

The City Law School
London

Energy Liberalisation & Climate Change: Conflict or Concordance?

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Strategies for Poland, December 16th 2008.**

Commission Pro-Liberalisation

- **Liberalisation encourages new competitors, new infrastructure and lower prices.**
- **Greater Interconnection- bigger energy market- greater supply security**
- **Ownership Unbundling is the key**



Economic Crisis No Liberalisation?



If the economic crisis were not enough....





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Two Allies of Liberalisation



Third Energy Package?

- Immense pressure against liberalisation measures
- Watering Down in the Council
- Final Deal Expected in the European Parliament in Spring 09.



The 'Hidden Hand'

- **Sectoral Inquiry Summer 2005**
- **Dawn Raids May & December 2006**
- **Vast Amounts of Evidence of Illegal Behaviour**
- **15-20 Statements of Objections**



Playing the Hidden Hand

- **Prohibition Decisions Bring Evidence of Illegal Behaviour into Public Domain**
- **Prospect of Fines and Immense Reputational Damage**
- **Litigation Effectively Enhances and liberalisation by legislation**
- **Governments on the Spot Support their companies or face voters wrath?**

Will Ms Merkel Step Up in Support?

- Ms Merkel Support German energy companies?
- Even if DG Comp has caught them red handed?
- Already 500,000 voters have brought class actions against such firms
- What will the voters do if they hear that there has been even more evidence of illegal activity leading to high prices?



E.ON Backs Down

- E.ON faced major antitrust prosecution, huge fine and reputational damage
- It agrees to separate its electricity network from its generating capacity
- German government horrified



Damages

- Prohibition Decision provides evidence of illegal behaviour
- Evidence of illegal behaviour over many years
- Potentially enormous damages claims



Shareholder Value

- **UK first major state to liberalise energy sector**
- **Ownership unbundling significantly increased the value of the unbundled companies**
- **Shareholders of continental monopolies-why do we oppose liberalisation?**



Climate Change Assessment

- Liberalisation-an environmental threat?
- Lowest-none externalised cost-fossil fuel
- Sweat the Assets and devil take the hindmost
- Liberalisation Plus



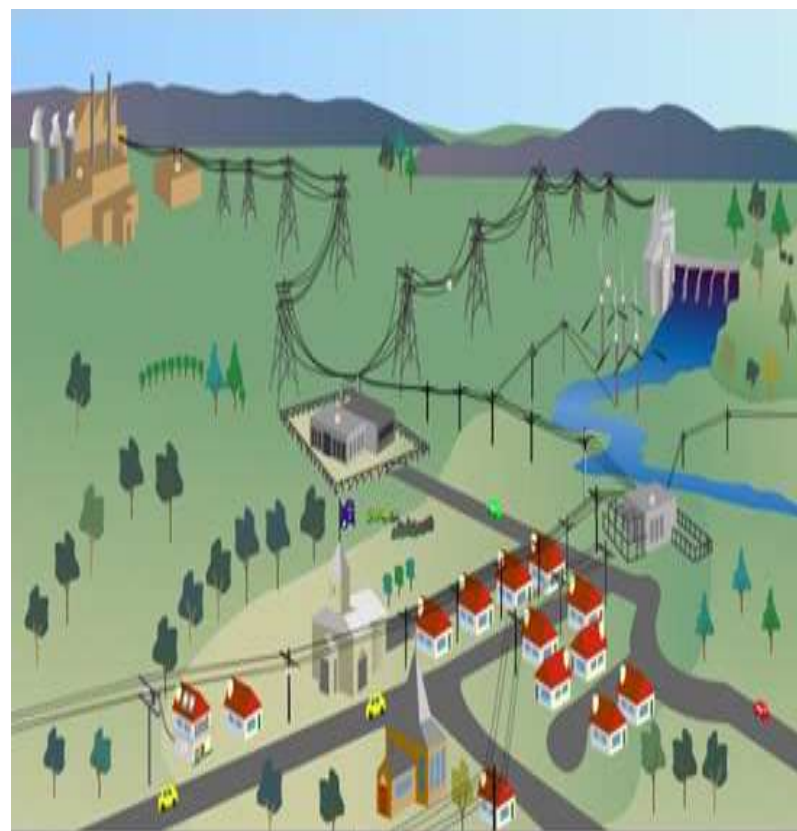
Access to Networks

- Separation of Network from Generation/Supply pro-climate change
- Unbundled Incumbents deny market access
- EWPA pro liberalisation



Smart Networks

- Interweave renewables into power networks
- Maximise Energy Efficiency
- Minimise Fossil Fuel Use
- All Require Shift from Dumb to Smart Networks



Electricity network

Energy Concordance?

- Domestic Incumbent Model Irrevocably Tainted by Illegal Behaviour
- Despite Economic Crisis A Significant Degree of Liberalisation with Ownership Unbundling will take place
- Liberalisation is part of the solution to creating an effective renewable EU energy market
- Liberalisation is liberalisation plus-not laissez-faire