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Provisions of the Community's Third Package: What are they?

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On 10 October 2008, political agreement was reached at the EU Council on the third package of measures concerning the internal energy market.

This reform package, initially proposed by the European Commission in September 2007, aims to achieve a proper internal EU energy market, with open competition and effective regulation of electricity and gas.

This third package is grounded in three elements that are fundamental to everything relating to energy [1]:

- reasonable price,
- guaranteed supply,
- environmentally friendly.

A key area of disagreement has been the proposal to separate energy production and supply from energy distribution/transmission activities.

The Council has now agreed on three alternative models to achieve this:

1) full ownership unbundling;

2) the introduction of an Independent System Operator (ISO) system, under which an ISO is designated by the Member State to manage the transmission network;

3) and the Independent Transmission Operator model (ITO), which is similar to the ISO model but allows the entity concerned to identify the independent operator, subject to certain controls.

Regarding Member States opting for full ownership unbundling, a "level playing field" clause was negotiated whereby such states can prevent companies based in other Member States which are vertically integrated on the basis of the ISO or ITO models from purchasing unbundled transmission assets in the relevant country [1, 3].

Another important provision is the "third country clause", which makes clear that non-EU energy companies will be subject to the same unbundling rules as EU entities, potentially limiting their ability to buy up distribution networks in the EU. This clause effectively requires that, in order to obtain the necessary certification, non-EU companies wishing to acquire an EU electricity gas network must satisfy the relevant Member State authorities that they comply with the EU unbundling rules and that the transaction does not threaten security of energy supply in the EU [1].

International agreements between States are likely to be relevant in determining whether these conditions are met. Finally, the reform package envisages the creation of a new EU Agency for the Cooperation of Energy Regulators to adopt common network rules, and minimum powers and levels of independence for national regulators.

The third package also contains various measures aimed at improving consumer rights by [3], for instance, allowing them to change gas and electricity suppliers within 3 weeks and free of charge and by providing that, subject to an economic assessment, at least 80% of electricity consumers should have access to intelligent metering systems ("smart metering") by 2020.

It remains for us to ask, how the opinions are the Third Energy Package. The European Commission has made clear that it favours splitting up energy firms' production and distribution activities as the best way to ensure fair competition and lower prices for consumers. Speaking in February 2007 [5], Competition Commissioner Neelie Kroes said full "ownership unbundling" would solve the "inherent conflict of interest" that she says inevitably occurs when incumbents are told to grant access to their network to new competitors entering the market. Their self-interest, she said, is to impede access in order to protect their market share.

However, a majority of member states, led by France and Germany, have so far rejected the Commission's calls, saying that splitting up energy firms "is only one of a number of measures for accelerating the dynamics of competition". In particular, unbundling "is not a cure-all", said Germany's Economy Minister Michael Glos in a statement [2] following a meeting of EU energy ministers in June 2007. The UK, Denmark and the Netherlands, on the other hand, are active promoters of 'ownership unbundling'.

Russia was first to see this as directed against its interests and this lead to a lot of disputes and division within the Union [4]. In the case of so-called 'reciprocity clause' was widely interpreted as being directed at the Russian state-controlled energy giant Gazprom, which is seeking to increase its share of the EU market. The clause gives sufficient scope for member states to decide whether to let a third-country company enter its market, acknowledging that member states have the right to "national legal controls to protect legitimate public security interests". The clause has caused consternation in Moscow, and the EU and Russia have agreed to set up a new expert group to discuss the matter.

So is it worth it? For you to judge.

Литература

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