Ministry of Enterprise, Energy and Communications


Proposals for Directives amending Directives 2003/54/EC and 2003/55/EC;
Proposal for Regulations amending Regs 1775/2005 and 1228/2003;
Proposal for the establishment for the cooperation of Energy Regulators

The Law Faculty Board at Stockholm University wishes to submit the following comments.

The proposals are the necessary next steps in putting into place a regulatory European wide framework for gas and electricity. There is very little in them that seems contentious and much that is valuable.

The only thing that strikes the Law Faculty Board specifically about the Directives above is that their aim of effective separation of supply and production activities from network operation is not necessarily going to be achieved by allowing an option to Member States to choose “functional separation” by allowing the creation of Independent Service Operators.

The Law Faculty Board is aware that the functional separation is now popular in telecoms and indeed the PTS has organized something along similar lines in relation to Telia, but if vertical integration is the evil that produces abuses such as discriminatory terms of access, denial of full access and margin squeeze, then an insistence on full structural separation would be the cleaner solution in the long run.

The Commission’s proposals adopt an option which may make life politically easier in some member states but it is a compromise that is likely to interfere with full separation in just those member states where regulators are not the most effective.

Apart from this reservation, most of the content of the two amending regulations and the proposal for the establishment for the cooperation of energy regulators seem to be useful steps in the right direction.