



Third Package Progress

Madrid Forum XV

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Internal market for electricity and gas

| Content of the presentation

- Update on legislative process
- Parliament – Council comparison
 - » Unbundling
 - » Agency
 - » Comitology
 - » Other issues
 - The Parliament's first reading
 - The Energy Council conclusions
- Timing

Legislative process

- Council
 - » Energy council conclusions of 6 June 2008
 - Confirmed by European Council of 20 June 2008
 - » Energy Council of 10 October 2008
- Parliament
 - » Plenary vote to conclude first reading
 - Electricity Directive Electricity Regulation and Agency Regulation on 18 June 2008
 - Gas Directive and Gas Regulation on 9 July 2008

Unbundling - Council

- Third option: Independent transmission operator
- TSO remains part of integrated undertaking but detailed rules ensure independence of TSO

Unbundling - Council

- Detailed rules concern:
 - » TSO has all assets and resources
 - » Supervisory Board appoints day-to-day management
 - » Regulatory oversight of supervisory board
 - » Cooling-off and warm-up periods for ITO management
 - » Compliance officer
 - » NRA can force investments
 - » NRA can impose fines up to 10% of annual turnover
 - » Revision clause
- Certification is done by NRA – Commission's opinion to be taken into account

Unbundling - Parliament

- Electricity: ownership unbundling is the only way
 - » ISO and ITO are not a possibility
- Gas: ownership unbundling and a type of independent transmission operator
 - » Difference to ITO in the Council: Trustee
 - To guarantee the value of the TSO for the VIU
 - Appoints members of Supervisory Board that are not appointed by VIU
 - Veto on decisions that affect value of the networks assets
 - » ISO is deleted
 - » Review clause of the new option includes the obligation to analyse a EU-TSO

| Agency - Council

- Relation between ENTSO and Agency is changed
 - » Framework guidelines that define work for TSOs
- Agency does not decide directly on Article 22 exemptions
 - » Agency only decides when NRA's cannot agree within six months.

| Agency - Council

- Changes to the organisation
 - » Administrative Board:
 - 5 MS representatives instead of 6
 - 1 Commission representative instead of 3
 - » Regulatory Board:
 - Regulatory board is stronger vis-à-vis Director
 - More powers in appointment or dismissal of Director

I Agency - Parliament

- More powers for the Agency
 - » Framework guidelines that define ENTSO work
 - » Agency shall consult in drafting process
 - » Agency can adopt codes
 - » 10-year network investment plan of ENTSO is approved and made binding by the Agency
 - » Impose penalties on TSOs
- Not in line with Meroni judgement on delegation of discretionary powers of the Commission

| Agency- Parliament

- Organisation
 - » Administrative board:
 - Parliament, Council and Commission all have 2 members
 - Parliament can dismiss members
 - Reporting obligation to EP (ITRE)
 - » Regulatory Board
 - Decision making body in Agency
 - Weakening powers of Director and Administrative Board

Guidelines and comitology - Council

- Guidelines remain:
 - » Certification
 - » Cross-border regulatory cooperation
 - » Record keeping
 - » Article 22 exemptions
- Guidelines deleted:
 - » DSO unbundling
 - » Public Service Obligations
 - » Powers and duties of NRAs
 - » Independence of TSOs
 - » Retail markets

Guidelines and comitology - Parliament

- Parliament
 - » Delete all comitology in Directives
 - » Possibility to make guidelines through comitology remains for:
 - Network codes (for gas only)
 - Change of existing guidelines (first adoption through codecision)

Other issues - Parliament

- Special treatment of industrial grids
- Negotiated TPA for LNG
- Inclusion of criteria for negotiated TPA for storage
- Three minus rule for storage and LNG
- Balancing information for regulators only

Other issues - Council

- Level-playing field
- 3rd country clause: NRA decides with Commission's opinion
- Entry-exit tarification to be implemented within 2 years
- Possibility for confidential treatment of data, under strict conditions and NRA approval, in case of a single storage user

I Timing

- Transfer of common position of the Council to the Parliament
- Second reading of the Parliament will start early January – deadline is three months
- Council opinion on Parliament's amendments – deadline is three months
- Agreement in second reading !?

Thank you for your attention

