Council of
European
Energy
Regulators

“The European Commission’s legislative proposals (3rd Package): Regulators’ view”

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Session 1: Effective Regulation and Unbundling

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Topics of this presentation

- Background to 3rd Package
- Main areas of legislation
- The Commission's 3rd Package proposals on:
  - Ownership unbundling
  - The ISO model
  - Retail Markets
- Regulators' views – current CEER thinking

Background to 3rd Package

- **Preparatory work by European Commission**
  - **Benchmarking reports and Green Paper**
  - **Progress report and Sector Inquiry of 10 January 2007**
  - **Urgent need to strengthen competition and complete internal market**
- **Main shortcomings found**
  - **Vertical integration**
  - **Lack of market integration**
  - **Lack of TSO cooperation**
  - **Regulatory gap**
  - **High degree of market concentration**
  - **Lack of transparency**
  - **Different powers and competences of national regulators energy regulators**

The main areas of the legislation

- Effective unbundling of networks
- Transparency
- Cooperation of network operators
- National regulators
- EU Regulatory Agency
- Access to Storage and LNG
- Solidarity
- Retail market & consumer protection

Effective Unbundling

- **Two options**
  - (1) Ownership unbundling of TSO
  - (2) Independent system operator (ISO) -> “Deep ISO” model

- ***Option 1: Ownership unbundling***
  - Supply companies must not have any interest in network operators (and vice versa)
  - In a nutshell: network operators can no longer be affiliated or be part of a group which is also active in supply, generation and production
  - It remains possible to have minority stakes in both supply and network companies

Effective Unbundling

- ***Option 1: Ownership unbundling (cont.)***
  - Impact assessment based on experience in Member States with ownership unbundling
  - No evidence for some negative assumptions:
    - On average, positive effects on investment, prices and market concentration
    - Example: share of congestion revenues that was reinvested in interconnection higher for unbundled network operators than for vertically integrated companies.
    - On average, no negative effects on technical operation, company value and credit ratings

Effective Unbundling - ISO

- ***Option 2: Independent system operator (ISO)***
  - Possible second-best approach: Member States may allow for derogation from ownership unbundling provided that an Independent System Operator (ISO) is designated
  - Transmission assets may remain with the vertically integrated company
  - But technical and commercial operation of those assets by ISO
  - ISO has a say in investment decision
  - Requirement that ISO is fully independent from any supply or production interests.

Effective Unbundling - ISO

- ***Option 2: Independent system operator (ISO) (cont.)***

  - Additional requirements in the case of ISO
    - implies increased regulatory control because ISO create additional interface (between asset ownership and asset operation)

  - Both options – ownership unbundling and ISO
    - Apply in the same way to gas and electricity
    - Apply equally to private and public companies
    - Require certification
    - Apply equally to EU and Third country companies

Retail Market & Consumer protection

- **Objective:**
  - Establish real choice for final consumers
  - Creation of EU-wide retail market
  - Create energy awareness

- **Measures:**
  - Strengthen rights of consumers
    - Better access to information on consumption
    - Right to switch supplier any time
    - Settlement of bill one month after switch

  - More frequent reading of meters (smart metering)
  - Establishment of a Retail Forum
  - Stronger DSO Unbundling (mandate to draft guidelines)

Current CEER thinking

- **Unbundling / ISO**
  - **Strong support for ownership unbundling** as, in principle, most effective way to ensure market integration and avoid conflicts of interest between market segments (production, supply) and natural monopolies (networks)
  - Acknowledgement that **unbundling not a panacea –** many other impediments to network investments remain and need attention: licensing, environment concerns
  - **Serious doubts about** possible effectiveness **of ISO model** – requires much more intrusive regulation to ensure that operational decisions are not influenced by shareholders' own interests

- **Retail Markets / Consumer Protection**
  - **Strong support for proposals** and corresponding increased powers of NRAs to monitor retail markets and ensure service quality
  - Ample **debate** on technical options for (and costs of) **smart metering**
  - DSO unbundling **presently not called for – further debate needed**

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