



COREPER Energy

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Dear Mr. President Schönfelder,

The Council of Ministers (15 February) and the European Council of 8-9 March will consider several proposals which are part of the European Commission's energy package as presented 10 January 2007. There are many worthwhile elements in that package the European Federation for Public Service Trade Unions (EPSU) - representing workers in the electricity and gas industries amongst others, supports. We welcome the focus on:

- Climate change,
- The efficient use of fuels and the reduction of fuel use,
- The need to reduce CO2 emissions and
- An increased role for renewables in Europe's energy mix to address climate change and make the European Union less dependent on fuels from possibly instable countries and regions, or countries that use Europe's dependency for political purposes.
- The energy dimension in the EU's external relations

Other proposals regarding clean coal technologies, the use of nuclear energy in Europe's energy mix and the need for investment and for cooperation regarding strategic energy technologies merit careful consideration.

EPSU is less positive about the European Commission's proposals to continue to build the internal market for electricity and gas, or regarding the proposals to promote the internal market to EU's neighbourhood.

The Commission's **sector inquiry** reads as **one long indictment of the internal market**. We do not share the conclusions to continue with the Internal market for electricity and gas. It is clearly **not** bringing the benefits that Europe's citizens and business expect, based as it is on a simplified analysis of the nature of both

sectors. Gas and especially electricity are social goods with physical and geographic/national characteristics, as well as economic constraints such that competition is not the best way forward. The claimed benefits (reduction of prices) are contestable and do not take account of possible costs – for example the problems many tens of thousands of users in the EU countries have experienced to switch supplier, the disappearance of a public service ethos in the management of the companies or the impact on investment.

Ownership unbundling

We like to draw your attention to the following:

The proposals of the European Commission to impose ownership unbundling are problematic. EPSU organized a meeting with unions concerned 19 January to discuss this. **Sven Bergelin**, President of the EPSU Standing Committee Public Utilities argued:

“The ownership unbundling proposals of the Commission will **increase prices, will risk investments and are a slap in the face** of those companies who implemented legal unbundling as the law prescribes. **The Commission changes the rules of the game again after only three years. And once again nothing on the social consequences. Unacceptable. We ask the Council to reject these proposals.**”

Experience of New Zealand and the US, research in the Netherlands and critical analysis of the University of Greenwich (PSIRU), the positions of several Member States and the industry organisations Eurelectric and Eurogas indicate that ownership unbundling has its problems.

Ownership unbundling and the social dimension

The European Commission has not undertaken a comprehensive impact assessment of this proposal. The impact assessment should be completed before any measures are proposed.

EPSU points out that the study on the employment effects of the internal market for electricity and gas and currently being finished by the Commission underlines that a quarter of a million jobs have disappear from the sector while it is not possible to indicate where else in the economy jobs have been created. When Commission policies can have such destructive consequence, comprehensive impact

EPSU demands that this impact assessment takes proper account of the possible negative costs such:

- **A loss of economies of scale**
- **Impact on future orientated company concepts such as virtual plants, combined heat power, energy services**
- **The economic viability of planned plant now the rules change**
- **Increases in complexity of management and coordination leading to an increase in risks and loss of efficiency**
- **Break up of companies that could endanger economic viability of “rest”...**
- **Fragmentation of municipal enterprises**
- **The inappropriateness of ownership unbundling for economies in a certain stage of development**

- **The social consequences :**
 - **loss of jobs for example because of technological progress can not be dealt with through mobility between different company units and will have to be borne by single units, making voluntary redundancy schemes more complicated. Mobility in the company is lost.**
 - **The proposed ownership unbundling leads to different companies and has an impact on collective agreements depending on the country. The Commission forces that new negotiations have to take place.**
 - **. And information and consultation rights. In certain countries this can lead to a loss of information and consultation rights if the number of workers drops below a threshold. The European Commission violates the principle of the Treaty that its proposals should improve the situation, not worsen it.**

The European Commission should organise appropriate consultation (such that the results of the consultation are taken into account in the decisions) with the European social partners of the electricity and gas sector concerned. This is in line with the EU Treaty and EU objectives to involve the social partners.

Until such impact assessment and consultation are organised no new proposals should be made.

Dear Sir,

The proposals lead to **considerable unrest** among the workers concerned as the social dimension is not addressed. A massive demonstration of more than 20.000 workers took place in Germany with many European delegations participating. **The social dimension needs to be an integral part of any further proposals.**

Ownership unbundling and future proposals

Steve Thomas, Professor with Public Services International Research Unit of University of Greenwich and one of Europe's leading critical academics on liberalisation of electricity and gas stated:

“Competition in electricity and gas will not function. And what is the Commission's next step: ownership unbundling of wholesale (generation) and retail. That will be a disaster. It will risk creating the conditions that led to the catastrophic failure of the California electricity system in 2001, when prices went sky-high, companies serving consumers were bankrupted and companies such as Enron made a killing”.

The European Commission prepares the industry for a next step which is ownership unbundling in distribution. The sector inquiry and the Communication on Progress with the Internal market electricity and gas indicate that the Commission finds integrated utilities in distribution problematic. The sector inquiry further makes the point that integration of generation and sales (vertical foreclosure) reduces liquidity and makes markets vulnerable. Will the Commission come with proposals to unbundled generation and retail ? These are indications that the Commission intends to continue to meddle in the sector.

EPSU demands that the Council and Commission provide a clear indication of what the end stage of liberalisation is. Each European Council over the last 5-6 years repeats the mantra that more competition in electricity and gas is needed. The announced measures are the 4th time the Commission intervenes in 10 years' time. It clearly got it wrong as the sector inquiry as well as other research including of EPSU so diligently proves. Measures are not even implemented and the Commission already announces new ones.

- While accepting that non-discrimination between companies in the EU is an important principle, the European Commission is imposing a one-size fits all-straight jacketed. It does not take account of national histories, geographic differences or divergent stages of development. What is good for the UK, is not necessarily right for Germany and France, for Estonia or Romania, or Serbia and Bosnia-Herzegovina (Countries of the SEE Energy Community that are to implement EU measures) or Ukraine, Moldova or Algeria (Countries of the EU neighbourhood to which the EU wishes to export the internal market for electricity and gas).
- The Commission continues to change the framework for the companies in the sector. Instead of promoting a clear framework for investment, it does the contrary. More risks are introduced which will scare investors and drive prices up.
- The Commission lumps electricity and gas together while there are differences that are quite significant and have led many Member States not to implement functional unbundling (let alone ownership unbundling)

Existing legislation should be implemented before new measures. Regulators are capable of preventing the abuse of dominant positions and non-discriminatory access to networks.

Ownership unbundling and privatisation

EPSU and affiliated unions suspect however that the hidden motive to propose ownership unbundling is to privatise (parts of) the state and municipally owned companies to fulfill a dream of free marketers and destroy public ownership in the European economy.

- **Ownership unbundling in state and municipal owned companies means privatisation as the owner needs to be different. The European Commission thus violates the Treaty as it is adopts rules that are not neutral regarding ownership. Complicated solutions might have to be found.**
- **A legal instrument can even imply that countries that believe they have ownership unbundling as the network company and the generation companies are different, but whose owner is the state or possibly a municipality, are vulnerable from a challenge before the European Court of Justice.**
- **EPSU demands guarantees that the Commission proposals will not have an impact on public ownership.**

Dear Sir,

Ownership unbundling will not be the panacea for the problems in the electricity and gas market it is purported to be. It distracts our attention from addressing what is really important: addressing security of supply and climate change.

We kindly request you to take our views into account and report the concerns of workers in several of Europe's countries to the Council of Ministers.

Yours sincerely,

Jan Willem Goudriaan
EPSU Deputy General Secretary

