

COMMISSION DECISION
of 11 November 2003
on establishing the European Regulators Group for Electricity and Gas

(Text with EEA relevance)

(2003/796/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

- (1) Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC ⁽¹⁾, Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC ⁽²⁾ and Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity ⁽³⁾ establish a new regulatory framework for the internal markets for electricity and gas.
- (2) Directives 2003/54/EC and 2003/55/EC require Member States to designate one or more competent bodies with the function of regulatory authorities, to carry out the regulatory tasks specified in those directives. These regulatory authorities have to be wholly independent from the interests of the electricity and gas industry.
- (3) The detailed responsibilities and tasks of the national regulatory authorities are likely to differ between Member States, but all Member State will have to designate at least one regulatory agency to apply the rules of the new regulatory framework once they have been transposed into national law, in particular those concerning day-to-day supervision of the market.
- (4) Directives 2003/54/EC and 2003/55/EC establish objectives to be achieved and provide a framework for action at the national level, but give flexibility in certain areas to apply the rules in the light of national conditions. Consistent application of the relevant rules in all Member States is essential for the successful development of a single European energy market.
- (5) As regards common approaches to issues relevant for cross-border transactions the European Electricity Regulatory Forum and the European Gas Regulatory Forum have made important contributions. Whilst the two Forums will remain important as comprehensive discus-

sion platforms involving all players from government, regulators and industry, it is now necessary to give regulatory cooperation and coordination a more formal status, in order to facilitate the completion of the internal energy market and in view of the forthcoming accession of new Member States.

- (6) In those circumstances, a 'European Regulatory Group for Electricity and Gas' should be established to facilitate consultation, coordination and cooperation between the regulatory bodies in Member States, and between these bodies and the Commission, with a view to consolidating the internal market and ensuring the consistent application in all Member States of Directives 2003/54/EC and 2003/55/EC and Regulation (EC) No 1228/2003.
- (7) The members of the European Regulatory Group for Electricity and Gas should comprise the heads of the national authorities competent in the field of electricity and gas regulation in the Member States. The Commission should be represented at a high level.
- (8) The European Regulatory Group for Electricity and Gas should maintain close cooperation with the Committees established under Article 30 of Directive 2003/55/EC and Article 13 of Regulation (EC) No 1228/2003. Its work should not interfere with the work of those Committees.
- (9) It is appropriate to repeal Commission Decisions 95/539/EC ⁽⁴⁾ and 92/167/EEC ⁽⁵⁾ since these Decisions set up Committees in the context of Directives 91/296/EEC ⁽⁶⁾ and 90/547/EEC ⁽⁷⁾ on transit of natural gas and electricity, respectively, which were repealed by Directives 2003/54/EC and 2003/55/EC,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter and activities

1. An independent advisory group on electricity and gas, called the 'European Regulators Group for Electricity and Gas' (hereinafter referred to as the 'Group'), is hereby established by the Commission.

⁽¹⁾ OJ L 176, 15.7.2003, p. 37.

⁽²⁾ OJ L 176, 15.7.2003, p. 57.

⁽³⁾ OJ L 176, 15.7.2003, p. 1.

⁽⁴⁾ OJ L 304, 16.12.1995, p. 57.

⁽⁵⁾ OJ L 74, 20.3.1992, p. 43.

⁽⁶⁾ OJ L 147, 12.6.1991, p. 37.

⁽⁷⁾ OJ L 313, 13.11.1990, p. 30.

2. The Group, at its own initiative or at the request of the Commission, shall advise and assist the Commission in consolidating the internal energy market, in particular with respect to the preparation of draft implementing measures in the field of electricity and gas, and on any matters related to the internal market for gas and electricity. The Group shall facilitate consultation, coordination and cooperation of national regulatory authorities, contributing to a consistent application, in all Member States, of the provisions set out in Directive 2003/54/EC, Directive 2003/55/EC and Regulation (EC) No 1228/2003, as well as of possible future Community legislation in the field of electricity and gas.

Article 2

Membership of the Group

1. The Group shall be composed of the heads of the national regulatory authorities or their representatives.
2. For the purpose of this Decision 'national regulatory authority' means a public authority established in a Member State pursuant to Directives 2003/54/EC and 2003/55/EC, according to which Member States shall designate one or more competent bodies with the function of regulatory authorities, to ensure non-discrimination, effective competition and the efficient functioning of the gas and electricity market and in particular to oversee the day-to-day application of the provisions of Directives 2003/54/EC and 2003/55/EC and Regulation (EC) No 1228/2003 in that respect.
3. Until 1 July 2004, if a Member State has not designated one or more competent bodies with the function of regulatory authorities, that Member State shall be represented in the Group by a representative of another competent public authority.
4. The Commission shall be present at the meetings of the Group and shall designate a high-level representative to participate in all its debates.

Article 3

Organisation of the Group

1. The Group shall elect a chairperson from among its members.
2. The Group may set up expert working groups to study specific subjects, on the basis of a mandate and as it deems appropriate.
3. The Commission may attend all meetings of such expert working groups.
4. Experts from EEA States and States which are candidates for accession to the European Union may attend the meeting of the Group as observers. The Group and the Commission may invite other experts and observers to attend its meetings.
5. The Group shall adopt its Rules of Procedure by consensus or, in the absence of consensus, by a two-thirds majority vote, one vote being expressed per Member State, subject to the approval of the Commission.

6. The Commission shall provide the secretariat of the Group.

7. Travel and subsistence expenses incurred by members, observers and experts, in connection with the activities of the Group, shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

8. The Group shall submit an annual report of its activities to the Commission. The Commission shall transmit the annual report to the European Parliament and to the Council, where appropriate with comments.

Article 4

Consultation

The Group shall consult extensively and at an early stage with market participants, consumers and end-users in an open and transparent manner.

Article 5

Confidentiality

Without prejudice to the provisions of Article 287 of the Treaty, where the Commission informs the Group that the advice requested or the question raised is of a confidential nature, members of the Group as well as observers and any other person shall be under an obligation not to disclose information which has come to their knowledge through the work of the Group or its working groups. The Commission may decide in such cases that only members of the Group may be present at meetings.

Article 6

Repeal

Decisions 95/539/EC and 92/167/EEC are repealed.

Article 7

Entry into force

1. This Decision shall enter into force the day of its publication in the *Official Journal of the European Union*.
2. The Group shall take up its duties on the date of entry into force of this Decision.

Done at Brussels, 11 November 2003.

For the Commission
Loyola DE PALACIO
Vice-President