

Brussels, 18 July 2002

OPINION

of the

Economic and Social Committee

on the

**Proposal for a Decision of the European Parliament and of the Council
amending Decision No. 1254/96/EC laying down a series of guidelines
for trans-European energy networks**

COM(2001) 775 final – 2001/0311 (COD)

On 21 March 2002 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Proposal for a Decision of the European Parliament and of the Council amending Decision No. 1254/96/EC laying down a series of guidelines for trans-European energy networks
COM(2001) 775 final. – 2001/0311 (COD)*.

The Section for Transport, Energy, Infrastructure and the Information Society was responsible for preparing the Committee's work on the subject. **Mr Graf von Schwerin** was appointed rapporteur-general under Rules 20 and 50 of the Rules of Procedure.

At its 392nd plenary session (meeting of 18 July 2002), the Committee adopted the following opinion by 77 votes to two:

1. Introduction

1.1 This Commission energy infrastructure package meets the call of the Stockholm European Council of 23-24 March 2001, which concluded that "*... the creation of an effectively functioning internal market in services is one of Europe's highest priorities ... and ... must go hand in hand with a framework for developing effective cross-border markets supported by adequate infrastructure capacity.*"

1.2 This new initiative has been prompted by the dissatisfaction with the outcome of the moves made so far to liberalise and open energy markets. The European internal energy market continues to be hampered by numerous obstacles and discriminatory practices. The Commission notes that the allocation of electricity and gas infrastructure capacity as well as tariffication methods, vary considerably between Member States and often result in discrimination and barriers to fair competition.

1.3 This is largely due not only to a very wide range of national interests deemed worthy of protection, but also to differences in the application of the single market directives in the individual Member States, although a distinction must generally be made between electricity and gas networks. The Commission also mentions the simple lack of requisite infrastructure for cross-border energy exchange. The desired internal energy market is currently hampered by a number of bottlenecks and an interconnection capacity that is either lacking or inadequate.

* COM(2001) 775 also contains two other papers that are dealt with in this EESC opinion: the Communication from the Commission to the European Parliament and the Council on European energy infrastructure, and the Report from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the implementation of the guidelines for trans-European energy networks in the period 1996-2001.

2. Gist of the Commission proposals

2.1 To remove these obstacles, therefore, the Commission communication proposes a thirteen-point action plan¹ with the following objectives in mind:

- to improve the use of existing infrastructure, particularly through more transparent rules for congestion management and tarification;
- to ensure a stable and favourable regulatory environment for infrastructure investments;
- to refocus Community financial support on priority projects;
- to raise political awareness generally and harness support for energy infrastructure issues at all levels; to take on political commitments at Community and national level;
- to safeguard gas supplies to Europe.

2.2 Building on the action plan, the cornerstone of this energy infrastructure package is the Commission proposal to revise the TEN energy guidelines. Initially, this involves introducing or redefining new priorities.

These include:

- importance for the completion of the single market (**closing "missing links" and resolving bottlenecks**);
- **inclusion of renewable energy production**;
- **interoperability of electricity networks with those of the candidate countries**;
- development of gas-supply infrastructure and
- connection of peripheral regions.

2.3 As well as these basic principles, the revised guidelines highlight so-called priority projects of European interest, i.e. projects of particular importance for the completion of the internal energy market and/or security of supply. Seven of these priority projects of European interest relate to cross-border congestion and capacity problems in the electricity sector and five concern gas (see Appendix I of the proposal). **In order to support these projects more effectively, the Commission has already proposed raising the maximum rate of funding under the TEN Financial Support Regulation from 10 to 20%².** Other proposals to amend the TEN guidelines include **defining the projects of common interest more broadly (10 projects instead of the current 90) and incorporating detailed project definitions into the project specifications.**

¹ For a detailed list of the individual actions, see points 3.1-3.6 of the Commission communication

² See COM(2002) 134 final

3. General comments

3.1 Over the past few years, the energy sector has increasingly become an area of key importance for all national economies. European economies in particular are marked by a growing dependence on external suppliers. Energy consumption is increasing at different rates across the European Union – in some cases keeping pace with economic growth. Domestic energy production is not enough to cover these energy needs. The real problem therefore is the non-availability of sufficient domestic energy³. Basic ways of tackling the issue would be:

- to ensure long-term security of supply;
- to use energy efficiently and sparingly;
- to protect the environment;
- to reduce risks;
- to ensure economically acceptable costs in both absolute and relative terms (competitiveness).

3.2 Today, energy is a key factor in Europe's competitiveness and economic development. The main aim of EU energy policy is thus to provide all consumers with a secure, affordable energy supply, while at the same time ensuring that the environment is protected and fair competition is promoted on the European energy market.

3.3 The main concern of Community energy policy is to establish an internal energy market. Europe is to be equipped with the most efficient, safest and most competitive energy market. Measures laid down to ensure price transparency for final consumers and to facilitate gas and electricity transfer between the major Community networks were followed, in 1996 and 1998, by the directives on common rules for the internal market in electricity and natural gas, the purpose of which was to ensure the free movement of electricity and natural gas within the Community. Electricity and gas markets were opened up for large consumers to start with, but this took place at different speeds in the individual Member States. That, together with delays by some Member States in setting up a regulatory authority, led to different degrees of effectiveness in liberalisation across the EU; hence, competition was still inadequate.

3.4 The Lisbon European Council called for a swifter completion of the single market in electricity and gas. Accordingly, in March 2001, the Commission submitted a proposal to speed up full energy market liberalisation. Under this proposal, all customers are free to choose their electricity and gas supplier from 1 January 2005. The arrangements are set out in a communication on completing the internal energy market, a draft directive amending the directives concerning common rules for the internal market in electricity and gas, and a draft regulation on conditions for access to the network for cross-border exchanges in electricity. The Commission proposes a better environment for genuine and fair competition and the establishment of an internal market that offers security to citizens, protects the environment and ensures a safe and economical energy supply.

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For a more detailed analysis, see the Commission Green Paper *Towards a European strategy for the security of energy supply* (COM(2002) 769 final) and the EESC opinion on it (CES 705/2001).

3.5 At the EU's Barcelona summit in March of this year, Member States agreed on full market opening for electricity and gas from 2004, with the remaining areas up for decision before the 2003 spring summit. The European Parliament backed these target dates during the first reading of the proposals for directives on 13 March of this year.

3.6 The proposed decision amends some articles in the existing TEN energy guidelines. The purpose of these guidelines is to promote the interlinking, interoperability and ongoing development of the trans-European networks.

3.7 Electricity grid and network costs are quite substantial. At the moment, they are considerably higher even than net electricity production costs in power plants. Distance plays a definite role and also causes grid losses. Thus, consideration should be given not only to networks, but also to broad-based power-plant provision. For electricity of course, account must also be taken of the full range of environmental solutions currently under consideration.

3.8 The proposal to amend the guidelines above all shifts the emphasis in projects of common interest. It would seem that the focus is to be on those projects deemed useful in making the internal energy market operate in accordance with a desired regulatory strategy. The Community is also to have a more active input into financing projects of common interest.

3.9 Under the proposals, the Commission also shares a regulatory remit. Fundamentally, however, this must not lead to any shift in the established division of labour between the Community and the Member States. The Committee also feels that no basis should be established for widespread subsidising of infrastructure projects. This could result in distortions of competition between individual companies and substantial redistribution among consumers in the individual Member States.

3.10 The proposed amendments are the results of new priorities for the trans-European networks that have emerged as a result of market opening and the changed competitive environment within the internal energy market. The recitals give the impression that the changes to single market competition rules have exposed major deficits in transmission infrastructure⁴. This is not the case for natural gas, where Europe enjoys blanket coverage. Natural gas is available in most European regions. Availability should be extended, wherever it makes technical and economic sense to do so, to the EU's peripheral and ultraperipheral regions as well, perhaps also with the help of the Cohesion Fund.

3.11 Infrastructure deficits would, at most, be an issue if the aim of distribution policy were to provide every European consumer with the option of virtually unlimited arbitrage between various gas suppliers. This would mean that it would have to be possible to interchange gas from any one supply source with gas from any other supply source anywhere in Europe.

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It should be pointed out, however, that the main purpose of transmission lines is meant to be security of supply, not – for both environmental and economic reasons – continuous transfer.

3.12 To achieve that, major infrastructure would be required that, in reality, would neither be used nor needed for supply purposes. In the gas industry, however, not a single pipeline has yet been constructed for reasons of arbitrage alone, but always on the basis of specific procurement plans. Such a scenario, taken together with the subsidising of such projects of common interest would significantly distort competition between the individual gas companies and produce a redistributive effect between Member States.

4. **Specific comments**

4.1 The Committee broadly backs the proposed amendments to Decision No. 1254/96/EC laying down a series of guidelines for trans-European energy networks. The Committee is pleased that the Community wishes to lay down priorities, not on the basis of short-term considerations, but with the safeguarding of sustainable development in mind.

4.2 That said, the Committee feels the following must be borne in mind.

4.2.1 The explanatory memorandum accompanying the proposal calls on, among others, the Member States concerned to give particular attention to priority projects of European interest. Given that the text identifies "priority axes ... for the electricity and natural gas networks", this call must not lead to it being understood that ultimately a specific framework for action is to be drawn up which obliges Member States to carry out specific projects. Member States are obliged only to promote the measures provided for in the TEN guidelines in an appropriate way and to help ensure they are realised in practice.

4.2.2 The explanatory memorandum repeatedly uses the term "security of supply". In the case of energy infrastructure, it should be made clear that, under Treaty Article 154, this can only refer to technical security of supply. Accordingly, more far-reaching regulatory approaches to security of supply – a matter which falls within the remit of national energy policy – would be unacceptable in the context of the political priorities, not least since the Treaty has no energy chapter.

4.2.2.1 The Commission proposes a 10% threshold for cross-border networking capacity. The Committee feels this is an arbitrary figure that fails to reflect the wide variety of conditions in individual Member States in terms of production capacity and power reserves.

4.2.2.2 The Commission's analysis of border conditions repeatedly places the blame for the current shortfall in capacity on long-term contracts. Such a view is at odds with the observations on profitability and investments, and on security of supply. Any desire to keep these legitimate concerns in check will inevitably be detrimental to the development of interconnected systems.

4.2.2.3 The Commission rightly addresses the environmental difficulties involved in expanding the trans-European networks. This dilemma is set to become, if anything, even more acute - which is why the Community and the Member States must help boost public acceptance of action on this front. The Committee would stress that statements that overrate decentralised and widely scattered

energy solutions (mainly involving non-renewables) encourage the public to reject centralised solutions requiring large-scale transmission.

4.2.3 Under the new Article 4(a), the Community is given an active role in developing energy infrastructure, whereas, hitherto, it merely laid down the appropriate framework. The aim is to develop energy transmission infrastructure in such a way that it supports the operation of the internal energy market and economic and social cohesion, not least by being able to resolve problems at national interfaces and other bottlenecks, and tackle new requirements arising from network liberalisation. First of all, the Committee feels it is vital to note that, in contrast to electricity, the various gas network interfaces present no particular problems. However, doubts would also appear to be raised at this point as to whether the hitherto successful market-led coordination of infrastructure investments can still function in a liberalised environment. In its place, the Community seems to favour a centralised planning approach to help resolve difficulties supposedly arising from liberalisation.

4.2.4 With regard to Article 4(b) ("the connection of renewable energy production"), the Committee feels it would be both helpful and logical to spell out the relevant criteria, since basically – given that the growth in renewable energy production is politically desirable – it makes sense to use TEN or other appropriate resources for this purpose.

4.2.5 The Committee is pleased that valuable priority projects of European interest for electricity and gas set out in Annex I have been brought into the debate. As part of this initiative, it is also vital to stress explicitly the importance of a stable, clear-cut environment. However, the Committee notes that the plan to subsidise these projects in no small measure from public EU money risks giving the impression of state investment control and centralised investment planning.

5. **Concluding remarks**

To sum up, the Committee broadly welcomes the proposal for a series of guidelines for the trans-European energy networks, subject to the above general and specific comments.

Member States and the Community have a duty to safeguard a stable regulatory framework, which facilitates cost-effective line construction and thus also provides investment incentives. The Member States and the Community can and should establish a favourable investment climate. For that to happen, companies need a reliable regulatory framework for investment decisions that reflects the specific economic conditions on the market in which they operate.

Brussels, 18 July 2002.

The President
of the
Economic and Social Committee

The Secretary-General
of the
Economic and Social Committee

Göke Frerichs

Patrick Venturini

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N.B. Appendix overleaf.

APPENDIX
to the opinion of the Economic and Social Committee

The following amendment, which received at least a quarter of the votes cast, was defeated when put to the vote:

Point 3.7

Add a new point 3.7:

"As a result of the ongoing liberalisation and opening-up of the electricity market and the increasing expansion of trade in electricity, the capacity utilisation of transmission networks has changed and is, in some cases, extremely high. For instance, the existing, antiquated north-south connections are proving to be permanent bottlenecks and are stretched to the limits of technical transmission capacity. The Committee therefore welcomes the Commission's initiative to promote the expansion of cross-border line capacity in the electricity sector. To achieve that objective, it is, in some Member States, no doubt also necessary to develop sufficient national capacity."

Reason

The new guidelines are of major importance, particularly for the electricity sector. The opinion should make that explicitly clear.

Voting

For	17
Against	35
Abstentions	7.