

DAILY NEWS to Members: 04/03/2008 by Chris Boothby

EU ENERGY COUNCIL: THIRD PACKAGE SENT BACK TO WORKING PARTY

Making little progress on key areas of disagreement over the proposed *Third Package* of energy liberalisation measures, EU Energy Ministers meeting in Council on 28 February tasked the working party and committee of political representatives in Brussels to seek a "*solution*." Following a "*lively*" exchange of views, EU Energy Commissioner Andris Piebalgs told the press corps that "*opinions on unbundling haven't converged*", and the Council President, Slovenian Economy Minister Andrej Vizjak, spoke of a "*difficult path*" towards accord among Ministers at the 6 June Council session. Differences also persist over the powers of regulators and the remit of the proposed EU Regulators Agency.

"It is clear Member States have different views", Mr Vizjak told the press, claiming nevertheless to detect a "*political spirit to find solutions*". However, he seemed to reveal the extent of the split among Ministers when he expressed a belief that the European Parliament - co-legislator alongside Council - "*will help member countries to find a final compromise*".

The Council was unable to adopt a draft summary drawn up by the presidency, which set out a ten-point resumé of the principles for going forward on the package, after the Swedish, Netherlands and UK Ministers blocked it. The UK delegation explained that a note they had submitted, setting out "*key principles for effective unbundling of electricity and gas networks*", had been disregarded by the presidency, whose summary gave prominence to the "*third way*" put forward by eight countries*. The UK note argues that regional cooperation leading to greater market integration is a "*separate issue from unbundling*"; calls for TSOs acting together at regional level to be supervised by the new Regulators' Agency (ACER); and proposes more stringent conditions so as to ensure TSOs are "*truly independent*" of a vertically integrated company and to "*remove any conflict of interest*".

French Sustainable Development Minister Jean-Louis Borloo argued against the Commission's proposals for ownership unbundling and told journalists that the EU is engaged in "*an economic war on energy*." France claims the third way is now gaining ground in Council and that 24 Member States are ready to go along with the presidency's summary.

A Council working paper for the session shows the various points at issue between the delegations, which will have to be ironed out by the working party if an accord is to be reached in June. Apart from the basic unbundling question, some governments argue that ownership unbundling should not rule out the right to hold a minority share; some want to see separation of activities under a state-owned system reinforced by naming separate public bodies to oversee them; small countries seek opt-outs from full-force unbundling; and some fear negative outcome for investment from the proposed rules on non-EU owners. Regarding regulatory powers, some have difficulty appointing a single body to cover all aspects; while the status of the ten-year network investment plan, the remit of ACER, and use of EU committee procedure ("*comitology*") to adopt guidelines are still far from being agreed.

See *DN 27/02/2008 et al; for more on the third package: DNs 22 & 8 /02/08, 14 & 03/12/07.

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