

Mrs. Una SHORTALL  
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Monday, 19 June 2006  
AMG/GG/ nh

Dear Mrs. Shortall,

We have looked at your proposed guidelines for accounts unbundling and would like in this letter to comment on some of the most crucial issues that they raise.

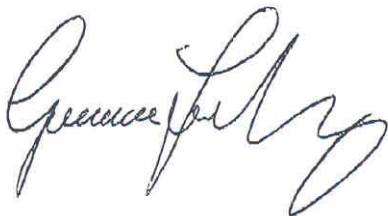
Effective unbundling is a key requirement for functioning competitive electricity markets, ensuring the absence of discriminatory network operation and development, while doing away with the risk of cross-subsidisation. To reach this objective, the Electricity Directive 2003/54/EC has set in place a consistent and balanced unbundling regime, ensuring the non-discriminatory behaviour of network operators while allowing companies to keep their network assets. These unbundling requirements apply to all vertically integrated undertakings, i.e. companies which exercise control on one another in the sense of Regulation 139/ 2004 (replacing Regulation 4064/ 89), when performing at least one competitive and one network operation function.

The Directive thus sets out a fully-fledged unbundling regime and we can not agree with some of the statements of the proposed guidelines, according to which the Directive's unbundling regime is only a "second best solution" as compared to ownership unbundling and the question of whether "legal separation may contribute to a more satisfactory state of separation and therefore equal treatment of all market participants" would remain an open question.

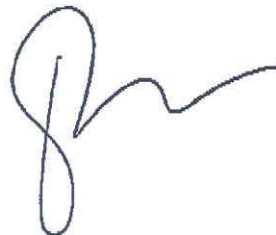
Overall, we encourage all measures that can be taken by the Commission and Regulators to ensure consistent implementation of the existing legislation package in all Member States. We however believe that the proposed guidelines go well beyond their remit of making proposals on the implementation of the Directive's terms on accounts unbundling. As a matter of example, the principle proposed in G5, concerning the treatment of shared services, goes in our view much beyond the simple question of accounts separation in requesting a tender or the approval of contracts by Regulators. We believe in this respect that ex-post control of contracts' clauses and the possibility for Regulators to ask for a modification of these clauses should be the best way to avoid cumbersome contract approval procedures.

We hope that these comments prove useful and are at your disposal for any additional information you may need.

Best regards,



Gunnar LUNDBERG  
Vice-Chairman of the Markets Committee



Hans TEN BERGE  
Chairman of the Markets Committee