obtain relevant information from energy companies through appropriate and sufficient powers for investigation and for dispute settlement, and to impose effective sanctions.

Or. en

Justification

Lack of implementation of current directives remains of concern. To ensure the effective opening up of the internal market in gas NRAs 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 106
Teresa Riera Madurell

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

Text proposed by the Commission

Amendment

(21a) Energy regulators and financial market regulators need to cooperate in order to enable each other to have an overview over the markets concerned, and should have the power to obtain relevant information from energy companies through appropriate and sufficient powers for investigation and for dispute settlement.

Or. en

Justification

Lack of implementation of current directives remains of concern. To ensure the effective opening up of the internal market in gas NRAs must be able to cooperate with other relevant regulatory authorities allowing them to effectively monitor the gas market.

Amendment 107
Herbert Reul

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

deleted

should be subject to pre and/or post-trade transparency requirements and if so what the content of those requirements should be.

Or. de

Justification

See justification to amendment to Article 24f.

Amendment 108
Hannes Swoboda

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

Text proposed by the Commission

Amendment

(22a) It is important to ensure the development of a consumer-oriented, secure, reliable and efficient grid system, promoting system adequacy whilst ensuring energy efficiency and integration of large and small scale renewables and distributed generation in both transmission and distribution grids.

Or. en

Justification

Consumers should be in the centre of this directive. Any newly developed grid system has to go hand in hand with energy efficiency, integration of renewables etc.

Amendment 109
Toine Manders

Proposal for a directive – amending act
Recital 23

Text proposed by the Commission

(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***.

Amendment

(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 ***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 the prepayment should be adequate and reflect their actual consumption of gas. Information provided at least on a quarterly basis to consumers*** on energy costs will create incentives for energy savings because it will give customers direct feedback on the effects of investment in energy efficiency.

Or. en

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 gas. Furthermore, consumers should only be charged for the amount of energy they actually use every month.

Amendment 110
Toine Manders

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 in Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services¹, in order to give consumers accurate information about energy consumption and to secure end-user efficiency.

¹ OJ L 114, 27.4.2006, p. 64.

Or. en

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 111
Hannes Swoboda

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

Text proposed by the Commission

Amendment

(23a) 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 must ensure that all customers benefit from a competitive market. Consumer rights should be enforced by national regulatory authorities through creating incentives

and imposing sanctions on companies which do not comply with consumer protection and competition rules.

Or. en

Justification

The consumer should be in the centre of this directive.

Amendment 112

Alejo Vidal-Quadras

Proposal for a directive – amending act

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Existing rights for consumers need to be strengthened and guaranteed, and should include greater transparency and representation. Consumer protection must ensure that all customers benefit from a competitive market. Consumer rights should be enforced by national regulatory authorities through creating incentives and imposing sanctions on companies which do not comply with consumer protection and competition rules.

Or. en

Amendment 113

Silvia-Adriana Țicău

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 small- and medium-sized enterprises.

Or. ro

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 114

Robert Goebbels, Hannes Swoboda

Proposal for a directive – amending act

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Energy poverty is a growing problem in the Community. Member States should develop national action plans to tackle energy poverty and to ensure the necessary energy consumption for vulnerable customers. An integrated approach is needed and measures should include policies, tariff policies and energy efficiency improvements for housing. At the very least, this Directive should allow national positive discrimination policies, in terms of pricing models, for vulnerable customers.

Or. en

Amendment 115

Erika Mann

Proposal for a directive – amending act

Recital 24

Text proposed by the Commission

Amendment

(24) In order to contribute to security of supply whilst maintaining a spirit of

(24) In order to contribute to security of supply, **Member States should**, whilst

solidarity *between Member States*, notably in the event of an energy supply crisis, *it is important to provide a framework for regional solidarity cooperation.*

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 supply¹ should be the basis.*

¹ OJ L 127, 29.4.2004, p. 92.

Or. en

Justification

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

Amendment 116

Dominique Vlasto, Herbert Reul, Angelika Niebler, Paul Rübig, Nicole Fontaine, Catherine Trautmann and Ján Hudacký

Proposal for a directive – amending act Recital 25

Text proposed by the Commission

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

Amendment

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

Or. fr

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 117

Lambert van Nistelrooij, Dorette Corbey

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, ***regional energy markets can constitute a first step.*** Member States should ***therefore*** foster, ***at European, but also at regional level where possible,*** the integration of their national markets and the cooperation of network operators.

Or. en

Amendment 118

Claude Turmes, Rebecca Harms

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

Text proposed by the Commission

Amendment

(25a) The development of a truly European pipeline network should be the goal of this Directive and to this end regulatory issues on cross-border interconnections and regional markets should be the responsibility of the Agency.

Or. en

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 119

Edit Herczog

Proposal for a directive – amending act

Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) The development of a truly European pipeline network should be the goal of this Directive and to this end regulatory issues on cross-border interconnections and regional markets should be the responsibility of the Agency.

Or. en

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 120

Herbert Reul

Proposal for a directive – amending act

Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) The development of a European grid should be the goal of this Directive and to this 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 121
Hannes Swoboda

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

Text proposed by the Commission

Amendment

(25a) The development of a truly European grid should be the goal of this Directive and to this 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 122
Nikolaos Vakalis

Proposal for a directive – amending act
Recital 26

Text proposed by the Commission

Amendment

(26) Regulatory authorities should provide information to the market also to permit the Commission to exercise its role of observing and monitoring the European gas

(26) Regulatory authorities should provide information to the market also to permit the Commission to exercise its role of observing and monitoring the European gas

market and its short, medium and long term evolution, including aspects such as supply and demand, transmission and distribution infrastructures, cross-border trade, investments, wholesale and consumers prices, market liquidity, environmental and efficiency improvements.

market and its short, medium and long term evolution, including aspects such as supply and demand, transmission and distribution infrastructures, **quality of service and supply**, cross-border trade, **congestion management**, investments, wholesale and consumers prices, market liquidity, environmental and efficiency improvements.

Or. en

Justification

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

Amendment 123 **Silvia-Adriana Țicău**

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

Text proposed by the Commission

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

Amendment

(26) Regulatory authorities should provide information to the market also to permit the Commission to exercise its role of observing and monitoring the European gas market and its short, medium and long term evolution, including aspects such as supply and demand, transmission and distribution infrastructures, cross-border trade, **natural gas consumption**, investments, wholesale and consumers prices, market liquidity, environmental and efficiency improvements.

Or. ro

Amendment 124
Paul Rübig, Hannes Swoboda

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 the amendments to the 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.

Or. en

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 125
Erika Mann

Proposal for a directive – amending act
Recital 28

Text proposed by the Commission

Amendment

(28) 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 network provides the Commission with the possibility of adopting guidelines to achieve the necessary degree of harmonisation. Such guidelines, which are thus binding implementing measures, are a useful tool which can be adapted quickly

(28) 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 network provides the Commission with the possibility of adopting guidelines to achieve the necessary degree of harmonisation. Such guidelines, which are thus binding implementing measures, are a useful tool which can be adapted quickly

where necessary.

where necessary. *The fundamental values of the guidelines should be determined by the legislature through the committee procedure.*

Or. de

Justification

Regulation 1775/2005 empowers the Commission only to modify by means of the committee procedure guidelines laid down in legislation.

Amendment 126

Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point –1 (new)

Directive 2003/55/EC

Entire text

Text proposed by the Commission

Amendment

(–1) Throughout the text, the words "transmission system" are replaced by "transmission and/or storage and/or LNG system"

Or. en

Amendment 127

Britta Thomsen

Proposal for a directive – amending act

Article 1 – point –1 a (new)

Directive 2003/55/EC

Article 1 – paragraph 1

Text proposed by the Commission

Amendment

*(–1a) In Article 1, paragraph 1 shall be replaced by the following:
"1. This Directive establishes common rules for the production, transmission, distribution and supply [...] of [...] gas*

with a view to creating integrated and competitive energy markets in the European Union. It lays down the rules relating to the organisation and functioning of the gas sector, access to the market, the criteria and procedures applicable to calls for tenders and the granting of authorisations [...] and the operation of networks. It also sets out universal service obligations and rights for gas consumers and clarifies competition obligations."

Or. en

Justification

The scope should be extended to ensure that consumers are at the centre of directive. The link with competition obligations should also be underlined.

Amendment 128

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point –1 a (new)

Directive 2003/55/EC

Article 1 – paragraph 1

Text proposed by the Commission

Amendment

(–1a) In Article 1, paragraph 1 shall be replaced by the following:

"1. This Directive establishes common rules for the *production*, transmission, distribution, [...] storage and supply of natural gas with a view to creating integrated and competitive energy markets in the European Union. 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 *calls for tenders* and the granting of authorisations [...] and the operation of *networks*. It also sets out universal service obligations and

rights for gas consumers and clarifies competition obligations."

Or. en

(Adding new elements to Article 1 paragraph 1 of Directive 2003/55/EC)

Justification

The scope should be extended to ensure that consumers are at the centre of directive. The link with competition obligations should also be underlined.

Amendment 129

Claude Turmes

Proposal for a directive – amending act

Article 1 – point –1 b (new)

Directive 2003/55/EC

Article 1 – paragraph 2

Text proposed by the Commission

Amendment

(–1a) 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."

Or. en

(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 130
Nikolaos Vakalis

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;”

Or. en

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 131
Claude Turmes, Rebecca Harms

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;"

Or. en

(Clarification of the definition of 'transmission' in Article 2 - point 3 of Directive 2003/55/EC)

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 read the same as the one in the Regulation.

Amendment 132
Hannes Swoboda

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 which mainly contains 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;"

Or. de

Justification

The definition of "transmission" in Directive 2003/55/EC differs from the definition of "transmission" in Regulation 1775/2005. The amendment incorporates the definition from the Regulation into the Directive.

Amendment 133

Alejo Vidal-Quadras

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;"

Or. en

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 134

Claude Turmes, Rebecca Harms

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;”

Or. en

(Clarification of the definition of 'storage facility' in Article 2 - point 9 of Directive 2003/55/EC)

Justification

For clarity and consistency, the word “exclusively” needs to be added to definition 9 storage facility, in the phrase “the portion used exclusively for production operations” in the same way as “reserved exclusively for transmission system operators”.

Amendment 135

Claude Turmes, Rebecca Harms

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 [...];”

(Deletion of the last part of the existing definition of 'ancillary services' in Article 2 - point 14 of Directive 2003/55/EC)

Justification

If there is insufficient provision of gas treatment/conversion facilities (services) or access is not provided on a fair and non-discriminatory basis then there is potential for barriers to trade/competition to emerge and a reduction in the level of liquidity and market integration. This means that there needs to be an appropriate regulatory framework in place for access to gas treatment/conversion facilities (services).

Amendment 136
Giles Chichester

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 137

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

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

Directive 2003/55/EC

Article 2 – point 14 a (new)

Text proposed by the Commission

Amendment

(–ac) the following point shall be inserted:

“14a. 'fair competition in an open market' means working towards a position where no company may hold more than 30% of the relevant market and where the three largest companies are not holding more than 50% and the five largest companies not more than 66,7% of market share in the relevant market;”

Or. en

Amendment 138

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

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

Directive 2003/55/EC

Article 2 – point 17

Text proposed by the Commission

Amendment

(–ad) point 17 shall be replaced by the following:

“17. ‘interconnector’ means a transmission pipeline which crosses or spans a border between Member States for the main purpose of connecting the national transmission systems of these Member States;”

(Clarification of the existing definition of 'interconnector' in Article 2 - point 17 of Directive 2003/55/EC)

Justification

The current definition might be realistic for electricity interconnectors but there exist no gas pipelines which have the sole purpose of connection the systems of two Member States, except sub-sea pipelines.

Amendment 139

Hannes Swoboda

Proposal for a directive – amending act

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

Directive 2003/55/EC

Article 2 – point 17

Text proposed by the Commission

Amendment

(–ad) 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;"

Or. de

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 140
Eugenijus Maldeikis

Proposal for a directive – amending act
Article 1 – point 1 – point (a a) (new)
Directive 2003/55/EC
Article 2 – point 32 a (new)

Text proposed by the Commission

Amendment

(aa) the following point shall be added:
‘32a. ‘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.

Or. lt

Amendment 141
Giles Chichester

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. "transmission system owner" means a natural or legal person responsible for carrying out the activities set out in Article 9(6) in a Member State where an independent system operator has been designated by that Member State and confirmed by the Commission under Article 9(1)."

Or. en

Justification

Unbundling of the operation of transmission systems from vertically integrated gas and

electricity undertakings is a fundamental aim of the proposed “third package” of legislation. As such, it is essential that the scope of that unbundling is set out clearly. One area in which the unbundling requirements of the legislation are not sufficiently clear is in the area of the confidentiality obligations applicable to the various market participants.

Amendment 142

Claude Turmes, Rebecca Harms

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. “project of priority interest to the European Union” means a gas infrastructure project that will lead to a new source of gas being provided to the Union and where the share of gas supply in more than one country of the Union leads to an increased diversification of the current gas supplies.”

Or. en

(Adding a new point 36a to Article 2 of Directive 2003/55/EC)

Justification

Sufficient infrastructure is a precondition to the development of liquid gas to gas competition. Experience shows that on several occasions large investments are decided on a political level with limited regulatory involvement. Therefore ‘projects of priority interest to the European Union’ should be defined and subject to strategic political decision.

Amendment 143

Hannes Swoboda

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. '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."

Or. xm

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 144

Paul Rübig

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. '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."

Or. de

(Adding new point in article 2 of Directive 2003/55/EC)

Justification

As demand for transmission capacity is constantly growing, investment in new infrastructure is essential, so that enough transmission, storage and LNG capacity is available. Well developed infrastructure is a precondition for the development of competition on the gas market. Hitherto decisions on many major investments have been taken at political level and with only little input from regulators. 'Projects of European interest' must be defined and the necessary political decisions taken.

Amendment 145

Dorette Corbey

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. '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 36b."

Or. en

Justification

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

Amendment 146

Giles Chichester

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. 'fair competition in an open market' means working towards a position where no company may hold more than 50% of the relevant market."

Or. en

Justification

This will open up the markets in Member States, in particular those with dominant market players, who have been in several cases guilty of abuse of power, and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand, so this provision will allow companies to grow as the market becomes more integrated. The relevant market should be defined by the Commission.

Amendment 147
Šarūnas Birutis

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. 'fair competition in an open market' means working towards a position where no company may hold more than 40% of the relevant market."

Or. en

Justification

This will open up the markets in Member States, in particular those with dominant market players, who have been in several cases guilty of abuse of power, and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand, so this provision will allow companies to grow as the market becomes more integrated. The relevant market should be defined by the Commission.

Amendment 148
Eluned Morgan

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. 'fair competition in an open market' means working towards a position where no company may hold more than 20% of the relevant market."

Or. en

Justification

This will open up the markets in Member States, in particular those with dominant market players, who have been in several cases guilty of abuse of power, and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand, so this provision will allow companies to grow as the market becomes more integrated. The relevant market should be defined by the Commission.

Amendment 149
Herbert Reul

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

Or. en

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 150

Eluned Morgan

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. 'energy poverty' means a household which is not able to afford to heat the home to an acceptable standard based on the levels recommended by the World Health Organisation of 18-22°C depending on room function for all living areas when occupied. It also includes the ability to purchase other energy services in the home at a reasonable cost. A household is energy poor if its share of energy expenditure within total household expenditure exceeds twice the national median energy expenditure."

Or. en

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 151

Claude Turmes, Rebecca Harms

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. 'blending services' means the treatment of out of specification gas with other gas sources so that the resulting mix is within the allowable gas quality specification range. This service is carried out by a gas treatment operator."

Or. en

(Adding a new point 36b to Article 2 of Directive 2003/55/EC)

Justification

Gas quality conversion is an important issue in some Member States and can also have large impacts on cross-border flows. The availability of quality conversion capacity is crucial for the development of liquid wholesale markets. If there is insufficient provision of gas conversion facilities or access is not provided on a fair and non-discriminatory basis then there is potential for barriers to trade/competition to emerge and a reduction in the level of liquidity and of liquidity and market.

Amendment 152

Claude Turmes, Rebecca Harms

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. 'ballasting services' means the treatment of gas with nitrogen to allow derichment of the gas and to bring it in line with prevailing gas quality specifications. This service is carried out by a gas treatment operator."

Or. en

(Adding a new point 36c to Article 2 of Directive 2003/55/EC)

Justification

Same justification as Turmes/Harms amendment on gas quality, i.e. amendments 13 &14.

Amendment 153

Claude Turmes, Rebecca Harms

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. 'gas treatment facility' means a facility used in the provision of blending and/or ballasting services for the treatment of natural gas owned and/or operated by a natural gas undertaking."

Or. en

(Adding a new point 36d to Article 2 of Directive 2003/55/EC)

Justification

Same justification as Turmes/Harms amendment on gas quality, i.e. amendments 13 &14.

Amendment 154

Claude Turmes, Rebecca Harms

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. 'gas treatment operator' means a natural or legal person who carries out the function of gas treatment and is responsible for operating a gas treatment facility."

Or. en

(Adding a new point 36e to Article 2 of Directive 2003/55/EC)

Justification

Same justification as Turmes/Harms amendment on gas quality, i.e. amendments 13 & 14.

Amendment 155

Alejo Vidal-Quadras

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. [...]"

Or. en

(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 156

Claude Turmes, Rebecca Harms

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, quality and price of supplies, and environmental protection, including energy efficiency, *renewable energy* and climate protection. Such obligations shall be clearly defined, transparent, non discriminatory, verifiable and shall guarantee equality of access for EU gas companies to national consumers. In relation to security of supply, energy efficiency/demand-side

management and for the fulfilment of environmental *and renewable energy targets*, as referred to in this paragraph, Member States may introduce the implementation of long term planning, taking into account the possibility of third parties seeking access to the system."

Or. en

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

Justification

It is necessary to reference the EU's renewable energy and the agreed targets within this directive.

Amendment 157

Claude Turmes, Rebecca Harms

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 address energy poverty in National Energy 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. Member States may take an integrated approach to ensure that universal service obligations and public service obligations are met. Such measures may include special tariffs for vulnerable consumers and individual households and shall include energy efficiency improvements. The Commission shall provide indicators to

monitor the impact of such measures on energy poverty. Such measures shall not impede the opening of the market set out in Article 23. In this context, Member States shall ensure that distribution companies follow strict procedures to avoid disconnection of household customers, taking into account vulnerable and energy poor consumers. Member States shall establish definitions of vulnerable and energy poor consumers and shall ensure that rights and obligations linked to vulnerable and energy poor customers are applied."

Or. en

(Replacing Article 3 paragraph 3 of Directive 2003/55/EC by a nearly complete new paragraph)

Justification

Energy Poverty is a growing problem in all Member States. An integrated approach is needed and the role of NRAs is essential. The Commission should also take responsibility for monitoring the progress of Member States in this area and communicating successful measures by Member States to deal with energy poverty.

Amendment 158

Robert Goebbels, Hannes Swoboda

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 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. Member States may take an integrated approach to ensure that universal service obligations and public service obligations are met. Such measures may include special tariffs for vulnerable consumers and individual households and shall include energy efficiency improvements and targeted social support for low income consumer groups. The Commission shall provide indicators to monitor the impact of such measures on energy poverty. Such measures shall not impede the opening of the market set out in Article 23."

Or. en

(Replacing Article 3 paragraph 3 of Directive 2003/55/EC by a nearly complete new paragraph)

Justification

Energy Poverty is a growing problem in all Member States. An integrated approach is needed and the role of NRAs is essential. The Commission should also take responsibility for monitoring the progress of Member States in this area and communicating successful measures by Member States to deal with energy poverty.

Amendment 159

Alejo Vidal-Quadras

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. [...]"

Or. en

(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 160
Pia Elda Locatelli

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 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, as well as energy-intensive businesses as defined in Article 17(1)(a) of Directive 2003/96/EC. Member States may appoint a supplier of last resort for customers

connected to the gas network. 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 these measures shall include those set out in Annex A."

Or. en

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

Justification

Even the energy-intensive business has to be considered by this directive.

Amendment 161
Hannes Swoboda

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 ensure that all customers have the right to be supplied by a supplier, provided that the latter consents, irrespective of the Member State in which the latter is approved as a supplier. In this connection, Member States shall take all necessary measures to ensure that undertakings which are approved as suppliers in their country of origin can supply their citizens without having to fulfil any further preconditions."

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 162

Paul Rübig

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 ensure that all customers have the right to be supplied by a supplier, provided that the latter consents, irrespective of the Member State in which the latter is approved as a supplier. In this connection, Member States shall take all necessary measures to ensure that undertakings which are approved as suppliers in their country of origin can supply their citizens without having to fulfil any further preconditions."

Or. xm

Justification

In each Member State, suppliers have to comply with different preconditions in order to supply customers. These different market rules and legal obligations constitute substantial barriers to entry to the market. In order to facilitate unrestricted access to the market the country-of-origin principle should apply, i.e. if a supplier is approved in one Member State, he should also be permitted to supply customers in other Member States without having to comply with further preconditions there.

Amendment 163
Pia Elda Locatelli

Proposal for a directive – amending act

Article 1 – point 1 d (new)

Directive 2003/55/EC

Article 3 – paragraph 4

Text proposed by the Commission

Amendment

(1d) 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, environmental protection, which may include *energy efficiency/demand-side management measures* and means to combat climate change, and security of supply. Such measures may include, in particular, the provision of adequate economic incentives, using, where appropriate, all existing national and Community tools, for the maintenance and construction of the necessary network infrastructure, including interconnection capacity.

Having full regard to the relevant provisions of the Treaty, Member States may promote agreements on a long term basis between energy consumers and suppliers that contribute to improving the production and distribution of energy while allowing consumers a fair share of the resulting benefits, provided that they can contribute to an optimal level of investments in the energy sector."

Or. en

Justification

Member States should play an important role aiming to give to the consumers effective benefits.

Amendment 164
Britta Thomsen

Proposal for a directive – amending act

Article 1 – point 1 e (new)

Directive 2003/55/EC

Article 3 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(1e) 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 will report to the sectoral social dialogue committees for gas and for electricity on the consultations and measures taken."

Or. en

(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 165
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 1 f (new)
Directive 2003/55/EC
Article 3 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

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

"6a. In order to promote energy efficiency and help reduce energy poverty, national regulatory authorities shall mandate gas companies to introduce tariffs which increase for greater levels of consumption with the express objectives of stimulating energy efficient behaviour, reducing household demand for gas and related reductions in domestic CO₂ emissions; as well as lowering the cost of energy to households suffering energy poverty."

Or. en

(Adding a new paragraph after paragraph 6 of Article 3 of Directive 2003/55/EC)

Justification

This tariff model would turn the current model of pricing on its head. At a time when we are trying to cut down on energy consumption the current pricing model rewards people through lower prices the more energy they use. This model should be cost neutral for electricity companies but would provide incentives for energy efficiency. This model will come into its own when smart meters are introduced.

Amendment 166
Šarūnas Birutis

Proposal for a directive – amending act
Article 1 – point 1 f (new)
Directive 2003/55/EC
Article 3 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

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

"6a. In order to promote energy efficiency and help reduce energy poverty, national regulatory authorities shall mandate gas companies to introduce tariffs which increase for greater levels of consumption with the express objectives of stimulating energy efficient behaviour, reducing household demand for gas and related reductions in domestic CO₂ emissions; and to ensure that the initial allowance of gas is equivalent to the usage of low income households."

Or. en

(Adding a new paragraph after paragraph 6 of Article 3 of Directive 2003/55/EC)

Justification

This tariff model would turn the current model of pricing on its head. At a time when we are trying to cut down on energy consumption the current pricing model rewards people through lower prices the more energy they use. This model should be cost neutral for gas companies but would provide incentives for energy efficiency. This model will come into its own when smart meters are introduced.

Amendment 167

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 1 f (new)

Directive 2003/55/EC

Article 3 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

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

"6a. In order to promote energy efficiency and help reduce energy poverty, national regulatory authorities shall mandate gas

suppliers to introduce pricing formulas which involve increasing block tariffs whereby the price increases for greater levels of consumption. National regulatory authorities shall ensure that the part of consumption which is subject to the lower price is equal to the typical consumption of low income households."

Or. en

(Adding a new paragraph after paragraph 6 of Article 3 of Directive 2003/55/EC)

Justification

This tariff model would turn the current model of pricing on its head. At a time when we are trying to cut down on energy consumption the current pricing model rewards people through lower prices the more energy they use. This model should be cost neutral for electricity companies but would provide incentives for energy efficiency. This model will come into its own when smart meters are introduced.

Amendment 168

Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 1 f (new)

Directive 2003/55/EC

Article 3 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

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

"6a. In order to promote an economical use of energy and help reduce energy poverty, national regulatory authorities shall mandate gas suppliers to introduce pricing formulas which involve increasing block tariffs whereby the price increases for greater levels of consumption. National regulatory authorities shall ensure that the part of consumption which is subject to the lower price is equal to the typical consumption in order to heat an energy-efficient house."

((Adding a new paragraph after paragraph 6 of Article 3 of Directive 2003/55/EC))

Justification

This tariff model would turn the current model of pricing on its head. At a time when we are trying to cut down on energy consumption the current pricing model rewards people through lower prices the more energy they use. This model should be cost neutral for gas companies but would provide incentives for energy efficiency. This model will come into its own when smart meters are introduced.

Amendment 169

Romano Maria La Russa

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).

Amendment 170

Herbert Reul

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)."

Or. de

Justification

The proposed commitology procedure is intended to limit the influence of the European Parliament. Under the Commission proposal, Parliament would only have the option of rejecting the Commission's drafts. As a result, vital decisions on the internal market in energy would be withdrawn from the democratic legislative process.

Amendment 171
Angelika Niebler

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

Amendment 172

Paul Rübzig

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 provisions which are necessary for consumer protection should be directly included in the directive. There is therefore no need to delegate the power to issue guidelines.

Amendment 173

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 2

Directive 2003/55/EC

Article 3 – paragraph 7

Text proposed by the Commission

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

7. The Commission **shall** adopt guidelines for the implementation of this Article. This measure, designed to amend non-essential elements of this Directive by supplementing **and clarifying** it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

Or. en

Justification

The previous Directive included measures to protect final consumers, especially the vulnerable ones. Disconnection was explicitly mentioned. At the same time, Member States were encouraged to take measures to increase transparency, general information and dispute settlement mechanisms. In practice however consumers have not reaped the benefits of the market opening. It is therefore necessary to foresee implementation mechanism so that Member States can specify the requirements.

Amendment 174
Christian Ehler

Proposal for a directive – amending act
Article 1 – point 2
Directive 2003/55/EC
Article 3 – paragraph 7

Text proposed by the Commission

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

7. The Commission may **amend** guidelines for the implementation 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).

Or. de

Justification

The proposal is intended to ensure that the guidelines are adopted by Parliament and the Council under the ordinary procedure. The powers to be delegated to the Commission should be confined to any amendments which are necessary.

Amendment 175

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 2

Directive 2003/55/EC

Article 3 – paragraph 7

Text proposed by the Commission

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

7. *After due consultation with interested stakeholders*, 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).

Or. en

Justification

Amendment is intended to ensure principles of good regulatory practice are followed in the development and implementation of such guidelines.

Amendment 176

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 2 a (new)

Directive 2003/55/EC

Article 3 a (new)

Text proposed by the Commission

Amendment

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

"Article 3a

***Transparency and publication of
information to final customers***

1. Member States shall ensure that transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, and on standard terms and conditions, in respect of access to and use of the services identified in Article 3 is available to final customers, in accordance with the provisions of Annex A. System users, and where applicable distribution system operators, shall publish such information in an easily accessible form.

2. National regulatory authorities shall ensure the provision of information to enable final customers to make an independent evaluation of the cost of alternative usage patterns, by means of interactive guides or similar techniques. Member States shall ensure that national regulatory authorities make such guides or techniques available, when these are not available on the market.

3. Member States shall ensure that national regulatory authorities are able to oblige system users, and where warranted distribution system operators, to provide applicable tariff information to customers at the time and point of purchase to ensure that customers are fully informed of pricing conditions."

Or. en

(Adding a new Article 3a to Directive 2003/55/EC)

Justification

In order to ensure consumers are able to change to the correct supplier they need to dispose of enough information to compare offers. The offers in the gas market are highly complex and therefore a new Article 3a specifying transparency requirements is needed.

Amendment 177

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 2 b (new)

Directive 2003/55/EC

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

(2b) 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.”

Or. en

(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.