

NOTE OF DG ENERGY & TRANSPORT ON DIRECTIVES 2003/54/EC AND 2003/55/EC ON THE INTERNAL MARKET IN ELECTRICITY AND NATURAL GAS

THE ROLE OF THE REGULATORY AUTHORITIES

ORIGINAL TEXT

PROPOSED CHANGES

General rule: Although the title of the paper was changed to refer to Regulatory Authorities, the text still focuses on the single regulator or regulatory authority. To be changed *passim* in the Note.

2. STATUS AND TASKS OF THE REGULATORY AUTHORITY

2.1 Designation of the regulator and its resources

This implies an obligation for the regulatory authority to be given adequate human and financial resources to carry out its duties and for it to have access to all the information it needs from the regulated company, whether financial or technical.

*This implies an obligation for the regulatory authorities to be given adequate human and financial resources to carry out ~~its~~ **their** duties and for ~~it~~ **them** to have access to all the information **necessary to enable them to fulfill their responsibilities they** need from the regulated company, whether financial or technical.*

Comment: It should not be implied that the regulator should have access to all company information but only what is necessary to enable the Regulator to ensure that natural gas undertakings are operated in accordance with the principles of the Directive.

2.2. The regulatory authority's core duties

- the access conditions to storage, linepack and to other ancillary services
- the access conditions to storage, linepack and to other ancillary services **according to the procedures for the organization of access chosen by the Member States under Article 19 of the Directive 2003/55/EC.**

Comment: Powers must be confined to the Directive's requirements and depend on Member States' choice on an access regime.

2.4. Sanctions

Although the question of sanctions is one for subsidiarity, some penalties that could be envisaged are the following:

- public letter to the chief executive of the

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network company concerned;

- publication of comparative reports demonstrating insufficient performance by the network company concerned;
- financial penalty in the form of a reduction in the network access tariffs allowed by the regulators.

Comment: As major network users, Eurogas members support measures to ensure high performance standards but it is up to Member States to develop these in line with subsidiarity as mentioned by DG TREN. Member States should themselves decide on appropriate sanctions.

3. SOME OF THE KEY ELEMENTS OF REGULATOR'S DUTIES

3.1 Network Access

An appropriate rate of return on that capital, taking into account the low risk nature of a regulated business.

An appropriate rate of return on that capital, taking into account ~~the low risk nature of a~~ **the level of risk encountered by the regulated business.**

Comment: DG TREN rates network operation as low-risk business despite the investment risks involved. Also it should not be implied that the authorities are directly involved in companies' investment decisions.

Other Points

The Note should point out that there will be the possibility of appeal against Regulatory decision.