

## Internal market in natural gas. Third energy package

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The Committee on Industry, Research and Energy adopted, by 31 votes to 16 and 2 abstentions, a report drafted by Romano Maria LA RUSSA (UEN/IT) and amended, in the framework of the codecision procedure, the proposal for a directive of the European Parliament and of the Council amending Directive 2003/55/EC concerning common rules for the internal market in natural gas. The main amendments are as follows:

**Ownership unbundling:** the key part of the report concerns the separation of ownership, which expressly prevents vertically integrated companies from holding an interest in both the supply and transmission of gas. An amendment seeking to introduce the "third option", which was supported by certain countries opposed to "full ownership unbundling" (the complete separation of gas suppliers from gas transmission networks), was rejected.

It is recalled that the Commission's proposal would have given Member States two options: ownership unbundling, or the preservation of integrated supply and transmission companies, provided that the operation of the transmission network was handed over to a separate body. Eight Member States had proposed a third option which kept the transmission network with the suppliers but with a structure to ensure it operates independently in practice.

Rejecting this "third option", the committee confirmed its endorsement of a proposal based on the recent Commission compromise text, involving the creation of independent transmission operators (ITOs). This proposal, like the "third option", would allow a company to retain the ownership of pipelines, if management of them is in the hands of a transmission system operator with "effective decision-making rights", but with some further safeguards of these rights.

Accordingly, the committee deleted Article 9 on Independent system operators, stating that the ISO model implies bureaucracy and costly regulatory control and is therefore not a viable alternative to full ownership unbundling.

**ITO model:** Members inserted a new Chapter IVa on Independent Transmission Operators, which allows for vertical integration and preserves effective unbundling. The ITO model leaves ownership of pipelines with the with the gas supply companies, but hands the management over to an ITO whose operational independence would be guaranteed by a an independent Trustee meant to protect the asset value of the transmission system operator; a supervisory body composed of gas company representatives, third party shareholders, transmission system operator representatives, as well as the Trustee ? responsible for decisions which may have a significant impact on the value of the assets of the shareholders; a

a compliance programme setting out measures that prevent discriminatory conduct; a compliance officer responsible for monitoring the implementation of the compliance programme.

No later than five years after the directive's entry into force, the energy regulators' Agency would report on whether requirements have managed to ensure the independence of transmission system operators.

The committee also confirmed that it is in favour of the Commission's proposal to prevent control of transmission systems by third countries unless there is an EU-third country international agreement.

**Storage:** a new clause states that, for the organisation of access to storage facilities when technically and/or economically necessary for providing efficient access to the system for the supply of customers, Member States shall decide if they choose either the regulated access procedure, or the negotiated access procedure. These procedures shall operate in accordance with objective, transparent and non-discriminatory criteria. National regulatory authorities shall observe compliance with these criteria. The committee deleted the articles on unbundling of transmission system owner and storage system operator.

**Comitology:** the use of comitology to adopt guidelines was generally deleted. The Commission's text is strengthened on elements such as powers of national regulators and fight against market concentration.

**Consumer rights:** consumers should be at the centre of the Directive. Existing rights for consumers need to be strengthened and guaranteed, and should include greater transparency and representation. Consumer protection means that all customers should benefit from a competitive market. Consumer rights should be enforced by national regulatory authorities by the creation of incentives and the imposition of sanctions on companies which do not comply with consumer protection and competition rules.

A definition of energy poverty was inserted into the text.

The committee added that Member States shall ensure that there are adequate safeguards to protect vulnerable customers, including appropriate measures including those related to payment terms to help them avoid disconnection.

Member States must implement measures to achieve the objectives of social and economic cohesion which lower the cost of gas provided to low-income household customers and guarantee the same conditions for the customers living in remote areas, and the objectives of environmental protection.

**Independence of national regulators:** the committee welcomes the Commission's proposals seeking to harmonise and strengthen the role of the national regulators. The national regulatory authorities should be able to monitor the occurrence of restrictive contractual practices. They should be able to fix or approve network access tariffs and publishing the methodology used to set the tariffs, and ensure that wholesale fluctuations in prices are transparent. The power of NRAs to impose sanctions is strengthened.

**Infrastructure:** the Commission's exemption decision will lose its effect if the infrastructure has not become operational five years after all national and regional decisions and authorisations have been issued, unless the delay is due to circumstances beyond control of the person to

whom the exemption has been granted. The committee also added a clause to ensure that new investments are not discriminated against. Conditions of exemption approvals should not be changed retrospectively unless all parties involved in granting the exemption (holder of the exemption, NRA and Commission) agree.

Regional cooperation: Member States must ensure that transmission system operators have one or more integrated systems at regional level covering several Member States for capacity allocation and for checking the security of the network.

Lastly, the committee added clauses on policy obligations for the promotion of biogas and energy efficiency and rules on price regulation.