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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC of the European Parliament and of the Council concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users

Delegations will find attached document COM(2015) 496 final.

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Brussels, 18.11.2015
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC of the European Parliament and of the Council concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Commission (Eurostat) collects data on natural gas and electricity prices for industrial end-users (final non-household customers). Industrial end-user prices have been regulated by legislation since 1990, and are currently regulated by Directive 2008/92/EC, which repealed Directive 90/377/EEC. National authorities collect price data for household customers on the basis of a voluntary agreement. The national authorities have informed the Commission that, owing to financial and human resource constraints, several data providers (natural gas and electricity companies) are questioning whether to continue collecting this data.

At the European Council on 22 May 2013 on energy and taxation, heads of state and government had stated that the EU's energy policy should aim to provide households and companies with affordable and competitively priced energy in a safe and sustainable manner. Consequently, the Commission was asked to provide analysis of the 'composition and drivers of energy prices and costs in Member States'. This analysis was to focus on the impact of energy prices on households, small and medium-sized enterprises and energy-intensive industries, and, more broadly, examine the EU's competitiveness in relation to its global economic counterparts.

The Commission, having identified that additional detailed pricing data were needed for this analysis, collected the required information from all 28 EU Member States on the basis of a voluntary arrangement. A report including detailed analysis of the components of natural gas and electricity prices was presented to the Council in January 2014.

In 2014, policymakers made several requests for more detailed official statistics on natural gas and electricity prices. At its meeting on 13 June 2014, the Transport, Telecommunications and Energy (TTE) Council acknowledged the negative impact of high and rising energy prices and costs on Europe's global competitiveness and on the standard of living of individual customers. For this reason, the TTE Council called for a 'follow-up review by the Commission on energy prices and costs and on customers by 2016'.

The European Commission adopted on 25 February 2015 the Energy Union Package. One of the actions of the Energy Union Package under the chapter of the internal energy market defines an analysis of energy prices and costs to be carried out in 2016 and every 2 years thereafter.

An additional set of sub-components on taxes and levies and network prices on natural gas and electricity has been drawn up in order to reflect the goals of the Energy Union Package and, in particular, addresses the need for greater transparency on energy costs and prices referred to in action point 8 of the Package.

- **Consistency with existing policy in the area**

The June 2014 European Council reconfirmed the need to strengthen the EU's single market, increase competition and transparency on the gas market and complete the integration of the European energy market. The Council also called for further analysis of market integration with regard to energy efficiency and security.

- **Consistency with other EU policies**

The Energy Union Package was adopted by the Commission on 25 February 2015. In this context, the Commission will, from 2016 onwards, provide data on energy prices and costs (including taxes and subsidies). This breakdown of energy prices and costs will enable the Commission to monitor the situation on the energy market.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 338(1) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive responsibilities)**

The Commission (Eurostat) collects national data on natural gas and electricity prices using a methodology that enables price comparisons between Member States. This price data must be collected at EU level to ensure the data are reliable and comparable across all EU Member States and to aggregate data for the EU and for the euro area. At national level, price data is collected by the relevant national authorities and is then disseminated by Eurostat.

- **Proportionality**

The proposed legal act will cover the collection of data on natural gas and electricity prices for the household and non-household sectors. In the past, price data for the industrial sector were collected in accordance with Directive 2008/92/EC, but price data for the household sector were collected on the basis of a voluntary agreement. The growing complexity of the internal energy market make it increasingly difficult to obtain reliable and up-to-date price data for natural gas and electricity in the absence of legally binding obligations to provide such data, in particular for the household sector. The proposed changes compared to the situation under Directive 2008/92/EC consist in covering data that are currently collected voluntarily by the proposed legal act. This does not go beyond what is necessary to achieve the objectives set.

- **Chosen legal instrument**

Using the legal instrument of a Regulation of the European Parliament and of the Council should ensure prompt, smooth and harmonised implementation throughout the EU.

3. FINDINGS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The existing applicable legislation (Directive 2008/92/EC) covers only the collection of natural gas and electricity price data for the industrial sector. The methodology used for these price surveys, introduced in 2007, has proven effective.

- **Stakeholder consultations**

Members of the Energy Statistics Working Group (ESWG) were consulted by Eurostat in writing in January 2015. Their comments and recommendations were taken into account. The written consultation of ESWG resulted in a reduction in the number of sub-components of taxes and levies (from 11 to 6 sub-components) and a substantial reduction in the data on electricity and natural gas network prices to be reported. Members of the Directors of Sectoral and Environmental Statistics and Accounts (DIMESA) group were consulted in writing in May and June 2015 and this consultation led to an extension of the deadlines for requesting a derogation on the reporting of price data components and/or sub-components. For natural gas prices in the household sector, a threshold was established so that countries where household consumption of natural gas is low could be exempted. The amended draft was presented at a DIMESA group meeting on 11 June 2015 and an ESWG meeting on 24 June 2015

- **Collection and use of expert advice**

Eurogas and Eurelectric, two associations active in the gas and electricity sectors, were consulted by Eurostat on the feasibility of collecting the data. Their recommendations on the availability of information on sub-components of the network prices of electricity and natural gas were taken into account.

- **Regulatory fitness and simplification**

The administrative burden for the reporting authorities and the Commission will not increase significantly as most of the price data concerned is already reported voluntarily. Although a few sub-components of taxes and network prices have been added to the list of data to be collected, the reporting frequency has been reduced from every year to once every three years. The overall administrative burden is therefore likely to remain unchanged.

- **Impact assessment**

No impact assessment was carried out for this proposal as it will not significantly change the activities of either the reporting authorities or the Commission. The detailed reasoning behind the decision not to carry out an impact assessment is set out in the Commission roadmap which has been published on the Commission's website: http://ec.europa.eu/smart-regulation/impact/planned_ia/docs/2014_estat_001_roadmap_electricityprices.pdf.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposal has no implications for the EU budget. As the activities will not increase significantly, there will be no additional costs.

5. OTHER ASPECTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

None.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Reliable, timely and complete statistical data on natural gas and electricity prices is an important information source for European policy makers. As the data collection on gas and electricity prices for the household sector is carried out on a voluntary agreement, individual data providers (electricity or gas companies) might decide not to continue this anymore. As the data collection will be covered under a legal framework, the continuation of the reporting will be guaranteed.

In order to analyse the main price drivers for electricity and natural gas it is insufficient to look only at final gas and electricity prices and at network, taxes and product prices. In order to identify the price drivers, a set of variables (sub-components) has been added to the data collection that will allow a more detailed analysis on data that is collected based on a harmonised methodology.

European Economic Area

The proposed act concerns a European Economic Area (EEA) matter and should therefore extend to the EEA.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC of the European Parliament and of the Council concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,¹

Whereas:

- (1) Competitiveness, sustainability and energy security are the overarching goals of a resilient Energy Union with a forward-looking climate change policy.
- (2) High quality, comparable, up-to-date, reliable and harmonised information on natural gas and electricity prices charged to final customers are needed in order to draft Energy Union policy and monitor the Member States' energy markets.
- (3) This Regulation aims to provide European statistics to underpin energy policies in particular towards the creation of a fully integrated internal energy market for customers. Greater transparency on energy costs and prices, as well as on the level of public support, should be made available to improve market integration.
- (4) Up to the present date, Directive 2008/92/EC of the European Parliament and of the Council² has provided a common framework for producing, transmitting and disseminating comparable statistics on the natural gas and electricity retail prices charged to industrial customers in the Union.

¹ Opinion of the European Parliament of ... (not yet published in the Official Journal) and Council Decision of ...

² Directive 2008/92/EC of the European Parliament and of the Council of 22 October 2008 concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (OJ L 298, 7.11.2008, p. 9).

- (5) The collection of data on natural gas and electricity retail prices charged to final customers in the household sector has so far been carried out on the basis of a voluntary agreement.
- (6) The growing complexity of the internal energy market make it increasingly difficult to obtain reliable and up-to-date price data for natural gas and electricity in the absence of legally binding obligations to provide such data, in particular for the household sector.
- (7) In order to guarantee the reporting of high quality price data for the household sector and for the non-household sector, the collection of both types of data should be covered by a legal act.
- (8) In most countries, data on transmission systems are available from energy regulators. However, a much larger number of data compilers are involved for distribution costs and the reporting of data is considered more challenging in some Member States. Given the significance of distribution costs and the need for transparency on this matter, the collection of data must be harmonised on the basis of a sound methodology.
- (9) The system of consumption bands used by the Commission (Eurostat) in its price publications should ensure the transparency of the market and the broad dissemination of non-confidential price data and should enable the calculation of European aggregates.
- (10) Regulation (EC) No 223/2009 of the European Parliament and of the Council³ provides that statistics are to be collected in accordance with the principles of impartiality, transparency, reliability, objectivity, professional independence and cost-effectiveness, while protecting statistical confidentiality.
- (11) The information on prices charged to final customers of natural gas and electricity should enable comparisons with the prices of other energy commodities.
- (12) Information on the collection of data on prices and on quality should be provided as part of standard reporting procedure.
- (13) Detailed data on the breakdown of consumption bands and their respective market shares are an essential part of natural gas and electricity price statistics.
- (14) Price analysis can only be carried out if high quality official statistics are available from Member States regarding the different components and sub-components of natural gas and electricity prices. A revised methodology for generating a detailed breakdown of the various components and sub-components of the prices of natural gas and electricity charged to final customers will make it possible to analyse the impact of different aspects on the final prices.

³ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

- (15) The data provided to the Commission (Eurostat) on prices and conditions of sale to final customers, and the breakdown of the number of final customers by consumption in each consumption band, should provide the Commission with appropriate information to decide on appropriate measures or proposals in relation to energy policy.
- (16) A good understanding of the taxes and charges in each Member State is essential for ensuring price transparency. The importance of a breakdown of the data on network costs, charges, taxes, levies, and fees has been identified.
- (17) Member States in which the consumption of natural gas as a proportion of the final energy consumption of households is low should be exempted from the obligation to provide data on natural gas prices for final household customers.
- (18) To improve data reliability, the Commission (Eurostat), together with the Member States, should assess and, if required, improve the methodology for collecting and processing the data in a precise manner, aligned with governance framework for statistics. Therefore, quality reports should be prepared regularly and assessments of the quality of the price data should be carried out regularly.
- (19) Based on a justified request from a Member State, the Commission may grant derogations to Member States in relation to those specific obligations for which the application of this Regulation to the national statistical system of a Member State requires major adaptations and is likely to lead to a significant additional burden on respondents.
- (20) In order to maintain the high quality of the data provided by the Member States, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission, with a view to adjusting the thresholds that may apply to the natural gas market. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (21) The Commission should ensure that delegated acts do not impose a significant additional administrative burden on Member States or on respondents.
- (22) In order to ensure uniform conditions for the implementation of the Regulation, implementing powers should be conferred on the Commission as regards the format of and arrangements for the transmission of the data, requirements for the quality reports and their structure and comparability, and the granting of derogations. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.
- (23) Directive 2008/92/EC is repealed.
- (24) The European Statistical System Committee has been consulted.

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes a common framework for the development, production and dissemination of comparable European statistics on natural gas and electricity prices for household and final non-household customers in the EU.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'household', 'final energy consumption' and 'autoproducers' shall have the same meaning as those referred to in Annex A to Regulation (EC) No 1099/2008 of the European Parliament and of the Council⁴;
- (2) 'customer', 'final customer', 'household customer', 'non-household customer', 'transmission', 'distribution' and 'supply' related to electricity shall have the same meaning as those referred to in Directive 2009/72/EC of the European Parliament and of the Council⁵, when used in relation to electricity;
- (3) 'customer', 'final customer', 'household customer', 'non-household customer', 'transmission', 'distribution' and 'supply' related to natural gas shall have the same meaning as those referred to in Directive 2009/73/EC of the European Parliament and of the Council⁶, when used in relation to natural gas;
- (4) 'network component' means the combination of distribution and transmission network costs as stated in point 6 of Annex I and in point 5 of Annex II.

Article 3

Data sources

While applying the principle of maintaining a reduced burden on respondents and of administrative simplification, Member States shall compile data on natural gas and electricity prices and their sub-components on network costs and taxes, levies, fees and charges as referred to in Annexes I and II and on consumption volumes and shall draw up a quality report using the following sources:

⁴ Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics (OJ L 304, 14.11.2008, p. 6-11).

⁵ Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

⁶ Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94).

- (a) specific statistical surveys related to natural gas and electricity retail prices addressed to producers or traders, transmission and distribution system operators, importers or exporters of energy products, and supply undertakings;
- (b) other statistical surveys addressed to customers in the household sector and final customers in the non-household sector;
- (c) administrative sources, such as those held by national regulators of the natural gas and electricity markets;
- (d) other sources applying sound statistical estimation procedures.

Article 4

Coverage

- (1) Member States shall ensure that the data collection and compilation system is representative.
- (2) Member States shall not be obliged to transmit data on natural gas prices for household customers to the Commission (Eurostat) if the consumption of natural gas in the household sector is below a threshold of 1 % of national total energy consumption in the household sector. The Commission (Eurostat) shall review regularly, at least every 3 years, which Member States qualify according to the consumption of natural gas in the household sector of their country for being excluded from the obligation to transmit the data.
- (3) The Commission shall be empowered to adopt delegated acts in accordance with Article 10, taking account of economic and technical trends, concerning the adjustment of the threshold.

Article 5

Data transmission

- (1) Member States shall provide to the Commission (Eurostat) the data as set out in Annexes I and II.
- (2) The Commission shall establish and adopt, by means of implementing acts, the format and arrangements for the transmission of the data as set out in the Annexes. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

Article 6

Reference period and transmission frequency

- (1) Member States shall compile all the data specified in the Annexes of this Regulation from the beginning of the calendar year following the adoption of this Regulation and shall provide statistics to the Commission (Eurostat) within three months of the end of the reference period.

- (2) The transmission frequency shall be:
- (a) annual (January to December) for data referred to in points 6(a) and 7 of Annex I and point 5(a) and 6 of Annex II;
 - (b) twice-yearly (January to June and July to December) for data referred to in point 6(b) of Annex I and point 5(b) of Annex II.

Article 7

Quality assessment and reports

- (1) Member States shall ensure the quality of the data in accordance with the quality criteria referred to in Article 12(1) of Regulation (EC) No 223/2009.
- (2) Member States shall inform the Commission (Eurostat), without delay, of any methodological or other changes that might have a significant impact on natural gas and electricity price statistics, and in any event no later than one month after that change occurs.
- (3) Member States shall submit to the Commission (Eurostat) every three years a quality report on the data, demonstrating how those data are calculated. This report shall include information on the scope and collection of the data, the calculation criteria, methodology and data sources used, and any changes in the sources or methodology.
- (4) The Commission (Eurostat) shall assess the quality of the transmitted data and the information provided in the quality reports and shall prepare and disseminate a summary quality assessment report.
- (5) Where the Commission (Eurostat) identifies statistically significant anomalies or inconsistencies in data provided, it may request from the national authorities an appropriate breakdown of the data as well as the calculation or evaluation methods upon which the data provided are based, in order to assess the data and, if necessary request that any data or any information deemed to be inaccurate is amended and resubmitted by the Member State concerned.
- (6) The Commission shall determine, by means of implementing acts requirements for the quality reports and their structure and comparability referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

Article 8

Dissemination

The Commission (Eurostat) shall disseminate natural gas and electricity price statistics no later than five months after the end of each reference period.

Article 9

Derogations

- (1) Derogations may be granted by means of implementing acts in relation to those specific obligations for which the application of this Regulation to the national statistical system of a Member State requires major adaptations and is likely to lead to a significant additional burden on respondents. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2) no later than [xx-xx-xxx]
- (2) For the purposes of paragraph 1, the Member State concerned shall present a duly justified request to the Commission no later than nine months after the entry into force of this Regulation.
- (3) The derogations shall remain in force for the shortest period of time possible and shall in any case not exceed three years.
- (4) A Member State having been granted derogation in accordance with paragraph 1 shall continue to apply the relevant provisions of Directive 2008/92/EC for the duration of the derogation period.

Article 10

Exercise of the delegation

- (1) The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this article.
- (2) The delegation of powers referred to in Article 4(3) shall be conferred for an indeterminate period of time from [xx-xx-xxx] onwards.
- (3) The delegation of powers referred to in Article 4(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- (4) As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- (5) A delegated act pursuant to Article 4(3) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within two months of notification of that act to the European Parliament or the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 11

Committee procedure

- (1) The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011⁷.
- (2) Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 12

Repeal of Directive 2008/92/EC

- (1) Directive 2008/92/EC is repealed.
- (2) References to the repealed Directive shall be construed as references to this Regulation.

⁷ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13–18).

Article 13

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President