

Comments on Proposals for the third EU electricity-and gas liberalising package

Comments and proposals for amendments by International Network for Sustainable Energy - Europe (INFORSE-Europe), 12/11-07

It is important that the coming electricity and gas market directives ensures that renewable energy is given priority in the electricity and gas networks. This is both important when the energy is sold from local producers to the network and when the network is used for transport of energy from a renewable energy production unit to its owners. It applies to both electricity and gas networks, and both for transport in a country as well as for in cross-border transport of energy.

It is important that there is a democratic control of the regulation of the energy markets, so the regulators are not acting in isolation; but in dialogue with the democratic system and concerned citizens. This can be with Citizen's Utilities Boards, consisting of citizens that are elected to advice the regulators, which has been practiced with success in many states in the USA for more than two decades.

It is important to define "low carbon technology" in the directive. To conform with existing EU policies they must be defined as efficient CHP technologies as it is agreed to give priority to these technologies in the EU energy and climate policies with the directive for CHP (dir. 2004/8). It is unacceptable and outside the purpose of the electricity market directive to give a special treatment of other low-carbon technologies, including nuclear power, incineration of waste, clean coal power with carbon capture and storage, and large hydropower. These technologies should operate on normal market conditions, and it will be counterproductive to the purpose of creating level playing fields on the energy markets, if they are given favorable treatment by the regulators or receive special R&D funding from electricity consumers.

It is important to define "renewable energy" as it is defined in the renewable electricity directive (dir. 2001/77), thereby limiting hydropower to small hydropower below 10 MW. It will be counterproductive to the development of the electricity market, if large hydropower is given favorable treatment by the regulators or receive special R&D funding.

It is important that possibilities to promote renewable energy and energy conservation via PSO payments are fully maintained, and thus that the new possibilities for the EU Commission to harmonise the use of PSO payments cannot compromise this.

The complete separation of electricity production, transmission and distribution will be a benefit for independent producers, and thereby for the development of renewable energy. Among the different models for this separation, the best is the one with division in separate companies for production, transmission, and distribution of electricity.

Finally, it is important to stress that the choice of sources for electricity production as well as of gas supply is a competence for the individual countries that decides this via their national energy policies. This is not a competence of the market actors or others.

Specific comments and proposals for the directives (proposed changes in bold)

Proposal 2007-641, electricity supply:

art. 2, proposal: to amend the definition of "renewable energy" and include a definition of "low carbon technology":

no. 30. "renewable energy sources" means renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower **used in plants with capacities below 10 MW capacity**, biomass, landfill gas, sewage treatment plant gas and biogases);

no. 35. "low carbon technology" means fossil fuel based electricity generating technologies with a particular low CO₂ emission, namely efficient CHP plants, according to the definition of efficient CHP following directive EC/2004/8.

Art. 3, par. 10: Proposal for addition (with bold):

The Commission may adopt guidelines for the implementation of this Article, **as far as such amendments do not reduce the countries use of PSO payments for environmental protection, such as payments for additional costs of renewable electricity above the electricity market price.**

Art 5a (Regional cooperation) Proposal for addition after the proposed text: **Regional cooperation must not reduce the right of a country to decide its mix of sources for electricity supply via its energy policy.**

Art. 9a (Tasks of transmission system operator), replace "penetration" with "priority access" in the sentence "...and promote energy efficiency and research and innovation notably with respect to ensuring **priority access** of renewables and dissemination of low carbon technology"

Art22b (Independance of regulator):

Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially, transparently, **and in a democratic fashion**. For this purpose, Member State shall ensure that, when carrying out the regulatory tasks conferred upon it by this Directive, the regulatory authority is legally distinct and functionally independent from any other public or private entity, and that its staff and the persons responsible for its management act independently from any market interest and shall not seek or take instructions from any government or other public or private entity. **To enable that the regulatory authority will operate in a democratic fashion, it shall regularly consult with a democratically elected body representing the citizens served by the electricity network that it regulates.**

par. 9:(Policy objectives of regulator), include the words with bold:

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

Proposal 2007-643 (electricity transmission)

Art.1, last sentence, the bold text is proposed as addition:

This Regulation also aims at facilitating the emergence of well functioning and transparent cross-border retail market and a well functioning and transparent wholesale market. It provides mechanisms to harmonise these rules. **It does so with the view to promote energy efficiency and use of renewable energy in electricity supply and use.**

Proposals 642 and 644 (on gas markets and gas transmission)

The above proposals electricity should be included in the gas directives in the relevant (similar) paragraphs, including provisions of PSO obligations, promotion of renewable energy, and democratic operation of the regulators.

Proposals by INFORSE-Europe, see www.inforse.org/europe