

Procedure file

Basic information			
COD - Ordinary legislative procedure (ex-codecision procedure) Directive		2001/0077(COD)	
Energy: rules for the internal market in electricity. 'Electricity Directive'		Procedure completed	
Repealing Directive 96/92/EC		1991/0384(COD)	
Amended by		2007/0141(COD)	
Repealed by		2007/0195(COD)	
Subject		3.60.03 Gas, electricity, natural gas, biogas	
Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ITRE Industry, External Trade, Research, Energy	V/ALE TURMES Claude	29/05/2001
	Former committee responsible	PSE RAPKAY Bernhard	29/05/2001
	ITRE Industry, External Trade, Research, Energy	V/ALE TURMES Claude	29/05/2001
	Former committee for opinion	PPE-DE MARINOS Ioannis	19/06/2001
	ECON Economic and Monetary Affairs	JURI BEYSEN Ward	10/07/2001
	JURI Legal Affairs and Internal Market	ELDR BEYSEN Ward	07/01/2002
	JURI Legal Affairs and Internal Market	UEN CROWLEY Brian	21/05/2001
	ENVI Environment, Public Health, Consumer Policy	NI KRONBERGER Hans	
	RETT Regional Policy, Transport and Tourism	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	General Affairs	2518	16/06/2003
	Transport, Telecommunications and Energy	2465	25/11/2002
	Industry	2433	06/06/2002
	Energy	2347	14/05/2001
European Commission	Commission DG	Commissioner	
	Energy and Transport		
Key events			
14/05/2001	Debate in Council	2347	Summary

14/05/2001	Committee referral announced in Parliament, 1st reading		
26/02/2002	Vote in committee, 1st reading		Summary
26/02/2002	Committee report tabled for plenary, 1st reading	A5-0077/2002	
12/03/2002	Debate in Parliament		
13/03/2002	Decision by Parliament, 1st reading	T5-0106/2002	Summary
06/06/2002	Debate in Council	2433	Summary
13/02/2003	Committee referral announced in Parliament, 2nd reading		
24/04/2003	Vote in committee, 2nd reading		Summary
02/06/2003	Debate in Parliament		
04/06/2003	Decision by Parliament, 2nd reading	T5-0242/2003	Summary
16/06/2003	Act approved by Council, 2nd reading		
26/06/2003	Final act signed		
26/06/2003	End of procedure in Parliament		
15/07/2003	Final act published in Official Journal		

Technical information

Procedure reference	2001/0077(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealing Directive 96/92/EC 1991/0384(COD) Amended by 2007/0141(COD) Repealed by 2007/0195(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095; EC Treaty (after Amsterdam) EC 055; EC Treaty (after Amsterdam) EC 047-p2
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/5/16091

Documentation gateway

Legislative proposal		COM(2001)0125	13/03/2001	EC	Summary
Document attached to the procedure		SEC(2001)0438	13/03/2001	EC	Summary
Economic and Social Committee: opinion, report		CES1311/2001 OJ C 036 08.02.2002, p. 0010	17/10/2001	ESC	
Committee draft report		PE309.068	07/01/2002	EP	
Committee opinion		PE312.598/DEF	23/01/2002	EP	

Amendments tabled in committee		PE309.068/AM	06/02/2002	EP	
Amendments tabled in committee		PE309.068/AM2	06/02/2002	EP	
Amendments tabled in committee		PE309.068/AM3	06/02/2002	EP	
Committee draft report		PE309.068/REV	11/02/2002	EP	
Committee draft report		PE309.068/RE2	14/02/2002	EP	
Amendments tabled in committee		PE309.068/AM4	14/02/2002	EP	
Committee opinion	ECON	PE304.714/DEF	19/02/2002	EP	
Committee report tabled for plenary, 1st reading/single reading		A5-0077/2002	26/02/2002	EP	
Committee opinion	JURI	PE308.488/DEF	05/03/2002	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0106/2002 OJ C 047 27.02.2003, p. 0088-0350 E	13/03/2002	EP	Summary
Modified legislative proposal		COM(2002)0304	07/06/2002	EC	Summary
Document attached to the procedure		SEC(2002)1038	01/10/2002	EC	Summary
Council statement on its position		05596/2003	24/01/2003	CSL	
Council position		15528/2/2002 OJ C 050 04.03.2003, p. 0015-0035 E	03/02/2003	CSL	Summary
Commission communication on Council's position		SEC(2003)0161	07/02/2003	EC	Summary
Committee draft report		PE322.002	20/03/2003	EP	
Amendments tabled in committee		PE322.002/AM	04/04/2003	EP	
Committee recommendation tabled for plenary, 2nd reading		A5-0136/2003	24/04/2003	EP	
Amendments tabled in committee		PE322.002/AMC	20/05/2003	EP	
Text adopted by Parliament, 2nd reading		T5-0242/2003 OJ C 068 18.03.2004, p. 0148-0211 E	04/06/2003	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2003)0429	23/07/2003	EC	Summary
Non-legislative basic document		COM(2004)0719	26/10/2004	EC	Summary
Follow-up document		COM(2004)0863	05/01/2005	EC	Summary
Follow-up document		COM(2005)0568	15/11/2005	EC	Summary
Follow-up document		COM(2006)0841	10/01/2007	EC	Summary
Follow-up document		COM(2009)0115	11/03/2009	EC	Summary
Follow-up document		SEC(2009)0287	11/03/2009	EC	
Follow-up document		COM(2010)0084	11/03/2010	EC	Summary
Follow-up document		SEC(2010)0251	11/03/2010	EC	

[Additional information](#)

Final act[Directive 2003/54](#)[OJ L 176 15.07.2003, p. 0037-0055](#) Summary

Energy: rules for the internal market in electricity. 'Electricity Directive'

The Council held a debate on completing the internal markets for electricity and gas. The Presidency concluded the debate noting the following: - there is a broad consensus on the fact that the market opening concerning both gas and electricity should be actively pursued and accelerated. To this end, the Swedish Presidency, in consultation with the incoming Belgian and Spanish Presidencies, will take initiatives to find ways and means within the existing Council framework to accelerate this process and will come back with appropriate ideas to be presented to the Council; - quantitative measures related to market opening (such as thresholds) and qualitative aspects (such as unbundling, Third Party Access and regulators, potential socio-economic impact) are interdependent; - as always, when deciding on measures to be taken at Community level, the cost of the various options needs to be assessed; - the principle of unbundling meets general agreement, whereas its concrete modalities still have to be clarified; unbundling of the gas sector may not necessarily follow the same model/approach as for electricity; - non discriminatory third party access to the grid without transparent and published tariffs is not feasible; public service obligations need to be taken into account when defining the practical modalities of tariffication systems; - to ensure improved security of supply through further integration at Community level, infrastructure requirements need to be carefully assessed, with particular regard to the revised TEN programme; - benchmarking and monitoring are useful tools for ensuring a proper assessment of progress and follow-up, in particular with respect to public service obligations and security of supply and congestion management, which can be facilitated by increasing the transparency on available interconnection capacity; - a fully functioning single market for gas and electricity can not be achieved without efficient cross-border trade. Rules to that effect should be sought at an appropriate level, which are based on simplicity, non discrimination, transparency and effective reflection of costs, allowing for proper allocation signals and ensuring adequate reciprocity; - when deciding on the most appropriate way to deal with trade (in electricity) with third countries proper consideration should be given to environmental issues, reciprocity and legal implications; - although a legally binding framework is required to address several of the issues raised by the achievement of the internal market, the Florence and Madrid processes have demonstrated their usefulness and we expect them to continue to do so.?

Energy: rules for the internal market in electricity. 'Electricity Directive'

The Council held a debate, on the basis of a questionnaire from the Presidency, on the key elements of the proposal for a Directive aimed at accelerating the liberalisation of the electricity and gas sectors. It was informed of progress on the proposal for a Regulation on conditions for access to the network for cross-border exchanges in electricity. Following the discussion, the Council asked the Permanent Representatives Committee to examine the proposed Directive further so that it could be adopted if possible by the end of the year. The Commission also presented to the Council the outline of an amended proposal which it intends to submit very rapidly to the European Parliament and the Council. The discussion covered the following questions: - protection of final customers and universal service; - legal separation between the different activities; - activities in regard to non-eligible customers prior to total market opening; - principles relating to market opening; - regulatory tasks.?

Energy: rules for the internal market in electricity. 'Electricity Directive'

The Commission's amended proposal accepts in principle or in part a large number of amendments adopted by the Parliament at first reading. The amendments of the European Parliament have been incorporated as follows: 1) Recitals : the Commission has accepted the amendments which: - specify in which areas obstacles to a functioning market remain; - underline the need to ensure a level playing field in generation and protecting small and vulnerable customers' rights and of disclosure on fuel sources; - underline the importance of non-discriminatory access to the network and the existence of favourable investment conditions; - state that construction and maintenance of network infrastructure will contribute to a stable supply; - emphasise the existence of effective regulation and the necessity to establish at least legally binding methodologies underlying transmission and distribution tariffs, instead of stressing the existence of national regulatory authorities with the competence to set or approve tariffs; - require national regulatory authorities to set up market based mechanisms for balancing power as soon as the electricity market is sufficiently liquid; - state that national regulatory authorities are given the task to ensure that, in approving/fixing transmission and distribution tariffs, they take account of the benefits of distributed generation and demand-side management measures; - specify the provisions on the examination of the security of supply situation in the Community, taking into account the interconnection capacity between Member States. It is specified that this monitoring should be carried out early enough to allow any necessary actions to be taken in due time; - call for consideration to be given to the increased external dependence of the Union on natural gas and to consider measures to encourage reciprocal arrangements for access to networks of third countries; - call for admission to the gas network for biogas and gas for biomass for environmental reasons provided this is compatible with the secure and efficient operation of the network on environmental grounds; - state that long-term 'take-or-pay' contracts will remain an important and necessary part of the gas supply of Member States and should be maintained as an option; - include in Article 1 of the amended Gas Directive the reference that the Directive shall also apply to apply biogas and gas from biomass. The Commission can accept this addition, but adds a clause to the effect that this applies to these gases insofar as they can be technically and safely injected into the natural gas system. 2) Universal and Public Service Obligations: the amendments accepted aim to : - add sustainable development to the scope of the Directive; - introduce climate change, energy efficiency and research and development among the subjects to which public service obligations may relate; - mention the fact that public service obligations shall not unduly restrict competition; - reinforce the provisions on the protection of vulnerable customers and oblige Member States to guarantee that effective procedures are in place to enable individual customers to switch supplier; - introduce the obligation to specify fuel sources into the

body of the Directive; - oblige Member States to set minimum criteria for delays within which system operators must effectuate connections and repairs; - specify that Member States shall notify all their measures to fulfil public and universal service obligations upon implementation and subsequently every two years any modifications to those measures; - specify that customers shall be informed about their rights regarding universal service; 3) Authorisation procedures (electricity) : the Commission accepted the principle of the amendment which calls for simplified authorisation procedures for small or embedded generation under 15 MW. 4) Tendering (electricity) : the Commission accepts the amendment which adds to the tendering option a possibility to tender explicitly for energy efficiency/demand side management measures in the interest of security of supply and environmental protection. 5) Monitoring of Security of Supply (gas, electricity) : the Commission accepted the amendments which : - suggest the creation of a European Regulatory Group for the European electricity and gas markets by the Commission. The Commission has the intention to create such a consultative body shortly, through a Commission decision; - include the environment and public service requirements in addition to security of supply as a reason to monitor the demand/supply balance; - adds in the report by the Commission on security of supply in natural gas, an examination of issues relating to system capacity levels. 6) Unbundling of Transmission and Distribution System Operators: the Commission accepts the amendments which : - proposes that the system operator shall have efficient decision making rights as to the assets necessary to maintain and develop the network; - specifies that at least the methodologies for the establishment of tariffs and terms for balancing the gas system shall be approved or fixed by the national regulatory authority. The tariffs and terms shall be published; - calls for admission to the gas network for biogas and gas for biomass for environmental reasons on condition that this is compatible with the secure and efficient operation of the network on environmental grounds. 7) Maintenance and Development of the network by the TSOs : the costs of connecting producers of electricity from renewables and combined heat and power shall be objective and non-discriminatory. The Commission is of the opinion that the costs of connection of all producers should be non-discriminatory, but that, in addition, the specific characteristics and the costs and benefits of connecting producers from renewables and combined heat and power. 8) Unbundling of Accounts : the national regulatory authority shall have access to the accounts of generation, transmission, distribution and supply undertakings. 9) Access to the Network: the amendments accepted aim to : - introduce the notion that tariffs should 'reflect long-term, marginal avoided network costs from decentralised electricity production and demand side management measures; - oblige system operators to quote terms for reinforcing the network; - add access to flexibility instruments to access to storage, which is one of the most important flexibility instruments in most Member States. 10) Regulation: the amendments concerning the national regulatory authority can be supported in part. With respect to the independence of the national regulatory authority, the Commission proposes that it is important that the regulatory authority is independent from the interests of industry. Other amendments : - add to the tasks of the national regulatory authority the reporting on market dominance, market concentration and predatory and anti competitive behaviour; state that transmission and distribution system operators shall be placed 'under a positive obligation' to release information on capacity allocation. The amendment on the prohibition of cross-subsidisation is accepted in principle. 11) EU imports : the reporting obligation on imports of electricity is changed from once a year to once every three months. The Commission is, in principle, willing to except a shorter periodicity for the reporting obligation. 12) Reports : the amendments accepted specify the provisions on the examination of the security of supply situation in the Community, taking into account the interconnection capacity between Member States. It is specified that this monitoring should be carried out early enough to allow any necessary actions to be taken in due time. The Commission supports these specifications. 13) Annex : the amendments contain some provisions of the annex on consumer protection. Most of these can be accepted. It should be noted that the amendments relating to, or implying, the splitting of the proposal of the Commission into two separate proposals, one amending the Electricity Directive 96/92/EC and one amending the Gas Directive 98/30/EC are not accepted.?

Energy: rules for the internal market in electricity. 'Electricity Directive'

The common position takes on board the parliamentary amendments splitting the Commission proposal in two separate texts, one amending the Electricity Directive 96/62/EC and one amending the Gas Directive 98/30/EC (please refer to COD/2001/0077A). Although the European Parliament adopted some of these amendment in relation to the Gas proposal the Council was of the opinion that they were also relevant to the Electricity one. The main elements of the common position are the following : 1) Public service obligations : the Council retained as a general principle, the protection of final customers and ensuring a high level of consumer protection. Examples of measures contributing to high standards of consumer protection and information are presented in an Annex (Annex A) which is mandatory for household customers. Moreover, household customers and, where Member States deem it appropriate, small enterprises, shall enjoy "universal service", i.e. the right to be supplied with electricity of a specified quality of reasonable prices. While this concept of universal service, and more generally, public service requirements, can be interpreted on a national basis, they have to be implemented in a transparent and non-discriminatory way. PSOs and universal service shall also be the subject of a detailed Commission report. The Council specified that information on the contribution of each energy source to the overall fuel mix has to be made available to final customers, as well as the reference to publicly available sources, such as web-pages, where information on the environmental impact of CO₂ emissions and radioactive waste resulting from electricity production can be found. 2) Unbundling of transmission system operators and unbundling of distribution system operators : distribution system operators serving 100 000 customers or less may be exempted from these provisions; the Commission will review this threshold in the framework of its reporting exercise. Besides Member States may postpone on the implementation of legal unbundling for DSOs until the full market opening. Furthermore in the context of the review procedure provided for in the Directive, a Member State may, under certain conditions related to the manner in which it has carried out network access, request to the Commission to be exempted from requirements such as the legal unbundling of DSOs. This request may lead to the Commission submitting proposals to the Parliament and Council to amend the relevant provisions of the Directive or provide for other appropriate means. 3) Market opening : the Council followed the two-step opening proposed by the Commission, with 2004 for all non-household customers and 2007 for all customers. Member States should take into account the situation of certain groups of non-household customers during the first step by applying for an 18-month derogation. By 1 January 2006 the Commission is due to produce a detailed reporting addressing i.a. public service and universal service issues as well as various issues related to the implementation and consequences of the market opening. The Directive shall be implemented no later than 1 July 2004. 4) Regulatory authorities : the common position, whilst confirming it is left to the Member States to define the institutional arrangements appropriate to carry out the regulatory tasks, states that the independent regulatory authorities are at least responsible for ensuring non-discrimination, effective competition and the efficient functioning of the market, by least monitoring various rules and conditions listed in the Commission proposal. These authorities are also responsible for approving ex-ante at least the methodologies underlying the terms and conditions for connection and access to networks and for balancing services, and have the authority to require ex-post modifications of these terms and conditions. The text also clarifies the provisions and concerning the prompt handling of complaints by administrative bodies. 5) New capacity : Member States have to ensure the possibility, in the interests of security of supply to provide for a new capacity or energy efficiency/demand side management measures through a tendering or equivalent procedure. Moreover, Member States may also ensure the possibility of tendering in the interests of environmental protection and the promotion of infant new technologies. 6) Unbundling of accounts : undertakings have to keep separate accounts for each of their transmission and distribution activities and for other electrical activities. Supply activities to eligible and to non-eligible customers shall be separated in the accounts of these undertakings until full market opening. 7) Derogations : further to

derogations granted under Directive 96/92/EC (e.g. for small isolated systems), the common position introduces the possibility of derogation for micro isolated systems (consumption less than 500 Gwh in 1996).?

Energy: rules for the internal market in electricity. 'Electricity Directive'

The committee adopted the report by Claude TURMES (Greens/EFA, L) amending the Council's common position under the 2nd reading of the codecision procedure. The committee reinstated, sometimes in modified form, a number of amendments adopted by Parliament at 1st reading which sought to: - ensure the unification of the different methods of financial management for decommissioning funds in the nuclear sector, to prevent distortions of the market; - ensure that the bills sent out by electricity companies provide detailed information such as the percentage contribution of each energy source for the electricity which is delivered or is intended to be delivered, if different from the overall fuel mix of the supplier. The committee also wanted penalties to be imposed on companies which failed to fully disclose their electricity sources; - specify that universal service included the right for users to be supplied with electricity at affordable, easily and clearly comparable and transparent prices. The amendment further stipulated that the legislation should not "prevent Member States from strengthening the market position of the domestic, small and medium consumers in promoting the possibilities of voluntary aggregation of representation for this class of consumers for tendering", with a view to benefiting small consumers; - provide for the supervisory authorities of the Member States to report to the Commission each year on market dominance and predatory and anti-competitive behaviour. The committee also called for close cooperation between the Commission and national supervisory bodies to ensure a level playing field as regards security of supply and said that the Commission should launch a comprehensive survey of demand satisfaction across the whole of the internal market. Other amendments provided for an annual external audit to ensure that no cross-subsidies were being paid and also sought to ensure that the supervisory authorities were made responsible for monitoring the level of transparency and competition. One amendment stressed the need to guarantee equality of access for EU electricity companies to national consumers, with the aim of ensuring that public service undertakings did not impose conditions which could only be met by national companies, amounting in practice to unfair competition. In addition, the committee deleted Article 27 of the common position which provided for a Member State to be exempted, under certain circumstances, from the requirements of legal unbundling for DSOs when the Commission came to review the application of the Directive. Lastly, the committee called for the Commission's progress report, to be drawn up within a year of the Directive's entry into force, to include an assessment of the social and environmental consequences of electricity trade with non-EU countries.?

Energy: rules for the internal market in electricity. 'Electricity Directive'

The European Parliament passed a resolution adopting some of the amendments in a report by Claude TURMES (Greens/EFA, L). The Council modified its common position enabling compromise amendments to be agreed. These include the following: - equality of access for EU electricity companies to national consumers; - the parent companies of the transmission system operator and the distribution system operator will be able to approve the annual financial plans and set global limits on the levels of indebtedness of its subsidiary. The parent company will not be able to give instructions regarding day-to-day operations; - the audit must verify the obligation to avoid discrimination and cross-subsidies is respected - until 2010, the relevant authorities of the Member States will provide the Commission with a report on market dominance, predatory and anti-competitive behaviour. This report will also review the changing ownership patterns and any practical measures taken at national level to ensure a sufficient variety of market actors or practical measures taken to enhance interconnection and competition. From 2010 onwards, the relevant authorities will provide such a report every two years. - national regulatory authorities shall contribute to the development of the internal market and of a level playing field by cooperating with each other and with the Commission in a transparent manner; - on the question of the Commission report, Parliament stipulated this must include the scope and modalities of labelling provisions including e.g. the way in which reference is made to existing reference sources and the content of these sources, and notably on the manner in which the information on the environmental impact in terms of at least emissions of CO₂ and the radioactive waste resulting from the electricity production from different energy sources could be made available in a transparent manner throughout the European Union and on the manner in which the measures taken by the Member States to control the accuracy of the information provided by suppliers could be streamlined, and measures to counteract negative effects of market dominance and market concentration; - Commission proposals to ensure the independence of distribution system operators should also concern measures to address issues of market dominance, market concentration and predatory or anti-competitive behaviour.?

Energy: rules for the internal market in electricity. 'Electricity Directive'

PURPOSE : to establish rules relating to the organisation and functioning of the electricity sector. **COMMUNITY MEASURE :** Directive 2003/54/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing directive 96/92/EC. **CONTENT :** This Directive aims to arrive at a level playing field for all market actors on the electricity markets in the EC. Whilst Directive 96/92/EC has produced benefits for large consumers in terms of lower prices and better service standards, it has left open to Member States certain choices in terms of market opening, organisation of access to the network and regulation of the market. Experience has demonstrated that this situation leads to distortion of competition, as some Member States' markets are more open to competition than others. This Directive seeks to achieve full progressive opening of the electricity market, high standards of public service and a universal service obligation in electricity. It abolishes the choice of negotiated access to the electricity networks and obliges Member States legally to separate the transmission and distribution network operators from other parts of the business. In addition, all Member States must establish a regulatory authority with a minimum set of competencies. The directive provides for the liberalisation of Community electricity markets for non-household users by 1 July 2004, and a complete opening for all users by 1 July 2007. It establishes provisions on the unbundling of transmission and distribution operators, public service obligations, and regulatory tasks. The main points are as follows: - distribution and transmission systems must be operated through legally separate entities where vertically integrated undertakings exist; - Member States may appoint a supplier of last resort, which may be the sales division of a vertically integrated undertaking, so long as it meets the unbundling requirements of the Directive; - independent management structures must be put in place between distribution system operators and any generation/supply companies; - small companies may be exempt from the legal distribution unbundling requirements; - tariffs must be applicable to all system users on a non-discriminatory basis; - regulatory authorities must have the competence to fix or approve tariffs; - common minimum standards regarding public service requirements are specified in the Directive. These take into account the objectives of common protection, security of supply, environmental protection and equivalent levels of competition in all Member States; - the Commission must publish a report on an

annual basis analysing measures taken at national level to achieve public service objectives and comparing their effectiveness; - Member States must take the necessary measures to protect vulnerable customers. These may include specific measures relating to the payment of electricity bills or more general measures taken in the context of the social security system. DATE OF TRANSPOSITION : 01/07/04. ENTRY INTO FORCE : 04/08/03.?

Energy: rules for the internal market in electricity. 'Electricity Directive'

The Commission states that the conciliation procedure will not be invoked, since Parliament's amendments are acceptable to the Council. The Council approved on 16 June 2003 the amendments voted by Parliament. The Commission accepts all the amendments in full.?