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AMENDMENTS 428 - 558

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 428
Erika Mann

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 2 – point c

Text proposed by the Commission

(c) without prejudice to the procedure under paragraph 2c of Article 9, for the first ten year network development plan, approve the investments planning and the multi-annual network development plan presented ***on a yearly basis*** by the independent system operator;

Amendment

(c) without prejudice to the procedure under paragraph 2c of Article 9, for the first ten year network development plan, approve the investments planning and the multi-annual network development plan presented ***every two years*** by the independent system operator;

Or. en

Amendment 429
Erika Mann

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

Text proposed by the Commission

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

- (a) to issue binding decisions on ***gas undertakings***;
- (b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets, ***and to decide, in the absence of violations of competition rules,, of any***

Amendment

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

- (a) to issue binding decisions on ***network operators***;
- (b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets;

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

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

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

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

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

(c) to request any information from ***network operators*** relevant for the fulfilment of its tasks;

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

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

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

Or. en

Justification

The aim of this directive is to create a level-playing field for gas-to-gas competitors on the EU-market. It is necessary to keep a clear distinction between regulatory and competition authorities.

Amendment 430 Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that regulatory authorities are granted the ***powers*** enabling them to ***carry out the duties*** referred to in paragraph 1 and 2 in an efficient and expeditious manner. For

Amendment

3. Member States shall ensure that regulatory authorities are granted the ***competences*** enabling them to ***comply with the tasks*** referred to in paragraph 1 and 2 in an efficient and expeditious manner. For

this purpose, the regulatory authority shall have at least the following **powers**:

this purpose, the regulatory authority shall have at least the following **competences**:

Or. de

Justification

The Commission proposal empowers national regulatory authorities to take structural measures against energy undertakings and weaken their market position, even when they have not committed any breach of competition rules. It is hard to see why regulatory authorities' powers of intervention should be subject to fewer conditions than those of the anti-trust authorities originally responsible for reporting violations of competition.

Amendment 431

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – introductory part

Text proposed by the Commission

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

Amendment

3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties **within a defined framework** referred to in paragraph 1 and 2 in an efficient and expeditious manner. **The** regulatory authority shall have **the right, within a defined framework compatible with national regulation**:

Or. en

Amendment 432

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – introductory part

Text proposed by the Commission

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

Amendment

3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties ***within a defined framework*** referred to in paragraph 1 and 2 in an efficient and expeditious manner. **The** regulatory authority shall have ***the right, within a defined framework compatible with national regulation:***

Or. en

Justification

Regulators should be accountable for ensuring compliance with regulations within a defined legal framework (based on this Directive) and within their national legal mandate.

Amendment 433

Toine Manders

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 –introductory part

Text proposed by the Commission

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

Amendment

3. Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties ***within the defined framework*** referred to in paragraph 1 and 2 ***and within their legal national mandate*** in an efficient and expeditious manner. **The** regulatory authority shall have at least the following powers:

Or. en

Amendment 434
Angelika Niebler

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (a)

Text proposed by the Commission

Amendment

(a) to issue binding decisions on **gas undertakings**;

(a) to issue binding decisions on **network operators**;

Or. de

Justification

Measures should be taken only in the event of a genuine breach of regulatory provisions. Gas release is a policy that should be rejected.

Amendment 435
Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (a)

Text proposed by the Commission

Amendment

(a) to issue binding decisions on **gas undertakings**;

(a) to issue binding decisions on **network operators**;

Or. de

Justification

The Commission proposal empowers national regulatory authorities to take structural measures against energy undertakings and weaken their market position, even when they have not committed any breach of competition rules. It is hard to see why regulatory authorities' powers of intervention should be subject to fewer conditions than those of the anti-trust authorities originally responsible for reporting violations of competition.

Amendment 436
Angelika Niebler

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

Text proposed by the Commission

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

Amendment

(b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets, and to decide, in the absence of violations of **regulatory provisions**, of any appropriate measures necessary and proportionate to promote effective **network operation**;

Or. de

Justification

Measures should be taken only in the event of a genuine breach of regulatory provisions. Gas release is a policy that should be rejected.

Amendment 437
Herbert Reul

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

Text proposed by the Commission

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

Amendment

(b) to carry out in cooperation with the national competition authority **studies on** the functioning of gas markets;

functioning of the market, including gas release programs;

Or. de

Justification

The Commission proposal empowers national regulatory authorities to take structural measures against energy undertakings and weaken their market position, even when they have not committed any breach of competition rules. It is hard to see why regulatory authorities' powers of intervention should be subject to fewer conditions than those of the anti-trust authorities originally responsible for reporting violations of competition.

Amendment 438
Norbert Glante

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

The Commission proposal empowers the regulatory authorities to take structural measures against energy undertakings as they see fit. It is hard to see why such measures should be permitted where there has been no breach of competition rules.

Amendment 439
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

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

Or. fr

Justification

In the absence of a clear framework for competition, this proposal would give the regulatory authorities an absolute and unpredictable power to intervene in the market, thus trespassing on the powers of the national competition authorities. Apart from the fact that "gas release" is a false panacea (with artificial supply sources and gas actually being sold on terms differing from the target market), this unregulated power would run counter to the aim of harmonising the rules applying to the internal market.

Amendment 440
Alyn Smith

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

(b) to ***carry out in cooperation*** with the national competition authority investigations ***of*** the functioning of gas markets, ***and to decide, in the absence of***

Amendment

(b) to ***cooperate*** with the national competition authority ***as regards*** investigations ***into*** the functioning of gas markets ***and to take*** any appropriate

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

measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market;

Or. en

Justification

Regulators should be accountable for ensuring compliance with regulations within a defined legal framework. There should be a transparent appeals process that can be used in the event that the regulators findings are challenged. Competition rules should be enforced by competition authorities and not by the regulator acting independently. To promote investment, the framework within which regulators will work needs at least to be transparent and certain.

Amendment 441

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

(b) to ***cooperate*** with the national competition authority ***on*** investigations ***into*** the functioning of gas markets, and to decide, ***based on such investigations and within their legal national mandate, on*** any appropriate measures necessary and proportionate to ***ensure compliance with the obligations under this Directive or any decisions of the regulatory authority or of the Agency;***

Or. en

Justification

Competition rules should be enforced by competition authorities and not by the regulator acting independently.

Amendment 442
Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

(b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets, and to decide, ***in the event of violation of regulation rules***, of any appropriate measures necessary and proportionate to promote effective ***grid operation***;

Or. en

Justification

In general, the rules of competition law on EU as well as on national level to be applied in case of market power abuse are adequate and should not be scooped out by the proposed wording. Adequacy of measures as a rule of thumb is not required. Gas release programs would create a market in parallel to the gas stock markets reducing liquidity of the latter. The rule creates major uncertainty for investors.

Amendment 443
Toine Manders

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

(b) to carry out in cooperation with the national competition authority ***on*** investigations ***into*** the functioning of gas

markets, and to decide, *in the absence of violations of competition rules, of any appropriate* measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, including gas release programs;

markets, and to decide, *based on such investigations, on* any measures necessary and proportionate to promote effective competition and to ensure the proper functioning of the market, including gas release programs;

Or. en

Justification

Under most judicial systems within the European Union, a legal court will only be able to check if the regulator has followed the right process in coming to a decision (marginal check).

Amendment 444 **Eluned Morgan**

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

Text proposed by the Commission

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

Amendment

(b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets, and to decide, in the absence of violations of competition rules, of any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, including gas release programs; *to ensure that a truly competitive market shall be established within the Union by mandating incremental release of gas at real cost so that by 2020 no individual company may account for more than a 20% share of any relevant market; the relevant market shall be defined by the Commission;*

Or. en

Justification

To ensure there is no dominance in a specified market, by one or more player, NRAs shall have the powers to limit the share of market to 20% for a gas undertaking. This will open up the markets in member states, in particular those with dominant market players, who have been in several cases been guilty of abuse of power, and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand, allowing for company growth.

Amendment 445 Giles Chichester

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (b)

Text proposed by the Commission

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

Amendment

(b) to carry out in cooperation with the national competition authority investigations of the functioning of gas markets, and to decide, in the absence of violations of competition rules, of any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, including gas release programs; ***to ensure that a truly competitive market within the Union shall be established by mandating incremental release of gas at real cost so that by 2020 no individual company may account for more than a 50% share of any relevant market; the relevant market shall be defined by the Commission;***

Or. en

Justification

To ensure there is no dominance in a specified market, by one or more player, NRAs shall have the powers to limit the share of market to 50% for a gas undertaking. This will open up the markets in member states, in particular those with dominant market players, who have been in several cases been guilty of abuse of power, and ensure fair access to other market players. As markets become more integrated, the geographic size of the market will expand,

allowing companies to grow.

Amendment 446
Toine Manders

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

Text proposed by the Commission

Amendment

"(ba) in the absence of violation of competition rules, to take measures if less than 20% of the inflow of gas nominated at the entry points into a Member State or relevant market is offered to the wholesale market through a transparent and non-discriminatory process, e.g. an exchange;"

Or. en

Justification

This amendment envisages to facilitate market access for new and smaller gas companies and to create more transparency in pricing on the gas market.

Amendment 447
Alejo Vidal-Quadras

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

Text proposed by the Commission

Amendment

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

(c) to ***obtain*** any information from natural gas undertakings relevant for the fulfilment of its tasks, ***including justifications for refusal to grant third party access, and any information on measures necessary to reinforce the network; and to cooperate***

with financial market regulators where necessary;

Or. en

Justification

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

Amendment 448

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (c)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 449

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (c)

Text proposed by the Commission

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

Amendment

(c) to request information, **in accordance with the Member States' existing processes for gathering information**, from natural gas undertakings relevant for the fulfilment of its tasks;

Or. en

Amendment 450

Alyn Smith

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 3 – point (d)

Text proposed by the Commission

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

Amendment

(c) to impose appropriate sanctions **on** natural gas undertakings not complying with their obligations under this Directive or any decisions of the regulatory authority or of the Agency;

Or. en

Amendment 451

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – introductory part

Text proposed by the Commission

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

Amendment

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

Justification

Like under the current regulatory regime, Member States shall have the choice to establish a regulatory control over either the tariffs themselves or the tariff methodologies. Moreover, the competence of the regulatory authority to fix the tariffs contradicts to Article 19, according to which access has to be granted on the basis of approved tariffs.

Amendment 452

Giles Chichester

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

(a) connection and access to national networks, including transmission and distribution tariffs, and terms, conditions and tariffs for access to ***linepack, where technically and/or economically necessary in order to provide efficient access to the system for the supply of customers, and to*** LNG facilities. These tariffs ***shall reflect actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable operator and shall be transparent.*** They shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities;

Justification

The wording in (a) addresses a present gap in the Directives/Regulations insofar as there is no requirement for cost-reflectivity in distribution tariffs. The proposed wording extends the present provisions of the Gas Transmission Regulation to gas distribution and LNG facilities (unless exempted). It also moves provision of linepack to a regulated third party access basis,

instead of Member States having the choice of RTPA or negotiated third party access.

Amendment 453

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

(a) connection and access to national networks, including transmission and distribution tariffs, and terms, conditions and tariffs for access to LNG facilities. These tariffs shall ***reflect actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable operator and shall be transparent.*** They allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities;

Or. en

Justification

(a) addresses a present gap in the Directives/Regulations insofar as there is no requirement for cost-reflectivity in distribution tariffs.

Amendment 454

Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

(a) connection and access to national networks, including transmission and distribution tariffs ***and methodologies for their calculation, or alternatively, the methodologies and their monitoring for setting or approving the transmission and distribution tariffs***, and terms, conditions and tariffs for access to LNG facilities ***including methodologies for their calculation, or alternatively, the methodologies and their monitoring for setting or approving the tariffs for access to LNG facilities***. These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities. ***This may cover special regulatory treatment for new investments;***

Or. en

Justification

It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving: transmission and distribution tariffs and their methodologies, or alternatively, the methodologies for setting or approving the transmission and distribution tariffs including the monitoring of the application of the methodologies for the setting of tariffs.

The same shall apply for access to LNG facilities.

Amendment 455

Giles Chichester

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

(a) connection and access to national networks, including transmission and

Amendment

(a) connection and access to national networks, including transmission and

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

distribution tariffs ***and methodologies for their calculation, or alternatively, the methodologies and their monitoring for setting or approving the transmission and distribution tariffs***, and terms, conditions and tariffs for access to LNG facilities ***including methodologies for their calculation, or alternatively, the methodologies and their monitoring for setting or approving the tariffs for access to LNG facilities***. These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities. ***This may cover special regulatory treatment for new investments;***

Or. en

Justification

It is appropriate to ensure that the national regulatory authorities are responsible for setting or approving: transmission and distribution tariffs and their methodologies, or alternatively, the methodologies for setting or approving the transmission and distribution tariffs including the monitoring of the application of the methodologies for the setting of tariffs. The same should apply for access to LNG facilities.

Amendment 456

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

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

allowing these investments to ensure the viability of the networks and LNG facilities;

and tariffs for access to LNG facilities ***including methodologies for their calculation, or alternatively, the methodologies and their monitoring for setting or approving the tariffs for access to LNG facilities.*** These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities. ***This may cover special regulatory treatment for new investments;***

Or. en

Justification

It is appropriate to ensure that NRAs are responsible for setting or approving transmission and distribution tariffs and their methodologies -or alternatively- the methodologies for setting or approving the transmission and distribution tariffs including the monitoring of the application of the methodologies for the setting of tariffs. The same shall apply for access to LNG facilities.

Amendment 457 **Nikolaos Vakalis**

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

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

to LNG facilities. These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities;

Or. en

Justification

It is appropriate to ensure that the NRAs are responsible for setting or approving: a) transmission and distribution tariffs and their methodologies, or alternatively b) the methodologies for setting or approving the transmission and distribution tariffs, including the monitoring of the application of the methodologies for the setting of tariffs.

Amendment 458

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

(a) connection and access to national networks, including transmission and distribution tariffs, and terms, conditions and tariffs for access to LNG facilities **and methodologies for their calculation, or alternatively, the methodologies and their monitoring for setting or approving the transmission and distribution tariffs.** These tariffs shall allow the necessary investments in the networks and LNG facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities;

Or. en

Justification

Transparency of the system must be guaranteed to ensure access for all market actors, and the ability to plan effectively must be ensured by the NRA.

Amendment 459

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Like under the current regulatory regime, Member States shall have the choice to establish a regulatory control over either the tariffs themselves or the tariff methodologies. Moreover, the competence of the regulatory authority to fix the tariffs contradicts to Article 19, according to which access has to be granted on the basis of approved tariffs.

Amendment 460
Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

National regulatory authorities should have the necessary flexibility to set not only tariffs but also the method for calculating the tariffs.

Amendment 461
Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (a)

Text proposed by the Commission

(a) connection and access to national networks, including transmission and distribution tariffs, and terms, conditions and tariffs for access to LNG facilities. These tariffs shall allow the necessary investments in the networks and LNG

Amendment

(a) connection and access to national networks, including transmission and distribution tariffs, and terms, conditions and tariffs for access to LNG facilities. These tariffs shall allow the necessary investments in the networks and LNG

facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities.

facilities to be carried out in a manner allowing these investments to ensure the viability of the networks and LNG facilities. ***These tariffs may also provide for special regulatory treatment for new infrastructures.***

Or. de

Justification

The methodologies and/or the monitoring for setting or approving the transmission and distribution tariffs through the Agency should allow the necessary investments in the networks of the LNG facilities.

Amendment 462
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 4 – point (b)

Text proposed by the Commission

(b) the provision of balancing services.

Amendment

(b) the provision of balancing services, ***which shall be cost reflective and revenue neutral to the extent possible, whilst providing appropriate incentives on network users to balance their input and offtake of gas. They shall be fair and non-discriminatory and based on objective criteria.***

Or. en

Justification

The wording in (b) is based on the ERGEG guidelines for good practice in gas balancing and confirms the principle that TSO's balancing activities should be broadly revenue neutral (subject only to the possibility of performance incentives).

Amendment 463
Alejo Vidal-Quadras

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 4 – point (b)

Text proposed by the Commission

(b) the provision of balancing services.

Amendment

(b) the provision of balancing services
which shall be cost reflective and revenue neutral to the extent possible, whilst providing appropriate incentives on network users to balance their input and offtake of gas. They shall be fair and non-discriminatory and based on objective criteria.

Or. en

Justification

(b) is based on the ERGEG guidelines for good practice in gas balancing and confirms the principle that TSO's balancing activities should be broadly revenue neutral.

Amendment 464
Giles Chichester

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 4 – point (b a) (new)

Text proposed by the Commission

Amendment

"(ba) the provision of gas quality services."

Or. en

Justification

In addition to their role in fixing/approving terms and conditions for connections and balancing services, national regulatory authorities must also oversee/regulate the provision

of gas quality conversion services (again on a RTPA basis), which can otherwise act as a major constraint on new entry/competition.

Amendment 465

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 4 – point (b a) (new)

Text proposed by the Commission

Amendment

"(ba) the provision of gas quality services to the market."

Or. en

Justification

(ba) national regulatory authorities must also oversee/regulate the provision of gas quality conversion services, which can otherwise act as a major constraint on new entry/competition.

Amendment 466

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 5

Text proposed by the Commission

Amendment

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

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

Or. en

Justification

Like under the current regulatory regime, Member States shall have the choice to establish a regulatory control either in form of an approval to the tariffs themselves or the tariff methodologies.

Amendment 467

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 5

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

NRAs must ensure that TSO's balancing activities are conducted in an open and transparent manner to ensure parity for all market actors.

Amendment 468

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 5

Text proposed by the Commission

5. In fixing or approving the tariffs, the regulatory authorities shall ensure that

Amendment

5. In fixing or approving ***the terms and conditions of*** the tariffs ***and the balancing***

network operators are granted adequate incentive, over both the short and long term, to increase efficiencies, foster market integration and support the related research activities.

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

Or. en

Justification

NRAs must ensure that TSO's balancing activities are conducted in an open and transparent manner to ensure parity for all market actors.

Amendment 469

Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 5

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

National regulatory authorities should have the necessary flexibility to set not only tariffs but also the method for calculating the tariffs.

Amendment 470
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 5

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

Incentives for research activities without a specific goal on how to apply research in network business should not be incentivised through tariff setting. Research activity can be seen as a means rather than as a goal and in network tariff regulation incentives should be applied only to goals like efficiency and market integration.

Amendment 471
Erika Mann

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 5

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 472
Nikolaos Vakalis

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 5 a (new)

Text proposed by the Commission

Amendment

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

Transmission system operators shall submit their congestion management procedures, including capacity allocation, for approval to national regulatory authorities. National regulatory authorities may request transmission system operators to modify these rules before approving them."

Or. en

Justification

We need to ensure the efficient coordination between NRAs in the capacity allocation mechanisms and, more generally, in congestion management. Hence the formal approval of the congestion management procedures by regulators needs to be clearly stated, in order to ensure an efficient implementation of Regulation 1228/2003.

Amendment 473
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 5 a (new)

Text proposed by the Commission

Amendment

"5a. The national regulatory authorities

shall monitor congestion management within national electricity systems and interconnectors.

Transmission system operators shall submit their congestion management procedures including capacity allocation for approval to national regulatory authorities. National regulatory authorities may request transmission system operators to modify these rules before approving them."

Or. en

Justification

Hence the formal approval of the congestion management procedures by regulators needs to be clearly stated, in order to ensure an efficient implementation of Regulation 1775//2005.

Amendment 474
Angelika Niebler

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

The market in gas storage and LNG does not constitute a monopoly. Regulation would also jeopardise existing competition and planned investments in the construction of additional

necessary gas storage.

Amendment 475
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

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

Amendment 476
Erika Mann

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 6

Text proposed by the Commission

6. Regulatory authorities shall have the authority to require transmission, **storage**, LNG and distribution system operators, if

Amendment

6. Regulatory authorities shall have the authority to require transmission, LNG and distribution system operators, if necessary,

necessary, to modify the terms and conditions, including tariffs referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner.

to modify the terms and conditions, including tariffs referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner.

Or. en

Amendment 477

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

In order to ensure a competitive market environment as well as security of supply of the Union, regulatory authorities should not have the authority to influence tariffs of storage as this is considered as detrimental to investment in planned or additional storage capacity. Storage as opposed to other network operators is not subject to a natural monopolistic market structure and thus any regulation would undermine competition and investment.

Amendment 478

Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

6. Regulatory authorities shall have the authority to require **infrastructure** operators **subject to a regulated third-party access system as provided for in Article 18, paragraph 4 of Article 19 and Article 20**, if necessary, to modify the terms and conditions, including tariffs referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner.

Or. fr

Justification

Aims to take account of the possibility the directive offers of setting up an unregulated third-party access system in some circumstances (where an exemption is granted under Article 22 or where a Member State opts for a negotiated system for access to storage facilities (Article 19(3))).

Amendment 479
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

6. Regulatory authorities shall have the authority to require **infrastructure** operators **subject to a regulated third-party access system as provided for in Article 18, paragraph 4 of Article 19 and Article 20**, if necessary, to modify the terms and conditions, including tariffs referred to in this Article, to ensure that they are proportionate and applied in a non-

discriminatory manner.

Or. fr

Justification

To take account of the possibility the directive offers of setting up an unregulated third-party access system in some circumstances (where an exemption is granted under Article 22 or where a Member State opts for a negotiated system for access to storage facilities (Article 19(3)).

Amendment 480

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 481
Mary Honeyball

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 482
Paul Rübig

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 6

Text proposed by the Commission

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

Amendment

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

LNG and distribution system operators, if necessary, to modify the terms and conditions, including tariffs referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner.

LNG and distribution system operators, if necessary, to modify the terms and conditions, including tariffs **and methodologies** referred to in this Article, to ensure that they are proportionate and applied in a non-discriminatory manner.

Or. en

Justification

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

Amendment 483

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 7

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 484
Paul Rübzig

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 8

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 485
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 9

Text proposed by the Commission

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

Amendment

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

shall take account of the provisions of the Treaty, and in particular Article 82 thereof.

account of the provisions of the Treaty, and in particular Article 82 thereof.

Or. de

Justification

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

Amendment 486
Alyn Smith

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 12

Text proposed by the Commission

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

Amendment

12. Decisions taken by regulatory authorities shall be *substantiated, proportionate and necessary, with due account taken of the views of the market participants concerned and their existing contractual obligations as well as of the expected costs and benefits of the decision, and shall be published.*

Or. en

Amendment 487
Mary Honeyball

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24c – paragraph 12

Text proposed by the Commission

12. Decisions taken by regulatory

Amendment

12. Decisions taken by regulatory

authorities shall be motivated.

authorities shall be ***duly reasoned and*** motivated.

Or. en

Justification

Clarification of language is necessary so that the independence of the NRA can be assured.

Amendment 488

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 12

Text proposed by the Commission

12. Decisions taken by regulatory authorities shall be motivated.

Amendment

12. Decisions taken by regulatory authorities shall be ***duly reasoned and*** motivated.

Or. en

Amendment 489

Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 13

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

To ensure the independence and integrity of national regulatory decisions, appeals should be undertaken by an independent and neutral body, such as the Courts, which is not subject to private or political influence in line also with Article 24a, 2 which sets out the independence of regulatory authorities from any other public or private entity, market interests or governments. Appeals going through the Courts help to establish the independence of regulatory decisions from political interference.

Amendment 490

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 13

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

To ensure the independence of the regulatory authorities, appeals should be lodged with an independent and neutral authority. This is in line with the provisions of Article 24a(2) on the independence of the regulatory authorities from any public or private entity, market interests and governments. Making the courts the appeal body on decisions of the regulatory authority enhances the independence of these decisions.

Amendment 491

Lambert van Nistelrooij, Dorette Corbey

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 13

Text proposed by the Commission

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

Amendment

13. Member States shall ensure that suitable mechanisms exist at national level under which a party affected by a decision of the national regulatory authority has a right of appeal to a body independent of the parties involved. ***It must be assured that appeal can be made to both the content of the decision and the procedure followed.***

Or. en

Justification

Following the harmonisation of powers en duties of national regulators appeal procedures should also be harmonised.

Amendment 492
Angelika Niebler

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

Text proposed by the Commission

14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

Amendment

deleted

Or. de

Justification

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

Amendment 493
Angelika Niebler

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

Text proposed by the Commission

Amendment

14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). **deleted**

Or. en

Amendment 494
Herbert Reul

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

Text proposed by the Commission

Amendment

14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). **deleted**

Or. de

Justification

The proposed comitology procedure seeks to restrict the influence of the European Parliament. This would remove essential decisions on the form of the internal market in energy from the scope of the democratic legislative procedure. The extent of the transfer of competences to the Commission as a result of using the comitology procedure is inappropriate.

Amendment 495

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 14

Text proposed by the Commission

Amendment

14. The Commission may adopt guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3). ***deleted***

Or. en

Justification

Article 24c(14) shall be deleted for the reason that the respective provision would shift significant powers to the Commission, namely the power to determine the competences of the regulators.

Amendment 496

Christian Ehler

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24c – paragraph 14

Text proposed by the Commission

14. The Commission may **adopt** guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).**n**.

Amendment

14. The Commission may **amend** guidelines on the implementation by the regulatory authorities of the powers described in this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

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 adjustments.

Amendment 497

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24d – paragraph 2

Text proposed by the Commission

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

Amendment

2. Regulatory authorities shall cooperate at least on a regional level to foster the creation of operational arrangements in order to ensure an optimal management of the network, the **effective** allocation of cross-border capacity, and to ensure a level of interconnection capacity within the region **consistent with promoting** effective competition.

Or. de

Justification

To create cross-border competition it is necessary to create the necessary infrastructure conditions, including sufficient interconnection capacity.

The decision to develop gas exchanges as a free, central market place is a matter solely for the markets, and under no circumstances for the regulatory authority.

Amendment 498

Silvia-Adriana Țicău

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24d – paragraph 2

Text proposed by the Commission

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

Amendment

2. Regulatory authorities shall cooperate at least on a regional level to foster the creation of operational arrangements in order to ensure an optimal management of the network, develop joint gas exchanges and the allocation of cross-border capacity, and to ensure a minimum level of interconnection capacity within the region to allow for effective competition to develop. ***Any decision by a regulatory authority impeding the integration of the gas markets at regional level shall be notified to the Commission and to the Agency for the Cooperation of Energy Regulators.***

Or. ro

Amendment 499

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24d – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 500

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24d – paragraph 2 a (new)

Text proposed by the Commission

Amendment

"2a. Regulatory authorities shall have the power to enter into agreements with other regulatory authorities in the Union, to foster regulatory cooperation."

Or. de

Justification

Regulatory authorities need to be empowered under their national legislation to establish agreements with other regulatory authorities in the EU in order to foster greater regulatory cooperation and consistency.

Amendment 501
Anne Laperrouze

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24d – paragraph 2 a (new)

Text proposed by the Commission

Amendment

"2a. National regulatory authorities shall have the right to enter into agreements with other national regulatory authorities within the Union to foster regulatory cooperation."

Or. en

Justification

Regulatory authorities need to be empowered under their national legislation to establish agreements with other EU regulatory authorities in order to foster greater regulatory cooperation and consistency.

Amendment 502
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24d – paragraph 4

Text proposed by the Commission

Amendment

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

deleted

with scrutiny referred to in Article 30(3).

Or. de

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 503

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24e

Text proposed by the Commission

1. Any regulatory authority and the Commission may request the opinion of the Agency on the compliance of a decision taken by a regulatory authority with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005.

2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within four months.

3. Where the regulatory authority which has taken the decision does not comply with the Agency's opinion within four months from the date of receipt, the Agency shall inform the Commission.

4. Any regulatory authority may inform the Commission where it considers that a decision taken by a regulatory authority

Amendment

1. Any regulatory authority and the Commission may request the opinion of the Agency on the compliance of a decision taken by a regulatory authority with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005.

2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within four months.

does not comply with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005 within two months from the date of that decision.

5. Where the Commission, within two months after having been informed by the Agency in accordance with paragraph 3 or by a regulatory authority in accordance with paragraph 4, or on its own initiative within three months from the date of the decision finds that the decision of a regulatory authority raises serious doubts as to its compatibility with guidelines referred to in this Directive or in Regulation (EC) No 1775/2005, the Commission may decide to initiate proceedings. In such a case, it shall invite the regulatory authority and the parties to the proceedings before the regulatory authority to submit comments.

6. Where the Commission has decided to initiate proceedings, it shall, within not more than four months of the date of such decision, issue a final decision:

(a) not to raise objections against the decision of the regulatory authority;

or

(b) requiring the regulatory authority concerned to amend or withdraw its decision if it considers that guidelines have not been complied with.

7. Where the Commission has not taken a decision to initiate proceedings or a final decision within the time-limits set in paragraphs 5 and 6 respectively, it shall be deemed not to have raised objections against the decision of the regulatory authority.

8. The regulatory authority shall comply with the Commission decision to amend or withdraw their decision within a period of two months and shall inform the Commission accordingly.

9. The Commission shall adopt guidelines setting out the details of the procedure to

be followed for the application of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

Or. en

Justification

The procedure foreseen in Article 24e paragraphs 3 to 9 would institute a system whereby the European Commission would issue final and binding decisions regarding the execution of national law. This infringes the competences of Member States for the execution of national law.

Amendment 504 **Christian Ehler**

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24e – paragraph 2

Text proposed by the Commission

2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within **four** months.

Amendment

2. The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within **two** months.

Or. de

Justification

Shortening of deadline.

Amendment 505
Christian Ehler

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24e – paragraph 9

Text proposed by the Commission

9. The Commission shall **adopt** guidelines setting out the details of the procedure to be followed for the application of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **adopted** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

Amendment

9. The Commission shall **amend** guidelines setting out the details of the procedure to be followed for the application of this Article. This measure designed to amend non-essential elements of this Directive by supplementing it shall be **amended** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

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 adjustments.

Amendment 506
Dominique Vlasto

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

Text proposed by the Commission

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

Amendment

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

LNG operators.

Or. fr

Justification

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

Amendment 507

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

There is no essential reason why authorities should only be authorised to publish stored data which does not concern transactions in financial instruments. Such a provision would discriminate against transactions in gas supply contracts with wholesale customers and transmission system operators as well as LNG operators and substantially disadvantage the market participant involved, thus also erecting a major barrier to market access.

Amendment 508
Christian Ehler

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

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

Cutting red tape

Amendment 509
Alyn Smith

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

Text proposed by the Commission

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

Amendment

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

LNG operators.

operators.

Or. en

Justification

The LNG and storage data requirements are extensive, exceeding those in the current guidelines. Data provision should be meaningful and proportionate and the value of the additional data being sought is questioned.

Amendment 510

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

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

Amendment 511
Dominique Vlasto

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 3

Text proposed by the Commission

Amendment

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

deleted

Or. fr

Justification

Publishing strategic data would adversely affect European importers of gas into the EU , as it would give European non-producers information about conditions affecting their competitors' sales. It should be possible for the data to be provided to the authorities concerned, but not published in that form (a precaution which is already the general rule in other sectors of the economy).

Amendment 512

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 3

Text proposed by the Commission

Amendment

3. The regulatory authority may decide to make available to market participants elements of this information provided that commercially sensitive information on individual market players or individual transactions is not released. This

deleted

paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.

Or. de

Justification

The proposed comitology procedure seeks to restrict the influence of the European Parliament. This would remove essential decisions on the form of the internal market in energy from the scope of the democratic legislative procedure. The extent of the transfer of competences to the Commission as a result of using the comitology procedure is inappropriate. The stored data constitute economically sensitive information which should not be published. For this reason, a clear distinction must be made between publication and storage.

Amendment 513

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

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

Amendment 514
Alejo Vidal-Quadras

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

Text proposed by the Commission

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

Amendment

3. The regulatory authority may decide to make available to market participants, ***with a view to improving general transparency arrangements***, elements of this information ***kept at its disposal by supply undertakings***, provided that commercially sensitive information on individual market players or individual transactions is not released. This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.

Or. en

Justification

There should be greater clarity as to the nature and purpose of the release of information gathered by the regulatory authority, in order to avoid any possible discretionary or even discriminatory treatment by the NRA in the disclosure of information.

Amendment 515
Angelika Niebler

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24f – paragraph 4

Text proposed by the Commission

4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that

Amendment

deleted

shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

Or. de

Justification

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

Amendment 516

Herbert Reul

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 4

Text proposed by the Commission

Amendment

<i>4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).</i>	<i>deleted</i>
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Or. de

Justification

The proposed comitology procedure seeks to restrict the influence of the European Parliament. This would remove essential decisions on the form of the internal market in energy from the scope of the democratic legislative procedure. The extent of the transfer of competences to the Commission as a result of using the comitology procedure is inappropriate.

Amendment 517

Paul Rübzig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 4

Text proposed by the Commission

Amendment

4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

deleted

Or. de

Justification

This power to adopt guidelines is not necessary, since it is unclear how these details could be determined within the framework of a comitology procedure.

Amendment 518

Christian Ehler

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 4

Text proposed by the Commission

Amendment

4. To ensure the uniform application of this Article, the Commission may **adopt** guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall

4. To ensure the uniform application of this Article, the Commission may **amend** guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall

be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall ***be adopted*** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall ***be amended*** in accordance with the regulatory procedure with scrutiny referred to in Article 30(3).

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 adjustments.

Amendment 519

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 14

Directive 2003/55/EC

Article 24f – paragraph 5

Text proposed by the Commission

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

Amendment

deleted

Or. en

Justification

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

Amendment 520
Herbert Reul

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24f – paragraph 5

Text proposed by the Commission

Amendment

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

deleted

Or. de

Justification

The proposed comitology procedure seeks to restrict the influence of the European Parliament. This would remove essential decisions on the form of the internal market in energy from the scope of the democratic legislative procedure. Ultimately this provision would prejudice cooperation between the Agency and the CESR, since they both issue recommendations on whether transactions relating to gas supply contracts and gas derivatives should be subject to pre- and/or post-trade transparency requirements and, if so, what form these should take.

Amendment 521
Christian Ehler

Proposal for a directive – amending act
Article 1 – point 14
Directive 2003/55/EC
Article 24f – paragraph 5

Text proposed by the Commission

Amendment

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

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

the guidelines referred to in paragraph 4.

paragraph 4 *have been* adopted.

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 adjustments.

Amendment 522

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14 a (new)

Directive 2003/55/EC

Article 24f a (new)

Text proposed by the Commission

Amendment

(14a) The following Article shall be inserted:

"Article 24fa

Regulatory powers to promote competition in the gas market

1. Without prejudice to Article 24c(3)(b), national regulatory authorities shall impose on system users which have been determined to dispose of significant market power as set out in Article 24h:

(a) obligations to ensure transparency in relation to the publication of specific information, such as accounting information, technical specifications, specific data of sales contracts, terms and conditions for the supply of and access to services, and prices;

(b) if the system user discriminates among its contracting parties with respect to the same transactions, the national regulatory authority may impose an obligation to provide equal treatment, such as, in particular, to abolish any major

contractual clause that is considered discriminatory, including prices, payment deadlines, discriminatory sales and purchase conditions and techniques and to exclude any contractual clause for rendering the conclusion of a contract conditional upon the undertaking of any commitment which, due to its nature or against the background of usual contractual practice, does not form part of the subject matter of the contract;

(c) if the lack of effective competition means that the system user might maintain prices at an excessively low or high level, the national regulatory authority may impose obligations relating to temporary price controls, including obligations for prices to be related to costs and obligations concerning cost accounting and pricing systems. When imposing the obligation to employ cost-reflective pricing mechanisms, price control shall be based on costs incurred by the system user in connection with generation and investments, including an appropriate return on such investments under normal business conditions.

2. The national regulatory authorities shall prohibit system users with significant market power in the market referred to in Article 22h(1) and after having followed the procedures laid down in Article 22h:

(a) from charging excessive prices to the competitors of related undertakings or of undertakings which form part of the vertically integrated undertaking as defined in Article 2;

(b) from setting unduly low prices in comparison with the prices charged by efficient competitors;

(c) from showing undue preference to specific consumers; or

(d) from unreasonably bundling services.

3. An appeal mechanism shall be provided which shall be without prejudice to the exercise of rights of appeal under Community and national law. Appeal shall not have suspensory effect."

Or. en

(Adding a new Article 24fa after Article 24f of Directive 2003/55/EC)

Justification

In case a national regulator finds that the market of gas is dominated by one or more system users, they should be able to impose measures which ensure the market brings benefits to the final users, while at the same time becoming more competitive. At the same time, an appeal mechanism should be provided for.

Amendment 523

Britta Thomsen

Proposal for a directive – amending act

Article 1 – point 14 a (new)

Directive 2003/55/EC

Article 24f a (new)

Text proposed by the Commission

Amendment

(14a) The following Article shall be inserted:

"Article 24fa

1. Without prejudice to Article 24c(3)(b), national regulatory authorities may impose on system users which have been determined to dispose of significant market power as set out in Article 24h:

(a) an obligations to ensure transparency in relation to the publication of specific information, such as accounting information, technical specifications, specific data of sales contracts, terms and conditions for the supply of and access to services, and prices;

(b) if the system user discriminates among its contracting parties with respect to the

same transactions, the national regulatory authority may impose an obligation to provide equal treatment, such as, in particular, to abolish any major contractual clause that is considered discriminatory, including prices, payment deadlines, discriminatory sales and purchase conditions and techniques and to exclude any contractual clause for rendering the conclusion of the contract conditional upon the undertaking of any commitment which, due to its nature or against the background of usual contractual practice, does not form part of the subject matter of the contract;

(c) if the lack of effective competition means that the system user might maintain prices at an excessively low or high level, the national regulatory authority may impose obligations relating to temporary price controls, including obligations for prices to be related to costs and obligations concerning cost accounting and pricing systems. When imposing the obligation to employ cost-reflective pricing mechanisms, price control shall be based on the costs incurred by the system user in connection with generation and investments, including an appropriate return on such investments under normal business conditions.

2. The national regulatory authorities may prohibit system users with significant market power in the market referred to in Article 22h(1) and after having followed the procedures laid down in Article 22h:

(a) from charging excessive prices to the competitors of related undertakings or of undertakings which form part of the vertically integrated undertaking as defined in Article 2;

(b) from setting unduly low prices in comparison with the prices charged by efficient competitors;

(c) from showing undue preference to specific consumers; or

d) from unreasonably bundling services.

3. An appeal mechanism shall be provided which shall be without prejudice to the exercise of rights of appeal under Community and national law. Appeal shall not have a suspensory effect."

Or. en

Justification

In case a national regulator finds that the market of gas is dominated by one or more system users, they should be able to impose measures which ensure the market brings benefits to the final users, while at the same time becoming more competitive. At the same time, an appeal mechanism should be provided for.

Amendment 524

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 14 b (new)

Directive 2003/55/EC

Article 24f b (new)

Text proposed by the Commission

Amendment

(14b) The following Article shall be inserted:

"Article 24fb

Promoting competition in the gas market

1. In order to promote effective competition in the gas market, to avoid any abuse of a dominant position and to protect the interests of users, the national regulatory authorities shall conduct a market analysis in the market for wholesale customers, end customers and ancillary services in order to determine the degree of effective competition in the relevant market.

2. If competition in any of the identified markets is not effective in meeting the aims set-out in Article 1, the national regulatory authorities shall analyse whether a system user enjoys a position equivalent to a dominant position, that is to say, a position of economic strength affording it the power to act to an appreciable extent independently of its competitors, customers and ultimately consumers. The national regulatory authorities shall publish the conclusions of their analysis on their official websites.

3. In the process of identifying system users with significant market power and without prejudice to Community law, the national regulatory authorities shall take into consideration:

(a) the presence of a system user operator in the geographical area of a particular market and in the closely related markets, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the operator in question;

(b) the size of the system user and its market share;

(c) the scope of the activities of the system user and of the companies controlled by it and of the activities of the company controlling the system user, vertical integration and the unique characteristics of the identified markets in terms of links, product diversification, and the scope of goods and services offered in packages;

(d) the existence of barriers to market entry, growth and expansion;

(e) lack or low level of countervailing purchasing power;

(f) lack of potential competition;

g) economies of scale and activity.

4. No later than 2 years of the entry into force of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas] and every 3 years from the previous review, the national regulatory authorities shall carry out a market analysis in relevant markets. Any system operator may request a market analysis at an earlier time if the conditions of competition in the relevant market have changed significantly since the last market analysis, and if the conclusions as referred to in paragraph 2 were published more than a year earlier. A refusal to carry out an additional market analysis shall be duly substantiated."

Or. en

(Adding a new Article 24fb after Article 24fa of Directive 2003/55/EC)

Justification

The gas sector in the EU is prone to competition problems given the high level of concentration, the vertical integration and the complexity of the offers. Furthermore, structural features of the sector –natural monopoly and the fact that investments are only changing these features in 10 years time, make it necessary to allow regulators to intervene in the short time. Regulators should be able to analyze the market and to determine whether or not a system user enjoys a position of dominance.

Amendment 525
Britta Thomsen

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

Text proposed by the Commission

Amendment

(14b) The following Article shall be inserted:

"Article 24fb

1. In order to promote effective competition in the gas market, to avoid any abuse of a dominant position and to protect the interests of users, the national regulatory authorities shall conduct a market analysis in the market for wholesale customers, end customers and ancillary services in order to determine the degree of effective competition in the relevant market.

2. If competition in any of the identified markets is not effectively meeting the aims set-out in Article 1, the national regulatory authorities shall analyse whether a system user enjoys a position equivalent to dominance, that is to say, a position of economic strength affording it the power to act to an appreciable extent independently of its competitors, customers and ultimately consumers. The national regulatory authorities shall publish the conclusions of their analysis on their official websites.

3. In the process of identifying system users with significant market power and without prejudice to Community law, the national regulatory authorities shall take into consideration:

(a) the presence of a system user operator in the geographical area of a particular market and in the closely related markets, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the operator in question;

(b) the size of the system user and its market share;

(c) the scope of the activities of the system user and of the companies controlled by it and of the activities of the company controlling the system user, vertical integration and the unique characteristics of the identified markets in terms of links, product diversification, and the scope of

goods and services offered in packages;

(d) the existence of barriers to market entry, growth and expansion;

(e) lack or low level of countervailing purchasing power;

(f) lack of potential competition;

(g) economies of scale and activity.

4. No later than 2 years of the entry into force of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas] and every 3 years from the previous review, the national regulatory authorities shall carry out a market analysis in relevant markets. Any system operator may request a market analysis at an earlier time if the conditions of competition in the relevant market have changed significantly since the last market analysis, and if the conclusions as referred to in paragraph 2 were published more than a year earlier. A refusal to carry out an additional market analysis shall be duly substantiated."

Or. en

Justification

The gas sector in the European Union is prone to competition problems given the high level of concentration, the vertical integration and the complexity of the offers. Furthermore, structural features of the sector –natural monopoly and the fact that investments are only changing these features in 10 years time, make it necessary to allow regulators to intervene in the short time. In parallel with the telecoms sector, regulators should be able to analyze the market and to determine whether or not a system user enjoys a position of dominance.

Amendment 526

Reino Paasilinna

Proposal for a directive – amending act

Article 1 – point 15 a (new)

Directive 2003/55/EC

Article 28 – paragraph 1

Text proposed by the Commission

Amendment

(15a) In Article 28, paragraph 1 shall be replaced by the following:

"1. Member States not directly connected to the interconnected system of any other Member State and having only one main external supplier may derogate from Articles 4, 7, 9, 23 and/or 24 of this Directive. A supply undertaking having a market share of more than 75 % shall be considered to be a main supplier. This derogation shall automatically expire from the moment when at least one of these conditions no longer applies. Any such derogation shall be notified to the Commission."

Or. en

Justification

Member States not directly connected to the interconnected system of any other Member State and having only one main external supplier should be able derogate from unbundling requirements.

Amendment 527

Roberts Zīle, Eugenijus Maldeikis, Šarūnas Birutis

Proposal for a directive – amending act

Article 1 – point 15 b (new)

Directive 2003/55/EC

Article 28 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(15b) In Article 28, the following paragraph shall be inserted:

"1a. Estonia, Latvia and Lithuania, being an isolated region that is not directly connected to the interconnected system of any other Member State and having the only one main external supplier with exclusive monopoly rights granted by

contracts or commitments concluded before the 1st May 2004, and currently having no physical possibility to be supplied by any other supplier, may derogate from the provisions of Articles 7, 7a, 7b, 7c, 7d and 9. A supply undertaking having a market share of more than 75% in this region shall be considered to be a main supplier. This derogation shall automatically expire on the date when the above-mentioned contracts or commitments concluded before the 1st May 2004 with main suppliers expire, but not later than 10 years from the adoption of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas]. Any such derogation shall be notified to the Commission."

Or. en

Justification

The Baltic Region is an isolated Gas market with only 1 external supplier and no connection with other Member States. The long-term contracts granting the external supplier exclusive rights on gas distribution are currently into effect. Immediate implementation of unbundling requirements would mean breaking the existing binding contracts and will result in legal and financial consequences to be imposed on these countries. To avoid this, a derogation period shall be given to the Baltic States.

Amendment 528

Toine Manders

Proposal for a directive – amending act

Article 1 – point 16 a (new)

Directive 2003/55/EC

Article 31 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

(16a) In Article 31(3), introductory part of subparagraph 1 shall be replaced by the following:

"3. The Commission shall, no later than

five years after the entry into force of Directive .../.../EC [amending Directive 2003/55/EC concerning common rules for the internal market in natural gas], forward to the European Parliament and Council, a detailed report outlining progress in creating the internal gas market. The report shall, in particular, consider:"

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 529

Paul Rübig

Proposal for a directive – amending act

Article 1 – point 16 b (new)

Directive 2003/55/EC

Annex A – point (a)

Text proposed by the Commission

Amendment

(16b) Annex A(a) shall be amended as follows:

'(a) have a right to a contract with their gas service provider and, where appropriate, also with their distribution system operators that specifies, where relevant for the contract in question:

- The identity and address of the undertaking,

- the services provided, the commercial and technical quality levels offered, as well as the time for the commencement of the service.

[...]'

(Changing existing text in Annex A(a) of Directive 2003/55/EC)

Justification

This amendment is intended to define more precisely a number of terms which practice has shown to be too vague. Second indent: in a market subject to competition, quality of supply is a basic right. However, the word 'quality' alone should suffice to show that both commercial and technical standards are implied here. The 'initial connection' is not actually very important - it means the time when a newly established location is first connected to the network.

Amendment 530

Mia De Vits

Proposal for a directive – amending act

Article 1 – point 16 b (new)

Directive 2003/55/EC

Annex A – point (a)

Text proposed by the Commission

Amendment

(16b) In Annex A, point (a) shall be replaced by the following:

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

- the identity and address of the supplier;**
- the services provided, the service quality levels offered, as well as the time for the initial connection;**
- if offered, the types of maintenance service offered;**
- the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;**
- the duration of the contract, the conditions for renewal and termination of services and of the contract, the existence of any right of withdrawal *without charge*;**

- any compensation and the refund arrangements which apply if contracted service quality levels are not met *including inaccurate and delayed billing; [...]*
- the method of initiating procedures for settlement of disputes in accordance with point (f); *and*
- *information on consumer rights clearly communicated through billing and electricity companies' web sites."*

Or. en

Justification

Quality of service and transparency are essential rights in a competitive market.

Amendment 531 **Nikolaos Vakalis**

Proposal for a directive – amending act
Article 1 – point 16 b (new)
Directive 2003/55/EC
Annex A – point (a) – indent 2

Text proposed by the Commission

Amendment

(16b) In Annex A, second indent of point (a) shall be replaced by the following:

"- the services provided, the level of commercial and technical quality of services offered, as well as the time for service activation;"

Or. en

Justification

"Service quality levels" should be specified as pertaining both to commercial and to technical standards. "The time for the initial connection" is too narrow a standard and should be broadened to all cases of connection.

Amendment 532

Mia De Vits

Proposal for a directive – amending act

Article 1 – point 16 c (new)

Directive 2003/55/EC

Annex A – point (b)

Text proposed by the Commission

Amendment

(16c) In Annex A, point (b) shall be replaced by the following:

"(b) are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal when the notice is given. Service providers shall notify their subscribers directly of any increase in charges, at an appropriate time no later than one normal billing period after the increase comes into effect *in a transparent and comprehensible manner*. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new conditions, notified to them by their gas service provider;"

Or. en

(Same wording as that of Annex A(b), Directive 2003/55 EC, adding "in a transparent and comprehensible manner")

Justification

Transparency is essential in a competitive market.

Amendment 533
Mia De Vits

Proposal for a directive – amending act
Article 1 – point 16 d (new)
Directive 2003/55/EC
Annex A – point (c)

Text proposed by the Commission

Amendment

(16d) In Annex A, point (c) shall be replaced by the following:

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

Or. en

(Same wording as that of Annex A(c), Directive 2003/55 EC, adding 'at national and community level')

Justification

This information will improve competition.

Amendment 534
Mia De Vits

Proposal for a directive – amending act
Article 1 – point 16 e (new)
Directive 2003/55/EC
Annex A – point (d)

Text proposed by the Commission

Amendment

(16e) In Annex A, point (d) shall be replaced by the following:

"(d) are offered a wide choice of payment methods *which shall not discriminate against vulnerable customers*. [...] General terms and conditions shall be fair and transparent. They shall be given in clear and comprehensible language. Customers shall be protected against unfair or misleading selling methods *including non-contractual barriers imposed by the trader*;"

Or. en

(Same wording as that of Annex A(d), Directive 2003/54 EC adding "which should not discriminate against vulnerable customers" and "including non contractual barriers imposed by the trader ")

Justification

Vulnerable customers need to be particularly protected.

Amendment 535
Mia De Vits

Proposal for a directive – amending act
Article 1 – point 16 f (new)
Directive 2003/55/EC
Annex A – point (f)

Text proposed by the Commission

Amendment

(16f) In Annex A, point (f) shall be replaced by the following:

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

Or. en

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

Justification

Consumers should be represented by a body that is independent of the National Regulator, Government and electricity suppliers.

Amendment 536

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (h)

Text proposed by the Commission

(h) *have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data.* The party responsible for data management is obliged to give these data to the undertaking. Member States shall ***define a*** format for the data and a procedure for suppliers and consumers to have access to the data. No additional ***costs can be charged*** to the consumer for this service.

Amendment

(h) *be easily able to switch to a new supplier. Where the switching process requires supply point information, metering data or a standard consumption profile, Member States shall ensure that this is available, free of charge, to any undertaking authorised to have access to such data.* The party responsible for data management is obliged to give these data to the undertaking. Member States shall ***ensure that there is an agreed*** format for the data and a procedure for suppliers and where necessary consumers to have access to the data. No ***specific*** additional ***charge***

to the consumer ***shall be made*** for this ***particular*** service.

Or. en

Justification

Amendment focusing on ensuring all data necessary for the switching process is directly available to the new supplier. Suppliers do not necessarily have to be licensed, and while it is the new supplier that generally needs the metering information, switching systems may require the data to be passed to duly authorised third-party metering companies, rather than the supplier. In a competitive market, any additional costs will ultimately flow through to customers' bills.

Amendment 537 **Giles Chichester**

Proposal for a directive – amending act
Article 1 – point 17
Directive 2003/55/EC
Annex A – point (h)

Text proposed by the Commission

(h) ***have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply licence access to its metering data.*** The party responsible for data management is obliged to give these data to the undertaking. Member States shall ***define a*** format for the data and a procedure for suppliers and consumers to have access to the data. No additional ***costs can be charged*** to the consumer for this service

Amendment

(h) ***be easily able to switch to a new supplier. Where the switching process requires supply point information, metering data or a standard consumption profile, Member States shall ensure that this is available, free of charge, to any undertaking authorised to have access to such data.*** The party responsible for data management is obliged to give these data to the undertaking. Member States shall ***ensure that there is an agreed*** format for the data and a procedure for suppliers and ***where necessary*** consumers to have access to the data. No ***specific*** additional ***charge*** to the consumer ***shall be made*** for this ***particular*** service.

Or. en

Justification

Amendment focuses on ensuring all data necessary for the switching process is directly available to the new supplier, rather than on requiring systems to give the customer such data. In a competitive market, any additional costs will ultimately flow through to customers' bills. Textual change is to clarify intention.

Amendment 538

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (h)

Text proposed by the Commission

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data. The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

Amendment

(h) have at their disposal their **actual** consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data ***which may include energy supply available in a particular area and all national and Community mechanisms promoting energy efficiency***. The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data ***without undue delay***. No additional costs can be charged to the consumer for this service.

Or. en

Justification

This will encourage environmentally conscious behaviour and improve consumer's role to have a positive influence on the market.

Amendment 539

Mia De Vits

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (h)

Text proposed by the Commission

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data. The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

Amendment

(h) have at their disposal their consumption data and shall be able to, by explicit agreement and free of charge, give any undertaking with a supply license access to its metering data ***which may include energy supply available in a particular area and all national and Community mechanisms promoting energy efficiency.*** The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

Or. en

Justification

This will encourage environmentally conscious behaviour and improve consumer's role to have a positive influence on the market.

Amendment 540

Paul Rübig, Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (h)

Text proposed by the Commission

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any

Amendment

(h) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any

undertaking with a supply license access to its metering data. The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

authorised supply undertaking access to its metering data. The party responsible for data management is obliged to give these data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs can be charged to the consumer for this service.

Or. en

Justification

In some countries such as Austria, suppliers do not require a license for the exercise of their activity.

Amendment 541

Mia De Vits

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (i)

Text proposed by the Commission

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

Amendment

(i) shall be properly informed every month of actual gas consumption and costs ***which may include energy supply available in a particular area and all national and Community mechanisms promoting energy efficiency.*** No additional costs can be charged to the consumer for this service. ***To ensure the provision of this information, smart meters shall be installed in all households by 2015.***

Or. en

Justification

This will encourage environmentally conscious behaviour and improve consumers' role in positively influencing the market. Smart meters communicate actual consumption to the supplier and inform the consumer about the cost of the actual consumption. These could

allow consumers to reduced demand at peak time and lower energy costs. Following environmental measures are fully understood by consumers could they bring about the desired efficiency increases in which they intend to result in.

Amendment 542

Teresa Riera Madurell

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (i)

Text proposed by the Commission

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

Amendment

(i) shall be properly ***and regularly*** informed of actual gas consumption, ***based on actual metering or estimates when the metering data are not available***. No additional costs can be charged to the consumer for this service.

Or. en

Justification

Customers should be informed frequently enough to control their consumption. This does not necessarily mean every month. On the other hand, meters are frequently placed within the apartments which make reading especially difficult and expensive. It is advisable to be more flexible and allow the use of estimates in these cases.

Amendment 543

Alejo Vidal-Quadras

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (i)

Text proposed by the Commission

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

Amendment

(i) shall be informed of ***their*** actual gas consumption and costs ***frequently enough to enable them to regulate their consumption***. No ***specific*** additional

charge to the consumer *shall be made* for this *particular* service.

Or. en

Justification

The proposed requirement for customers to be informed every month is unnecessarily prescriptive and likely to be disproportionate given the high costs of metering solutions. Moreover the area is already covered by Art.13 of the Energy Services Directive. The wording should therefore be closely aligned with ESD to avoid overlapping/conflicting requirements in this area.

Amendment 544
Giles Chichester

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (i)

Text proposed by the Commission

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

Amendment

(i) shall be informed of *their* actual gas consumption and costs *frequently enough to enable them to regulate their consumption*. No *specific* additional *charge* to the consumer *shall be made* for this *particular* service.

Or. en

Justification

The proposed requirement for customers to be informed every month is unnecessarily prescriptive and likely to be disproportionate given the high costs of metering solutions. Moreover the area is already covered by Art.13 of the Energy Services Directive. In a competitive market, any additional costs will ultimately flow through to customers' bills. Textual change is to clarify intention.

Amendment 545
Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j)

Text proposed by the Commission

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

Amendment

(j) **may** change supplier at any time in the year, **with the process lasting no more than one month from the moment all the requisite information is provided and the contract between the customer and the new supplier is concluded, to the actual date of the switch.**

Or. en

Justification

The switching process must not involve disproportionate effort and time for customers. Therefore it is important to have a time limit to the switching process.

This process should be easy and prompt and not risk being dragged out by any of the involved parties. The switching process period must take into account technical requirements but cannot become an obstacle that would deter customers from changing suppliers and freeze market shares in favour of incumbent suppliers.

Amendment 546
Nikolaos Vakalis

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j)

Text proposed by the Commission

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

Amendment

(j) **may** change supplier at any time in the year, **with the process lasting no more than one month from the moment all the requisite information is provided and the contract between the customer and the new supplier entered into force, to the**

actual date of the switch. A customer's account with the previous supplier shall not be settled later than one month following the last supply by this previous supplier.

Or. en

Justification

One of the most important indicators of a competitive and efficient energy market is the ease of the switching process for customers. This is why it is important to have a definite time limit to the switching process.

Amendment 547

Giles Chichester

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j)

Text proposed by the Commission

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

Amendment

(j) can change supplier at any time in the year, and a customer's account with the previous supplier shall be ***submitted no*** later than ***two months*** following the last supply by the previous supplier.

Or. en

Justification

The requirement should be relaxed to recognise the old supplier's dependence for the closing meter reading on the distribution company/new supplier and on industry processes.

Amendment 548

Anne Laperrouze

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j a) (new)

Text proposed by the Commission

Amendment

"(ja) a customer's account with the previous supplier shall not be settled later than one month following the last supply by this previous supplier."

Or. en

Justification

The switching process must not involve disproportionate effort and time for customers. Therefore it is important to have a time limit to the switching process.

This process should be easy and prompt and not risk being dragged out by any of the involved parties. The switching process period must take into account technical requirements but cannot become an obstacle that would deter customers from changing suppliers and freeze market shares in favour of incumbent suppliers.

Amendment 549

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j a) (new)

Text proposed by the Commission

Amendment

"(ja) The European Charter on the Rights of Energy Consumers, as proposed by the Commission, shall serve as a basis for the guidelines on consumers protection proposed by the Agency to the Commission."

Or. en

(Adding new paragraph (ja) to Annex A, Directive 2003/55 EC)

Justification

The European Energy Consumer's Charter takes into consideration the views of the relevant stake holders and social partners on Consumer's rights and should be recognised within the

framework of this Directive.

Amendment 550
Hannes Swoboda

Proposal for a directive – amending act
Article 1 – point 17
Directive 2003/55/EC
Annex A – point (j a) (new)

Text proposed by the Commission

Amendment

"(ja) The European Charter on the Rights of Energy Consumers, as proposed by the Commission, shall serve as a basis for the guidelines on consumers protection proposed by the Agency to the Commission."

Or. en

Justification

The European Energy Consumer's Charter takes into consideration the views of the relevant stake holders and social partners on Consumer's right and should be recognised within the framework of this Directive.

Amendment 551
Mia De Vits

Proposal for a directive – amending act
Article 1 – point 17
Directive 2003/55/EC
Annex A – point (j a) (new)

Text proposed by the Commission

Amendment

"(ja) The European Charter on the Rights of Energy Consumers, as proposed by the Commission, shall serve as a basis for the guidelines on consumers protection proposed by the Agency to the Commission."

(Adding new paragraph (ja) to Annex A, Directive 2003/55 EC)

Justification

The European Energy Consumer's Charter takes into consideration the views of the relevant stake holders and social partners on Consumer's rights and should be recognised within the framework of this Directive.

Amendment 552

Claude Turmes, Rebecca Harms

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j b) (new)

Text proposed by the Commission

Amendment

"(jb) A statutory independent body representing consumers in the field of energy shall be established in every Member State. This body shall represent consumers in formal consultations with the relevant bodies relating to the internal energy market. This body shall ensure that end customers are appropriately protected according to the provisions set out in this Directive and shall also be responsible for providing, in particular, independent advice and reliable information to the consumers."

(Adding new paragraph (jb) to Annex A, Directive 2003/55 EC)

Justification

Whilst National Regulators should be given the power to protect customers, it is necessary that consumers are given their own formal voice. The National Regulator and Consumer body should ensure cooperation, exchange of information and the consistent treatment of matters affecting both organisations.

Amendment 553

Mia De Vits

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j b) (new)

Text proposed by the Commission

Amendment

"(jb) A statutory independent body representing consumers in the field of energy shall be established in every Member State. This body shall represent consumers in formal consultations with the relevant bodies relating to the internal energy market. This body shall ensure that end customers are appropriately protected according to the provisions set out in this Directive and shall also be responsible for providing, in particular, independent advice and reliable information to the consumers."

Or. en

(Adding new paragraph to Annex A, Directive 2003/55 EC)

Justification

Whilst National Regulators should be given the power to protect customers, it is necessary that consumers are given their own formal voice. The National Regulator and Consumer body should ensure cooperation, exchange of information and the consistent treatment of matters affecting both organisations.

Amendment 554

Hannes Swoboda

Proposal for a directive – amending act

Article 1 – point 17

Directive 2003/55/EC

Annex A – point (j b) (new)

Text proposed by the Commission

Amendment

"(jb) A statutory independent body representing consumers in the field of energy shall be established in every Member State. This body shall represent consumers in formal consultations with the relevant bodies relating to the internal energy market. This body shall ensure that end customers are appropriately protected according to the provisions set out in this Directive and shall also be responsible for providing, in particular, independent advice and reliable information to the consumers."

Or. en

Justification

Whilst National Regulators should be given the power to protect customers, it is necessary that consumers are given their own formal voice. The National Regulator and Consumer body should ensure cooperation, exchange of information and the consistent treatment of matters affecting both organisations.

Amendment 555
Giles Chichester

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 556

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

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

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

Amendment 557

Angelika Niebler

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

Text proposed by the Commission

Amendment

2a. Where a publicly controlled entity is directly or indirectly involved in the acquisition of parts of a vertically integrated undertaking, the price in relation to the arrangement of such a transaction shall be notified to the

Commission. Such notification shall include certification of the underlying asset value by an international auditing company. The Commission shall use such information solely to exercise control over State-aid.

Or. en

Justification

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

Amendment 558

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

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

Text proposed by the Commission

Amendment

2b. Six years after the entry into force of this Directive, the Commission shall, on the basis of public consultations, in the light of discussions with the competent authorities and after having received an opinion by the Agency for the Cooperation of Energy Regulators, report to the European Parliament and the Council on the desirability of maintaining or amending this Directive. The several versions of restructuring gas companies laid down in Articles 7a to 7d and Articles 9 and 9b of Directive 2003/55/EC shall be verified, in particular, in terms of the effectiveness of their impact on network access and the necessary investments.

Or. en

Justification

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