



## POSITION PAPER

on the amendments on the proposal for a directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/EC and 2006/32/EC adopted by the ITRE committee on the 28th February 2012

### **Article 1 - Subject matter and scope** (ITRE Amendment)

1. *This Directive establishes a common framework **of measures** (1) for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's target of **at least** (2) 20 % primary energy savings **compared to projections** (3) for 2020 and to pave the way for further energy efficiency improvements beyond that date.*

### **GEODE's proposal:**

1. *This Directive establishes a common framework for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's **20 % target on energy efficiency** for 2020 and to pave the way for further energy efficiency improvements beyond that date.*

### **Justification:**

- (1) The directive provides a framework for the promotion of energy efficiency, but it should be up to Member States to decide on the concrete details of the measures they implement.
- (2) The 20 % target has long been decided and Member States may always go further, so it is unnecessary to explicitly mention this.
- (3) GEODE supports the reference to energy efficiency instead of energy savings. As the need for electricity increases, e.g. development of electric cars, it seems more appropriate to increase the overall energy efficiency of the Union, which is not necessarily linked to an absolute decrease of electricity consumption. This comment applies to all further mentions of "energy savings" in the following amendments.

#### **Article 2a - Financing and Technical support (ITRE Amendment)**

1. *Without prejudice to Articles 107 and 108 of the Treaty, Member States shall ensure that financing facilities for measures to improve energy efficiency are in place to maximise the benefits of multiple streams of financing. These may include cross-industry funds and financial mechanisms used for investment in energy saving measures.*
2. *These facilities shall include:*
  - (a) *financial contributions and fines from non fulfilment of the provisions set out in Articles 6 to 8 as referred to in Article 9,*
  - (b) *resources allocated to energy efficiency under Article 10(3) of Directive 2009/29/EC,*
  - (c) *resources allocated to energy efficiency in the multiannual financial framework, in particular cohesion, structural and rural development funds, and dedicated European financial instruments, such as the European Energy Efficiency Fund.*

#### **GEODE's comment:**

GEODE emphasises the need for financing facilities to assist and finance programs and encourage private investments. It is an important step in order to create appropriate incentives. As regards Art. 2a) GEODE recommends that instead of including “fines”, the facility should rather include a provision that puts the obligated parties in a position to buy their way out of their obligation from Art 6 - 8 and transfer money to the financing facility. That allows for more flexibility for the obligated parties.

#### **Article 4 – Public bodies (ITRE Amendment)**

4. ***The Commission and the Member States shall encourage and support regional, local and other public bodies, including bodies governed by public law to:***
  - (a) ***adopt and implement an integrated energy efficiency plan, freestanding or as part of a broader plan on climate, low energy cities or regions, or an environmental plan, containing specific energy saving and efficiency objectives and actions, with a view to continuously improving the energy savings and efficiency of those bodies;***
  - (b) ***put in place an energy management system as part of the implementation of***

*their plan;*

***(ba) use, where appropriate, ESCOs, and energy performance contracting to finance renovations and implement plans to maintain or improve energy efficiency in the long term.***

**GEODE's comment:**

GEODE supports ITRE's approach which seeks to strengthen the work on energy efficiency at the local and regional level by encouraging local and regional authorities' involvement in the energy efficiency programmes. GEODE believes that the exact orientation and measures at this level should be decided in a bottom-up process. As a local energy distributors' association, GEODE strongly believes in the energy efficiency potential of the cities.

**Article 6 – Energy end use saving schemes (ITRE Amendment)**

1. *Each Member State shall **ensure that an energy saving obligation scheme is in place.***

*This scheme shall ensure that energy distributors **and/or** (1) retail energy sales companies operating on the Member State's territory achieve **cumulative annual end-use energy savings** (2) equal to **at least 1.5%** of their **annual energy sales**, by volume, **averaged over the most recent three-year period for that Member State** (3).*

*This amount of energy savings shall be achieved by the obligated parties among final customers.*

**GEODE's comment:**

- (1) Although **GEODE advocates that Member States' retain subsidiarity in defining their own measures to achieve energy efficiency** (see comment on Article 6 9.), GEODE welcomes the greater flexibility in this approach, which leaves the Member States free to design the planning most suitable for them by obligating both retailers and DSOs.
- (2) See GEODE's comment on Article 1, regarding the use of the energy "savings" concept instead of our preference for "energy efficiency".
- (3) GEODE supports the longer average reference three year period for calculating the efficiency target.



Furthermore, GEODE supports the option for Member States to include the transport sector into their energy efficiency schemes. Furthermore, measures taken in the transport sector have a direct effect on the reduction of carbon emissions.

3. ***For the purposes of paragraph 1, measures that target short-term savings, as defined in Annex V***

*(1), shall not account for more than 10% of the amount of energy savings required from each obligated party and shall only be eligible to count towards the obligation laid down in paragraph 1 if combined with measures to which longer-term savings are attributed.*

**GEODE's comment:**

GEODE supports the deletion of this paragraph, which the Council deleted in its recent position paper on the ITRE report (7127/12). There is no need to differentiate between short and long term measures.

4. ***[...] Member States shall ensure that the costs of energy savings can be recovered among final customers. When implementing a saving obligation scheme in accordance with paragraph 1 Member States shall avoid discrimination, cross-subsidisation and distortion of competition.***

**GEODE's comment:**

GEODE supports this new subparagraph allowing the cost recovery by obligated parties.

5. (c) ***allow obligated parties to count savings obtained in a given year as if they had instead been obtained in **either** the previous or following year.***

**GEODE's comment:**

GEODE supports the Commission's version of this paragraph, which allows for more flexibility.



8. *Member States may exempt small energy distributors and small retail energy sales companies **in accordance with their specific national energy market circumstances** from the application of this Article, **provided that such exemptions do not result in a distortion of competition**. Energy produced for own use shall not fall within this Article.*

**GEODE's comment:**

GEODE supports ITRE's version of this paragraph, which allows for more flexibility on the granting of exemptions.

9. *As an alternative to paragraph 1, Member States may opt to take **alternative and/or complementary** measures to achieve **the equivalent** energy savings among final customers. The annual amount of energy savings achieved through this approach shall be **strictly** equivalent to the amount of energy savings required in paragraph 1.*

**GEODE's comment:**

GEODE supports the new wording which also allows Member States to take alternative measures in addition to those defined in the previous paragraphs. As previously noted, **GEODE advocates Member States' subsidiarity in defining their own measures to achieve energy efficiency.**

10. *[deleted]*

**GEODE's comment:**

GEODE regrets the deletion of paragraph 10, since the initial Commission's proposal gave Member States a greater flexibility.

**Article 7 - Energy audits and energy management systems (ITRE Amendment)**

3. *Energy audits carried out in an independent manner **on the basis of European harmonised standards such as EN 16001 / ISO 50001** resulting from energy*

*management systems or implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the Member State concerned or by the Commission, shall be considered as fulfilling the requirements of paragraph 2. **No market participant should be excluded from offering energy services.***

**GEODE's comment:**

GEODE supports ITRE's opinion that all players should be allowed to participate in the energy efficiency services market.

**4c. Member States shall ensure that consumers have access to independent advice on their energy audit to prevent unnecessary work being carried out or exploitation of funding.**

**4e. Where an accredited audit is provided, consumers should be able to transfer the results and recommendations of the audit to any accredited service provider in order to enable competition in the market.**

**GEODE's comment:**

GEODE supports these provisions providing for a better consumer protection.

**Article 8 - Metering, energy consumption and billing information (ITRE Amendment)**

**1. When smart meters are installed, Member States shall ensure that final customers for electricity, natural gas, district or other central heating or cooling and district or other centrally supplied domestic hot water are provided at no additional costs with individual meters that accurately measure and allow to make available their actual energy consumption and provide real time information on actual use, free of charge, and in a format that enables customers to better understand their energy use, in accordance with Annex VI. (1)**

[...]

**Minimum functionalities shall enable communication between smart metering components and devices or gateways used within the home or building in the provision of energy saving and demand-side management services. (2)**

[...]

***Member States shall ensure that enterprises, including from the commercial sector, which have an electricity end-use consumption of more than 6000 kWh per year, have installed smart meters by 1 January 2015 at the latest, where technically feasible. (3)***

**GEODE's comment:**

- (1) It is rarely feasible or useful from a cost/benefit perspective to provide information on energy use in for instance in centrally supplied hot water, heating and cooling to final customers. Therefore, GEODE supports the limitation of this provision to electricity and gas meters.

GEODE supports the provisions of the Electricity and Gas Directives 2009/72/EC and 2009/73/EC respectively for the roll-out of smart meters, stating that information on consumption is to be provided at no additional cost to the consumer when it is send electronically, but not that the smart meters will be installed free of charge. Smart Meters installation implies a huge amount of money, mainly to be invested by DSOs (25 Member States out of 27), that must then be recovered.

- (2) GEODE believes this Directive is not the right place for specifying such technical detail. The Commission recently published in February 2012 recommendations for smart metering roll-out that include recommended functionalities for smart meters. This is a more appropriate instrument.
- (3) GEODE supports respecting the timetable originally defined for the roll-out of electricity and gas smart meters in the Electricity and Gas Directives 2009/72/EC and 2009/73/EC respectively.

2. [...] *Member States shall ensure that final customers are offered a choice of either electronic or hard copy billing **information and bills** and, **in the case of the installation of smart meters, have the possibility of easy access to complementary information allowing detailed self-checks on historical consumption as laid down in Annex VI(1.1).***

**GEODE's comment:**

Frequent billing would be costly for the end-user as every additional service generates costs which the DSOs should be able to recover in a usual way for regulated activities. Monthly paper billing information would increase network costs/tariffs by approximately 5%. Hence, monthly billing information will only make sense if it is done electronically. GEODE believes



that electronic bills and billing information should be stated as standard while paper bills should be an additional service the customer has to pay for.

3. ***Billing and billing information*** from metering of individual consumption of energy as well as the other information mentioned in paragraphs 1 **and 2** and Annex VI shall be **made available** to final customers free of charge, **within 2 hours or as quickly as is technically feasible**.

**GEODE's comment:**

GEODE stresses that frequent billing information management would imply substantial additional costs for DSOs, which have to be shared with final customers. It is not appropriate to set an exact frequency for sending the information. Information should instead have to be sent as quickly as is technically and economically feasible.

**Article 9 – Incentives and penalties (ITRE Amendment)**

***Member States shall lay down rules on incentives to give in particular small and medium sized enterprises and households the necessary means to carry out energy efficiency investments.***

**GEODE's comment:**

GEODE agrees with the incentives' part of the Article, and would suggest the implementation of a tax reduction scheme for labour costs when carrying out energy efficiency measures at households or office, which would also contribute to reduce black labour (compare with the so called rot-reduction scheme in Sweden).

**Article 10 – Promotion of efficiency in heating and cooling (ITRE Amendment)**

2. ***Member States shall take the necessary measures to develop efficient district heating and cooling infrastructure including the upgrade of existing infrastructure and/or accommodate the development of high-efficiency cogeneration and the use heating and cooling from waste heat and renewable energy sources in accordance with paragraphs 1, 3 and 6. Notably, authorisation and permitting decisions referred to in paragraphs 3, 6 and 8, shall be based on the national heating and cooling roadmaps. When developing district heating and cooling, high-efficiency***





***cogeneration shall to the extent possible be given preference over heat-only combustion units. With the exception of possible grants, the costs associated with the development of district heating and cooling infrastructure shall be borne by the users connected to such infrastructure through regulated tariffs.***

**GEODE's comment:**

GEODE suggest to reject the provision added by the EU Parliament which proposes the **introduction of regulated tariffs for the expansion of district heating and cooling systems (Art. 10, para 2)**. In certain Member States (e.g. Austria, Germany), this provision is not compatible with the system of grants for CHP plants and should therefore be rejected as an obstacle to the European expansion of CHP. In addition to that district heating and cooling systems compete with other energy sources and operate in the free market. Price formation has to be left to the market.

8. *Member States shall adopt authorisation or equivalent permitting criteria to ensure that, **when a cost-benefit analysis in accordance with Annex VIIIa shows that benefits outweigh the costs**, industrial installations with a total thermal input exceeding 20 MW generating waste heat that are built or substantially refurbished after [the entry into force of this Directive] capture and make use of their waste heat.*

*Member States shall establish mechanisms to ensure the connection of these installations to district heating and cooling networks.*

**GEODE's proposal:**

8. *Member States shall adopt authorisation or equivalent permitting criteria to ensure that industrial installations with a total thermal input exceeding 20 MW generating waste heat that are built or substantially refurbished after [the entry into force of this Directive] capture and make use of their waste heat, **if ecological, technical feasible and efficient** .*

*Member States shall establish mechanisms to ensure the connection of these installations to district heating and cooling networks. **This obligation shall take into account that the technical, environmental and economic requirements of the existing district heating and cooling networks shall be respected, and shall guarantee that the existing highly efficient district heating and cooling networks can continue to realize their current energy efficiency results; whereas existing high efficient CHP or heat from renewable sources should not***



***be replaced.***

**Justification:**

In the case of the use of industrial waste heat, it should be noted that positive environmental effects do not always arise. In Austria, for example, the majority (70%) of district heating is sourced from CHP plants. Feed-in only makes sense if existing uses of waste heat are not simply displaced. The cooling of heat from cogeneration facilities would lead to a significant loss in terms of the plants' efficiency. The high-efficiency criteria would effectively be undermined. Displacement does not lead to any reduction in CO<sub>2</sub> emissions. The introduction of specific-case assessments would be essential here and should therefore be specified in the draft Directive (*Art. 10, 8*).

**Article 12 – Energy transmission and distribution (ITRE Amendment)**

***7c. Member States shall develop, as part of their energy efficiency action plans as referred to in Article 19, a demand response action plan, which shall include detailed information on how demand response resources, including smart grids, will be deployed and integrated, in so far as is appropriate, into the regional electricity markets, especially but not limited to the tertiary reserves markets and the capacity markets.***

***Member States shall ensure that national energy regulatory authorities encourage demand side resources, such as demand response, to participate alongside supply in local or regional wholesale markets.***

[...]

**GEODE's comment:**

GEODE disagrees with the necessity to create an “artificial” demand response market. If the conditions are right, this market will be created automatically. If not, this means it is not economically sound. A Directive is not the right place to create such a market.



## **Annex I – National Energy Savings Targets (ITRE Amendment)**

### **Observation:**

See GEODE's comment on Article 1. GEODE considers it unreasonable as regards economic growth to cap the energy used in the EU Member States. In general, the purpose of increasing energy efficiency is to reduce the use of fossil energy resources. It should promote an increased use of renewable energy and not reduce the overall consumption.

## **Annex V - Energy end-use saving schemes (ITRE Amendment)**

### **1. Measures that *do not count towards the energy saving target***

*The following measures shall **not be counted towards the energy savings target referred to in Article 6** :*

- (a) distribution or installation of compact fluorescent light bulbs;*
- (aa) **distribution or installation of households appliances that are not classified in the highest class of the energy label or which have reached 30% market penetration;***
- (b) distribution or installation of energy efficient shower heads.*

### **GEODE's comment:**

GEODE thinks these measures should be able to be counted towards the energy efficiency target as long as the obligated party has contributed to its implementation. If an appliance has reached 30% market penetration thus does not mean that said customer would have bought it without the help of the DSO or ESCO providing an incentive to do so.

### **1a. Measures that target short-term savings**

***The following measures shall be considered as targeting short term savings:***

- (a) energy audits;***

**(b) distribution or installation of smart meters;**

**(c) fuel switching;**

**(d) information campaigns.**

**GEODE's comment:**

See GEODE's comment on Article 6 3.

**2. Energy saving methodology**

*Obligated parties may use one or more of the following methods for calculating energy savings for the purposes of Article 6(2):*

[...]

**GEODE's comment:**

GEODE welcomes the various methodologies for calculating energy savings, which makes it easier for both obligated parties and customers to engage in energy efficiency measures.

**Annex VI – Minimum requirements for metering of individual energy consumption and the frequency of billing information based on actual consumption (ITRE Amendment)**

**1. Minimum requirements for metering of individual energy consumption**

**1.1. Individual meters**

*When an individual smart meter is installed, Member States shall ensure that it is connected to an interface which displays and securely transmits accurate consumption data to the final customer or consumption data to the final customer or a third party designated by the final customer. The data shall be handled in a secure way and consumer privacy shall be protected in compliance with the relevant Union data protection and privacy legislation.*

**GEODE's comment:**

GEODE supports a standardised connection instead of an interface or display as requested by ITRE. Since fast-moving technical development for smart meters is on-going, it is



important to leave open for new and innovative ways to make use of the new technology. The text proposed might preclude new opportunities for a wide range of market players with different business models.

**Annex XI – Energy efficiency criteria for energy network regulation and for network tariffs set or approved by energy regulatory authorities (ITRE Amendment)**

- 2. *[...] The potential of demand response shall be taken fully into account when implementing regional network capacity adequacy or other energy security related measures. For the purposes of this provision the term ‘organised electricity markets’ shall include over-the-counter markets and electricity exchanges for trading energy, capacity, energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intra-day markets.***

**GEODE's comment:**

The new addition shall be deleted. A Directive is not the right legal instrument to create the demand response market.

Brussels, 16 April 2012