



Recent Regulatory Developments - EU

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Topics of this presentation

- A Rough Guide to the EU-niverse
- Update on Commission's 3rd Package proposals
- Current and upcoming challenges:
 - ◆ ACER and its relations with NRAs
 - ◆ Regulators' relations with TSOs/ENTSOs
 - ◆ ERGEG's Regional Initiatives
- What model best serves Internal Market and 3 Goals – Sustainability, Competitiveness, Security of Supply?

A Rough Guide to the EU-niverse

- **3 major Institutions:**
 - European Commission – Executive branch; proposes new legislation; Commissioners nominated by Member States (MS)
 - European Parliament (EP) – approves legislation in co-decision with Council; members directly elected by MS citizens
 - EU Council – approves legislation in co-decision with EP; represents MS govts, under 6-monthly rotating Presidency (now France, Czech Rep. next)

Update on Commission's 3rd Package proposals

- Energy 3rd Package (5 documents) proposed by Commission in Sept. 2007, has completed negotiations in EP and in Council, with some differences in positions (unbundling options, Agency functions)
- Reconciliation and Council-EP co-decision initially sought by end-2008, now hoped-for in early 2009 (thereafter jeopardised by EP elections in mid-2009)
- Complicated by concurrent negotiations on “Green Package”, with some MS cautious about CO2 reduction commitments in economic slowdown, while others threaten to link approval on 2 packages

3rd Package proposes new entity, the Agency

- European Agency for the Cooperation of Energy Regulators (ACER) to close “regulatory gap”
- Agency is not a substitute for the national regulators, nor is it a “European regulator”, but is guided by “Board of Regulators”
- Agency to complement the regulatory tasks performed at the national level, where 3rd Package proposes strengthening
- Agency to have decision making power in clearly defined cases:
 - ◆ – Individual decisions based on EU guidelines
 - ◆ – Cross-border issues when Regulators ask for assistance from the Agency
 - ◆ – Art. 22 exemptions of cross-border infrastructure
- (Note: proposed ACER powers are significantly less than FERC “quasi-judicial” powers, especially for gas infrastructure)

Current and upcoming challenges:

- ACER and its relations with NRAs
 - ◆ Distribution of functions/responsibilities between national regulators and the Agency
 - ◆ Definition of what constitutes “cross-border”
- Regulators’ relations with TSOs/ENTSOs
 - ◆ Formulation of codes and rules (espec. Market rules)
 - ◆ Consultations with stakeholders
 - ◆ Investment plans
- ERGEG’s Regional Initiatives (RIs)
 - ◆ Reconciling current RIs with Internal Energy Market
 - ◆ Dealing with potential regional TSOs/ISOs

Ultimate Challenge

- **What model best serves Internal Energy Market and 3 Goals?**
 - Sustainability
 - Competitiveness
 - Security of Supply

(What can EU Regulators learn from US experiences of State/Federal distribution of functions/responsibilities?)