



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.03.1997
COM(97) 69 final

95/0208 (SYN)

Amended proposal for a
COUNCIL DIRECTIVE
**to introduce rational planning techniques in the electricity and gas
distribution sectors.**

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

The Commission adopted on 29 September 1995 a proposal for a Directive on the introduction of rational planning techniques in the electricity and gas distribution sectors. The proposal is based on Article 130s (1) of the Treaty which foresees the co-operation procedure with the European Parliament. The European Parliament gave its First Opinion on 13 November 1996. Fourteen amendments were voted and accepted.

In general, the amendments have improved the text.

Five amendments (No 6, 7, 8, 9 and 10) were accepted by the Commission without reserve. Four amendments (No 5, 12, 13 and 14) were partially accepted.

Five amendments were rejected in full.

Am. 1 makes reference to a Legal Basis of Article 100A which the Commission does not consider to be valid.

Am. 2 makes reference to a Legal Basis of Article 100A which the Commission does not consider to be valid.

Am. 3 makes reference to a Legal Basis of Article 100A which the Commission does not consider to be valid.

Am. 4 makes reference to a Legal Basis of Article 100A which the Commission does not consider to be valid.

Am. 11 the amendment introduces ambiguity when speaking of 'cost to the consumer' which the Commission considers weakens the Directive.

The amendments rejected in part are:

Am. 5 second part, makes reference to a Legal Basis of Article 100A which the Commission does not consider to be valid.

Am. 12 first part, the Commission considers setting a quantified objective for a Directive to be inappropriate.

Am. 13 point a) the Commission considers the amendment to be too limiting.

point d) the wording of the amendment is considered to be too constraining.

Am 14. point e) the use of the words 'make compulsory' is considered too constraining.

**Proposal for a
COUNCIL DIRECTIVE
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techniques in the electricity and
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THE COUNCIL OF THE EUROPEAN
UNION

Having regard to the Treaty establishing the
European Community, and in particular
Article 130s para. 1 thereof,

Having regard to a proposal from the
Commission,¹

In cooperation with the European
Parliament,² as foreseen by Article 189c of
the Treaty establishing the European Union

Having regard to the opinion of the
Economic and Social Committee,³

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Having regard to the opinion of the
Economic and Social Committee,³

¹ OJ No

² OJ No

³ OJ No C240/78 of 15.7.1996

Having regard to the opinion of the Committee of the Regions⁴;

Whereas on 29 October 1990 the Council set an objective of the stabilisation of total CO₂ emissions by the year 2000 at the 1990 level in the Community as a whole;

Whereas Article 130r of the Treaty stipulates that one objective of the action of the Community relating to the environment shall be to ensure a prudent and rational utilisation of natural resources; whereas the power generation industry is responsible for 30% and the natural gas sector for 18% of the CO₂ emissions in the Community⁵;

Whereas on the 24 June 1993 the Council of Minister adopted a monitoring mechanism for CO₂ emissions and other greenhouse gases⁶,

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Whereas on the 24 June 1993 the Council of Minister adopted a monitoring mechanism for CO₂ emissions and other greenhouse gases⁶,

⁴ O J No. C337/41 of 11.11.1996

⁵ A View to the Future, Commission of the European Communities, September 1992.

⁶ O.J. No. L167 of 9.7.93

Whereas, given the transnational nature of CO₂ emissions, the introduction of rational planning techniques in the gas and electricity distribution sectors can only be satisfactorily implemented at the level of Member States; and whereas, in application of the principle of subsidiarity as set out in Art. 3b of the Treaty establishing the European Community, what is proposed by the adoption of the present Directive is the establishment of common measures to be applied by all Member States, while leaving to each Member State the flexibility to adapt them to the peculiarities of its energy sector.

Whereas in its Resolution of 15 January 1985 on the improvement of energy saving programmes in the Member States, the Council invited the latter to pursue and

Whereas, given the Commission proposals for an Internal Energy Market, the introduction of rational planning techniques in the gas and electricity distribution sectors can only be satisfactorily implemented at the level of Member States; and whereas, in application of the principle of subsidiarity as set out in Art. 3b of the Treaty establishing the European Community, what is proposed by the adoption of the present Directive is the establishment of common measures to be applied by all Member States, while leaving to each Member State the flexibility to adapt them to the peculiarities of its energy sector.

Whereas the Commission's White Paper 'Growth, Competitiveness, Employment. The Challenges and Ways Forward into the 21st Century', has emphasised the urgent need to improve European competitiveness;

Whereas the Commission's White Paper 'An Energy Policy for the European Union' states that the import dependency, currently close to half of gross consumption, could move towards three quarters by 2020;

Whereas in its Resolution of 15 January 1985 on the improvement of energy saving programmes in the Member States, the Council invited the latter to pursue and

where necessary increase their efforts to promote the more rational use of energy by the further development of integrated energy saving policies;⁷

Whereas in its Resolution of 16 September 1986 the Council adopted for the Community the objective of achieving a more rational use of energy through improved energy efficiency and that the efficiency of final demand should be improved by at least 20% by 1995;⁸

Whereas improved energy efficiency will impact positively on both the security of energy supplies and the environment which are global in nature, a high level of international co-operation is desirable to produce the most positive results;

Whereas the relationship between the electricity and gas distribution companies and the final consumer provides an ideal opportunity for the companies to influence the energy efficiency investment decision of the consumers;

where necessary increase their efforts to promote the more rational use of energy by the further development of integrated energy saving policies;⁷

Whereas in its Resolution of 16 September 1986 the Council adopted for the Community the objective of achieving a more rational use of energy through improved energy efficiency and that the efficiency of final demand should be improved by at least 20% by 1995;⁸ and whereas this target has not been achieved and so requires greater efforts and effectiveness by legislative actions;

Whereas improved energy efficiency will impact positively on both the security of energy supplies and the environment which are global in nature, a high level of international co-operation is desirable to produce the most positive results;

Whereas it is essential, in order to promote rational energy use and improve energy efficiency, to change the traditional role of gas and electricity distributors which is to sell energy products by endowing them with the role of providers of energy services;

⁷ OJ No. C 020, 22.1.1985, p. 29

⁸ OJ No. C 241, 25.9.1986, p. 3

Whereas all classes of electricity and gas consumers, including residential consumers, will benefit directly from a more rational planning process by the distribution utilities;

Whereas the Council at its meeting of 5 June 1989 decided on the establishment of a Community action programme for improving the efficiency of electricity use⁹;

Whereas the Council on the 28 October 1991 adopted a Community energy efficiency programme (SAVE)¹⁰ aimed at strengthening energy efficiency infrastructures within the Community.

Whereas, to that end, the Member States must, on the one hand, perfect mechanisms making it possible to dissociate the volume of product sales (electricity and gas) and profits, and, on the other, bring about the separation of the different activities in the energy chain, viz. fuel supply, production, transport and distribution of electricity;

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⁹ O.J. L157 of 9.6.1989 p.32-34

¹⁰ O.J. L307 of 8.11.91

Whereas the Council and the Parliament have established a Fourth Framework Programme¹¹ for actions in technological research, development and demonstration and that Integrated Resource Planning constitutes an important instrument for the use and promotion of new energy technologies that the Framework Programme will establish,

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¹¹ O.J. L 334 of 22.12.94

Article 1

The purpose of this Directive is to contribute to the Community objective of stabilising carbon dioxide emissions by the year 2000 at the 1990 level in the Community as a whole while at the same time improving the competitiveness of the Community economy by improving end-use efficiency in the electricity and gas distribution sectors through the introduction of more rational planning techniques. These techniques (hereinafter referred to as Integrated Resource Planning) shall evaluate investment opportunities in energy supply and energy demand reduction on an equal economic basis.

Article 2

Member States shall take the following steps to promote, through a framework of measures, the use of integrated resource planning as a tool for a more rational approach by electricity and gas distribution companies to the problem of meeting future energy demand:

- a) establish procedures whereby electricity and gas distribution companies periodically present

Article 1

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Ar ticle 2

Member States shall take the following steps to promote, through a framework of measures, the increased use of rational planning techniques by electricity and gas distribution/supply companies in their approach to the problem of meeting future energy services demand:

- a) establish procedures whereby electricity and gas distribution/supply companies

integrated resource plans to the competent authorities to be determined by the Member States. The integrated resource plan shall evaluate all resource alternatives (including demand side management) on an equal economic basis.

b) examine whether the economic energy efficiency measures identified by the integrated resource plan are undertaken.

c) review existing legislation in this area to ensure that mechanisms are established which permit electricity and gas distribution companies to recover expenditure on energy efficiency programmes provided to consumers. Such mechanisms should ensure that distribution companies which undertake demand-side management programmes are not net revenue losers.

periodically present to the competent authorities to be determined by the Member States a strategic development plan showing how they will meet future demand requirements. This resource selection plan shall evaluate all resource alternatives (including demand side management) on an equal economic basis.

b) examine whether the economic energy efficiency measures identified by (delete) the strategic development plan are undertaken.

c) review existing legislation in this area to ensure that mechanisms are established which:

1. permit electricity and gas distribution/supply companies to sell energy-saving services to customers;

2. do not adversely affect the competitive position of electricity and gas in relation to other energy sources falling outside the scope of this directive;

Such mechanisms should provide an incentive for distribution/supply companies, or other bodies, to

d) encourage electricity and gas distribution companies to:

- set up comprehensive information programmes aimed at informing consumers on rational energy efficiency choices;
- provide, where necessary, incentives to consumers to carry out energy efficiency investments;
- set up demand-side management programmes targeted

utilise cost effective rational planning techniques through decoupling profits from sales volumes;

d) encourage electricity and gas distribution companies to:

- provide energy services that meet the needs of heat, light and power at the lowest cost to the customers;
- ensure that customers have clearly identified costings of energy and energy services provision;
- set up comprehensive information programmes aimed at informing customers about rational energy efficiency services;
- provide, where necessary, incentives to customers to carry out energy efficiency investments such as building insulation;
- set up demand-side management programmes targeted

at low income energy consumers who spend a disproportionate amount of their disposable income on energy;

- invest in energy efficiency through the creation of subsidiaries offering third party financing facilities to consumers, or support the efforts of existing third party financing companies;

at low income energy customers who spend a disproportionate amount of their disposable income on energy. Where such programmes might prove of limited value to distribution/supply companies it should be ensured that social costs are not paid for by the service providers, so that there are no cross-subsidies;

- invest in energy efficiency through the creation of subsidiaries offering third party financing facilities to customers, or support the efforts of existing third party financing companies;
- encourage the establishment of branches offering consumers financing mechanisms through the intervention of third parties and support the efforts of

e) promote the integration of Demand Side Management options into capacity tendering procedures in the distribution sector where these exist.

Article 3

The Member States will co-operate with the Commission in carrying out reviews, every two years for the next eight years, of the results of the measures taken on the basis of this Directive.

Article 4

1. The Member States shall bring into force the provisions necessary to comply with this Directive not later than They shall immediately inform the Commission of these measures.

When Member States adopt these provisions, these shall contain a

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e) promote the integration of Demand Side Management and Demand Side Bidding options into capacity tendering/contracting procedures in the electricity and gas distribution/supply sector where these exist.

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Article 4

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When Member States adopt these provisions, these shall contain a

reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field of governed by this Directive.

Article 5

This Directive is addressed to the Member States.

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