POSITION PAPER

on the Council's amendments 14980/1/11 to the Commission's 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 (dated 2nd February 2012)

Article 3

Energy efficiency targets

§ 1. Member States shall set a**n indicative** national energy efficiency target. **It shall be** expressed as an absolute level of primary energy consumption in 2020. When setting these targets, they shall take into account the Union's **2020 20% headline** target **on** energy **efficiency**, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level. **When setting the national energy efficiency targets, Member States may take account of national circumstances affecting primary energy consumption such as remaining cost-effective energy-saving potential, changes of energy imports and exports, development of all sources of renewable energies, nuclear energy, carbon capture and storage (CCS), and early action.**

GEODE supports the swift to set the target in reference to energy efficiency instead of energy savings as proposed by the Commission. As the needs of electricity increases, in particular with the development of electrical cars, it seems more relevant to increase the overall energy efficiency, which is not necessarily linked to an absolute decrease of the electricity consumption. **GEODE** also welcomes the inclusion of early actions in Art. 3.

Article 4

Public bodies

§ 3b. **Member States shall incentivise public bodies, with due regard for their respective competences and administrative set-up, to […]**

§ 3c. **[…]**

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§ 4. **[…]**

(a) adopt an energy efficiency plan, freestanding or as part of a broader climate or environmental plan, containing specific energy saving objectives, with a view to **achieving the obligations laid down in paragraphs 1, 3 and 3a;**

(b) put in place an energy management system**, including energy audits**, as part of the implementation of their plan.

GEODE supports the Council's previous approach (version 1480/1/11 REV 1) which strengthened the work on energy efficiency at local and regional level by encouraging regional and local authorities involvement in the energy efficiency programmes. **GEODE** believes that the exact orientation and measures at these levels should be decided in a bottom-up process.

Article 6

Energy efficiency obligation schemes

§ 1. Each Member State shall set up an energy efficiency obligation scheme. **This scheme shall ensure that obligated energy distributors and/or retail energy sales companies operating in each Member State's territory achieve a cumulative end-use energy savings target by 31 December 2020. This target shall be equivalent to achieving new savings each year from 1 January [year after implementation] to 31 December 2020 of 1.5% of the annual energy sales to final customers of** all energy distributors or all retail energy sales companies **by volume, averaged over the most recent three-year period prior to [implementation date]. […] The sales of energy, by volume,** used in transport **may be excluded from this calculation**. **Member States shall set at least two interim targets for obligated parties within the period to 31 December 2020.**

Footnote (32) related to this provision: The Presidency suggests adding a new recital 18(a): "**The requirement to achieve savings of 1.5% of the annual energy sales to final customers relative to what energy sales would have been does not constitute a cap on sales or energy consumption**."

Although **GEODE** advocates for Member States' subsidiarity in defining their own measures to achieve energy efficiency (ref to Art. 6.9), **GEODE** welcomes the greater flexibility in this approach, which leaves the Member States free to design the planning most suitable for

them. **GEODE** welcomes the possibility to include the transport sector for energy efficiency measures. Measures taken in the transport sector have a direct effect on the reduction of carbon emissions.

§ 1a. **Without prejudice to paragraph 1, each Member State shall designate, on the basis of objective and non-discriminatory criteria, obligated parties amongst energy distributors and/or retail energy sales companies operating in its territory and may include transport fuel distributors or transport fuel retailers operating in its territory. Member States shall decide on the eligible measures. The** amount of energy savings **to fulfil the obligation** shall be achieved by the obligated parties among final customers **or, if Member States so decide, through certified savings stemming from other parties as described in paragraph 5b. […]**

See above **GEODE** comments supporting the inclusion of the transport sector in the measures to be adopted.

§ 1b. **Member States may opt to fulfil up to [20%] of the obligation set out in the first paragraph through energy savings achieved in the energy transformation sector as well as in distribution and transmission sectors as referred to in Article[…] 11(2)[…].**

GEODE agrees with this provision and welcomes the flexibility granted to achieve the savings where it is cost-efficient.

§ 8. **[…]**

Footnote (34) related to this provision: It is suggested to replace the provision on small companies with the following new recital: "**It is appropriate for Member States to determine, on the basis of objective and non-discriminatory criteria, which energy distributors or retail energy sales companies should be obliged to achieve the end-use energy savings target set by this Directive. Member States may in particular choose not to impose this obligation on small energy distributors and small retail energy sales companies to avoid disproportionate administrative burden.**"

GEODE agrees with this suggestion for a more flexible approach on granting exemptions wherever economically rational.

§ 9. As an alternative to paragraph 1, Member States may opt to take other **policy** measures to achieve energy savings among final customers. The annual amount of energy savings achieved through this approach shall be equivalent to the amount of energy savings required in paragraph 1. **Provided that equivalence is maintained, Member States may combine obligation schemes with alternative policy measures.**

The policy measures taken referred to in the first subparagraph may include, but are not restricted to, the following policy measures or combinations thereof:

a) energy and CO2 taxes and other market based instruments that have the effect of reducing energy end-use consumption;

b) financing instruments that lead to application of energy efficient technology and/or techniques and have the effect of reducing energy end-use consumption;

c) regulations or voluntary agreements that lead to application of energy efficient technology and/or techniques and have the effect of reducing energy end-use consumption;

d) standards and norms that aim at improving the energy efficiency of products and services, including buildings and vehicles, except where these are mandatory;

e) energy labelling schemes, with the exception of those stemming from the implementation of Directives 2010/30/EU, 2010/31/EU and 2002/91/EC;

f) training and education, including energy advisory programmes, that lead to application of energy-efficient technology and/or techniques and have the effect of reducing energy end-use consumption.

GEODE supports the Council's approach that gave Member States the freedom to decide which measures are best for them and welcomes the suggestions of policy measures.

§ 10. **Member States may agree on and may make arrangements for the statistical transfer of a specified amount of energy savings achieved under the provisions of paragraphs 1 to 6 from one Member State to another Member State. The transferred quantity shall be:**

a) deducted from the amount of energy savings that is taken into account in measuring compliance by the Member State making the transfer,

b) added to the amount of energy savings that is taken into account in measuring compliance by another Member State accepting the transfer.

A statistical transfer shall not affect the achievement of the target defined in paragraph 1 of the Member State making the transfer. The arrangements referred to in the first subparagraph shall be notified to the Commission no later than three months after the end of each year in which they have effect. Transfers shall become effective only after all Member States involved in the transfer have notified the transfer to the Commission.

In **GEODE**'s opinion the provision simply provides a greater flexibility and guarantees that savings are achieved where it is most cost-efficient.

Article 7

Energy audits and energy management systems

§ 1. Member States shall promote the availability to all final customers of energy audits which are affordable and carried out in an independent manner by **accredited** or **qualified** experts **according to qualification criteria defined by the Member State, including in-house experts or energy auditors […], and for which the Member State has put in place a scheme to assure and check their quality […]**

GEODE welcomes the Council's approach allowing energy distributors and retailers to participate in this market. DSOs are objective market partners which do not depend on increased sales of energy as their income is regulated by National Regulatory Authorities. They are to play a crucial role in helping consumers reduce their energy consumption. Furthermore, most DSOs (except for the UK and Germany) are responsible for the metering assets and technology necessary to verify, evaluate and monitor the success of energy efficiency measures.

§ 4. Energy audits may stand alone or be part of a broader environmental audit. **Member States may require that an assessment of the technical and economic feasibility of connection to an existing or planned district heating or cooling network shall be part of the energy audit.**

GEODE welcomes the new requirement for energy audits as a way to promote district heating or cooling where it is cost-efficient.

Article 8

§ 1. **[…]**

Footnote (37) related to this provision: It is suggested not to repeal Article 13(1) of Directive 2006/32/EC and to add the following recital: "**In relation to electricity, and in accordance with Directive 2009/72/EC, where the roll-out of smart meters is assessed positively, at least 80% of consumers should be equipped with intelligent metering systems by 2020. In relation to gas, and in accordance with Directive 2009/73/EC, where the roll-out of intelligent metering systems is assessed positively, Member States or any competent authority they designate, should prepare a timetable for the implementation of intelligent metering systems**."

> **Where, and to the extent that,** Member States put in place the roll-out of smart meters **in accordance with** Directives 2009/72/EC and 2009/73/EC concerning electricity and gas markets**:**
>
> **(a)** they shall ensure that the **meters provide information on actual time of use to the consumers and that the** objectives of energy efficiency and final customer benefits are fully taken into account when establishing the minimum functionalities of the meters and obligations imposed on market participants
>
> **(b) they shall ensure the security of smart meters and the data communication, and the privacy of final customers.**
>
> **(c)** In the case of electricity **[…],** meter operators shall ensure that the meter can account for electricity **[…]** exported to the grid **from the consumer's premises**.
>
> **(d)** Member States shall ensure that if final customers request it, metering data on their **export or import of electricity** is made available to a third party acting on behalf of the final customer.

GEODE stands for limiting the provisions in Article 8 to electricity and natural gas meters. **GEODE** welcomes the new approach which is in line with the time-table for the roll-out of electricity and gas meters foreseen respectively by Directive 2009/72/EC and Directive 2009/73/EC.

GEODE fully supports that safety of data communication and customer privacy should be ensured before the roll-out of smart meters.

> **[…] Where** heating and cooling **to** a building is supplied from a district heating network **or from a central source servicing multiple buildings […]**, a heat meter shall be installed at the **heating exchanger […]**. In multi-apartment **and multi-purpose** buildings **with a central heating/cooling source or supplied from a district heating network or from a central source serving multiple buildings**, individual heat consumption meters shall also be installed **by 1 January 2015** to measure the consumption of heat or cooling for each **unit**. Where the use of individual heat consumption meters is not technically feasible **or not cost-efficient**, individual heat cost allocators **[…]** shall be used for measuring heat consumption at each radiator**, unless it is shown that the installation of such heat cost allocators would not be cost-efficient. In these cases, alternative cost-efficient methods of heat consumption measurement may be considered.**

Footnote (38) related to this provision: It is suggested to add the following two new recitals:

"**Use of individual meters or heat cost allocators for measuring individual consumption of heating in multi-apartment buildings supplied by district heating or common central heating is beneficial when final customers have means to control their own individual consumption. Therefore, their application makes sense only in buildings where radiators are equipped with thermostatic radiator valves.**"

"**In some multi-apartment buildings supplied by district heating or common central heating, the use of accurate individual heat meters would be technically complicated and costly due to the fact that the hot water used for heating enters and leaves the apartments at several points. It can be assumed that individual metering of heat consumption in multi-apartment buildings is, nevertheless, technically possible when the installation of individual meters would not require changing the existing in-house piping for hot water heating in the building. In such buildings, measurements of individual heat consumption can then be carried out by means of individual heat cost allocators installed on each radiator.**"

GEODE welcomes the cost-benefit orientation of the suggested two new recitals. It is neither technically feasible nor useful from a cost/benefit perspective to provide information on energy use in for instance district supplied hot water, heating and cooling to final customers. Member States can go further if they want to, but it should be up to the national level to decide.

§ 2. **With respect to** the obligations resulting from Directive 2009/72/EC and Directive 2009/73/EC with regard to billing, Member States shall ensure, not later than 1 January 2015, that billing is accurate and based on actual consumption, for all the sectors covered by the present Directive, including energy distributors, distribution system operators and retail energy sales companies, **where it is technically possible and economically justified […]**. **[…] This obligation may be fulfilled by a system of self-reading by the final customers whereby they communicate readings from their meter to the energy supplier. Only when the final customer has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.** Appropriate information shall be made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VI(2.2). **[…]**

GEODE welcomes the clarification on this provision that billing requirements may be fulfilled by a system of self reading by the final customer and that smart meters do not need to be in place by 1st January 2015. This way the third energy package directive's timeframe is respected.

§ 3. **Member States shall ensure that customers receive their bills for energy** consumption **for free. Customers shall also have access to their consumption data <u>for</u>** free **<u>[…]</u>**. **<u>Where bills are not based on consumption, customers shall have the right to a clear explanation of how their bill was derived</u>..**

GEODE considers that this information can be delivered by the companies only if the billing is done electronically.

Article 10

Promotion of efficiency in heating and cooling

§ 1. By **31 December 2015**, Member States shall **carry out** and notify to the Commission a **comprehensive assessment of** the potential for the application of high-efficiency cogeneration and efficient district heating and cooling, containing the information set out in

Annex VII. **If they have already carried out an equivalent assessment, they shall notify it to the Commission.** The **assessment** shall be updated and notified to the Commission every five years. Member States shall **adopt policies which encourage that the potential of using […] efficient heating and cooling systems, in particular those using high efficiency cogeneration, is duly taken into account at** local and regional **levels. […] Account shall be taken of the potential for developing local and regional heat markets**.

GEODE welcomes the recognition of the potential for regional and local heating markets. Heating and cooling plans should be set up locally. The exact orientation and measures on these levels should be decided in a bottom-up process. The cooling and heating should, where appropriate, be an integral part of the energy efficiency plans in Article 4. The national plans could not provide for such a level of detail and should therefore be used rather as a statistical tool in order to determine the national potentials. These could be gathered, for statistical purposes, in national heating and cooling plans. **GEODE** supports the more cost-effective orientation of all provisions related to heating and cooling.

§ 3. **Member States may exempt from the provision in the first subparagraph:**

a) those peak load and back-up installations which are planned to operate under 1 500 operating hours per year as a rolling average over a period of five years;

b) nuclear power installations;

c) installations that need to be located close to a geological storage site permitted under Directive 2009/31/EC.

GEODE suggests the deletion of paragraph 10.3 c). It is questionable why a location should be foreclosed to the construction of a CHP-plant only because the possibility of the construction of a CCS-plant exists. Further, this paragraph assumes that energy efficiency is only about CO2-abatement. However, CHP-plants provide additional positive effects to CO2 abatements as they use energy resources in the most efficiency way with an increase of the utilization ratio of the fuels up to over 80% and produce power and heat at once.

Article 12

Energy transmission and distribution

§ 1. Member States shall ensure that national energy regulatory authorities pay due regard to energy efficiency in their decisions on the operation of the gas and electricity infrastructure.

They shall in particular ensure that network tariffs and regulations provide incentives for grid operators to offer system services to network users permitting them to implement energy efficiency improvement measures in the context of the continuing deployment of smart grids. Member States shall ensure that network regulation, and network tariffs **[…]**, fulfil the criteria in Annex XI, taking into account guidelines and codes developed pursuant to Regulation 714/2009 and Regulation 715/2009.

GEODE believes that network tariffs shall provide incentives for grid operators to make investments into the smart grids and integration of renewable energies and CHP, permitting them to implement energy efficiency improvement measures, in particular those resulting as a consequence of the energy savings scheme obligation of Article 6 and in the context of the continuing deployment of smart grids, and asks for it to be detailed in the directive.

The challenges set by the new developments make it necessary to rethink the role of distribution networks and to invest in them. Smart Grids deployment implies huge investments to be undertaken by network operators, so smart regulation should be put in place to make these investments happen.

§ 2. Member States shall, by **[**30 June 2013**] […]**:

a) assess**[…]** the energy efficiency potentials of their gas **and** electricity **[…]** infrastructure, notably regarding transmission, distribution, load management and interoperability, and connection to energy generating installations;

b) identify**[…]** concrete measures and investments for the introduction of cost-effective energy efficiency improvements in the network infrastructure, with a detailed timetable for their introduction.

GEODE contends that, besides measures and investments for improving energy efficiency in electricity networks, the corresponding costs also have to be calculated and recovered. Therefore **GEODE** proposes to add the following subparagraph:

"c) *ensure that cost effective investments in energy efficient grid components are fully integrated by national regulators in the network tariffs.*".

§ 3. Member States may permit components of schemes and tariff structures with a social aim for net-bound energy transmission and distribution, provided that **the tariff structures contribute**

to the overall efficiency (including energy efficiency) of the generation, transmission**,** distribution **and supply of electricity**.

GEODE supports this provision (see also comment to Article 12 § 1).

§ 5. **Member State shall ensure that rules relating to the ranking of the different access and dispatch priorities granted in their electricity systems are clearly spelled-out and published. Member States may set rankings as between, and within different types of, renewable energy and CHP.**

GEODE welcomes the more transparent and flexible approach to the priority access of high efficiency CHP.

§ 7. Member States may allow producers of electricity from high-efficiency cogeneration wishing to be connected to the grid to issue a call for tender for the connection work.

In **GEODE**'s view, the DSO is responsible for the distribution grid. Thus, the DSO is the suitable actor to decide about the work in the grid and no other party should take on this role. It has to be clarified that this Article 12(7) refers to works in the customer's installation and not to any works on the grid.

ANNEX II

(b) Calculation of primary energy savings

GEODE considers that the definition of the calculation parameters has to be clarified. The parameters should reflect annual averages in order to make the calculation clearer.

ANNEX V

Common methods and principles for calculating the impact of energy efficiency obligations schemes or other policy measures under Article 6, paragraphs 1 and 9

Part A

2. Methods for calculating savings

GEODE welcomes in particular a deemed savings catalogue, which allows to save time and administrative effort and brings security to the obligated parties, who know *ex ante* how much energy can be saved before implementing a measure. This approach has already been chosen by various states having an energy efficiency system. This ensures the feasibility of this approach.

3. Principles to apply in the calculation of energy savings

a) Only savings that are additional to those that might otherwise have reasonably been expected to have been achieved can be counted.

GEODE welcomes this provision.

d) the activities of the obligated party must be reasonably material to the achievement of the claimed savings;

GEODE welcomes this provision ensuring that the obligated parties were actually involved in the achievement of the energy efficiency measures.

f) calculation of energy savings shall take into account the lifetime of savings.

GEODE welcomes: a multiplication factor or the calculation of the lifetime shall ensure that companies have an incentive to implement the most sustainable measures.

i) in promoting the uptake of energy efficiency measures, Member States shall ensure that quality standards for products, services and installation of measures are maintained.

GEODE welcomes the fact the Member States should impose a quality standard, which will ensure that the improvement of energy efficiency is effective**.**

ANNEX VI

Minimum requirements for […] billing based on actual consumption

1. […]
1.1. […]
1.2. […]

GEODE supports the opinion that technical specifications on the meters should not be part of this directive.

ANNEX VIIIbis

GEODE suggests the following formulation for Annex VIIIbis in order to achieve the necessary national flexibility in line with the subsidiarity principle:

"***I. National level – cost benefit analysis in national, regional or local cooling and heating plans***

Each member state shall at the appropriate national, regional or local level identify the need for heating and cooling in order to promote an increased use of high efficiency co-generation as referred to in Article 10, paragraph 1a, 3, 6 and 8. This shall be done using a cost benefit analysis.

The cost-benefit analysis may cover either a project assessment of a specific plant or a broader regional or national assessment of cooling and heating plans.

Member States shall adopt national criteria for the cost-benefit analysis including environmental, social and economic aspects on a global level. These criteria shall be notified to the Commission.

The cost-benefit analyses shall include the following features and considerations:

a) System boundary and geographical boundary

b) Constructing a baseline scenario

The purpose of the baseline scenario is to serve as a reference point, to which the alternative scenarios are evaluated.

c) Identifying alternative scenarios

d) Calculation of cost-benefit surplus

e) Prices

f) Inventory of effects

(i) Benefits

a. Value of output to the consumer (heat and electricity)

b. Environmental and health benefits

(ii) Costs

a. Investments costs

b. Variable and fixed operation costs

c. Fuel costs

d. Environmental and health cost (e.g. cost of changes in air-pollution or cost of noise pollution)

g) Financial analysis"

The effects are those that affect the actual cash flow streams of the specific installation.

II. Cost benefit business analysis to be used in the permit process

Member States shall identify the cost benefit business criteria for and ensure that companies carry out a cost benefit analysis according to these criteria in situations as referred to in art. 10 (3), (6) and (8) before a permit is given.

The cost benefit business analysis may include environmental, social and economic aspects but should be limited to aspects that are relevant to the individual business case.

The criteria shall be notified to the Commission.

ANNEX XI

§ 2. Network regulation and tariffs shall allow network operators to offer system services and system tariffs for demand response measures, demand management and distributed generation on organised electricity markets, in particular:

a) the shifting of the load from peak to off-peak times by final customers taking into account the availability of renewable energy, energy from cogeneration and distributed generation;

b) energy savings from demand response of distributed consumers by energy aggregators;

c) demand reduction from energy efficiency measures undertaken by energy service providers, including energy service companies;

d) the connection and dispatch of generation sources at lower voltage levels;

e) the connection of generation sources from closer location to the consumption; and

f) the storage of energy.

For the purposes of this provision the term "organised electricity markets" shall include over-the-counter markets and electricity exchanges for trading energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intra-day markets.

GEODE assumes the network stability should be preserved, and therefore proportionate and reasonable network tariff levels should be offered to the end consumers.

§ 3. Network tariffs shall be available that support dynamic pricing for demand response measures by final customers, including:

a) time-of-use tariffs;

b) critical peak pricing;

c) real time pricing; and

d) peak time rebates.

GEODE thinks that it is important that DSOs can undertake demand-side management measures, as DSOs are responsible for the reliability and stability of the grid. These measures shall also include interruptible tariffs or time-of-use tariffs, and DSOs shall also be able to interrupt the electricity consumption or feed-in to the grid of customers if necessary.

Real-time prices or other dynamic pricing models (depending on real time grid situations) for electricity grids seem to be very academic and neither very practical nor easy to understand for customers. It is difficult for some customers to understand why they must pay a very high

grid fee because of grid congestion at times when the price for energy is very low, e.g. because of high wind production.

However, network prices that reflect costs such as capacity oriented prices or fixed price models seem to work better. Therefore, **GEODE** recommends a more capacity-orientated tariff system that will help to flatten the load curve once Smart Meters are in place.

Brussels, 23rd of February 2012