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PROPOSAL

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the internal markets for renewable and natural gases and for hydrogen (recast)

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

1.1 Introduction

The European Union has set an ambitious goal to be the first climate neutral continent by 2050. To achieve this, Member States and the European Parliament have agreed, in the European Climate Law, to reduce greenhouse gas emission by at least 55% by 2030. In order to achieve these targets and, at the same time, contribute to competitiveness, growth and jobs, the energy system needs a systemic change: We have to reduce the use of fossil fuels – including fossil gas – and increase renewable sources. Therefore, we need to design today an ambitious transition of the gas sector towards low-carbon and renewable gases.

Fossil gas constitutes around 95% of today's gaseous fuels consumed in the EU. Gaseous fuels, account for roughly 22% of total EU energy consumption today (including around 20% of EU electricity production, and 39% of heat production). According to the relevant scenarios used by the Climate Target Plan Impact Assessment, the share of gaseous fuels to total EU energy consumption in 2050 would be about 20%.Gaseous fuels will play an important part in the energy mix by 2050, requiring the decarbonisation of the gas sector via a forward-looking design for competitive decarbonised gas markets. Despite their minor contribution to the current EU energy mix, biogas, biomethane, renewable and low carbon hydrogen as well as synthetic methane (all together renewable and low carbon gases) would represent some 2/3 of the gaseous fuels in the 2050 energy mix, with fossil gas with CCS/U (carbon capture, storage and utilisation) representing the remainder. The present initiative is equally part of the Fit-for-55 package. It covers the market design for gases, including hydrogen. It will remove existing regulatory barriers and create the conditions for this to take place in a cost effective manner. This is an important part of moving to integrated energy system that minimises the costs of transition towards climate neutrality, in particular for consumers and open new opportunities for reducing their energy bills and active participation in the market.

Hydrogen is expected to be used mainly in the areas where electrification is not an option, including today's energy-intensive industry (e.g. refineries, fertilisers, steel making) and certain heavy-duty transport sectors (maritime transport, aviation, long distance heavy vehicles). Developing a dedicated hydrogen infrastructure is necessary to release the full potential of this energy carrier is specific end-use applications. The objective of promoting renewable and low-carbon gases is to decarbonise these sectors, increase the flexibility of the electricity system thanks to power-to-X technologies, strengthen security of supply by reducing dependence on natural gas imports and allow to store (and produce) electricity. This allows linking various sectors of the economy, in conjunction with other forms of storage and flexibility, such as batteries and demand response. Likewise, it will support self-production and smart use of distributed energy supply, contribute to greater consumer empowerment. Consumers also need clear and easily accessible information to help change energy consumption patterns and switch to renewable and low carbon solutions, similarly to what they are able to do in electricity market.

While aiming for a maximum of renewable hydrogen from 2030 onwards, in the short and medium term other forms of low-carbon gases in particular low-carbon hydrogen can play a role, primarily to rapidly reduce emissions from existing hydrogen production and support the parallel and future uptake of renewable hydrogen. In line with the EU hydrogen strategy, the production of renewable hydrogen in the EU should reach 1 million tonnes by 2024 and up to 10 million by 2030. From then onwards, renewable hydrogen should be deployed at a large scale and replace low-carbon hydrogen.

An efficient and sustainable development of renewable and low-carbon gases as well as the hydrogen market requires to adapt the market framework.This is because the renewable and low-carbon gases today face regulatory barriers for market and grid access that represent a comparative disadvantage versus natural gas. Moreover, for a decarbonised gas market to be set up and contribute to the energy transition, significantly higher shares of renewable energy sources in an integrated energy system with an active participation of consumers in competitive markets are needed. This should allow consumers to benefit from affordable prices, good standards of service, and effective choice of offers mirroring technological developments.

The deployment of various renewable and low carbon types of gases are likely to emerge in parallel and are expected to develop at a different pace across the EU:

- a hydrogen-based infrastructure will progressively complement the network for natural gas;
- a gas infrastructure in which fossil gas will progressively be replaced by other sources of methane.

In addition, events on increasing energy prices have reminded us that the resilience of the European energy system is increasingly important as the EU energy system integrates more decentralised renewable energy and fossil fuels are gradually phased out. The security of supply and risk preparedness arrangements of the gas sector must be fit for the clean energy transition. The Commission's Communication on tackling rising energy prices (A toolbox for action and support)[1], highlights the interplay between security of supply, the optimal use of storage capacities and the volatility of energy prices.

1.2 Objectives of the proposal

The present initiative seeks to facilitate the penetration of renewable and low-carbon gases into the energy system, enabling a shift from natural gas and to allow for these new gases to play their needed role towards the goal of EU climate neutrality in 2050.

Within this context, it addresses the following areas:

Low level of customer engagement and protection in the green gas retail market. For new gases to play a full role in the energy transition, the retail market rules should empower customers to make renewable and low carbon choices. This is not currently the case. Moreover, there is no common EU terminology and certification system for low carbon fuels and gases. In addition, the retail gas markets exhibit market concentration and low levels of

[1] COM(2021) 660 final.

new entry and innovation. This prevents customers from benefiting from competition by making low carbon choices.

To be able to make sustainable energy choices, customers need sufficient information on their energy consumption and origin, as well efficient tools to participate in the market. Moreover, Member States should take the necessary measures to protect vulnerable and energy poor customers. The decarbonised gas market should not be developed without them being able to fully benefit from it and by addressing all generations' needs, from young to elderly.

Hydrogen infrastructure and hydrogen markets. The current regulatory framework for gaseous energy carriers does not address the deployment of hydrogen as an independent energy carrier via dedicated hydrogen networks. There are no rules at EU level on tariff-based investments in networks, or on the ownership and operation of dedicated hydrogen networks. In addition, no harmonized rules on (pure) hydrogen quality exist. Consequently, barriers exist for the development of a cost-effective, cross-border hydrogen infrastructure and competitive hydrogen market, a prerequisite for the uptake of hydrogen production and consumption. The present proposal seeks to address these deficiencies. It includes a proposal for a system of terminology and certification of low carbon hydrogen and low carbon fuels.

Renewable and low-carbon gases in the existing gas infrastructure and markets, and energy security. Today, renewable and low-carbon gases represent a minor share in the EU energy mix. To untap their potential, access to the gas wholesale market, i.e. the virtual trading points, represents a key prerequisite. Abolishing costs for cross-border trade of those gases and facilitating connection of production facilities will also improve the business case. Differences in gas quality parameters and in the volume of hydrogen blended in the natural gas system can affect the design of gas infrastructure, end-user applications and cross-border system interoperability, thus risk fragmenting the internal market. However, current gas quality rules are not fit to deal with future developments. On LNG, addressing the residual barriers regarding access to LNG terminals could open the way to import renewable and low carbon gases from abroad supporting the decarbonisation of the EU gas market. Finally, preserving and strengthening resilience in the transition require appropriate arrangements of security of supply.

Network planning. As outlined in the Commission's Energy System Integration Strategy, coordinated planning and operation of the entire EU energy system, across multiple energy carriers, infrastructures, and consumption sectors is a prerequisite to achieve the 2050 climate objectives. Current network planning schemes and practices are deficient asthere are discrepancies between the EU-wide ten-year network development plan ('TYNDP') and national network development plans ('NDP') A better linkage between TYNDP and NDP would allow transnational exchange of information on transmission systems usage.

Security of supply and storage. In reaction to the significant and EU-wide energy price increases in autumn 2021, the European Council invited the Commission to swiftly consider medium and long-term measures that increase the resilience of the EU's energy system including measures which enhance security of supply. To contribute to a timely response to this crisis and possible new crisis at Union level, this proposal includes specific measures to improve cooperation and resilience, notably to ensure a more effective and coordinated use storage and operational solidarity arrangements. The measures are targeted to reinforce the resilience of the EU energy system against future shocks in a timely manner. They cover measures in this Regulation and Regulation (EU) 2017/1938 on security of gas supply. In order to ensure a coherent response, the measures on security of supply are part of this

legislative proposal and not proposed as a separate legislative proposal. As indicated in the Communication on energy prices of 13 October 2021 entitled 'Tackling rising energy prices: a toolbox for action and support', coordination of security of supply across borders is crucial for the resilience against future shocks.

The measures proposed require Member States to explicitly make storages part of their security of supply risks assessments at regional level, including risks linked to the control of storage by entities from third countries. Member States should consider storage measures through regional cooperation in case of unaddressed risks. The proposal defines enabling conditions to deployment of voluntary joint procurement of gas strategic stocks to be used in case of emergency. Measures are also introduced to improve the transparency and access to storages, address cybersecurity risks of gas and facilitates bilateral solidarity arrangements between Member States in case of crisis. The Commission encourages the Member States to proceed with solidarity arrangements without waiting so that even in a severe crisis households receive the gas they need.

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

The proposed initiative is strongly linked and complementary to the legislative proposals brought forward in the context of the Fit-for-55 package to implement the European Green Deal, including:

The revised Renewable Energy Directive ('RED II'), which is the main EU instrument dealing with the promotion of energy from renewable sources. It aims to accelerate the penetration of renewable energy, including renewable gases in the energy system. Its proposed amendment increases the target for renewable sources in the EU's energy mix to 40% and promotes the uptake of renewable fuels, such as renewable hydrogen in industry and transport, with additional targets. In relation to this initiative, the RED II defines renewable hydrogen as 'renewable fuels of non-biological origin' and 'biomass fuels' that meet a 70% greenhouse gas emission reduction compared to fossil fuels setting specific sub-targets for the consumption of renewable hydrogen (50% of total hydrogen consumption for energy and feedstock purposes in industry by 2030 and 2.6% of the energy supplied to the transport sector).

The Energy Efficiency Directive ('EED') and the related Energy Performance of Buildings Directive ('EPBD') including the proposals for their amendment interact with the present initiative as they affect the level and structure of gas demand. Energy efficiency measures can alleviate energy poverty and reduce consumer vulnerability. As gaseous fuels are currently dominating theEuropean heating and cooling supply and the cogeneration plants, their efficient use stays at the core of the energy efficiency measures. The Gas Directive and the Gas Regulation are coherent with the energy efficiency first principle: an open and competitive EU market with prices that reflect energy carriers' production costs, carbon costs, and external costs and benefits would efficiently provide clean and safe hydrogen to end users who value it most.

The TEN-E Regulation, as proposed by the Commission in December 2020, aims to better support the modernisation of Europe's cross-border energy infrastructure for the European Green Deal. It introduces hydrogen infrastructure as a new infrastructure category for European Network Development. The present initiative is complementary to the proposed TEN-E Regulation as it focuses on alignment of the national plans with the requirements of the European wide Ten Year Network Development plan.

As announced in the EU strategy to reduce methane emissions, the Commission will propose **legislation to reduce methane emissions in the energy sector**. The initiative will seek to improve information for all energy-related methane emissions. The present initiative is complementary as it seeks to facilitate the penetration of renewable and low-carbon gases, enabling a shift from natural gas.

- **Consistency with other Union policies**

The Emission Trading Scheme (´ETS´) increases the price of using fossil fuels relative to renewable and low-carbon gases and, thus, fosters the demand for such gases and investments in related production technology. The Commission has proposed strengthening, including reinforcements in and extensions to the aviation sector, maritime and road transport, and buildings. Under this Scheme all hydrogen production facilities are included, as well as electrolysers with a production capacity exceeding 25 tonnes/day. The Innovation Fund, which was established by the EU Emission Trading System (EU ETS) Directive for the period 2021 to 2030, is one of the funding instruments supporting the transition to a climate neutral Europe by 2050. The Innovation Fund, which was established by the EU ETS Directive for the period 2021 to 2030, is one of the funding instruments supporting the transition to a climate neutral Europe by 2050.

The revision of the Energy Taxation Directive strives to align the taxation of energy products with EU energy and climate policies, promote clean technologies and remove outdated exemptions and reduced rates that currently encourage the use of fossil fuels. Under the revised Directive, products covered by the Directive are grouped and ranked according to their environmental performance. According to this, the revision sets a preferential minimum levels of taxation of EUR 0.15/ GJ (compared to EUR 10.75/GJ for fossil fuels) For renewable and low-carbon hydrogen fuels used as motor fuels. For renewable and low-carbon hydrogen fuels used as heating fuels, it sets a preferential minimum levels of taxation of EUR 0.15/ GJ (compared to EUR 0.6/GJ for natural gas).

The revised Alternative Fuels Infrastructure Regulation (AFIR), which will repeal Directive 2014/94/EU on deployment of alternative fuels infrastructure (AFID), as proposed by the Commission in July 2021, aims to tackle rising emissions in road transport to support the transition to a nearly zero-emission car fleet by 2050. The Regulation requires Member States to expand their network of recharging and refuelling infrastructure in line with zero emissions car sales, and to install charging and fuelling points at regular intervals on major highways. The revision of the Alternative Fuel Infrastructure Regulation will require one refuelling stations (min. 2 t/day, 700 bar) every 150 km along the TEN-T core network and in every urban node by 2030; this would result in around 700 HRS along transport nodes, and 88 HRS in urban nodes.

The Amendment of the Regulation setting CO2 emission standards for cars and vans aims to ensure a clear pathway from 2025 towards zero-emission transport. The regulation notably defines zero-emission vehicles as battery electric vehicles, fuel-cell and other hydrogen powered vehicles, and sets a target of zero average emissions of the new vehicle fleets by 2030.

The FuelEU Maritime proposal aims to increase the share in the fuel mix of international maritime transport of sustainable low and zero-carbon alternative fuels including: liquid biofuels, e-liquids, decarbonised gas (including bio-LNG and e-gas), decarbonised hydrogen and decarbonised hydrogen-derived fuels (including methane, and ammonia). The focus on

fuels and power technologies should enable significant and rapid emission reductions, using fully the existing technologies and infrastructure alongside incentives provided by other measures to be proposed. It will also facilitate the definition of decarbonisation pathways for the entire maritime cluster.

The REFuel EU Aviation proposal which targets to advance the potential of sustainable aviation fuels to reduce aviation's GHG footprint is yet largely untapped. In order to decrease significantly its emissions, the aviation sector will need to reduce its current reliance on fossil jet fuel and rely increasingly on the use of sustainable aviation fuels (SAF) in the years to come. The proposal sets out a minimum share of 0.7% of 'synthetic aviation fuels' in the aviation fuels supplied to aircraft operators where 'synthetic aviation fuels' are renewable fuels of non-biological origin, as defined in the renewable energy directive.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The objectives of this initiative cannot be achieved on a national level. The planned measures of the present initiative seek to advance the four objectives set out in Article 194 of the Treaty of the European Union (TFEU), while at the same time contributing to the decarbonisation of the EU's economy. The planned measures are to be adopted on the basis of Article 194 (2) TFEU together with Article 114 (1) TFEU. In the field of energy, the EU has a shared competence pursuant to Article 4 (2) (i) TFEU.

The present initiative also builds upon a comprehensive set of legislative acts that have been adopted and updated during the past two decades. With the objective of creating an internal energy market, the EU has adopted four consecutive legislative packages between 1996 and 2019, with the overarching aim of integrating markets and liberalising national electricity and gas markets. These provisions cover a wide range of aspects, from market access to transparency, consumer rights, increase the liquidity of gas markets, and the independence of regulatory authorities.

• Subsidiarity (for non-exclusive competence)

Currently, there are no rules at EU-level regulating dedicated hydrogen networks or markets and low-carbon hydrogen and low-carbon fuels. In view of the current efforts at EU and national levels to promote the use of renewable hydrogen as a replacement for fossil fuels, Member States would be incentivised to adopt rules on the transport of hydrogen dedicated infrastructure at national level. This creates the risk of a fragmented regulatory landscape across the EU, which could hamper the integration of national hydrogen networks and markets, thereby preventing or deterring cross-border trade in hydrogen.

Harmonising rules for hydrogen infrastructure at a later stage (i.e. after national legislation is in place) would lead to increased administrative burdens for Member States and higher regulatory costs and uncertainty for companies, especially where long-term investments in hydrogen production and transport infrastructure are concerned.

The creation of a regulatory framework at EU-level for dedicated hydrogen networks and markets would foster the integration and interconnection of national hydrogen markets and networks. EU-level rules on the planning, financing and operation of such dedicated hydrogen networks would create long-term predictability for potential investors in this type of long-

term infrastructure, in particular for cross-border interconnections (which might otherwise be subject to different and potentially divergent national laws).

When it comes to biomethane, without an initiative at EU level, it is likely that by 2030 a regulatory patchwork would still exist regarding access to wholesale markets, connection obligations and transmission system operator (TSO)- distribution system operator (DSO) coordination measures. Likewise, without some harmonisation at the EU level, renewable and low-carbon gases producers will be facing vastly different connection and injection costs across the EU, resulting in an unequal playing field.

Without further legislation at the EU level Member States would continue to apply different gas quality standards and rules on hydrogen blending levels, risking cross-border flow restrictions and market segmentation. Gas quality standards would continue to be mainly defined by the quality parameters of natural gas, limiting the integration of renewable gases in the network

All these aspects are likely to lower cross-border trade with renewable and low-carbon gases that might be compensated by higher natural gas imports. The utilisation of the LNG terminals and imports could remain restricted to natural gas, despite that no adaptation of LNG terminals would be necessary in case competitive biomethane or synthetic methane from non-EU sources were available.

National netwrok planning will be required to be developed only in Member States where certified Independent Transmission Operators (ITO) and Independednt System Operators (ISO) are operating. While most Member States have a single gas national development plan within which gas operators cooperate, there is still limited cross-sector cooperation.

EU coordinated emergency preparedness for the current gas sector has proven to be more efficient than action only at national level.

- **Proportionality**

The initiative complies with the proportionality principle. It falls within the scope of Article 194 of the Treaty on the Functioning of the European Union. The policy intervention is proportional to the dimension and nature of the problems defined and the achievement of the set objectives.

The proposal does not go beyond what is necessary to achieve the general objective pursued to facilitate the decarbonisation of gaseous fuels in a competitive manner at least economic costs whilst ensuring energy security and placing consumers at the heart of the energy markets. The preferred set of options are considered proportionate and builds to the extent possible on existing approaches. The balance between obligations and consideration of the different capabilities to act among Member States and private entities is considered appropriate given the imperative of achieving climate neutrality by 2050.

- **Choice of the instrument**

Building on the overall evaluation of the current regulatory framework for the gas market, the instruments chosen are a Directive, to recast the Directive 2009/73/EC, and a Regulation to recast Regulation No 715/2009. The choice of a recast of these existing legal acts will enhance legal clarity. Recourse to an amending act may have been inadequate to address a wide set of new provisions. The choice of the instruments thus calls for a revision of rules

already adopted and implemented, as a natural evolution of current legislation,in view of this changes. Further acts will need to be amended through the Gas Regulation such as: the SoS Regulation (EU) 2017/1938, ACER Regulation (EU) 2019/942 and REMIT Regulation (EU) No 1227/2011.

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

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

The entry into force of the Third Energy package has positively contributed to the competition and performance of the internal energy markets. Nevertheless, the current regulatory framework for gas focuses on fossil-based natural gas and does not fully anticipate the emergence of alternatives for methane gases (including natural gas and biomethane), such as hydrogen.

A re-examination of the current gas market regulatory framework is needed and it has already been announced in the European Commission's communication on a hydrogen strategy for a climate-neutral Europe. Given the different potential in EU Member States for the production of renewable and low carbon hydrogen, a suitable market framework could facilitate hydrogen to play its role as an energy carrier and as an enabler of energy system integration.

On this basis, four main drivers have been identified under Problem area I of the Impact Assessment: (i) decarbonisation will result in the emergence of a European hydrogen value chain reliant on a cross-border hydrogen market; (ii) lack of hydrogen infrastructure investments hinder market development; (iii) hydrogen infrastructure is likely to constitute a natural monopoly, resulting in non-competitive market structures; (iv) diverging hydrogen quality rules may hinder cross-border flows and incur additional costs.

The existing gas rules, focusing on fossil-based natural gas mainly imported from outside the EU, do not address the specific characteristics of decentralized renewable and low-carbon gases production within the EU. In addition, the growing volumes of biomethane, hydrogen but also LNG affect gas quality and thereby the design of gas infrastructure and end-user appliances. In particular, the Impact Assessment recognizes five main drivers related to this Problem Area: (i) constrained market and grid access for local producers of biomethane connected to the distribution grids, divergence of rules regarding obligation to connect and costs of grid connection for renewable and low carbon gases and intra-EU entry/exit tariffs hinder the establishment of a fully integrated, liquid and interoperable EU internal gas market; (ii) differences in gas quality and hydrogen blending levels can negatively impact cross-border flows and end-users, while current gas quality rules are not fit to deal with future developments; (iii) LNG terminals equipped to receive mainly natural gas, limited access for new gases to LNG terminals; (iv) long term supply contracts for unabated natural gas may lock-in natural gas and hinder supply of renewable gases towards 2050; (v) current energy security arrangements only address risks related to the supply of natural gas and not of renewable and low carbon gases.

Concerning network planning, cooperation between TSOs and regulators needs to evolve further. The increasing penetration of intermittent energy sources requires the whole energy system to be better integrated and the infrastructure to become more interconnected ,based on a more holistic and inclusive approach The Impact Assessment outlines three main drivers regarding this Problem Area: (i) network planning varies between Member States and TSOs,

separate planning for electricity and gas; (ii) no transparency on potential of existing infrastructure for repurposing or decommissioning; (iii) DSOs not explicitly included in TSO planning. Furthermore, a more harmonized system development strategy would further increment interlinkages between electricity and gases systems including hydrogen.

The evaluation showed that competition needs to improve to ensure that the full benefits of market integration are passed on to EU consumers. Furthermore, consumers are still deprived from the necessary tools to get actively involved in the market. Consumer protection provisions in the analysed legislation prove to only be partially fit for purpose. In particular protection for vulnerable customers is still uneven between Member States and energy poverty continues to be significant across the EU. Concordantly, Problem Area IV identified three problem drivers: (i) untapped competition potential in retail markets; (ii) insufficient customer empowerment in terms of switching, price comparison tools, billing information, energy communities, and access to data; and (iii) inadequate consumer protection in particular for vulnerable and energy poor.

- **Stakeholder consultations**

In line with the Better Regulation Guidelines, the Commission carried out a comprehensive and inclusive stakeholder consultation based on a consultation strategy that included a range of methods and tools. This strategy aimed to ensure that all relevant evidence was taken into account, including data about costs, societal impact, and benefits of the initiative. Several consultation tools were employed: a consultation on the inception impact assessment (Roadmap), an online public consultation based on a questionnaire, a presentation by the Commission and feedback from stakeholders, including the Gas Regulatory Forum, discussions with the Member States, with members of the European Parliament and with National Regulatory Authorities, and discussions with stakeholders in a large stakeholder workshop.

The Commission received 263 responses to the open public consultation. In general, respondents confirmed that they see a need to revise the Gas Directive and Gas Regulation to help to achieve decarbonisation objectives. Moreover, over 60% of respondents expect that the technological and regulatory changes necessary to decarbonise the gas market have the potential to create new jobs by 2030.

Regarding the development of hydrogen infrastructure and markets, a majority of the respondents support the introduction of regulation at an early stage to foster a well-functioning and competitive hydrogen market and infrastructure. Respondents advocated for an EU legislative framework that defines key regulatory principles and takes a step-wise approach. A large majority supports e.g. third party access, rules for access to hydrogen pipelines, import terminals and storage, and advocates for network activities to be unbundled. Most respondents considered it important to define early the role of private parties in developing hydrogen infrastructure. A large majority of respondents also consider that existing and future private networks may be (temporarily) exempted from certain regulatory requirements but that convergence on a single regulatory framework needs to be assured. The vast majority of respondents consider that rights and permitting requirements for new hydrogen infrastructure should be similar to those applicable to methane gas pipelines today.

Regarding the promotion of the access of renewable and low carbon gases to the existing gas market and infrastructure, stakeholders agree on a need to revise the current regulatory framework to help achieve decarbonisation objectives. A majority of stakeholders consider it

important to ensure full market access and facilitate the injection of RES&LC gases into the gas grid. Many respondents advocate an obligation for network operators to connect RES&LC gases producers and introduce an injection charge reduction. The majority of respondents support as well the improvement of the transparency framework for LNG terminals. There is also a strong support for the harmonised application of gas quality standards across the EU, for reinforced cross-border coordination and increased transparency. Respondents are divided on hydrogen blending, but the majority agrees that it can provide a cost-efficient and fast first step, despite the high technical costs, to energy system decarbonisation. Few stakeholders support the removal of intra-EU cross-border tariffs. The majority of the respondents consider gas-specific security challenges and cyber-security measures as important.

Regarding integrating network planning, the majority of stakeholders support aligning the timing of the Network Development Plan (NDP) with the TYNDP, and a single gas plan irrespective of the unbundling model chosen. A majority of respondents expressed even stronger support for a joint electricity and gas scenario. A substantial number of stakeholders ask for the inclusion of hydrogen projects in the NDP. Most stakeholders agree on the role of DSOs to provide and share information, with several respondents also supporting that DSOs provide their own plan including system optimisation across different sectors. Respondents also preferred a joint gas and electricity plan to joint scenarios with separate plans. Several stakeholders pointed out that a joint methane and hydrogen plan, with a separate electricity plan, would be the preferred option.

Regarding customer engagement and protection in the green gas retail market, the majority of the stakeholders called for higher ambitions in the citizen/consumer-related provisions by mirroring those in the electricity market. As well, energy poverty provisions should help ensure consumers are not paying the cost of switching to clean gas-based options. Representatives of the private sector support the plans to phase out regulated prices, while some consumer organisations would opt for keeping them to protect energy poor and vulnerable consumers. Almost half of all respondents want provisions on the comparability of offers and accessibility of data, transparency, smart metering systems, and switching to be reinforced. No respondent has supported the non-regulatory approach.

- **Collection and use of expertise**

The proposed initiative and its underpinning Impact Assessment draw on evidence from the stakeholder input to the extensive consultations carried out in this respect, as well as literature review, and modelling. The literature review included the results of a serie of topical studies on key elements such as the role of hydrogen and decarbonised gas infrastructure, market and production, that were conducted for the Impact Assessment or that contributed to its scope, as well as assessments carried out in for other relevant Commission initiatives. Conclusions adopted in the framework of several stakeholder forums, most importantly the one on gas regulation (Madrid Forum), and the one on electricity regulation (Florence Forum) were also considered in the analysis. Discussions with Member States, with members of the European Parliament, with National Regulatory Authorities, ACER and discussions with other stakeholders were equally considered.

- **Impact Assessment**

Following the Better Regulation guidelines, the Commission carried out an Impact Assessment of several policy options. This work was supported by a consultation within the Commission via an Inter-Service Steering Group.

The Impact Assessment was presented to and discussed with the Regulatory Scrutiny Board (RSB). TheRegulatory Scrutiny Board issued a 'positive opinion with reservation'. Reservationswere notably addressed by: (i) integrating the conclusions of the evaluation into the problem description, (ii) spelling out the role of the initiative as part of the enabling framework of the 'Fit for 55' package, (iii) clarify the baseline of the impact of the policy options, (iv) distinguish more between different actors, in particular between natural gas and hydrogen producers and consumers, (v) provide an assessment of how the initiative may have different impacts for SMEs compared to other (larger) companies, (vi) better reflect the dissenting and minority views throughout the report, including in the problem definition, the construction of the options, analysis of impacts and the choice of the preferred option, (vii) improve the narrative of the report, and (viii) complete the cost and benefit tables in the appropriate format.

Throughout the Impact Assessment work, a range of measures was considered across four Problem Areas to address the identified problems and problem drivers to reach the objectives of the initiative: Following an assessment of their effectiveness, efficiency, coherence and proportionality, a package of preferred options has been found best suited to contribute to the set objectives.

Problem Area I: Hydrogen infrastructure and hydrogen markets

Problem Area I considers the following policy options: to tender the rights for hydrogen network operation (Option 1); to introduce main regulatory principles inspired by those currently applicable to the natural gas market but adapted to the development stage of hydrogen markets (Option 2); and to establish a fully developed regulatory regime for hydrogen (similar to the one currently applicable to the natural gas sector) without need for a transition to a more mature hydrogen market (Option 3). The preferred option is to introduce key regulatory principles from the start whilst providing clarity on the final (future) regulatory regime. (Option 2b 'Main regulatory principles with a vision'). The key benefit of this option is that it fosters market integration, provides clarity for investors, avoids the emergence of non-competitive market structures as well as costs of ex-post adjustments of rules once the market is mature, but leaves flexibility to tailor the regulation to the staged ramp-up of the hydrogen sector.

Problem Area II: Renewable and low carbon gases in the existing gas infrastructure and markets, and energy security

Problem Area II contains options that promote access to renewable and low-carbon (RES&LC) gases to the existing gas market and infrastructure. All options include also a progressive level of intervention for addressing energy security concerns, notably extending existing tools, standards and procedures to RES&LC gases, effective solidarity and addressing risks linked to cybersecurity for the gas sector. Option 3 "Allow and promote renewable and low-carbon gases full market access" is the preferred option for Problem Area II. This option contains measures to support access of renewable and low carbon gases to the wholesale market, LNG terminals, and transmission grid (regardless of the place of connection), including tariff discounts for injection to the grid and cross-border transport. Gas quality would be governed by a harmonised EU approach for cross-border interconnection points while leaving flexibility to the Member States. The allowed cap for hydrogen blends is set at 5% for all cross-border points – a level that is cost-efficient in terms of adaptation and abatement costs.

Allowing and promoting renewable and low-carbon full market: The measures foreseen are consistent with the Union's efforts to fight climate change and necessary to achieve the objectives of the European Green Deal. The key benefit is that the measures will decrease the production costs for producers of renewable and low carbon gases, increase competition, liquidity and trade for renewable gases, while encouraging a reduction of greenhouse gas emissions. In this way, consumers and taxpayers will benefit as support could be lowered. It will also limit risks for energy security and save time and resources, reduce uncertainties, improve the efficiency of emergency measures, and strengthen security-specific requirements for gas companies.

Problem Area III: Network planning

Problem Area III considers options regarding integrated network planning. The preferred option for Problem Area III is Option 2 'National Planning based on European Scenarios'. The option allows for national planning but requires that it is based on joint scenarios for gas and electricity, aligned with the TYNDP and linked to the relevant National Energy and Climate Plan. It includes all relevant actors (DSOs) and enables the identification of pipelines that can be used for repurposing from methane to H2 on a level of detail that would not be easily achievable on the European level.

Establish National Planning based on European Scenarios: The key benefit is that this will eliminate risks that electricity and gas TSOs plan the evolution of their systems based on incompatible assumptions. It enables sector integration and a conceptual system plan while keeping the benefits of more detailed sector-specific network development plans. It ensures a common vision of the different stakeholders implying that network planning takes into account the decarbonisation strategies at the national and EU levels, reducing the risk of potential lock-ins or stranded assets.

Problem area IV: Low level of customer engagement and protection in the green gas retail market

Problem Area IV contains options that postulate for a non-regulatory approach in tackling competition and consumers' engagement or instead require addressing the problem drivers through new legislation, mostly mirroring what was already established in the electricity sector. In light of the analysis, the preferred option is Option 2 'Flexible legislation', which mirrors the electricity market consumer protection and also the empowerment provisions. This option is most likely to be the most effective, efficient, and consistent with other Problem Areas.

The key benefit is that it will offer significant savings potential, help new suppliers and service providers to enter the market, develop innovative products, resulting in increased competition, consumer engagement and economic benefit. It would also enable citizens and communities to increase social acceptance, mobilise private capital and facilitate the deployment of renewable and low-carbon gases. Reducing the risk of over-investments will have a positive environmental impact.

- **Regulatory fitness and simplification**

The proposals for amending the existing legislation are designed in accordance with the most cost-effective policy options scrutinised in the Impact Assessment. It is expected from some of the preferred options to increase administrative, implementation and enforcement costs for regulatory bodies and market operators. For example, higher administrative exchanges

between NRAs and natural gas shippers, increased coordination efforts between DSOs and TSOs, and further regulatory and implementation efforts for Member States and national authorities might stem from the proposed measures. However, lower and more efficient regulatory costs are also expected from the amended framework.

Furthermore, the Impact Assessment shows that the proposed measures offer the most cost-effective regulatory options to achieve the overarching objective of the initiative, namely the establishment of rules for the transmission, distribution, supply and storage of methane and hydrogen gases that can support the decarbonisation of the energy system while ensuring secure and affordable energy.

The short-term regulatory costs entailed in some of the preferred measures must be assessed against the costs and efforts that a late integration and decarbonisation of the energy system would require in the long term. The benefits that the options are expected to produce in terms of support for renewable sources, energy system integration, consumer protection and energy security will largely outweigh the immediate administrative and implementation costs.

The proposal further contributes to simplifying the current regulatory framework by harmonising the provisions on gas infrastructure and market with the new regulatory architecture conceived by the Clean Energy Package for the electricity sector. Higher alignment between sectors is expected to benefit many regulatory areas, notably consumer empowerment and protection, governance and regulatory oversight. Similar contributions are also foreseen in the early introduction of a regulatory framework for hydrogen infrastructures and markets. Whilst these rules will likely increase the immediate administrative costs and regulatory burdens for national authorities and market operators, an early harmonisation of regulatory principles for hydrogen is expected to significantly lower future compliance costs and prevent the risk of major regulatory divergences and implementation costs.

- **Fundamental rights**

Safeguarding EU values and citizens' fundamental rights and security in a developing green, digital energy environment, is of paramount importance. The proposed policy measures on data management were developed with this in mind, aiming at ensuring widespread access and use of digital technologies and data-driven services while at the same time guaranteeing a high level of the right to private life and to the protection of personal data, as enshrined in Articles 7 and 8 of the Charter of Fundamental Rights of the EU, and the General Data Protection Regulation.

4. BUDGETARY IMPLICATIONS

The budgetary impact on the EU budget associated to the proposal under this package concerns the human resources of the Agency for the Cooperation of Energy Regulators (ACER) and of the European Commission's Directorate-General (DG) for Energy which are described in the Legislative Financial Statement accompanying the Commission proposal for a recast of the [Gas Regulation]. Essentially, the new tasks to be carried out by ACER, notably as regards rules facilitating the development of a competitive hydrogen sector, but also the increasing complexity of gas markets due to an increasing share of other gases than natural gas, require a phasing in of 21 additional FTE in ACER from 2023 onwards. For implementing the proposed new rules for a new and growing sector, for integrating new types of gases into the gas market and infrastructure as well as for enforcing the strengthened

consumer provisions, also the human resources of DG Energy need to be reinforced by 5 additional FTE.

5. OTHER ELEMENTS

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

Progress monitoring will consist of a two-tier approach of annual reporting by ACER and an evaluation by the Commission.

ACER's mandate of annual monitoring and reporting of market performance in its annual market monitoring report (obligation in Regulation (EC) No. 715/2009) will be retained, with its scope extended to hydrogen. Within one year of the adoption of the proposals, the Commission will invite ACER to review and update its current monitoring indicators (with the involvement of affected stakeholders) to ensure their continuing relevance for monitoring progress towards the objectives underlying the present proposals. ACER will continue relying on the already established data sources used for the preparation of the market monitoring report, extended with relevant data on hydrogen.

ACER's annual reporting will replace the Commission's reporting obligations that are currently still existing under the Gas Directive. The detailed proposals will ensure that ACER's monitoring is complementary to other monitoring exercises (esp. monitoring under the Governance of the Energy Union and Climate Action) avoiding any overlaps.

The Commission will carry out a fully-fledged evaluation of the impact of the proposed initiatives, including the effectiveness, efficiency, continuing coherence and relevance of the proposals, within a given timeline after the entry into force of the adopted measures (indicatively, five years). By 31 December 2030, the Commission shall review the Directive and shall submit a report to the European Parliament and to the Council.

- **Explanatory documents (for directives)**

Following the ruling of the European Court of Justice in Commission vs Belgium (case C-543/17), Member States must accompany their notifications of national transposition measures with sufficiently clear and precise information, indicating which provisions of national law transpose which provisions of a directive. This must be provided for each obligation, not only at 'article level'. If Member States comply with this obligation, they would not need, in principle, to send explanatory documents on the transposition to the Commission.

The Regulation will be directly and uniformly implemented in the Member States, and hence not requiring an Explanatory Document.

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

The proposed **revised directive** consists of ten chapters comprising 91 articles.

Chapter 1 – Subject matter, scope and definitions

This chapter sets out the subject matter and scope of the rules for the transmission, distribution, supply, and storage of gases using the natural gas system as well as the rules for

the transport, supply and storage of hydrogen using the hydrogen system. It also defines the main terms used in the proposed directive.

Chapter 2 – General rules for the organisation of the markets

This chapter lays down the rules to ensure competitive, consumer-centred, flexible and non-discriminatory markets for gas. It contains provisions on market access such as the free choice of supplier, market-based supply prices, public service obligations, sustainability, certification of renewable and low carbon gases, promotion of regional cooperation, and technical and procedure rules.

Chapter 3 – Consumer empowerment and protection and retail markets

This chapter provides in particular a set of rights for the consumer: It elaborates on basic contractual rights, switching rights and fees, and rules on comparison tools, active customers, and citizen energy communities. It also contains provisions on billing, smart and conventional metering, and data management.

It also contains provisions on single points of contact, right to out-of-court dispute settlement, vulnerable customers, and retail markets.

Chapter 4 – Third party access to infrastructure

This chapter is divided into 3 sections to cover the following: access to natural gas infrastructure, access to hydrogen infrastructure, and refusal of access and connection.

Chapter 5 – Rules applicable to transmission, storage and system operators of natural gas

This chapter elaborates on tasks of transmission, storage and LNG system operators, confidentiality and decision-making powers.

Chapter 6 – Distribution system operators of natural gas

This chapter sets the designation of distribution system operators, their tasks, the decision-making powers regarding the connection of the new production facilities for renewable and low-carbon gases to the distribution system, the unbundling of distribution system operators, the confidentiality obligations of distribution system operators, provisions on closed distribution systems, and combined operator.

Chapter 7 – Rules applicable to the dedicated hydrogen networks

This chapter provides in particular tasks of hydrogen network, storage and terminal operators, provision on existing hydrogen networks, geographically confined hydrogen networks, closed hydrogen systems, interconnectors with third countries, and confidentiality for operators.

Chapter 8 – Integrated Network planning

This chapter elaborates on network development and powers to make investment decisions, on hydrogen network development reporting, as well as on financing new cross-border hydrogen infrastructure.

Chapter 9 – Unbundling of transmission system operators

This chapter is divided into six sections to cover the following: ownership unbundling, independent system operators, independent transmission operators, the unbundling of dedicated hydrogen networks operators and the designation, the certification of natural gas and hydrogen system operators, and unbundling and transparency of accounts.

Chapter 10 – Regulatory authorities

This chapter focuses on the designation and independence of regulatory authorities, on general objectives of the regulatory authority, on their duties and powers, on the regulatory regime for cross-border issues, on compliance with the network codes guidelines, and on record keeping.

Chapter 11 – Final provisions

The last chapter focuses on final provisions and includes articles notably on safeguard measures, level playing field, technical agreements, derogations, empowerment procedure, the exercise of delegation, committee procedure, reporting, repeal, transposition, entry into force, Addressees.

Annex I is about the minimum requirements for billing and billing information.

Annex II deals with smart metering in natural gas.

Annex III lists the date of application and the transposition limits of the repealed Directive and its amendments.

Annex IV contains a correlation table.

The proposed **revised regulation** consists of eight chapters comprising 69 articles.

Chapter 1 – Subject matter, scope and definitions

This chapter sets out the subject matter and scope of the rules regarding the objectives of the Energy Union, climate and energy framework as well as consumers. It also defines the main terms used in the proposed regulation.

Chapter 2 – General rules for the organisation of the markets and infrastructure access

This chapter lays down the general principles as well as the separation of regulated asset bases, third party access services, market assessment for renewable and low carbon gases, principles of capacity-allocation mechanisms and congestion-management procedure, trading of capacity rights, balancing rules and imbalance charges, certification, and cooperation of transmission system operators.

Chapter 3 – Network access

This chapter elaborates on tariffs for access to networks, and discounts.

Chapter 4 – Transmission, storage, LNG, and hydrogen terminal system operation

This chapter sets out provisions on firm capacity for renewable and low carbon gases, cross border coordination on gas quality, hydrogen blends, the European network of transmission

system operators for gas, monitoring by ACER, regulatory authorities, consultations, costs, regional cooperation, TYNDP, transparency requirements, and record-keeping.

Chapter 5 – Distribution system operation

This chapter lays down the rules on firm capacity for renewable and low carbon gases, cooperation between DSOs and TSOs, transparency requirement, the European entity for distribution system operators. It includes procedures and tasks.

Chapter 6 – Access to dedicated hydrogen networks

This chapter focuses on cross-border coordination on hydrogen quality, the European Network of Network Operators for Hydrogen, its tasks, TYNDP for hydrogen, costs, and consultation, the monitoring by ACER, regional cooperation, and transparency requirements.

Chapter 7 – Network codes and guidelines

This chapter sets out provisions for the adoption of network codes and guidelines, the establishment of network codes, amendments of network codes, guidelines, right of Member States to provide for more detailed measures, provision of information and confidentiality, and penalties. All three rules are adapted to hydrogen.

Chapter 8 – Final provisions

This chapter focuses on final provisions and includes articles notably on new natural gas and hydrogen infrastructure, committee procedure, exemptions, derogations, the exercise of delegation, amendments to regulations, amendment to extend the Regulation on security of gas supply to RES&LC gases and to include measures on cybersecurity, solidarity and storage, repeal, and entry into force.

Annex I contains guidelines.

Annex II contains the inserted Annex IX to Regulation 2017/1938

Annex III contains information on the repealed Regulation with list of the successive amendments

Annex IV contains a correlation table.

↓ 715/2009 (adapted)

2021/0424 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the internal markets for renewable and natural gases and for hydrogen (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the ~~Treaty establishing the European Community~~ ⌦ Treaty on the Functioning of the European Union ⌫ , and in particular Article ~~95~~ ⌦ 194 (2) ⌫ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments

Having regard to the opinion of the European Economic and Social Committee[2],

Having regard to the opinion of the Committee of the Regions[3],

Acting in accordance with the ordinary legislative procedure,

Whereas:

⇩ new

(1) Regulation (EU) No 715/2009 of the European Parliament and of the Council[4] has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

↓ 715/2009 recital 1 (adapted)

(2) The internal market in natural gas, which has been progressively implemented since 1999, aims to deliver real choice for all consumers in the ~~Community~~ ⌦ Union ⌫ , be they citizens or businesses, new business opportunities and more cross-border trade, so as to achieve efficiency gains, competitive prices and higher standards of service, and to contribute to security of supply and sustainability.

[2] OJ C 211, 19.8.2008, p. 23.

[3] OJ C 172, 5.7.2008, p. 55.

[4] Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).

⇩ new

(3) The European Green Deal and the Climate law set the target for the EU to become climate neutral by 2050 in a manner that contributes to European competitiveness, growth and jobs. For a decarbonised gas markets to be set up and contribute to the energy transition, significantly higher shares of renewable energy sources in an integrated energy system with an active participation of consumers in competitive markets are needed.

(4) This Regulation aims to facilitate the penetration of renewable and low-carbon gases into the energy system enabling a shift from fossil gas, and to allow these new gases to play an important role towards achieving the EU's 2030 climate objectives and climate neutrality in 2050. The Regulation aims also to set up a regulatory framework that enables and incentivises all market participants to take the transitional role of fossil gas into account while planning their activities to avoid lock-in effects and ensure gradual and timely phase-out of fossil gas notably in all relevant industrial sectors and for heating purposes.

(5) The EU hydrogen strategy recognises that, as EU Member States have different potential for the production of renewable hydrogen, an open and competitive EU market with unhindered cross-border trade has important benefits for competition, affordability, and security of supply. Moreover, it stresses that moving towards a liquid market with commodity-based hydrogen trading would facilitate entry of new producers and be beneficial for deeper integration with other energy carriers. It would create viable price signals for investments and operational decisions. The rules laid down in this Regulation should thus be conducive for hydrogen markets and commodity-based hydrogen trading and liquid trading hubs to emerge and any undue barriers in this regard should be eliminated by Member States. Whilst recognising the inherent differences, existing rules that enabled efficient commercial operations developed for the electricity and gas markets and trading should be considered for a hydrogen market.

🡻 715/2009 recital 2

~~Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas[5] and Regulation (EC) No 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission networks[6] have made significant contributions towards the creation of such an internal market in natural gas.~~

🡻 715/2009 recital 3

~~Experience gained in the implementation and monitoring of a first set of Guidelines for Good Practice, adopted by the European Gas Regulatory Forum (the Madrid Forum) in 2002, demonstrates that in order to ensure the full implementation of the rules set out in those guidelines in all Member States, and in order to provide a minimum guarantee of equal~~

[5] ~~OJ L 176, 15.7.2003, p. 57.~~
[6] ~~OJ L 211, 14.8.2009, p. 36.~~

~~market access conditions in practice, it is necessary to provide for them to become legally enforceable.~~

↓ 715/2019 recital 4

~~A second set of common rules entitled 'the Second Guidelines for Good Practice' was adopted at the meeting of the Madrid Forum on 24 and 25 September 2003 and the purpose of this Regulation is to lay down, on the basis of those guidelines, basic principles and rules regarding network access and third party access services, congestion management, transparency, balancing and the trading of capacity rights.~~

↓ 715/2009 recital 5 (adapted)

(6) ⌦ [Recast Gas Directive as proposed in COM(2021) xxx] ⌫ ~~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~~[7] provides for the possibility of a combined transmission and distribution system operator. The rules set out in this Regulation do not therefore require modification of the organisation of national transmission and distribution systems that are consistent with the relevant provisions of that Directive.

↓ 715/2019 recital 6

~~High-pressure pipelines linking up local distributors to the gas network which are not primarily used in the context of local distribution are included in the scope of this Regulation.~~

↓ 715/2009 recital 7
⇨ new

(7) It is necessary to specify the criteria according to which tariffs for access to the network are determined, in order to ensure that they fully comply with the principle of non-discrimination and the needs of a well-functioning internal market and take fully into account the need for system integrity and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including appropriate return on investments, ⇨ and enabling the integration of renewable and low carbon gases ⇦ ~~and, where appropriate, taking account of the benchmarking of tariffs by the regulatory authorities~~. ⇨ The rules on network access tariffs in this Regulation are complemented by further rules on network access tariffs, notably in the network codes and guidelines adopted on the basis of this Regulation, in [TEN-E Regulation as proposed in COM(2020) 824 final], [Methane Regulation as proposed in COM(2021) xxx], Directive (EU) 2018/2001 and [Energy Efficiency Directive as proposed in COM(2021) 558 final]. ⇦

⇩ new

(8) It is, generally, most efficient to finance infrastructure by revenues obtained from the users of that infrastructure and to avoid cross-subsidies. Moreover, such cross-

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[7] ~~See page 94 of this Official Journal.~~

subsidies would, in the case of regulated assets, be incompatible with the general principle of cost-reflective tariffs. In exceptional cases, such cross-subsidies could nonetheless bring societal benefits, in particular during earlier phases of network development where booked capacity is low compared to technical capacity and uncertainty as to when future capacity demand will materialise is significant. Cross-subsidies could therefore contribute to reasonable and predictable tariffs for early network users and de-risk investments for network operators. Cross-subsidies could thus contribute to an investment climate supportive to the Union's, decarbonisation objectives. Cross-subsidies should not be financed by network users in other Member States, regardless as to whether directly or indirectly. It is thus appropriate to collect financing for cross-subsidies only from exit points to final customers within the same Member State. Moreover, as cross-subsidies are exceptional, it should be ensured that they are proportional, transparent, limited in time and set under regulatory supervision.

🡻 715/2009 recital 8

~~In calculating tariffs for access to networks, it is important to take account of the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator, and are transparent, as well as of the need to provide appropriate return on investments and incentives to construct new infrastructure, including special regulatory treatment for new investments as provided for in Directive 2009/73/EC. In that respect, and in particular if effective pipeline-to-pipeline competition exists, the benchmarking of tariffs by the regulatory authorities will be a relevant consideration.~~

🡻 715/2009 recital 9 (adapted)
⇨ new

(9) The use of market-based arrangements, such as auctions, to determine tariffs has to be compatible with the provisions ~~laid down~~ in ⌦ recast Gas Directive as proposed in COM(2021) xxx ⌫ ~~Directive 2009/73/EC~~ ⇨ and Commission Regulation (EU) 2017/459 ⇦.

🡻 715/2009 recital 10 (adapted)

(10) A common minimum set of third-party access services is necessary to provide a common minimum standard of access in practice throughout the ~~Community~~ ⌦ Union ⌫, to ensure that third-party access services are sufficiently compatible and to allow the benefits accruing from a well-functioning internal market in natural gas to be exploited.

🡻 715/2009 recital 11 (adapted)

~~At present, there are obstacles to the sale of gas on equal terms, without discrimination or disadvantage in the Community. In particular, non-discriminatory network access and an equally effective level of regulatory supervision do not yet exist in each Member State, and isolated markets persist.~~

⇩ new

(11) Arrangements on third party access should be based on the principles laid down in this Regulation. The organisation of entry-exit systems, which enable a free allocation of gas on the basis of firm capacity, was welcomed by the XXIV. Madrid Forum already in October 2013. Therefore a definition of entry-exit system should be introduced and the integration of the distribution system level in the balancing zone be ensured, which would help to achieve a level playing field for renewable and low carbon gases connected to either the transmission or distribution level. Tariff setting of distribution system operators and the organisation of capacity allocation between the transmission and distribution system should be left to the regulatory authorities on the basis of the principles enshrined in [recast Gas Directive as proposed in COM(2021) xxx].

(12) Access to the entry-exit system should be generally based on firm capacity. Network operators should be required to cooperate in a way that maximises the offer of firm capacity, which in turn enables network users to freely allocate the gas entering or exiting on the basis of firm capacity to any entry or exit point in the same entry-exit system.

(13) Conditional capacity should only be offered when network operators are not able to offer firm capacity. Network operators should define the conditions for conditional capacity on the basis of operational constraints in a transparent and clear manner. The regulatory authority should ensure that the number of conditional capacity products is limited to avoid a fragmentation of the market and to ensure compliance with the principle of providing efficient third-party access.

🡻 715/2009 recital 12

(14) A sufficient level of cross-border gas interconnection capacity should be achieved and market integration fostered in order to complete the internal market in natural gas.

🡻 715/2009 recital 13

~~The Communication of the Commission of 10 January 2007 entitled 'An Energy Policy for Europe' highlighted the importance of completing the internal market in natural gas and creating a level playing field for all natural gas undertakings in the Community. The Communications of the Commission of 10 January 2007 entitled 'Prospects for the internal gas and electricity market' and 'Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report)' demonstrated that the present rules and measures neither provide the necessary framework nor provide for the creation of interconnection capacities to achieve the objective of a well-functioning, efficient and open internal market.~~

🡻 715/2009 recital 14

~~In addition to thoroughly implementing the existing regulatory framework, the regulatory framework for the internal market in natural gas set out in Regulation (EC) No 1775/2005 should be adapted in line with those communications.~~

↓ 715/2009 recital 15 (adapted)
⇨ new

(15) ~~In particular,~~ ~~i~~Increased cooperation and coordination among transmission ⇨ and, where relevant, distribution ⇦ system operators is required to create network codes for providing and managing effective and transparent access to the transmission networks across borders, and to ensure coordinated and sufficiently forward looking planning and sound technical evolution of the ~~transmission~~ ⇨natural gas⇦ system in the ~~Community~~ ⌦ Union ⌫, including the creation of interconnection capacities, with due regard to the environment. The network codes should be in line with framework guidelines which are non-binding in nature (framework guidelines) and which are developed by the ⌦ European Union ⌫ Agency for the Cooperation of Energy Regulators ⌦ (ACER) ⌫ established in accordance with ~~by~~ Regulation ⌦ (EU) 2019/942 ⌫ ~~(EC) No 713/2009~~ of the European Parliament and of the Council[8] ~~[9] of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators[10] (the Agency)~~. ⌦ ACER ⌫ ~~The Agency~~ should have a role in reviewing, based on matters of fact, draft network codes, including their compliance with the framework guidelines, and it should be enabled to recommend them for adoption by the Commission. ⌦ ACER ⌫ ~~The Agency~~ should assess proposed amendments to the network codes and it should be enabled to recommend them for adoption by the Commission. Transmission system operators should operate their networks in accordance with those network codes.

↓ 715/2009 recital 16 (adapted)

(16) In order to ensure optimal management of the gas transmission network in the ~~Community~~ ⌦ Union, ⌫ a European Network of Transmission System Operators for Gas (the ENTSO for Gas), should be ⌦ provided for ⌫ ~~established~~. The tasks of the ENTSO for Gas should be carried out in compliance with ~~Community~~ ⌦ the Union's ⌫ competition rules which ~~remain~~ ⌦ are ⌫ applicable to the decisions of the ENTSO for Gas. The tasks of the ENTSO for Gas should be well-defined and its working method should ensure efficiency, transparency and the representative nature of the ENTSO for Gas. The network codes prepared by the ENTSO for Gas are not intended to replace the necessary national network codes for non cross-border issues. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with network codes and non-binding ten-year network development plans at ⌦ Union ⌫ ~~Community~~ level. Cooperation within such regional structures presupposes effective unbundling of network activities from production and supply activities. In the absence of such unbundling, regional cooperation between transmission system operators gives rise to a risk of anti-competitive conduct. Member States should promote cooperation and monitor the effectiveness of the network

8 Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators.

9 ~~Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (OJ L 211, 14.8.2009, p. 1).~~

10 ~~See page 1 of this Official Journal.~~

operations at regional level. Cooperation at regional level should be compatible with progress towards a competitive and efficient internal market in ~~gas~~ ⌦ gases ⌫.

🡻 715/2009 recital 17 (new)

~~All market participants have an interest in the work expected of the ENTSO for Gas. An effective consultation process is therefore essential and existing structures set up to facilitate and streamline the consultation process, such as the European Association for the Streamlining of Energy Exchange, national regulators or the Agency should play an important role.~~

🡻 715/2009 recital 18 (adapted)

(17) In order to ensure greater transparency regarding the development of the gas transmission network in the ~~Community~~ ⌦ Union ⌫ , the ENTSO for Gas should draw up, publish and regularly update a non-binding ~~Community~~ ⌦ Union ⌫-wide ten-year network development plan ⇨ on the basis of a joint scenario and the interlinked model ⇦ (~~Community~~ ⌦ Union ⌫-wide network development plan). Viable gas transmission networks and necessary regional interconnections, relevant from a commercial or security of supply point of view, should be included in that network development plan.

🡻 715/2009 recital 19
⇨ new

(18) To enhance competition through liquid wholesale markets for gas, it is vital that gas can be traded independently of its location in the system. The only way to do this is to give network users the freedom to book entry and exit capacity independently, thereby creating gas transport through zones instead of along contractual paths. ⇨ To ensure the freedom of booking capacity independently at entry and exit points, tariffs set for one entry point should therefore not be related to the tariff set for one exit point, and vice versa offered for these points separately and the tariff should not bundle the entry and exit charge in a single price. ⇦ ~~The preference for entry-exit systems to facilitate the development of competition was already expressed by most stakeholders at the 6th Madrid Forum on 30 and 31 October 2002. Tariffs should not be dependent on the transport route. The tariff set for one or more entry points should therefore not be related to the tariff set for one or more exit points, and vice versa.~~

⇩ new

(19) While Commission Regulation (EU) 312/2014 establishing a Network Code on Gas Balancing of Transmission Networks provides rules for setting up technical rules that build up a balancing regime, it leaves various design choices for each balancing regime that is applied in a specific entry-exit system. The combination of choices made lead to a specific balancing regime that is applicable in a specific entry-exit system, which are currently mostly reflecting Member States territories.

(20) Network users are to bear the responsibility of balancing their inputs against their off-takes with trading platforms established to better facilitate gas trade between network users. In order to better integrate renewable and low carbon gases within the entry-exit

system, the balancing zone should also cover the distribution system level. The virtual trading point should be used to exchange gas between balancing accounts of network users.

↓ 715/2019 recital 20

(21) References to harmonised transport contracts in the context of non-discriminatory access to the network of transmission system operators do not mean that the terms and conditions of the transport contracts of a particular system operator in a Member State must be the same as those of another transmission system operator in that Member State or in another Member State, unless minimum requirements are set which must be met by all transport contracts.

↓ 715/2009 recital 21

~~There is substantial contractual congestion in the gas networks. The congestion-management and capacity-allocation principles for new or newly negotiated contracts are therefore based on the freeing-up of unused capacity by enabling network users to sublet or resell their contracted capacities and the obligation of transmission system operators to offer unused capacity to the market, at least on a day-ahead and interruptible basis. Given the large proportion of existing contracts and the need to create a true level playing field between users of new and existing capacity, those principles should be applied to all contracted capacity, including existing contracts.~~

↓ 715/2019 recital 22

~~Although physical congestion of networks is, at present, rarely a problem in the Community, it may become one in the future. It is important, therefore, to provide the basic principle for the allocation of congested capacity in such circumstances.~~

↓ 715/2009 recital 23

~~Market monitoring undertaken over recent years by the national regulatory authorities and by the Commission has shown that current transparency requirements and rules on access to infrastructure are not sufficient to secure a genuine, well-functioning, open and efficient internal market in gas.~~

↓ 715/2019 recital 24

(22) Equal access to information on the physical status and efficiency of the system is necessary to enable all market participants to assess the overall demand and supply situation and to identify the reasons for movements in the wholesale price. This includes more precise information on supply and demand, network capacity, flows and maintenance, balancing and availability and usage of storage. The importance of that information for the functioning of the market requires alleviating existing limitations to publication for confidentiality reasons.

↓ 715/2009 recital 25

(23) Confidentiality requirements for commercially sensitive information are, however, particularly relevant where data of a commercially strategic nature for the company are concerned, where there is only one single user for a storage facility, or where data are concerned regarding exit points within a system or subsystem that is not connected to another transmission or distribution system but to a single industrial final customer, where the publication of such data would reveal confidential information as to the production process of that customer.

↓ 715/2009 recital 26

(24) To enhance trust in the market, its participants need to be sure that those engaging in abusive behaviour can be subjected to effective, proportionate and dissuasive penalties. The competent authorities should be given the competence to investigate effectively allegations of market abuse. To that end, it is necessary that competent authorities have access to data that provides information on operational decisions made by supply undertakings. In the gas market, all those decisions are communicated to the system operators in the form of capacity reservations, nominations and realised flows. System operators should keep information in relation thereto available to and easily accessible by the competent authorities for a fixed period of time. The competent authorities should, furthermore, regularly monitor the compliance of the transmission system operators with the rules.

↓ 715/2009 recital 27
⇨ new

(25) Access to ⇨ natural⇦ gas storage facilities and liquefied natural gas (LNG) facilities is insufficient in some Member States, and therefore the implementation of the existing rules needs to be improved ⇨ , including as regardsin the transparency area. Such improvement should take into account the potential and uptake of renewable and low-carbon gases for these facilities in the internal market. ⇦ Monitoring by the European Regulators' Group for Electricity and Gas concluded that the voluntary guidelines for good third-party access practice for storage system operators, agreed by all stakeholders at the Madrid Forum, are being insufficiently applied and therefore need to be made binding.

↓ 715/2019 recital 28

(26) Non-discriminatory and transparent balancing systems for ⇨ natural⇦ gas, operated by transmission system operators, are important mechanisms, particularly for new market entrants which may have more difficulty balancing their overall sales portfolio than companies already established within a relevant market. It is therefore necessary to lay down rules to ensure that transmission system operators operate such mechanisms in a manner compatible with non-discriminatory, transparent and effective access conditions to the network.

↓ 715/2009 recital 29

~~The trading of primary capacity rights is an important part of developing a competitive market and creating liquidity. This Regulation should therefore lay down basic rules relating to such trading.~~

↓ 715/2019 recital 30
⇨ new

(27) ~~National~~ ~~r~~Regulatory authorities should ensure compliance with the rules contained in this Regulation ⇨ and the network codes and ⇦ g~~G~~uidelines adopted pursuant thereto.

↓ 715/2009 recital 31 (adapted)
⇨ new

(28) In the g~~G~~uidelines annexed to this Regulation, ~~specific~~ ⌦ more ⌫ detailed ~~implementing~~ rules are defined ~~on the basis of the Second Guidelines for Good Practice~~. Where appropriate, those rules ~~will~~ ⇨ should ⇦ evolve over time, taking into account the differences of national gas systems ⇨ and their development ⇦ .

↓ 715/2009 recital 32

(29) When proposing to amend the Guidelines annexed to this Regulation, the Commission should ensure prior consultation of all relevant parties concerned with the Guidelines, represented by the professional organisations, and of the Member States within the Madrid Forum.

↓ 715/2009 recital 33

(30) The Member States and the competent national authorities should be required to provide relevant information to the Commission. Such information should be treated confidentially by the Commission.

↓ 715/2019 recital 34 (adapted)
⇨ new

(31) This Regulation and the ⇨ network codes ⇦ and g~~G~~uidelines adopted in accordance with it are without prejudice to the application of the ~~Community~~⌦ Union ⌫ rules on competition.

↓ 715/2009 recital 35 (new)

~~The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[11].~~

[11] ~~OJ L 184, 17.7.1999, p. 23.~~

↓ 715/2009 recital 36 (new)

~~In particular, the Commission should be empowered to establish or adopt the Guidelines necessary for providing the minimum degree of harmonisation required to achieve the aims of this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.~~

⇩ new

(32) Member States and the Energy Community Contracting Parties should closely cooperate on all matters concerning the development of an integrated gas trading region and should take no measures that endanger the further integration of natural gas markets or the security of supply of Member States and Contracting Parties.

(33) Transmission system operators could be allowed to reserve storages for natural gas exclusively for carrying out their functions and for the purpose of security of supply. The filling of these strategic stocks could be done by means of joint purchasing using the trading platform as mentioned in Article 10 of Commission Regulation (EU) No 312/2014 without prejudice to Union competition rules. Withdrawal of natural gas should only be possible for the transmission system operators to carry out their functions or in case of a declared emergency situation, as mentioned in Article 11 (1) of that Regulation, in order not to interfere with the regular functioning of the market.

(34) Where a regional markets integration is undertaken, the relevant transmission system operators and regulatory authorities should address issues having a cross-border impact such as tariff structures, balancing regime, capacities at remaining cross-border points, investment plans and the fulfilment of transmissions system operators' and regulatory authorities' tasks.

(35) The energy transition and the continuing integration of the gas market will require further transparency on the allowed or target revenue of the transmission system operator. A number of decisions related to natural gas networks will be based on that information. For example, the transfer of transmission assets from a natural gas network to a hydrogen network or the implementation of an inter-TSO compensation mechanism (ITC) require more transparency than currently exists. In addition, the assessments of tariff evolutions on the long term requires clarity on both natural gas demand and cost projections. Transparency on allowed revenue should enable the latter. Regulatory authorities should, in particular, provide information on the methodology used to calculate the revenues of transmission system operators, the value of their regulatory asset base and its depreciation over time, the value of operational expenditures, the cost of capital applied to transmission system operators and the incentives and premia applied.

(36) Transmission system operators' expenditures are predominantly fixed costs. Their business model and the current national regulatory frameworks rely on the assumption of a long-term utilisation of their networks entailing long depreciation periods (30 to 60 years). In the context of the energy transition, regulatory authorities should therefore be able to anticipate gas demand decrease to modify the regulatory

arrangements in due time and prevent a situation where the cost recovery of transmission system operators through tariffs threatens the affordability for consumers due to an increasing ratio of fixed costs to gas demand. Where necessary, the depreciation profile or remuneration of transmission assets could, for example, be modified.

(37) Transparency on transmission system operators allowed or target revenue should be increased to enable benchmarking and an assessment by network users. Increased transparency should also facilitate cross-border cooperation and the setting up of ITC mechanisms between operators either for regional integration or for the implementation of tariff discounts for renewable and low carbon gases as set out in this Regulation.

(38) In order to exploit the most economic locations for the production of renewable and low carbon gases, network users should benefit from discounts in capacity-based transmission tariffs. These should include a discount for injection from renewable and low carbon gases production facilities, a discount for tariffs at entry points from and exit points to storage facilities and a discount on the cross-border tariff and entry points from LNG facilities. In case of a change of the value of non-cross border discounts, the regulatory authority needs to balance out the interest between networks users and network operators taking into account stable financial frameworks specifically for existing investments, in particular for renewable production facilities. Where possible, indicators or conditions for changing the discount should be provided sufficiently before any decision to change the discount is taken. This discount should not affect the general tariff setting methodology, but should be provided ex-post on the relevant tariff. In order to benefit from the discount, network users should present the required information towards the transmission system operator on the basis of a certificate which would be linked to the union database.

(39) Revenue decreases from the application of discounts shall be treated as general revenue decreases, e.g. from reduced capacity sales and need to be recovered via tariffs in a timely manner, for instance by an increase of the specific tariffs following the general rules contained in Article 15 of this Regulation. The Commission should be empowered to change the discount levels via delegated acts to mitigate structural imbalances of revenues for transmission system operators.

(40) In order to increase efficiencies in the natural gas distribution networks in the Union and to ensure close cooperation with transmission system operators and the ENTSO for Gas, an entity of distribution system operators in the Union (‘EU DSO entity’) should be provided for which also includes natural gas distribution system operators. The tasks of the EU DSO entity should be well-defined and its working method should ensure efficiency, transparency and representativeness among Union distribution system operators. The EU DSO entity should closely cooperate with the ENTSO for Gas on the preparation and implementation of the network codes where applicable and should work on providing guidance on the integration inter alia of distributed generation and other areas, which relate to the management of distribution networks.

(41) Distribution system operators have an important role to play when it comes to the integration of renewable and low carbon gases into the system, as for example about half of the biomethane production capacity is connected to the distribution grid. In order to facilitate the participation of these gases in the wholesale market, production

facilities connected to the distribution grid in all Member States should have access to the virtual trading point. Furthermore in accordance with the provisions of this Regulation distribution system operators and transmission system operates should work together to enable reverse flows from the distribution to the transmission network or to ensure the integration of the distribution system through alternative means, equivalent in effect, to facilitate the market integration of renewable and low carbon gases.

(42) The integration of growing volumes of renewable and low-carbon gases in the European natural gas system will change the quality of natural gas transported and consumed in Europe. To ensure unhindered cross-border flow of natural gas, maintain the interoperability of markets and enable market integration, it is necessary to increase transparency on gas quality and on the costs of its management, provide for a harmonised approach on the roles and responsibilities of regulatory authorities and system operators and reinforce cross-border coordination. While ensuring a harmonised approach on gas quality for cross-border interconnection points, Member States' flexibility as regards the application of gas quality standards in their domestic natural gas systems should be maintained.

(43) The blending of hydrogen into the natural gas system is less efficient compared to using hydrogen in its pure form and diminishes the value of hydrogen. It also affects the operation of gas infrastructure, end-user applications, and the interoperability of cross-border systems. The Member States' decision on whether to apply blending hydrogen in their national natural gas systems should be preserved. At the same time, a harmonised approach on blending hydrogen into the natural gas system in the form of a Union-wide allowed cap at cross-border interconnection points between Union Member States, where transmission system operators have to accept natural gas with a blended hydrogen level below the cap, would limit the risk of market segmentation. Adjacent transmission systems should remain free to agree on higher hydrogen blending levels for cross-border interconnection points.

(44) A strong cross-border coordination and dispute settlement process between transmission system operators on gas quality, including on biomethane and hydrogen blends, is essential to facilitate efficient transport of natural gas across natural gas systems within the Union and thereby to move towards greater internal market integration. Enhanced transparency requirements on gas quality parameters, including on gross calorific value, Wobbe Index and oxygen content, and hydrogen blends and their development over time combined with monitoring and reporting obligations should contribute to the well-functioning of an open and efficient internal market in natural gas.

(45) In order to amend non-essential elements of this Regulation and to supplement this Regulation in respect of non-essential elements of certain specific areas which are fundamental for market integration, 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. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the

Interinstitutional Agreement of 13 April 2016 on Better Law-Making[12]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(46) Commission Regulation (EU) 2015/703[13] sets out interoperability and data exchange rules for the natural gas system, in particular with respect to interconnection agreements, including rules for flow control, measurement principles for gas quantity and quality, rules for the matching process and for the allocation of gas quantities, communication procedures in case of exceptional events; common set of units, gas quality, including rules on managing cross-border trade restrictions due to gas quality differences and due to differences in odorisation practices, short- and long-term gas quality monitoring and information provision; data exchange, and reporting on gas quality; transparency, communication, information provision and cooperation among relevant market participants.

(47) In order to ensure optimal management of the Union hydrogen network and to allow trading and supplying hydrogen across borders in the Union, a European Network of Network Operators for Hydrogen ('ENNOH') should be established. The tasks of the ENNOH should be carried out in compliance with Union competition rules. The tasks of the ENNOH should be well-defined and its working method should ensure efficiency, transparency and the representative nature of the ENNOH. The network codes prepared by ENNOH should not replace the necessary national network codes for non cross-border issues.

(48) Until the ENNOH is established, a temporary platform should be set up under the lead of the Commission with the involvement of ACER and all relevant market participants, including the ENTSO for Gas, the ENTSO for Electricity and the EU DSO entity. This platform should support early work on scoping and developing issues relevant for the building up of the hydrogen network and markets without formal decision-making powers. The platform should be dissolved once ENNOH is established. Until the ENNOH is established, the ENTSO for Gas will be responsible for the development of Union-wide network development plans, including hydrogen networks.

(49) In order to ensure transparency regarding the development of the hydrogen network in the Union, the ENNOH should establish, publish and regularly update a non-binding Union-wide ten-year network development plan for hydrogen targeted at the needs of the developing hydrogen markets. Viable hydrogen transportation networks and necessary interconnections, relevant from a commercial point of view, should be included in that network development plan. The ENNOH should participate in the development of the energy system wide cost-benefit analysis – including the interlinked energy market and network model including electricity, gas and hydrogen transport infrastructure as well as storage, LNG and electrolysers –, the scenarios for the ten-year network development plans and the infrastructure gaps identification report as set out in Articles 11, 12 and 13 of [the TEN-E Regulation as proposed in

[12] OJ L 123, 12.5.2016, p. 1

[13] Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules (OJ L 113, 1.5.2015, p. 13).

COM(2020) 824 final] for the development of the lists of projects of common interest. For that purpose, the ENNOH should closely cooperate with the ENTSO for Electricity and the ENTSO for Gas to facilitate system integration. The ENNOH should undertake those tasks for the first time for the development of the 8th list of projects of common interest, provided it is operational and in the position to deliver the necessary input to the ten-year network development plan by 2026.

(50) All market participants have an interest in the work expected of the ENNOH. An effective consultation process is therefore essential. Overall, ENNOH should seek, build on and integrate in its work experience with infrastructure planning, development and operation in cooperation with other relevant market participants and their associations.

(51) Given that more effective progress may be achieved through an approach at regional level, hydrogen network operators should set up regional structures within the overall cooperation structure, while ensuring that results at regional level are compatible with network codes and Union-wide non-binding ten-year network development plans. Member States should promote cooperation and monitor the effectiveness of the network at regional level.

(52) Transparency requirements are necessary to ensure that trust in the emerging hydrogen markets in the Union can develop among market participants. Equal access to information on the physical status and functioning of the hydrogen system is necessary to enable all market participants to assess the overall demand and supply situation and to identify the reasons for market price developments. Information should be always disclosed in a meaningful and easily accessible manner and on a non-discriminatory basis.

(53) The ENNOH will establish a central, web-based platform for making available all data relevant for market participants to gain effective access to the network.

(54) The conditions for access to hydrogen networks in the early phase of market development should ensure efficient operation, non-discrimination and transparency for network users while preserving sufficient flexibility for operators. Limiting the maximum duration of capacity contracts should reduce the risk of contractual congestion and capacity hoarding.

(55) General conditions for granting third-party access to hydrogen storage facilities and hydrogen terminals should be set out in order to ensure non-discriminatory access and transparency for network users.

(56) Hydrogen network operators should cooperate to create network codes for providing and managing transparent and non-discriminatory access to the networks across borders and to ensure coordinated development of the network in the Union, including the creation of interconnection capacities. The network codes should be in line with non-binding framework guidelines developed by ACER. ACER should have a role in reviewing, based on matters of fact, draft network codes, including their compliance with the framework guidelines, and it should be enabled to recommend them for adoption by the Commission. ACER should assess proposed amendments to the network codes and it should be enabled to recommend them for adoption by the

Commission. Hydrogen network operators should operate their networks in accordance with those network codes.

(57) The network codes prepared by the European Network of Network Operators for Hydrogen are not intended to replace the necessary national rules for non-cross-border issues.

(58) The quality of hydrogen transported and consumed in Europe can vary depending on its production technology and transportation specificities. Therefore, a harmonised approach at Union level to hydrogen quality management at cross-border interconnectors should lead to the cross-border flow of hydrogen and to market integration.

(59) Where the regulatory authority considers it necessary, hydrogen network operators could become responsible for managing hydrogen quality in their networks, within the framework of applicable hydrogen quality standards, ensuring reliable and stable hydrogen quality for end-consumers.

(60) A strong cross-border coordination and dispute settlement process between hydrogen system operators is essential to facilitate the transport of hydrogen across hydrogen networks within the Union and thereby to move towards greater internal market integration. Enhanced transparency requirements on hydrogen quality parameters and on their development over time combined with monitoring and reporting obligations should contribute to the well-functioning of an open and efficient internal market in hydrogen.

(61) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers in accordance with Article 291 of TFEU should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.[14]

(62) To ensure the efficient operation of the European hydrogen networks, hydrogen network operators should be responsible for the operation, maintenance and development of the hydrogen transport network in close cooperation with other hydrogen network operators as well as with other system operators their networks are connected with, including to facilitate energy system integration.

(63) It is in the interest of the functioning of the internal market to have standards which have been harmonised at Union level. Once the reference to such a standard has been published in the Official Journal of the European Union, compliance with it should raise a presumption of conformity with the corresponding requirements set out in the implementing measure adopted on the basis of this Regulation, although other means of demonstrating such conformity should be permitted. In line with Article 10 of Regulation 1025/2012, the European Commission can request European standardisation organisations to develop technical specifications, European standards and harmonised European standards. One of the main roles of harmonised standards

[14] 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).

should be to help operators in applying the implementing measures adopted under this Regulation and recast Gas Directive as proposed in COM(2021) xxx.

(64) In order to fully take into account the quality requirements of hydrogen end-users, technical specifications and standards for the quality of hydrogen in the hydrogen network will have to consider already existing standards setting such end-user requirements (for instance, the standard EN 17124).

(65) Hydrogen system operators should build sufficient cross-border capacity for the transportation of hydrogen accommodating all economically reasonable and technically feasible demands for such capacity, thereby enabling market integration.

(66) ACER should publish a monitoring report on the status of congestion.

(67) In view of the potential of hydrogen as energy carrier and the possibility that Member States will engage in trade in hydrogen with third countries, it is necessary to clarify that intergovernmental agreements relating to energy in the field of energy relating to gas subject to notification obligations in accordance with Decision (EU) 2017/684 include intergovernmental agreements relating to hydrogen, including hydrogen compounds such as ammonia and liquid organic hydrogen carriers.

(68) In reaction to the significant and EU-wide energy price increases evidenced in autumn 2021 and their negative impacts, the Communication of the Commission of 13 October 2021 entitled 'Tackling rising energy prices: a toolbox for action and support' highlighted the importance of an effective and well-functioning internal energy market and of the effective use of gas storages in Europe across the Single market. The Communication also emphasised that a better coordination of security of supply across borders is crucial for the resilience against future shocks. On 20/21 October 2021, the European Council adopted conclusions inviting the Commission to swiftly consider measures that increase the resilience of the EU's energy system and the internal energy market, including measures which enhance security of supply. To contribute to a consistent and timely response to this crisis and possible new crisis at Union level, specific rules to improve cooperation and resilience, notably concerning better-coordinated storage and solidarity rules, should be introduced in this Regulation and in Regulation (EU) 2017/1938.

(69) The analysis of the functioning of the storage capacities in the regional common risk assessments should be based on objective assessments of the needs for the security of supply, duly taking into account cross-border cooperation and the solidarity obligations under this Regulation. It should also take into account the importance of avoiding stranded assets in the clean energy transition and the goal of reducing the dependency of the Union to external fossil fuels providers. The analysis should include an assessment of the risks linked to the control of storage infrastructure by third country entities. The analysis should take into account the possibility to use storage facilities in other Member States and for transmission system operators to set up joint procurement of strategic stocks for emergency situations provided that the conditions of this Regulation are respected. The regional common risk assessments and national risk assessments should be consistent with each other in order to identify the measures of the national preventive and emergency plans in compliance with this Regulation ensuring that any measures taken do not harm the security of supply of other Member States and do not unduly hinder the effective functioning of the gas

market. For instance they should not block or restrict the use of cross-border transport capacities.

(70) Cooperation of Member States with the Contracting Parties to the Treaty establishing the Energy Community[15] that have large available storage capacities could support actions where storage in the Union is not feasible or cost effective. This can include the possibility to consider to use these storage capacities located outside the Union in the relevant common risk assessment. Member States may request the relevant regional risk groups to invite experts from the third country to ad-hoc sessions of the regional risk groups without creating a precedent of regular and full participation.

(71) Joint procurement of strategic stocks by several transmission operators of different Member States should be designed in a way so that they can be used in case of Union wide or regional emergency as part of the actions coordinated by the Commission pursuant to Article 12(3) of Regulation (EU) 2017/1938. Transmission system operators which engage in joint procurement of strategic stocks shall ensure that any joint purchasing agreement complies with the EU competition rules, and in particular with the requirements of Article 101 TFEU. The notification done to assess the compliance with this Regulation is without prejudice to the notification of aids granted by States, where applicable, under Article 108(3) TFEU.

(72) The European energy sector is undergoing an important change towards a decarbonised economy, while ensuring security of supply and competitiveness. While cybersecurity in the electricity sub-sector is already advancing with a network code on cross-border electricity flow, sector-specific mandatory rules for the gas sub-sector are needed to ensure security of the European energy system.

(73) As demonstrated in the Union wide simulation of 2017 and 2021, regional cooperation and solidarity measures are essential to ensure the resilience of the Union in case of serious deterioration of the supply situation. Solidarity measures should ensure the supply of protected solidarity customers such as households across borders in all situations. Member States should adopt the necessary measures for the implementation of the provisions concerning the solidarity mechanism, including by the Member States concerned agreeing on technical, legal and financial arrangements. Member States should describe the details of those arrangements in their emergency plans. For Member States who have not agreed the necessary bilateral agreement, the default template of this Regulation should apply in order to ensure such effective solidarity.

(74) Such measures may therefore give rise to an obligation for a Member State to pay compensation to those affected by its measures. To ensure that the compensation paid by the Member State requesting solidarity to the Member State providing solidarity is fair and reasonable, the national energy regulator authority for energy or the national competition authority should have, as independent authority, the power to audit the amount of compensation requested and paid and if necessary request a rectification.

[15] OJ L 198, 20.7.2006, p. 18

↓ 715/2009 recital 37 (adapted)

(75) Since the objective of this Regulation, namely the setting of fair rules for access conditions to natural gas transmission networks, storage and LNG facilities, cannot be sufficiently achieved by the Member States ~~and~~ ⌦ but ⌫ can ~~therefore~~ ⌦ rather, by reason of the scale or effects of such an action, ⌫ be better achieved at ~~Community~~ ⌦ Union ⌫ level, the ~~Community~~ ⌦ Union ⌫ may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty ⌦ on European Union ⌫. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

↓ 715/2009 recital 38 (adapted)

~~Given the scope of the amendments that are being made herein to Regulation (EC) No 1775/2005, it is desirable, for reasons of clarity and rationalisation, that the provisions in question should be recast by bringing them all together in a single text in a new Regulation,~~

↓ 715/2009 (adapted)
⇨ new

HAVE ADOPTED THIS REGULATION:

Chapter I

⌦ Subject matter, scope and definitions ⌫

Article 1

Subject matter and scope

This Regulation ~~aims at~~:

(a) ~~setting~~ sets non-discriminatory rules for access conditions to natural gas ⇨ and hydrogen ⇦ ~~transmission~~ systems taking into account the special characteristics of national and regional markets with a view to ensuring the proper functioning of the internal market in ⇨ gases ⇦ ~~gas~~; ⇨ and ⇦

(b) ~~setting non-discriminatory rules for access conditions to LNG facilities and storage facilities taking into account the special characteristics of national and regional markets; and~~

(c) ~~facilitating~~ ⌦ facilitates ⌫ the emergence of a well-functioning and transparent wholesale market with a high level of security of supply in ⇨ gases ⇦ ~~gas~~ and ~~providing~~ ⌦ provides ⌫ mechanisms to harmonise the network access rules for cross-border exchanges in ⇨ gases ⇦ ~~gas~~.

The objectives referred to in the first subparagraph shall include the setting of harmonised principles for tariffs, or the methodologies underlying their calculation, for access to the ⇨ natural gas ⇦ network, but not to storage facilities, the establishment of third-party access services and harmonised principles for capacity-allocation and congestion-management, the determination of transparency requirements, balancing rules and imbalance charges, and the facilitation of capacity trading.

This Regulation, with the exception of Article 31~~19~~(5~~4~~), shall apply only to ⇨ natural gas and hydrogen ⇦ storage facilities falling under Article 29~~33~~(3) or (4) of ~~Directive 2009/73/EC~~ ⌦ recast Gas Directive as proposed in COM(2021) xxx ⌫ .

The Member States may establish an entity or body set up in compliance with ~~Directive 2009/73/EC~~ ⌦ Recast Gas Directive as presented in COM xxx ⌫ for the purpose of carrying out one or more functions typically attributed to the transmission system operator ⇨ or hydrogen network operator ⇦, which shall be subject to the requirements of this Regulation. That entity or body shall be subject to certification in accordance with Article 13~~3~~ of this Regulation and shall be subject to designation in accordance with Article 65~~10~~ of ~~Directive 2009/73/EC~~ ⌦ recast Gas Directive as proposed in COM(2021) xxx ⌫.

Article 2

Definitions

1. For the purpose of this Regulation, the following definitions apply:

⇩ new

(1) 'regulatory asset base' means all network assets of a network operator used for the provision of regulated network services that are taken into account when calculating network related services revenue.

🡻 715/2009 (adapted)
⇨ new

(2) ~~(1)~~ 'transmission' means the transport of natural gas through a network, which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;

(3) ~~(2)~~ 'transport contract' means a contract which the transmission system operator ⇨ or hydrogen network operator ⇦ has concluded with a network user with a view to carrying ⇨ out transport services for gases ⇦ ~~transmission~~;

(4) ~~(3)~~ 'capacity' means the maximum flow, expressed in normal cubic meters per time unit or in energy unit per time unit, to which the network user is entitled in accordance with the provisions of the transport contract;

(5) ~~(4)~~ ‘unused capacity’ means firm capacity which a network user has acquired under a transport contract but which that user has not nominated by the deadline specified in the contract;

(6) ~~(5)~~ ‘congestion management’ means management of the capacity portfolio of the transmission system operator with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points;

(7) ~~(6)~~ ‘secondary market’ means the market of the capacity traded otherwise than on the primary market;

(8) ~~(7)~~ ‘nomination’ means the prior reporting by the network user to the transmission system operator of the actual flow that the network user wishes to inject into or withdraw from the system;

(9) ~~(8)~~ ‘re-nomination’ means the subsequent reporting of a corrected nomination;

(10) ~~(9)~~ ‘system integrity’ means any situation ~~in respect of a transmission network including necessary transmission facilities~~ in which the pressure and the quality of the natural gas ⇨ or hydrogen ⇦ remain within the minimum and maximum limits ~~laid down by the transmission system operator~~, so that the ⇨ transport ⇦ ~~transmission~~ of natural gas ⇨ or hydrogen ⇦ is guaranteed from a technical standpoint;

(11) ~~(10)~~ ‘balancing period’ means the period within which the off-take of an amount of ⇨ gases ⇦ ~~natural gas~~, expressed in units of energy, must be offset by every network user by means of the injection of the same amount of ⇨ gases ⇦ ~~natural gas into the transmission network~~ in accordance with ~~the transport contract or~~ the network code;

(12) ~~(11)~~ ‘network user’ means a customer or a potential customer of a ~~transmission~~ system operator, and ~~transmission~~ system operators themselves in so far as it is necessary for them to carry out their functions in relation to ⇨ transport of natural gas and hydrogen ⇦ ~~transmission~~;

(13) ~~(12)~~ ‘interruptible services’ means services offered by the transmission system operator ⇨ or hydrogen network operator ⇦ in relation to interruptible capacity;

(14) ~~(13)~~ ‘interruptible capacity’ means gas transmission capacity that may be interrupted by the transmission system operator ⇨ or hydrogen network operator ⇦ in accordance with the conditions stipulated in the transport contract;

(15) ~~(14)~~ ‘long-term services’ means services offered by the transmission system operator ⇨ or hydrogen network operator ⇦ with a duration of one year or more;

(16) ~~(15)~~ ‘short-term services’ means services offered by the transmission system operator ⇨ or hydrogen network operator ⇦ with a duration of less than one year;

(17) ~~(16)~~ ‘firm capacity’ means gas transmission capacity contractually guaranteed as uninterruptible by the transmission system operator ⇨ or hydrogen network operator ⇦;

(18) ~~(17)~~ ‘firm services’ mean services offered by the transmission system operator ⇨ or hydrogen network operator ⇦ in relation to firm capacity;

(19) ~~(18)~~ ‘technical capacity’ means the maximum firm capacity that ⇨ can be offered ⇦ ~~the transmission system operator can offer~~ to the network users, taking account of system integrity and the operational requirements of the transmission ⇨ system or hydrogen ⇦ network;

(20) ~~(19)~~ ‘contracted capacity’ means capacity that ~~the transmission system operato~~r has ⇨ been ⇦ allocated to a network user by means of a transport contract;

(21) ~~(20)~~ ‘available capacity’ means the part of the technical capacity that is not allocated and is still available to the system at that moment;

(22) ~~(21)~~ ‘contractual congestion’ means a situation where the level of firm capacity demand exceeds the technical capacity;

(23) ~~(22)~~ ‘primary market’ means the market of the capacity traded directly by the transmission system operator ⇨ or hydrogen network operator ⇦ ;

(24) ~~(23)~~ ‘physical congestion’ means a situation where the level of demand for actual deliveries exceeds the technical capacity at some point in time;

(25) ~~(24)~~ ‘LNG facility capacity’ means capacity at a~~n~~ ⌦ liquefied natural gas ⌫ (LNG) terminal for the liquefaction of natural gas or the importation, offloading, ancillary services, temporary storage and re-gasification of LNG;

(26) ~~(25)~~ ‘space’ means the volume of gas which a user of a storage facility is entitled to use for the storage of gas;

(27) ~~(26)~~ ‘deliverability’ means the rate at which the storage facility user is entitled to withdraw gas from the storage facility;

(28) ~~(27)~~ ‘injectability’ means the rate at which the storage facility user is entitled to inject gas into the storage facility;

(29) ~~(28)~~ ‘storage capacity’ means any combination of space, injectability and deliverability;~~.~~;

⇩ new

(30) ‘entry-exit system’ means the aggregation of all transmission and distribution systems or all hydrogen networks to which one specific balancing regime applies;

(31) ‘balancing zone’ means an entry-exit system to which a specific balancing regime is applicable;

(32) ‘virtual trading point’ means a non-physical commercial point within an entry-exit system where gases are exchanged between a seller and a buyer without the need to book transmission or distribution capacity;

(33) ‘entry point’ means a point subject to booking procedures by network users or producers providing access to an entry-exit system;

(34) ‘exit point’ means a point subject to booking procedures by network users or final customers enabling gas flows out of the entry exit system;

(35) ‘conditional capacity’ means firm capacity that entails transparent and predefined conditions for either providing access from and to the virtual trading point or limited allocability;

(36) ‘allocability’ means the discretionary combination of any entry capacity with any exit capacity or vice versa;

(37) ‘allowed revenue’ means the sum of transmission services revenue and non-transmission services revenue for the provision of services by the transmission system operator for a specific time period within a given regulatory period which such transmission system operator is entitled to obtain under a non-price cap regime and which is set in accordance with Article 75(6)(a) of Directive 2009/73/EC;

(38) ‘new infrastructure’ means an infrastructure not completed by 4 August 2003.

↓ 715/2009 (adapted)

2. Without prejudice to the definitions in paragraph 1 ~~of this Article~~, the definitions contained in Article 2 of ~~Directive 2009/73/EC~~ ⌦ recast Gas Directive as proposed in COM(2021) xxx ⌫ , which are relevant for the application of this Regulation, also apply~~, with the exception of the definition of transmission in point 3 of that Article~~.

The definitions in points 4~~3~~ to 24~~23~~ of paragraph 1 ~~of this Article~~ in relation to transmission apply by analogy in relation to storage and LNG facilities.

⇩ new

CHAPTER II

GENERAL RULES APPLICABLE TO THE NATURAL GAS AND HYDROGEN SYSTEMS

SECTION 1

GENERAL RULES FOR THE ORGANISATION OF THE MARKETS AND INFRASTRUCTURE ACCESS

Article 3

General principles

Member States, regulatory authorities, transmission system operators, distribution system operators, storage operators, LNG operators, hydrogen system operators, and delegated operators such as market area operators or booking platform operators shall ensure that gases markets are operated in accordance with the following principles:

(a) prices for gases shall be formed on the basis of demand and supply;

(b) transmission and distribution system operators shall cooperate with each other to provide network users with the freedom to book entry and exit capacity independently. Gas shall be transported through the entry-exit system instead of along contractual paths;

(c) tariffs charged at the entry and exit points shall be structured in such a way as to contribute to market integration, enhancing security of supply and promoting the interconnection between gas networks;

(d) undertakings active in the same entry-exit system shall exchange gas at the virtual trading point;

(e) network users shall be responsible to balance their balancing portfolios in order to minimise the need for transmission system operators to undertake balancing actions;

(f) balancing actions shall be performed on the basis of standardized products and conducted on a trading platform;

(g) market rules shall avoid actions which prevent price formation on the basis of demand and supply for gases;

(h) market rules shall foster the emergence and functioning of liquid trading for gases, fostering price formation and price transparency;

(i) market rules shall enable the decarbonisation of the natural gas and hydrogen systems, including by enabling the integration into the market of gases of gas from renewable energy sources and by providing incentives for energy efficiency;

(j) market rules shall deliver appropriate investment incentives, in particular for long-term investments in a decarbonised and sustainable gas system, for energy storage, energy efficiency and demand response to meet market needs, and shall facilitate fair competition and security of supply;

(k) barriers to cross-border gas flows, if existing, between entry-exit systems shall be removed;

(l) market rules shall facilitate regional cooperation and integration.

Article 4

Separation of regulated asset bases

1. Where a transmission or network operator provides regulated services for gas, hydrogen and/or electricity, it shall comply with the requirement for unbundling of accounts as laid down in Article 69 of [recast Gas Directive as proposed in COM(2021) xxx] and Article 56 of Directive (EU) 2019/944 and it shall have a regulated asset base separately for gas, electricity or hydrogen assets. A separate regulated asset base shall ensure that:

   (a) services revenues obtained from the provision of specific regulated services can only be used to recover the capital and operational expenditures related the assets included in the regulated assets base on which the regulated services were provided;

   (b) when assets are transferred to a different regulated asset base, their value will be established. The value set for the transferred asset is subject to an audit and approval by the competent regulatory authority. The value established will be such that cross-subsidies do not occur.

2. A Member State may allow financial transfers between regulated services that are separate as meant in in the first paragraph, provided that:

   (a) all revenues needed for the financial transfer are collected as a dedicated charge;

   (b) the dedicated charge is collected only from exit points to final customers located within the same Member States as the beneficiary of the financial transfer;

   (c) the dedicated charge and financial transfer or the methodologies underlying their calculation are approved prior to their entry into force by the regulatory authority referred to in Article 70;

   (d) the approved dedicated charge and financial transfer and the methodologies, where methodologies are approved are published.

3. The regulatory authority may only approve a financial transfer and dedicated charge referred to in paragraph 2, provided that:

(a) network access tariffs are charged to users of the regulated asset base that benefits from a financial transfer;

(b) the sum of financial transfers and service revenues collected through network access tariffs cannot be larger than the allowed revenues;

(c) a financial transfer is approved for a limited period in time and can never be longer than one third of the depreciation period of the infrastructure concerned].

4. By [date of adoption =1 year] ACER shall issue recommendations to transmission or network operators and regulatory authorities on the methodologies for:

(a) the determination of the value of the assets that are transferred to another regulated asset base and the destination of any profits and losses that may occur as a result;

(b) the calculation of the size and maximum duration of the financial transfer and dedicated charge;

(c) the criteria to allocate contributions to the dedicated charge among final consumers connected the regulated asset base.

ACER shall update the recommendations at least once every two years

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🡻 715/2009 (adapted)
⇨ new

Article 5~~14~~

Third-party access services concerning transmission system operators

1. Transmission system operators shall:

(a) ensure that they offer ⇨ capacity and ⇦ services on a non-discriminatory basis to all network users;

(b) provide both firm and interruptible ⇨ capacity ⇦ ~~third-party access services~~. The price of interruptible capacity shall reflect the probability of interruption;

(c) offer to network users both long and short-term ⇨ capacity ⇦ ~~services~~.

In regard to point (a) of the first subparagraph, where a transmission system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised transport contracts or a common network code approved by the competent authority in accordance with the procedure laid down in Article 72~~41~~ ⌦ or 73 ⌫ of ~~Directive 2009/73/EC~~ ⌦ recast Gas Directive as proposed in COM(2021) xxx ⌫ .

2. Transport contracts signed with non-standard start dates or with a shorter duration than a standard annual transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service, in accordance with the principles laid down in Article 15~~13~~(1).

⇩ new

3. Where two or more interconnection points connect the same two adjacent entry-exit systems, the adjacent transmission system operators concerned shall offer the available capacities at the interconnection points at one virtual interconnection point. Any contracted capacity at the interconnection points, regardless of the date of its conclusion, shall be transferred to the virtual interconnection point.

A virtual interconnection point shall be established only if the following conditions are met:

(a) the total technical capacity at the virtual interconnection points shall be equal to or higher than the sum of the technical capacities at each of the interconnection points contributing to the virtual interconnection points;

(b) the virtual interconnection point facilitates the economic and efficient use of the system including but not limited to rules set out in Article 9 and 10 of this Regulation.

🡻 715/2009

4~~3~~. Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

🡻 2009/73/EC Article 32 paragraph 2

5~~2~~. Transmission system operators shall, if necessary for the purpose of carrying out their functions including in relation to cross-border transmission, have access to the network of other transmission system operators.

⇩ new

Article 6

Third-party access services concerning hydrogen network operators

1. Hydrogen network operators shall offer their services on a non-discriminatory basis to all network users. Where the same service is offered to different customers, it shall be offered under equivalent contractual terms and conditions. Hydrogen network operators shall publish contractual terms and tariffs charged for network access and, if applicable, balancing charges, on their website.

2. The maximum capacity of a hydrogen network shall be made available to market participants, taking into account system integrity and efficient network operation.

3. The maximum duration for capacity contracts shall be 20 years for infrastructure completed by [date of entry into force] and 15 years for infrastructure completed after this date. Regulatory authorities shall have the right to impose shorter maximum durations if necessary to ensure market functioning, to safeguard competition and to ensure future cross-border integration.

4. Hydrogen network operators shall implement and publish non-discriminatory and transparent congestion-management procedures, which also facilitate cross-border exchanges in hydrogen on a non-discriminatory basis.

5. Hydrogen network operators shall regularly assess market demand for new investment, taking into account security of supply and the efficiency of the final hydrogen uses.

6. As of 1 January 2031, hydrogen networks shall be organised as entry-exit systems.

7. As of 1 january 2031, Article 15 shall apply also to tariffs for access to hydrogen networks. No tariffs shall be charged pursuant to Article 15for access to hydrogen networks at interconnection points between Member States. Where a Member State decides to apply regulated third party access to hydrogen networks in accordance with Article 31 of [recast Gas Directive] before 1 January 2031, paragraph 1 of Article 15 shall be applicable to access tariff to hydrogen networks in that Member State.

8. As of 1 January 2031, hydrogen network operators shall comply with the requirements on transmission system operators pursuant to Articles 5, 9 and 12 when offering their services, and publish tariffs for each network point on an online platform operated by the ENNOH. Until a network code on capacity allocation for hydrogen networks has been adopted pursuant to Article 54(2), point (d) and has entered into force, such publication can occur via links to the publication of tariffs on websites of hydrogen network operators.

🡻 715/2009 (adapted)
⇨ new

Article 7~~15~~

Third-party access services concerning ⌦ natural gas ⌫ storage ⌦ , hydrogen terminals ⌫ and LNG facilities ⌦ and hydrogen storage facilities ⌫

1. ⇨ Operators of ⇦ LNG ⇨ facilities and hydrogen terminals, hydrogen storage facility operators as well as natural gas ⇦ ~~and~~ storage system operators shall:

   (a) offer services on a non-discriminatory basis to all network users that accommodate market demand; in particular, where ⇨ an operator of ⇦ LNG ⇨ facilities or a hydrogen terminals, hydrogen storage facility ⇦ or ⇨ natural gas ⇦ storage system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions;

(b) offer services that are compatible with the use of the interconnected ⇨ natural ⇦ gas ⇨ and hydrogen ⇦ transport systems and facilitate access through cooperation with the transmission system operator ⇨ or hydrogen network operator ⇦ ; and

(c) make relevant information public, in particular data on the use and availability of services, in a time-frame compatible with the LNG or storage facility users' reasonable commercial needs ⇨ of users of LNG or storage facilities, hydrogen terminals or hydrogen storage facilities ⇦ , subject to the monitoring of such publication by the ~~national~~ regulatory authority.

2. Each storage system operator shall:

(a) provide both firm and interruptible third-party access services; the price of interruptible capacity shall reflect the probability of interruption;

(b) offer to storage facility users both long and short-term services; ~~and~~

(c) offer to storage facility users both bundled and unbundled services of storage space, injectability and deliverability.

⇩ new

3. Each LNG system operator shall offer to LNG facility users both bundled and unbundled services, within the LNG facility depending on the needs expressed by LNG facility users.

🡻 715/2009
⇨ new

~~4~~3. LNG ⇨ and natural gas ⇦ storage facility contracts shall not result in arbitrarily higher tariffs in cases in which they are signed:

(a) outside a natural gas year with non-standard start dates; or

(b) with a shorter duration than a standard LNG and storage facility contract on an annual basis.

⇩ new

Hydrogen storage facility and hydrogen terminal contracts with a shorter duration than a standard LNG and storage facility contract on an annual basis shall not result in arbitrarily higher tariffs.

🡻 715/2009
⇨ new

~~5~~4. Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

65. Contractual limits on the required minimum size of LNG facility ⇨ or hydrogen terminal ⇦ capacity and ⇨ natural gas or hydrogen ⇦ storage capacity shall be justified on the basis of technical constrains and shall permit smaller storage users to gain access to storage services.

⇩ new

Article 8

Market assessment for renewable and low carbon gases by LNG and storage system operators

LNG and storage system operators shall, at least every two years, assess market demand for new investment allowing the use of renewable and low carbon gases in the facilities. When planning new investments, LNG and storage system operators shall assess market demand and take into account security of supply. LNG and storage system operators shall make publicly available any plans regarding new investments allowing the usage of renewable and low carbon gases in their facilities.

🡻 715/2009

Article 916

Principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators

1. The maximum capacity at all relevant points referred to in Article 3018 (3) shall be made available to market participants, taking into account system integrity and efficient network operation.

2. The transmission system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms, which shall:

   (a) provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investment in new infrastructure and facilitate cross-border exchanges in natural gas;

   (b) be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and

   (c) be compatible with the network access systems of the Member States.

3. The transmission system operator shall implement and publish non-discriminatory and transparent congestion-management procedures which facilitate cross-border exchanges in natural gas on a non-discriminatory basis and which shall be based on the following principles:

(a) in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis; and

(b) network users who wish to re-sell or sublet their unused contracted capacity on the secondary market shall be entitled to do so.

~~In regard~~ As regards ~~to~~ ~~point (b) of~~ the first subparagraph, point (a), a Member State may require notification or information of the transmission system operator by network users.

⇩ new

4. Transmission system operators shall regularly assess market demand for new investment taking into account the joint scenario as developed for the integrated network development plan based on Article 51 of [recast Gas Directive as proposed in COM(2021) xxx] as well as security of supply.

🡻 715/2009 (adapted)
⇨ new

~~4. In the event that physical congestion exists, non-discriminatory, transparent capacity-allocation mechanisms shall be applied by the transmission system operator or, as appropriate, by the regulatory authorities.~~

~~5. Transmission system operators shall regularly assess market demand for new investment. When planning new investments, transmission system operators shall assess market demand and take into account security of supply.~~

Article 10~~17~~

Principles of capacity-allocation mechanisms and congestion-management procedures concerning ⌦ natural gas ⌫ storage ⌦ , hydrogen terminals, hydrogen storage facilities ⌫ and LNG facilities

1. The maximum ⇨ capacity of a natural gas ⇦ storage and LNG or ⇨ hydrogen storage ⇦ facility ⇨ as well as of hydrogen terminals ⇦ ~~capacity~~ shall be made available to market participants, taking into account system integrity and operation.

2. LNG and ⇨ hydrogen storage facilities as well as hydrogen terminal and natural gas ⇦ storage system operators shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms which shall:

(a) provide appropriate economic signals for the efficient and maximum use of capacity and facilitate investment in new infrastructure;

(b) be compatible with the market mechanism including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; ~~and~~

(c) be compatible with the connected network access systems.

3. ⌦ Contracts for ⌫ LNG ⇨ terminals, hydrogen terminals, and hydrogen and natural gas ⇦ ~~and~~ storage ⌦ facilities ⌫ ~~facility contracts~~ shall include measures to prevent capacity-hoarding, by taking into account the following principles, which shall apply in cases of contractual congestion:

(a) the system operator ~~must~~ ⌦ shall ⌫ offer unused LNG facility ⇨ , hydrogen terminal ⇦ and storage capacity on the primary market without delay; for storage facilities this ~~must~~ ⌦ shall ⌫ be at least on a day-ahead and interruptible basis;

(b) LNG ⇨ facility, hydrogen terminal ⇦ and storage facility users who wish to re-sell their contracted capacity on the secondary market ~~must~~ ⌦ shall ⌫ be entitled to do so~~.~~; ⇨ LNG facility, hydrogen terminal and storage system operators, individually or regionally, shall ensure a transparent and non-discriminatory booking platform for LNG facility, hydrogen terminal and storage facility users to re-sell their contracted capacity on the secondary market no later than 18 months after [entry into force of this Regulation]. ⇦

Article 11~~22~~

Trading of capacity rights

Each transmission, storage, ~~and~~ LNG ⇨ and hydrogen ⇦ system operator shall take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner. Every such operator shall develop harmonised ⇨ contracts and procedures for ⇦ transport, LNG facility, ⇨ hydrogen terminals ⇦ and ⇨ natural gas and hydrogen ⇦ storage ⇨ facilities ⇦ ~~contracts and procedures~~ on the primary market to facilitate secondary trade of capacity and shall recognise the transfer of primary capacity rights where notified by system users.

The harmonised ~~transport, LNG facility and storage~~ contracts and procedures shall be notified to the regulatory authorities.

🡻 715/2009 (adapted)
⇨ new

Article 12~~21~~

Balancing rules and imbalance charges

1. Balancing rules shall be designed in a fair, non-discriminatory and transparent manner and shall be based on objective criteria. Balancing rules shall reflect genuine system needs taking into account the resources available to the transmission system operator. Balancing rules shall be market-based.

2. In order to enable network users to take timely corrective action, the transmission system operator shall provide sufficient, well-timed and reliable on-line based information on the balancing status of network users.

The information provided shall reflect the level of information available to the transmission system operator and the settlement period for which imbalance charges are calculated.

No charge shall be made for the provision of information under this paragraph.

3. Imbalance charges shall be cost-reflective to the extent possible, whilst providing appropriate incentives on network users to balance their input and off-take of gas. They shall avoid cross-subsidisation between network users and shall not hamper the entry of new market entrants.

Any calculation methodology for imbalance charges as well as the final ⇨ values ⇦ ~~tariffs~~ shall be made public by the competent authorities or the transmission system operator, as appropriate.

4. Member States shall ensure that transmission system operators endeavour to harmonise balancing regimes and streamline structures and levels of balancing charges in order to facilitate gas trade ⇨ carried out at the virtual trading point ⇦.

Article 13~~3~~

Certification of transmission system operators ⌦ and hydrogen network operators ⌫

1. The Commission shall examine any notification of a decision on the certification of a transmission system operator ⇨ or a hydrogen network operator ⇦ as laid down in Article 65~~10~~(6) of ⌦ [the recast gas Directive as proposed in COM(2021)xxx] ⌫ ~~Directive 2009/73/EC~~ as soon as it is received. Within two months of the day of receipt of such notification, the Commission shall deliver its opinion to the relevant ~~national~~ regulatory authority in regard to its compatibility with Article 65~~10~~(2) or Article 66~~11~~, and Article 54~~9~~ of ~~Directive 2009/73/EC~~ ⌦ Recast Gas Directive ⌫ ⇨ for transmission system operators, and Article 65 of that Directive for hydrogen network operators ⇦ .

When preparing the opinion referred to in the first subparagraph, the Commission may request ⌦ ACER ⌫ ~~the Agency~~ to provide its opinion on the ~~national~~ regulatory authority's decision. In such a case, the two-month period referred to in the first subparagraph shall be extended by two further months.

In the absence of an opinion by the Commission within the periods referred to in the first and second subparagraphs, the Commission shall be deemed not to raise objections against the regulatory authority's decision.

2. Within two months of receiving an opinion of the Commission, the ~~national~~ regulatory authority shall adopt its final decision regarding the certification of the transmission system operator ⇨ or hydrogen network operator ⇦ , taking the utmost account of that opinion. The regulatory authority's decision and the Commission's opinion shall be published together.

3. At any time during the procedure regulatory authorities ~~and/~~or the Commission may request from a transmission system operator, ⇨ hydrogen network operator ⇦

and/or an undertaking performing any of the functions of production or supply any information relevant to the fulfilment of their tasks under this Article.

4. Regulatory authorities and the Commission shall preserve the confidentiality of commercially sensitive information.

5. The Commission ~~may adopt~~ ⇨ is empowered to adopt delegated acts in accordance with Article 63 to provide ⇦ g~~G~~uidelines setting out the details of the procedure to be followed for the application of paragraphs 1 and 2 of this Article. ~~Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).~~

6. Where the Commission has received notification of the certification of a transmission system operator under Article 54~~9~~(10) of ~~Directive 2009/73/EC~~ ⌦ recast Gas Directive as proposed in COM(2021) xxx ⌫, the Commission shall take a decision relating to certification. The regulatory authority shall comply with the Commission decision.

⇩ new

Article 14

Cooperation of transmission system operators

1. Transmission system operators shall cooperate with other transmission system and infrastructure operators in coordinating the maintenance of their respective networks in order to minimise any disruption of transmission services to network users and transmission system operators in other areas.

2. Transmission system operators shall cooperate with each other as well as with other infrastructure operators with the objective to maximise technical capacity within the entry-exit system and minimize the use of fuel gas to the extent possible.

SECTION 2

NETWORK ACCESS

🡻 715/2009 (adapted)
⇨ new

Article 15~~13~~

Tariffs for access to networks

1. Tariffs, or the methodologies used to calculate them, applied by the transmission system operators and approved by the regulatory authorities pursuant to Article 72~~41~~(~~6~~7) of ~~Directive 2009/73/EC~~ ⌦ Recast Gas Directive ⌫, as well as

tariffs published pursuant to Article 27~~32~~(1) of that Directive, shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments ~~and, where appropriate, taking account of the benchmarking of tariffs by the regulatory authorities~~. Tariffs, or the methodologies used to calculate them, shall be applied in a non discriminatory manner.

~~Member States may decide that~~ ~~t~~Tariffs may also be determined through market-based arrangements, such as auctions, provided that such arrangements and the revenues arising therefrom are approved by the regulatory authority.

Tariffs, or the methodologies used to calculate them, shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the ~~national~~ regulatory authorities. ~~By 3 Septemebr 2011, the~~ Member States shall ensure that~~, after a transitional period,~~ network charges shall not be calculated on the basis of contract paths.

2. Tariffs for network access shall neither restrict market liquidity nor distort trade across borders of different transmission systems. Where differences in tariff structures ~~or balancing mechanisms~~ would hamper trade across transmission systems, and notwithstanding Article 72~~41~~(~~6~~7) of ~~Directive 2009/73/EC~~ ⌧ Recast Gas Directive ⌫, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles~~, including in relation to balancing~~.

⇩ new

Article 16

Tariff discounts for renewable and low carbon gases

1. When setting tariffs, a discount for renewable and low carbon gases shall be applied to:

   (a) entry points from renewable and low carbon production facilities. A discount of 75% shall be applied to the respective capacity-based tariffs for the purposes of scaling-up the injection of renewable and low-carbon gases;

   (b) capacity-based transmission tariffs at entry points from and exit points to storage facilities, unless a storage facility is connected to more than one transmission or distribution network and used to compete with an interconnection point. Such a discount shall be set at a level of 75% in the Member States where the renewable and low carbon gas was first injected into system.

2. Regulatory authorities may set discount rates lower than those set in paragraph 1 of this Article provided that the discount is in line with the general tariff principles as set out in Article 15 and in particular the principle of cost-reflectiveness, taking into account a need for stable financial frameworks for existing investments where appropriate, and the advancement of the roll-out of renewable and low-carbon gases in the Member State concerned.

3. Details on the discounts granted in accordance with paragraph 1 may be set in the network code on tariff structures as referred to in Article 52(1), point (e).

4. The Commission shall re-examine the tariff reductions pursuant to paragraph 1 [5 years after entry into force of the Regulation]. It shall issue a report providing an overview of their implementation and assess whether the level of the reductions set in paragraph 1 is still adequate in view of the latest market developments. The Commission shall be empowered to adopt delegated acts in accordance with Article 63 in order to change the discount levels as set in paragraph 1.

5. As of 1 January in the year after the adoption, network users shall receive a discount of 100% on the regulated tariff from the transmission system operator at all interconnection points, including entry points from and exit points to third countries as well as entry points from LNG terminals for renewable and low-carbon gases, after providing the respective transmission system operator with a proof of sustainability, based on a valid sustainability certificate pursuant to Articles 29 and 30 of Directive (EU) 2018/2001 2001 of the European Parliament and of the Council[16] and registered in the Union database.

With regard to this discount:

(a) Transmission system operators shall be required to provide the discount only for the shortest possible route in terms of border crossings between the location of where the specific proof of sustainability declaration, based on the sustainability certificate, was first recorded in the Union database and where it has been cancelled as considered consumed. Any potential auction premium shall not be covered by the discount.

(b) Transmission system operators shall provide information on actual and expected volumes of renewable and low carbon gases and the effect of applying the tariff discount on their revenues towards the respective regulatory authority. Regulatory authorities shall monitor and assess the impact of the discount on tariff stability.

(c) Once the revenue of a transmission system operator from these specific tariffs is reduced by 10% as a result of applying the discount, the affected and all neighbouring transmission system operators are required to negotiate an inter transmission system operator compensation mechanism. The system operators concerned shall agree within 3 years. Where within that time period no agreement is reached, the involved regulatory authorities shall decide jointly on an appropriate inter transmission system operator compensation mechanism

[16] Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (*OJ L 328, 21.12.2018, p. 82).*

within 2 years. In absence of agreement among the regulatory authorities, Article 6 of ACER Regulation shall apply. Where the regulatory authorities have not been able to reach agreement within 2 years, or upon their joint request, ACER shall decide, in accordance with the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.

(d) Further details required to implement the discount for renewable and low carbon gases, such as the calculation of the eligible capacity for which the discount applies and the required processes, shall be set in a network code established on the basis of Article 53 of this Regulation.

Article 17

Revenues of gas transmission system operators

1. As of [1 year after transposition], the relevant regulatory authority shall ensure transparency on the methodologies, parameters and values used to determine allowed or target revenues of transmission system operators. The regulatory authority shall publish the information referred to in Annex I, or shall require the publication by the relevant transmission system operator. This information shall be made available in a user-friendly format, and to the extent possible, in one or more commonly understood languages.

2. The costs of the transmission system operator shall be subject to an efficiency comparison between Union transmission system operators, be appropriately defined by ACER. ACER shall publish on [3 years after transposition] and every four years thereafter a study comparing the efficiency of Union transmission system operators' costs. The relevant regulatory authorities and the transmission system operators shall provide ACER with all the data necessary for this comparison. The results of such comparison shall be taken into account by the relevant regulatory authorities, together with national circumstances, when periodically setting the allowed or target revenues of transmission system operators.

3. The relevant regulatory authorities shall assess the long-term evolution of transmission tariffs based on the expected changes in their allowed or target revenues and in gas demand until 2050. To perform this assessment the regulatory authority shall include the information of the strategy described in the national energy and climate plans of the respective Member State and the scenarios underpinning the integrated network development plan as developed in accordance with Article 51 of [recast Gas Directive as proposed in COM(2021)xxx].

SECTION 3

TRANSMISSION, STORAGE, LNG AND HYDROGEN TERMINAL SYSTEM OPERATION

Article 18

Firm capacity for renewable and low carbon gases to the transmission system

1. Transmission system operators shall ensure firm capacity for the access of production facilities of renewable and low carbon gases connected to their grid. For this purpose, transmission system operators shall develop in cooperation with the distribution system operators procedures and arrangements, including investments, to ensure reverse flow from distribution to transmission network.

2. Paragraph 1 shall be without prejudice to the possibility for transmission system operators to develop alternatives to reverse flow investments, such as smart grid solutions or connection to other network operators. Firm access may only be limited to offer capacities subject to operational limitations, in order to ensure economic efficiency. The regulatory authority shall ensure that any limitations in firm capacity or operational limitations are introduced on the basis of transparent and non-discriminatory procedures and do not create undue barriers to market entry. Where the production facility bears the costs related to ensuring firm capacity, no limitation shall apply.

Article 19

Cross-border coordination on gas quality

1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences on interconnection points between Union Member States.

2. Where a restriction to cross-border flow due to gas quality differences cannot be avoided by the concerned transmission system operators in their standard operations, they shall inform the concerned regulatory authorities without delay. The information shall include a description and justified reasoning for any steps already taken by the transmission system operators.

3. The concerned regulatory authorities shall jointly agree within six months whether to recognise the restriction.

4. Where the concerned regulatory authorities recognise the restriction, they shall request the concerned transmission system operators to perform, within 12 months from the recognition, the following actions in sequence:

(a) cooperate and develop technically feasible options, without changing the gas quality specifications, which may include flow commitments and gas treatment, in order to remove the recognised restriction;

(b) jointly carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;

(c) produce an estimate of the implementation time for each potential option;

(d) conduct a public consultation on identified feasible solutions and take into consideration the results of the consultation;

(e) submit a joint proposal, based on the cost-benefit analysis and results of the public consultation, for a solution removing the recognised restriction, including the timeframe for its implementation, to their respective regulatory authorities for approval and to the other competent national authorities of each involved Member State for information.

5. Where the concerned transmission system operators do not reach an agreement on a solution, each transmission system operator shall inform its regulatory authority without delay.

6. The concerned regulatory authorities shall take a joint coordinated decision for removing the recognised restriction, taking into account the cost benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months as set out in Article 6(10) of Regulation (EU) 2019/942.

7. The joint coordinated decision of the concerned regulatory authorities shall include a decision on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, as well as their inclusion in tariffs, taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States.

8. ACER may make recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7.

9. Where the concerned regulatory authorities cannot reach an agreement as referred to in paragraph 3, ACER shall decide on the restriction, following the process set out in Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction it shall request the concerned transmission system operators to perform, within 12 months, the actions referred to in paragraph 4 points (a) to (e) in sequence.

10. Where the relevant regulatory authorities cannot take a joint coordinated decisions as referred to in paragraphs 6 and 7, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution, following the process set out in Article 6(10) of Regulation (EU) 2019/942.

11. Further details required to implement elements of this Article, including details on the cost benefit analysis, shall be set in a network code established on the basis of Article 53 of this Regulation.

Article 20

Hydrogen blends at interconnection points between Union Member States in the natural gas system

1. Transmission system operators shall accept gas flows with a hydrogen content of up to 5% by volume at interconnection points between Union Member States in the natural gas system from 1 October 2025, subject to the procedure described in Article 19 of this Regulation.

2. When the hydrogen content blended in the natural gas system exceeds 5% by volume, the process described in Article 19 of this Regulation shall not apply.

3. Member States shall not use hydrogen blending in the natural gas system to restrict cross-border gas flows.

🡻 715/2009 (adapted)
⇨ new

Article 21~~4~~

European network of transmission system operators for gas

All transmission system operators shall cooperate at ⌦ Union ⌫ ~~Community~~ level through ⌦ the European Network of Transmission System Operators for Gas ⌫ (the ENTSO for Gas), in order to promote the completion and functioning of the internal market in natural gas and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the natural gas transmission network.

Article 22~~5~~

~~Establishment of the~~ ⌦ Organisation of the ⌫ ENTSO for Gas

1. ~~By 3 March 2011,~~ T~~t~~he ~~transmission system operators for gas~~ ⌦ ENTSO ⌫ shall submit to the Commission and to ⌦ ACER ⌫ ~~the Agency~~ the draft statutes, a list of members and draft rules of procedure, including the rules of procedures on the consultation of other stakeholders, of the ENTSO for Gas ~~to be established~~ ⇨ in case of changes of those documents or upon a reasoned request of the Commission or ACER ⇦ .

2. Within four months of the day of the receipt, ⌦ ACER ⌫ ~~the Agency~~, after formally consulting the organisations representing all stakeholders, in particular the system users including customers, shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure.

3. The Commission shall deliver an opinion on the draft statutes, list of members and draft rules of procedures taking into account the opinion of ⌦ ACER ⌫ ~~the Agency~~ ~~provided for~~ ⌦ referred to ⌫ in paragraph 2 and within three months of the day of the receipt of the opinion of ⌦ ACER ⌫ ~~the Agency~~.

4. Within three months of the day of receipt of the Commission's opinion~~, the transmission system operators shall establish~~ the ENTSO for Gas~~,~~ ⇨ shall ⇦ adopt and publish ~~its~~ ⌦ the revised ⌫ statutes and rules of procedure ⌦ of the ENTSO for Gas ⌫.

↓ 715/2009 (adapted)

Article 23~~8~~

Tasks of the ENTSO for Gas

1. The ENTSO for Gas shall elaborate network codes in the areas referred to in paragraph 6 of this Article upon a request addressed to it by the Commission in accordance with Article 53(9)~~6(6)~~.

2. The ENTSO for Gas may elaborate network codes in the areas set out in paragraph 6 with a view to achieving the objectives set out in Article 21~~4~~ where those network codes do not relate to areas covered by a request addressed to it by the Commission. Those network codes shall be submitted to ⌦ ACER ⌫ ~~the Agency~~ for an opinion. That opinion shall be duly taken into account by the ENTSO for Gas.

3. The ENTSO for Gas shall adopt:

   (a) common network operation tools to ensure coordination of network operation in normal and emergency conditions, including a common incidents classification scale, and research plans;

   (b) a non-binding ~~Community~~ ⌦ Union ⌫-wide ten-year network development plan (~~Community~~ ⌦ Union ⌫-wide network development plan), including a European supply adequacy outlook, every two years;

   (c) recommendations relating to the coordination of technical cooperation between ~~Community~~ ⌦ Union ⌫ and third-country transmission system operators;

   (d) an annual work programme;

   (e) an annual report;

   (f) annual summer and winter supply outlooks;~~,~~ ⌦ ; and ⌫

⇩ new

   (g) a gas quality monitoring report by 15 May 2024 at the latest and every two years afterwards, including developments of gas quality parameters, developments of the level and volume of hydrogen blended into the natural gas system, forecasts for the expected development of gas quality parameters and

of the volume of hydrogen blended into the natural gas system, the impact of blending hydrogen on cross-border flows as well as information on cases related to differences in gas quality specifications or in specifications of blending levels and how such cases were settled.

(g) The gas quality monitoring report shall also cover the development for the areas listed in point (g) where as far as relevant for the distribution network, based on information provided by the entity of distribution system operators in the Union ('EU DSO entity').

↓ 715/2009

4. The European supply adequacy outlook referred to in ~~point (b) of~~ paragraph 3, point (b), shall cover the overall adequacy of the gas system to supply current and projected demands for gas for the next five-year period as well as for the period between five and 10 years from the date of that outlook. The European supply adequacy outlook shall build on national supply outlooks prepared by each individual transmission system operator.

⇩ new

The Union-wide network development plan referred to in paragraph 3, point (b), shall include the modelling of the integrated network, including hydrogen networks, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system.

↓ 715/2009

5. The annual work programme referred to in ~~point (d) of~~ paragraph 3, point (d), shall contain a list and description of the network codes to be prepared, a plan on coordination of operation of the network, and research and development activities, to be realised in that year, and an indicative calendar.

6. The network codes referred to in paragraphs 1 and 2 shall cover the following areas, taking into account, if appropriate, regional special characteristics:

(a) network security and reliability rules;

(b) network connection rules;

(c) third-party access rules;

(d) data exchange and settlement rules;

(e) interoperability rules;

(f) operational procedures in an emergency;

(g) capacity-allocation and congestion-management rules;

(h) rules for trading related to technical and operational provision of network access services and system balancing;

(i) transparency rules;

(j) balancing rules including network-related rules on nominations procedure, rules for imbalance charges and rules for operational balancing between transmission system operators' systems;

(k) rules regarding harmonised transmission tariff structures; ~~and~~

(l) energy efficiency regarding gas networks;

⇩ new

(m) cyber security regarding gas networks.

🡻 715/2009 (adapted)
⇨ new

7. The network codes shall be developed for cross-border network issues and market integration issues and shall be without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade.

8. The ENTSO for Gas shall monitor and analyse the implementation of the network codes and the ~~G~~guidelines adopted by the Commission in accordance with Article 53(13)~~6(11)~~ ⌦ or 56 ⌫ , and their effect on the harmonisation of applicable rules aimed at facilitating market integration. The ENTSO for Gas shall report its findings to the Agency and shall include the results of the analysis in the annual report referred to in ~~point (e) of~~ paragraph 3, point (e), of this Article.

9. The ENTSO for Gas shall make available all information required by ⌦ ACER ⌫ ~~the Agency~~ to fulfil its tasks under Article 24~~9~~(1).

10. ~~11.~~ ⌦ ACER ⌫ ~~the Agency~~ shall review national ten-year network development plans to assess their consistency with the ~~Community~~ ⌦ Union ⌫-wide network development plan. If ⌦ ACER ⌫ ~~the Agency~~ identifies inconsistencies between a national ten-year network development plan and the ~~Community~~ ⌦ Union ⌫-wide network development plan, it shall recommend amending the national ten-year network development plan or the ~~Community~~ ⌦ Union ⌫-wide network development plan as appropriate. If such national ten-year network development plan is elaborated in accordance with Article 51~~23~~ of ~~Directive 2009/73/EC~~ ⌦ [recast Directive as proposed in COM(2021) xxx] ⌫ , ⌦ ACER ⌫ ~~the Agency~~ shall recommend that the competent ~~national~~ regulatory authority amend the national ten-year network development plan in accordance with Article 51~~22~~(5~~7~~) of that Directive and inform the Commission thereof.

11. ~~12.~~ Upon request of the Commission, the ENTSO for Gas shall give its views to the Commission on the adoption of the ~~G~~guidelines as laid down in Article 56~~23~~.

Article 24~~9~~

Monitoring by ⌦ ACER ⌫ ~~the Agency~~

1. ⌦ ACER ⌫ ~~the Agency~~ shall monitor the execution of the tasks referred to in Article 23~~8~~(1), (2) and (3) of the ENTSO for Gas and report to the Commission.

   ⌦ ACER ⌫ ~~the Agency~~ shall monitor the implementation by the ENTSO for Gas of network codes elaborated under Article 23~~8~~(2) and network codes which have been developed in accordance with Article 53~~6~~ (1) to (12~~10~~) but which have not been adopted by the Commission under Article 53~~6~~(13~~11~~). Where the ENTSO for Gas has failed to implement such network codes, ⌦ ACER ⌫ ~~the Agency~~ shall request the ENTSO for Gas to provide a duly reasoned explanation as to why it has failed to do so. ⌦ ACER ⌫ ~~the Agency~~ shall inform the Commission of that explanation and provide its opinion thereon.

   ⌦ ACER ⌫ ~~the Agency~~ shall monitor and analyse the implementation of the network codes and the g~~G~~uidelines adopted by the Commission as laid down in Articles 52~~6(111~~) ⌦ , 53, 55 and 56 ⌫ , and their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market, and report to the Commission.

2. The ENTSO for Gas shall submit the draft ~~Community~~ ⌦ Union ⌫-wide network development plan, the draft annual work programme, including the information regarding the consultation process and the other documents referred to in Article 23~~8~~ (3), to ⌦ ACER ⌫ ~~the Agency~~ for its opinion.

   Within two months from the day of receipt, ⌦ ACER ⌫ ~~the Agency~~ shall provide a duly reasoned opinion as well as recommendations to the ENTSO for Gas and to the Commission where it considers that the draft annual work programme or the draft ~~Community~~ ⌦ Union ⌫-wide network development plan submitted by the ENTSO for Gas do not contribute to non-discrimination, effective competition, the efficient functioning of the market or a sufficient level of cross-border interconnection open to third-party access.

Article 25~~24~~

Regulatory authorities

When carrying out their responsibilities under this Regulation, the regulatory authorities shall ensure compliance with this Regulation ~~and~~ ⇨ , the network codes and the ⇦ ~~G~~guidelines adopted pursuant to Article 52 to 56~~23~~.

Where appropriate, they shall cooperate with each other, with the Commission and ⌦ ACER ⌫ ~~the Agency~~ in compliance with Chapter V~~III~~ of ~~Directive 2009/73/EC~~ ⌦ Recast Gas Directive ⌫.

Article 26~~10~~

Consultations

1. While preparing the network codes, the draft ~~Community~~⌦ Union ⌫-wide network development plan and the annual work programme referred to in Article 23~~8~~(1), (2) and (3), the ENTSO for Gas shall conduct an extensive consultation process, at an early stage and in an open and transparent manner, involving all relevant market participants, and, in particular, the organisations representing all stakeholders, in accordance with the rules of procedure referred to in Article 22~~5~~(1). That consultation shall also involve ~~national~~ regulatory authorities and other national authorities, supply and production undertakings, network users including customers, distribution system operators, including relevant industry associations, technical bodies and stakeholder platforms. It shall aim at identifying the views and proposals of all relevant parties during the decision-making process.

2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.

3. Before adopting the annual work programme and the network codes referred to in Article 23~~8~~ (1), (2) and (3), the ENTSO for Gas shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

↓ 347/2013 Art. 22.2 (adapted)
⇨ new

Article 27~~11~~

Costs

The costs related to the activities of the ENTSO for Gas referred to in Articles 21~~4~~ to 23~~to 12~~ ⇨ , 52 and ⇦ 53 of this Regulation, and in Article 11 of Regulation (EU) No 347/2013 of the European Parliament and of the Council[17] shall be borne by the transmission system operators and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve those costs only if they are reasonable and appropriate.

↓ 715/2009 (adapted)
⇨ new

Article 28~~12~~

Regional cooperation of transmission system operators

1. Transmission system operators shall establish regional cooperation within the ENTSO for Gas to contribute to the tasks referred to in Article 23~~8~~ (1), (2) and (3).

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[17] Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure (OJ L 115, 25.4.2013, p. 39).

~~In particular, they shall publish a regional investment plan every two years, and may take investment decisions based on that regional investment plan.~~

2. Transmission system operators shall promote operational arrangements in order to ensure the optimum management of the network and shall promote the development of energy exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations and the integration of balancing mechanisms.

3. For the purposes of achieving the goals set in paragraphs 1 and 2, ⇨ the Commission is empowered to adopt delegated acts in accordance with Article 63 concerning ⇦ ⌦ the definition of ⌫ the geographical area covered by each regional cooperation structure may be defined by the Commission, taking into account existing regional cooperation structures. Each Member State shall be allowed to promote cooperation in more than one geographical area. ~~The measure referred to in the first sentence, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).~~

For that purpose, the Commission shall consult ⌦ ACER ⌫ ~~the Agency~~ and the ENTSO for Gas.

Article 29

⌦ Ten-years network development plan ⌫

🡻 715/2009 (adapted)

The ENTSO for Gas shall adopt and publish ~~a~~ the ~~Community~~ ⌦ Union ⌫-wide network development plan referred to in ⌦ Article 23 ⌫ ~~point (b) of~~ paragraph 3, point (b), every two years. The ~~Community~~ ⌦ Union ⌫-wide network development plan shall include the modelling of the integrated network, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system.

The ~~Community~~ ⌦ Union ⌫-wide network development plan shall, in particular:

🡻 347/2013 Art. 22.1
⇨ new

(a) build on national investment plans ⇨ and Chapter IV of Regulation (EU) 347/2013 ⇦ ~~, taking into account regional investment plans as referred to in Article 12(1), and, if appropriate, Union aspects of network planning as set out in Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure[18]; it shall be the subject to a cost-benefit analysis using the methodology established as set out in Article 11 of that Regulation~~;

[18] ~~OJ L 115, 25.4.2013, p. 39.~~

↓ 715/2009 Art. (adapted)
⇨ new

(b) regarding cross-border interconnections, also build on the reasonable needs of different network users and integrate long-term commitments from investors referred to in Articles 56~~14~~ and 52~~22~~ of ~~Directive 2009/73/EC~~ ⌦ [recast Gas Directive as proposed in COM(2021)xxx] ⌫ ; and

(c) identify investment gaps, notably with respect to cross-border capacities.

In regard to ~~point (c) of~~ the second subparagraph, point (c), a review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices may be annexed to the ~~Community~~ ⌦ Union ⌫-wide network development plan.

Article 30~~18~~

Transparency requirements concerning transmission system operators

1. The transmission system operator shall make public detailed information regarding the ⇨ capacity and ⇦ services it offers and the relevant conditions applied, together with the technical information necessary for network users to gain effective network access.

2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the gas network, transmission system operators or relevant national authorities shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure.

3. For the services provided, each transmission system operator shall make public information on technical, contracted and available capacities on a numerical basis for all relevant points including entry and exit points on a regular and rolling basis and in a user-friendly and standardised manner ⇨ as detailed in Annex I ⇦ .

4. The relevant points of a transmission system on which the information is to be made public shall be approved by the competent authorities after consultation with network users.

5. The transmission system operator shall always disclose the information required by this Regulation in a ~~meaningful,~~ quantifiably clear and easily accessible manner and on a non-discriminatory basis.

6. The transmission system operator shall make public ex-ante and *ex-post* supply and demand information, based on nominations ⇨ and allocations ⇦ , forecasts and realised flows in and out of the system. The ~~national~~ regulatory authority shall ensure that all such information is made public. The level of detail of the information that is made public shall reflect the information available to the transmission system operator.

   The transmission system operator shall make public measures taken as well as costs incurred and revenue generated to balance the system.

The market participants concerned shall provide the transmission system operator with the data referred to in this Article.

⇩ new

7. The transmission system operators shall make public detailed information regarding the quality of the gases transported in its network, which might affect network users, based on Articles 16 and 17 of Commission Regulation (EU) 2015/703.

🡻 715/2009 (adapted)
⇨ new

Article 31~~19~~

Transparency requirements concerning ⌦ natural gas and hydrogen ⌫ storage facilities, ~~and~~ LNG facilities ⌦ and hydrogen terminals ⌫

1. LNG and ⇨ hydrogen storage facilities as well as (natural gas) ⇦ storage system operators ⇨ and hydrogen terminal operators ⇦ shall make public detailed information regarding ~~the~~ ⇨ all ⇦ services ~~it~~ ⌦ they ⌫ offer~~s~~ and the relevant conditions applied, together with the technical information necessary for LNG and ⇨ hydrogen ⇦ storage facility ⇨ and hydrogen terminal ⇦ users to gain effective access to the LNG and ⇨ hydrogen ⇦ storage facilities ⇨ and hydrogen terminals ⇦ . ⇨ Regulatory authorities may request those operators to make public any additional relevant information for system users. ⇦

⇩ new

2. LNG system operators shall provide user-friendly instruments for calculating tariffs for the services available.

🡻 715/2009
⇨ new

3. ~~2~~. For the services provided, LNG and ⇨ hydrogen storage facilities, as well as natural gas ⇦ storage system operators shall make public information on contracted and available storage and LNG ⇨ and hydrogen storage ⇦ facility ⇨ as well as hydrogen terminal ⇦ capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.

4. ~~3.~~ LNG and ⇨ hydrogen storage facilities, as well as natural gas ⇦ storage system operators shall always disclose the information required by this Regulation in a meaningful, quantifiably clear and easily accessible way and on a non-discriminatory basis.

5. ~~4~~. LNG and storage system operators ⇨ and operators of hydrogen storage facilities and hydrogen terminals ⇦ shall make public the amount of gas in each storage or LNG facility ⇨ and hydrogen terminal ⇦ , or group of storage facilities if that corresponds to the way in which the access is offered to system users, inflows and

outflows, and the available ⇨ natural gas and hydrogen ⇦ storage, and LNG facility ⇨ and hydrogen terminal ⇦ capacities, including for those facilities exempted from third-party access. That information shall also be communicated to the transmission system operator ⇨ or to the hydrogen network operator for hydrogen storage and terminals, ⇦ which shall make it public on an aggregated level per system or subsystem defined by the relevant points. The information shall be updated at least daily.

In cases in which a ⇨ natural gas or hydrogen ⇦ storage system user is the only user of a ⇨ natural gas or hydrogen ⇦ storage facility, the ⇨ natural gas or hydrogen ⇦ storage system user may submit to the ~~national~~ regulatory authority a reasoned request for confidential treatment of the data referred to in the first subparagraph. Where the ~~national~~ regulatory authority comes to the conclusion that such a request is justified, taking into account, in particular, the need to balance the interest of legitimate protection of business secrets, the disclosure of which would negatively affect the overall commercial strategy of the storage user, with the objective of creating a competitive internal gas market, it may allow the storage system operator not to make public the data referred to in the first subparagraph, for a duration of up to one year.

The second subparagraph shall apply without prejudice to the obligations of communication to and publication by the transmission system operator referred to in the first subparagraph, unless the aggregated data are identical to the individual ⇨ natural gas or hydrogen ⇦ storage system data for which the ~~national~~ regulatory authority has approved non-publication.

6. ~~5.~~ In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the infrastructures, the LNG and ⇨ natural gas or hydrogen ⇦ storage facility operators or relevant regulatory authorities shall make public sufficiently detailed information on tariff derivation, the methodologies and the structure of tariffs for infrastructure under regulated third-party access~~.~~; ⇨ LNG facilities that have been granted an exemption, pursuant to Article 22 of Directive 2003/55/EC and Article 36 of Directive 2009/73/EC as well as Article 60 of this Regulation, and natural gas storage operators under the negotiated third party access regime shall make public tariffs for infrastructure in order to ensure a sufficient degree of transparency.⇦

⇩ new

LNG and storage system operators shall establish respectively one single European platform within 18 months from [date of entry into force of the Regulation] to publish in a transparent and user-friendly manner the information required in this Article.

🡻 715/2009

Article 32~~20~~

Record keeping by system operators

Transmission system operators, storage system operators and LNG system operators shall keep at the disposal of the national authorities, including the ~~national~~ regulatory authority, the national competition authority and the Commission, all information referred to in Articles 30~~18~~ and 31~~19~~, and in Part 3 of Annex I for a period of five years.

⇩ new

SECTION 4

DISTRIBUTION SYSTEM OPERATION

Article 33

Firm capacity for renewable and low carbon gases to the distribution system

1. Distribution system operators shall ensure firm capacity for the access of the production facilities renewable and low carbon gases connected to their grid. To this extent, distribution system operators shall develop in cooperation with the transmission system operators procedures and arrangements, including investments, to ensure reverse flow from distribution to transmission network.

2. Paragraph 1 shall be without prejudice to the possibility for distribution system operators to develop alternatives to reverse flow investments, such as smart grid solutions or connection to other network operators. Firm access may only be limited to offer capacities subject to operational limitations, in order to ensure economic efficiency. The regulatory authority shall ensure that any limitations in firm capacity or operational limitations are introduced on the basis of transparent and non-discriminatory procedures and do not create undue barriers to market entry. Where the production facility bears the costs related to ensuring firm capacity, no limitation shall apply.

Article 34

Cooperation between distribution system operators and transmission system operators

Distribution system operators shall cooperate with other distribution system operators and transmission system operators to coordinate maintenance, system development, new connections and the operation of the system to ensure system integrity and with a view to maximise capacity and minimise the use of fuel gas.

Article 35

Transparency requirements concerning distribution system operators

Where distribution system operators are responsible for gas quality management in their networks, they shall make public detailed information regarding the quality of the gases transported in their networks, which might affect network users, based on Articles 16 and 17 of Commission Regulation (EU) 2015/703.

Article 36

European entity for distribution system operators

Distribution system operators operating a natural gas system shall cooperate at Union level through the European entity for distribution system operators ('EU DSO entity') set up in accordance with Articles 52 to 57 of Regulation (EU) 2019/943 of the European Parliament and of the Council[19], in order to promote the completion and functioning of the internal market for natural gas and to promote optimal management and a coordinated operation of distribution and transmission systems.

Registered members may participate in the EU DSO entity directly or be represented by a national association designated by a Member State or by a Union-level association.

The costs related to the activities of the EU DSO entity shall be borne by the distribution system operators that are registered members and shall be taken into account in the calculation of tariffs. Regulatory authorities shall only approve costs that are reasonable and proportionate.

Article 37

Change to the principal rules and procedures for the EU DSO entity

1. The rules and procedures on the participation of distribution system operators in the EU DSO entity pursuant to Article 54 of Regulation (EU) 2019/942 shall also apply to distribution system operators operating a natural gas system.

2. The Strategic Advisory Group pursuant to Article 54(2), point (f), of Regulation (EU) 2019/942 shall also consist of representatives of associations representing European distribution system operators solely operating a natural gas system.

3. By [one year after entry into force] the EU DSO entity shall submit to the Commission and to ACER draft updated statutes, including a code of conduct, a list of registered members, draft updated rules of procedure, including rules of procedures on the consultation with the ENTSO for Electricity, the ENTSO for Gas and other stakeholders, and draft updated financing rules.

   The draft updated rules of procedure of the EU DSO entity shall ensure balanced representation of all participating distribution system operators, including those solely owning or operating natural gas systems.

[19] Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (*OJ L 158, 14.6.2019, p. 54)*.

4. Within four months of receipt of the documents pursuant to paragraph 3, ACER shall provide the Commission with its opinion, after consulting organisations representing all stakeholders, in particular distribution system users.

5. Within three months of receipt of ACER's opinion, the Commission shall deliver an opinion on documents provided pursuant to paragraph 3, taking into account ACER's opinion as provided for in paragraph 3.

6. Within three months of receipt of the Commission's positive opinion, the distribution system operators shall adopt and publish its updated statutes, rules of procedure and financing rules.

7. The documents referred to in paragraph 3 shall be submitted to the Commission and to ACER where there are changes thereto or upon the reasoned request of either of them. The Commission and ACER may deliver an opinion in accordance with the process set out in paragraphs 3, 4 and 5.

Article 38

Additional tasks of the EU DSO entity

1. The EU DSO entity shall exercise the tasks listed in Article 55(1) points (a) to (e) of Regulation (EU) 2019/943 and undertake the activities listed in Article 55(2) points (c) to (e) of that Regulation also as regards those distribution networks which are part of the natural gas system.

2. In addition to the tasks listed in Article 55(1) of Regulation (EU) 2019/943 the EU DSO entity shall participate in the development of network codes which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission networks and distribution networks pursuant to this Regulation and contribute to mitigating fugitive methane emissions from the natural gas system.

   When participating in the development of new network codes pursuant to Article 53, the EU DSO entity shall comply with the consultation requirements as laid down in Article 56 of Regulation (EU) 2019/943.

3. In addition to the activities listed in Article 55(2) of Regulation (EU) 2019/943 the EU DSO entity shall:

   (a) cooperate with the ENTSO for Gas on the monitoring of the implementation of the network codes and guidelines adopted pursuant to this Regulation which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission networks and distribution networks;

   (b) cooperate with the ENTSO for Gas and adopt best practices on the coordinated operation and planning of transmission and distribution systems including issues such as exchange of data between operators and coordination of distributed energy resources;

   (c) work on identifying best practices for the implementation of the results of the assessments pursuant to Article 23(1a) [proposal for REDIII] and Article 23

[proposal for revised EED] and for the cooperation between operators of electricity distribution networks, of natural gas distribution networks and of district heating and cooling systems including for the purpose of the assessment pursuant to Article 24(8) [proposal for REDIII].

4. The EU DSO entity shall provide input to the ENTSO for Gas for its reporting on gas quality, with regard to the distribution networks where distribution system operators are responsible for gas quality management, as referred to in Article 23(3).

Chapter III

RULES APPLICABLE TO THE DEDICATED HYDROGEN NETWORKS

Article 39

Cross-border coordination on hydrogen quality

1. Hydrogen network operators shall cooperate to avoid restrictions to cross-border flows of hydrogen due to hydrogen quality differences.

2. Where a restriction to cross-border flows due to differences in hydrogen quality cannot be avoided by the concerned hydrogen network operators in their standard operations, they shall inform the concerned regulatory authorities without delay. The information shall include a description and justified reasoning for any steps already taken by the hydrogen network operators.

3. The concerned regulatory authorities shall jointly agree within six months whether to recognise the restriction.

4. Where the concerned regulatory authorities recognise the restriction, they shall request the concerned hydrogen network operators to perform, within 12 months, the following actions in sequence:

   (a) cooperate and develop technically feasible options in order to remove the recognised restriction;

   (b) jointly carry out a cost-benefit analysis on the technically feasible options to define economically efficient solutions which shall specify the breakdown of costs and benefits among the categories of affected parties;

   (c) produce an estimate of the implementation time for each potential option;

   (d) conduct a public consultation on identified feasible solutions and take into consideration the results of the consultation;

   (e) submit a joint proposal for a solution based on the cost benefit analysis and results of the public consultation removing the recognised restriction, including the timeframe for implementation, to their respective regulatory authorities for

approval and to the other competent national authorities of each involved Member State for information.

5. Where the concerned hydrogen network operators do not reach an agreement on a solution within 12 months, each hydrogen system operator shall inform its regulatory authority without delay.

6. The concerned regulatory authorities shall take a joint coordinated decision for removing the recognised restriction, taking into account the cost-benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months as set out in Article 6(10) of Regulation (EU) 2019/942.

7. The joint coordinated decision of the concerned regulatory authorities shall include a decision on the allocation of the investment costs to be borne by each hydrogen network operator for implementing the agreed solution, as well as their inclusion in tariffs after 1 January 2031, taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States.

8. ACER may make recommendations to the regulatory authorities on the details of such cost allocation decisions as referred to in paragraph 7.

9. Where the concerned regulatory authorities cannot reach an agreement as referred to in paragraph 3 of this Article, ACER shall decide on the restriction, following the process set out in Article 6(10) of Regulation (EU) 2019/942. Where ACER recognises the restriction it shall request the concerned hydrogen network operators to perform, within 12 months, the actions referred to in paragraph 4, points (a) to (e), in sequence.

10. Where the relevant regulatory authorities cannot take a joint coordinated decisions as referred to in paragraphs 6 and 7 of this Article, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each system operator for implementing the agreed solution, following the process set out in Article 6(10) of Regulation (EU) 2019/942.

11. Further details required to implement this Article, including details on a common binding hydrogen quality specification for cross-border hydrogen interconnectors, cost benefit analyses for removing cross-border flow restrictions due to hydrogen quality differences, interoperability rules for cross-border hydrogen infrastructure, including addressing interconnection agreements, units, data exchange, communication and information provision among relevant market participants, shall be set in a network code established in accordance with Article 54(2), point (b).

Article 40

European Network of Network Operators for Hydrogen

1. Hydrogen network operators shall cooperate at Union level through the European Network of Network Operators for Hydrogen (ENNOH), in order to promote the development and functioning of the internal market in hydrogen and cross-border

trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen network.

2. In performing its functions under Union law, the ENNOH shall act with a view to establishing a well-functioning and integrated internal market for hydrogen and shall contribute to the efficient and sustainable achievement of the objectives set out in the policy framework for climate and energy, in particular by contributing to the efficient integration of hydrogen produced from renewable energy sources and to increases in energy efficiency while maintaining system security. The ENNOH shall be equipped with adequate human and financial resources to carry out its duties.

3. By 1 September 2024, the hydrogen network operators shall submit to the Commission and to ACER the draft statutes, a list of members and draft rules of procedure, including the rules of procedures on the consultation of stakeholders, of the ENNOH to be established.

4. The hydrogen network operators shall submit to the Commission and to ACER any draft amendments to the statutes, list of members or rules of procedure of the ENNOH.

5. Within four months of receipt of the drafts and the draft amendments to the statutes, list of members or rules of procedure, ACER, after consulting the organisations representing all stakeholders, in particular the system users, including customers, shall provide an opinion to the Commission on these drafts or draft amendments to the statutes, list of members or rules of procedure.

6. The Commission shall deliver an opinion on the drafts and draft amendments to the statutes, list of members or rules of procedure taking into account ACER's opinion as provided for in paragraph 5 and within three months of receipt of ACER's opinion.

7. Within three months of receipt of the Commission's favourable opinion, the hydrogen network operators shall adopt and publish the statutes, list of members and rules of procedure.

8. The documents referred to in paragraph 3 shall be submitted to the Commission and ACER where there are changes thereto or upon the reasoned request of either of them. The Commission and ACER shall deliver an opinion in accordance with paragraphs 5, 6 and 7.

Article 41

Transition to the ENNOH

1. Until the ENNOH is established in line with Article 40, the Commission will set up a temporary platform involving ACER and all relevant market participants, including the ENTSO for Gas, the ENTSO for Electricity and the EU DSO entity and ensures its administrative support. This platform will promote work on scoping and developing issues relevant for the building up of the hydrogen network and markets. The platform will cease to exist once ENNOH is established.

2. Until the ENNOH is established, the ENTSO for Gas will be responsible for the development of Union-wide network development plans for gas and hydrogen networks. In carrying out this task ENTSO for Gas shall ensure the effective consultation and inclusion of all market participants, including hydrogen market participants.

Article 42

Tasks of the ENNOH

1. The ENNOH shall:

(a) develop network codes in the areas set out in Article 54 with a view to achieving the objectives set out in Article 40;

(b) adopt and publish biannually a non-binding Union-wide ten-year network development plan, including a European supply adequacy outlook;

(c) cooperate with the ENTSO for Electricity and with the ENTSO for Gas;

(d) develop recommendations relating to the coordination of technical cooperation between gas transmission and distribution system operators on one hand, and hydrogen network operators on the other hand in the Union;

(e) develop recommendations relating to the coordination of technical cooperation between Union and third-party network operators;

(f) adopt an annual work programme;

(g) adopt an annual report;

(h) adopt an annual outlook for the supply of hydrogen covering Member States where hydrogen is used in electricity generation or for supplying households;

(i) adopt a hydrogen quality monitoring report by 15 May 2026 at the latest and every two years afterwards, including developments and forecasts for the expected developments of hydrogen quality parameters, as well as information on cases related to differences in hydrogen quality specifications and how such cases were settled;

(j) promote cyber security and data protection in cooperation with relevant authorities and regulated entities.

2. The ENNOH shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission in accordance with Article 54, 55 and 56, and their effect on the harmonisation of applicable rules aimed at facilitating market development and integration. The European Network of Network Operators for Hydrogen shall report its findings to ACER and shall include the results of the analysis in the annual report referred to in paragraph 1, point f) of this Article.

3. The ENNOH shall publish the minutes of its assembly meetings, board meetings and committee meetings and provide the public with regular information on its decision-making and activities.

4. The annual work programme referred to in paragraph 1, point (f) shall contain a list and description of the network codes to be prepared, a plan on the coordination of the operation of the network, a list of research and development activities, to be realised in that year, and an indicative calendar.

5. The ENNOH shall provide ACER with the information ACER requires to fulfil its tasks pursuant to Article 46. In order to enable the ENNOH to meet that requirement, hydrogen network operators shall provide the ENNOH with the requested information.

6. Upon request of the Commission, the ENNOH shall give its views to the Commission on the adoption of the guidelines as laid down in Article 56.

Article 43

Ten-year network development plan for hydrogen

1. The Union-wide ten-year network development plan referred to in Article 42 shall include the modelling of the integrated network, scenario development and an assessment of the resilience of the system.

The Union-wide ten-year network development plan shall in particular:

(a) build on the national hydrogen network development reporting as set out in Article 52 of recast Gas Directive where available and Chapter IV of Regulation (EU) xxx [TEN-E Regulation];

(b) regarding cross-border interconnections, also build on the reasonable needs of different network users and integrate long-term commitments from investors referred to in Articles 55 and Chapter IX Section 3 of recast Gas Directive;

(c) identify investment gaps, notably with respect to cross-border capacities.

With regard to the second subparagraph, point (c), a review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices may be annexed to the Union-wide network development plan.

2. ACER shall provide an opinion on the national hydrogen network development reports where relevant to assess their consistency with the Union-wide network development plan. If ACER identifies inconsistencies between a national hydrogen network development report and the Union-wide network development plan, it shall recommend amending the national hydrogen network development report or the Union-wide network development plan as appropriate.

3. When developing the Union-wide ten-year network development plan as referred to in Article 42, the ENNOH shall cooperate with the ENTSO for Electricity and with the ENTSO for Gas, in particular on the development of the energy system wide cost-benefit analysis and the interlinked energy market and network model including

electricity, gas and hydrogen transport infrastructure as well as storage, LNG and hydrogen terminals and electrolysers referred to in Article 11 [TEN-E revision], the scenarios for the Ten-Year Network Development Plans referred to in Article 12 [TEN-E revision] and the infrastructure gaps identification referred to in Article 13 [TEN-E revision].

Article 44

Costs

The costs related to the activities of the ENNOH for Hydrogen referred to in Articles 42 of this Regulation shall be borne by the hydrogen network operators and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve those costs only if they are reasonable and appropriate.

Article 45

Consultation

1. While preparing the proposals pursuant to the tasks referred to in Article 42, the ENNOH shall conduct an extensive consultation process at an early stage and in an open and transparent manner, involving all relevant market participants, and in particular the organisations representing all stakeholders, in accordance with the rules of procedure referred to in Article 40 of this Regulation. The consultation process shall accommodate stakeholder comments before the final adoption of the proposal, aiming at identifying the views and proposals of all relevant parties during the decision-making process. The consultation shall also involve regulatory authorities and other national authorities, producers, network users including customers, technical bodies and stakeholder platforms.

2. All documents and minutes of meetings related to the consultation shall be made public.

3. Before adopting the proposals referred to in Article 42 the ENNOH shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

Article 46

Monitoring by ACER

1. ACER shall monitor the execution of the tasks of the ENNOH referred to in Article 42 and report its findings to the Commission.

2. ACER shall monitor the implementation by the ENNOH of network codes and guidelines adopted by the Commission as laid down in Articles 54, 55, and 56. Where the ENNOH has failed to implement such network codes or guidelines, ACER shall request the ENNOH to provide a duly reasoned explanation as to why it

has failed to do so. ACER shall inform the Commission of that explanation and provide its opinion thereon.

3. The ENNOH shall submit the draft Union-wide network development plan, the draft annual work programme, including the information regarding the consultation process, and the other documents referred to in Article 42 to ACER for its opinion.

Where it considers that the draft annual work programme or the draft Union-wide network development plan submitted by the ENNOH does not contribute to non-discrimination, effective competition, the efficient functioning of the market or a sufficient level of cross-border interconnection, ACER shall provide a duly reasoned opinion as well as recommendations to the ENNOH and to the Commission within two months of the submission of the programme or the plan.

Article 47

Regional cooperation of hydrogen network operators

1. Hydrogen network operators shall establish regional cooperation within the ENNOH to contribute to the tasks referred to in Article 42.

2. Hydrogen network operators shall promote operational arrangements in order to ensure the optimum management of the network and shall ensure interoperability of the interconnected Union hydrogen system for facilitating commercial and operational cooperation between adjacent hydrogen network operators.

Article 48

Transparency requirements concerning hydrogen network operators

1. The hydrogen network operators shall make public detailed information regarding the services they offer and the relevant conditions applied, together with the technical information necessary for hydrogen network users to gain effective network access.

2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the hydrogen network, from 1 January 2031 hydrogen network operators or relevant authorities shall publish complete information on tariff derivation, methodology and structure.

3. The hydrogen network operators shall make public detailed information regarding the quality of hydrogen transported in their networks, which might affect network users.

4. The relevant points of a hydrogen network on which the information is to be made public shall be approved by the competent authorities after consultation with hydrogen network users.

5. The hydrogen network operators shall always disclose the information required by this Regulation in a meaningful, quantifiably clear and easily accessible manner and on a non-discriminatory basis.

6. The hydrogen network operators shall make public ex-ante and ex-post supply and demand information, including a periodic forecast and the recorded information. The regulatory authority shall ensure that all such information is made public. The level of detail of the information that is made public shall reflect the information available to the hydrogen network operators.

7. The market participants concerned shall provide the hydrogen network operator with the data referred to in this Article.

8. Further details required to implement the transparency requirements for hydrogen network operators, including further details on the content, frequency and form of information provision by hydrogen network operators, shall be set in a network code established in accordance with Article 54(1) of this Regulation.

Article 49

Record keeping in the hydrogen system

Hydrogen network operators, hydrogen storage operators and hydrogen terminal operators shall keep at the disposal of the national authorities, including the regulatory authority, the national competition authority and the Commission, all information referred to in Articles 31 and 48 and in Part 4 of Annex I for a period of five years.

Article 50

Presumption of conformity with harmonised standards

1. Harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the requirements referred to in delegated acts issued under Article 54(2), point (b) of this Regulation or implementing acts issued in accordance with Article 51.

2. The Commission shall inform the European standardisation body concerned and, if necessary, issue a new mandate with a view to revising the harmonised standards concerned.

Article 51

Common specifications

The Commission is empowered to adopt implementing acts laying down common specifications for the requirements set out in Article 46 of [the recast Gas Directive as proposed in COM(2021) xxx] or may set those specifications in a network code pursuant to Article 54 (2), point (b), of this Regulation, where:

(a) those requirements are not covered by harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union; or

(b) the Commission observes undue delays in the adoption of requested harmonised standards, or considers that relevant harmonised standards are not sufficient; or

(c) the Commission has decided in accordance with the procedure referred to in Article 11(5) of Regulation (EU) No 1025/2012 to maintain with restriction or to withdraw the references to the harmonised standards or parts thereof by which those requirements are covered.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 61(3).

Chapter IV

NETWORK CODES AND GUIDELINES

Article 52

Adoption of network codes and guidelines

1. The Commission may, subject to the empowerments in Articles 53 to 56, adopt implementing or delegated acts. Such acts may either be adopted as network codes on the basis of text proposals developed by the ENTSO for Gas or the ENNOH, or, where so provided for in the priority list pursuant to Article 53(3), by the EU DSO entity, where relevant in cooperation with the ENTSO for Electricity, the ENNOH and ACER, pursuant to the procedure laid down in Articles 52 to 55, or as guidelines pursuant to the procedure laid down in Article 56.

2. The network codes and guidelines shall:

   (a) ensure that they provide the minimum degree of harmonisation required to achieve the aims of this Regulation;

   (b) take into account regional specificities, where appropriate;

   (c) not go beyond what is necessary for the purposes of point (a); and

   (d) apply to all interconnection points within the Union and entry points from and exit points to third countries.

↓ 715/2009

Article 53~~6~~

Establishment of network codes

⇩ new

1. The Commission is empowered to adopt implementing acts establishing network codes in the following areas:

(a) data exchange and settlement rules implementing Articles 21 and 22 of [recast Gas Directive as proposed in COM(2021) xxx] regarding interoperability and data exchange as well as harmonised rules for the operation of gas transmission systems, capacity booking platforms, and IT processes relevant for the functioning of the internal market

(b) interoperability rules for the natural gas system, implementing Articles 9 and 46 of [recast Gas Directive as proposed in COM(2021) xxx] including addressing interconnection agreements, rules on flow control and measurement principles for gas quantity and quality, allocation and matching rules, common sets of units, data exchange, gas quality, including rules on managing cross-border restrictions due to gas quality differences or due to differences in odorisation practices or due to differences in the volume of hydrogen blended in the natural gas system, cost-benefit analyses for removing cross-border flow restrictions, Wobbe Index classification, mitigating measures, minimum acceptance levels for gas quality parameters relevant for ensuring the unhindered cross-border flow of biomethane (e.g. oxygen content), short- and long-term gas quality monitoring, information provision and cooperation among relevant market participants, reporting on gas quality, transparency, communication procedures including in case of exceptional events;

(c) capacity-allocation and congestion-management rules implementing Article 29 of [recast Gas Directive as proposed in COM(2021) xxx] and Article 7 to 10 of this Regulation, including rules on cooperation of maintenance procedures and capacity calculation affecting capacity allocation, the standardization of capacity products and units including bundling, the allocation methodology including auction algorithms, sequence and procedure for existing, incremental, firm and interruptible capacity, capacity booking platforms, oversubscription and buy back schemes, short and long-term use-it-or-lose it schemes or and any other congestion-management scheme that prevents the hoarding of capacity

(d) balancing rules including network-related rules on nominations procedure, rules for imbalance charges and rules for operational balancing between transmission system operators' systems implementing Article 35(5) of [recast Gas Directive as proposed in COM(2021) xxx] and Article 7 to 10 of this Regulation including network-related rules on nomination procedures, imbalance charges, settlement processes associated with the daily imbalance charge and operational balancing between transmission system operators' networks.

(e) rules on harmonised transmission tariff structures implementing Article 72(7) of [recast Gas Directive as proposed in COM(2021) xxx] and Article 15 to 16 of this Regulation rules on harmonised transmission tariff structures for gas, including rules on the application of a reference price methodology, the

associated consultation and publication requirements as well as the calculation of reserve prices for standard capacity products, discounts for LNG and storages, allowed revenue, procedures for the implementation of providing a discount for renewable and low carbon gases, including common principles for inter-transmission system operator compensation mechanisms;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 61(3).

2. The Commission is empowered to adopt delegated acts in accordance with Article 63 concerning the establishment of network codes in the following areas:

(a) network security and reliability rules including rules for operational network security as well as reliability rules ensuring the quality of service of the network

(b) network connection rules including rules on the connection of renewable and low carbon gas production facilities, procedures for connection requests;

(c) operational procedures in an emergency including system defence plans, restoration plans, market interactions, information exchange and communication and tools and facilities;

(d) rules for trading related to technical and operational provision of network access services and system balancing;

(e) energy efficiency of gas networks and components as well as energy efficiency with regard to network planning and investments enabling the most energy efficient solution from a system perspective;

(f) cyber security aspects of cross-border natural gas flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

3. The Commission shall, after consulting ACER, the ENTSO for Gas, the ENNOH, the EU DSO entity and the other relevant stakeholders, establish every three years a priority list, identifying the areas set out in paragraphs 1 and 2 to be included in the development of network codes. If the subject matter of the network code is directly related to the operation of the distribution system and not primarily relevant to the transmission system, the Commission may require the EU DSO entity, in cooperation with the ENTSO for Gas, to convene a drafting committee and submit a proposal for a network code to ACER.

4. The Commission shall request ACER to submit to it within a reasonable period not exceeding six months of receipt of the Commission's request non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. The request of the Commission may include conditions which the framework guidelines shall address. Each framework guideline shall contribute to market integration, non-discrimination, effective competition, and the efficient functioning of the market. Upon a reasoned request from ACER, the Commission may extend the period for submitting the guidelines.

5. ACER shall consult the ENTSO for Gas, the ENNOH, the EU DSO entity, and the other relevant stakeholders in regard to the framework guidelines, during a period of no less than two months, in an open and transparent manner.

6. ACER shall submit a non-binding framework guideline to the Commission where requested to do so under paragraph 4.

7. If the Commission considers that the framework guideline does not contribute to market integration, non-discrimination, effective competition and the efficient functioning of the market, it may request ACER to review the framework guideline within a reasonable period and resubmit it to the Commission.

8. If ACER fails to submit or resubmit a framework guideline within the period set by the Commission under paragraph 4 or 7, the Commission shall develop the framework guideline in question.

9. The Commission shall request the ENTSO for Gas or, where provided for in the priority list referred to in paragraph 3, the EU DSO entity in cooperation with the ENTSO for Gas, to submit to ACER, within a reasonable period, not exceeding 12 months, of receipt of the Commission's request, a proposal for a network code in accordance with the relevant framework guideline.

10. The ENTSO for Gas, or where provided for in the priority list referred to in paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Gas, shall convene a drafting committee to support it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Gas, the ENNOH, where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The ENTSO for Gas or where provided for in the priority list pursuant to paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Gas, shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2 where so requested by the Commission in accordance with paragraph 9.

11. ACER shall revise the proposed network code to ensure that it complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition, and the efficient functioning of the market, and shall submit the revised network code to the Commission within six months of receipt of the proposal. In the proposal submitted to the Commission, ACER shall take into account the views provided by all involved parties during the drafting of the proposal led by the ENTSO for Gas or the EU DSO entity and shall consult the relevant stakeholders on the version of the network code to be submitted to the Commission.

12. Where the ENTSO for Gas or the EU DSO entity have failed to develop a network code within the period set by the Commission under paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guideline. ACER may launch a further consultation. ACER shall submit a draft network code prepared under this paragraph to the Commission and may recommend that it be adopted.

13. Where the ENTSO for Gas or the EU DSO entity have failed to develop a network code, or ACER has failed to develop such a draft as referred to in paragraph 12, or

upon the proposal of ACER under paragraph 11, the Commission may adopt, on its own initiative, one or more network codes in the areas listed in paragraphs 1 and 2.

14. Where the Commission proposes to adopt a network code on its own initiative, the Commission shall consult ACER, the ENTSO for Gas and all relevant stakeholders in regard to the draft network code during a period of at least two months.

15. This Article shall be without prejudice to the Commission's right to adopt and amend the guidelines as laid down in Article 56. It shall be without prejudice to the possibility for the ENTSO for Gas to develop non-binding guidance in the areas set out in paragraphs 1 and 2 where such guidance does not relate to areas covered by a request addressed to the ENTSO for Gas by the Commission. The ENTSO for Gas shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

↓ 715/2009 (new)

~~1. The Commission shall, after consulting the Agency, the ENTSO for Gas and the other relevant stakeholders establish an annual priority list identifying the areas set out in Article 8(6) to be included in the development of network codes.~~

~~2. The Commission shall request the Agency to submit to it within a reasonable period of time not exceeding six months a non-binding framework guideline (framework guideline) setting out clear and objective principles, in accordance with Article 8(7), for the development of network codes relating to the areas identified in the priority list. Each framework guideline shall contribute to non-discrimination, effective competition and the efficient functioning of the market. Upon a reasoned request from the Agency, the Commission may extend that period.~~

~~3. The Agency shall formally consult the ENTSO for Gas and the other relevant stakeholders in regard to the framework guideline, during a period of no less than two months, in an open and transparent manner.~~

~~4. If the Commission considers that the framework guideline does not contribute to non-discrimination, effective competition and the efficient functioning of the market, it may request the Agency to review the framework guideline within a reasonable period of time and re-submit it to the Commission.~~

~~5. If the Agency fails to submit or re-submit a framework guideline within the period set by the Commission under paragraphs 2 or 4, the Commission shall elaborate the framework guideline in question.~~

~~6. The Commission shall request the ENTSO for Gas to submit a network code which is in line with the relevant framework guideline, to the Agency within a reasonable period of time not exceeding 12 months.~~

~~7. Within a period of three months after the day of receipt of a network code, during which the Agency may formally consult the relevant stakeholders, the Agency shall provide a reasoned opinion to the ENTSO for Gas on the network code.~~

~~8. The ENTSO for Gas may amend the network code in the light of the opinion of the Agency and re-submit it to the Agency.~~

~~9. Once the Agency is satisfied that the network code is in line with the relevant framework guideline, the Agency shall submit the network code to the Commission and may recommend that it be adopted within a reasonable time period. The Commission shall provide reasons in the event that it does not adopt that network code.~~

~~10. Where the ENTSO for Gas has failed to develop a network code within the period of time set by the Commission under paragraph 6, the Commission may request the Agency to prepare a draft network code on the basis of the relevant framework guideline. The Agency may launch a further consultation in the course of preparing a draft network code under this paragraph. The Agency shall submit a draft network code prepared under this paragraph to the Commission and may recommend that it be adopted.~~

~~11. The Commission may adopt, on its own initiative where the ENTSO for Gas has failed to develop a network code, or the Agency has failed to develop a draft network code as referred to in paragraph 10 of this Article, or upon recommendation of the Agency under paragraph 9 of this Article, one or more network codes in the areas listed in Article 8(6).~~

~~Where the Commission proposes to adopt a network code on its own initiative, the Commission shall consult the Agency, the ENTSO for Gas and all relevant stakeholders in regard to the draft network code during a period of no less than two months. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).~~

~~12. This Article shall be without prejudice to the Commission's right to adopt and amend the Guidelines as laid down in Article 23.~~

⇩ new

Article 54

Establishment of network codes for hydrogen

1. The Commission is empowered to adopt implementing acts in order to ensure uniform conditions for the implementation of this Regulation by establishing network codes in the area of transparency rules implementing Article 48 of this Regulation, including further details on the content, frequency and form of information provision by hydrogen network operators and implementing Annex I, point 4 of this Regulation, including details on the format and content of the information necessary for network users for effective access to the network, information to be published at relevant points, details on time schedules.

   Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 61(2).

2. The Commission is empowered to adopt delegated acts in accordance with Article 63 supplementing this Regulation with regard to the establishment of network codes in the following areas

(a) energy efficiency regarding hydrogen networks and components as well as energy efficiency with regard to network planning and investments enabling the most energy efficient solution from a system perspective;

(b) interoperability rules for the hydrogen network, including addressing interconnection agreements, units, data exchange, transparency, communication, information provisions and cooperation among relevant market participants as well as hydrogen quality, including common specifications and standardisation, odorisation, cost benefit analyses for removing cross-border flow restrictions due to hydrogen quality differences and reporting on hydrogen quality;

(c) rules for the system of financial compensation for cross-border hydrogen infrastructure;

(d) capacity-allocation and congestion-management rules, including rules on cooperation of maintenance procedures and capacity calculation affecting capacity allocation, the standardisation of capacity products and units including bundling, the allocation methodology including auction algorithms, sequence and procedure for existing, incremental, firm and interruptible capacity, capacity booking platforms, oversubscription and buy back schemes, short and long-term use-it-or-lose it schemes or and any other congestion-management scheme that prevents the hoarding of capacity;

(e) rules regarding harmonised tariff structures for hydrogen network access, including rules on the application of a reference price methodology, the associated consultation and publication requirements as well as the calculation of reserve prices for standard capacity products and allowed revenue;

(f) rules for determining the value of transferred assets and the dedicated charge;

(g) balancing rules including network-related rules on nominations procedure, rules for imbalance charges and rules for operational balancing between hydrogen network operators' networks, including network-related rules on nomination procedures, imbalance charges, settlement processes associated with the daily imbalance charge and operational balancing between transmission system operators' networks.

(h) cyber security aspects of cross-border hydrogen flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

3. The Commission shall, after consulting ACER, the ENNOH, the ENTSO for Gas, the EU DSO entity and the other relevant stakeholders, establish a priority list every three years, identifying the areas set out in paragraphs 1 and 2 to be included in the development of network codes.

4. The Commission shall request ACER to submit to it within a reasonable period not exceeding six months of receipt of the Commission's request non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. The request of the Commission may include conditions which the framework guideline shall address.

Each framework guideline shall contribute to market integration, non-discrimination, effective competition, and the efficient functioning of the market. Upon a reasoned request from ACER, the Commission may extend the period for submitting the guidelines.

5. ACER shall consult the ENNOH, the ENTSO for Gas and the other relevant stakeholders in regard to the framework guideline, during a period of at least two months, in an open and transparent manner.

6. ACER shall submit a non-binding framework guideline to the Commission where requested to do so under paragraph 4.

7. If the Commission considers that the framework guideline does not contribute to market integration, non-discrimination, effective competition and the efficient functioning of the market, it may request ACER to review the framework guideline within a reasonable period and resubmit it to the Commission.

8. If ACER fails to submit or resubmit a framework guideline within the period set by the Commission under paragraph 4 or 6, the Commission shall develop the framework guideline in question.

9. The Commission shall request the ENNOH to submit, within a reasonable period not exceeding 12 months of the receipt of the Commission's request, a proposal for a network code in accordance with the relevant framework guideline to ACER.

10. The ENNOH shall convene a drafting committee to support it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Gas, the ENTSO for Electricity and where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The European Network of Network Operators for Hydrogen shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2.

11. ACER shall revise the proposed network code to ensure that it complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition, and the efficient functioning of the market and, shall submit the revised network code to the Commission within six months of receipt of the proposal. In the revised network code, ACER shall take into account the views provided by all involved parties during the drafting of the proposal led by the European Network of Hydrogen Network Operators and shall consult the relevant stakeholders on the revised version to be submitted to the Commission.

12. Where the ENNOH has failed to develop a network code within the period set by the Commission under paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guideline. ACER may launch a further consultation in the course of preparing a draft network code under this paragraph. ACER shall submit a draft network code prepared under this paragraph to the Commission and may recommend that it be adopted.

13. Where the European Network of Hydrogen Network Operators has failed to develop a network code, or ACER has failed to develop a draft network code as referred to in paragraph 12, the Commission may adopt, on its own initiative, or upon the proposal

of ACER under paragraph 11, one or more network codes in the areas listed in paragraphs 1 and 2.

14. Where the Commission proposes to adopt a network code on its own initiative, it shall consult ACER, the ENNOH, the ENTSOG for Gas and all relevant stakeholders in regard to the draft network code during a period of no less than two months.

15. This Article shall be without prejudice to the Commission's right to adopt and amend the guidelines as laid down in Article 56. It shall be without prejudice to the possibility for the ENNOH to develop non-binding guidance in the areas set out in paragraphs 1 and 2 where such guidance does not relate to areas covered by a request addressed to the ENNOH by the Commission. The ENNOH shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

🡻 715/2009 (new)

Article 55~~7~~

Amendments to ~~of~~ network codes

~~1. Draft amendments to any network code adopted under Article 6 may be proposed to the Agency by persons who are likely to have an interest in that network code, including the ENTSO for Gas, transmission system operators, network users and consumers. The Agency may also propose amendments of its own initiative.~~

~~2. The Agency shall consult all stakeholders in accordance with Article 10 of Regulation (EC) No 713/2009. Following this process, the Agency may make reasoned proposals for amendments to the Commission, explaining how such proposals are consistent with the objectives of the network codes set out in Article 6(2) of this Regulation.~~

~~3. The Commission may adopt, taking account of the Agency's proposals, amendments to any network code adopted under Article 6. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).~~

~~4. Consideration of proposed amendments under the procedure set out in Article 28(2) shall be limited to consideration of the aspects related to the proposed amendment. Those proposed amendments are without prejudice to other amendments which the Commission may propose.~~

⇩ new

1. The Commission is empowered to amend the network codes within the areas listed in Article 53 (1) and (2) and in Article 54(1) and (2) in accordance with the relevant procedure set out in those Articles.

2. Persons who are likely to have an interest in any network code adopted under Article 52 to 55, including the ENTSO for Gas, the European Network of Hydrogen Network Operators, the EU DSO entity, regulatory authorities, transmission system operators, distribution system operators, system users and consumers, may propose draft amendments to that network code to ACER. ACER may also propose amendments on its own initiative.

3. ACER may make reasoned proposals to the Commission for amendments, explaining how such proposals are consistent with the objectives of the network codes set out in Article 52 of this Regulation. Where it considers an amendment proposal to be admissible and where it proposes amendments on its own initiative, ACER shall consult all stakeholders in accordance with Article 14 of Regulation (EU) 2019/942.

↓ 715/2009

Article 56~~23~~

Guidelines

~~1. Where appropriate, Guidelines providing the minimum degree of harmonisation required to achieve the aims of this Regulation shall specify:~~

⇩ new

1. The Commission is empowered to adopt binding guidelines in the areas listed in this Article.

2. The Commission is empowered to adopt guidelines in the areas where such acts could also be developed under the network code procedure pursuant to Article 53 and 54. Those guidelines shall be adopted in the form of delegated or implementing acts, depending on the relevant empowerment provided for in this Regulation.

3. The Commission is empowered to adopt delegated acts in accordance with Article 63 supplementing this Regulation with regard to the establishment of guidelines in the following areas:

↓ 715/2009 (adapted)
⇨ new

(a) details of third-party access services, including the character, duration and other requirements of those services, in accordance with Articles ⌦ 5 to 7 ⌫ ~~14 and 15~~;

(b) details of the principles underlying capacity-allocation mechanisms and on the application of congestion-management procedures in the event of contractual congestion, in accordance with Articles 9~~16~~ and 10~~17~~;

(c) details of the provision of information, definition of the technical information necessary for network users to gain effective access to the system and the definition of all relevant points for transparency requirements, including the

information to be published at all relevant points and the time schedule for the publication of that information, in accordance with Articles 30~~18~~ and 31~~19~~;

(d) details of tariff methodology related to cross-border trade of natural gas, in accordance with Articles ⇨ 15 and ⇦ 16~~13~~ ⇨ of this Regulation ⇦;

(e) details relating to the areas listed in Article 23~~8~~(6).

⇩ new

4. The Commission is empowered to adopt delegated acts in accordance with Article 63 in order to amend the guidelines laid down in Annex I to this Regulation.

5. When adopting or amending guidelines, the Commission shall consult ACER, the ENTSO for Gas, the ENNOH, the EU DSO entity and, where relevant, other stakeholders.

🡻 715/2009

~~For that purpose, the Commission shall consult the Agency and the ENTSO for Gas.~~

~~6. Guidelines on the issues listed in points (a), (b) and (c) of paragraph 1 are laid down in Annex I with respect to transmission system operators.~~

~~The Commission may adopt Guidelines on the issues listed in paragraph 1 of this Article and amend the Guidelines referred to in points (a), (b) and (c) thereof. Those measures, designed to amend non-essential elements of this Regulation, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).~~

~~7. The application and amendment of Guidelines adopted pursuant to this Regulation shall reflect differences between national gas systems, and shall, therefore, not require uniform detailed terms and conditions of third-party access at Community level. They may, however, set minimum requirements to be met to achieve non-discriminatory and transparent network access conditions necessary for an internal market in natural gas, which may then be applied in the light of differences between national gas systems.~~

🡻 715/2009 (adapted)
⇨ new

~~*Article 25*~~

~~**Provision of information**~~

~~Member States and the regulatory authorities shall, on request, provide to the Commission all information necessary for the purposes of Article 23.~~

~~The Commission shall set a reasonable time limit within which the information is to be provided, taking into account the complexity of the information required and the urgency with which the information is needed.~~

Article 57~~26~~

Right of Member States to provide for more detailed measures

This Regulation shall be without prejudice to the rights of Member States to maintain or introduce measures that contain more detailed provisions than those set out ⇨ in this Regulation, in the guidelines referred to in Article 56 or in the network codes referred to in Article 52 to 55, provided that those measures are compatible with Union law ⇦ ~~herein or in the Guidelines referred to in Article 23~~.

Article 58

Provision of information ⌦ and confidentiality ⌫

1. Member States and the regulatory authorities shall, on request, provide ~~to~~ the Commission ⌦ with ⌫ ⌦ the ⌫ information necessary for the purposes of ⇨ enforcing this Regulation, including the guidelines and the network codes adopted under this Regulation ⇦ ~~Article 23~~.

2. The Commission shall set a reasonable time limit within which the information is to be provided, taking into account the complexity ⌦ and urgency ⌫ of the information required ~~and the urgency with which the information is needed~~.

⇩ new

3. If the Member State or the regulatory authority concerned does not provide the information within the time limit set by the Commission, the Commission may request all the information necessary for the purpose of enforcing this Regulation directly from the undertakings concerned.

   When sending a request for information to an undertaking, the Commission shall, at the same time, forward a copy of the request to the regulatory authorities of the Member State in whose territory the seat of the undertaking is situated.

4. In its request for information, the Commission shall state the legal basis of the request, the time limit within which the information is to be provided, the purpose of the request, and the penalties provided for in Article 59(2) for supplying incorrect, incomplete or misleading information.

5. The owners of the undertakings or their representatives and, in the case of legal persons, the natural persons authorised to represent the undertaking by law or by their instrument of incorporation, shall supply the information requested. Where lawyers are authorised to supply the information on behalf of their client, the client shall remain fully responsible in the event that the information supplied is incomplete, incorrect or misleading.

6. Where an undertaking does not provide the information requested within the time limit set by the Commission or supplies incomplete information, the Commission may by decision require the information to be provided. That decision shall specify what information is required and set an appropriate time limit within which it is to be supplied. It shall indicate the penalties provided for in Article 59(2). It shall also indicate the right to have the decision reviewed by the Court of Justice of the European Union.

The Commission shall, at the same time, send a copy of its decision to the regulatory authorities of the Member State within the territory of which the person is resident or the seat of the undertaking is situated.

7. The information referred to in paragraphs 1 and 2 shall be used only for the purposes of enforcing this Regulation.

The Commission shall not disclose information acquired pursuant to this Regulation where that information is covered by the obligation of professional secrecy.

↓ 715/2009

Article 59~~27~~

Penalties

⇩ new

1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation, the network codes and guidelines adopted pursuant to Articles 52 to 56 and the guidelines laid down in Annex I of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and of those measures and shall notify it without delay of any subsequent amendment affecting them.

2. The Commission may, by decision, impose on undertakings fines not exceeding 1 % of the total turnover in the preceding business year where, intentionally or negligently, those undertakings supply incorrect, incomplete or misleading information in response to a request made pursuant to Article 58(4) or fail to supply information within the time-limit set in a decision adopted pursuant to Article 58(6), first subparagraph. In setting the amount of a fine, the Commission shall have regard to the gravity of the failure to comply with the requirements referred to in paragraph 1 of this Article.

3. The penalties provided for pursuant to paragraph 1 and any decisions taken pursuant to paragraph 2 shall not be of a criminal law nature.

➔ 715/2009
➔1 Corrigendum, OJ L 309, 24.11.2009, p. 87

~~1. The Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that those provisions are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify the Commission by 1 July 2006 of those rules corresponding to the provisions laid down in Regulation (EC) No 1775/2005 and shall notify the Commission without delay of any subsequent amendment affecting them. è1 They shall notify the Commission of those rules not corresponding to the provisions laid down in Regulation (EC) No 1775/2005 by 3 March 2011 and shall notify the Commission without delay of any subsequent amendment affecting them. ç~~

~~2. Penalties provided for pursuant to paragraph 1 shall not be of a criminal law nature.~~

Chapter V

Final provisions

⇩ new

Article 60

New natural gas and hydrogen infrastructure

1. Major new natural gas infrastructure, that is to say interconnectors, LNG and storage facilities, may, upon request, be exempted, for a defined period of time, from the provisions of this Regulation as well as from Articles, 28, 27, 29, ,54 and Article 72(7), (9) and 73(1) of [recast Gas Directive]. Major new hydrogen infrastructure, that is to say interconnectors, hydrogen terminals and underground hydrogen storage may, upon request, be exempted, for a defined period of time, from the provisions of Articles 62, 31, 32, 33 of [recast Gas Directive]and Article 15 of this Regulation. The following conditions apply:

(a) the investment enhances competition in gas supply or hydrogen supply and enhance security of supply;

(b) the investment contributes to decarbonisation;

(c) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;

(d) the infrastructure is owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;

(e) charges are levied on users of that infrastructure; and

(f) the exemption is not detrimental to competition in the relevant markets which are likely to be affected by the investment, to the effective functioning of the internal market in gas, to the efficient functioning of the regulated systems concerned, to decarbonisation or to security of supply in the Union.

These conditions should be assessed taking into account the principle of energy solidarity. National authorities should take into account the situation in other affected Member State and balance possible negative effects with the beneficial effects on its territory.

2. The exemption in paragraph 1 shall also apply to significant increases of capacity in existing infrastructure and to modifications of such infrastructure which enable the development of new sources of renewable and low carbon gases supply.

3. The regulatory authority may, on a case-by-case basis, decide on the exemption referred to in paragraphs 1 and 2.

Before the adoption of the decision on the exemption, the regulatory authority, or where appropriate another competent authority of that Member State, shall consult:

(a) the regulatory authorities of the Member States the markets of which are likely to be affected by the new infrastructure; and

(b) the relevant authorities of the third countries, where the infrastructure in question is connected with the Union network under the jurisdiction of a Member State, and originates from or ends in one or more third countries.

Where the third-country authorities consulted do not respond to the consultation within a reasonable time frame or within a set deadline not exceeding three months, the regulatory authority concerned may adopt the necessary decision.

4. Where the infrastructure in question is located in the territory of more than one Member State, ACER may submit an advisory opinion to the regulatory authorities of the Member States concerned within two months from the date on which the request for exemption was received by the last of those regulatory authorities. That opinion may be used as a basis for their decision.

Where all the regulatory authorities concerned agree on the request for exemption within six months of the date on which it was received by the last of the regulatory authorities, they shall inform the ACER of their decision. Where the infrastructure concerned is a transmission line between a Member State and a third country, the regulatory authority, or where appropriate another competent authority of the Member State where the first interconnection point with the Member States' network is located, may consult before the adoption of the decision on the exemption the relevant authority of that third country with a view to ensuring, as regards the infrastructure concerned, that this Regulation is applied consistently in the territory and, where applicable, in the territorial sea of that Member State. Where the third country authority consulted does not respond to the consultation within a reasonable time or within a set deadline not exceeding three months, the regulatory authority concerned may adopt the necessary decision.

ACER shall exercise the tasks conferred on the regulatory authorities of the Member States concerned by this Article:

(a) where all regulatory authorities concerned have not been able to reach an agreement within a period of six months from the date on which the request for exemption was received by the last of those regulatory authorities; or

(b) upon a joint request from the regulatory authorities concerned.

All regulatory authorities concerned may, jointly, request that the period referred to in the third subparagraph, point (a), is extended by up to three months.

5. Before taking a decision, the ACER shall consult the relevant regulatory authorities and the applicants.

6. An exemption may cover all or part of the capacity of the new infrastructure, or of the existing infrastructure with significantly increased capacity.

In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the infrastructure. When deciding on those conditions, account shall, in particular, be taken of the additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

Before granting an exemption, the regulatory authority shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential users of the infrastructure are invited to indicate their interest in contracting capacity before capacity allocation in the new infrastructure, including for own use, takes place. The regulatory authority shall require congestion management rules to include the obligation to offer unused capacity on the market, and shall require users of the infrastructure to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in paragraph 1, points (a), (b) and (e), the regulatory authority shall take into account the results of that capacity allocation procedure.

The exemption decision, including any conditions referred to in the second subparagraph of this paragraph, shall be duly reasoned and published.

7. When analysing whether a major new infrastructure is expected to enhance the security of supply pursuant to paragraph 1, point (a), the relevant authority shall consider to what extent the new infrastructure is expected to improve Member States' compliance with their obligations under Regulation (EU) 2017/1938 of the European Parliament and of the Council[20], both at regional and national level.

8. Member States may provide that their regulatory authority or ACER, as the case may be, shall submit, for the purposes of the formal decision, to the relevant body in the

[20] Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 (*OJ L 280, 28.10.2017, p. 1).*

Member State its opinion on the request for an exemption. That opinion shall be published together with the decision.

9. The regulatory authority shall transmit to the Commission, without delay, a copy of every request for exemption as of its receipt. The exemption decision shall be notified, without delay, by the competent authority to the Commission, together with all the relevant information. That information may be submitted to the Commission in aggregate form, enabling the Commission to assess the exemption decision. In particular, the information shall contain:

(a) the detailed reasons on the basis of which the regulatory authority, or Member State, granted or refused the exemption together with a reference to the relevant point or points of paragraph 1 on which that decision is based, including the financial information justifying the need for the exemption;

(b) the analysis undertaken of the effect on competition and the effective functioning of the internal market resulting from the grant of the exemption;

(c) the reasons for the duration of the exemption and the share of the total capacity of the infrastructure for which the exemption is granted;

(d) where the exemption relates to an interconnector, the result of the consultation with the regulatory authorities concerned;

(e) the contribution of the infrastructure to the diversification of supply.

10. Within 50 working days of the day following that of receipt of the notification under paragraph 7, the Commission may take a decision requesting the notifying bodies to amend or withdraw the decision to grant an exemption. That period may be extended by an additional 50 working days where further information is requested by the Commission. The additional period shall begin on the day following receipt of the complete information. The initial period may also be extended by consent of both the Commission and the notifying bodies.

Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Commission and the regulatory authority, or the regulatory authority, in a duly reasoned statement, has informed the Commission that it considers the notification to be complete.

The regulatory authority shall comply with the Commission decision to amend or withdraw the exemption decision within a period of one month and shall inform the Commission accordingly.

The Commission shall preserve the confidentiality of commercially sensitive information.

When the Commission approves an exemption decision, that approval shall lose its effect:

(a) after two years from its adoption where the construction of the infrastructure has not yet started,

(b) after five years from its adoption where the infrastructure has not become operational within that period, unless the Commission decides that any delay is due to major obstacles beyond control of the person to whom the exemption has been granted.

11. The Commission is empowered to adopt delegated acts in accordance with Article 63 in order to set guidelines for the application of the conditions laid down in paragraph 1 of this Article and for the procedure to be followed for the application of paragraphs 3, 6, 8 and 9 of this Article.

🡻 715/2009 (adapted)
⇨ new

Article 61~~28~~

Committee procedure

1. 1. The Commission shall be assisted by the ~~committee~~ ⌦ [name of the committee] established ⌫ ~~set up~~ by Article 84~~51~~ of [the recast Gas Directive as proposed in COM(2021) xxx]. ⇨ That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⇦

⇩ new

2. Where reference is made to this paragraph, Article 4 of regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

🡻 715/2009

~~2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof~~

🡻 1999/2018 Art. 50

↓ 715/2009 (adapted)
⇨ new

Article 62~~30~~

Derogations ~~and exemptions~~

This Regulation shall not apply to~~:~~

~~(a)~~ natural gas transmission systems situated in Member States for the duration of derogations granted under ⇨ Article 80 of [new Gas Directive] ⇦ ~~Article 49 of Directive 2009/73/EC~~;

~~(b) major new infrastructure, i.e. interconnectors, LNG and storage facilities, and significant increases of capacity in existing infrastructure and modifications of such infrastructure which enable the development of new sources of gas supply referred to in Article 36(1) and (2) of Directive 2009/73/EC which are exempt from the provisions of Articles 9, 14, 32, 33, 34 or Article 41(6), (8) and (10) of that Directive as long as they are exempt from the provisions referred to in this subparagraph, with the exception of Article 19(4) of this Regulation; or~~

~~(c) natural gas transmission systems which have been granted derogations under Article 48 of Directive 2009/73/EC.~~

~~As regards point (a) of the first subparagraph, Member States that have been granted derogations under Article 49 of Directive 2009/73/EC may apply to the Commission for a temporary derogation from the application of this Regulation, for a period of up to two years from the date on which the derogation referred to in that point expires.~~

⇩ new

Article 63

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 power to adopt delegated acts referred to in Article 16, 28, 53, 54, 56 and 60 shall be conferred on the Commission for an indeterminate period of time from [date of entry into force].

3. The delegation of power referred to in Article 16, 28, 53, 54, 56 and 60 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 power specified in that decision. It shall take effect on 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 16, 28, 53, 54, 56 and 60 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and 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 of the Council.

Article 64

Amendment to Decision (EU) 2017/684

The notification obligations for intergovernmental agreements in the field of energy relating to gas as laid down in Decision (EU) 2017/684 shall be construed as including intergovernmental agreements relating to hydrogen, including hydrogen compounds such as ammonia and liquid organic hydrogen carriers.

Article 65

Amendments to Regulation (EU) 2019/942

Regulation (EU) 2019/942 is amended as follows:

(1) Article 2, point (a) is replaced by the following:

‘(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, **the European Network of Network Operators for Hydrogen (ENNOH),** the EU DSO Entity, regional coordination centres, nominated electricity market operators, **and entities established by transmission system operators for gas, LNG system operators, gas or hydrogen storage system operators or operators of networks for hydrogen**;’

(2) Article 3(2), 1st subparagraph is replaced by the following:

‘At ACER's request, the regulatory authorities, the ENTSO for Electricity, the ENTSO for Gas, **the ENNOH,** the regional coordination centres, the EU DSO entity, the transmission system operators, **hydrogen network operators,** the nominated electricity market operators, **and entities established by transmission system operators for gas, LNG system operators, gas or hydrogen storage system operators or hydrogen terminal operators** shall provide to ACER the information in the same level of detail necessary for the purpose of carrying out ACER's tasks

under this Regulation, unless ACER has already requested and received such information.'

(3) Articles 4(1), 4(2), 4(3)(a) and (b) are replaced by the following:

'1. ACER shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure of the ENTSO for Electricity in accordance with Article 29(2) of Regulation (EU) 2019/943 and on those of the ENTSO for Gas in accordance with Article 22(2) of [Gas Regulation] **and on those of the ENNOH in accordance with Article 40(5) of Regulation [Gas Regulation]** and on those of the EU DSO entity in accordance with Article 53(3) of Regulation (EU) 2019/943 **and Article 37(4) of [Gas Regulation].**'

'2. ACER shall monitor the execution of the tasks of the ENTSO for Electricity in accordance with Article 32 of Regulation (EU) 2019/943, of the ENTSO for Gas in accordance with Article 24 of [Gas Regulation] **and of the ENNOH in accordance with Article 46 of Regulation [Gas Regulation]** and of the EU DSO entity as set out in Article 55 of Regulation (EU) 2019/943 and Article 38 of [Gas Regulation].'

'3. ACER may provide an opinion:

(a) to the ENTSO for Electricity in accordance with point (a) of Article 30(1) of Regulation (EU) 2019/943 and to the ENTSO for Gas in accordance with Article 23(2) of [Gas Regulation as proposed in COM(2021) xxx] and to the ENNOH in accordance with Article XX of Regulation [Gas Regulation] on the network codes;'

'(b) the ENTSO for Electricity in accordance with Article 32(2) of Regulation (EU) 2019/943, to the ENTSO for Gas in accordance with the Article 24(2) of [the recast Gas Regulation as proposed in COM(2021) xxx], and to the ENNOH in accordance with Article 43(2) of [the recast Gas Regulation as proposed in COM(2021) xxx] on the draft Union-wide network development plan and on other relevant documents referred to in Article 30(1) of Regulation (EU) 2019/943 Articles 23(3) and 42(1) of [the recast Gas Regulation as proposed in COM(2021) xxx], taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal markets for electricity and natural gas;'

(4) Articles 4(6), 4(7) and 4(8) are replaced by the following:

'6. The relevant regulatory authorities shall coordinate in order to jointly identify whether there is non-compliance of ~~**the EU-DSO entity,**~~ the ENTSO for Electricity**, the ENTSO for Gas, the ENNOH, the EU DSO entity** or regional coordination centres with their obligations under Union law, and shall take appropriate action in accordance with Article 59(1) point (c) and Article 62(1) point (f) of Directive (EU) 2019/944 **or with Article 72(1) point (e) of [the recast Gas Directive as proposed in COM(2021) xxx**.

At the request of one or more regulatory authorities or at its own initiative, ACER shall issue a reasoned opinion as well as a recommendation to the ENTSO for Electricity, **the ENTSO for Gas, the European Network of Network Operators for Hydrogen,** the EU DSO entity or the regional coordination centres with regard to compliance with their obligations.';

‘7. Where a reasoned opinion of ACER identifies a case of potential non-compliance of the ENTSO for Electricity, **the ENTSO for Gas, the European Network of Network Operators for Hydrogen,** the EU DSO entity or a regional coordination centre with their respective obligations, the regulatory authorities concerned shall unanimously take coordinated decisions establishing whether there is non-compliance with the relevant obligations and, where applicable, determining the measures to be taken by the ENTSO for Electricity, **the ENTSO for Gas, ENNOH,** the EU DSO entity or the regional coordination centre to remedy that non-compliance. Where the regulatory authorities fail to take such coordinated decisions unanimously within four months of the date of receipt of ACER's reasoned opinion, the matter shall be referred to ACER for a decision pursuant to Article 6(10).’

‘8. Where the non-compliance by the ENTSO for Electricity, **the ENTSO for Gas, the ENNOH,** the EU DSO entity or a regional coordination centre that was identified pursuant to paragraph 6 or 7 of this Article has not been remedied within three months, or where the regulatory authority in the Member State in which the entity has its seat has not taken action to ensure compliance, ACER shall issue a recommendation to the regulatory authority to take action in accordance with Article 59(1) point (c) and Article 62(1) point (f) of Directive (EU) 2019/944 **or with Article 74(1) point (d) of [the recast Gas Directive as proposed in COM(2021) xxx**, in order to ensure that the ENTSO for Electricity, **the ENTSO for Gas, the ENNOH,** the EU DSO entity or the regional coordination centre comply with their obligations, and shall inform the Commission.’;

(5) Article 5(1) is replaced by the following:

1. ACER shall participate in the development of network codes in accordance with Article 59 of Regulation (EU) 2019/943 and Article**s 53 and 54** ~~6~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~ and of guidelines in accordance with Article 61(6) of Regulation (EU) 2019/943 **and Article 56(5) of [the recast Gas Directive as proposed in COM(2021) xxx].** It shall in particular:

(a) submit non-binding framework guidelines to the Commission where it is requested to do so under Article 59(4) of Regulation (EU) 2019/943 or Article**s 53(4) or 54(4)**~~6(2)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~. ACER shall review the framework guidelines and re-submit them to the Commission where requested to do so under Article 59(7) of Regulation (EU) 2019/943 or Article**s 53(7) or 54(7)** ~~6(4)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009;~~

~~(b) provide a reasoned opinion to the ENTSO for Gas on the network code in accordance with Article 6(7) of Regulation (EC) No 715/2009;~~

(b~~c~~) revise the network code in accordance with Article 59(11) of Regulation (EU) 2019/943 **or** ~~and~~ Article**s 53(11) or 54(11)** ~~6(9)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~. In its revision, ACER shall take account of the views provided by the parties

involved during the drafting of that revised network code led by the ENTSO for Electricity, the ENTSO for Gas**, the ENNOH** or the EU DSO entity, and shall consult the relevant stakeholders on the version to be submitted to the Commission. For this purpose, ACER may use the committee established under the network codes where appropriate. ACER shall report to the Commission on the outcome of the consultations. Subsequently, ACER shall submit the revised network code to the Commission in accordance with Article 59(11) of Regulation (EU) 2019/943 **or** ~~and~~ Article**s 53(11) or 54(11)** ~~6(9)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~. Where the ENTSO for Electricity, the ENTSO for Gas**, the ENNOH** or the EU DSO entity have failed to develop a network code, ACER shall prepare and submit a draft network code to the Commission where it is requested to do so under Article 59(12) of Regulation (EU) 2019/943 or Article**s 53(12) or 54(12)** ~~6(10)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~;

(c~~d~~) provide a duly reasoned opinion to the Commission, in accordance with Article 32(1) of Regulation (EU) 2019/943 or Article**s 24(1) or 46(2)** ~~9(1)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~, where the ENTSO for Electricity, the ENTSO for Gas**, the ENNOH** or the EU DSO entity has failed to implement a network code elaborated under ~~point (a) of~~ Article 30(1)**, point (a)** of Regulation (EU) 2019/943 or Article**s 23(1) or 42(1), point (a)** ~~8(2)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~ or a network code which has been established in accordance with Article 59(3) to (12) of Regulation (EU) 2019/943 **or**~~and~~ Article**s 53(3) to (12) or 54(3) to (12)** ~~6(1) to (10)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~ but which has not been adopted by the Commission under Article 59(13) of Regulation (EU) 2019/943 **or**~~and~~ under Article**s 53(13) or 54(13)** ~~6(11)~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~.

(d~~e~~) monitor and analyse the implementation of the network codes adopted by the Commission in accordance with Article 59 of Regulation (EU) 2019/943 and Article**s 53 and 54** ~~6~~ of **[the recast Gas Directive as proposed in COM(2021) xxx]**~~Regulation (EC) No 715/2009~~ and the guidelines adopted in accordance with Article 61 of Regulation (EU) 2019/943 **and Article 56 of [the recast Gas Directive as proposed in COM(2021) xxx]**, and their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market, and report to the Commission

(6) Article 6(3), first subparagraph is replaced by the following:

'3. By 5 July 2022, and every four years thereafter the Commission shall submit a report to the European Parliament and the Council on the independence of regulatory authorities pursuant to Article 57(7) of Directive (EU) 2019/944 and **Article 70(6) of [the recast Gas Directive as proposed in COM(2021) xxx]**.'

(7) In Article 6 the following paragraphs (9a), (9b), (9c) and (9d) are inserted:

(9a) ACER shall issue recommendations to regulatory authorities and network operators related to regulated asset bases pursuant to Article 4(4) of [Gas Regulation].

(9b) ACER may issue recommendations to regulatory authorities on the allocation of costs of solutions for restrictions to cross-border flows due to gas quality differences pursuant to Article 19(8) of [Gas Regulation].

(9c) ACER may issue recommendations to regulatory authorities on the allocation of costs of solutions for restrictions to cross-border flows due to hydrogen quality differences pursuant to Article 39(8) of [Gas Regulation].

(9d) ACER shall publish monitoring reports on congestion at interconnection points pursuant to Annex I, section 2.2.1, point 2 of [Gas Regulation].

(8) Article 6(10), first subparagraph, points (b) and (c) are replaced by the following:

'(b) network codes and guidelines **referred to in Articles 59 to 61 of Regulation (EU) 2019/943** adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines; ~~**or'**~~

'(c) network codes and guidelines **referred to in Articles 59 to 61 of Regulation (EU) 2019/943** adopted as implementing acts pursuant to Article 5 of Regulation (EU) No 182/2011~~.~~**; or'**

(9) In Article 6(10), first subparagraph, the following points are added:

(d) guidelines pursuant to Annex I to [Gas Regulation]; or

(e) network codes and guidelines referred to in Article 53 to 56 of [Gas Regulation].

(10) In Article 6(10), second subparagraph, point (a) is replaced by the following:

(a) where the competent regulatory authorities have not been able to reach an agreement within six months of referral of the case to the last of those regulatory authorities, or within four months in cases under Article 4(7) of this Regulation or under point (c) of Article 59(1) or point (f) of Article 62(1) of Directive (EU) 2019/944 **or Article 72(1) point (e) of [the recast Gas Directive as proposed in COM(2021) xxx**;

(11) Article 6(10), third subparagraph is replaced by the following:

'The competent regulatory authorities may jointly request that the period referred to in point (a) of the second subparagraph of this paragraph be extended by a period of up to six months, except in cases under Article 4(7) of this Regulation or under point (c) of Article 59(1) or point (f) of Article 62(1) of Directive (EU) 2019/944 **or Article 72(1) point (e) of the recast Gas Directive as proposed in COM(2021) xxx';**

(12) Article 6(10), fourth subparagraph, is replaced by the following:

‘Where the competences to decide on cross-border issues referred to in the first subparagraph have been conferred on the regulatory authorities in new network codes or guidelines **referred to in Articles 59 to 61 of Regulation (EU) 2019/943** adopted as delegated acts after 4 July 2019, ACER shall only be competent on a voluntary basis pursuant to point (b) of the second subparagraph of this paragraph, upon a request from at least 60 % of the competent regulatory authorities. Where only two regulatory authorities are involved, either one may refer the case to ACER.’;

(13) Article 6(12), point (a) is replaced by the following:

(a) shall issue a decision within six months of the date of referral, or within four months thereof in cases pursuant to Article 4(7) of this Regulation or point (c) of Article (59)(1) or point (f) of Article 62(1) of Directive (EU) 2019/944 **or Article 72(1) point (e) of [the recast Gas Directive as proposed in COM(2021) xxx**; and

(14) Article 14(1) is replaced by the following:

‘In carrying out its tasks, in particular in the process of developing framework guidelines in accordance with Article 59 of Regulation (EU) 2019/943 or Articles 53 and 54 of [the recast Gas Regulation as proposed in COM(2021) xxx], and in the process of proposing amendments of network codes under Article 60 of Regulation (EU) 2019/943 or Article 55 of [the recast Gas Regulation as proposed in COM(2021) xxx] ACER shall, extensively consult at an early stage market participants, transmission system operators, **hydrogen network operators**, consumers, end-users and, where relevant, competition authorities, without prejudice to their respective competence, in an open and transparent manner, in particular when its tasks concern transmission system operators **and hydrogen network operators**’

(15) In Article 15 the following paragraphs (6) and (7) are added:

‘(6) ACER shall issue studies comparing the efficiency of EU transmission system operators’ costs pursuant to Article 17(2) of [Gas Regulation].’

‘(7) ACER shall submit opinions providing a harmonised format for the publication of technical information on access to hydrogen networks pursuant to Annex I to this Regulation.’

(16) Article 15(1) is replaced by the following:

‘ACER, in close cooperation with the Commission, the Member States and the relevant national authorities, including the regulatory authorities, and without prejudice to the competences of competition authorities, shall monitor the wholesale and retail markets in electricity and natural gas, in particular the retail prices of electricity and natural gas, compliance with the consumer rights laid down in Directive (EU) 2019/944 and **[Gas Directive]**, the impact of market developments on household customers, access to the networks including access of electricity produced from renewable energy sources, the progress made with regard to interconnectors, potential barriers to cross-border trade, **including the impact of blending hydrogen into the natural gas system and barriers to the cross-border flow of biomethane**, regulatory barriers for new market entrants and smaller actors,

including citizen energy communities, state interventions preventing prices from reflecting actual scarcity, such as those set out in Article 10(4) of Regulation (EU) 2019/943, the performance of the Member States in the area of security of supply of electricity based on the results of the European resource adequacy assessment as referred to in Article 23 of that Regulation, taking into account, in particular, the ex-post evaluation referred to in Article 17 of Regulation (EU) 2019/941.'

(17) In Article 15(2) the following subparagraph 2 is added:

'ACER, in close cooperation with the Commission, the Member States and the relevant national authorities, including the regulatory authorities, and without prejudice to the competences of competition authorities, shall monitor the hydrogen markets, in particular the impact of market developments on hydrogen customers, access to the hydrogen network, including access to the network of hydrogen produced from renewable energy sources, the progress made with regard to interconnectors, potential barriers to cross-border trade**.'**

(18) Article 15(2) is replaced by the following:

'ACER shall publish annually a report on the results of the monitoring referred to in paragraph 1. In that report, it shall identify any barriers to the completion of the internal markets for electricity**,** ~~and natural~~ **natural gas** and **hydrogen**.'.'

Article 66

Amendment to Regulation (EU) No 1227/2011

Regulation No 1227/2011 is amended as follows:

(a) In Article 2, Article 3(3) and (4), Article 4(1), Article 8(5) the term 'electricity or natural gas' is replaced by the term "**electricity, hydrogen or natural gas** ";

(b) In Article 6(2) the term 'electricity and gas markets' is replaced by the term '**electricity, hydrogen and natural gas markets**'.

Article 67

Amendments to Regulation (EU) 2017/1938

Regulation (EU) 2017/1938 is amended as follows:

(1) In Article 1, the first sentence is replaced by the following:

'This Regulation establishes provisions aiming to safeguard the security of gas supply in the Union by ensuring the proper and continuous functioning of the internal market in natural gas and renewable and low carbon gases ('gas'), by allowing for exceptional measures to be implemented when the market can no longer deliver the gas supplies required, including solidarity measure of a last resort, and by providing for the clear definition and attribution of responsibilities among natural gas undertakings, the Member States and the Union regarding both preventive action and the reaction to concrete disruptions of gas supply.';

(2) In Article 2, the following definitions are added:

‘(27)‘gas’ – means natural gas as defined in point (1) of Article 2 of [recast Gas Directive as proposed in COM(2021) xxx];’

(28) ‘strategic stock’ means gas purchased, managed and stored by transmission system operators exclusively for carrying out their functions as transmission system operators and for the purpose of security of supply. Gas stored as part of a strategic stock shall be dispatched only where required to keep the system in operation under secure and reliable conditions in line with Article 35 [recast Gas Directive as proposed in COM(2021) xxx] or in case of a declared emergency under Article 11 of Regulation (EU) 2017/1938 of the European Parliament and of the Council and can otherwise not be sold on wholesale gas markets;’

(29) ‘storage user’ means a customer or a potential customer of a storage system operator.’

(3) In Article 2, the following subparagraph is added:

‘References to natural gas shall be construed as references to gas as defined in point (27).’

(4) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The simulation shall include the identification and assessment of emergency gas supply corridors and shall also identify which Member States can address identified risks, including in relation to **storage and** LNG.’

(5) In paragraph 4, point (e)is replaced by the following:

‘(e) taking into account risks relating to the control of infrastructure relevant to the security of gas supply to the extent that they may involve, inter alia, risks of underinvestment, undermining diversification, misuse of existing infrastructure, **including hoarding of storage capacities**, or an infringement of Union law;’

(6) The following new Article 7a is inserted:

Article 7a

Preventive and emergency measures

Member States shall take appropriate preventive and emergency measures. These measures have to take into account the results of the most recent Union wide simulation of disruption scenarios foreseen in Article 7 and need to be appropriate to address the risks identified in the common and national risk assessments.’

(7) Articles 8(1) and 9(3) to 9(10) shall be moved to become Article 7a(2) to 7a(12).

(8) The following new Articles 7b, 7c and 7d are inserted:

Article 7b

Efficient and joint use of infrastructures and gas storage

1. Member States shall ensure the use of the existing infrastructure at national and regional level, for the benefit of the security of supply in an efficient way. In particular, Member States shall enable the cross border exchange of gas and cross border access to storage and LNG.

2. The common risk assessments and any subsequent updates shall include an analysis of the adequacy of the capacity of storage facilities available in the region, on the functioning of the storage capacities and their contribution to security of supply of the Union, including risks related to control of storage infrastructure relevant for the security of gas supply by third-country entities. This analysis shall compare the role of gas storages with alternative measures such as investments in energy efficiency and renewables.

3. Where the results of this analysis in the common risk assessment or in any updates to this assessment indicate that there is a risk at regional level, which may be a risk for one or several Member States of the same risk group, that cannot otherwise be addressed, the Member States shall consider one or several of the following measures:

a) obliging gas storage users to store a minimum volume of gas in underground storage,

b) tendering, auctioning or equivalent mechanisms which incentivise bookings of storage capacities under which the potential shortfalls in costs are covered,

c) obliging a transmission system operator to purchase and manage strategic stocks of gas,

d) allowing for a possibility to fully integrate storages in the network of the transmission system operator in case the storage would otherwise stop operations, if such stop of operations would put at risk the secure and reliable functioning of the transmission system.

Such measures shall be subject to consultation in the relevant risk group, in particular on how the measures address the risks identified in the common risk assessment.

4. The measures adopted pursuant to Article 7a and paragraph 3 of this Article shall be necessary, clearly defined, transparent, proportionate, non-discriminatory and verifiable, and shall not unduly distort competition or the effective functioning of the internal market in gas or endanger the security of gas supply of other Member States or of the Union. The measures shall not block or restrict cross-border capacities allocated in line with the provisions of Commission Regulation (EU) 2017/459.

5. If regional risks are identified, Member States in the relevant risk group shall aim at agreeing in the regional risk group on the targeted level of stocks in the region to ensure that the identified security of supply risk is covered in line with the common analysis of risks.

Member States in the relevant risk group shall seek to agree on joint financing schemes of the measures taken pursuant to paragraph 3 chosen on the basis of the common risk assessment. The allocation of cost across Member States shall be fair and based on the analysis conducted in accordance with paragraph 2. If the measure is

financed through a levy, this levy shall not be allocated to cross-border interconnection points. If Member States cannot agree on joint financing schemes, the Commission may adopt a legally non-binding guidance on the key elements to be included.

6. Member States in the relevant risk group shall agree on a common coordinated procedure to withdraw the gas stored in storage referred to in paragraph 3 of this Article in case of emergency, as defined in Article 11(1). The common coordinated procedure shall include the procedure in case of withdrawal of gas as part of the actions coordinated by the Commission in case of regional or Union emergency as referred to in Article 12(3).

7. After the internal consultation in the relevant risk group referred to in paragraph 3, the Member States shall consult the Gas Coordination Group. The Member States shall inform the Gas Coordination Group of the joint financing schemes and withdrawal procedures in paragraph 5 and 6.

8. The measures which result from paragraph 3 shall be included in the risk assessments, and where applicable in the preventive action plan and the emergency plan, corresponding to the given period.

Article 7c

EU wide risk assessment

As a transitional provision, within six months from the date of entry into force of this Regulation, all Member States shall complete the existing common and national risk assessments, and where applicable the preventive action plan and the emergency plan, by the necessary addendum to comply with Article 7b, paragraph 2 to 6. These updated plans shall be made public and notified to the Commission following the procedure in Article 8(7), and the Commission shall issue a recommendation under the conditions defined in Article 8(8), to be taken into consideration by the competent authority concerned following the procedure described in Article 8(9).

Article 7d

Joint procurement for strategic stocks

1. Member States may set up a mechanism for the joint procurement of strategic stocks by transmission system operators as part of the preventive measures to ensure security of supply.

The mechanism shall be designed in compliance with EU law and competition rules and in a way so that the strategic stocks can be used as part of the actions coordinated by the Commission in case of regional or Union emergency, as referred to in Article 12(3).

The mechanism shall be open to participation of all transmission system operators within the Union who wish to join after its establishment.

2. The participating Member States shall notify their intention to establish such mechanism to the Commission. The notification shall include the information necessary to assess the compliance with this Regulation, such as the volume of gas to be purchased, the duration of the measure, the participating transmission system

operators, the governance arrangements, the operating procedures and conditions for activation in an emergency situation. It shall also specify the costs and benefits expected.

3. The Commission may issue an opinion within a time limit of three months as to the compliance of the envisaged mechanism with this Regulation . The Commission shall inform the Gas Coordination Group of the notification received and if appropriate ACER. The participating Member States shall take the Commission opinion in the utmost account.

Article 7e

Report on storage and joint procurement for strategic stocks

The Commission shall issue a report three years after the entry into force of this Regulation on the application of Articles 7b, Articles 7c and Article 7d and on the experience, benefits, costs, and any obstacles encountered in the use of the possibility of joint procurement for strategic stocks.

(9) Article 8 is amended as follows:

(a)paragraph 1 is deleted;

(b)paragraph 3 is replaced by the following:

'3.The regional chapters shall contain appropriate and effective cross-border measures, including in relation to **storages and** LNG, subject to agreement between the Member States implementing the measures from the same or different risk groups affected by the measure on the basis of the simulation referred to in Article 7(1) and the common risk assessment.';

(10) in paragraph 6, the following sentence is added:

'The proposal for cooperation may include the voluntary participation in joint procurement of strategic stocks, as referred to in Article 7c.';

(11) The following new Article 8a is inserted:

'Article 8a

Measures on cybersecurity

1. When establishing the preventive action plans and the emergency plans, the Member States shall consider the appropriate measures related to cybersecurity.

2. The Commission may adopt a delegated act in accordance with Article 19 establishing gas sector-specific rules for the cyber security aspects of cross-border gas flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.

3. To develop this delegated act, the Commission shall work closely with the European Union Agency for the Cooperation of Energy Regulators ACER, the Cybersecurity Agency ENISA, the European Network of Transmission System Operators for Gas (ENTSOG) and a limited number of main affected stakeholders, as well as entities with existing competences in cybersecurity, within their own mandate, such as cybersecurity operation centres (SOCs), and computer security incident response teams (CSIRT), as referred to in the Directive on security of network and information systems (NIS 2.0)'

(12) Article 9 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (e) is replaced by the following:

'(e) other preventive measures designed to address the risks identified in the risk assessment, **as referred to in Article 7a(1),** such as those relating to the need to enhance interconnections between neighbouring Member States, to further improve energy efficiency, **to prevent capacity hoarding**, to reduce gas demand and the possibility to diversify gas routes and sources of gas supply and the regional utilisation of existing storage and LNG capacities, if appropriate, in order to maintain gas supply to all customers as far as possible;';

(ii) point (k) is replaced by the following:

' (k) information on all public service obligations that relate to the security of gas supply, **including storage capacity obligations and strategic stocks**;';.

(iii) the following point (i) is added:

'(i) information on measures related to cybersecurity, as referred to in Article 8a.';

(13) In Article 12(3), the following point (d) is added:

'(d) coordinate the actions with regard to the joint procurement of strategic stocks, as referred to in Article 7c.';

(14) Article 13 is amended as follows:

(a) paragraphs 3, 4 and 5 are replaced by the following:

'3. A solidarity measure **shall be a last resort measure** that shall apply only if the requesting Member State has:

(a) declared an emergency state under Article 11;

(b) not been able to cover the deficit in gas supply to its solidarity protected customers despite the application of the measure referred to in Article 11(3);

(c) exhausted all market-based measures ('voluntary measures'), all non-market based measures ('mandatory measures') and other measures contained in its emergency plan;

(d) notified an explicit request to the Commission and to the competent authorities of all Member States with which it is connected either directly or pursuant to paragraph 2 via a third country, accompanied by a description of the implemented measures referred to in point (b) of this paragraph **and by the explicit commitment** to pay fair and prompt compensation to the Member State providing solidarity in accordance with paragraph 8.

4. **The** Member States **that receives a request for a solidarity** measure shall make such offers on the basis of voluntary demand-side measures as much as and for as long as possible, before resorting to non-market-based measures.

Where market-based measures prove insufficient for the Member State providing solidarity to address the deficit in gas supply to solidarity protected customers in the requesting Member State, the Member State providing solidarity may introduce non-market-based measures in order to comply with the obligations laid down in paragraphs 1 and 2.

5. If there is more than one Member State that could provide solidarity to a requesting Member State, the requesting Member State shall, after consulting all Member States required to provide solidarity, seek the most advantageous offer on the basis of cost, speed of delivery, reliability and diversification of supplies of gas. **Should the available market based offers not be enough to cover the deficit in gas supply to the solidarity protected customers in the requesting Member State, the Member States required to provide solidarity shall be obliged to activate non-market based measures.**'

(b) In paragraph 10, the following subparagraph is added:

'Where a solidarity measure has been provided in accordance with paragraphs 1 and 2, the final amount of the compensation that has been paid by the requesting Member State shall be subject to ex-post control by the Regulatory Authority and/or the Competition Authority of the Providing Member State, within three months of the lifting of the emergency. The Requesting Member State shall be consulted and give its opinion on the conclusion of the ex-post control. Following the consultation with the Requesting Member State, the authority which exercises this ex-post control is entitled to require a rectification of the amount of the compensation, taking into account the opinion of the Requesting Member State. The conclusions of this ex-post control shall be transmitted to the European Commission, which will take them into consideration in its report on the emergency pursuant to Article 14(3).';

(c) paragraph 14 is replaced by the following:

'14. The applicability of this Article shall not be affected if Member States fail to agree or finalise their technical, legal and financial arrangements. In such a situation, where **a solidarity measure is needed to guarantee the gas supply to solidarity protected customers, the arrangements contained in**

(new) Annex IX shall apply by default to the request and provision of the relevant gas.';

(15) In Article 14(3), the first subparagraph is replaced by the following:

'After an emergency, the competent authority referred to in paragraph 1 shall, as soon as possible and at the latest six weeks after the lifting of the emergency, provide the Commission with a detailed assessment of the emergency and the effectiveness of the measures implemented, including an assessment of the economic impact of the emergency, the impact on the electricity sector and the assistance provided to or received from, the Union and its Member States. **Where relevant, the assessment shall include a detailed description of the circumstances that led to activating the mechanism in Article 13 and the conditions under which the missing gas supplies were received, including the price and financial compensation paid, and – where relevant – the reasons why the solidarity offers were not accepted and /or gas was not supplied.** Such assessment shall be made available to the GCG and shall be reflected in the updates of the preventive action plans and the emergency plans.'

(16) Article 19 is amended as follows:

(a) the first sentence of paragraph 2 is replaced by the following:

'The power to adopt delegated acts referred to in Article 3(8), Article 7(5), Article 8(5) **and Article 8a(2) (cybersecurity)** shall be conferred on the Commission for a period of five years from 1 November 2017.';

(b) the first sentence of paragraph 3 is replaced by the following:

'3. The delegation of power referred to in Article 3(8), Article 7(5), Article 8(5) **and Article 8a(2) (cybersecurity)** may be revoked at any time by the European Parliament or by the Council.';

(c) the first sentence of paragraph 6 is replaced by the following:

'6. A delegated act adopted pursuant to Article 3(8), Article 7(5), Article 8(5) **and Article 8a(2) (cybersecurity)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and 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.';

(17) Annex VI is amended as follows:

(a) in section 5(a) , second subparagraph, the following indent is inserted after the second indent 'Measures to diversify gas routes and sources of supply,'

'- Measures to prevent capacity hoarding,';

(b) in section 11.3, point (a) , second subparagraph, the following indent is inserted after the second indent 'Measures to diversify gas routes and sources of supply,';

'- Measures to prevent capacity hoarding,';

(18) The text set out in Annex II to this Regulation is added as Annex IX to Regulation (EU) 2017/1938.

↓ 715/2009 (adapted)

Article 68~~31~~

Repeal

Regulation (EC) No ⌦ 715/2009 is ⌫~~1775/2005 shall be~~ repealed ~~from 3 March 2011~~. References made to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 69~~32~~

Entry into force

↓ Corrigendum, OJ L 229, 1.9.2009, p. 29 (adapted)
⇨ new

This Regulation shall enter into force on the ~~20th~~ ⌦ twentieth ⌫ day following ⌦ that of ⌫ its publication in the *Official Journal of the European Union*.

It shall apply from ⇨ January 2023 ⇦ ~~3 March 2011~~.

↓ 715/2009

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

1.5.5. Assessment of the different available financing options, including scope for redeployment

1.6. Duration and financial impact of the proposal/initiative

1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

3.2.2. Estimated output funded with operational appropriations

3.2.3. Summary of estimated impact on administrative appropriations

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party contributions

3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT 'AGENCIES'

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Directive of the European Parliament and of the Council on common rules for the internal markets in renewable and natural gases and in hydrogen (recast).

Proposal for a Regulation of the European Parliament and of the Council on the internal markets for renewable and natural gases and for hydrogen (recast).

1.2. Policy area(s) concerned

Policy area: Energy

Activity: European Green Deal

1.3. The proposal relates to

X a new action

☐ a new action following a pilot project/preparatory action[21]

☐ the extension of an existing action

☐ a merger of one or more actions towards another/a new action

1.4. Objective(s)

1.4.1. General objective(s)

The European Green Deal and the Climate law set the target for the EU to become climate neutral by 2050 in a manner that contributes to European competitiveness, growth and jobs. The greenhouse gas emissions reduction target of 55% is assessed to lead to a share of renewables of between 38% and 40 %. Gaseous fuels will continue to provide an important share of the energy mix by 2050, requiring the decarbonisation of the gas sector via a forward-looking design for competitive decarbonised gas markets. The present initiative is part of the Fit-for-55 package. It covers the market design for gases, including hydrogen. Whilst it will not deliver decarbonisation by itself, it will remove existing regulatory barriers and create the conditions for this to take place in a cost effective manner.

[21] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

1.4.2. *Specific objective(s)*

The following specific objectives focus on those which are addressed by provisions which require additional resources for ACER and DG Energy.

Specific objective No 1:

Create a regulatory framework for a market-based development of the hydrogen sector and hydrogen networks.

Specific objective No 2:

Improving the conditions for cross-border trade in natural gas, taking into account the increasing role of renewable and low-carbon gases, and more rights for consumers.

Specific objective No 3:

Ensure that pan-European entities of network operators comply with EU legislation.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The additional resources will allow ACER and DG Energy to carry out the tasks necessary to fulfil their mandate under EU legislation as per the requirements under this proposal.

1.4.4. *Indicators of performance*

Specify the indicators for monitoring progress and achievements.

Specific objective No 1:

Hydrogen infrastructure development and its joint utilisation by different market participants.

Specific objective No 2:

Level of trade and access of renewable and low-carbon gases to markets (e.g. volumes and number of traders, utilisation rates of LNG terminals and volumes of those gases received).

Specific objective No 3:

Timely establishment of the European Network of Network Operators for Hydrogen and timely inclusion of natural gas DSOs in the EU DSO entity.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The following assessment, to the extent that it concerns ACER, takes into account the estimates of resources needs for current tasks of the recent study undertaken by an independent consultant to establish the resource need for similar but additional tasks, with adjustment to avoid overestimation. Quoted FTE numbers for existing tasks are rounded estimates of required staff in 2023, but with an across-the-board reduction of 20% to take into account that the methodology applied by the consultant was prone to over-estimation as explained in Commission Opinion C(2021)7024 of 5.10.2021 'on the draft programming document of the European Union Agency for the Cooperation of Energy Regulators for the period 2022 – 2024 and on the sufficiency of the financial and human resources available to ACER. This LFS hence applies a more conservative estimate of required staff than the consultant did.

While volumes of natural gas supplied to EU customers will gradually decline, this will not lead to a reduction of workload for existing tasks of ACER for the foreseeable future: For example, the implementation of natural gas network codes continues regardless the volumes transported by the network. Complexity will even increase given the increasing role of blending of low-carbon gases. Furthermore, with a network and market for pure hydrogen, the regulation of a new sector will be added to ACER's list of tasks.

<u>Specific objective No 1: Create a regulatory framework for a market-based development of hydrogen sector and hydrogen networks</u>

- As for electricity and for natural gas, the development of a market-based hydrogen sector requires more detailed rules in the form of **network codes or guidelines**. The proposal includes 9 empowerments to adopt new network codes or guidelines related to hydrogen in the form of Commission Regulations.

  Currently there are 6 network codes or guidelines adopted as Commission Regulations under Gas Regulation (EC) No 715/2009 or included as annexes to this Regulation. The consultant estimated that ACER requires 7 FTE for implementing them. Experience gained in the development and implementation of natural gas network codes and guidelines can be used when developing similar network codes and guidelines in hydrogen (e.g. capacity allocation, interoperability).

  It is therefore estimated that 5 FTEs are required for developing and then implementing the new network codes and guidelines related to hydrogen. Given the gradual development of the hydrogen sector, the additional FTEs should be phased in gradually: 1 FTE per year from 2023 onwards.

- ACER shall also take **decisions on distributing costs for new cross-border hydrogen infrastructure and for solutions removing restrictions due to differing quality of**

hydrogen or of other gases. The consultant estimated that for an ACER decision on cross border cost allocation under the TEN-E Regulation 347/2013 in case Member States' regulatory authorities cannot agree, around 3 FTE are needed for 6 months and in case a decision is appealed further human resources are needed. Assuming a decision once every second year, this would require additional 1 FTE at a time when, with the increasing importance of hydrogen and other gases than natural gas, this decision power is likely to be triggered (i.e. 2026).

- A **4th volume** (next to electricity wholesale, natural gas wholesale and retail/consumers) **on hydrogen** is to be added to ACER's **Market Monitoring Report**, extending the scope of ACER's market monitoring activities. Currently 7-8 FTE work on those existing three volumes. Since hydrogen will be a new area for ACER for which in-house exertise needs to be established, it is estimated that additional 1 FTE is needed from entry into force of the proposals and 1 further FTE once the hydrogen sector is expected to start developing into a pan-European market (i.e. around 2027).

- Given the increasing importance of hydrogen and other gases than fossil gas, the **scope of REMIT needs to be extended**. This will require in total 5 additional FTE, 2 from 2024 onwards and additional 3 FTE once a hydrogen market starts developing, hence from 2027 onwards. Those 5 FTE will be eligible for funding by fees.

Specific objective No 2: Improving the conditions for cross-border trade in natural gas, taking into account the increasing role of renewable and low-carbon gases, and more rights for consumers

- A new Commission Regulation on **cybersecurity** is planned, equivalent to the one for the electricity sector. In line with the experience that ACER needs, on average, 1 FTE per network code or guideline, additional 1 FTE is required for cybersecurity from entry into force of the proposal.

- A new provision is to be introduced requiring network operators to have separate regulated asset bases for natural gas, hydrogen and/or electricity networks to avoid cross-subsidisation. ACER will be tasked with issuing **recommendations to network operators and Member States' regulatory authorities on determining the value of the assets and calculating the charges for network users** and to update them every second year. ACER will also be tasked with publishing every 4 years a **study comparing the efficiency of EU transmission system operators' costs**. For the existing best practice report on transmission and distribution tariffs pursuant to Article 18(9) of Electricity Regulation 2019/943 the consultant estimated 0.4 FTE per year, a little bit more than for the existing report on congestion at gas interconnection points. The proposal reduces the frequency of the latter report from yearly to, in principle, every two years. In consequence additional 0.5 FTE from 2024 onwards should be sufficient to cover both new reporting tasks.

- Mirroring the provisions in the recast Electricity Directive (EU) 2019/944, this proposal will strengthen provisions also for **gas consumers**. Those provisions should be matched by ACER's capacity to monitor consumer rights and retail markets and hence ACER's team working on its yearly Market Monitoring Report should be reinforced by 0.5 FTE from the time onwards when the provisions will need to be transposed by Member States (i.e. 2024).

Specific objective No 3: Ensuring that pan-European entities of network operators comply with EU legislation

- The proposal improves oversight of ENTSO-G (mirroring the provisions related to ENTSO-E), extends the scope of the EU DSO entity to distribution system operators for natural gas and creates a new European Network of Network Operators for Hydrogen.

  The setting up of the European Network of Network Operators for Hydrogen and the extension of the scope of the EU DSO entity creates peak workload for ACER in the first year after entry into force of the proposal followed by the regular monitoring tasks and possible, although rare, enforcement actions. 1 FTE should be sufficient who, after the first year, will also work on the main monitoring task over the new European Network of Network Operators for Hydrogen: the assessment of the new Union-wide network development plan.

Those additional FTE as described above do not include overhead. Applying an overhead ratio of around 25% (less than currently) mean that additional 5 FTE are required. Previous Commission Opinions on ACER's Programming Documents have questionned that the ACER's establishment plan does not include provisions for staff doing clerical or secretarial tasks and ACER indeed relies on interim staff for such tasks. Those overhead FTE should therefore be AST/SCs to remedy this situation, without additional burden on the EU budget, since they would replace interim staff.

Of the total of 21 FTE, up to 7 would be eligible for funding by fees (2 TA ADs, 3 CAs FG IV and 2 TA AST/SC as secretarial support for the heads of the two REMIT departments).

While most of the additional workload for EU bodies will be within ACER, a hydrogen sector which will progressively develop into a pan-European market as well as the increased complexity of the network and market for natural gas due to the increasing supply of other gases than fossil gas will also increase the workload for DG Energy. A conservative estimate is that 1 additional FTE is needed to ensure proper implementation of the strengthened provisions for consumer protection. On wholesale aspect, currently 8 FTE work on markets in gases (including network planning and gas quality). The addition of hydrogen related rules and the increasing complexity of the sector for natural gas requires the multiplication of the workforce by factor 1.5, hence 4 additional FTE, staggered over the coming years in line with the development of the hydrogen sector and the increasing market share of other gases than fossil gas.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this

point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Currently, there are no rules at EU-level regulating dedicated hydrogen networks or markets. In view of the current efforts at EU and national levels to promote the use of renewable hydrogen as a replacement for fossil fuels, Member States would be incentivised to adopt rules on the transport of hydrogen dedicated infrastructure at national level. This creates the risk of a fragmented regulatory landscape across the EU, which could hamper the integration of national hydrogen networks and markets, thereby preventing or deterring cross-border trade in hydrogen.

Harmonising rules for hydrogen infrastructure at a later stage (i.e. after national legislation is in place) would lead to increased administrative burdens for Member States and higher regulatory costs and uncertainty for companies, especially where long-term investments in hydrogen production and transport infrastructure are concerned.

The creation of a regulatory framework at EU-level for dedicated hydrogen networks and markets would foster the integration and interconnection of national hydrogen markets and networks. EU-level rules on the planning, financing and operation of such dedicated hydrogen networks would create long-term predictability for potential investors in this type of long-term infrastructure, in particular for cross-border interconnections (which might otherwise be subject to different and potentially divergent national laws).

When it comes to biomethane, without an initiative at EU level, it is likely that by 2030 a regulatory patchwork would still exist regarding access to wholesale markets, connection obligations and TSO-DSO coordination measures. Likewise, without some harmonisation at the EU level, renewable and low-carbon gas producers will be facing vastly different connection and injection costs across the EU, resulting in an unequal playing field.

Without further legislation at the EU level Member States would continue to apply different gas quality standards and rules on hydrogen blending levels, risking cross-border flow restrictions and market segmentation. Gas quality standards would continue to be mainly defined by the quality parameters of natural gas, limiting the integration of renewable gases in the network.

All these aspects are likely to lower cross-border trade with renewable gases that might be compensated by higher fossil gas imports. The utilisation of the LNG terminals and imports could remain restricted to fossil gas, despite that no adaptation of LNG terminals would be necessary in case competitive biomethane or synthetic methane from non-EU sources were available.

1.5.3. Lessons learned from similar experiences in the past

The experience with previous legislative proposals has shown that staffing needs of ACER are easily underestimated. This is especially the case if legislation includes empowerment provisions for the adoption of more detailed technical rules like the network codes and guidelines under the Electricity Regulation (EU) 2019/943. In order to avoid a repeat of the experience with the third internal market package of 2009, where underestimating the staffing

needs resulted in structural understaffing (only comprehensively solved starting with the EU budget for 2022), for this proposal staffing needs are estimated for several years into the future and take into account likely future developments like the use of empowerments.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

This initiative is included in the Commission work programme for 2021 (COM(2020) 690 final) as part of the European Green Deal and the 'Fit For 55' Package' and will contribute to the greenhouse gas emissions reduction targets of at least 55% by 2030 compared to 1990 as set out by the European Climate Law Regulation and to the EU's objective of achieving climate neutrality by 2050.

1.5.5. Assessment of the different available financing options, including scope for redeployment

The FTE are needed for new tasks while existing tasks will not decrease in the foreseeable future: a hydrogen sector will develop in parallel to the continued use of the natural gas system, the latter even becoming more complex due to the increasing use of other sources of methane than fossil gas. Hence redeployment would not solve the additional staffing needs.

To the extent legally possible, additional FTE will be financed by the existing fee scheme for ACER's tasks under REMIT.

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

– ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☐ Financial impact from YYYY to YYYY

X unlimited duration

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. Management mode(s) planned[22]

X Direct management by the Commission through

– ☐ executive agencies

☐ **Shared management** with the Member States

X Indirect management by entrusting budget implementation tasks to:

☐ international organisations and their agencies (to be specified);

☐the EIB and the European Investment Fund;

X bodies referred to in Articles 70 and 71;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

[22] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

According to its financial regulation, ACER has to provide, in the context of its Programming Document, an annual Work Programme including details on resources, both financial and human, per each of the activities carried out.

ACER reports monthly to DG ENER on budget execution, including commitments, and payments by budget title, and vacancy rates by type of staff.

In addition, DG ENER is directly represented in the governance bodies of ACER. Through its representatives in the Administrative Board, DG ENER will be informed of the use of the budget and the establishment plan at each of its meetings during the year.

Finally, also in line with financial rules, ACER is subject to annual requirements for reporting on activities and the use of resources through the Administrative Board and its Annual Activity Report.

The tasks directly implemented by DG ENER will follow the annual cycle of planning and monitoring, as implemented in the Commission and the executive agencies, including reporting the results through the Annual Activity Report of DG ENER.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

While ACER will have to develop new expertise, it is nevertheless most cost-effective to allocate the new tasks under this proposal to an existing agency which already works on similar tasks.

DG ENER established a control strategy for managing its relations with ACER, part of the 2017 Internal Control Framework of the Commission. ACER revised and adopted its own Internal Control Framework in December 2018.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

Main risk are wrong estimates as regards the workload created by this proposal, given that it aims at providing a facilitating regulatory framework ex-ante, not ex-post after the establishment of national approaches and the appearance of new actors and new fuels (hydrogen and other “alternative gases”) in the energy sector. This risk needs to be accepted,

since, as experience has shown, if additional resources needs are not included in the initial proposal, it is very difficult to remedy this situation later on.

That the proposal includes several new tasks mitigates this risk, since while the workload of some future tasks may be underestimated, others may be overestimated, providing scope for possible future redeployment.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

The allocation of additional tasks for the existing mandate of ACER is not expected to generate specific additional controls at ACER, therefore, the ratio of control costs over value of funds managed will remain unaltered.

Similarly, the tasks assigned for DG ENER will not result in additional controls or change in the ratio of control costs.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

ACER applies the anti-fraud principles of decentralised EU Agencies, in line with the Commission approach.

In March 2019 ACER adopted a new Anti-Fraud Strategy, repealing Decision 13/2014 of the Administrative Board of ACER. The new strategy, spanning over a three-year period, is based on the following elements: an annual risks assessment, the prevention and management of conflicts of interest, internal rules on whistleblowing, the policy and procedure for the management of sensitive functions, as well as measures related to ethics and integrity.

DG ENER also adopted a revised Anti-fraud Strategy (AFS) in 2020. The ENER AFS is based on the Comission Anti-fraud Strategy and a specific risk assessment carried out internally to identify the areas most vulnerable to fraud, the controls already in place and the actions necessary to improve DG ENER's capacity to prevent, detect and correct fraud.

Both the ACER Regulation and the contractual provisions applicable to public procurement ensure that audits and on-the-spot checks can be carried out by the Commission services, including OLAF, using the standard provisions recommended by OLAF.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[23]	from EFTA countries [24]	from candidate countries[25]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
02	02 10 06 and 02 03 02	Diff./	YES/~~NO~~	~~YES/~~NO	~~YES/~~NO	~~YES/~~NO

[23] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
[24] EFTA: European Free Trade Association.
[25] Candidate countries and, where applicable, potential candidates from the Western Balkans.

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	2	European Strategic Investments – Agency for the Cooperation of Energy Regulators (ACER)

ACER			Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
Title 1:	Commitments	(1)	0.690	0.994	1.380	1.614	1.918	**6.596**
	Payments	(2)	0.690	0.994	1.380	1.614	1.918	**6.596**
Title 2:	Commitments	(1a)						
	Payments	(2a)						
Title 3:	Commitments	(3a)						
	Payments	(3b)						
TOTAL appropriations for ACER	Commitments	=1+1a +3a	0.690	0.994	1.380	1.614	1.918	**6.596**
	Payments	=2+2a +3b	0.690	0.994	1.380	1.614	1.918	**6.596**

Heading of multiannual financial framework	7	'Administrative expenditure'

EUR million (to three decimal places)

		Year 2023	Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
DG: ENER							
• Human Resources		0.152	0.304	0.304	0.456	0.760	**1.976**
• Other administrative expenditure							
TOTAL DG ENER	Appropriations						

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	0.152	0.304	0.304	0.456	0.760	**1.976**

EUR million (to three decimal places)

		Year 2023	Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	0.842	1.298	1.684	2.070	2.678	**8.572**
	Payments	0.842	1.298	1.684	2.070	2.678	**8.572**

3.2.2. *Estimated impact on ACER's appropriations*

– **X** The proposal/initiative does not require the use of operational appropriations

– ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs			Year **N**		Year **N+1**		Year **N+2**		Year **N+3**		Enter as many years as necessary to show the duration of the impact (see point 1.6)						**TOTAL**	
	OUTPUTS																	
⇩	Type[26]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[27]…																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

26 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

27 As described in point 1.4.2. 'Specific objective(s)…'

3.2.3. Estimated impact on ACER's human resources

3.2.3.1. Summary

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– **X** The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
Temporary agents (AD Grades)	0,456	0,760	0,912	1,064	1,216	4.408
Temporary agents (AST grades)						
Temporary agents (AST/SC grades)	0.152	0.152	0.304	0.304	0.456	1.368
Contract staff	0.082	0.082	0.164	0.246	0.246	0.820
Seconded National Experts						
TOTAL	0.690	0.994	1.380	1.614	1.918	**6.596**

Staff requirements (FTE):

	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
Temporary agents (AD Grades)	3	6	7	8	10	**10**
Temporary agents (AST grades)						
Temporary agents (AST/SC grades)	1	2	3	4	5	**5**
Contract staff (FG IV)	1	2	3	3	6	**6**
Seconded National Experts						
TOTAL	**5**	**10**	**13**	**15**	**21**	**21**

Of which are funded by the EU contribution[28]:

	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
Temporary agents (AD Grades)	3	5	6	7	8	**8**
Temporary agents (AST grades)						
Temporary agents (AST/SC grades)	1	1	2	2	3	**3**

[28] Each year, in accordance with Article 3(1) of Commission Decision (EU) 2020/2152, ACER will identify those costs, including staff costs, which are eligible for funding by fees and present the result in its draft programming document. In accordance with Article 20 of Regulation (EU) 2019/942, the Commission provides an opinion on ACER's draft programming document, including the Agency's proposals as regards which costs are considered as eligible for funding by fees and the scope for thereby reducing the burden on the EU budget.

Contract staff (FG IV)	1	1	2	3	3	**3**
Seconded National Experts						

TOTAL	**5**	**7**	**10**	**12**	**14**	**14**

Planned recruitment date for the FTEs is the 1 January of the respective year.

3.2.3.2. Estimated requirements of human resources for the parent DG

– ☐ The proposal/initiative does not require the use of human resources.

– **X** The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

		Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**
• **Establishment plan posts (officials and temporary staff)**						
20 01 02 01 and 20 01 02 02 (Headquarters and Commission's Representation Offices)		1	2	2	3	5
20 01 02 03 (Delegations)						
01 01 01 01 (Indirect research)						
10 01 05 01 (Direct research)						
• **External staff (in Full Time Equivalent unit: FTE)**[29]						
20 02 01 (AC, END, INT from the 'global envelope')						
20 02 03 (AC, AL, END, INT and JPD in the Delegations)						
Budget line(s) (specify) [30]	- at Headquarters [31]					
	- in Delegations					
01 01 01 02 (AC, END, INT – Indirect research)						
10 01 05 02 (AC, END, INT – Direct research)						
Other budget lines (specify)						
TOTAL		1	2	2	3	5

29 AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD = Junior Professionals in Delegations.

30 Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

31 Mainly for the EU Cohesion Policy Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime Fisheries and Aquaculture Fund (EMFAF).

These are new tasks, for which there is currently no staff assigned within DG ENER. The human resources required might be met by staff who have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.4. *Compatibility with the current multiannual financial framework*

– ☐ The proposal/initiative is compatible the current multiannual financial framework.

– **X** The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

– The 'Fit for 55' initiatives were not factored in when the MFF headings were calculated. This specific initiative being new, it will require reprogramming both for the line of the contribution to ACER and the line that will support additional work within DG ENER. To the extent that the budgetary impact of the additional human resources for ACER cannot be met from fees or from the current EU contribution, it will be covered by redeployment from other budget lines managed by DG ENER as regards non-fee financed additional FTE, in particular from CEF Energy Programme budget line 02 03 02), however without creating a precedent for the use of CEF funds.

– ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework[32].

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

– The proposal/initiative does not provide for co-financing by third parties.

– The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

[32] See Articles 12 and 13 of Council Regulation (EU, Euratom) No 2093/2020 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027.

3.3. Estimated impact on revenue

– **X** The proposal/initiative has no financial impact on revenue.

– ☐ The proposal/initiative has the following financial impact:

  – ☐ on own resources

  – ☐ on other revenue

  – ☐ please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[33]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

[33] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.

ANNEX
to the LEGISLATIVE FINANCIAL STATEMENT

Name of the proposal/initiative:

Gas Regulation (incl. amendments to ACER Regulation)

1. NUMBER AND COST OF HUMAN RESOURCES CONSIDERED NECESSARY

2. COST OF OTHER ADMINISTRATIVE EXPENDITURE

3. TOTAL ADMINISTRATIVE COSTS

4. METHODS OF CALCULATION USED FOR ESTIMATING COSTS

4.1. HUMAN RESOURCES

4.2. OTHER ADMINISTRATIVE EXPENDITURE

This annex must accompany the legislative financial statement when the inter-services consultation is launched.

The data tables are used as a source for the tables contained in the legislative financial statement. They are strictly for internal use within the Commission.

1. Cost of human resources considered necessary

☐ The proposal/initiative does not require the use of human resources

X The proposal/initiative requires the use of human resources, as explained below:

EUR million (to three decimal places)

HEADING 7 of the multiannual financial framework		2023		2024		2025		2026		2027		2028		2029		2030	
		FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations
• Establishment plan posts (officials and temporary staff)																	
20 01 02 01 - Headquarters and Representation offices	AD	1	0.152	2	0.304	2	0.304	3	0.456	5	0.760						
	AST																
20 01 02 03 - Union Delegations	AD																
	AST																
• External staff [34]																	
20 02 01 and 20 02 02 – External personnel – Headquarters and Representation offices	AC																
	END																
	INT																
20 02 03 – External personnel - Union Delegations	AC																
	AL																

[34] AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT= agency staff; JPD= Junior Professionals in Delegations.

	END																
	INT																
	JPD																
Other HR related budget lines (*specify*)																	
Subtotal HR – HEADING 7		1	0.152	2	0.304	2	0.304	3	0.456	5	0.760						

These are new tasks, for which there is currently no staff assigned within DG ENER. The human resources required might be met by staff who have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Outside HEADING 7 of the multiannual financial framework		**2023**		**2024**		**2025**		**2026**		**2027**		**2028**		**2029**		**2030**	
		FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations	FTE	Appropriations
• Establishment plan posts (officials and temporary staff)																	
01 01 01 01 Indirect Research[35] 01 01 01 11 Direct Research Other (please specify)	AD																
	AST																
• External staff[36]																	
External staff - at	AC																

35 Please choose the relevant budget line, or specify another if necessary; in case more budget lines are concerned, staff should be differentiated by each budget line concerned

36 AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT= agency staff; JPD= Junior Professionals in Delegations.

from operational appropriations (former 'BA' lines).	Headquarters	END																
		INT																
	- in Union delegations	AC																
		AL																
		END																
		INT																
		JPD																
01 01 01 02 Indirect Research		AC																
01 01 01 12 Direct research		END																
Other (please specify)[37]		INT																
Other budget lines HR related (*specify*)																		
Subtotal HR – Outside HEADING 7																		
Total HR (all MFF Headings)			1	0.152	2	0.304	2	0.304	3	0.456	5	0.760						

These are new tasks, for which there is currently no staff assigned within DG ENER. The human resources required might be met by staff who have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[37] Please choose the relevant budget line, or specify another if necessary; in case more budget lines are concerned, staff should be differentiated by each budget line concerned

2. Cost of other administrative expenditure

X The proposal/initiative does not require the use of administrative appropriations
☐ The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to three decimal places)

HEADING 7 of the multiannual financial framework	Year N[38]	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+7	Total
At headquarters or within EU territory:								
20 02 06 01 - Mission and representation expenses								
20 02 06 02 - Conference and meeting costs								
20 02 06 03 - Committees[39]								
20 02 06 04 Studies and consultations								
20 04 – IT expenditure (corporate)[40]								
Other budget lines non-HR related (*specify where necessary*)								
In Union delegations								
20 02 07 01 - Missions, conferences and representation								

38 Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years

39 Specify the type of committee and the group to which it belongs.

40 The opinion of DG DIGIT – IT Investments Team is required (see the Guidelines on Financing of IT, C(2020)6126 final of 10.9.2020, page 7)

expenses								
20 02 07 02 - Further training of staff								
20 03 05 – Infrastructure and logistics								
Other budget lines non-HR related (*specify where necessary*)								
Subtotal Other - HEADING 7 of the multiannual financial framework								

EUR million (to three decimal places)

Outside HEADING 7 of the multiannual financial framework	**Year N**[41]	**Year N+1**	**Year N+2**	**Year N+3**	**Year N+4**	**Year N+5**	**Year N+7**	**Total**
Expenditure on technical and administrative assistance (not including external staff) from operational appropriations (former 'BA' lines):								
- at Headquarters								
- in Union delegations								

[41] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years

Other management expenditure for research								
Policy IT expenditure on operational programmes[42]								
Corporate IT expenditure on operational programmes[43]								
Other budget lines non-HR related (*specify where necessary*)								
Sub-total Other – Outside HEADING 7 of the multiannual financial framework								
Total Other admin expenditure (all MFFHeadings)								

[42] The opinion of DG DIGIT – IT Investments Team is required (see the Guidelines on Financing of IT, C(2020)6126 final of 10.9.2020, page 7)

[43] This item includes local administrative systems and contributions to the co-financing of corporate IT systems (see the Guidelines on Financing of IT, C(2020)6126 final of 10.9.2020)

3. Total administrative costs (all Headings MFF)

EUR million (to three decimal places)

Summary	2023	2024	2025	2026	2027	2028	2029	2030
Heading 7 - Human Resources	0.152	0.304	0.304	0.456	0.760			
Heading 7 – Other administrative expenditure								
Sub-total Heading 7	0.152	0.304	0.304	0.456	0.760			
Outside Heading 7 – Human Resources								
Outside Heading 7 – Other administrative expenditure								
Sub-total Other Headings								
TOTAL HEADING 7 and Outside HEADING 7	0.152	0.304	0.304	0.456	0.760			

These are entirely new tasks. The administrative appropriations required might be met by budget that might be redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

4.

4. Methods of calculation used to estimate costs

4.1 Human resources

This part sets out the method of calculation used to estimate the human resources considered necessary (workload assumptions, including specific jobs (Sysper 2 work profiles), staff categories and the corresponding average costs)

HEADING 7 of the multiannual financial framework
NB: The average costs for each category of staff at Headquarters are available on BudgWeb: https://myintracomm.ec.europa.eu/budgweb/EN/pre/legalbasis/Pages/pre-040-020_preparation.aspx
• Officials and temporary staff From 1 to 5 AD posts to monitor the implementation of the Regulation: - Supervision of and coordination with ACER - Develop a regulatory framework for a market-based development of hydrogen sector and hydrogen networks - Develop the necessary legal framework to improve conditions for cross-border trade in gas, taking into account the increasing role of renewable and low-carbon gases, and more rights for consumers - Ensure that pan-European entities of network operators comply with EU legislation The average costs come from the note Ares(2020)7207955.
• External staff

Outside HEADING 7 of the multiannual financial framework
• Only posts financed from the research budget
• External staff

4.2 Other administrative expenditure

Give details of the method of calculation used for each budget line

and in particular the underlying assumptions (e.g. number of meetings per year, average costs, etc.)

HEADING 7 of the multiannual financial framework

Outside HEADING 7 of the multiannual financial framework