

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 (Text with EEA relevance)

CHAPTER XI

FINAL PROVISIONS

Article 45

Review procedure

In the event that in the report referred to in Article 47(6) the Commission reaches the conclusion that given the effective manner in which network access has been carried out in a Member State — which gives rise to fully effective, non-discriminatory and unhindered network access — certain obligations imposed by this Directive on undertakings (including those with respect to legal unbundling for distribution system operators) are not proportionate to the objective pursued, the Member State in question may submit a request to the Commission for exemption from the requirement in question.

Such request shall be notified, without delay, by the Member State to the Commission, together with all the relevant information necessary to demonstrate that the conclusion reached in the report on effective network access being ensured will be maintained.

Within three months of its receipt of a notification, the Commission shall adopt an opinion with respect to the request by the Member State concerned, and where appropriate, submit proposals to the European Parliament and to the Council to amend the relevant provisions of this Directive. The Commission may propose, in the proposals to amend this Directive, to exempt the Member State concerned from specific requirements, subject to that Member State implementing equally effective measures as appropriate.