

Brussels, 6 April 2011

Energy: Commission urges Italy, Poland and Romania to change their end-user price regulation schemes to ensure freedom of choice for consumers

The European Commission today formally requested Italy, Poland and Romania to bring their national legislation on regulated end-user energy prices in line with EU rules. EU law on the internal energy market foresees that prices are set primarily by supply and demand. End-user prices set by state intervention put obstacles to new market entrants and therefore deprive consumers and companies of their right to choose the best service on the market. The Commission has decided to send reasoned opinions to the three Member States. If the Member States do not comply with their legal obligations within two months, the Commission may refer them to the Court of Justice.

According to the internal energy market rules all companies must have the possibility to freely provide services all over the EU and set their own prices which reflect the real situation on the markets. Regulated prices distort the functioning of the market, defining prices which do not reflect the real needs of the market and prevent free competition and market integration. Thus, it maintains a monopolistic situation which leads to either underinvestment or unnecessary high prices.

However, the rules also foresee that in exceptional cases, e.g. in order to protect vulnerable customers, regulated prices can be set. In that case the measures have to be specifically targeted at the customers who need it the most, they must be limited in time and guarantee equal access for EU electricity companies to national consumers.

The Commission considers that the current rules on regulated end-user prices in the three countries do not meet these conditions and violate the consumer's right to choose.

Italy

The Italian law still requires the Distribution System Operators to supply domestic customers and small enterprises with **electricity** at regulated end-user prices if they did not actively sign a contract with a supplier on the competitive market. The measure does not have a clear end date, it goes beyond what is necessary to protect customers and prevents access of new entrants to the Italian market.

Poland

The Polish energy law requires energy enterprises to specify the end-user prices for **gas** and obtain a prior approval from the national regulatory authority. Also new entrants have to obtain this approval before entering the market. In addition, the measure does not sufficiently differentiate between different customer groups and the scope is too broad.

Romania

Two reasoned opinions are sent to Romania, **one for electricity and one for gas**. For electricity, the Romanian electricity law has set up a regulated electricity market. Regulated end-user prices are applicable to all household consumers and small and medium-sized enterprises that have not yet used their right to switch the supplier. For gas, regulated end-user prices are still applicable to all consumers.

Background

The Internal Energy Market legislation (Directive 2003/54/EC and Directive 2003/55/EC, which were replaced by Directive 2009/72/EC and Directive 2009/73/EC, respectively, on 3 March 2011) provides that Member States shall ensure that consumers are free to buy electricity and gas from the supplier of their choice as from 1 July 2007.

The Court of Justice clarified in its *Federutility* judgment (Case C-265/08) the criteria under which regulated prices could be compatible with Internal Energy Market legislation, i.e. the measure must be adopted in the general economic interest, be in compliance with the principle of proportionality, be clearly defined, transparent, non-discriminatory and verifiable, and guarantee equality of access for EU energy companies to national consumers.

More information

Latest information on infringement proceedings against Member States: http://ec.europa.eu/eu_law/index_en.htm

For more information on EU infringement procedures, see [MEMO/11/220](#)