

THIRD ENERGY PACKAGE

- Main Elements –

PHLG, 14 March 2013

1. **Promotion of regional cooperation and regional solidarity** [Art 6-7 Directive 2009/73/EC and Art 6 Directive 2009/72/EC]
2. **Unbundling and certification** [Art 9 et seq Directive 2009/73/EC and Directive 2009/72/EC]
3. **Regulatory authorities** [Art 36-38 Directive 2009/73/EC, Art 39-41 Directive 2009/72/EC]
4. **Retail markets** [Art 41 Directive 2009/73/EC and Art 45 Directive 2009/72/EC] **and consumer protection** [Art 3 and Annex 1 Directive 2009/73/EC and Art 45 Directive 2009/72/EC]

1. Choice from three models of unbundling

- *Ownership unbundling (OU)*
- *Independent System Operator (ISO)*
- *Independent Transmission Operator (ITO)*

2. Certification of TSOs

- *Notification by TSO*
- *Draft NRA decision notified to ECS*
- *ECRB gives opinion to ECS; ECS gives its opinion to NRA*
- *NRA adopts final decision taking utmost account of ECS opinion*

- * Specific certification procedure applicable in case a TSO is controlled by person from Third country

Ownership Unbundling

1. TSO *owns* and *manages* the network
2. Same person *cannot* :
 - exercise control over a production or supply company and exercise control or any right over a transmission system, and vice versa
 - appoint board members of a TSO and exercise control or any right over a production or supply company
 - be a member of the board of a TSO and of a production or supply company
3. Owner of a transmission system shall *act as a TSO*
 - *grants & manages TPA*
 - *collects transmission charges, congestion charges, inter-TSO compensation*
 - *responsible for investment planning*

ISO

1. VIC *owns* the transmission system, but ISO performs *technical and commercial operation* of transmission system
2. ISO
 - *must be independent from supply or production interests and must guarantee effectiveness of separation as ownership unbundling*
 - *in charge with investment planning*
 - *acts as a TSO*
3. Transmission system owner
 - *is legally and functionally unbundled from VIC*
 - *has obligation to finance investment decided by ISO*
4. Significant regulatory oversight

ITO

1. Transmission is *owned and operated* by ITO which may have same owner as VIC but is *independent* from VIC
2. Detailed rules on *independence of ITO*
 - *assets, equipment, staff and identity*
 - *effective decision making rights*
 - *independence of management*

** Supervisory Body; compliance programme and compliance officer*
3. ITO
 - *must have a strong say in investment planning – power to raise money on capital market*
 - *acts as a TSO*
4. Heavy *regulation* & permanent *monitoring* by NRAs

UNBUNDLING OPTIONS

Comparison

	(A) owner (assets)	(B) operation (technical and commercial)	investment decision
o.u.	acts as TSO		
	>> independent from supply/production		
ISO	assets <u>remain</u> with vertcially integrated company	ISO (acting as TSO)	
	>> legal & functional unbundling	>> independent from poduction & supply	
		>> ownership undbundled from (A)	x
ITO	ITO		x
	>> independent from vertcially integrated company (assets, managment, supervisory board)		

1. Independence

- Legally distinct and functionally independent
- Acting indepently
- Taking autonomous decisions
- Exercising powers impartially and transparently
- Annual budget
- Human and financial resources
- Management

2. Powers and duties

3. Organisation

- Single NRA (electricity and gas)