

TEXT VERSION OF SECURITY OF SUPPLY AND INFRASTRUCTURE DIRECTIVE AS VOTED BY PARLIAMENT 5 JULY 2005

Recital 1 a (new)

(1a) Demand is usually forecast over a medium-term period on the basis of scenarios elaborated by transmission system operators or by other organisations capable of constructing them at the request of a Member State.

Recital 2

(2) A competitive single EU electricity market necessitates transparent and non-discriminatory security of supply policies compatible with the requirements of such a market. The absence of such policies in individual Member States, or significant differences between the policies of the Member States would lead to distortions of competition. Definition of clear roles and responsibilities *of the competent authorities as well as of Member States themselves* and of all *relevant* market actors is therefore crucial in safeguarding *security of electricity supply and the well-functioning of the internal market* while at the same time avoiding creating obstacles to *market entrants such as a company generating or supplying electricity in a Member State and having recently started its operations in that Member State, and avoiding creating* distortions of the internal market for electricity or significant difficulties for *market actors including companies with small market shares such as a generator or a supplier with a very small share in the relevant Community market.*

Recital 2 a (new)

(2a) Decision .../EC of the European Parliament and of the Council laying down guidelines for trans-European energy networks sets out a series of guidelines for Community policy on trans-European energy networks; Regulation (EC) 1228/2003 of the European Parliament and of the Council on conditions for access to the network for cross-border exchanges in electricity sets out, inter alia, the general principles and detailed rules relating to congestion management.

Recital 2 b (new)

(2b) When promoting electricity from renewable energy sources, it is also necessary to ensure the availability of associated back-up capacity, where technically needed, in order to maintain the reliability and security of the grid.

Recital 2 c (new)

(2c) In order to meet the Community's environmental commitments and to reduce external energy dependence, it is important to take account of the long-term effects of growth of electricity demand.

Recital 3

(3) Cooperation between national transmission system operators in issues relating to network security including definition of transfer capacity, information provision and network modelling is vital to the development of a well functioning internal market *and could be*

further improved . A lack of co-ordination regarding network security is detrimental to the development of equal conditions for competition.

Recital 3 a (new)

(3a) The main intention of relevant technical rules and recommendations such as contained in the UCTE (Union for the Co-ordination of Transmission of Electricity) Operation handbook, and similar rules and recommendations developed by NORDEL, the Baltic Grid Code and for the UK and IE systems, is to provide support to the technical operation of the interconnected grid, thus contributing to meeting the need for continued operation of the network in the event of system failure at an individual point or points in the network and minimising the cost related to mitigating such supply disruption.

Recital 4 a (new)

(4a) Measures which may be used to ensure that appropriate levels of generation reserve capacity are maintained should be market-based and non-discriminatory and could include measures such as contractual guarantees and arrangements, capacity options or capacity obligations. These measures could also be supplemented by other non-discriminatory instruments such as capacity payments.

Recital 4 b (new)

(4b) In order to ensure that appropriate prior information is available, Member States should publish measures maintaining the balance between demand and supply among actual and potential investors in generation and among electricity consumers.

Recital 5

(5) Without prejudice to Articles 86, 87 and 88 of the EC Treaty, it is important that Member States lay down an unambiguous, **appropriate and stable** framework which will facilitate security of supply and is conducive to investments in generation capacity and demand management techniques. It is also important that appropriate measures are taken to ensure a regulatory framework to encourage investment in new transmission interconnection, especially between Member States.

Recital 6

(6) The European Council at Barcelona agreed on a level of interconnection between Member States. Low levels of interconnection have the effect of fragmenting the market and are an obstacle to the development of competition. The existence of adequate physical **transmission** interconnection capacity, **whether cross-border or not**, is crucial but it is not a sufficient condition for competition to be fully effective. **In the interest of end consumers, the relation between the potential benefits of new interconnection projects and the costs for such projects should be reasonably balanced.**

Recital 6 a (new)

(6a) Given that it is important to determine the maximum available transfer capacities without breaching the requirements of secure grid operation, it is also important in that respect to ensure full transparency of the capacity calculation and allocation procedure in

the transmission system. In this way, it could be possible to make better use of existing capacity, and no false shortage signals will be given to the market which will support the achievement of a fully competitive internal market as envisaged in Directive 2003/54/EC.

Recital 7

(7) Transmission *and distribution* system operators need an appropriate *and stable* regulatory framework for investment, *and for maintenance and renewal of the networks*.

Recital 7 a (new)

(7a) Article 4 of Directive 2003/54 requires Member States to monitor and submit a report on security of electricity supply. This report should cover short, medium and long term factors relevant for security of supply including transmission system operators' intention to invest in the network. In compiling such a report, Member States will be expected to refer to information and assessments already being undertaken by TSOs both on an individual and collective basis, including at European level.

Recital 8

(8) Member States should ensure *an effective implementation of this Directive* .

Recital 9

(9) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed action, namely *secure electricity supplies, based on fair competition and the creation of a fully operational internal electricity market* , cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved by the Community. This Directive confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.

Article 1

1. This Directive establishes measures aimed at safeguarding security of electricity supply so as to ensure the proper functioning of the EU internal market for electricity and to ensure

- an adequate level of generation capacity,
- an adequate balance between supply and demand, and
- an appropriate level of interconnection between Member States for the development of the internal market.

2. It establishes a framework within which Member States shall define transparent, *stable* and non-discriminatory policies on security of electricity supply compatible with the requirements of a competitive *internal* market for electricity.

Article 2

For the purposes of this Directive, *the definitions contained in Article 2 of Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92 shall apply. In addition*, the following definitions shall also apply:

"regulatory authority" means the regulatory authorities in Member States, as designated in accordance with Article 23 of Directive 2003/54/EC;

"security of electricity supply" means the ability of an electricity system to supply final users with electricity, as provided for under this directive;

"operational network security" means the continuous operation of the transmission and, where appropriate, the distribution network under foreseeable circumstances;

"balance between supply and demand" means the satisfaction of foreseeable demands of consumers to use electricity without the need to enforce measures to reduce consumption.

Article 3

1. *Member States shall ensure a high level of security of electricity supply by taking necessary measures to facilitate a stable investment climate and by defining the roles and responsibilities of competent authorities including regulatory authorities where relevant, and all relevant market actors and publishing information thereon. The relevant market actors include inter alia: transmission and distribution system operators, electricity generators, suppliers, final customers.*

2. In *implementing the measures referred to in paragraph 1*, Member States shall take account of:

- a) *the importance of ensuring continuity of electricity supplies* ;
- b) *the importance of a transparent and stable regulation framework*;
- c) *the internal market and the possibilities for cross-border co-operation in relation to security of electricity supply* ;

- d) the need *for regular maintenance and, where necessary, renewal of the transmission and distribution networks to maintain the performance of the network;*
- e) the *importance of ensuring proper implementation of Directive 2001/77/EC and Directive 2004/8/EC in so far as their provisions are related to security of electricity supply;*
- f) the need to ensure *sufficient transmission and generation reserve capacity for stable operation; and*
- g) *the importance of encouraging the establishment of liquid wholesale markets.*

2a. In implementing the measures referred to in paragraph 1, Member States may also take account of:

- a) *the degree of diversity in electricity generation at national or relevant regional level ;*
- b) *the importance of reducing the long-term effects of the growth of electricity demand;*
- c) *the importance of encouraging energy efficiency and the adoption of new technologies, in particular demand management technologies, renewable energy technologies and distributed generation; and*
- d) *the importance of removing administrative barriers for investments in infrastructure and generation capacity.*

3. Member States shall ensure that any measures adopted in accordance with *this Directive are non-discriminatory and* do not place an unreasonable burden on *the market actors including market entrants and companies with small market shares* . Member States shall also *take into account, before their adoption,* the impact of the measures on the cost of electricity for final consumers.

3a. In ensuring an appropriate level of interconnection between Member States, as referred to in Article 1(1), special consideration shall be given

- *to each Member State's specific geographical situation,*
- *to maintaining a reasonable balance between the costs to build new interconnectors and the benefit for the final consumers, and*
- *to ensuring that existing interconnectors are used as efficiently as possible.*

Article 4

Operational Network Security

1. a) Member States *or the competent authorities* shall ensure that *the transmission system operators set the* minimum operational *rules and obligations* on network security.

Before setting these rules and obligations, they shall consult with the relevant actors in the countries concerned with which interconnection exists.

b) Notwithstanding littera a, first sentence, Member States may require transmission system operators to submit these rules and obligations to the competent authority for approval.

c) Member States shall ensure that the transmission and, where appropriate, the distribution system operators comply with the minimum operational rules and obligations on network security.

d) Member States shall require transmission system operators to maintain an appropriate level of operational network security.

To that effect, transmission system operators shall maintain an appropriate level of technical transmission reserve capacity for operational network security and cooperate with the transmission system operators concerned to which they are interconnected.

The level of foreseeable circumstances under which security shall be maintained is defined in the operational network security rules.

e) Member States shall, in particular, ensure that interconnected transmission and, where appropriate, distribution system operators exchange information relating to the operation of networks in a timely fashion and in an effective manner in line with the minimum operational requirements. The same requirements shall, where appropriate, apply to transmission and distribution system operators that are interconnected with system operators outside the Community.

2. Member States or the competent authorities shall ensure that transmission and, where appropriate, distribution system operators set and meet quality of supply and network security performance objectives. These objectives shall be subject to approval by the Member States or competent authorities and their implementation shall be monitored by them. They shall be objective, transparent and non-discriminatory and shall be published.

2a. In taking the measures referred to in Article 24 of Directive 2003/54/EC and in Article 6 of Regulation (EC) No 1228/2003, Member States shall not discriminate between cross-border contracts and national contracts.

Member States shall ensure that curtailment in emergency situation shall be based on predefined criteria in relation with managing imbalances by transmission system operators. Any safeguard measures shall be taken in close consultation with other relevant transmission system operators, respecting relevant bilateral agreements, including agreements on exchange of information.

Article 5

Maintaining Balance between *Supply and Demand*

1. Member States shall take appropriate measures to *maintain* a balance between the demand for electricity and the availability of generation capacity.

In particular, Member States shall

- without prejudice to the particular requirements of small isolated systems, encourage the establishment of a wholesale market framework that provides suitable price signals for generation and consumption,

- require transmission system operators to ensure that an appropriate level of generation reserve capacity is available for balancing purposes and/or to adopt equivalent market based measures.

1 a. Without prejudice to Articles 87 and 88 of the Treaty, Member States may also take additional measures, including but not limited to the following:

a) provisions facilitating new generation capacity and the entry of new generation companies on the market;

b) removal of barriers that prevent the use of interruptible contracts;

c) removal of barriers that prevent the conclusion of contracts of varying lengths for both producers and customers

d) encouraging the adoption of real-time demand management technologies such as advanced metering systems,

e) encouraging energy conservation measures;

f) tendering procedures or any procedure equivalent in terms of transparency and non-discrimination in accordance with Article 7 (1) of Directive 2003/54/EC.

2. Member States shall publish the measures to be taken pursuant to this Article *and shall ensure* the widest possible dissemination.

Article 6

1. Member States shall *establish a regulatory framework that*

- provides investment signals for both the transmission and distribution system network operators to develop their networks in order to meet foreseeable demand from the market;

- facilitates maintenance and, where necessary, renewal of their networks.

2. *Without prejudice to Regulation (EC) No 1228/2003, Member States may also allow for merchant investments in interconnection.*

Member States shall ensure that decisions on investments in interconnection are taken in close cooperation between relevant transmission system operators.

Article 7

Reporting

1. Member States shall ensure that the report referred to in Article 4 of Directive 2003/54/EC covers the overall adequacy of the system to supply current and projected demands for electricity, comprising

- operational network security,

- the projected balance of supply and demand for the next five year period,

- the prospects for security of electricity supply for the period between 5 and 15 years from the date of the report,

- the investment intentions, for the next five or more calendar years, of transmission system operators or those of any other party of which they are aware as regards the provision of cross-border interconnection capacity.

2. Member States or the competent authorities shall prepare the report in close collaboration with transmission system operators. Transmission system operators shall, if appropriate, consult with neighbouring TSOs.

3. The section of the report relating to interconnection investment referred to in paragraph 1 shall take account of

a) the principles of congestion management, as set out in Regulation (EC) No 1228/2003 of the European Parliament and the Council,

b) existing and planned transmission lines,

c) expected patterns of generation, supply, cross-border exchanges and consumption allowing for demand management measures, and

d) regional, national and European sustainable development objectives, including those projects forming part of the Axes for priority projects set out in Annex I of Decision xx/04 of the European Parliament and of the Council laying down guidelines for trans-European energy networks and repealing Decisions Nos 96/391/EC and 1229/2003/EC.

Member States shall ensure that transmission system operators provide information on their investment intentions or those of any other party of which they are aware as regards the provision of cross-border interconnection capacity.

Member States may also require transmission system operators to provide information on investments related to the building of internal lines that materially affect the provision of cross-border interconnection.

4. Member States or the competent authorities shall ensure that the necessary means in terms of information access to the relevant data are facilitated to the transmission system operators and/or to the competent authorities where relevant in the development of this task.

The non-disclosure of confidential information shall be ensured.

5. On the basis of the information received from the competent authorities referred to in paragraph 1 fourth indent, the Commission shall report to the Member States, the competent authorities and the European Regulators Group on Electricity and Gas established by the Commission Decision 2003/796/EC on the investments planned and their contribution to the objective set out in Article 1(1).

This report may be combined with the reporting foreseen under Article 28(1)c of Directive 2003/54/EC and shall be published.

Article 8

Implementation

1. The Member States shall take all measures necessary to ensure that ***national provisions adopted pursuant to this Directive*** are implemented.
2. The Member States shall notify those provisions to the Commission by the ***1 December 2007*** at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 9, paragraph 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive ***not later than 24 months after its entry into force*** . They shall forthwith inform the Commission thereof.

Article 10

The Commission shall monitor and review the application of this Directive and submit a progress report to the European Parliament and the Council no later than ***48 months after its entry into force*** .