



# Procedure file

Basic information		
INI - Own-initiative procedure	<a href="#">2007/2089(INI)</a>	Procedure completed
Prospects for the internal gas and electricity market		
Subject 2.60 Competition 3.60.03 Gas, electricity, natural gas, biogas		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ITRE</b> Industry, Research and Energy		27/02/2007
		PPE-DE <a href="#">VIDAL-QUADRAS Alejo</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>ECON</b> Economic and Monetary Affairs (Associated committee)		13/03/2007
		ALDE <a href="#">IN 'T VELD Sophia</a>	
	<b>ENVI</b> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
	<b>IMCO</b> Internal Market and Consumer Protection	The committee decided not to give an opinion.	
	<b>REGI</b> Regional Development		12/04/2007
		PSE <a href="#">DOUAY Brigitte</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2805</a>	06/06/2007
European Commission	Commission DG	Commissioner	
	Energy and Transport	PIEBALGS Andris	

Key events			
10/01/2007	Non-legislative basic document published	<a href="#">COM(2006)0841</a>	Summary
26/04/2007	Committee referral announced in Parliament		
26/04/2007	Referral to associated committees announced in Parliament		
06/06/2007	Debate in Council	<a href="#">2805</a>	Summary
18/06/2007	Vote in committee		Summary
26/06/2007	Committee report tabled for plenary	<a href="#">A6-0249/2007</a>	
09/07/2007	Debate in Parliament		
10/07/2007	Results of vote in Parliament		
10/07/2007	Decision by Parliament	<a href="#">T6-0326/2007</a>	Summary

Technical information	
Procedure reference	2007/2089(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	ITRE/6/46075

Documentation gateway					
Non-legislative basic document		<a href="#">COM(2006)0841</a>	10/01/2007	EC	Summary
For information		<a href="#">SEC(2006)1709</a>	10/01/2007	EC	
For information		<a href="#">SEC(2007)0012</a>	10/01/2007	EC	
Committee draft report		PE386.605	27/04/2007	EP	
Committee opinion	REGI	<a href="#">PE386.665</a>	03/05/2007	EP	
Amendments tabled in committee		<a href="#">PE388.717</a>	29/05/2007	EP	
Amendments tabled in committee		PE390.642	13/06/2007	EP	
Committee opinion	ECON	<a href="#">PE386.643</a>	18/06/2007	EP	
Committee report tabled for plenary, single reading		<a href="#">A6-0249/2007</a>	26/06/2007	EP	
Text adopted by Parliament, single reading		<a href="#">T6-0326/2007</a>	10/07/2007	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2007)4170</a>	29/08/2007	EC	
Commission response to text adopted in plenary		<a href="#">SP(2007)4733</a>	24/09/2007	EC	

## Prospects for the internal gas and electricity market

**PURPOSE:** to present a report on the prospects of the internal gas and electricity market.

**CONTENT:** this communication outlines the conclusions from the experience gathered over the last seven years in putting into effect a competitive European market for electricity and gas. This initiative has been a qualified success. While there are some positive results, the outcome of the sector inquiry and the country reviews have given the Commission a substantial insight into the current state of the liberalisation process, which has shown, despite significant shortcomings, some progress and considerable further potential benefits.

On the one hand, during this time, the basic concepts of the internal energy market have become embedded in terms of the legal framework, institutional arrangements and the physical infrastructure such as IT equipment. However, at the same time meaningful competition does not exist in many Member States. Often customers do not have any real possibility of opting for an alternative supplier.

Even customers who have successfully changed supplier are often not satisfied with the range of offers they receive. In summary, stakeholders do not yet have a high degree of confidence in the internal market.

As a consequence of these shortcomings, the Commission has, throughout 2005-06, been conducting an inquiry for the gas and electricity sectors under competition law.

The Commission thinks that it is now time to examine other options which should be pursued in completing the internal energy market. The key outstanding issues are as follows:

1) Ensuring non-discriminatory access to networks through unbundling: legal unbundling of TSOs has already led to an improvement in third party access (TPA) to networks. Basic principles of non-discrimination have been established and, for the most part, tariff structures have been developed which encourage the development of competition. Although progress has been made since 2004, the evidence reported from both

the country reviews and the sector inquiry indicates that legal and functional unbundling as currently required by the legislation is not sufficient to ensure that a real competitive European market for electricity and gas can develop.

The Commission has examined the unbundling issue closely and concluded that only strong unbundling provisions would be able to provide the right incentives for system operators to operate and develop the network in the interest of all users.

It is therefore considering two main avenues for further TSO unbundling measures, with a view to making formal proposals:

- fully (ownership) unbundled TSOs: the TSO would both own the transmission assets and operate the network;
- separate system operators without ownership unbundling: this solution would require separation of system operation from ownership of the assets. The Commission will examine both options closely with respect both to the electricity and gas networks taking account of the individual characteristics of each sector. The objective in both cases will be to ensure fair network access for all companies and ensure that sufficient incentives are in place for TSOs to provide adequate capacity, notably through new infrastructure.

2) Improve regulation of network access at national and EU level: the Commission has, therefore, come to the conclusion that energy regulators need to be strengthened at national level and have the required level of discretion to take decisions on all relevant issues. The Commission considers that regulators need strong ex-ante powers over the following areas: i) all aspects of third party access to networks, ii) access to gas storage, iii) balancing mechanisms, iv) market surveillance of e.g. power exchanges, v) compliance with functional and account unbundling for distribution system operators, vi) all cross border issues, vii) consumer protection including any end-user price controls viii) information

gathering, ix) sanctions for non-compliance. It therefore intends to propose a strengthening of the Directives on this basis. It is also essential to ensure that decisions at national level do not have an adverse effect on the aspects most critical for market entry and the evolution towards an EC internal market, respectively for gas and electricity. To this effect, certain individual national regulatory

decisions, in particular as regards cross border issues and the effective development of

competition, should be notified to the Commission.

3) Reducing the scope for unfair competition: many national markets are characterised by high levels of concentration and consequent concerns about wholesale market manipulation. Both gas and electricity markets are susceptible to concentration due to the existence of pre-liberalisation monopolies and their natural characteristics. In the short term, market participants have identified a range of other possible measures that would also assist the process of moving to more competitive and contestable electricity and gas markets and which relate to: a) transparency, b) contract structures and c) gas storage. The Commission therefore intends to examine measures which would best balance the need for effective access with maintaining incentives for new storage developments. This may need a specific regulatory framework requiring the following: a) legal unbundling, b) the adoption of binding guidelines following further advice from ERGEG, and c) increased powers of regulatory agencies over gas storage on an individual facility basis.

4) Co-ordination between transmission system operators: gas and electricity needs to be able to flow freely across the European Union in accordance with compatible technical rules. In order to achieve this, it is essential that TSOs make sufficient transmission capacity available to meet demand and integrate national markets without jeopardising the quality of supply. The network in the Member States was designed to fit the needs of many partitioned national markets not those of a single European one. The TSO group may be required by the Commission or the regulators, in particular in view of ensuring security of supply, to report on European grid operation and investment as well as the development of technical standards for network security. It could also, in particular, be responsible for monitoring the developments of networks so as to improve the transmission capacities between Member States. Efforts should also be made to have a gradual evolution towards regional system

Operators such as the setting up of cross border system operators. These would be independently owned and would require additional unbundling as discussed above.

5) Providing a clear framework for investment in generation plant / gas import and transmission infrastructure: increased regulatory certainty at EU level will act as a significant magnet to further investment and help deliver security of supply. Creating a stable and attractive environment for investment must be a priority of future action at EU level. It should be emphasised that, in the energy sector as in other sectors, creating a framework necessary to increase investment in R&D and innovation should be a priority at EU and Member States levels. Trends in RTD investments in the energy sector will be closely followed.

6) Issues relating to households and smaller commercial customers: from 2007 all electricity and gas customers will have the right to switch supplier from the historical incumbent. There are a range of outstanding issues that need to be resolved in order for this final phase to be successfully realised. Country reviews suggest that there are several Member States where the preparation for full market opening in 2007 is not well advanced, while the sector inquiry has also confirmed significant obstacles at the distribution level.

A clear picture of the national measures that Member States have taken to transpose the energy Directives with regard to consumer rules is not available. Existing data suggests that Member States have made rather limited use of targeted PSOs to address vulnerable customers. Indeed only half the Member States have even attempted to define this group and only five have any form of social tariffs. There are also substantial differences in terms of compensation for supply interruptions ? only 8 Member States have refund systems ? and codes of conduct for transparency of prices and contract conditions.

The Commission will therefore assess the national legislation in this field, its impact on operators as well as on households. In particular through the infringement procedures, it will provide guidance as to compliance of national measures with Community law. The Commission will also keep under constant review the retail markets to assess the effects of liberalisation on households, in view of increasing consumers' confidence in the energy market and limiting the risk of market manipulation.

Finally, the Commission will launch a major information and awareness raising campaign in the run up to full market opening in July 2007, and intends to develop an Energy Customers' Charter to (i) tackle fuel poverty, (ii) improve the minimum level of information available to citizens to help them choose between suppliers and supply options (iii) reduce red tape when customers change supplier and (iv) protect customers from unfair selling practices in compliance with the relevant EC directives. The Commission will also examine whether further specific action is required in this area of smart metering.

The Commission has already initiated an impact assessment procedure to identify the most suitable methods for implementing these intentions in practice. It will conclude this exercise later in 2007. A further Communication including detailed formal proposals to the Council

and the European Parliament will be produced.

The Commission calls on the Council and European Parliament to confirm that the key objectives to be pursued in completing the internal energy market are those identified by the Commission and to endorse the Commission's intention to table further measures to ensure that they are achieved.

## Prospects for the internal gas and electricity market

---

The Council held a policy debate on key issues such as unbundling, effective Regulation, adequate infrastructure investment and cooperation among network operators, on the internal market of gas and electricity on the basis of a questionnaire prepared by the German Presidency.

Priorities for action in relation to these issues have been identified in the European Council Action Plan (2007 ? 2009) "Energy Policy for Europe" adopted last March.

The debate will be useful for the Commission in preparation of its legislative package on the internal market which is expected in the autumn.

Before entering into the debate, the Council was informed about the outcome of the meeting of the Pentilateral Energy Forum (Central Western Europe) that took place on 6 June and the Memorandum of Understanding on market coupling and security of supply in Central Western Europe signed on that occasion.

## Prospects for the internal gas and electricity market

---

The Committee on Industry, Research and Energy adopted the initiative report by Alejo Vidal-QUADRAS (EPP-ED, ES) on the prospects for the internal gas and electricity market.

**Transmission unbundling:** the committee considers transmission ownership unbundling to be the most effective tool to promote investments in infrastructures in a non-discriminatory way, fair access to the grid for new entrants and transparency in the market. It underlines however that this model might not address all of the issues at stake such as interconnections or congestion points. It recognises that the application of further unbundling measures for the gas sector is not straightforward and therefore urges the development of specific solutions to enable this sector to achieve the completion of the internal gas market, taking into account the differences between the upstream and downstream markets. The Commission is called upon to come forward with a balanced proposal allowing EU gas companies to use pipeline investments and long-term contracts in order to raise their negotiating power vis-à-vis third countries. MEPs insist that no third country company should be allowed to purchase energy infrastructure unless there is reciprocity with that country.

**Regulators:** the report welcomes the Commission's proposal to enhance cooperation between national regulators at EU level, through an EU entity, as a way to promote a more European approach to regulation on cross-border issues. According to the report, national regulators should : (a) remain the only authority responsible for decisions affecting their national market only; (b) ensure that any company owning energy infrastructure, and in particular transmission networks or pipelines, undertakes to meet clearly set down investment targets in order to avoid speculation in this area; (c) be independent, strong and have well-defined competences in order to ensure the law is fully implemented in practice and is adhered to by market players and that the necessary investments and transparency levels are in place; (d) be given the role of penalising an operator who does not respect their decisions or a transmission operator who fails to meet his network maintenance obligations, of ensuring that energy companies have a statutory obligation to give energy saving advice to customers.

**Regulated tariffs:** Member States are urged to gradually end the application of generalised regulated tariffs, whilst ensuring that there are adequate measures to protect vulnerable customers, particularly in terms of fuel poverty, including non-market based mechanisms. MEPs consider that subsidies for non-renewable sources of energy should be eliminated thereby ensuring a level playing field, that external environmental costs should be internalised in the price of energy and that market-based instruments should be used to achieve environmental and energy policy objectives. The report notes that targeted high-standard universal service obligations and public service obligations should comply with State aid rules and that competition law applies with respect to price discrimination and restrictions on re-sale.

**Social impact and consumer protection:** the Commission is invited to present full impact assessments including the evaluation of the social effects of its different proposals and to support the industries in developing mechanisms for training and redeployment. It should present its proposal for an Energy Consumers' Charter by the end of 2007.

**Interconnections:** while welcoming the indicative objective of achieving interconnection levels of 10% in Member States, the committee calls on Member States to increase their efforts, including through the strengthening of bilateral cooperation, to remove technical, administrative and political barriers to the completion of existing and upcoming projects, in particular the four projects identified by the Commission as projects of EU interest. Member States are asked to facilitate authorisation procedures for the building of interconnection lines and to limit the duration of the procedures. It reaffirms the need to increase the budget allocated to trans-European energy networks for, in particular, removing environmental obstacles. It calls on the Commission to accelerate the appointment of EU coordinators for projects of EU interest which are experiencing problems with implementation.

**Long-term contracts:** MEPs recognises that upstream long-term contracts, in particular in the gas sector, are necessary to provide a positive investment climate, contribute significantly to security of supply and do not harm the integration of the internal energy market, provided that new entrants are not excluded. They request the Commission to propose a definition of what constitutes a high energy user and request the Commission to give special consideration to high energy users in the EU that are competing in the global economy. The Commission is also asked to provide clear guidance on downstream bilateral long-term contracts in order to reduce uncertainty in the market and to move towards standardisation of contracts.

**Electricity grid and gas networks:** the committee reiterates its concern over the investment needs in the upgrading of the electricity grid and gas networks to ensure the security of supply in EU and insists on the stability, coherence and transparency of the regulatory framework in order to create an investment-friendly environment and therefore calls for the development of such a regulatory framework for the shared benefit of EU consumers and businesses. It emphasises the need for technical harmonisation of European networks.

**Strategic stocks:** MEPs agree with the Commission's assessment that, in relation to gas, considering the present technology, it is better to

diversify supply routes and technologies, such as degasification plants and liquefied natural gas terminals, than to create massive gas stocks. They invite the Commission to make a concrete proposal for making better use of existing gas stocks without disturbing the balance between security of supply and favouring new market entrants.

Transparency: the Commission is urged to put forward concrete proposals on how to enhance transparency for consumers; to make consumer information complete and clear (including the various tariffs available, the company's energy mix and other useful information such as labelling as defined in Directive 2003/54/EC), and to strengthen the role of consumer organisations in the EU energy market.

Implementation of EC legislation: concerned at the number of Member States who are still to transpose Directives 2003/54/EC and 2003/55/EC and those who have failed to implement them properly. The committee calls on Member States to transpose and fully implement these directives without delay. It reiterates the importance of achieving a fully liberalised European energy market as soon as possible and insists on the Commission presenting its package of additional measures for the internal market in late September 2007. The Commission is urged to closely supervise the impact of concentration on competition, both at national and at European level, taking also into consideration the current consolidation process that is giving rise to new, large, multinational energy undertakings active in a significant number of Member States and with a high degree of vertical and gas-electricity integration. National governments are called upon to stop the promotion of the so-called national champions and to refrain from passing protectionist legislation preventing the development of a truly integrated European energy market.

## Prospects for the internal gas and electricity market

---

The European Parliament adopted the resolution based on the initiative report by Alejo VIDAL-QUADRAS (EPP-ED, ES) on the prospects for the internal gas and electricity market.

The main themes dealt with in this report are as follows:

Transmission unbundling: the Parliament considers transmission ownership unbundling to be the most effective tool to promote investments in infrastructures in a non-discriminatory way, fair access to the grid for new entrants and transparency in the market. It underlines however that this model might not address all of the issues at stake such as interconnections or congestion points. The Commission is invited to present an analysis in which the expected costs of ownership unbundling and of establishing independent system operators for the Member States, the expected effects on investment in the networks, as well as the benefits for the internal market and consumers are demonstrated. It should be noted that amendment calling into question the principle of unbundling was rejected at Plenary by 245 votes for, 406 against and 22 abstentions.

It recognises that the application of further unbundling measures for the gas sector is not straightforward and therefore urges the development of specific solutions to enable this sector to achieve the completion of the internal gas market, taking into account the differences between the upstream and downstream markets.

The Commission is called upon to come forward with a balanced proposal allowing EU gas companies to use pipeline investments and long-term contracts in order to raise their negotiating power vis-à-vis third countries. MEPs insist that no third country company should be allowed to purchase energy infrastructure unless there is reciprocity with that country.

Regulators: the report welcomes the Commission's proposal to enhance cooperation between national regulators at EU level, through an EU entity, as a way to promote a more European approach to regulation on cross-border issues. According to the report, national regulators should : (a) remain the only authority responsible for decisions affecting their national market only; (b) ensure that any company owning energy infrastructure, and in particular transmission networks or pipelines, undertakes to meet clearly set down investment targets in order to avoid speculation in this area; (c) be independent, strong and have well-defined competences in order to ensure the law is fully implemented in practice and is adhered to by market players and that the necessary investments and transparency levels are in place; (d) be given the role of penalising an operator who does not respect their decisions or a transmission operator who fails to meet his network maintenance obligations, of ensuring that energy companies have a statutory obligation to give energy saving advice to customers.

Regulated tariffs: Member States are urged to gradually end the application of generalised regulated tariffs, whilst ensuring that there are adequate measures to protect vulnerable customers, particularly in terms of fuel poverty, including non-market based mechanisms. MEPs consider that subsidies for non-renewable sources of energy should be eliminated thereby ensuring a level playing field, that external environmental costs should be internalised in the price of energy and that market-based instruments should be used to achieve environmental and energy policy objectives. The report notes that targeted high-standard universal service obligations and public service obligations should comply with State aid rules and that competition law applies with respect to price discrimination and restrictions on re-sale.

Social impact and consumer protection: the Commission is invited to present full impact assessments including the evaluation of the social effects of its different proposals and to support the industries in developing mechanisms for training and redeployment. It should present its proposal for an Energy Consumers' Charter by the end of 2007.

Interconnections: while welcoming the indicative objective of achieving interconnection levels of 10% in Member States, the Parliament calls on Member States to increase their efforts, including through the strengthening of bilateral cooperation, to remove technical, administrative and political barriers to the completion of existing and upcoming projects, in particular the four projects identified by the Commission as projects of EU interest. Member States are asked to facilitate authorisation procedures for the building of interconnection lines and to limit the duration of the procedures. It reaffirms the need to increase the budget allocated to trans-European energy networks for, in particular, removing environmental obstacles.

Long-term contracts: MEPs recognises that upstream long-term contracts, in particular in the gas sector, are necessary to provide a positive investment climate, contribute significantly to security of supply and do not harm the integration of the internal energy market, provided that new entrants are not excluded. They request the Commission to propose a definition of what constitutes a high energy user and request the Commission to give special consideration to high energy users in the EU that are competing in the global economy. The Commission is also asked to provide clear guidance on downstream bilateral long-term contracts in order to reduce uncertainty in the market and to move towards standardisation of contracts.

Electricity grid and gas networks: reiterating its concern over the investment needed to upgrade the electricity grid and gas networks to ensure the security of supply in EU, the Parliament calls on national, regional and local authorities to take all necessary steps to ensure that these

delays are reduced to the strict minimum and that every inhabited remote and inaccessible area (including islands and mountainous areas) is connected to the main electricity grid. It urges the Member States to facilitate an increase in grid capacity in order to allow the incorporation of new massive onshore and offshore renewable energy generation. Lastly, the Commission is called upon to draw up a road map for the creation of a single EU electricity and gas network.

Strategic stocks: MEPs agree with the Commission that, in relation to gas, considering the present technology, it is better to diversify supply routes and technologies, such as degasification plants and liquefied natural gas terminals, than to create massive gas stocks. They invite the Commission to make a concrete proposal for making better use of existing gas stocks without disturbing the balance between security of supply and favouring new market entrants.

Transparency: the Commission is urged to put forward concrete proposals on how to enhance transparency for consumers, to make consumer information complete and clear (including the various tariffs available, the company's energy mix and other useful information such as labelling as defined in Directive 2003/54/EC), and to strengthen the role of consumer organisations in the EU energy market.

Implementation of EC legislation: concerned at the number of Member States who are still to transpose Directives 2003/54/EC and 2003/55/EC and those who have failed to implement them properly. MEPs call on Member States to transpose and fully implement these directives without delay.

The Commission is urged to closely supervise the impact of concentration on competition, both at national and at European level, taking also into consideration the current consolidation process that is giving rise to new, large, multinational energy undertakings active in a significant number of Member States and with a high degree of vertical and gas-electricity integration. National governments are called upon to stop the promotion of the so-called national champions and to refrain from passing protectionist legislation preventing the development of a truly integrated European energy market.