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AMENDMENTS 275 - 427

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))

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Amendment 275

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 9

Directive 2003/55/EC

Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 276

Mary Honeyball

Proposal for a directive – amending act

Article 1 – point 9 a (new)

Directive 2003/55/EC

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

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

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

efficiency."

Or. en

Justification

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

Amendment 277

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 9 a (new)

Directive 2003/55/EC

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

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

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

Or. en

(Amending the existing paragraph 1 of Article 12 of Directive 2003/55/EC)

Justification

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

Amendment 278

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 9 b (new)

Directive 2003/55/EC

Article 12 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(9b) In Article 12, the following paragraph shall be added:

"5a. Appropriate measures shall be taken to ensure that the staff and management of the distribution system operators do not have any personal interest in the increase of energy consumption."

Or. en

(Adding a new paragraph after paragraph 5 of Article 12 of Directive 2003/55/EC)

Justification

Staff in the DSOs should be interested in energy efficiency and should not be rewarded for any increase in consumption levels in their distribution zone.

Amendment 279

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 10 – point (b a) (new)

Directive 2003/55/EC

Article 13 – paragraph 2 – second subparagraph

Text proposed by the Commission

Amendment

(ba) In paragraph 2, the second subparagraph shall be replaced by the following:

"Member States may decide not to apply paragraphs 1 to 3 to integrated natural gas undertakings serving less than 100000 connected customers."

(Changes wording of paragraph 2, second subparagraph of Article 13 of Directive 2003/55/EC)

Justification

The minimum threshold has been applicable to the entire clause and should continue to do so. The wording should make that clear by explicitly including new paragraphs.

Amendment 280

Mary Honeyball

Proposal for a directive – amending act

Article 1 – point 10 – point (c)

Directive 2003/55/EC

Article 13 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 281
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 10 – point (c)
Directive 2003/55/EC
Article 13 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

In view of the cost-benefit ratio, it seems excessive to demand the creation of separate brands for network and distribution.

Amendment 282
Paul Rübig

Proposal for a directive – amending act
Article 1 – point 10 – point (c)
Directive 2003/55/EC
Article 13 – paragraph 4

Text proposed by the Commission

4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory

Amendment

deleted

behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

Or. en

Justification

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

Amendment 283 **Christian Ehler**

Proposal for a directive – amending act
Article 1 – point 10 – point (c)
Directive 2003/55/EC
Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

deleted

Justification

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

Amendment 284

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 10 – point (c)

Directive 2003/55/EC

Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). ***deleted***

Justification

The proposed comitology procedure seeks to restrict the influence of the European Parliament, thus removing essential decisions on the form of the internal market in energy from the scope of the democratic legislative procedure. Given that the outcome of a comitology procedure may have very wide-ranging consequences, and that such essential provisions affect the substance of the unbundling rules to which transmission network operators are subject, this should be rejected on principle.

Amendment 285
Angelika Niebler

Proposal for a directive – amending act
Article 1 – point 10 – point (c)
Directive 2003/55/EC
Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission may adopt guidelines to ensure full and effective compliance of the distribution system operator with paragraph 2 as regards the full independence of the distribution system operator, the absence of discriminatory behaviour, and that supply activities of the vertically integrated undertaking cannot take unfair advantage of its vertical integration. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). *deleted*

Or. de

Justification

Such far-reaching powers for the Commission to issue guidelines concerning distribution system operators by introducing the regulatory procedure with scrutiny would be undemocratic and should therefore be rejected.

Amendment 286
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 10 – point (c a) (new)
Directive 2003/55/EC
Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

ca) The following paragraph 4a is added:

‘4a. Member States shall have the right to decide whether to apply paragraphs 1 to 4 to integrated natural gas undertakings serving less than 100 000 connected customers or isolated networks.’

Or. de

Justification

In the past the ‘de minimis’ rule applied to the whole article and was therefore placed in the last paragraph.

Amendment 287
Angelika Niebler

Proposal for a directive – amending act
Article 1 – point 10 – point (c a) (new)
Directive 2003/55/EC
Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

ca) The following paragraph 4a is added:

‘4a. Member States may decide not to apply paragraphs 1 and 2 to integrated gas undertakings serving less than 100 000 connected customers or isolated networks.’

Or. de

Justification

The Member States should have the discretion to exclude smaller distribution networks from the provisions of this directive.

Amendment 288
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 11
Directive 2003/55/EC
Article 15

Text proposed by the Commission

This directive ***shall not prevent*** the operation of a combined transmission, LNG, storage and distribution system operator provided it complies, for each of its activities, with the applicable provisions of Articles 7, 9a and 13(1).

Amendment

This directive ***promotes, as the most efficient solution for ensuring the effective third party access,*** the operation of a combined transmission, LNG, storage and distribution system operator provided it complies, for each of its activities, with the applicable provisions of Articles 7, 9a and 13(1). ***Combined transmission, LNG and storage system operator shall be implemented in each Member State.***

Or. en

Amendment 289
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 11
Directive 2003/55/EC
Article 15

Text proposed by the Commission

This directive shall not prevent the operation of a combined transmission, LNG, storage and distribution system operator provided it complies, for each of its activities, with the applicable provisions of ***Articles 7, 9a and 13(1).***

Amendment

This directive shall not prevent the operation of a combined transmission, LNG, storage and distribution system operator provided it complies, for each of its activities, with the applicable provisions of ***Articles 7, 9a, 9b and 13(1).***

Or. en

Justification

The modification to Article 15 takes into account that the unbundling requirements for TSOs

shall now be laid down in Articles 9 to 9b.

Amendment 290

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 11 a (new)

Directive 2003/55/EC

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

(11a) In Article 18, paragraph 1 shall be replaced by the following:

"1. Member States shall ensure the implementation of a system of *regulated* third party access to the transmission and distribution system, [...] LNG facilities, *storage facilities and gas treatment facilities* based on published tariffs, applicable to all eligible customers, including supply undertakings, and applied objectively and without discrimination between system users. Member States shall ensure that these tariffs, or the methodologies underlying their calculation shall be approved prior to their entry into force by a regulatory authority referred to in Article 25(1) and that these tariffs — and the methodologies, where only methodologies are approved — are published prior to their entry into force."

Or. en

(Amending paragraph 1 of Article 18 of Directive 2003/55/EC)

Justification

Access to storage and access to gas quality conversion facilities is an important issue in some Member States. The availability of quality conversion capacity is crucial for the development of liquid wholesale markets, both at national and regional level. Therefore, third party access

to storage and gas quality conversion shall be regulated to ensure non-discriminatory access to flexibility and gas quality conversion services.

Amendment 291

Giles Chichester

Proposal for a directive – amending act

Article 1 – point 11 a (new)

Directive 2003/55/EC

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

(11a) In Article 18, paragraph 1 shall be replaced by the following:

"1. Member States shall ensure the implementation of a system of third party access to the transmission and distribution system, *including line pack and ancillary services*, and to LNG facilities based on published tariffs, applicable to all eligible customers, including supply undertakings, and applied objectively and without discrimination between system users. Member States shall ensure that these tariffs, or the methodology underlying their calculation shall be approved prior to their entry into force by a regulatory authority referred to in Article 25(1) and that these tariffs - and the methodologies, where only methodologies are approved - are published prior to their entry into force."

Or. en

Justification

This amendment places the task of providing access to linepack and ancillary services to the transmission and distribution system operators rather than the storage operator, as currently drafted in article 19. As with balancing and quality conversion, provision of within-day flexibility via linepack etc is part of a TSO's core role and should be treated as part of transportation (i.e. subject to RTPA unless exempted), and not be part of the storage system

operator's role.

Amendment 292
Toine Manders

Proposal for a directive – amending act
Article 1 – point 11 b (new)
Directive 2003/55/EC
Article 18 a (new)

Text proposed by the Commission

Amendment

(11b) The following Article shall be inserted:

"Article 18a

1. For the organisation of access to LNG facilities, in case these facilities are operated by independent infrastructure operators that are ownership-unbundled in accordance with Article 7(1) and that provide open access, Member States may also decide to follow the procedure referred to in paragraph 2. This procedure shall be applied in accordance with objective, transparent and non-discriminatory criteria.

2. In the case of negotiated access, Member States shall take the necessary measures for natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to LNG facilities. The parties shall be obliged to negotiate access to LNG facilities in good faith."

Or. en

Justification

With the significant number of LNG facilities under construction a competitive playing field is clearly emerging. The choice for negotiated access should be available in particular for ownership unbundled companies as in that case there is clearly no conflict of interest between.. Regulation can therefore in principle be lighter.

Amendment 293

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 11 b (new)

Directive 2003/55/EC

Article 18 a (new)

Text proposed by the Commission

Amendment

(11b) The following Article shall be inserted:

"Article 18a

1. For the organisation of access to LNG facilities, in case these facilities are operated by independent infrastructure operators that are ownership-unbundled in accordance with Article 7(1) and that provide open access, Member States may also decide to follow the procedure referred to in paragraph 2. This procedure shall be applied in accordance with objective, transparent and non-discriminatory criteria.

2. In the case of negotiated access, Member States shall take the necessary measures for natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to LNG facilities. The parties shall be obliged to negotiate access to LNG facilities in good faith."

Or. en

Justification

With the significant number of LNG facilities under construction a competitive playing field is clearly emerging. Currently, investments in LNG facilities are in many cases realised under derogation ex Article 22. With the choice of negotiated access, investment may be further stimulated under a (for investors) acceptable regulatory regime. The choice for negotiated access should be available in particular for ownership unbundled companies.

Amendment 294
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 11 c (new)
Directive 2003/55/EC
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

(11c) In Article 19, paragraph 1 shall be replaced by the following:

"1. For the organisation of access to storage facilities and linepack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States *shall adopt* the procedures referred to in paragraph 3 [...]. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria."

Or. en

(Adding new elements to Article 19 paragraph 1 of Directive 2003/55/EC, including partly the wording of Commission proposal)

Amendment 295
Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act
Article 1 – point 11 c (new)
Directive 2003/55/EC
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

(11c) In Article 19, paragraph 1 shall be replaced by the following:

"1. For the organisation of access to storage facilities and linepack when technically and/or economically necessary for providing efficient access

to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States *shall use the regulated access procedure as described in paragraph 4. In case such organisation is arranged through an independent infrastructure operator that is ownership-unbundled in accordance with Article 7(1) and that provides open access*, Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria."

Or. en

Justification

The choice for negotiated access should be available in particular for ownership unbundled companies as in that case there is clearly no conflict of interest between, e.g. production/supply interests on the one hand, and transmission interests on the other. Regulation can therefore in principle be lighter, i.e. ex-post instead of ex-ante.

Amendment 296 Toine Manders

Proposal for a directive – amending act
Article 1 – point 11 c (new)
Directive 2003/55/EC
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

(11c) In Article 19, paragraph 1 shall be replaced by the following:

"1. For the organisation of access to storage facilities and linepack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States *shall use the*

regulated access procedure as described in paragraph 4. In case such organisation is arranged through an independent infrastructure operator that is ownership-unbundled in accordance with Article 7(1) and that provides open access, Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria."

Or. en

Justification

The choice for negotiated access should be available in particular for ownership unbundled companies as in that case there is clearly no conflict of interest between, e.g. production/supply interests on the one hand, and transmission interests on the other. Regulation can therefore in principle be lighter, i.e. ex-post instead of ex-ante.

Amendment 297 **Giles Chichester**

Proposal for a directive – amending act
Article 1 – point 11 c (new)
Directive 2003/55/EC
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

(11c) In Article 19, paragraph 1 shall be replaced by the following:

"1. For the organisation of access to storage facilities [...] when technically and/or economically necessary for providing efficient access to the system for the supply of customers, [...] Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria."

Or. en

Article 1 Point 11c new amending Article 19 Paragraph 1 (Directive 2003/55/EC) added to Commission proposal as shown

Justification

Amendment removes the choice currently available to Member States between regulated and negotiated third party access (RTPA or NTPA) as regards ancillary services, including linepack. As with balancing and quality conversion, provision of within-day flexibility via linepack etc is part of a TSO's core role and should be treated as part of transportation (i.e. subject to RTPA unless exempted).

Amendment 298

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 11 c (new)

Directive 2003/55/EC

Article 19 – paragraph 1

Text proposed by the Commission

Amendment

(11c) In Article 19, paragraph 1 shall be replaced by the following:

"1. For the organisation of access to storage facilities and linepack when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the organisation of access to ancillary services, Member States may choose either or both of the procedures referred to in paragraphs 3 and 4. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria. National regulatory authorities shall observe compliance with these criteria."

Or. en

Justification

The national Regulators have to make sure that access to storage is guaranteed under certain transparent regulations which are observed by the NRA's.

Amendment 299
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 12
Directive 2003/55/EC
Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Member States shall define and publish criteria according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers. Member States shall make public, or oblige storage and transmission system operators to make public, which storage facilities, or which parts of those storage facilities, and which linepack is offered under the different procedures referred to in paragraphs 3 and 4.

deleted

Or. en

Justification

The decision on whether or not access to storage is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers needs to be made for each individual case. Therefore, a general separation of overall capacity according to whether or not it is necessary for the supply of customers is technically difficult, if not unfeasible at all. The difficulty of the task is also displayed by the fact that the matter was discussed in the Madrid Forum by all relevant market participants and that an agreement could not be reached.

Amendment 300
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 12
Directive 2003/55/EC
Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall define and publish criteria according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers. ***Member States shall make public, or oblige storage and transmission system operators to make public, which storage facilities, or which parts of those storage facilities, and which linepack is offered under the different procedures referred to in paragraphs 3 and 4.***

Amendment

Member States shall define and publish criteria according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers.

Or. en

Amendment 301

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 12

Directive 2003/55/EC

Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall define and publish criteria according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers. Member States shall make public, or oblige storage and transmission system operators to make public, which storage facilities, or which parts of those storage facilities, and which linepack is offered ***under the different procedures referred to in paragraphs 3 and 4.***

Amendment

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

Or. en

Justification

Since gas storage remains in the hand of few incumbents, negotiated access does not lead to competitive access to storage. Regulated access should therefore be preferred. It is the role of the national regulatory authorities to define and publish criteria.

Amendment 302

Giles Chichester

Proposal for a directive – amending act

Article 1 – point 12

Directive 2003/55/EC

Article 19 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall define and publish criteria according to which it may be determined whether access to storage facilities **and linepack** is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers. **Member States** shall make public, or oblige storage **and transmission system** operators to make public, which storage facilities, or which parts of those storage facilities, **and which linepack is** offered under the different procedures referred to in paragraphs 3 and 4.

Amendment

National regulatory authorities shall define and publish criteria according to which it may be determined whether access to storage facilities is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers. **National regulatory authorities** shall make public, or oblige storage operators to make public which storage facilities, or which parts of those storage facilities **are** offered under the different procedures referred to in paragraphs 3 and 4.

Or. en

(Article 1 Point 12 of Commission proposal amended as shown)

Justification

While the choice between RTPA and NTPA for storage continues to be a Member State decision, it should be the national regulatory authority which oversees the detailed arrangements, including developing and publishing exemption criteria and requiring the necessary transparency, within a European regulatory framework established by the Agency.

Amendment 303
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 12 a (new)
Directive 2003/55/EC
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

(12a) In Article 19, paragraph 3 shall be deleted.

Or. en

Amendment 304
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 12 a (new)
Directive 2003/55/EC
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

(12a) In Article 19, paragraph 3 shall be deleted.

Or. en

(Deletion of the paragraph 3 of Article 19 of Directive 2003/55/EC)

Amendment 305
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 12 a (new)
Directive 2003/55/EC
Article 19 – paragraph 3

Text proposed by the Commission

Amendment

(12a) In Article 19, paragraph 3 shall be replaced by the following:

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

Contracts for access to storage [...] shall be negotiated with the relevant storage system operator [...]. Member States shall require storage system operators [...] to publish their main commercial conditions for use of storage [...] within the first six months following implementation of this Directive and on an annual basis every thereafter. *The development of these conditions shall take into consideration the views of system users, who may individually or collectively propose amendments thereof.*"

Or. en

(Article 1 Point 12 (c) new amending Article 19 Paragraph 3 (Directive 2003/55/EC) added to Commission proposal as shown)

Justification

Amendment removes the choice currently available to Member States of negotiated third party access as regards ancillary services, including linepack. As with balancing and quality conversion, provision of within-day flexibility via linepack etc. should be seen as part of a TSO's core role and treated as part of transportation (i.e. subject to RTPA unless exempted).

Amendment 306
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 12 b (new)
Directive 2003/55/EC
Article 19 – paragraph 4

(12b) In Article 19, paragraph 4 shall be replaced by the following:

"4. In the case of regulated access, Member States shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, [...] on the basis of published tariffs and/or other terms and obligations for use of that storage [...], when technically and/or economically necessary for providing efficient access to the system [...]. *The development of these tariffs and other terms and obligations shall take into consideration the views of system users, who may individually or collectively propose amendments thereof.* This right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking."

Or. en

(Article 1 Point 12 (b) new amending Article 19 Paragraph 4 (Directive 2003/55/EC) added to Commission proposal as shown)

Justification

Amendment removes the choice currently available to Member States of negotiated third party access as regards ancillary services, including linepack. As with balancing and quality conversion, provision of within-day flexibility via linepack etc. should be seen as part of a TSO's core role and treated as part of transportation (i.e. subject to RTPA unless exempted).

Amendment 307

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 12 b (new)

Directive 2003/55/EC

Article 19 – paragraph 4

Text proposed by the Commission

Amendment

(12b) In Article 19, paragraph 4 shall be replaced by the following:

"4. National regulatory authorities shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, linepack and other ancillary services, on the basis of published tariffs and/or other terms and obligations for use of that storage and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. This right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking."

Or. en

(Deletion of the paragraph 3 of Article 19 of Directive 2003/55/EC)

Justification

Since gas storage remains in the hand of few incumbents, negotiated access does not lead to competitive access to storage. Regulated access should therefore be the only option. In this context, it is the duty of the national regulatory to take the necessary measures.

Amendment 308
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 12 b (new)
Directive 2003/55/EC
Article 19 – paragraph 4

Text proposed by the Commission

Amendment

(12b) In Article 19, paragraph 4 shall be replaced by the following:

"4. As to regulated access, Member States shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to storage, linepack and other ancillary services, on the basis of published tariffs and/or other terms and obligations for use of that storage and linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. This right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking."

Or. en

(Changes wording of Article 1 paragraph 4 of Directive 2003/55/EC)

Amendment 309
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 1 - introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Exemptions are mainly applied to important and critical infrastructures (interconnectors, LNG plants, storage facilities) which are precisely those requiring most neutral operation and management. Tariffs have a direct effect on the economic viability of an investment but not other exemptions. The exemption on TPA is not relevant, provided that there is a sufficient and stable level of use of the infrastructure.

Amendment 310

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 - introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

The use of i.e. implies a limitative list whereas this appears neither to be the intention nor current practice. The period of time that an exemption shall be applicable should be

transparent at the time that the investment decision is taken.

Amendment 311

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 - introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

The period of time that an exemption shall be applicable should be transparent at the time that the investment decision is taken. Any powers given to the regulatory authorities to change the conditions that were applicable at the time of the final investment decision for the new project should be subject to a clear and robust procedure of appeal. Planning approvals should not lapse or be changed automatically.

Amendment 312

Toine Manders

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 - introductory part

Text proposed by the Commission

1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted, for a **limited** period

Amendment

1. Major new gas infrastructures, i.e. interconnectors between Member States, LNG and storage facilities, may, upon request, be exempted, for a **defined** period

of time, from the provisions of Articles 7, 18, 19, 20, and 24c(4), (5) and (6) under the following conditions:

of time, from the provisions of Articles 7, 18, 19, 20, and 24c(4), (5) and (6) under the following conditions:

Or. en

Justification

The period of time that an exemption shall be applicable should be transparent at the time that the investment decision is taken.

Amendment 313

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 – point (a)

Text proposed by the Commission

- (a) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;

Amendment

- (a) the infrastructure must be owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built, ***through the diversification of gas supply sources***;

Or. ro

Justification

Security of supply for energy, and especially for gas, is increased where supply sources are diversified.

Amendment 314

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 – point (c)

Text proposed by the Commission

(c) the infrastructure must be owned by a natural or legal person which is separate ***at least in terms of its legal form*** from the system operators in whose systems that infrastructure will be built;

Amendment

(c) the infrastructure must be owned by a natural or legal person which is separate from the system operators in whose systems that infrastructure will be built;

Or. en

Justification

To be consistent with the full ownership unbundling, the relevant part of this point should be deleted.

Amendment 315

Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

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

Text proposed by the Commission

Amendment

"(ca) the infrastructure must be operated by a legal person independent from the system operators in whose systems that infrastructure will be built;"

Or. en

Justification

Exemptions are mainly applied to important and critical infrastructures (interconnectors, LNG plants, storage facilities) which are precisely those requiring most neutral operation and management. Tariffs have a direct effect on the economic viability of an investment but

not other exemptions. The exemption on TPA is not relevant, provided that there is a sufficient and stable level of use of the infrastructure.

Amendment 316

Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 1 – point (e)

Text proposed by the Commission

(e) the exemption is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the infrastructure is connected.

Amendment

(e) the necessary capacity available for third party access is ensured.

Or. en

Justification

Exemptions are mainly applied to important and critical infrastructures (interconnectors, LNG plants, storage facilities) which are precisely those requiring most neutral operation and management. Tariffs have a direct effect on the economic viability of an investment but not other exemptions. The exemption on TPA is not relevant, provided that there is a sufficient and stable level of use of the infrastructure.

Amendment 317

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

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

Text proposed by the Commission

Amendment

‘(ea) The project is of European interest and crosses at least one national border within the EU.’

Or. de

Justification

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

Amendment 318

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

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

Text proposed by the Commission

Amendment

‘(ea)) The project is of European interest and crosses at least one national border within the EU.

Or. de

Justification

Current legislation contains a number of instruments intended to simplify investments (e.g. Article 22 of Directive 2003/55/EC). Regulation 1775/2005 and Directive 2003/55/EC, however, must be amended to enable the regulators to create appropriate incentives to invest in new infrastructures and ensure that the network operators can keep up with the market demand for infrastructure.

Amendment 319

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

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

Text proposed by the Commission

Amendment

"(ea) the investment is not necessary to enable compliance with an obligation on a regulated entity for the transport of gas through a transmission system."

Or. en

Justification

If this condition was not met (for example the proposed transmission capacity was required to maintain future secure deliveries to consumers) then one or more regulated TSOs should be responsible for the investment and it should be carried out under the normal regulatory regime (i.e. without a TPA exemption). This test should be added for all new interconnection investment i.e. whether for new pipelines or enhancements to existing pipelines.

Amendment 320

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

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

Amendment 321

Erika Mann

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall apply also to

Amendment

2. Paragraph 1 shall apply also to

significant increases of capacity in existing infrastructures and to modifications of such infrastructures which enable the development of new sources of gas supply.

significant increases of capacity in existing infrastructures and to modifications of such infrastructures which ***make available additional gas quantities from existing sources or*** enable the development of new sources of gas supply.

Or. en

Amendment 322
Nikolaos Vakalis

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

3. The regulatory authority referred to in Chapter VIa may, on a case by case basis, decide on the exemptions referred to in paragraphs 1 and 2. Where the infrastructure in question is located in the territory of more than one Member State, ***the exemption decision shall be taken by the national regulatory authorities or any other competent bodies of the Member States concerned after consultation between them, and approved by the Commission, according to the procedure set out in paragraphs 4 and 5.***

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 323
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

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

Amendment 324
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 3 – subparagraph 2

Text proposed by the Commission

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

Amendment

An exemption may cover all or ***merely certain specific parts*** of the capacity of the new infrastructure, or of the existing

increased capacity.

infrastructure with significantly increased capacity.

Or. de

Justification

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

Amendment 325

Toine Manders

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 3

Text proposed by the Commission

In deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

Amendment

In deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the ***duration of contracts***, additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

Or. en

Justification

The proposed revision of Article 22 increases the complexity of the new natural gas undertakings which may deter potential investment. A high level of prescribed rules upfront is not in line with the granting of an exemption from regulated access.

Amendment 326

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 3

Text proposed by the Commission

In deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

Amendment

In deciding to grant an exemption consideration shall be given, on a case by case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the ***duration of contracts***, additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

Or. en

Justification

The proposed revision of Article 22 increases the complexity of the new natural gas undertakings which may deter potential investment. Regulatory intervention should be minimal where projects enhance competition and have adequate “use it or sell it” rules in place. Any powers given to the regulatory authorities to change the conditions that were applicable at the time of the final investment decision for the new project should be subject to a clear and robust procedure of appeal.

Amendment 327

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 3

Text proposed by the Commission

In deciding to grant an exemption consideration shall be given, on a case by

Amendment

In deciding to grant an exemption consideration shall be given, on a case by

case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions account shall, in particular, be taken of the ***duration of contracts***, additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

Or. en

Justification

The proposed revision of Article 22 increases the complexity of the new natural gas undertakings which may deter potential investment.

Amendment 328 Toine Manders

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 3 – subparagraph 4

Text proposed by the Commission

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

Amendment

When granting an exemption, the regulatory authority ***may*** decide upon the ***principles*** for management and allocation of capacity ***insofar as such decision does not prevent the implementation of long-term contracts.***

and (e) of this Article, the regulatory authority shall take into account the results of that capacity allocation procedure.

Or. en

Justification

The proposed revision of Article 22 increases the complexity of the new natural gas undertakings which may deter potential investment. A high level of prescribed rules upfront is not in line with the granting of an exemption from regulated access.

Amendment 329

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 4

Text proposed by the Commission

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

Amendment

When** granting an exemption, the regulatory authority **may** decide **on** the **principles** for management and allocation of capacity **insofar as such decision does not prevent the implementation of long-term contracts.

Justification

The proposed revision of Article 22 increases the complexity of the new natural gas undertakings which may deter potential investment. Regulatory intervention should be minimal where projects enhance competition and have adequate “use it or sell it” rules in place. Any powers given to the regulatory authorities to change the conditions that were applicable at the time of the final investment decision for the new project should be subject to a clear and robust procedure of appeal.

Amendment 330

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 4

Text proposed by the Commission

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

Amendment

When** granting an exemption, the regulatory authority **may** decide **on** the **principles** for management and allocation of capacity **insofar as such decision does not prevent the implementation of long-term contracts.

Justification

The proposed revision of Article 22 increases the complexity of the new natural gas undertakings which may deter potential investment. A high level of prescriptiveness upfront is not in line with the granting of an exemption from regulated access.

Amendment 331

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 4

Text proposed by the Commission

Before granting an exemption the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity.

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

Amendment

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

Or. de

Justification

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

Amendment 332

Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 4

Text proposed by the Commission

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

Amendment

Before granting an exemption the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. ***The allocation procedure shall not increase the relative weight of the dominant supplier unless the entire capacity demand of third parties is reasonably covered. The regulatory authority shall decide on this aspect.*** The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the facility to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1(a), (b) and (e), the regulatory authority shall take into account the results of that capacity allocation procedure.

Or. en

Justification

Exemptions should ensure that all market players are satisfied to a reasonable extent and avoid the consolidation of dominant positions.

Amendment 333 **Giles Chichester**

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 3 – subparagraph 4

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Open season (or comparable) procedures are an important tool in assessing market needs in terms of project sizes and subsequent capacity allocation, but they could imply a cost which undermines the feasibility of some projects. If the NRA feels an open season would undermine the feasibility of the project the NRA may not require the project sponsor to conduct an open season.

Amendment 334
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 4 - introductory part

Text proposed by the Commission

4. The regulatory authority shall transmit to the Commission without delay a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the competent authority to the Commission, together with all the relevant information with respect to the decision. This information may be submitted to the Commission in aggregate form, enabling the Commission to reach a well-founded decision. In particular, the information shall contain:

Amendment

4. The regulatory authority shall transmit to the Commission without delay a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the competent authority to the Commission, together with all the relevant information with respect to the decision. This information may be submitted to the Commission in aggregate form, enabling the Commission to reach a well-founded decision, ***which in the case of the Agency's decisions issued under paragraph 3 can assess solely their impact on Community competition rules.*** In particular, the information shall contain:

Or. en

Justification

CEER welcomes the proposal to give ACER the power to decide exemptions, but these decisions should not be subject to the Commission's review except as regards compliance with competition rules. ACER should be able to make independent decisions on the merits of case by case exemptions without Commission oversight.

Amendment 335
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 4 – point (a)

Text proposed by the Commission

(a) the detailed reasons on the basis of which the regulatory authority granted the exemption, including the financial information justifying the need for the exemption;

Amendment

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

Or. en

Justification

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

Amendment 336

Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 4 – point (a)

Text proposed by the Commission

(a) the detailed reasons on the basis of which the regulatory authority granted the exemption, including the financial information justifying the need for the exemption;

Amendment

(a) the detailed reasons **stating the specific Articles** on the basis of which the regulatory authority granted the exemption, including the financial information justifying the need for the exemption;

Or. en

Justification

For each article the possible reasons for exemptions are completely different. Only the strictly necessary exemptions should be given and therefore each of them should be justified separately, showing, for example, the mechanisms by which the exemption enhances competition or is indispensable to make the infrastructure viable.

Amendment 337
Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 4 – point (b)

Text proposed by the Commission

(b) the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption;

Amendment

(b) the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption, ***especially the reasons stating the specific Articles on the basis of which the exemption will enhance competition;***

Or. en

Justification

For each article the possible reasons for exemptions are completely different. Only the strictly necessary exemptions should be given and therefore each of them should be justified separately, showing, for example, the mechanisms by which the exemption enhances competition or is indispensable to make the infrastructure viable.

Amendment 338
Giles Chichester

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 4 – point (e a) (new)

Text proposed by the Commission

Amendment

"(ea) the rules for management of capacity that have been established."

Or. en

Justification

The addition of (ea) is give further clarity to the tasks of the NRA

Amendment 339
Teresa Riera Madurell

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 4 – point (e a) (new)

Text proposed by the Commission

Amendment

"(ea) if the exemption relates to an interconnector, the additional capacity open to third party access favouring the free trading across the European internal market."

Or. en

Justification

From any new infrastructure the element that really favours competition is the capacity or services open to third parties, the rest exclusively favouring one company.

Amendment 340
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5

Text proposed by the Commission

Amendment

5. Within two months after receiving a notification, the Commission may take a decision requiring the regulatory authority to amend or withdraw the decision to grant an exemption. That period shall begin on the day following the receipt of the notification. The two month period may be extended by two additional months where additional information is sought by the Commission. ***That period shall begin on the day following the receipt of the***

5. Within two months after receiving a notification, the Commission may take a decision requiring the regulatory authority to amend or withdraw the decision to grant an exemption. ***Where the infrastructure in question is on the territory of more than one Member State, examination of the Agency's decision by the Commission shall not be necessary.***

complete additional information. The two month period can also be extended with the consent of both the Commission and the regulatory authority. Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete.

The regulatory authority shall comply with the Commission decision to amend or withdraw the exemption decision within a period of four weeks and shall inform the Commission accordingly.

The Commission shall preserve the confidentiality of commercially sensitive information.

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

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

Or. de

Justification

The original text of the directive prolongs unnecessarily the process of granting an exemption and burdens the investor with too many legal and regulatory risks. The tight time limit on the Commission's decision-making process for granting an exemption is unacceptable, since in most Member States national planning and building regulations result in delays of up to 10 or 15 years between planning the infrastructure and its construction.

Amendment 341

Erika Mann

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 342

Patrizia Toia, Pia Elda Locatelli

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. it

Justification

The principle that an exemption decision should be deemed to have been withdrawn if the national authority does not send the Commission the documentation requested by the due date is untenable. If it were maintained it would make the authorisation process more uncertain, as the documentation would have to be sent by a third party over whom the applicant for the exemption would have no control.

Amendment 343
Giles Chichester

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

CEER welcomes the proposal to give ACER the power to decide exemptions, but these decisions should not be subject to the Commission's review except as regards compliance with competition rules. ACER should be able to make independent decisions on the merits of case by case exemptions without Commission oversight.

Amendment 344
Erika Mann

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Amendment 345
Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

Major infrastructure projects such as interconnectors, LNG terminals or storage facilities usually have long lead times (for example due to complicated planning and permitting

processes) and may well exceed the time limits in the proposed text. The application of a time limit clause that will change the conditions of an approved investment case will thus add a significant additional risk to natural gas undertakings that already carry a high level of risk, thus creating additional barriers.

Amendment 346
Alyn Smith

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

There shall be a transparent and strict appeal procedure against the exemption decisions of the regulatory authority issued under this Article. Conditions of an exemption approval granted under this Article shall not be changed retrospectively without the agreement of all parties concerned.

Or. en

Amendment 347
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The Commission's approval of an exemption decision shall lose its effect if construction of the infrastructure has not yet started *two years after all necessary decisions and authorisations from the national or regional authorities have been issued. It shall also lose its effect if* the infrastructure has not become operational *five years after all national and regional*

authorities decisions and authorisations have been issued. Where the building of a large infrastructure is delayed due to unforeseeable circumstances, the investor shall notify the relevant regulatory authority and may apply an appropriate extension of the above-mentioned time limits.

Or. de

Justification

The original text of the directive unnecessarily prolongs the process of granting an exemption and burdens the investor with too many legal and regulatory risks. The tight time limit on the Commission's decision-making process for granting an exemption is unacceptable, since in most Member States national planning and building regulations result in delays of up to 10 or 15 years between planning the infrastructure and its construction.

Amendment 348

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The Commission's exemption decision shall lose its effect if the infrastructure has not become operational ***five years after all national and regional decisions and authorisations have been issued. Where the building of a large infrastructure is delayed due to unforeseeable circumstances, the investor shall notify the national regulatory authority concerned and may apply for an appropriate prolongation of the above mentioned period.***

Or. en

Justification

The investment in large infrastructure projects contains a tremendous risk for investors. The loss of an exemption after the Commission decision has been rendered comes along with unforeseeable uncertainties as there will be other authorisations required on local or even regional level. Furthermore the built of an infrastructure might be delayed due to technical or topographic problems. These problems must be addressed in an adequate manner and should be discussed with the regulatory authority concerned.

Amendment 349 **Toine Manders**

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The Commission's approval of an exemption decision shall ***be reviewed*** after five years.

Or. en

Justification

Major infrastructure projects such as interconnectors, LNG terminals or storage facilities usually have long lead times (for example due to complicated planning and permitting processes) and may well exceed the time limits in the proposed text. The application of the proposed time limit clause that will change the conditions of an approved investment case will thus add a significant additional risk to natural gas undertakings that already carry a high level of risk, thus creating additional

Amendment 350
Paul Rübzig

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The Commission's approval of an exemption decision shall lose its effect after **five** years from its adoption if construction of the infrastructure has not yet started. ***This period may be prolonged by the Commission if it can be demonstrated that, despite all reasonable endeavours to commence construction works in time, there were specific reasons for a delay.***

Or. en

Justification

The Commission's approval to exemption decisions should not be time limited. Very often network operators are not able to realise project within the planned time schedule for reasons which are beyond their control (e.g. complaint before court in connection with EIA permit requirements).

Amendment 351
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The Commission's approval of an exemption decision shall lose its effect after **five** years from its adoption if construction of the infrastructure has not yet started, ***unless the investor can prove that such delay is caused by third parties***

and after five years if the infrastructure has not become operational.

beyond its control. When exercising its powers under this Article, the Commission shall undertake prior consultations with the Agency.

Or. en

Justification

The Commissions approval to exemption decisions should only be limited by 5 years, as big infrastructure programmes need more than 2 years in order to be developed. Even if the construction has not been started within 5 years because of reasons laying at a third part the approval to exemption, that approval of exemption will not lose effect.

Amendment 352

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

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

Or. ro

Justification

In general, the completion of a large-scale infrastructure project in the gas sector passing through several countries may take longer than five years. It follows that a five-year time-limit for exemption decisions to lose their effect in case of non-operationality is excessively short.

Amendment 353
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The Commission's approval of an exemption decision shall lose its effect after two years from its adoption if construction of the infrastructure has not yet started, and after five years if the infrastructure has not become operational, ***unless, the failure to start construction or to begin the operation of the infrastructure (as the case may be) is the result of circumstances beyond control of the person to whom the exemption has been granted.***

Or. en

Justification

While it is clearly desirable that parties in receipt of an exemption construct the exempted infrastructure promptly after the grant of such exemption, the automatic termination of an exemption because construction of the infrastructure had not started, or commercial operation had not commenced as a result of circumstances beyond the developer's control would represent a major risk to potential developers of the infrastructure. This will remove the disincentive to investment.

Amendment 354
Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

"5a. Conditions of an exemption approval granted under this Article shall not be

changed retrospectively without the agreement of all parties concerned."

Or. en

Justification

Conditions of exemption approvals should not be changed retrospectively unless all parties involved in granting the exemption (holder of the exemption, NRA and Commission) agree.

Amendment 355

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission may adopt guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3). ***deleted***

Or. de

Justification

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

Amendment 356
Erika Mann

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission may adopt guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).

deleted

Or. en

Amendment 357
Christian Ehler

Proposal for a directive – amending act
Article 1 – point 13
Directive 2003/55/EC
Article 22 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission may **adopt** guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).

6. The Commission may **amend** guidelines for the application of the conditions mentioned in paragraph 1 and to set out the procedure to be followed for the application of paragraphs 4 and 5. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 30 (3).

Or. de

Justification

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

Amendment 358

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 13

Directive 2003/55/EC

Article 22 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

"6a. When exercising its powers under this Article, the Commission shall undertake prior consultations with the Agency."

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 359

Toine Manders, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 13 a (new)

Directive 2003/55/EC

Article 24 – paragraph 1 – point (b)

Text proposed by the Commission

Amendment

(13a) In Article 24(1), point (b) shall be replaced by the following:

"(b) any such eligible customer within their territory to be supplied through a direct line by natural gas undertakings or customers."

Or. en

Justification

A gas pipe, linking a natural gas undertaking with an eligible customer can also exist between a customer and an eligible customer. In that case the latter is not directly connected to the gas distribution system, but connected via another customer. The amendment enables Member States to ensure that a customer located between the distribution system and another customer, is not burdened with typical duties for distribution system operators.

Amendment 360
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24a – paragraph 3 – point (a)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

A 5-year term of office of the national regulator should be renewable once, given the long-term nature and need for stability in the energy market; longer appointments should be non-renewable.

Amendment 361
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24a – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

A 5-year term of office of the national regulator should be renewable once, given the long-term nature and need for stability in the energy market; longer appointments should be non-renewable.

Amendment 362
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24a – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

(b) its management is appointed for a term of at least five years ***and at most ten years; any appointment for a term of five years only shall be renewable once, while any longer term of office shall be non-renewable; the management*** may only be relieved from office during its term if it no

longer fulfils the conditions set out in this Article or it has been guilty of serious misconduct.

Or. en

Justification

A 5-year term of office of the national regulator should be renewable once, given the long-term nature and need for stability in the energy market; longer appointments should be non-renewable.

Amendment 363
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24a – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

Where the term of office is at least five years, it should be possible to renew this term once for a further five years.

Amendment 364

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24a – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

Where the national regulator is appointed for at least five years, it should be possible to renew this period once by up to a further five years, since the gas market generally calls for long-term decision-making and requires a certain degree of stability. Longer periods of office should not be renewable.

Amendment 365

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24a – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

(b) its ***chairmen and vice-chairmen are*** appointed for ***a fixed term of at least five years, renewable once***, and may only be relieved from office during ***their*** term if ***they*** no longer ***fulfil*** the conditions set out in this Article or ***they have*** been guilty of serious misconduct.

Justification

A five-year appointment should be made only at the authority's highest management level, i.e., normally, that of the chairmen and vice-chairmen. In these cases it should be possible to renew a term of office, once only. Civil servants should be enabled to continue their institutional careers, provided there is no reason to stop them doing so and they do not wish to leave the institution.

Amendment 366
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

"3a. The Commission shall adopt minimum standards on transparency and accountability of national regulatory authorities through the adoption of guidelines to ensure full and effective compliance of national regulatory authorities with paragraphs 1 and 2. These measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3)."

Or. en

Justification

To ensure the effective opening up of the internal market in electricity National Regulatory authorities must be subject to minimum standards on transparency and accountability that allow them to effectively monitor the electricity market.

Amendment 367

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

"3a. The Commission shall adopt minimum standards on transparency and accountability of national regulatory authorities through the adoption of guidelines to ensure full and effective compliance of national regulatory authorities with paragraphs 1 and 2. These measures designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3)."

Or. en

(Adding a new paragraph after paragraph 3 of Article 22a of Directive 2003/55/EC)

Justification

A 5-year term of office of the national regulator should be renewable once, given the long-term nature and need for stability in the energy market; longer appointments should be non-renewable.

Amendment 368

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b

Text proposed by the Commission

Amendment

In carrying out the regulatory tasks specified in this Directive, the regulatory authority shall take all reasonable measures

In order to achieve the objectives of ensuring effective and undistorted competition in the supply of gas and of

to achieve the following objectives:

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

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

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

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

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

securing the long-term, efficient and reliable operation of natural gas networks, such networks shall be regulated. Except where other national authorities, in particular competition authorities, are responsible for the tasks specified in this Directive, the regulatory authority shall take all reasonable measures to achieve the following objectives:

b) the development of competitive and properly functioning regional markets within the Community in view of the achievement of the objective mentioned in point (a) ***by means of appropriate cross-border structures for network access and network use;***

c) the development of appropriate cross border transmission capacities to meet demand, enhance integration of national markets ***with a view to suppressing restrictions to natural gas trade between the Member States and guaranteeing a level of interconnection capacities within the region, and where appropriate within neighbouring regions, consistent with developing effective competition;***

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

foster market integration;

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

foster market integration;

f) ensuring the prompt integration of network users.

Or. de

Justification

It is logical that the achievement of efficient operation of the market and effective competition should head the list of tasks. The allocation of environmental tasks is out of place among the internal market provisions, and the list of tasks should be tidied up accordingly. Instead, a reference might be made in the recitals to the Commission's environmental package and other relevant legislation.

Amendment 369 **Angelika Niebler**

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b –introductory part

Text proposed by the Commission

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

Amendment

In carrying out the regulatory tasks specified in this Directive, the regulatory authority, ***except where this is the responsibility of other national authorities, in particular competition authorities,*** shall take all reasonable measures to achieve the following objectives:

Or. de

Justification

The priorities of regulatory authorities should include securing the long-term, efficient and reliable operation of natural gas networks. It is also necessary to demarcate their tasks from those of competition authorities.

Amendment 370

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (a)

Text proposed by the Commission

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

Amendment

(a) the promotion, in close cooperation with the Agency, regulatory authorities of other Member States and the Commission, of a competitive, secure and environmentally sustainable internal gas market within the Community, and effective market opening for all consumers and suppliers in the Community ***by ensuring that users derive maximum benefit therefrom in terms of choice, price and quality;***

Or. en

Justification

It should be highlighted that opening the market should lead to benefits for the end users, both consumers and industrial users. Opening the market should not be an aim on its own, but indeed should lead to benefits in terms of choice, quality and price. Furthermore, this amendment specifies that these benefits should be in terms of choice, price and quality of services.

Amendment 371

Angelika Niebler

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (a)

Text proposed by the Commission

a) the promotion, in close cooperation with the Agency, regulatory authorities of other Member States and the Commission, of a competitive, secure and environmentally

Amendment

a) the promotion, in close cooperation with the Agency, regulatory authorities of other Member States and the Commission, of a competitive, secure and environmentally

sustainable internal gas market within the Community, and effective market opening for all consumers and suppliers in the Community;

sustainable internal gas market within the Community, and effective market opening for all consumers and suppliers in the Community, ***and securing the long-term, efficient and reliable operation of energy supply networks;***

Or. de

Justification

The priorities of regulatory authorities should include securing the long-term, efficient and reliable operation of natural gas networks. It is also necessary to demarcate their tasks from those of competition authorities.

Amendment 372

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (c)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

National regulatory authorities should work to suppress regulatory restrictions to natural gas trade across the EU. Whilst the authorities may have some influence it has no power to resolve other restrictions, e.g. legal, contractual

Amendment 373
Angelika Niebler

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24b – point (c)

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

The priorities of regulatory authorities should include securing the long-term, efficient and reliable operation of natural gas networks. It is also necessary to demarcate their tasks from those of competition authorities.

Amendment 374
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24b – point (d)

Text proposed by the Commission

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

Amendment

(d) ensuring the development of secure, reliable and efficient systems, promoting energy efficiency ***and the proactive integration of both large scale renewables and decentralised energy generation***, system adequacy and research and innovation to meet ***these demands***;

Or. en

Justification

Renewable and decentralised energies needs to be very actively promoted must be a clear policy objective of the regulatory authority.

Amendment 375

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (d)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Energy efficiency, renewables and low carbon technology must be taken into account by national regulatory authorities, but there is no need to add an explicit duty to promote these, which would conflict with the NRA's role as an economic (& competition) regulator.

Amendment 376

Nikolaos Vakalis

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (f)

Text proposed by the Commission

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

Amendment

(f) ensuring ***customer benefits through*** the efficient functioning of their national market and ***the promotion of*** effective competition in cooperation with

competition authorities.

competition authorities.

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 377

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (f a) (new)

Text proposed by the Commission

Amendment

"(fa) ensuring that consumers, including energy poor consumers, derive maximum benefit in terms of choice, price and quality."

Or. en

Justification

It should be highlighted that opening the market should lead to benefits for the end users, both consumers and industrial users. Opening the market should not be an aim on its own, but indeed should lead to benefits in terms of choice, quality and price. Furthermore, this amendment specifies that these benefits should be in terms of choice, price and quality of services.

Amendment 378

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24b – point (f a) (new)

Text proposed by the Commission

Amendment

"(fa) ensuring the protection of consumers, especially those considered vulnerable, as well as the accessibility of natural gas supply services."

Or. ro

Justification

The directive has as its objective the opening-up of the market with a view to offering better-quality and more affordable services in the wake of increasing competition. The consumer must therefore be located at the heart of the regulatory authorities' policies.

Amendment 379
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 - introductory part

Text proposed by the Commission

Amendment

1. The regulatory authority shall have the following duties:

1. The regulatory authority shall have the following duties ***without prejudice to the competences of other national authorities:***

Or. de

Justification

On the demarcation of the competences of regulatory and competition authorities, cf. justification to Amendment on Article 24b.

Amendment 380
Giles Chichester

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (a)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Wording needs to be strengthened in order to emphasise the duty of the regulatory authorities in relation to unbundling, which is such a key element of the 3rd Package. Explicit mention of this duty, coupled with the probability of review by the Agency of this aspect and issuing of a formal opinion to the Commission or an individual national regulator, will help ensure compliance.

Amendment 381
Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (a)

Text proposed by the Commission

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

Amendment

(a) ensuring compliance of transmission, distribution, **LNG and storage** system operators, and where relevant system owners, as well as of any natural gas undertakings, with their obligations under this Directive and other relevant

as regards cross border issues;

Community legislation, including as regards cross border issues ***and unbundling***;

Or. en

Justification

Wording needs to be strengthened in order to emphasise the duty of the regulatory authorities in relation to unbundling, which is such a key element of the 3rd Package. LNG and storage operators should not be excluded.

Amendment 382
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (a)

Text proposed by the Commission

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

Amendment

does not affect EN version

Or. de

Justification

On the demarcation of the competences of regulatory and competition authorities, cf. justification to Amendment on Article 24b.

Amendment 383

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (b)

Text proposed by the Commission

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

Amendment

(b) cooperating on cross-border issues with the regulatory authority or authorities of those Member States ***and the Agency, including ensuring that transmission system operators jointly and severally build sufficient interconnection capacity between their transmission infrastructure to satisfy an efficient overall market assessment and gas security of supply criteria without discriminating between suppliers in different Member States;***

Or. en

Justification

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

Amendment 384

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (b)

Text proposed by the Commission

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

Amendment

(b) cooperating on cross-border issues with the regulatory authority or authorities of those Member States, ***including ensuring that there is sufficient interconnection***

capacity between transmission infrastructures to satisfy an efficient overall market assessment and gas security of supply criteria, without discrimination between supply undertakings in different Member States;

Or. en

Justification

Wording needs to be strengthened in order to spell out a key objective of such cooperation, that decisions on investment and use of infrastructure must take equal account of customers within the national boundary and those using interconnected systems.

Amendment 385

Edit Herczog

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

The agency should be involved in all cross border activities to ensure transparent and fair practices and sufficient levels of investment we should not allow a regulatory gap to develop in relation to cross border and regional markets.

Amendment 386
Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 387
Giles Chichester

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (e)

Text proposed by the Commission

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

Amendment

(e) **monitoring compliance with unbundling requirements under this Directive and other relevant Community legislation and** ensuring that there are no cross subsidies between transmission, distribution, storage, LNG and supply activities;

Or. en

Justification

Wording needs to be strengthened in order to emphasise the duty of the regulatory authorities in relation to unbundling, which is such a key element of the 3rd Package. Explicit mention of this duty, coupled with the probability of review by the Agency of this aspect and issuing of a formal opinion to the Commission or an individual national regulator, will help ensure compliance.

Amendment 388
Alejo Vidal-Quadras

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (e)

Text proposed by the Commission

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

Amendment

(e) ***monitoring compliance with unbundling requirements under this Directive and other relevant Community legislation and*** ensuring that there are no cross subsidies between transmission, distribution, storage, LNG and supply activities;

Or. en

Justification

Wording needs to be strengthened in order to emphasise the duty of the regulatory authorities in relation to unbundling, which is such a key element of the 3rd Package.

Amendment 389
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (f)

Text proposed by the Commission

(f) reviewing investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plan of the transmission system operators as regards its consistency with the European wide 10-year network development plan mentioned in Article 2c of Regulation (EC) No 1775/2005;

Amendment

(f) reviewing investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plan of the transmission system operators as regards its consistency with the European wide 10-year network development plan mentioned in Article 2c of Regulation (EC) No 1775/2005; ***the investment plans of transmission system operators shall ensure that the skills and number of the***

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

Or. en

Justification

Regulatory authorities must be responsible for ensuring ten year investment plans include provisions to ensure the workforce is capable of meeting any public service obligations as set out in this directive. There must be effective, appropriate and dissuasive sanctions in place to use against gas undertakings in cases of non-compliance with any of the obligations set out in this Directive.

Amendment 390

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (g)

Text proposed by the Commission

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

Amendment

(g) monitoring network security and reliability, ***setting or approving standards and requirements for quality of service and supply*** and reviewing ***performances for quality of service and supply*** network security and reliability rules;

Or. en

Justification

Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers, who will then have a real benefit from more consistent and transparent regulation.

Amendment 391
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (g)

Text proposed by the Commission

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

Amendment

(g) monitoring network security and reliability, ***setting or approving standards and requirements for quality of service and supply*** and reviewing ***performances for quality of service and supply*** network security and reliability rules;

Or. en

Justification

Regulatory authorities must be able to monitor quality of service, in conjunction with network security and reliability to ensure that public service obligations are met.

Amendment 392
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (g)

Text proposed by the Commission

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

Amendment

(g) monitoring network security and reliability, ***setting or approving standards and requirements for quality of service and supply*** and reviewing ***performances for quality of service and supply*** network security and reliability rules;

Or. en

Justification

Regulatory authorities must be able to monitor quality of service, in conjunction with network security and reliability to ensure that public service obligations are met.

Amendment 393

Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (g)

Text proposed by the Commission

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

Amendment

(g) monitoring network security and reliability, ***setting or approving standards and requirements for quality of service and supply*** and reviewing ***performances for quality of service and supply***, network security and reliability rules;

Or. en

Justification

Some national regulatory authorities have already this duty to monitor the functioning of the electricity market also in terms of quality of supply and services to consumers, who will then have a real benefit from more consistent and transparent regulation.

Amendment 394

Erika Mann

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (h)

Text proposed by the Commission

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

Amendment

(h) monitoring the level of transparency, ensuring compliance of ***transmission system operators*** with transparency obligations;

Amendment 395
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (h)

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

On the demarcation of the competences of regulatory and competition authorities, cf. justification to Amendment on Article 24b.

Amendment 396
Erika Mann

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (i)

Text proposed by the Commission

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

Amendment

deleted

*relevant cases to the attention of the
relevant competition authorities;*

Or. en

Amendment 397
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (i)

Text proposed by the Commission

Amendment

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

deleted

Or. de

Justification

*On the demarcation of the competences of regulatory and competition authorities, cf.
justification to Amendment on Article 24b.*

Amendment 398
Toine Manders

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (i)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 399

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (i a) (new)

Text proposed by the Commission

Amendment

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

practices;"

Or. en

Justification

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

Amendment 400
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (i a) (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 401
Britta Thomsen

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (i a) (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 402
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (i a) (new)

Text proposed by the Commission

Amendment

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

national competition authorities of such practices;"

Or. en

Justification

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

Amendment 403

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (i b) (new)

Text proposed by the Commission

Amendment

"(ib) recognising contractual freedom with regards to long-term contracts and the possibility to conclude asset-based contracts providing that such contracts are compatible with existing Community legislation;"

Or. en

Justification

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

Amendment 404

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (j)

Text proposed by the Commission

Amendment

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

(j) monitoring the time taken by transmission and distribution undertakings to make connections and repairs ***and imposing sanctions in accordance with the guidelines issued by the Agency if these time periods are exceeded without due cause;***

Or. en

Justification

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

Amendment 405

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (j)

Text proposed by the Commission

Amendment

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

(j) monitoring the time taken by transmission and distribution undertakings to make connections and repairs ***and imposing sanctions in accordance with the guidelines issued by the Agency if these time periods are exceeded without due cause.***

Or. en

Justification

To effectively protect consumers the provisions set out in Annex A need to be enforceable and Regulatory Authorities must have effective, appropriate and dissuasive sanctions in place to use against electricity undertakings in cases of non-compliance with any of the obligations set out in this Directive.

Amendment 406
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (k)

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

Although the difference between 'monitoring' and 'reviewing' is not explained in the text, this addition could create a legal basis for new and specific 'ex ante' powers in relation to storage, linepack and ancillary services. This runs counter to the rules enabling Member States to authorise negotiated access by third parties (Article 19(3)). These unregulated market mechanisms for third-party access to storage services are an incentive to investment and should be retained.

Amendment 407
Nikolaos Vakalis

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Social policy measures such as the establishment of high standards of universal and public service belong foremost to governments, in as far as they do not involve retail market regulation. Still, NRAs should monitor such standards so as to ensure an adequate level of protection of electricity consumers.

Amendment 408

Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

(l) without prejudice to the competence of other national regulatory authorities, **monitoring** high standards of public service for natural gas, the protection of vulnerable customers;

Or. en

Justification

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

Amendment 409

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

(l) without prejudice to the competence of other national regulatory authorities, **monitoring** high standards of public service for natural gas, the protection of vulnerable customers.

Or. de

Justification

Some tasks should first and foremost be carried out by national governments, since they deal more with social policy measures than with retail market regulation. The regulatory authorities do not feel they are in a position to determine social policy.

Amendment 410

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

On the demarcation of the competences of regulatory and competition authorities, cf. justification to Amendment on Article 24b.

Amendment 411
Toine Manders

Proposal for a directive – amending act
Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

(l) without prejudice to the competence of other national regulatory authorities, ensuring, ***across the European Union, even and transparent*** high standards of public service for natural gas ***consumers, including households, and ensuring*** the protection of vulnerable customers, and that ***all*** consumer protection measures set out in Annex A are effective;

Or. en

Justification

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

Amendment 412
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

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

Justification

To effectively protect consumers the provisions set out in Annex A need to be enforceable and Regulatory Authorities must have effective, appropriate and dissuasive sanctions in place to use against electricity undertakings in cases of non-compliance with any of the obligations set out in this Directive.

Amendment 413

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l)

Text proposed by the Commission

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

Amendment

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

Justification

To effectively protect consumers the provisions set out in Annex A need to be enforceable and Regulatory Authorities must have effective, appropriate and dissuasive sanctions in place to use against electricity undertakings in cases of non-compliance with any of the obligations set out in this Directive.

Amendment 414

Nikolaos Vakalis

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l a) (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

'Measures on consumer protection' set out in Annex A must be effectively enforced by the NRAs.

Amendment 415
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (l a) (new)

Text proposed by the Commission

Amendment

"(la) ensuring that customer protection measures set out in Annex A are effective;"

Or. en

Justification

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

Amendment 416

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (l a) (new)

Text proposed by the Commission

Amendment

‘(la) ensuring that the customer protection measures set out in Annex A are effective.’

Or. de

Justification

The regulatory authorities should be responsible for ensuring the effective implementation of the provisions in Annex A. It should at least be made clear that responsibility for the implementation of the consumer protection provisions of Annex A lies with the regulatory authorities. Hence the proposal to create a new sub-paragraph for this purpose.

Amendment 417

Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (n)

Text proposed by the Commission

Amendment

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

(n) ***establishing standardised procedures on relationships between final customer and supplier or distributor, or metering system operator, which would deal at least with*** access to customer consumption data, the application of a harmonised format for consumption data and the access to data under *point (h)* of Annex A;

Or. en

Justification

Granting access to actual consumption data is a prerequisite for customers to manage energy efficiency or to be able to make like for like comparisons of suppliers. As they already consult with the stakeholders concerned and are responsible for monitoring energy retail markets, regulators would be the relevant authorities to address the relationship between DSOs, suppliers and customers (including rules, responsibilities, contractual arrangements, data exchange agreements, quality guarantees).

Amendment 418 **Toine Manders**

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (n)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Consumers pay their gas in advance, e.g. every month. Often this upfront payment does not reflect the actual consumption by the consumer. Energy companies therefore receive an interest free loan from consumers. With new technologies - such as smart metering - energy companies can ask for more adequate pre payments.

Amendment 419
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (o a) (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 420
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (o a) (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 421
Mary Honeyball

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (o a) (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 422
Claude Turmes, Rebecca Harms

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 1 – point (o b) (new)

Text proposed by the Commission

Amendment

"(ob) imposing price caps in uncompetitive markets for a defined and limited period in order to protect customers against market abuse; the price caps shall be fixed at a sufficiently high level so as not to discourage new entry and expansion of existing competitors;"

Or. en

Justification

NRAs must be able to impose price caps where there is excessive market power, but these

must be sufficiently high so as not to discourage new entry and expansion of existing competitors and the development of the internal market in gas.

Amendment 423

Eluned Morgan

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (o b) (new)

Text proposed by the Commission

Amendment

"(ob) imposing price caps in uncompetitive markets for a defined and limited period in order to protect customers against market abuse; the price caps shall be fixed at a sufficiently high level so as not to discourage new entry and expansion of existing competitors;"

Or. en

Justification

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

Amendment 424

Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (p)

Text proposed by the Commission

Amendment

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

(p) monitoring the correct application of the criteria ***according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to***

provide efficient access to the system for the supply of customers.

Or. fr

Justification

To ensure consistency with the new provisions of Article 19(1) requiring Member States to 'define and publish criteria according to which it may be determined whether access to storage facilities and linepack is technically and/or economically necessary in order to provide efficient access to the system for the supply of customers'.

Amendment 425

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (p a) (new)

Text proposed by the Commission

Amendment

"(pa) ensuring that rate structure for the final consumers does not induce energy consumption."

Or. en

Justification

To ensure that energy efficiency is encouraged, so-called “progressive tariffs” should be made available to all gas consumers. These avoid the common “binomial” rate structure (fixed and proportional payment) where the energy used tends to be cheaper the more one consumes. The contrary should be mandatory. Either strict proportional or other innovative rates should be imposed as a general rule by regulators.

Amendment 426

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (p a) (new)

Text proposed by the Commission

Amendment

"(pa) setting and adhering to transparent and objective criteria for the regulation of the internal gas market."

Or. en

Amendment 427

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 1 – point (p b) (new)

Text proposed by the Commission

Amendment

"(pb) publishing the procedure to be followed in the event that market participants wish to appeal against their decisions."

Or. en