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*****I**
REPORT

on the 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)
(COM(2021)0804 – C9-0470/2021 – 2021/0424(COD))

Committee on Industry, Research and Energy

Rapporteur: Jerzy Buzek

(Recast – Rule 110 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the 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)
(COM(2021)0804 – C9-0470/2021 – 2021/0424(COD))**

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0804),
 - having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0470/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Chamber of Deputies and the Czech Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 19 May 2022¹,
 - having regard to the opinion of the Committee of the Regions of 10 October 2022²,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts³,
 - having regard to the letter of 2 February 2023 sent by the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 110(3) of its Rules of Procedure,
 - having regard to Rules 110 and 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Agriculture and Rural Development,
 - having regard to the report of the Committee on Industry, Research and Energy (A9-0032/2023),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the

¹ OJ C 323, 26.8.2022, p. 101.

² OJ C 498, 30.12.2022, p. 83.

³ OJ C 77, 28.3.2002, p. 1.

proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

2021/0424 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 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 Committee¹,

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

¹ OJ [...], [...], p. [...].

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 715/2009 of the European Parliament and of the Council³ has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.
- (2) The internal market in natural gas, which has been progressively implemented since 1999, aims to deliver real choice for all consumers in the 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.
- (3) ***The Commission communication of 11 December 2019 entitled ‘The European Green Deal’ and Regulation (EU) 2021/1119 of the European Parliament and of the Council⁴ set the target for the Union to reduce its emissions by at least 55% compared to 1990 levels by 2030 and become climate neutral by 2050 in a manner that contributes to Union competitiveness, growth and jobs. This Regulation should contribute to achieving those targets.*** 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.
- (3a) ***Recognising the volatilities created by the Union's overdependence on natural gas imports, in particular with regard to a monopolist supplier, and its wider geopolitical, security and economic impact, an effective policy and regulatory framework for internal market penetration of renewable gas and low-carbon gas, and in particular hydrogen, must ensure that the risk of sustained or new***

² OJ [...], [...], p. [...].

³ 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).

⁴ ***Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1).***

volatilities and dependencies on external suppliers are effectively addressed. To that end, the modernisation of existing and commissioning of new import infrastructure linking Member States and the internal market with third countries and external suppliers must take due account of the need for security of supply in terms of diversification of routes and suppliers, including by avoiding overdependence of any Member State on a single export country.

- (3b) *In light of the Russian Federation's unprovoked and unjustified military aggression against Ukraine and in order to prevent putting at risk the Union's energy security, the natural gas, renewable gas and low-carbon gas originating from the Russian Federation or other bodies controlled by Russian natural or legal persons or undertakings established in the Russian Federation, should be excluded from the Member States' and Union's imports.*
- (4) This Regulation aims to facilitate *decarbonised, efficient and integrated energy systems consistent with the Commission communications of 8 July 2020 entitled 'Powering a climate-neutral economy: An EU Strategy for Energy System Integration' and 'A hydrogen strategy for a climate-neutral Europe', and the Commission Recommendation (EU) 2021/1749⁵. Those initiatives call for transitioning to a more circular energy system with energy efficiency at its core, a greater direct electrification of end-use sectors, prioritising demand-side solutions whenever they are more cost-effective than investments in energy infrastructure, and using renewable fuels, including hydrogen, for end-use applications where electrification is not feasible, not efficient or has higher costs. Therefore, this Regulation should facilitate the penetration of renewable gas and low-carbon gas into the energy system enabling a shift from fossil gas, ■ to allow such new gas to play an important role towards achieving the EU's 2030 climate objectives and climate neutrality in 2050. Member States should eliminate any undue barriers in that regard. This 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*

⁵ *Commission Recommendation (EU) 2021/1749 f 28 September 2021 on Energy Efficiency First: from principles to practice — Guidelines and examples for its implementation in decision-making in the energy sector and beyond (OJ L 350, 4.10.2021, p. 9).*

and timely phase-out of fossil gas notably in all relevant industrial sectors and for *individual* heating purposes, *while mitigating increasing energy poverty*.

- (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.
- (6) [Recast Gas Directive as proposed in COM(2021) xxx] 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.
- (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 *gas* and low-carbon *gas*. 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].

- (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-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, **which** could thus contribute to an investment climate supportive to the **■** decarbonisation objectives **of the Union. In order to avoid undue and excessive cross-subsidies among first and future users of hydrogen networks, it should be possible for hydrogen network operators to spread network development costs over time by allowing Member States to provide for the possibility that future users pay part of the initial costs, by way of an inter-temporal cost allocation mechanism. The methodology and features of that mechanism should be approved by the regulatory authority. The mechanism should be accompanied by a State guarantee to cover the financial risk of hydrogen network operators. As a last resort measure where no more cost-efficient options are available, the regulatory authority should be able to allow, on the basis of an impact assessment, financial transfers between separate regulated services from gas and hydrogen networks.** Cross-subsidies should not be financed by network users in other Member States **and** 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, **subject to notification to the Commission and recommendation by ACER.**
- (9) The use of market-based arrangements, such as auctions, to determine tariffs has to be compatible with the provisions in recast Gas Directive as proposed in COM(2021) xxx and Commission Regulation (EU) 2017/459.
- (10) A common minimum set of third-party access services is necessary to provide a common minimum standard of access in practice throughout the 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.

- (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 **gas** and low-carbon **gas** connected to either the transmission or distribution level. Tariff setting for 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 **and type** 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.
- (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.
- (14a) *The Commission communication of 8 March 2022 entitled ‘RePowerEU: Joint European Action for more affordable, secure and sustainable energy’ (RePowerEU) calls for urgent action to mitigate the impact of rising energy prices, diversify the Union gas supply and accelerate the clean energy transition. In order to allow renewable gas, such as biomethane and biogas, to play their important***

role towards achieving those goals, it is of the utmost importance to achieve by 2030 the production of 35 billion cubic meters (bcm) of biomethane per year within the Union. Achieving that should enable the replacement of 20 % of Russian natural gas imports with a sustainable, cheaper and locally produced alternative, as well as provide the Union with a more resilient and sustainable energy system. The 2030 goal for biomethane is based on the initial projections for production potential for biogas and biomethane⁶, and it takes into account major changes in the energy area such as the high current prices of natural gas and a broad set of additional measures presented in the Commission Staff Working Document of 15 May 2022 entitled ‘Implementing the RepowerEU action plan: investment needs, hydrogen accelerator and achieving the bio-methane targets’ that target the expansion of production of sustainable biomethane and its use. For this scale-up to 35 bcm to happen not only the market integration of renewable gas should be fostered but also the necessary infrastructure should be developed in due time. Specifically, this means developing a strategic approach, based on regional maps identifying the areas that have the highest potential for production of sustainable biogas and biomethane from biomass, to overcome existing technical barriers to boost sustainable biomethane within the Union and to fully integrate biomethane into the current gas system.

- (15) 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 natural gas system in the 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

⁶ *Study "Assistance to assessing options improving market conditions for bio-methane and gas market rules" performed to support the IA for the hydrogen and gas decarbonisation package. https://op.europa.eu/en/publication-detail/-/publication/d24343db-5ee8-11ec-9c6c-01aa75ed71a1/language-en?pk_campaign=ENER%20Newsletter%20December%202021*

with Regulation (EU) 2019/942 of the European Parliament and of the Council⁷. 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. Transmission system operators should operate their networks in accordance with those network codes.

- (16) In order to ensure optimal management of the gas transmission network in the Union, a **joint EU organisation of Gas Transmission System Operators and Hydrogen Network Operators (ENTSOG&H)**, should be provided for. The tasks of the **ENTSOG&H** should be carried out in compliance with the Union's competition rules which are applicable to the decisions of the **ENTSOG&H**. The tasks of the **ENTSOG&H** should be well-defined and its working method should ensure efficiency, transparency and the representative nature of the **ENTSOG&H**. The network codes prepared by the **ENTSOG&H** 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 **for gas and hydrogen at Union 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 operations at regional level. Cooperation at regional level should be compatible with progress towards a competitive and efficient internal market in gases.
- (17) In order to ensure greater transparency regarding the development of the gas transmission network in the Union, the **ENTSOG&H** should draw up, publish and

⁷ 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.

regularly update a non-binding Union -wide ten-year network development plan **for gas and hydrogen** on the basis of a joint scenario and the interlinked model (Union-wide network development plan). ***The Union-wide network development plan should be developed following a transparent process involving meaningful public consultation, and it shall be based on objective and scientific criteria. To that effect, the ENTSOG&H should involve independent scientific bodies, such as the European Scientific Advisory Board on Climate Change, established under Regulation (EU) 2021/1119, in plan development.*** 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. ***The network development plan should promote the energy efficiency first principle and energy system integration and contribute to the prudent and rational use of natural resources and the achievement of the Union's climate and energy targets.***

- (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.
- (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 **gas** and low-carbon **gas** within the entry-exit system, the balancing zone should also cover, ***to the extent possible,***

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

- (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.
- (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.
- (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.
- (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.

- (25) Access to natural gas storage facilities, liquefied natural gas (LNG) facilities *and hydrogen facilities* is insufficient *or non-existent* in some Member States, and therefore the implementation of the existing rules needs to be improved *as regards transparency and the objectives of the communication of the Commission of 18 May 2022 on REPowerEU Plan (the ‘REPowerEU Plan’), in particular rapidly reducing the Union's dependence on Russian energy resources*. Such improvement should take into account the potential and uptake of renewable *gas* and low-carbon *gas, in particular hydrogen and biomethane*, for these facilities in the internal market *and demand-side solutions*. 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.
- (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.
- (27) Regulatory authorities should ensure compliance with the rules contained in this Regulation and the network codes and guidelines adopted pursuant thereto.
- (28) In the guidelines annexed to this Regulation, more detailed rules are defined. Where appropriate, those rules should evolve over time, taking into account the differences of national gas systems and their development.
- (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.
- (30) The Member States and the competent national authorities should be required to provide, *upon request*, relevant information to the Commission. *The request for the*

information should include the reasons why the information is necessary for the purposes of implementing this Regulation. Such information should be treated confidentially by the Commission.

- (31) This Regulation and the network codes and guidelines adopted in accordance with it are without prejudice to the application of the Union rules on competition.
- (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 ■ for regional integration ■ .

■

- (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 *ENTSOG&H*, 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 *ENTSOG&H* 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 *gas* and low-carbon *gas* 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 **such gas** 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 operators 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 **gas** and low carbon **gas**.

- (42) The integration of growing volumes of renewable **gas** and low-carbon **gas** 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 **should be a last resort solution, as it** is less efficient compared to **the use of** 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. **Member States should therefore prioritise the production and use of renewable and low-carbon hydrogen in their pure form in the hard-to-decarbonise sectors, such as in industry and transport applications. However, all efforts** should be **made to avoid the use of hydrogen for applications with regard to which more energy-efficient alternatives exist, such as the heating of buildings, and the production of hot water for sanitary use and of low-grade heat for industrial processes. This Regulation should promote the most efficient uses of hydrogen, but Member States should retain the possibility to decide** on whether to apply blending. **Therefore, harmonised rules on coordination on cross-border restrictions due to differences in hydrogen blending levels will** limit the risk of market segmentation. ■

- (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-Making⁸. 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. ***The Commission should also ensure that the public has access to all documents submitted to the Commission in connection with the adoption of the delegated acts.***
- (46) Commission Regulation (EU) 2015/703⁹ 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

⁸ OJ L 123, 12.5.2016, p. 1

⁹ 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).

differences and due to differences in odourisation 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, *ENTSO for Gas* should be **renamed the joint EU organisation for Gas Transmission System Operators and Hydrogen Network Operators (the ‘ENTSOG&H’) and incorporate Hydrogen Network Operators into its membership and its tasks should be expanded to include hydrogen activities. Those tasks** ■ should be carried out in compliance with Union competition rules, be well-defined and **be performed in a manner representative to gas and hydrogen. The working method of the ENTSOG&H** should ensure efficiency **and transparency** ■ . The network codes prepared by **the ENTSOG&H** should not replace the necessary national network codes for non cross-border issues.

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- (49) In order to ensure **the transparent and efficient** development of the hydrogen network in the Union, the *ENTSOG&H* should establish, publish and regularly update a **single**, non-binding Union-wide ten-year network development plan for **gas and hydrogen paying due consideration to** the needs of the **two distinct gas and** 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 *ENTSOG&H* should **continue to** 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 Regulation **(EU) 2022/869 of the European Parliament and of the Council**¹⁰ for the development of the lists of

¹⁰ **Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013 (OJ L 152, 3.6.2022, p. 45).**

projects of common interest. For that purpose, the *ENTSOG&H* should closely cooperate with the ENTSO for Electricity ■ to facilitate system integration. ■

- (50) All market participants have an interest in the work expected of the *ENTSOG&H*. An effective consultation process is therefore essential. Overall, *the ENTSOG&H* 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 *ENTSOG&H* will establish a central, web-based platform for making available all data relevant for market participants to gain effective access to the network.
- (53a) *In order to promote overall energy system integration, sector coupling and the increase of efficiency and synergies across the energy sectors, the ENTSOG&H and ENTSOE shall cooperate closely with each other. This shall include, in particular, cooperation on the development of the energy system wide cost-benefit analysis, capacity requirements across the energy systems, and the interlinked energy markets and network modelling including electricity, gas and hydrogen transport infrastructure as well as storage, the Union’s climate and energy efficiency objectives, LNG and hydrogen terminals and electrolyzers referred to in Article 11 of Regulation (EU) 2022/869, the scenarios for the Ten-Year Network Development Plans referred to in Article 12 of Regulation (EU) 2022/869 and the***

infrastructure gaps identification referred to in Article 13 of Regulation (EU) 2022/869.

- (53b) *The achievement of the offshore wind development targets of the REPowerEU Plan are of paramount importance development for the needed acceleration of the decarbonisation and the development of the market for renewable hydrogen. Therefore, where technically possible, ENTSOG&H and ENTSO-E should harmonise their work under the European Plan for Priority Corridors for Hydrogen (consistent with Annex I to Regulation (EU) 2022/869 and reinforced by the REPowerEU Plan) and high-level strategic integrated offshore network development plans referred to in Article 14(2) of Regulation (EU) 2022/869 in order to ensure that the site and size of the hydrogen injection points across the two systems are appropriate.***
- (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 *ENTSO G&H* 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 Council¹¹.
- (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.

¹¹ 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).

- (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 (EU) 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 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 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.
- (67a) *The current empowerments vested on ACER by Regulation (EU) No 1227/2011 of the European Parliament and of the Council¹² and Commission Implementing Regulation (EU) No 1348/2014¹³ (together referred to as ‘REMIT’) do not suffice***

¹² ***Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1).***

¹³ ***Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No***

to create a complete and comprehensive dataset of all LNG deliveries into the Union. However, such a comprehensive and complete dataset for daily LNG price assessment is necessary for the Union to manage, in a spirit of solidarity, its procurement policies for international LNG imports, in particular during the ongoing crisis situation. Relevant data and information on LNG contracts are also necessary to ensure monitoring of price developments as well as perform data quality control and quality assurance. Although the crisis situation resulting from the Russian Federation's unprovoked and unjustified military aggression against Ukraine required urgent action, including the conferral of additional powers and tasks to ACER under Council Regulation (EU) 2022/2576¹⁴, the establishment of a daily LNG price assessment and LNG benchmark on a permanent basis should be included.

- (68) In reaction to the significant and *Union-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. *That* 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 *Union's* energy system and the internal energy market, including measures which enhance security of supply. *In response to Russia's invasion of Ukraine, the Commission presented the REPowerEU Plan on 8 March 2022 in order to phase out Union's dependency on Russian fossil fuels and to accelerate the clean energy transition.* 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, *in particular* concerning better-coordinated storage and solidarity rules, should be introduced in this Regulation and

¹⁴ *1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (OJ L 363, 18.12.2014, p. 121). Council Regulation (EU) 2022/2576 of 19 December 2022 enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders (OJ L 335, 29.12.2022, p. 1).*

in Regulation (EU) 2017/1938, *complementing the mandatory minimum level of gas in storage facilities*.

- (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 *full potential of the energy efficiency policies and energy savings and* importance of avoiding stranded assets in the clean energy transition and the goal of reducing the dependency of the Union *on* external fossil fuels providers. The analysis should include an assessment of the risks linked to the *direct or indirect ownership or* 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 *gas* 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 Community¹⁵ 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 *gas* by several transmission operators of different Member States *or other undertakings designated by the Member States* should be designed in a way so that *it* can be used in *the* case of Union **■** or regional emergency as part of the actions coordinated by the Commission pursuant to Article 12(3) of

¹⁵ OJ L 198, 20.7.2006, p. 18.

Regulation (EU) 2017/1938. Transmission system operators *or other undertakings designated by the Member States* which engage in joint procurement of *gas should* ensure that any joint purchasing agreement complies with the *Union* competition rules, and in particular with the requirements of Article 101 TFEU. The notification *effected* to assess the compliance *of the envisaged voluntary mechanism for the joint procurement of gas* with this Regulation is without prejudice to the notification of aids granted by States, where applicable, under Article 108(3) TFEU.

(71a) *Trading venues offering energy-related commodity derivatives often admit for participation various energy firms from all Member States. Such energy firms rely heavily on derivatives traded on such trading venues to ensure crucial supplies of gas and electricity across the Union. Excessive price movements occurring on energy-related commodity derivatives trading venues therefore affect the operation of energy firms across the whole Union, ultimately also adversely affecting end-consumers. Therefore, in a spirit of solidarity between Member States, coordination of the implementation and application of the intra-day volatility management mechanism should be undertaken, to ensure that operators essential for the security of the energy supply in all Member States benefit from safeguards against large price movements that are detrimental to the continued operation of their business, which would also be detrimental to the end-consumers.*

(71b) *The intra-day volatility management mechanism should ensure that excessive movements in prices within a trading day are prevented. The mechanism should be based on the observed market price at regular intervals. Given the wide diversity of instruments in energy derivatives markets and the peculiarities of the trading venues associated with such instruments, the intra-day volatility management mechanisms should be adapted to the specificities of those instruments and markets. Therefore, price limits should be set up by trading venues taking into account the specificities of each relevant energy-related commodity derivative, the liquidity profile of the market for such derivative and its volatility profile.*

(72) The European energy sector is undergoing an important change towards a *highly efficient* decarbonised economy *based on renewable energy sources*, 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.
- (74a) It is important for the Commission and the Member States to have a clear picture of intended and concluded gas supply contracts across the Union, in order to assess whether the objectives of security of supply and energy solidarity are met. Therefore, undertakings or authorities of Member States should inform the Commission and the Member States in which those undertakings are established of large planned gas purchases above 5 TWh/year. This should in particular apply to basic information regarding new or renewed contracts. The Commission should be allowed to issue recommendations to the natural gas undertakings or authorities of the relevant Member States, in particular where further coordination could improve the functioning of joint purchasing or where the launch of a tender for the purchase of gas or planned gas purchases may have a negative impact on security of supply, the internal market or energy solidarity. The issuing of a***

recommendation should not prevent natural gas undertakings or authorities of the relevant Member States from proceeding with the negotiations in the meantime.

(74b) *Where the Commission has reasonable grounds for considering that extraordinary circumstances have occurred in which security of supply of the Union or of a given region or of a Member State cannot be fully ensured without addressing missing links, in particular taking into account the Union's aim to end dependence on a single supplier, it is encouraged to mandate the ENTSOG to carry out a transparent and in-depth analysis of the identified risks to the security of supply and of possible solutions to address it. On the basis of ENTSOG's analysis, the Commission, taking into account the need to promote Union energy security and solidarity, the rapid ending of dependence on a single supplier and the overcoming of related bottlenecks in the internal energy market may identify missing links with a view to resolving or mitigating the identified risks to the security of supply. The Commission may also identify means to support the development of such investment projects, including through an accelerated permitting procedure and financial assistance. It is important that any such investment project is future-proof and compatible with the Union objectives of climate neutrality laid down in Regulation (EU) 2021/1119 and does not lead to stranded assets.*

(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 but can rather, by reason of the scale or effects of such an action, be better achieved at Union level, the 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,

HAVE ADOPTED THIS REGULATION:

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter and scope

This Regulation:

- (a) sets non-discriminatory rules for access conditions to natural gas and hydrogen 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 *gas as well as to contribute to the long-term flexibility of the electricity system*; **■**
- (aa) *encourages preventive measures reducing fossil gas demand through the implementation of the energy efficiency first principle leading to energy savings, increased direct electrification as part of a fully integrated energy system, and increased use of renewable sources of energy, and contributes to the prudent and rational use of natural resources and the achievement of the Union's climate and energy targets; and*
- (b) facilitates the emergence of a well-functioning and transparent wholesale market with a high level of security of supply in *gas* and provides mechanisms to harmonise the network access rules for cross-border exchanges in *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(5), shall apply only to natural gas and hydrogen storage facilities falling under Article 29(3) or (4) of recast Gas Directive as proposed in COM(2021)xxx.

The Member States may establish an entity or body set up in compliance with 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 of this Regulation and shall be subject to

designation in accordance with Article 65 of recast Gas Directive as proposed in COM(2021)xxx.

Article 2 Definitions

1. For the purpose of this Regulation, the following definitions apply:
 - (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;
 - (2) ‘transmission’ means *transmission as defined in Article 2, point (16) of [the recast Gas Directive, COD 2021/0425]*;
 - (3) ‘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 *gas*;
 - (4) ‘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) ‘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) ‘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) ‘secondary market’ means the market of the capacity traded otherwise than on the primary market;
 - (8) ‘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;

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- (10) ‘system integrity’ means any situation in which the pressure and the quality of the natural gas or hydrogen remain within the minimum and maximum limits, so that the transport of natural gas or hydrogen is guaranteed from a technical standpoint;
- (11) ‘balancing period’ means the period within which the off-take of an amount of **gas**, expressed in units of energy, must be offset by every network user by means of the injection of the same amount of **gas** in accordance with the network code;
- (12) ‘network user’ means a customer or a potential customer of a **transmission** system operator **or hydrogen network operator, and transmission** system operators **or hydrogen network 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;
- (13) ‘interruptible services’ means services offered by the transmission system operator or hydrogen network operator in relation to interruptible capacity;
- (14) ‘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) ‘long-term services’ means services offered by the transmission system operator or hydrogen network operator with a duration of one year or more;
- (16) ‘short-term services’ means services offered by the transmission system operator or hydrogen network operator with a duration of less than one year;
- (17) ‘firm capacity’ means gas transmission capacity contractually guaranteed as uninterruptible by the transmission system operator or hydrogen network operator;
- (18) ‘firm services’ mean services offered by the transmission system operator or hydrogen network operator in relation to firm capacity;
- (19) ‘technical capacity’ means the maximum firm capacity that can be offered to the network users, taking account of system integrity and the operational requirements of the transmission system or hydrogen network;

- (20) ‘contracted capacity’ means capacity that has been allocated to a network user by means of a transport contract;
- (21) ‘available capacity’ means the part of the technical capacity that is not allocated and is still available to the system at that moment;
- (22) ‘contractual congestion’ means a situation where the level of firm capacity demand exceeds the technical capacity;
- (23) ‘primary market’ means the market of the capacity traded directly by the transmission system operator or hydrogen network operator;

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- (25) ‘LNG facility capacity’ means capacity at a 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) ‘space’ means the volume of gas which a user of a storage facility is entitled to use for the storage of gas;
- (27) ‘deliverability’ means the rate at which the storage facility user is entitled to withdraw gas from the storage facility;
- (28) ‘injectability’ means the rate at which the storage facility user is entitled to inject gas into the storage facility;
- (29) ‘storage capacity’ means any combination of space, injectability and deliverability;
- (30) ‘entry-exit system’ means ***an access model for natural gas transmission or distribution systems where system users book capacity rights independently on entry and exit points;***
- (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 ***gas is*** 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 providing access to an ***entry-exit system, enabling gas flows in the*** entry-exit system;
- (34) ‘exit point’ means a point subject to booking procedures by network users ***providing access to an entry-exit system,*** 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 72(7), point a, of recast Gas Directive as proposed in COM(2021)xxx;
- (38) ‘new infrastructure’ means an infrastructure not completed by ... ***[entry into force of this Regulation];***
- (38a) ‘natural gas’ means natural gas as defined in Article 2, point (1) of [the recast Gas Directive, COD 2021/0425];***
- (38b) ‘renewable gas’ means renewable gas as defined in Article 2, point (2) of [the recast Gas Directive, COD 2021/0425]***
- (38c) ‘gas’ means gas as defined in Article 2, point (3) of [the recast Gas Directive, COD 2021/0425];***
- (38d) ‘natural gas system’ means natural gas system as defined in Article 2, point (4) of [the recast Gas Directive, COD 2021/0425];***
- (38e) ‘hydrogen system’ means hydrogen system as defined in Article 2, point (5) of [the recast Gas Directive, COD 2021/0425];***

- (38f) ‘hydrogen storage facility’ means a hydrogen facility as defined in Article 2, point (6) of [the recast Gas Directive, COD 2021/0425];**
- (38g) ‘hydrogen storage operator’ means a hydrogen storage operator as defined in Article 2, point (6a) of [the recast Gas Directive, COD 2021/0425];**
- (38h) ‘hydrogen terminal’ means hydrogen terminal as defined in Article 2, point (8) of [the recast Gas Directive, COD 2021/0425];**
- (38i) ‘hydrogen terminal operator’ means hydrogen terminal operator as defined in Article 2, point (8a) of [the recast Gas Directive, COD 2021/0425];**
- (38j) ‘hydrogen quality’ means hydrogen quality as defined in Article 2, point (9) of [the recast Gas Directive, COD 2021/0425];**
- (38k) ‘low-carbon gas’ means low-carbon gas as defined in Article 2, point (11) of [the recast Gas Directive, COD 2021/0425];**
- (38l) ‘transmission system operator’ means transmission system operator as defined in Article 2, point (17) of [the recast Gas Directive, COD 2021/0425];**
- (38m) ‘distribution’ means distribution as defined in Article 2, point (18) of [the recast Gas Directive, COD 2021/0425];**
- (38n) ‘distribution system operator’ means distribution system operator as defined in Article 2, point (19) of [the recast Gas Directive, COD 2021/0425];**
- (38o) ‘hydrogen network’ means hydrogen network as defined in Article 2, point (20) of [the recast Gas Directive, COD 2021/0425];**
- (38p) ‘hydrogen transport’ means hydrogen transport as defined in Article 2, point (21) of [the recast Gas Directive, COD 2021/0425];**
- (38q) ‘hydrogen network operator’ means hydrogen network operator as defined in Article 2, point (22) of [the recast Gas Directive, COD 2021/0425];**
- (38r) ‘supply’ means supply as defined in Article 2, point (23) of [the recast Gas Directive, COD 2021/0425];**
- (38s) ‘storage facility’ means storage facility as defined in Article 2, point (25) of [the recast Gas Directive, COD 2021/0425];**

- (38t) ‘storage system operator’ means storage system operator as defined in Article 2, point (26) of [the recast Gas Directive, COD 2021/0425];**
- (38u) ‘LNG facility’ means LNG facility as defined in Article 2, point (27) of [the recast Gas Directive, COD 2021/0425];**
- (38v) ‘LNG system operator’ means LNG system operator as defined in Article 2, point (28) of [the recast Gas Directive, COD 2021/0425];**
- (38w) ‘system’ means system as defined in Article 2, point (29) of [the recast Gas Directive, COD 2021/0425];**
- (38x) ‘ancillary services’ means ancillary services as defined in Article 2, point (30) of [the recast Gas Directive, COD 2021/0425];**
- (38y) ‘interconnector’ means interconnector as defined in Article 2, point (33) of [the recast Gas Directive, COD 2021/0425];**
- (38z) ‘hydrogen interconnector’ means hydrogen interconnector as defined in Article 2, point (34) of [the recast Gas Directive, COD 2021/0425];**
- (38aa) ‘system user’ means system user as defined in Article 2, point (40) of [the recast Gas Directive, COD 2021/0425];**
- (38ab) ‘customer’ means customer as defined in Article 2, point (41) of [the recast Gas Directive, COD 2021/0425];**
- (38ac) ‘final customer’ means final customer as defined in Article 2, point (44) of [the recast Gas Directive, COD 2021/0425];**
- (38ad) ‘security’ means security as defined in Article 2, point (48) of [the recast Gas Directive, COD 2021/0425];**
- (38ae) ‘control’ means control as defined in Article 2, point (51) of [the recast Gas Directive, COD 2021/0425];**
- (38af) ‘interconnection point’ means interconnection point as defined in Article 2, point (58) of [the recast Gas Directive, COD 2021/0425];**
- (38ag) ‘virtual interconnection point’ means virtual interconnection point as defined in Article 2, point (59) of [the recast Gas Directive, COD 2021/0425];**

(38ah) ‘market participant’ means market participant as defined in Article 2, point (60) of [the recast Gas Directive, COD 2021/0425];

(38ai) ‘interoperability’ means interoperability as defined in Article 2, point (66) of [the recast Gas Directive, COD 2021/0425];

(38aj) ‘energy poverty’ means energy poverty as defined in Article 2, point (69) of [the recast Gas Directive, COD 2021/0425];

(38ak) ‘energy efficiency first’ means ‘energy efficiency first’ as defined in Article 2, point (18) of Regulation (EU) 2018/1999;

(38al) ‘repurposing’ means repurposing as defined in Article 2, point (18) of Regulation 2022/869.

2.

The definitions in *paragraph 1*, points 4 to 23 in relation to transmission apply by analogy in relation to storage and LNG facilities.

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 **gas** markets are operated in accordance with the following principles:

(a) prices for **gas** 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 **gas**;
- (ga) market rules shall ensure a consumer-centred and energy efficient approach in the natural gas and hydrogen market;**
- (h) market rules shall foster the emergence and functioning of liquid trading for **gas**, 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 **gas** market of gas from renewable energy sources, by providing incentives for energy **savings and efficiency, fostering the integration of energy systems, contributing to the prudent and rational use of natural resources and facilitating the achievement of the Union's climate and energy targets;**
- (j) market rules shall deliver appropriate investment incentives **and incentives for interventions that do not require infrastructure investments where they are more efficient**, 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, **while avoiding investment incentives that lead to stranded assets;**

- (ja) market rules shall prioritise the use of hydrogen for industrial customers in hard-to-decarbonise sectors, including in heavy-duty transport, with the highest greenhouse gas abatement potential, where more energy and cost efficient options are not available;*
- (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 3a

Diversification of gas supplies obligation

In order to safeguard the security of energy supply and the essential security interests of the Union in line with the objectives of the REPowerEU Plan, Member States shall diversify their gas supplies and shall ensure that imports of natural gas as well as of renewable gas and low-carbon gas through pipelines and LNG terminals do not originate from the Russian Federation.

Article 3b

Upscaling of renewable gas and low-carbon gas in coal and carbon-intensive regions

- 1. The Commission shall support and provide incentives to encourage the penetration of renewable gas and low-carbon gas, in particular hydrogen and biomethane, into the Union energy system, in particular in coal and carbon-intensive regions pursuant to Regulation (EU) 2021/1056, by means of an enabling framework. That framework shall include:*
 - (a) investments to facilitate a just transition of those regions, with the aim of increasing the share of renewable gas and low-carbon gas, in particular in industrial processes, district heating and energy storage for enhancing flexibility of the energy system;*
 - (b) effective support measures to accelerate the phase out of solid fossil fuels in industrial and district heating sectors through investments in their modernisation, innovation and development as well as to decarbonise existing fossil-based hydrogen production sites;*
 - (c) upskilling and reskilling programmes and projects aiming to create and strengthen a hydrogen-ready workforce;*

- (d) *the implementation of hydrogen valleys or, where appropriate, Important Projects of Common European Interests (IPCEI), in particular innovation projects enabling the conversion from fossil fuels to renewable hydrogen and biomethane.*

Article 3c

Mainstreaming biomethane in the gas system

In order to support the sustainable production of biomethane to safeguard the security of gas supply in the Union and decrease dependence on fossil natural gas imports, Member States shall, by 31 December 2030, ensure collectively that at least 35 bcm of sustainable biomethane that complies with Directive (EU) 2018/2001 is produced and injected into the natural gas system at the level of the transmission system operators or of the distribution system operators.

Article 4

Separation of regulatory asset bases

1. Where a transmission system operator or a hydrogen network operator provides regulated services for gas, hydrogen *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 *separate* regulatory asset base ■ for gas, electricity or hydrogen assets. A separate regulatory asset base shall ensure that:
 - (a) services revenues obtained from the provision of specific regulated services can ■ be used *only* to recover the capital and operational expenditures related to the assets included in the *regulatory* assets base on which the regulated services were provided;
 - (b) when assets are transferred to a different regulatory 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 *shall not* allow financial transfers between regulated services that are separate *within the meaning of* paragraph 1.

2a. In order to avoid undue and excessive cross-subsidies among first and future users of hydrogen networks, Member States may allow hydrogen network operators to spread network development costs over time, by ensuring that future users pay part of the initial costs. Such an inter-temporal cost allocation mechanism and its underlying methodology shall be subject to approval by the competent regulatory authority referred to in Article 70 of recast Gas Directive. Where Member States apply such a mechanism, they shall put in place a State guarantee to cover the financial risk of hydrogen network operators.

2b. By way of derogation from paragraph 2 of this Article, the regulatory authority referred to in Article 70 of recast Gas Directive may allow, as a last resort, where no more cost-efficient options are available, financial transfers between regulated services that are separate within the meaning of paragraph 1. The regulatory authority shall take such a decision only on the basis of an impact assessment that demonstrates the impact of those financial transfers on cross-subsidisation between users of gas networks and users of hydrogen networks and confirms the cost-efficiency of those financial transfers, the fact that the level playing field across Member States is preserved and that the resulting gas network tariffs do not unreasonably distort cross-border trade.

2c. If supported by the impact assessment referred to in paragraph 2b, a Member State may allow financial transfers between regulated services that are separate within the meaning of paragraph 1, 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 of recast Gas Directive and their implementation starts at the beginning of a defined gas year;**

- (d) *the approved dedicated charge and financial transfer and the methodologies, where methodologies are approved are published before their implementation;*
- (e) *ACER has issued a recommendation, in accordance with paragraph 4, and the Commission has been notified of the dedicated charges.*

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

- (a) network access tariffs are charged to users of the regulatory 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.

3a. *Costs associated with feasibility studies related to the repurposing of the networks to hydrogen shall not be considered to be financial transfers between regulated assets.*

4. By ... [*one year after the date of entry into force of this Regulation*] ACER shall issue recommendations to transmission *system operators or hydrogen* network operators and regulatory authorities on the *criteria to allow and determine the inter-temporal allocation of network development costs among users of hydrogen network. Where necessary, ACER shall issue* methodologies for:

- (a) the determination of the value of the assets that are transferred to another *regulatory* 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 to the regulatory asset base.

ACER shall update the recommendations *referred to in the first subparagraph* at least once every two years.

Article 5

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. The price of interruptible capacity shall reflect the probability of interruption;
 - (c) offer to network users both long and short-term capacity.

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 or 73 of recast Gas Directive as proposed in COM(2021) xxx.

1a. No tariffs shall be charged pursuant to Article 15 for access to transmission systems at interconnection points between Member States unless the regulatory authorities concerned jointly agree on a tariff regime for such access. In the absence of an agreement between the regulatory authorities concerned, ACER shall decide on the tariff regime, including the possibility of avoiding the application of tariffs, in accordance with Article 6(10) of Regulation (EU) 2019/942. When deciding on that tariff regime the regulatory authorities concerned or ACER shall ensure an appropriate return on investment and covering of the operational expenditure born by the gas transmission network operators in relation to the specific interconnection point.

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(1).
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.
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.
 5. 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.

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. ***When adopting a decision on the imposition***

of a shorter maximum duration, the regulatory authorities shall take into account, inter alia, commitment from users to secure network financing, negative implications on planning and refinancing possibilities.

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.
 - 5a. *Where there is less capacity than potential users, hydrogen network operators shall, in cooperation with both relevant regulatory authorities and potential users, give priority access to users who can demonstrate the highest potential of greenhouse gas abatement per tonne of consumed hydrogen and where no more energy and cost efficient options are available. This paragraph shall not apply to access to the hydrogen network that has already been granted.*
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. Articles 16 and 17 shall not apply. ***From 1 January 2031***, no tariffs shall be charged pursuant to Article 15 for access to hydrogen networks at interconnection points between Member States, *unless the regulatory authorities concerned jointly agree on a tariff regime for such access. In the absence of an agreement between the regulatory authorities concerned, ACER shall decide on the tariff regime, including the possibility of avoiding the application of tariffs, in accordance with Article 6(10) of Regulation (EU) 2019/942. When deciding on that tariff regime the regulatory authorities concerned or ACER shall ensure an appropriate return on investment and covering of the operational expenditure born by the hydrogen transmission network operators in relation to the given interconnection point.* 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, **Article 15(1) of this Regulation** 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 *ENTSOG&H*. 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.

Article 7

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

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.
4. 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.

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.

5. 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.
6. 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 constraints and shall permit smaller storage users to gain access to storage services.

Article 8

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

LNG and storage system operators shall, ***in cooperation with relevant regulatory authorities and*** at least every two years, assess market demand for new investment, allowing the use of renewable **gas** and low carbon **gas** in the facilities, ***including repurposing for hydrogen derivatives and hydrogen terminals***. When planning new investments, LNG and storage system operators shall assess market demand and take into account security of supply, ***as well as market demand for liquid hydrogen and new related investments***. LNG and storage system operators shall make publicly available any plans regarding new investments allowing ***prioritising*** the usage of renewable **gas** and low carbon **gas** in their facilities.

Article 9

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 30(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, ***taking into account investments in decommissioning, cost-savings from repurposing to hydrogen and investments in alternative demand-side solutions not requiring new infrastructure investments;***
 - (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.

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

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.

Article 10

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 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;
 - (c) be compatible with the connected network access systems.
3. Contracts for LNG terminals, hydrogen terminals, and hydrogen and natural gas storage facilities 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 shall offer unused LNG facility, hydrogen terminal and storage capacity on the primary market without delay; for storage facilities this 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 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 [date of entry into force of this Regulation].

Article 11

Trading of capacity rights

Each transmission, storage, 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 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 contracts and procedures shall be notified to the regulatory authorities.

Article 12

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 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

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(6) of [the recast gas Directive as proposed in COM(2021)xxx] 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 regulatory authority in regard to its compatibility with Article 65(2) or Article 66, and Article 54 of 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 to provide its opinion on the 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 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 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 is empowered to adopt delegated acts in accordance with Article 63 to provide guidelines setting out the details of the procedure to be followed for the application of paragraphs 1 and 2 of this Article.
6. Where the Commission has received notification of the certification of a transmission system operator under Article 54(10) of 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.

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

Article 15

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(7) of Recast Gas Directive, as well as tariffs published pursuant to Article 27(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. Tariffs, or the methodologies used to calculate them, shall be applied in a non discriminatory manner.

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. ***They shall aim to avoid creating incentives for the practice of blending hydrogen into the natural gas system for the purpose of increasing the volume of natural gas transported or stored or of prolonging the lifetime of natural gas infrastructure.***

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 regulatory authorities. Member States shall ensure that 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 would hamper trade across transmission systems, and notwithstanding Article 72(7) of Recast Gas Directive, transmission system operators shall, in close cooperation with the relevant national authorities, actively pursue convergence of tariff structures and charging principles.
 - 2a. ***The regulatory authority may apply a discount of up to 100% to capacity-based transmission and distribution tariffs at entry points from and exit points to underground storage facilities and LNG facilities, unless and to the extent that such a facility is connected to more than one transmission or distribution network and is used to compete with an interconnection point. The Commission shall re-examine that tariff discount by ... [five years after the date of entry into force of this Regulation]. The Commission shall assess whether the level of the discount set***

out in this paragraph remains adequate for the purpose of increasing security of supply and in light of the storage obligation pursuant to Article 6a of Regulation (EU) 2017/1938 of the European Parliament and of the Council¹⁶.

Article 16

Tariff discounts for renewable *gas* and low carbon *gas*

Regulatory authorities shall assess whether to offer support to lower grid connection costs and fees for renewable gas and low-carbon gas production facilities.

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, to 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

¹⁶ ***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).***

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].

Article 17a

Facilitating biomethane connections and potential analysis

- 1. By ... [one year after the transposition deadline referred to in Article 5(1), first subparagraph, of RED III Directive [COD 2021/0218]], Member States shall establish regional maps that identify the areas that, due to the availability of raw materials, such as waste or residues, or to existing operating biogas or biomethane plants, have the highest potential for production of sustainable biogas and biomethane from biomass fuels. Such biomass fuels shall fulfil the sustainability criteria in accordance with Article 29 of Directive (EU) 2018/2001. Before establishing those regional maps, the Member States shall consult the competent regulatory authority, regional and local authorities, the transmission system operators and the distribution system operators and other relevant stakeholders. Regional maps may be updated to consider new sources of sustainable feedstock for biogas and biomethane production.*
- 2. Distribution system operators and transmission system operators shall map connection potential on the basis of existing and expected capacity to facilitate connection requests, taking into consideration the potential for an increase of production of sustainable biogas and biomethane from biomass fuels as referred to in paragraph 1.*
- 3. By ... [two years after the date of entry into force of this Regulation], each Member State shall, taking into account the regional maps referred to in paragraph 1, establish national strategies on the production of sustainable biogas and biomethane and their use in order to assess the potential for the production of sustainable biogas and biomethane, evaluate any barriers for the production or injection of biomethane in the grid as well as establish a trajectory to reach the identified national potentials by 2030 and 2050. Member States' national strategies shall be closely linked with their integrated national energy and climate plans under Regulation (EU) 2018/1999. Member States shall report on the progress in*

achieving their contribution to the 35 bcm Union target as part of their biennial reporting pursuant to Regulation (EU) 2018/1999.

4. *By 2024 and regularly thereafter, regulatory authorities shall, in cooperation with relevant stakeholders, issue a progress report on the production, transport and uptake of biomethane.*
5. *National standardisation body shall adopt appropriate gas quality standards, based on the European standards adopted by the European Committee for Standardisation (CEN), allowing for injection of biomethane in the existing gas networks while ensuring the integrity of the system.*

Section 3

TRANSMISSION, STORAGE, LNG AND HYDROGEN TERMINAL SYSTEM OPERATION

Article 18

Firm capacity for renewable **gas** and low carbon **gas** to the transmission system

1. Transmission system operators shall ensure firm capacity for the access of production facilities of renewable **gas** and low carbon **gas** connected to their grid. For this purpose, transmission system operators shall, in cooperation with the distribution system operators, *develop* procedures and arrangements, including investments, to ensure reverse flow from *the* distribution **network** to *the* transmission network, *and network reinforcement plans to ensure network reinforcement, where appropriate.*
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 *infrastructure safety and* economic efficiency. The regulatory authority *shall be responsible for reviewing and approving the transmission system operators' conditions for conditional capacity and* 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.

2a. For the purpose of the swift implementation of grid connection of renewable gas production, Member States shall ensure that:

- (a) the transmission system operator complies with reasonable time limits to assess the requests for the injection of renewable gas, make an offer and implement the connection, under the monitoring of the national regulatory authority carried out in accordance with Article 37 and Article 72(1), point (t) of [the recast Gas Directive as proposed in COM(2021) xxx];**
- (b) permitting procedures for the implementation of the connection are not hampered by a lack of administrative capacity and do not create a hurdle to the achievement of the national renewable energy target.**

Article 19

Cross-border coordination on gas quality in the natural gas system

1. Transmission system operators shall cooperate to avoid restrictions to cross-border flows due to gas quality differences on interconnection points between Member States. **When cooperating, transmission system operators shall take into account the characteristics of installations of final gas customers.**
 - 1a. Transmission system operators shall only accept gas flows with a hydrogen content of up to 3% by volume at interconnection points between Member States in the natural gas system, subject to the completion of the procedure described in this Article.**
 - 1b. Member States shall ensure that diverging technical specifications, including gas quality parameters, such as oxygen content and hydrogen blending in the natural gas system, are not used to restrict cross-border gas flows.**
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 ■ regulatory authorities **concerned** 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 **taking into account information provided by end customers directly connected to the transmission system operator grid, distribution system operator or any other stakeholder that could be affected by that procedure**;
 - (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, **in particular of affected end customers connected to the transmission network**, 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 ■ regulatory authorities **concerned** shall take a joint coordinated decision **to remove or maintain** 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. ***Any decision to maintain the recognised restriction shall be reviewed every four years.***

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 ■ regulatory authorities ***concerned*** cannot take a joint coordinated decisions as referred to in paragraphs 6 and 7, ACER shall decide on the solution to remove ***or maintain*** 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. ***Any decision to maintain the recognised restriction shall be reviewed every four years.***
11. Further details required to implement ■ this Article, including details on the cost benefit analysis ***and on a common binding natural gas quality specification for cross-border natural gas interconnectors***, shall be set in a network code established on the basis of Article 53 ■ .

Article 21

The joint EU organisation of Gas transmission system operators and Hydrogen Network Operators

All ***gas*** transmission system operators ***and hydrogen network operators*** shall cooperate at Union level through ***the joint EU Organisation of Gas*** Transmission System Operators ***and***

Hydrogen Network Operators (ENTSOG&H), in order to promote the completion and functioning of the internal market in natural gas *and hydrogen* and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the natural gas transmission network *and of the hydrogen network*.

Article 22

Organisation of the *ENTSOG&H*

1. ***By 1 September 2024, the ENTSOG&H shall publish and submit to the Commission and to ACER the draft statutes, a list of members and candidates awaiting certification as hydrogen network operator and draft rules of procedure, including the rules of procedures on the consultation of other stakeholders, of the ENTSOG&H in the case of changes of those documents or upon a reasoned request of the Commission or ACER.***
 - 1a. ***Before submitting the documents to the Commission and ACER pursuant to paragraph 1 of this Article, the ENTSOG&H shall conduct a public stakeholder consultation in accordance with Article 26. The consultation shall be effective and extensive and shall take place in a timely adequate, open, inclusive and transparent manner. The participation of stakeholders in the consultation shall be voluntary and all relevant stakeholders shall be invited. The ENTSOG&H shall take into account the results of that consultation.***
2. Within four months of the day of the receipt, ACER, 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 referred to in paragraph 2 and within three months of the day of the receipt of the opinion of ACER.
4. Within three months of the day of receipt of the Commission's opinion the *ENTSOG&H* shall adopt and publish the revised statutes and rules of procedure of the *ENTSOG&H*.
 - 4a. ***The statutes of the ENTSOG&H referred to in paragraph 1 shall ensure that:***

- (a) participation in the work of the ENTSOG&H is limited to registered hydrogen network operators and transmission system operators or other relevant stakeholders for the purpose of completing ENTSOG&H's regulatory tasks;*
 - (b) strategic decisions regarding the activities of the ENTSOG&H as well as policy guidelines for the board of the ENTSOG&H are adopted by the board of the ENTSOG&H;*
 - (c) decisions of the general assembly enable the achievement of the ENTSOG&H's purpose;*
 - (d) the board members of the ENTSOG&H are elected by the general assembly for a mandate of a maximum of four years;*
 - (e) the board nominates the President and the Vice-President from among the members of the board of the ENTSOG&H;*
 - (f) cooperation between transmission system operators for gas and hydrogen network operators pursuant to Article 21 is led by the board of the ENTSOG&H;*
 - (g) on the basis of a proposal by the board of the ENTSOG&H, the General Director is appointed by the general assembly for a mandate of four years, renewable once;*
 - (h) the ENTSOG&H publish the minutes of its assembly meetings, board meetings and provide the public with regular information on its decision-making and activities.*
- 4b. The rules of procedure referred to in paragraph 1 shall safeguard the fair and proportionate treatment of its members and shall reflect the diverse geographical, demographic, economic and sectoral structure of its members. In particular, they shall provide for the board to be composed of:*
- (a) a President and a Vice-President designated respectively and on a three-year rotating term from the hydrogen network operators and the transmission system operators groups or vice-versa with alternating roles between transmission system operators and hydrogen network operators; and*

- (b) *an equal number of board members that are designated from both the transmission system operators' representatives and the hydrogen network operators' representatives, ensuring a fair balance between hydrogen network operators and transmission system operators. The statutes of ENTSOG&H shall contain an equal number of board members per category. An equal number of board members shall be reached once there is a sufficient number of certified hydrogen network operators from different Member States.*
- 4c. *The statutes of ENTSOG&H shall provide for clear organisational rules, including with regard to the budget dedicated to transmission system operators' activities and hydrogen network operators' activities, within the ENTSOG&H while ensuring efficiency and shared services being provided by the ENTSOG&H staff to both gas transmission system operators and hydrogen network operators.*
- 4d. *The statutes will also provide for clear organisational rules on the establishment of working-level groups and the definition of their scope and activity, safeguarding the fair and balanced treatment of the organisation's members. Specific working-level groups shall be created to specifically focus on the development of hydrogen infrastructure covering quality, supply and demand outlooks as well as infrastructure needs.*

Article 23

Tasks of the *ENTSOG&H*

1. The *ENTSOG&H* shall *develop* network codes in the areas *set out in Articles 53 and 54* upon a request addressed to it by the Commission in accordance with Article 53(9) *or Article 54(9)*.
2. The *ENTSOG&H* may *develop* network codes in the areas set out in *Articles 53 and 54* with a view to achieving the objectives set out in Article 21 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 for an opinion. That opinion shall be duly taken into account by the *ENTSOG&H*.
3. The *ENTSOG&H* shall adopt *and publish*:

- (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 Union-wide ten-year network development plan *for gas and hydrogen networks* (Union-wide network development plan), including *European Plan for Priority Corridors for Hydrogen that is consistent with Annex I to Regulation (EU) 2022/869 and reinforced by the REPowerEU Plan, and* a European supply adequacy outlook, every two years; *the Union-wide network development plan shall be developed in cooperation with the regulatory authorities and, where technically possible, be harmonised with the Union-wide network development plan for electricity;*
- (c) recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators *and third country hydrogen network operators;*
- (ca) *recommendations relating to the coordination of technical cooperation in the Union between gas transmission and distribution system operators on one hand, and hydrogen network operators on the other;*
- (d) an annual work programme;
- (e) an annual report;
- (f) annual summer and winter supply outlooks;
- (fa) *annual outlook for the supply of hydrogen covering Member States where hydrogen is used in electricity generation or supply;*
- (g) a gas quality *and decarbonisation* monitoring report by 15 May 2024 *and a gas and hydrogen quality and decarbonisation monitoring report by 15 May 2026* at the latest and every two years *thereafter*, including developments of gas quality parameters, developments of the level and volume of *renewable gas and low-carbon gas injected into the gas system as well as 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 *in view of meeting the quality requirements of different end-use applications*;

(h) the gas *and hydrogen* quality *and decarbonisation* monitoring report, *which* 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').

4. The European supply adequacy outlook referred to in paragraph 3, point (b), shall cover the overall adequacy of the gas *and hydrogen systems* to supply current and projected demands for gas *and hydrogen* 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 *gas* transmission system *operator and hydrogen network* operator.

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, *a climate impact assessment*, and an assessment of the resilience of the system. *The plan shall promote the energy efficiency first principle and energy system integration, contribute to the prudent and rational use of natural resources and to achieving the Union's climate and energy targets.*

5. The annual work programme referred to in 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. *The annual programme shall clearly state which activities relate to hydrogen, to gas, or to both of them.*

■

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 *ENTSOG&H* shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission in accordance with Article 53(13), *54* or *56*, and their effect on the harmonisation of applicable rules aimed at

facilitating market integration. The **ENTSOG&H** shall report its findings to ACER and shall include the results of the analysis in the annual report referred to in paragraph 3, point (e), of this Article.

9. The **ENTSOG&H** shall make available all information required by ACER to fulfil its tasks under Article 24. ***In order to enable the ENTSOG&H to fulfil that requirement, transmission system operators and hydrogen network operators shall provide the ENTSOG&H with the requested information.***
10. ACER shall review national ten-year network development plans to assess their consistency with the Union -wide network development plan. If ACER identifies inconsistencies between a national ten-year network development plan and the Union -wide network development plan, it shall recommend amending the national ten-year network development plan or the Union -wide network development plan as appropriate. If such **a** national ten-year network development plan is **developed** in accordance with Article 51 of [recast Directive as proposed in COM(2021) xxx], ACER shall recommend that the competent regulatory authority amend the national ten-year network development plan in accordance with Article 51(5) of that Directive and inform the Commission thereof. ***The ENTSOG&H shall amend Union-wide network development plan taking into account ACER's recommendations. To ensure early and effective participation, the ENTSOG&H shall publish its draft Union-wide network development plan in a timely adequate manner prior to the submission to the regulatory authority, for comments by the stakeholders.***
11. Upon request of the Commission, the **ENTSOG&H** shall give its views to the Commission on the adoption of the guidelines as laid down in Article 56.
 - 11a. ***The ENTSOG&H shall promote cyber security and data protection with regard to gas and hydrogen networks in cooperation with relevant authorities and regulated entities.***

Article 24

Monitoring by ACER

1. ACER shall monitor the execution of the tasks referred to in Article 23(1), (2) and (3) of the **ENTSOG&H** and report to the Commission.

ACER shall monitor the implementation by the **ENTSOG&H** of network codes **developed** under Article 23(2) and network codes which have been developed in accordance with Article 53(1) to (12) **or Article 54(1) to (12)** but which have not been adopted by the Commission under Article 53(13) **or 54(13)**. Where the **ENTSOG&H** has failed to implement such network codes, ACER shall request the **ENTSOG&H** 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.

ACER shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission as laid down in Articles 52, 53, **54**, 55 and 56, and their effect on the harmonisation of applicable rules aimed at facilitating market **and energy system** integration as well as on non-discrimination, effective competition, **the Union's climate and energy targets, the energy efficiency first principle**, and the efficient functioning of the market, and report to the Commission.

2. The **ENTSOG&H** 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 23(3), to ACER for its opinion. **Upon receipt of those documents, ACER shall submit the draft Union-wide network development plan and the draft annual work programme to the European Scientific Advisory Board on Climate Change. The European Scientific Advisory Board on Climate Change shall publish an independent analysis and opinion regarding their consistency with the Union's climate and energy targets.**

Within two months from the day of receipt, ACER shall **publish its** duly reasoned opinion as well as recommendations to the **ENTSOG&H** and to the Commission where it considers that the draft annual work programme or the draft Union-wide network development plan submitted by the **ENTSOG&H** 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. **The programme and plan shall duly take into account ACER's opinion and recommendations.**

Article 25

Regulatory authorities

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

Where appropriate, they shall cooperate with each other, with the Commission and ACER in compliance with Chapter V of Recast Gas Directive.

Article 26

Consultations

1. While preparing the network codes, the draft Union -wide network development plan and the annual work programme referred to in Article 23(1), (2) and (3), the **ENTSOG&H** shall conduct an extensive **public** 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(1). That consultation shall also involve regulatory authorities and other national, **regional and local** authorities, supply and production undertakings, network users including customers, distribution system operators, including relevant industry associations, technical bodies, **civil society** and stakeholder platforms. **The ENTSOG&H shall publish drafts of those documents for comment by the stakeholders and provide sufficient time for the stakeholders to effectively participate. The ENTSOG&H shall aim to identify** 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(1), (2) and (3), the **ENTSOG&H** 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 27

Costs

The costs related to the activities of the *ENTSOG&H* referred to in Articles 21, **22**, 23, 52, 53 **and 54** of this Regulation, and in Article 11 of Regulation (EU) No 347/2013 of the European Parliament and of the Council¹⁷ shall be borne by the *gas* transmission system operators **and 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 28

Regional cooperation of transmission system operators **and hydrogen network operators**

1. Transmission system operators **and hydrogen network operators** shall establish regional cooperation within the *ENTSOG&H* to contribute to the tasks referred to in Article 23(1), (2) and (3).
2. Transmission system operators **and hydrogen network 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, taking into account existing regional cooperation structures. Each Member State shall be allowed to promote cooperation in more than one geographical area.

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

Article 29

Union-wide network development plan for gas and hydrogen

The *ENTSOG&H* shall adopt and publish the Union-wide network development plan referred to in Article 23(3), point (b), every two years. The Union -wide network development plan

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).

shall include the modelling of the integrated network, scenario development, a European supply adequacy outlook, **a climate impact assessment** and an assessment of the resilience of the system.

The Union -wide network development plan shall, in particular:

- (a) build on national investment plans and Chapter IV of Regulation (EU) 347/2013;
- (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 and 52 of [recast Gas Directive as proposed in COM(2021)xxx]; and
- (c) identify investment gaps, **in particular** with respect to cross-border capacities, **where available considering the European Plan for Priority Corridors for Hydrogen consistent with Annex I to Regulation (EU) 2022/869 and reinforced by the REPowerEU Plan, as well as investments with regard to the decommissioning of infrastructure or for repurposing of natural gas infrastructure for the transport of hydrogen and investments for demand-side solutions not requiring new infrastructure investments, supported by a cost-benefit analysis consistent with the methodologies referred to in Article 11 of Regulation EU 2022/869;**
 - (ca) **further energy system integration, promote and implement the energy efficiency first principle, and contribute to achieving the Union's climate and energy targets;**
 - (cb) **take into account the need to prioritise the use of hydrogen in hard to decarbonise sectors.**

In 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 **including demand-side alternatives not requiring new infrastructure investments** may be annexed to the Union -wide network development plan.

When developing the Union-wide network development plan, the ENTSOG&H shall cooperate with the ENTSO for Electricity in particular on the development of the energy system wide cost-benefit analysis, capacity needs across the energy system, and the interlinked energy market and network model including electricity, gas and hydrogen transport infrastructure as well as storage, the Union's climate and energy efficiency objectives, LNG and hydrogen terminals and electrolyzers referred to in Article 11 of Regulation (EU) 2022/869, the scenarios for the ten-year network development plans

referred to in Article 12 of Regulation (EU) 2022/869 and the infrastructure gaps identification referred to in Article 13 of Regulation (EU) 2022/869.

If the Commission submits a legislative proposal concerning a reform of the electricity market design, it shall, if appropriate, ensure that the areas of cooperation between the ENTSOG&H and ENTSO for Electricity referred to in the fourth subparagraph are retained or introduced in the tasks of ENTSO for Electricity.

By 31 December 2035, the Commission shall submit a report to the European Parliament and to the Council assessing the necessity of further integration of planning tasks and governance between the ENTSOG&H and ENTSO for Electricity and, if appropriate, accompany it with a legislative proposal.

Article 30

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 *way* 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 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.

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

Article 31

Transparency requirements concerning natural gas and hydrogen storage facilities, 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 all services they offer 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.
2. LNG system operators shall provide user-friendly instruments for calculating tariffs for the services available.
3. 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. 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. 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 regulatory authority a reasoned request for confidential treatment of the data referred to in the first subparagraph. Where the 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 regulatory authority has approved non-publication.

6. 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.

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.

Article 32

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 regulatory authority, the national competition authority and the Commission, all information referred to in Articles 30 and 31, and in Part 3 of Annex I for a period of five years.

Section 4

DISTRIBUTION SYSTEM OPERATION

Article 33

Firm capacity for renewable **gas** and low-carbon **gas** to the distribution system

1. Distribution system operators shall ensure firm capacity **and continuous injection** for the access of the production facilities of renewable **gas** and low-carbon **gas** connected to their grid. To this extent, distribution system operators shall **■** in cooperation **among themselves and** with the transmission system operators, **develop** procedures and arrangements, including investments, to ensure reverse flow from **the** distribution **network to the** transmission network, **and network reinforcement plans to ensure network reinforcement, where appropriate.**
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 **infrastructure safety and** 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.

2a. For the purpose of the swift implementation of grid connection of renewable gas production, Member States shall ensure that:

- (a) the distribution system operator complies with reasonable time limits to assess the requests for injection of renewable gas, make an offer and implement the connection, with monitoring of the regulatory authority in accordance with Article 41 and Article 72(1), point (t) of [the recast Gas Directive as proposed in COM(2021)xxx];**
- (b) permitting procedures for the implementation of the connection are not hampered by a lack of administrative capacity and do not create a hurdle to the achievement of the national renewable energy target.**

Article 34

Cooperation between distribution system operators, transmission system operators **and hydrogen network operators**

Distribution system operators shall cooperate with other distribution system operators, transmission system operators **and hydrogen network operators** to coordinate maintenance, system development, new connections, **decommissioning** 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 **gas** transported in their networks, which might affect network users, based on Articles 16 and 17 of Commission Regulation (EU) 2015/703.

The development of a distribution system shall be based on a transparent network development plan that the distribution system operator shall publish at least every two years and shall submit to the regulatory authority. The network development plan shall provide transparency on the medium- and long-term gas services needed.

The distribution system operator shall consult consumers, local authorities, relevant transmission system operators and other stakeholders, including trade unions, on the network development plan referred to in the second subparagraph. The distribution system operator shall publish the results of the consultation process along with the network development plan, and submit the results of the consultation and the network development plan to the regulatory authority. The regulatory authority may request amendments to the plan.

Member States may decide not to apply the obligation set out in the second subparagraph to distribution system operators which serve less than 100 000 connected customers.

Article 36

European entity for distribution system operators

Distribution system operators operating a natural gas system *or hydrogen network* 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 Council¹⁸, in order to promote the completion and functioning of the internal market for natural gas, *cooperate in the development of the hydrogen market* 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 *and provide reasons where they are not approved.*

¹⁸ 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).

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 *or hydrogen network*.
 - 1a. ***The governance rules and structures of the EU DSO entity shall guarantee a fair and balanced representation for gas and hydrogen distribution system operators.***
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 *or hydrogen network*.
3. By ... [one year after ***the date of*** entry into force ***of this Regulation***] 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 ***ENTSOG&H*** 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 *or hydrogen network*.
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, ***including customers***.
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 4.
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 *or hydrogen network*.
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&H* 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&H* 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 *systems*, of natural gas *distribution systems*, of *hydrogen* distribution networks and of district heating and cooling systems

including for the purpose of the assessment pursuant to Article 24(8) [proposal for REDIII], ***including recommendations for the suitable placement of electrolyzers with a view to ensure the use of waste heat in district heating network.***

4. The EU DSO entity shall provide input to the ***ENTSOG&H*** for its reporting on gas ***and hydrogen*** 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 ***in order to meet the quality requirements of different end-use applications in line with the applicable hydrogen quality standards.***
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 **regulatory authorities *concerned*** shall take a joint coordinated decision ***to remove or maintain*** 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. ***Any decision to maintain the recognised restriction shall be reviewed every four years.***
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 **■** regulatory authorities *concerned* 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 *or maintain* 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. ***Any decision to maintain the recognised restriction shall be reviewed every four years.***
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 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 *ENTSOG&H*, 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 *ENTSOG&H* and ACER, pursuant to the procedure

laid down in Articles 53 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.

Article 53

Establishment of network codes

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 **Article 19 of this Regulation and** Articles 9 and 35 and 40 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 odourisation 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, **and on a common binding natural gas quality specification for cross-border natural gas interconnectors**, 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 27 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, 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 **gas** and low-carbon **gas**, 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 **gas** 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;

(fa) third-party access rules;

(fb) transparency rules.
3. The Commission shall, after consulting ACER, the **ENTSOG&H** 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 **ENTSOG&H**, 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 **ENTSOG&H**, 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 **ENTSOG&H** or, where provided for in the priority list referred to in paragraph 3, the EU DSO entity in cooperation with the **ENTSOG&H**, 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 **ENTSOG&H**, or where provided for in the priority list referred to in paragraph 3 the EU DSO entity, in cooperation with the **ENTSOG&H**, shall convene a drafting committee to support it in the network code development process. The drafting committee shall consist of representatives of ACER, the **ENTSOG&H**, where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The **ENTSOG&H** or where provided for in the priority list pursuant to paragraph 3 the EU DSO entity, in cooperation with the **ENTSOG&H**, 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.

- 10a.** *Within three months of the date of receipt of the draft network code, ACER shall provide a reasoned opinion to the ENTSOG&H or the EU DSO entity, as appropriate.*
- 10b.** *The ENTSOG&H or the EU DSO entity in cooperation with the ENTSOG&H, as appropriate, shall amend the network code in light of the opinion of ACER and re-submit it to ACER.*
11. ACER shall revise the **re-submitted** 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 **ENTSOG&H** 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 **ENTSOG&H** 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 **ENTSOG&H** 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 **ENTSOG&H** 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 G&H* 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 G&H* by the Commission. The *ENTSO G&H* shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

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, odourisation, 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, *ENTSOG&H*, 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 **ENTSOG&H** 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 **ENTSOG&H** 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 **ENTSOG&H** 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 Electricity and where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The **ENTSOG&H** shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2.
- 10a. *Within three months of the date of receipt of a network code, ACER shall provide a reasoned opinion to the ENTSOG&H or the EU DSO, as appropriate.***
- 10b. *The ENTSOG&H shall amend the network code in light of the opinion of ACER and re-submit it to ACER.***

11. ACER shall revise the *re-submitted* 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 *ENTSOG&H* and shall consult the relevant stakeholders on the revised version to be submitted to the Commission.
12. Where the *ENTSOG&H* 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 *ENTSOG&H* 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 *ENTSOG&H* 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 *ENTSOG&H* 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 *ENTSOG&H* by the Commission. The *ENTSOG&H* shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

Article 55

Amendments to network codes

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 *ENTSOG&H* 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.

Article 56

Guidelines

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:
 - (a) details of third-party access services, including the character, duration and other requirements of those services, in accordance with Articles 5 to 7;
 - (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 and 10;

- (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 and 31;
 - (d) details of tariff methodology related to cross-border trade of natural gas, in accordance with Articles 15 and 16 of this Regulation;
 - (e) details relating to the areas listed in Article 23(6).
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 *ENTSOG&H*, the EU DSO entity and, where relevant, other stakeholders.

Article 57

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.

Article 58

Provision of information and confidentiality

1. Member States and the regulatory authorities shall, on request, provide the Commission with the information necessary for the purposes of enforcing this Regulation, including the guidelines and the network codes adopted under this Regulation.
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.
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.

Article 59

Penalties

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.

Chapter V

Final provisions

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(1), 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.

Any such exemption shall be subject to all of the following conditions ■ :

- (a) the investment enhances competition in gas supply or hydrogen supply and enhance security of supply;
- (b) the investment contributes to ***the achievement of the Union's climate and energy targets***;
- (c) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
- (ca) demand-side solutions that do not require new infrastructure investments have been taken into account as possible alternative solutions to the new infrastructure***;
- (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; ■
- (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 ***and integrated*** market in ***energy, including gas, electricity, hydrogen and demand-side solutions***, to the efficient functioning of the regulated systems concerned, to decarbonisation or to security of supply in the Union;
- (fa) the infrastructure has not received Union financial assistance for works under Regulation (EU) 2021/1153 of the European Parliament and of the Council¹⁹***;
- (fb) the exemption promotes the energy efficiency first principle and energy system integration and does not lead to the stranding of assets.***

These conditions should be assessed taking into account the principle of energy solidarity. National authorities should take into account the situation in other affected

¹⁹ ***Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).***

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 *gas* and low-carbon *gas* 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 *or do not provide grounds for the exemption in their response* 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 Council²⁰, both at regional and national level.
8. Member States *shall* 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 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;

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).

- (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 *adopt* a decision requesting the notifying bodies to amend or withdraw the decision to grant an exemption. ***Before adopting the decision on the exemption, the Commission may seek an opinion of the European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009²¹ as to whether the exemption contributes to achieving the Union's climate and energy targets.*** 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:

²¹ ***Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126 21.5.2009, p. 13).***

- (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 *natural or legal* 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.
- 11a. *The exemptions granted by ... [the date of entry into force of this Regulation] shall remain valid.***

Article 61

Committee procedure

1. The Commission shall be assisted by the [name of the committee] established by Article 84 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.
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.

Article 62

Derogations

This Regulation shall not apply to natural gas transmission systems situated in Member States for the duration of derogations granted under Article 80 of [new Gas Directive].

As regards the derogations granted under Article 81 (of recast Gas Directive XXXX) the Commission shall, by ... [three months after the date of entry into force of this Regulation] submit a report to the European Parliament and to the Council on derogations granted under that Article of [recast Gas Directive]. Thereafter, the Commission shall submit such

a report upon the request of at least one Member State. The report shall, in particular, assess the impact of derogations on the effective functioning of and competition in the internal market in natural gas as well as on security of energy supply and the essential security interests of the Union and the Member States, taking into account the principle of energy solidarity and the REPowerEU Plan objectives. If the report finds that a derogation granted presents a threat to the effective functioning of or competition in the internal market in natural gas, to security of energy supply or the essential security interests of the Union or the Member States, the Commission shall, within one month of the submission of the report, adopt a decision requiring the relevant competent authority to revoke the derogation. Following any such revocation, the relevant Member State shall ensure that the enforcement of rules set out in this Regulation and [recast Gas Directive] takes into account their effective application on Union territory and the integrated nature of the transmission line.

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 *Articles 28, 53, 54, 56 and 60* shall be conferred on the Commission for *a period of five years* from ... [date of entry into force]. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
3. The delegation of power referred to in *Articles 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 ■ 28, 53, 54, 56 *or* 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 **ENTSOG&H**, 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), *the first* subparagraph is replaced by the following:

‘At ACER's request, the regulatory authorities, the ENTSO for Electricity, the **ENTSOG&H**, 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, **gas or hydrogen market operators and gas and hydrogen suppliers** 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 **ENTSOG&H** in accordance with Article 22(2) of [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 [the recast Gas Regulation as proposed in COM(2021) 804].
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 **ENTSOG&H** in accordance with Article 24 of [the recast Gas Regulation as proposed in COM(2021) 804] ■ and of the EU DSO entity as set out in Article 55 of Regulation (EU) 2019/943 and Article 38 of [the recast Gas Regulation as proposed in COM(2021) 804].
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 **ENTSOG&H** in accordance with Article 23(2) of [the recast Gas Regulation as proposed in COM(2021)804] ■ on the network codes;
 - (b) **to** the ENTSO for Electricity in accordance with Article 32(2) of Regulation (EU) 2019/943, to the **ENTSOG&H** in accordance with the Article 24(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)804], 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 ENTSO for Electricity, the *ENTSOG&H*, 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) 803].

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 *ENTSOG&H*, 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 *ENTSOG&H*, 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 *ENTSOG&H*, 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 *ENTSOG&H*, 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 **ENTSOG&H**, 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 Articles 53 and 54 of [the recast Gas Regulation as proposed in COM(2021) 804] and of guidelines in accordance with Article 61(6) of Regulation (EU) 2019/943 and Article 56(5) of [the recast Gas Regulation as proposed in COM(2021) 804]. 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 Articles 53(4) or 54(4) of [the recast Gas Regulation as proposed in COM(2021) 804]. 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 Articles 53(7) or 54(7) of [the recast Gas Regulation as proposed in COM(2021) 804];
 - (b) revise the network code in accordance with Article 59(11) of Regulation (EU) 2019/943 or Articles 53(11) or 54(11) of [the recast Gas Regulation as proposed in COM(2021) 804]. 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 **ENTSOG&H** 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 Articles 53(11) or 54(11) of [the recast Gas Regulation as proposed in COM(2021) 804]. Where the ENTSO for Electricity, the *ENTSOG&H* 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 Articles 53(12) or 54(12) of [the recast Gas Regulation as proposed in COM(2021) 804];

- (c) provide a duly reasoned opinion to the Commission, in accordance with Article 32(1) of Regulation (EU) 2019/943 or Articles 24(1) or 46(2) of [the recast Gas Regulation as proposed in COM(2021) 804], where the ENTSO for Electricity, the *ENTSOG&H* or the EU DSO entity has failed to implement a network code elaborated under Article 30(1), point (a) of Regulation (EU) 2019/943 or Articles 23(1) or 42(1), point (a) of [the recast Gas Directive as proposed in COM(2021) xxx] or a network code which has been established in accordance with Article 59(3) to (12) of Regulation (EU) 2019/943 or Articles 53(3) to (12) or 54(3) to (12) of [the recast Gas Regulation as proposed in COM(2021) 804] but which has not been adopted by the Commission under Article 59(13) of Regulation (EU) 2019/943 or under Articles 53(13) or 54(13) of [the recast Gas Regulation as proposed in COM(2021) 804];
- (d) monitor and analyse the implementation of the network codes adopted by the Commission in accordance with Article 59 of Regulation (EU) 2019/943 and Articles 53 and 54 of [the recast Gas Regulation as proposed in COM(2021) 804] and the guidelines adopted in accordance with Article 61 of Regulation (EU) 2019/943 and Article 56 of [the recast Gas Regulation as proposed in COM(2021) 804], 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) 803].’;
- (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 [the recast Gas Regulation as proposed in COM (2021)804] **and due to the disruption of the gas supply.**
- (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 [the recast Gas Regulation as proposed in COM(2021) 804].
- (9d) ACER shall publish monitoring reports on congestion at interconnection points pursuant to Annex I, section 2.2.1, point 2 of [the recast Gas Regulation as proposed in COM(2021) 804].’;
- (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;
- (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) 803];’;
- (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) 803].’;
- (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) 803]; 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 [the recast Gas Regulation as proposed in COM(2021)804].

(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 ***including the functioning of those markets, wholesale and retail electricity and natural gas prices and price-setting mechanism, including those set out in commercial contracts, with regard to possible anti-competitive, unfair or untransparent behaviour by market operators, and with regard to*** compliance with the consumer rights laid down in Directive (EU) 2019/944 and [the recast Gas Directive as proposed in COM (2021) 803], 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 ***and renewable 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(1) 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, ***including any behaviour on the part of market operators that is anti-competitive, unfair or untransparent***, to the completion of the internal markets for electricity, 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’;

(aa) In Article 2, the following points are added:

‘(16) ‘LNG trading’ means bids, offers or transactions for the purchase or sale of LNG:

(a) that specify delivery in the Union;

(b) that result in delivery in the Union; or

(c) in which one counterparty re-gasifies the LNG at a terminal in the Union;

- (17) ***‘LNG market data’ means records of bids, offers or transactions for LNG trading with corresponding information as specified in Article 8d;***
- (18) ***‘LNG market participant’ means any natural or legal person, irrespective of that person’s place of incorporation or domicile, who engages in LNG trading;***
- (19) ***‘LNG price assessment’ means the determination of a daily reference price for LNG trading in accordance with a methodology to be established by the Agency;***
- (20) ***‘LNG benchmark’ means the determination of a spread between the LNG price assessment and the settlement price for the Title Transfer Facility (TTF) Gas Futures front-month contract established by ICE Endex Markets B.V. on a daily basis.’;***
- (b) In Article 6(2) the term ‘electricity and gas markets’ is replaced by the term ‘electricity, hydrogen and natural gas markets’;
- (ba) ***The following articles are inserted:***

‘Article 8a

Tasks and powers of Agency to carry out LNG price assessments and benchmarks

1. ***The Agency shall produce and publish an LNG price assessment. For the purpose of the LNG price assessment, the Agency shall systematically collect and process LNG market data on transactions.***
2. ***The Agency shall produce and publish the LNG benchmark, for the purposes of which the Agency shall systematically collect and process all LNG market data.***
3. ***By way of derogation from Article 3(4), point (b), of Regulation 1227/2011, the market participant obligations and prohibitions of this Regulation shall apply to LNG market participants. The powers conferred on the Agency under this Regulation and Implementing Regulation (EU) No 1348/2014 shall also apply in relation to LNG market participants including the provisions on confidentiality.***

Article 8b

Publication of LNG price assessments and benchmark

- 1. The LNG price assessment referred to in Article 8a(1) shall be published daily, and by no later than 18.00 CET for the outright transaction price assessment. The Agency shall also, on a daily basis, publish the LNG benchmark referred to in Article 8a(2) by no later than 19.00 CET or as soon as technically possible.**
- 2. For the purposes of this Article, the Agency may make use of the services of a third party.**

Article 8c

Provision of LNG market data to the Agency

- 1. LNG market participants shall submit daily to the Agency the LNG market data in accordance with the specifications set out in Article 8d, in a standardised format, through a high-quality transmission protocol, and as close to real-time as technologically possible before the daily publication of the LNG price assessment (18.00 CET).**
- 2. The Commission may adopt implementing acts specifying the point in time by which LNG market data is to be submitted before the daily publication of the LNG price assessment as referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21(2).**
- 3. Where appropriate, the Agency shall, after consulting the Commission, issue guidance on:**
 - (a) the details of the information to be reported, in addition to the current details of reportable transactions and fundamental data under Implementing Regulation (EU) No 1348/2014, including bids and offers; and**
 - (b) the procedure, standard and electronic format and the technical and organisational requirements for submitting data to be used for the provision of the required LNG market data.**
- 4. LNG market participants shall submit the required LNG market data to the**

Agency free of charge and through the reporting channels established by the Agency, where possible using existing and available procedures.

Article 8d

LNG market data quality

- 1. LNG market data shall include details of:**
 - (a) the parties to the contract, including buy/sell indicator;**
 - (b) the reporting party;**
 - (c) the transaction price;**
 - (d) the contract quantities;**
 - (e) the value of the contract;**
 - (f) the arrival window for the LNG cargo;**
 - (g) the terms of delivery;**
 - (h) the delivery points;**
 - (i) the timestamp information on all of the following:**
 - (i) the time of placing the bid or offer;**
 - (ii) the transaction time;**
 - (iii) the time of reporting of the bid, offer or transaction;**
 - (iv) the receipt of LNG market data by the Agency.**

- 2. LNG market participants shall provide the Agency with LNG market data in the following manner:**
 - (a) transaction, bid and offer unit prices shall be reported in the currency specified in the contract and in €/MWh and shall include applied conversion and exchange rates if applicable;**
 - (b) contract quantities shall be reported in the units specified in the contracts and in MWh;**
 - (c) arrival windows shall be reported in terms of delivery dates expressed in UTC format;**

- (d) the delivery point shall indicate a valid identifier listed by the Agency, such as that referred to in the list of LNG facilities subject to reporting and this Regulation and Implementing Regulation (EU) No 1348/2014; the timestamp information shall be indicated in UTC format;*
 - (e) if relevant, the price formula in the long-term contract from which the price is derived shall be reported in its integrity.*
3. *The Agency shall issue guidance regarding the criteria under which a single submitter accounts for a significant portion of LNG market data submitted within a certain reference period and how this situation is to be addressed in its LNG price assessment and LNG benchmarks.*

Article 8e

Business continuity

The Agency shall regularly review, update and publish its LNG reference price assessment and LNG benchmark methodology as well as the methodology used for LNG market data reporting and the publication of its LNG price assessments and LNG benchmarks, taking into account the views of market data contributors.’

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 **gas** and low-carbon **gas** (‘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.

This Regulation also encourages preventive measures that reduce gas demand, including measures enhancing energy efficiency and increasing the share of renewable energy, in order to decrease the Union's dependence on gas imports.’;

(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];

(29a) ‘trading venue’ means any of the following:

(a) ‘regulated market’ as defined in Article 4(1), point (21), of Directive 2014/65/EU;

(b) ‘multilateral trading facility’ as defined in Article 4(1), point (22), of Directive 2014/65/EU;

(c) ‘organised trading facility’ as defined in Article 4(1), point (23), of Directive 2014/65/EU;

(29b) ‘energy-related commodity derivative’ means a commodity derivative, as defined in Article 2(1), point (30), of Regulation (EU) No 600/2014 of the European Parliament and of the Council²², traded on a trading venue and the underlying of which is electricity or gas, and whose maturity does not exceed 12 months;’;

(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).’;

(3a) In Article 6b(1), third subparagraph, point (e) is replaced by the following:

‘(e) using voluntary mechanisms for the joint procurement of natural gas;’;

(4) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. By 1 November 2017, ENTSOG shall carry out a Union-wide simulation of gas supply and infrastructure disruption scenarios. The simulation shall include the identification and assessment of emergency gas supply corridors and shall also identify which Member States can address

²² **Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173 12.6.2014, p. 84).**

identified risks, including in relation to storage and LNG, **and shall in addition include scenarios examining ways to decrease gas demand through energy savings and energy efficiency measures**. The gas supply and infrastructure disruption scenarios and the methodology for the simulation shall be defined by ENTSOG in cooperation with the GCG. ENTSOG shall ensure an appropriate level of transparency and access to the modelling assumptions used in its scenarios. The Union-wide simulation of gas supply and infrastructure disruption scenarios shall be repeated every four years **until** circumstances warrant more frequent updates.’;

(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 ■ Article ■ is inserted:

‘Article 7a

Preventive and emergency measures

Member States shall take appropriate preventive and emergency measures, **including energy savings and energy efficiency 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 ■ articles ■ 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 ***the direct or indirect ownership or control of storage infrastructure relevant for the security of gas supply by third-country entities. The common risk assessments and any subsequent updates shall identify energy savings and energy efficiency measures, in line with the energy efficiency first principle pursuant to [Article X Energy Efficiency Directive recast] and the system efficiency principle pursuant to [Article X Energy Efficiency Directive recast].*** This analysis shall compare the role of gas storages with alternative measures such as investments in energy efficiency and renewables. ***The analysis shall include the cost efficiency of gas storage and shall take into account the risk of stranded investments.***

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 **■** 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. ***Member States shall consult the relevant risk group before allowing for such a possibility, in particular with regard to how the measures address the risks identified in the common risk assessment. Such a measure shall apply to any storage facility, including storage sites controlled by third-country entities.***

- 3a. ***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 the case of a crisis, as referred to in Article 11(1). The common coordinated procedure shall include the arrangements***

for the withdrawal of gas as part of the actions coordinated by the Commission in the case of a regional or Union emergency pursuant to Article 12(3).

4. The measures adopted pursuant to Article 7a and paragraph 3 of this Article 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 *and shall be without prejudice to national security of supply rules which include gas stocks.*
7. After the internal consultation in the relevant risk group referred to in paragraph 3, the Member States shall consult the **GCG.**

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

Voluntary mechanism for the joint procurement of gas

1. Member States may set up a *voluntary* mechanism for the joint procurement of *gas* by transmission system operators *or other undertakings designated by the Member States* as part of the preventive measures to ensure security of supply. *Such a* mechanism shall be designed in compliance with *Union* law, *in particular Union and national* competition rules and in a way so that *gas can also* be used as part of the actions coordinated by the Commission in *the event of a* regional or Union emergency, as referred to in Article 12(3).

The mechanism shall be open to participation of all transmission system operators *or other undertakings designated by the Member State, gas suppliers and other relevant market participants* within the Union who wish to join after its establishment.

2. The participating Member States shall notify their intention to establish such a 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 *or other undertakings designated by the Member States as well as gas suppliers and other relevant market participants*, the governance arrangements, the operating procedures and conditions for activation in an emergency situation. It shall also specify the costs and benefits expected. *The Commission shall inform the Gas Coordination Group of the notification received and if appropriate ACER.*
3. *Within three months of a notification as referred to in paragraph 2*, the Commission may issue an opinion **■** as to the compliance of the envisaged mechanism with this Regulation. **■** The participating Member States shall take the Commission opinion in the utmost account.

Article 7da

Commission guidelines on the use of voluntary mechanism for the joint procurement of gas

By ... [three months after the date of entry into force of this Regulation], the Commission shall adopt guidelines on the use of voluntary mechanism for the joint procurement of gas referred to in Article 7d of this Regulation. When adopting those guidelines, the Commission shall take into account the lessons learnt from demand aggregation and joint purchasing established under Regulation (EU) 2022/2576.

Article 7e

Report on storage and *voluntary mechanism for the joint procurement of gas*

*By ... [one year after the date of entry into force of this Regulation], the Commission shall submit a report to the European Parliament and to the Council on the application of Articles 7b, **■** 7c and **■** 7d and on the experience, benefits, costs, and*

any obstacles encountered in the use of the possibility of joint procurement *of gas*.
That report shall be accompanied, if appropriate, by a legislative proposal.

Article 7ea

Transparency and information exchange

- 1. Natural gas undertakings or undertakings consuming gas established in the Union or authorities or regulated entities of Member States, which intend to enter into negotiations with natural gas producers or suppliers on the purchase, trade or supply of gas of a volume above 5 TWh/year, shall inform the Commission of their intention to conclude a gas supply contract or a memorandum of understanding before concluding such a contract or memorandum of understanding in accordance with this Article.*
- 2. Natural gas undertakings or undertakings consuming gas established in the Union or authorities or regulated entities of Member States shall inform the Commission at least six weeks before concluding a legally binding contract or memorandum of understanding referred to in paragraph 1, about the identity of the contract partner or partners, the relevant volumes, the relevant dates, the origin of gas and, where applicable, the service provider organising such purchases on behalf of a Member State.*
- 3. If the Commission considers that planned gas purchases of natural gas undertakings or undertakings consuming gas established in the Union or of authorities or regulated entities of Member States may have a negative impact on functioning of joint purchasing, the internal market, essential security interests of the Union, or on security of supply or energy solidarity, the Commission shall issue a recommendation to the relevant Member States to take appropriate measures to avoid such a negative impact. The Member State concerned shall take the utmost account of the Commission's recommendation.*
- 4. When providing information to the Commission in accordance with paragraphs 1 and 2, the entities providing the information may indicate whether any part of the information, be it commercial or other information the disclosure of which could harm the activities of the parties involved, is to*

be regarded as confidential and whether the information provided can be shared with other Member States.

5. *Requests for confidentiality under this Article shall not restrict the access of the Commission itself to confidential information. The Commission shall ensure that access to the confidential information is strictly limited to the Commission services for which it is absolutely necessary to have the information available. Commission representatives shall handle sensitive information with due confidentiality.*
6. *Without prejudice to Article 346 TFEU, information that is confidential shall be exchanged with the Commission and other relevant authorities only where such exchange is necessary for the application of this Regulation. The information exchanged shall be limited to that which is relevant and proportionate to the purpose of such exchange. Such exchange of information shall preserve the confidentiality of that information and protect the security and commercial interests of the entities falling within the scope of this Regulation. The Facility shall not use the information collected for any other purpose than for carrying out the contract.*
7. *All servers and information shall be physically located and stored in the territory of the Union.’;*

(9) Article 8 is amended as follows:

- (a) paragraph 1 is deleted;
- (b) paragraph 3 is replaced by the following:

‘3. The preventive action plan and the emergency plan shall contain a regional chapter, or several regional chapters, where a Member State is a member of different risk groups as defined in Annex I.

The regional chapters shall be developed jointly by all Member States in the risk group before incorporation in the respective national plans. The Commission shall act as a facilitator so as to enable that the regional chapters collectively enhance the security of gas supply in the Union, and, do not give rise to any contradiction, and to overcome any obstacles to cooperation.

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) relevant for regulated entities, and computer security incident response teams (CSIRT), as referred in Art 9 of the DIRECTIVE (EU) 2022/xxx on measures for a high common level of cybersecurity across the Union.’;

(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 (l) is added:
 - ‘(l) 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.’;

(14a) The following articles are inserted:

‘Article 13a

Extension of solidarity protection to critical gas volumes for electricity security of supply

1. By way of derogation from Article 13(3), a solidarity measure pursuant to Article 13(1) and (2) shall apply only if the Member State requesting solidarity has not been able to cover:

- (a) the deficit in gas supply to its solidarity protected customers or, where a Member State has taken temporary measures to reduce the non-***

essential consumption of protected customers in accordance with Article 13b, the essential volumes of consumption of gas to its solidarity protected customers;

(b) the critical gas volume for electricity security of supply, despite the application of the measure referred to in Article 11(3). The conditions set out in Article 13(3), points (b), (c) and (d) shall apply.

2. The Member States which are obliged to provide solidarity pursuant to paragraph 1 shall be entitled to deduct from the solidarity offer:

(a) supplies to its solidarity protected customers to the extent essential volumes are affected or, where a Member State has taken temporary measures to reduce the non-essential consumption of protected customers in accordance with Article 13b, the supplies of the essential volumes of consumption of gas of its solidarity protected customers;

(b) supplies of critical gas volumes for electricity security of supply;

(c) supplies of gas volumes for the electricity needed for the production and transportation of gas; and

(d) gas volumes necessary for the operations of security of supply critical infrastructure as referred to in Annex VIIIb as well as other installations crucial for the functioning of military, national security and humanitarian aid services.

3. The critical gas volumes for electricity security of supply as referred to in paragraph 1, point (b), and paragraph 2, points (b) and (d) shall not exceed the volumes indicated in Annex VIIIa. If a Member State can demonstrate that a higher volume of gas is required to avoid an electricity crisis of a Member State, the Commission may, upon a duly reasoned request, decide to allow the deduction of higher volumes.

4. If Member States whose electricity system is synchronised only with the electricity system of a third country are requested to provide solidarity measures, they may exceptionally deduct higher volumes of gas in the event the electricity system is desynchronised from that third country's system for as long as isolated power system services or other services to the power

transmission system operator are required to ensure the safe and reliable operation of the power system.

Article 13b

Demand reduction measures concerning protected customers

- 1. Member States may, exceptionally, take temporary measures to reduce the non-essential consumption of protected customers, in particular when one of the crisis levels pursuant to Article 11(1) and Article 12, or the Union alert pursuant to Regulation (EU) 2022/1369, has been declared. Such measures shall be limited to non-essential uses of gas and shall take into account the elements set out in Article 6(2) of Regulation (EU) 2022/1369. Such exceptional measures may be taken only after an assessment is carried out by the competent authorities with regard to the conditions to determine such non-essential volumes of gas.*
- 2. As a result of measures referred to in paragraph 1 of this Article, the consumption of vulnerable customers, as defined by Member States in accordance with Article 25 of the recast Directive 2009/73/EC, shall under no circumstance be reduced, and Member States shall not disconnect protected customers as a result of the application of paragraph 1 of this Article.*

Article 13c

Safeguards for cross-border flows

In the case of a Commission request pursuant to Article 12(6), first subparagraph, to terminate undue restrictions of cross-border gas flows or of access to gas infrastructure, or measures endangering the gas supply in another Member State, the competent authority, or the Member State shall, instead of following the procedure provided for in Article 12(6), second subparagraph, modify its action or take action in order to ensure compliance with Article 12(5).

Article 13d

Temporary extension of solidarity obligations to Member States with LNG facilities

- 1. The obligation to provide solidarity measures pursuant to Article 13(1) shall not only apply to Member States directly connected to the requesting Member*

State, but also to Member States with LNG facilities, provided that the necessary capacity in the relevant infrastructure, including the LNG vessels and carriers, is available.

2. *Article 13, paragraphs (2) to (9), shall apply to Member States with LNG facilities unless otherwise provided for in this Regulation.*
3. *Member States with LNG facilities that are not directly connected to a requesting Member State may agree bilaterally with any other Member States on the necessary technical, legal and financial solidarity arrangements that apply to the provision of solidarity.*
4. *The default rules for the provision of solidarity measures pursuant to Article 13e shall also apply to the non-connected Member States in so far as no bilateral arrangement is concluded at the time of the receipt of a solidarity request.*

Article 13e

Default rules for solidarity measures

1. *Where two Member States have not agreed on the necessary technical, legal and financial arrangements pursuant to Article 13(10) (solidarity agreement), the delivery of gas pursuant to the obligation in Article 13(1) in the event of an emergency shall be subject to the conditions in this Article.*
2. *The compensation for the solidarity measure shall not exceed the reasonable costs and, by derogation from Article 13(8), shall in any event include:*
 - (a) *the price for gas in the Member State providing solidarity;*
 - (b) *the storage and transport costs, including possible fees resulting from the deviation of LNG cargoes to the interconnection point requested;*
 - (c) *litigation costs for related judicial or arbitration proceedings involving the Member State providing solidarity;*
 - (d) *other indirect costs that are not covered by the price for gas, such as the reimbursement of financial or other damages resulting from enforced firm load shedding of customers related to the provision of solidarity, provided that those indirect costs do not exceed 100 % of the price for*

gas.

3. *If a Member State requests compensation for indirect costs pursuant to paragraph (2), point (d) exceeding 100% of the gas price, the Commission shall, after consulting the relevant competent authorities, decide whether a higher compensation is appropriate, taking into account the specific contractual and national circumstances of the case and the principle of energy solidarity.*
4. *Unless the Member State requesting solidarity and the Member State providing solidarity agree on another price, the price for the gas supplied to the Member State requesting solidarity shall correspond to the day-ahead market price in the Member State providing solidarity the day preceding the request for solidarity or the corresponding day-ahead market price at the closest accessible exchange virtual trading point, or at an agreed hub over the day preceding the request for solidarity.*
5. *Compensation for the gas volumes delivered in the context of a solidarity request pursuant to Article 13f shall be paid directly by the Member State requesting solidarity to the Member State providing solidarity or the entity both Member States indicate in their response to the solidarity request and the confirmation of receipt and of the volume to be taken.*
6. *A Member State to which the request for a solidarity measure is addressed shall provide the solidarity measures as soon as possible and no later than three days after the request. A Member State may refuse to provide solidarity to a Member State requesting solidarity only where the first Member State demonstrates that:*
 - (a) *it does not have enough gas for the volumes referred to in Article 13a(2); or*
 - (b) *it does not have sufficient interconnection capacity available, as set out in Article 13(7) and it does not have the possibility to provide sufficient volumes of LNG.*
7. *In addition to the default rules provided for in this Article, Member States may agree on technical arrangements and coordination of the provision of*

solidarity.

8. *This Article shall be without prejudice to existing arrangements for the safe and reliable operation of the gas system.*

Article 13f

Procedure for solidarity measures in the absence of a solidarity agreement

1. *The Member State requesting the application of the solidarity measures shall issue a solidarity request to another Member State, indicating at least the following information:*
 - (a) *the contact details of the competent authority of the Member State;*
 - (b) *the contact details of the relevant transmission system operators of the Member State (if relevant);*
 - (c) *the contact details of the third party acting on behalf of the Member State (if relevant);*
 - (d) *the delivery period including the timing of the first possible delivery and the anticipated duration of deliveries;*
 - (e) *delivery and interconnection points;*
 - (f) *the gas volume in kWh for each interconnection point;*
 - (g) *the gas quality.*
2. *The solidarity request shall be sent, simultaneously, to Member States that are potentially able to provide solidarity measures, to the Commission and to the crisis managers designated pursuant to Article 10(1), point (g).*
3. *The Member States receiving a solidarity request shall send a response that indicates the contact details referred to in paragraph 1, points (a), (b) and (c), and the volume that can be supplied to the interconnection points and at the time requested as referred to in paragraph 1, points (d) to (g). The response shall indicate the volume resulting from possible curtailment, or, where strictly indispensable, release of strategic stocks where the volume that can be supplied by voluntary measures is insufficient.*
4. *Solidarity requests shall be submitted at least 72 hours before the indicated delivery time for LNG and at least 24 hours before the indicated delivery time*

for gas transported by pipeline. The response to solidarity requests shall be effected within 12 hours. The confirmation of receipt and of the volume to be taken by the Member State requesting solidarity shall be effected within four hours of receipt of the solidarity offer.

5. *The request may be submitted for a period of one day or several days, and the response shall match the requested duration.*
6. *Where there are several Member States providing solidarity and bilateral solidarity arrangements are in place with one or several of them, those arrangements shall prevail between the Member States having agreed bilaterally. The default rules provided for in this Article shall be applicable only in relation to the other Member States providing solidarity.*
7. *The Commission may facilitate the implementation of solidarity agreements, in particular by a template in the form of a secured online platform to enable real-time transmission of requests and offers.*

Article 13g

Review of solidarity measures

By 1 July 2025, the Commission shall assess the applicability and efficiency of the LNG solidarity and the feasibility of solidarity involving Member States not directly connected. The Commission shall submit a report on the main findings of that assessment to the European Parliament and to the Council, and shall, if appropriate, propose amendments to the solidarity provisions of this Regulation.’;

- (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.’;

(15a) The following articles are inserted:

'Article 14a

Intra-day volatility management mechanism

- 1. *By ... [one month after the entry into force of this Regulation], each trading venue on which energy-related commodity derivatives are traded shall set up, for each energy-related commodity derivative traded on it, an intra-day volatility management mechanism based on an upper and lower price boundary (price boundaries) that defines the prices above and below which orders may not be executed (intra-day volatility management mechanism). Trading venues shall ensure that the intra-day price volatility management mechanism prevents excessive movements of prices within a trading day for energy-related commodity derivatives. When setting up the intra-day volatility management mechanism, trading venues shall also ensure that the implementation of these measures does not prevent the formation of reliable end-of-day closing prices.***
- 2. *For each energy-related commodity derivative traded on them, trading venues shall establish the applicable calculation method to determine the price boundaries relative to a reference price. The first reference price of the day shall be equal to the price determined upon the opening of the relevant trading session. The subsequent reference prices shall be the last market price observed at regular intervals. In the case of an interruption in trading during the trading day, the first reference price after the interruption shall be the opening price of the resumed trading.***
- 3. *The price boundaries shall be expressed either in absolute value, or in relative terms in the form of a percentage variation relative to the reference price. Trading venues shall adjust that calculation method to the specificities of each energy-related commodity derivative, the liquidity profile of the***

market for such derivative and its volatility profile. The trading venue shall inform the competent authority of the method without undue delay.

- 4. Trading venues shall renew the price boundaries at regular intervals during trading hours, based on the reference price.*
- 5. Trading venues shall without undue delay make public the features of the intra-day volatility management mechanism they have put in place or whenever they have applied a modification.*
- 6. Trading venues shall implement the intra-day volatility management mechanism either by integrating it into their existing circuit breakers already established in accordance with Directive 2014/65/EU or as an additional mechanism thereto.*
- 7. Where a trading venue intends to modify the calculation method for the price boundaries applicable to a given energy-related commodity derivative, it shall inform the competent authority of the intended modifications without undue delay.*
- 8. Where the information collected by the European Securities and Market Authority (ESMA) in accordance with Article 14b(3) show that further consistency of implementation of the mechanism is needed to ensure more efficient management of excessive price volatility across the Union, the Commission may adopt implementing acts specifying the uniform principles for the implementation of the intra-day volatility management mechanism, taking into account the specificities of each energy-related commodity derivative, the liquidity profile of the market for such derivative and its volatility profile. In particular, in order to ensure the smooth operation of trading venues that offer trading in energy-related commodity derivatives, the Commission may specify the intervals at which the price boundaries will be renewed or the measures to be taken if trading moves outside those price boundaries including provisions to ensure the formation of reliable closing prices. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 18a(2).*

Article 14b

Role of competent authorities

1. *Competent authorities shall supervise the implementation of the intra-day volatility management mechanism. Competent authorities shall ensure that divergences in the implementation of the intra-day volatility management mechanisms by trading venues established in their Member States are duly justified by the specificities of the trading venues or energy-related commodity derivative concerned.*
2. *Competent authorities shall ensure that trading venues implement appropriate preliminary mechanisms ensuring that excessive volatility in energy-related commodity derivatives markets is mitigated until the set-up of the intra-day volatility management mechanism as referred to in Article 14a(1).*
3. *Competent authorities shall report to ESMA on the implementation of the intra-day volatility management mechanism by trading venues they supervise within three weeks from the date referred to in Article 14a(1) and at least on a quarterly basis.*

Article 14c

Coordination role of ESMA

1. *ESMA shall coordinate and monitor the implementation of the intra-day volatility management mechanisms on the basis of reports submitted to it by the competent authorities in accordance with Article 14b(3).*
2. *ESMA shall document any divergences in the implementation of the intra-day volatility management mechanisms across jurisdictions in the Union based on the reports from competent authorities. By 30 June 2023 and periodically thereafter, ESMA shall submit a report to the Commission evaluating the efficiency of the intra day volatility management mechanisms. On the basis of that report, the Commission shall consider whether to submit a legislative proposal for the amendment of this Regulation to the Council.’;*

(15b) In Article 17a, the following paragraph is added:

- ’2. The Commission shall, when it submits its report pursuant to paragraph 1, by 28 February 2025, include a general assessment of the application of Articles 6a to 6d, Article 7(1) and (4)(g), Article 16(3), Article 17a, Article*

18a, Article 20(4), and Annexes Ia and Ib. The report shall be accompanied, if appropriate, by a legislative proposal.;

(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) shall be conferred on the Commission for a period of five years from [the date of adoption of the amendments].’;

(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) 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) 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.’;

(16a) In Article 22, paragraph 4 is deleted;

(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.’;

(17a) *The following Annexes are inserted:*

‘ANNEX VIIIa

(a) Maximum critical gas volumes for electricity security of supply pursuant to Article 13a for the period between December 2022 to March 2023 (values in million cubic metres)

(1):

<i>Member State</i>	<i>December 2022</i>	<i>January 2023</i>	<i>February 2023</i>	<i>March 2023</i>
<i>AT</i>	<i>74,24</i>	<i>196,83</i>	<i>152,20</i>	<i>139,35</i>
<i>BE</i>	<i>399,05</i>	<i>458,77</i>	<i>382,76</i>	<i>398,99</i>
<i>BG</i>	<i>61,49</i>	<i>71,26</i>	<i>61,55</i>	<i>63,29</i>
<i>CY</i>	-	-	-	-
<i>CZ</i>	<i>17,26</i>	<i>49,64</i>	<i>34,80</i>	<i>28,28</i>
<i>DE</i>	<i>2 090,53</i>	<i>2 419,56</i>	<i>2 090,59</i>	<i>1 863,77</i>
<i>DK</i>	<i>249,48</i>	<i>295,56</i>	<i>254,87</i>	<i>268,09</i>
<i>EE</i>	<i>5,89</i>	<i>5,78</i>	<i>5,00</i>	<i>1,05</i>
<i>EL</i>	<i>209,95</i>	<i>326,68</i>	<i>317,18</i>	<i>232,80</i>
<i>ES</i>	<i>1 378,23</i>	<i>1 985,66</i>	<i>1 597,27</i>	<i>1 189,29</i>
<i>IE</i>	<i>372,76</i>	<i>375,29</i>	<i>364,26</i>	<i>375,74</i>
<i>FI</i>	<i>28,42</i>	<i>39,55</i>	<i>44,66</i>	<i>12,97</i>
<i>FR</i>	<i>876,37</i>	<i>875,58</i>	<i>802,53</i>	<i>771,15</i>
<i>HR</i>	<i>10,95</i>	<i>66,01</i>	<i>59,99</i>	<i>48,85</i>
<i>HU</i>	<i>82,13</i>	<i>133,97</i>	<i>126,44</i>	<i>93,72</i>
<i>IT</i>	<i>2 166,46</i>	<i>3 304,99</i>	<i>3 110,79</i>	<i>2 774,67</i>
<i>LV</i>	<i>89,26</i>	<i>83,56</i>	<i>84,96</i>	<i>66,19</i>
<i>LT</i>	<i>16,13</i>	<i>20,22</i>	<i>18,81</i>	<i>4,21</i>
<i>LU</i>	-	-	-	-
<i>MT</i>	<i>32,88</i>	<i>34,84</i>	<i>31,43</i>	<i>33,02</i>
<i>NL</i>	<i>684,26</i>	<i>762,31</i>	<i>556,26</i>	<i>480,31</i>
<i>PL</i>	<i>158,14</i>	<i>158,64</i>	<i>136,97</i>	<i>148,64</i>
<i>PT</i>	<i>409,97</i>	<i>415,22</i>	<i>368,54</i>	<i>401,32</i>
<i>RO</i>	<i>130,35</i>	<i>179,35</i>	<i>162,41</i>	<i>159,71</i>
<i>SI</i>	<i>12,98</i>	<i>15,15</i>	<i>13,35</i>	<i>12,80</i>
<i>SK</i>	<i>33,99</i>	<i>47,26</i>	<i>34,80</i>	<i>34,76</i>
<i>SE</i>	<i>18,05</i>	<i>18,61</i>	<i>17,71</i>	<i>15,76</i>

(b) Maximum critical gas volumes for electricity security of supply pursuant to Article 13a for the period between April 2023 to December 2023 (values in million cubic metres):

<i>Member State</i>	<i>Monthly value</i>
<i>AT</i>	<i>140,66</i>
<i>BE</i>	<i>409,89</i>
<i>BG</i>	<i>64,40</i>
<i>CY</i>	<i>-</i>
<i>CZ</i>	<i>32,50</i>
<i>DE</i>	<i>2 116,11</i>
<i>DK</i>	<i>267,00</i>
<i>EE</i>	<i>4,43</i>
<i>EL</i>	<i>271,65</i>
<i>ES</i>	<i>1 537,61</i>
<i>IE</i>	<i>372,01</i>
<i>FI</i>	<i>31,40</i>
<i>FR</i>	<i>831,41</i>
<i>HR</i>	<i>46,45</i>
<i>HU</i>	<i>109,06</i>
<i>IT</i>	<i>2 839,23</i>
<i>LV</i>	<i>80,99</i>
<i>LT</i>	<i>14,84</i>
<i>LU</i>	<i>-</i>
<i>MT</i>	<i>33,03</i>
<i>NL</i>	<i>620,79</i>
<i>PL</i>	<i>150,60</i>
<i>PT</i>	<i>398,76</i>
<i>RO</i>	<i>157,96</i>
<i>SI</i>	<i>13,57</i>
<i>SK</i>	<i>37,70</i>
<i>SE</i>	<i>17,53</i>

⁽¹⁾ *The figures in Annex I, parts (a) and (b), are based on data from the winter adequacy assessment pursuant to Article 9 of Regulation (EU) 2019/941 by the European Network of Transmission System Operators for Electricity (ENTSO-E), except for Malta for which the electricity generation relies exclusively on LNG deliveries with no significant storage*

capacities. Given the specificity of the low-calorific gas, the values for the Netherlands in this table should be multiplied with a conversion factor of 37,89 divided by 35,17. Annex I, part (a), represents the individual monthly volumes calculated by ENTSO-E for the months December 2022 to March 2023; the figures in Annex I, part (b), for the months April 2023 to December 2023 represent the average of the values in the period between December 2022 and March 2023.

ANNEX VIIIb

Security of supply critical infrastructure pursuant to Article 13a(2), point (d)

<i>Sector</i>	<i>Subsector</i>	
<i>I Energy</i>	<i>1. Electricity</i>	<i>Infrastructures and facilities for generation and transmission of electricity in respect of supply electricity</i>
	<i>2. Oil</i>	<i>Oil production, refining, treatment, storage and transmission by pipelines</i>
	<i>3. Gas</i>	<i>Gas production, refining, treatment, storage and transmission by pipelines LNG terminals</i>
<i>II Transport</i>	<i>4. Road transport</i>	
	<i>5. Rail transport</i>	
	<i>6. Air transport</i>	

’;

- (18) The text set out in Annex II to this Regulation is added as Annex IX to Regulation (EU) 2017/1938.

Article 68

Repeal

Regulation (EC) No 715/2009 is repealed. 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

Entry into force

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

I

Article 67, point (8a) shall apply from ... [date of end of application of Regulation (EU) 2022/2576].

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

Done at ...,

For the European Parliament

The President

For the Council

The President

Annex I

GUIDELINES ON

1. INFORMATION TO BE PUBLISHED ON THE METHODOLOGY USED TO SET THE REGULATED REVENUE OF THE TRANSMISSION SYSTEM OPERATOR

The following information shall be published before the tariff period by the regulatory authority or the transmission system operator as decided by the regulatory authority.

This information shall be provided separately for transmission activities where the transmission system operator is part of a larger commercial entity or holding.

1. The entity responsible calculating, setting and approving the different components of the methodology.
2. A description of the methodology, including at least a description of:
 - (a) the overall methodology, such as revenue-cap, hybrid, cost-plus or tariff benchmarking;
 - (b) the methodology to set the regulated asset base (RAB), including:
 - (i) methodology to determine the initial (opening) value of the assets as applied at the start of the regulation and when incorporating new assets to the regulatory asset base;
 - (ii) methodology to re-evaluate assets;
 - (iii) explanations of the evolution of the value of the assets;
 - (iv) treatment of decommissioned assets;
 - (v) depreciation methodology applied to the regulated asset base, including any changes applied to the values.
 - (c) the methodology to set the cost of capital;
 - (d) the methodology to determine the total expenditure (TOTEX) or, if applicable, operational expenditure (OPEX) and capital expenditure (CAPEX);
 - (e) the methodology to determine the efficiency of the cost, if applicable;
 - (f) the methodology applied to set the inflation;

- (g) the methodology to determine premia and incentives, if applicable;
 - (h) non controllable costs;
 - (i) services provided within the company holding, if applicable.
3. The values of the parameters used in the methodology
- (a) the detailed values of the parameters that are part of the cost of equity and cost of debt or weighted average cost of capital expressed in percentages;
 - (b) depreciation periods in years applicable separately to pipelines and compressors;
 - (c) changes in the depreciation period or in the acceleration of the depreciation applied to assets;
 - (d) efficiency targets in percentages;
 - (e) inflation indices;
 - (f) premia and incentives.
4. The values of costs and expenditures that are used for setting the allowed or target revenue in the local currency and in euro of:
- (a) the regulated asset base per asset type detailed per year until its full depreciation, including:
 - (b) investments added to the regulated asset base, per asset type;
 - (c) the depreciation per asset type until the full depreciation of the assets;
 - (d) the cost of capital including the cost of equity and the cost of debt;
 - (e) operational expenditures;
 - (f) premia and incentives detailed separately per item.
5. Financial indicators to be provided for the transmission system operator. In the event of the transmission system operator being part of a larger holding or company, these values shall be provided separately for the transmission system operator, including:
- (a) earnings before interest, taxes, depreciation, and amortisation (EBITDA);
 - (b) earnings before interest and taxes (EBIT);

- (c) return on assets I (ROA) = EBITDA / RAB;
- (d) return on assets II (ROA) = EBIT / RAB;
- (e) return on equity (ROE) = Profit / Equity;
 - (aa) return on capital employed (RoCE);
 - (bb) leverage ratio;
 - (cc) net debt / (Net debt + Equity);
 - (dd) net debt / EBITDA.

The regulatory authority or the transmission system operator shall provide a simplified tariff model including the disaggregated parameters and values of the methodology and allowing to replicate the calculation of the allowed or target revenue of the transmission system operator.

- 6. Transmission system operators shall maintain and make available to the competent authority upon request a daily log of the actual maintenance and flow disruptions that have occurred. Information shall also be made available on request to those affected by any disruption.

2. PRINCIPLES OF CAPACITY-ALLOCATION MECHANISMS AND CONGESTION-MANAGEMENT PROCEDURES CONCERNING TRANSMISSION SYSTEM OPERATORS AND THEIR APPLICATION IN THE EVENT OF CONTRACTUAL CONGESTION

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

- 1. Capacity-allocation mechanisms and congestion-management procedures shall facilitate the development of competition and liquid trading of capacity and shall be compatible with market mechanisms including spot markets and trading hubs. They shall be flexible and capable of adapting to evolving market circumstances.
- 2. Those mechanisms and procedures shall take into account the integrity of the system concerned as well as security of supply.
- 3. Those mechanisms and procedures shall neither hamper the entry of new market participants nor create undue barriers to market entry. They shall not prevent market participants, including new market entrants and companies with a small market share, from competing effectively.

4. Those mechanisms and procedures shall provide appropriate economic signals for efficient and maximum use of technical capacity and facilitate investment in new infrastructure.
5. Network users shall be advised about the type of circumstance that could affect the availability of contracted capacity. Information on interruption should reflect the level of information available to the transmission system operator.
6. Should difficulties in meeting contractual delivery obligations arise due to system integrity reasons, transmission system operators should notify network users and seek a non-discriminatory solution without delay.

Transmission system operators shall consult network users regarding procedures prior to their implementation and agree them with the regulatory authority.

2.2. Congestion management procedures in the event of contractual congestion

2.2.1. General provisions

1. The provisions of point 2.2 shall apply to interconnection points between adjacent entry-exit systems, irrespective of whether they are physical or virtual, between two or more Member States or within the same Member State in so far as the points are subject to booking procedures by users. They may also apply to entry points from and exit points to third countries, subject to the decision of the relevant national regulatory authority. Exit points to end-consumers and distribution networks, entry points from LNG terminals and production facilities, and entry-exit points from and to storage facilities are not subject to the provisions of point 2.2.
2. On the basis of the information published by the transmission system operators pursuant to Section 3 of this Annex and, where appropriate, validated by national regulatory authorities, ACER shall publish a monitoring report on congestion at interconnection points with respect to firm capacity products sold in the preceding year, taking into consideration to the extent possible capacity trading on the secondary market and the use of interruptible capacity.

The monitoring report shall be published every two years. ACER shall publish additional reports based on a substantiated request from the Commission up to once per year.

3. Any additional capacity made available through the application of one of the congestion-management procedures as provided for in points 2.2.2, 2.2.3, 2.2.4 and 2.2.5 shall be offered by the respective transmission system operator(s) in the regular allocation process.

2.2.2. Capacity increase through oversubscription and buy-back scheme

1. Transmission system operators shall propose and, after approval by the national regulatory authority, implement an incentive-based oversubscription and buy-back scheme in order to offer additional capacity on a firm basis. Before implementation, the national regulatory authority shall consult with the national regulatory authorities of adjacent Member States and take account of the adjacent national regulatory authorities' opinions. Additional capacity is defined as the firm capacity offered in addition to the technical capacity of an interconnection point calculated on the basis of Article 5 (1) of this Regulation.
2. The oversubscription and buy-back scheme shall provide transmission system operators with an incentive to make available additional capacity, taking account of the technical conditions, such as the calorific value, temperature and expected consumption, of the relevant entry-exit system and the capacities in adjacent networks. Transmission system operators shall apply a dynamic approach with regard to the recalculation of the technical or additional capacity of the entry-exit system.
3. The oversubscription and buy-back scheme shall be based on an incentive regime reflecting the risks of transmission system operators in offering additional capacity. The scheme shall be structured in such a way that revenues from selling additional capacity and costs arising from the buy-back scheme or measures pursuant to point 6 are shared between the transmission system operators and the network users. National regulatory authorities shall decide on the distribution of revenues and costs between the transmission system operator and the network user.
4. For the purpose of determining transmission system operators' revenues, technical capacity, in particular surrendered capacity as well as, where relevant, capacity arising from the application of firm day-ahead use-it-or-lose-it and long term use-it-or-lose-it mechanisms, shall be considered to be allocated prior to any additional capacity.

5. In determining the additional capacity, the transmission system operator shall take into account statistical scenarios for the likely amount of physically unused capacity at any given time at interconnection points. It shall also take into account a risk profile for offering additional capacity which does not lead to excessive buy-back obligation. The oversubscription and buy-back scheme shall also estimate the likelihood and the costs of buying back capacity on the market and reflect this in the amount of additional capacity to be made available.
6. Where necessary to maintain system integrity, transmission system operators shall apply a market-based buy-back procedure in which network users can offer capacity. Network users shall be informed about the applicable buy-back procedure. The application of a buy-back procedure is without prejudice to the applicable emergency measures.
7. Transmission system operators shall, before applying a buy-back procedure, verify whether alternative technical and commercial measures can maintain system integrity in a more cost-efficient manner.
8. When proposing the oversubscription and buy-back scheme the transmission system operator shall provide all relevant data, estimates, and models to the national regulatory authority in order for the latter to assess the scheme. The transmission system operator shall regularly report to the national regulatory authority on the functioning of the scheme and, upon request of the national regulatory authority, provide all relevant data. The national regulatory authority may request the transmission system operator to revise the scheme.

2.2.3. Firm day-ahead use-it-or-lose-it mechanism

1. National regulatory authorities shall require transmission system operators to apply at least the rules laid down in point 3 per network user at interconnection points with respect to altering the initial nomination if, on the basis of the yearly monitoring report of *ACER* in accordance with point 2.2.1(2), it is shown that at interconnection points demand exceeded offer, at the reserve price when auctions are used, in the course of capacity allocation procedures in the year covered by the monitoring report for products for use in either that year or in one of the subsequent two years:
 - (a) for at least three firm capacity products with a duration of one month; or

- (b) for at least two firm capacity products with a duration of one quarter; or
 - (c) for at least one firm capacity product with a duration of one year or more; or
 - (d) where for at least six months no firm capacity product with a duration of one month or more has been offered.
2. If, on the basis of the yearly monitoring report, it is shown that a situation as defined in point 1 is unlikely to reoccur in the following three years, for example as a result of capacity becoming available from physical expansion of the network or termination of long-term contracts, the relevant national regulatory authorities may decide to terminate the firm day-ahead use-it-or-lose-it mechanism.
 3. Firm renomination is permitted up to 90 % and down to 10 % of the contracted capacity by the network user at the interconnection point. However, if the nomination exceeds 80 % of the contracted capacity, half of the non-nominated volume may be renominated upwards. If the nomination does not exceed 20 % of the contracted capacity, half of the nominated volume may be renominated downwards. The application of this point is without prejudice to the applicable emergency measures.
 4. The original holder of the contracted capacity may renominate the restricted part of its contracted firm capacity on an interruptible basis.
 5. Point 3 shall not apply to network users — persons or undertakings and the undertakings they control pursuant to Article 3 of Regulation (EC) No 139/2004 – holding less than 10% of the average technical capacity in the preceding year at the interconnection point.
 6. On interconnection points where a firm day-ahead use-it-or-lose-it mechanism in accordance with point 3 is applied, an evaluation of the relationship with the oversubscription and buy-back scheme pursuant to point 2.2.2 shall be carried out by the national regulatory authority, which may result in a decision by the national regulatory authority not to apply the provisions of point 2.2.2 at those interconnection points. Such a decision shall be notified, without delay, to ACER and the Commission.
 7. A national regulatory authority may decide to implement a firm day-ahead use-it-or-lose-it mechanism pursuant to point 3 on an interconnection point. Before adopting

its decision, the national regulatory authority shall consult with the national regulatory authorities of adjacent Member States. In adopting its decision, the national regulatory authority shall take account of the adjacent national regulatory authorities' opinions.

2.2.4. Surrender of contracted capacity

Transmission system operators shall accept any surrender of firm capacity which is contracted by the network user at an interconnection point, with the exception of capacity products with a duration of a day and shorter. The network user shall retain its rights and obligations under the capacity contract until the capacity is reallocated by the transmission system operator and to the extent the capacity is not reallocated by the transmission system operator. Surrendered capacity shall be considered to be reallocated only after all the available capacity has been allocated. The transmission system operator shall notify the network user without delay of any reallocation of its surrendered capacity. Specific terms and conditions for surrendering capacity, in particular for cases where several network users surrender their capacity, shall be approved by the national regulatory authority.

2.2.5. Long term use-it-or-lose-it mechanism

1. National regulatory authorities shall require transmission system operators to partially or fully withdraw systematically underutilised contracted capacity on an interconnection point by a network user where that user has not sold or offered under reasonable conditions its unused capacity and where other network users request firm capacity. Contracted capacity is considered to be systematically underutilised in particular if:
 - (a) the network user uses less than on average 80% of its contracted capacity both from 1 April until 30 September and from 1 October until 31 March with an effective contract duration of more than one year for which no proper justification could be provided; or
 - (b) the network user systematically nominates close to 100% of its contracted capacity and renominates downwards with a view to circumventing the rules laid down in point 2.2.3(3).

2. The application of a firm day-ahead use-it-or-lose-it mechanism shall not be regarded as justification to prevent the application of point 1.
3. Withdrawal shall result in the network user losing its contracted capacity partially or completely for a given period or for the remaining effective contractual term. The network user shall retain its rights and obligations under the capacity contract until the capacity is reallocated by the transmission system operator and to the extent the capacity is not reallocated by the transmission system operator.
4. Transmission system operators shall regularly provide national regulatory authorities with all the data necessary to monitor the extent to which contracted capacities with effective contract duration of more than one year or recurring quarters covering at least two years are used.

3. DEFINITION OF THE TECHNICAL INFORMATION NECESSARY FOR NETWORK USERS TO GAIN EFFECTIVE ACCESS TO THE NATURAL GAS SYSTEM, THE DEFINITION OF ALL RELEVANT POINTS FOR TRANSPARENCY REQUIREMENTS AND THE INFORMATION TO BE PUBLISHED AT ALL RELEVANT POINTS AND THE TIME SCHEDULE ACCORDING TO WHICH THIS INFORMATION SHALL BE PUBLISHED.

3.1. Definition of the technical information necessary for network users to gain effective access to the system

3.1.1. Form of publication

1. Transmission system operators (TSOs) shall provide all information referred to under point 3.1.2 and points 3.3(1) to 3.3(5) in the following manner:
 - (a) on a website accessible to the public, free of charge and without any need to register or otherwise sign on with the transmission system operator;
 - (b) on a regular/rolling basis; the frequency shall be according to the changes that take place and the duration of the service;
 - (c) in a user-friendly manner;
 - (d) in a *meaningful, quantifiably* clear *and* easily accessible way and on a non-discriminatory basis;
 - (e) in a downloadable format that has been agreed between transmission system operators and the national regulatory authorities — on the basis of an opinion

on a harmonised format that shall be provided by ACER — and that allows for quantitative *and comparative* analyses;

- (f) in consistent units, in particular kWh (with a combustion reference temperature of 298,15 K) shall be the unit for energy content and m³ (at 273,15 K and 1,01325 bar) shall be the unit for volume. The constant conversion factor to energy content shall be provided. In addition to the format above, publication in other units is also possible;
- (g) in the official language(s) of the Member State and in English;
- (h) all data shall be made available on one Union-wide central platform, established by ENTSOG on a cost-efficient basis.

2. Transmission system operators shall provide details on actual changes to all information referred to under point 3.1.2 and points 3.3(1) to 3.3(5) in a timely manner as soon as available to them.

3.1.2. Content of publication

- 1. Transmission system operators shall publish at least the following information about their systems and services:
 - (a) a detailed and comprehensive description of the different services offered and their charges;
 - (b) the different types of transportation contracts available for these services;
 - (c) the network code and/or the standard conditions outlining the rights and responsibilities of all network users including:
 - (i) harmonised transportation contracts and other relevant documents;
 - (ii) if relevant for access to the system, for all relevant points as defined in point 3.2 of this Annex, a specification of relevant gas quality parameters, including at least the gross calorific value, Wobbe index and oxygen content, and the liability or costs of conversion for network users in case gas is outside these specifications;
 - (iii) if relevant for access to the system, for all relevant points information on pressure requirements;

- (iv) the procedure in the event of an interruption of interruptible capacity, including, where applicable, the timing, extent, and ranking of individual interruptions (for example pro-rata or first-come-last-interrupted);
- (d) the harmonised procedures applied when using the transmission system, including the definition of key terms;
- (e) provisions on capacity allocation, congestion management and anti-hoarding and reutilisation procedures;
- (f) the rules applicable for capacity trade on the secondary market vis-à-vis the transmission system operator;
- (g) rules on balancing and methodology for the calculation of imbalance charges;
- (h) if applicable, the flexibility and tolerance levels included in transportation and other services without separate charge, as well as any flexibility offered in addition to this and the corresponding charges;
- (i) a detailed description of the gas system of the transmission system operator and its relevant points of interconnection as defined in point 3.2 of this Annex as well as the names of the operators of the interconnected systems or facilities;
- (j) the rules applicable for connection to the system operated by the transmission system operator;
- (k) information on emergency mechanisms, as far as it is the responsibility of the transmission system operator, such as measures that can lead to the disconnection of customers groups and other general liability rules that apply to the transmission system operator;
- (l) procedures agreed upon by transmission system operators at interconnection points, of relevance for access of network users to the transmission systems concerned, relating to interoperability of the network, agreed procedures on nomination and matching procedures and other agreed procedures that set out provisions in relation to gas flow allocations and balancing, including the methods used;
- (m) transmission system operators shall publish a detailed and comprehensive description of the methodology and process, including information on the

parameters employed and the key assumptions, used to calculate the technical capacity.

3.2. Definition of all relevant points for transparency requirements

1. Relevant points shall include at least:
 - (a) all entry and exit points to and from a transmission network operated by a transmission system operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the EU;
 - (b) all entry and exit points connecting balancing zones of transmission system operators;
 - (c) all points connecting the network of a transmission system operator with an LNG terminal, physical gas hubs, storage and production facilities, unless these production facilities are exempted under point (a);
 - (d) all points connecting the network of a given transmission system operator to infrastructure necessary for providing ancillary services as defined by Article 2(30) of [recast Gas Directive as proposed by COM(2021)xxx].
2. Information for single final customers and for production facilities, that is excluded from the definition of relevant points as described under point 3.2(1)(a), shall be published in aggregate format, at least per balancing zone. The aggregation of single final customers and of production facilities, excluded from the definition of relevant points as described under point 3.2(1)(a), shall for the application of this Annex be considered as one relevant point.
3. Where points between two or more transmission operators are managed solely by the transmission operators concerned, with no contractual or operational involvement of system users whatsoever, or where points connect a transmission system to a distribution system and there is no contractual congestion at these points, transmission system operators shall be exempted for these points from the obligation to publish the requirements under point 3.3 of this Annex. The national regulatory authority may require the transmission system operators to publish the requirements under point 3.3 of this Annex for groups or all of the exempted points. In such case, the information, if available to the TSO, shall be published in an aggregated form at a

meaningful level, at least per balancing zone. This aggregation of these points shall for the application of this annex be considered as one relevant point.

3.3. Information to be published at all relevant points and the time schedule according to which this information should be published

1. At all relevant points, transmission system operators shall publish the information as listed in points (a) to (g), for all services and ancillary services provided (in particular information on blending, ballasting and conversion). This information shall be published on a numerical basis, in hourly or daily periods, equal to the smallest reference period for capacity booking and (re-)nomination and the smallest settlement period for which imbalance charges are calculated. If the smallest reference period is different from a daily period, information as listed in points (a) to (g) shall be made available also for the daily period. This information and updates shall be published as soon as available to the system operator ('near real time').
 - (a) the technical capacity for flows in both directions;
 - (b) the total contracted firm and interruptible capacity in both directions;
 - (c) the nominations and re-nominations in both directions;
 - (d) the available firm and interruptible capacity in both directions;
 - (e) actual physical flows;
 - (f) planned and actual interruption of interruptible capacity;
 - (g) planned and unplanned interruptions to firm services as well as the information on restoration of the firm services (in particular, maintenance of the system and the likely duration of any interruption due to maintenance). Planned interruptions shall be published at least 42 days in advance;
 - (h) occurrence of unsuccessful, legally valid requests for firm capacity products with a duration of one month or longer including the number and volume of the unsuccessful requests;
 - (i) in the case of auctions, where and when firm capacity products with a duration of one month or longer have cleared at prices higher than the reserve price;
 - (j) where and when no firm capacity product with a duration of one month or longer has been offered in the regular allocation process;

- (k) total capacity made available through the application of the congestion-management procedures laid down in points 2.2.2, 2.2.3, 2.2.4 and 2.2.5 per applied congestion-management procedure.
- 2. At all relevant points, the information under points 3.3(1)(a), (b) and (d) shall be published for a period at least 24 months ahead.
- 3. At all relevant points, transmission system operators shall publish historical information on the requirements of points 3.3(1)(a) to (g) for the past 5 years on a rolling basis.
- 4. Transmission system operators shall publish measured values of the gross calorific value, the Wobbe index, the hydrogen content blended in the natural gas system, methane content and oxygen content at all relevant points, on a daily basis. Preliminary figures shall be published at the latest 3 days following the respective gas day. Final figures shall be published within 3 months after the end of the respective month.
- 5. For all relevant points, transmission system operators shall publish available capacities, booked and technical capacities, on an annual basis over all years where capacity is contracted plus 1 year, and at least for the next 10 years. This information shall be updated at least every month or more frequently, if new information becomes available. The publication shall reflect the period for which capacity is offered to the market.

3.4. Information to be published regarding the transmission system and the time schedule according to which this information should be published

- 1. Transmission system operators shall ensure the publication on a daily basis and updated every day the aggregated amounts of capacities offered, and contracted on the secondary market (i.e. sold from one network user to another network user), where the information is available to the TSO. This information shall include the following specifications:
 - (a) interconnection point where the capacity is sold;
 - (b) type of capacity, i.e. entry, exit, firm, interruptible;
 - (c) quantity and duration of the capacity usage rights;

- (d) type of sale, e.g. transfer or assignment;
- (e) the total number of trades/transfers;
- (f) any other conditions known to the transmission system operator as mentioned in point 3.3.

In so far such information is provided by a third party, transmission system operators shall be exempted from this provision.

2. Transmission system operators shall publish harmonised conditions under which capacity transactions (e.g. transfers and assignments) will be accepted by them. These conditions must at least include:

- (a) a description of standardised products which can be sold on the secondary market;
- (b) lead time for the implementation/acceptation/registration of secondary trades. In case of delays the reasons have to be published;
- (c) the notification to the transmission system operator by the seller or the third party as referred to under point 3.4(1) about name of seller and buyer and capacity specifications as outlined in point 3.4(1).

In so far such information is provided by a third party, transmission system operators shall be exempted from this provision.

3. Regarding the balancing service of its system, each transmission system operator shall provide to each network user, for each balancing period, its specific preliminary imbalance volumes and cost data per individual network user, at the latest 1 month after the end of the balancing period. Final data of customers supplied according to standardised load profiles may be provided up to 14 months later. In so far such information is provided by a third party, transmission system operators shall be exempted from this provision. The provision of this information shall respect confidentiality of commercially sensitive information.
4. Where flexibility services, other than tolerances, are offered for third party access, transmission system operators shall publish daily forecasts on a day-ahead basis of the maximum amount of flexibility, the booked level of flexibility and the availability of flexibility for the market for the next gas day. The transmission system

operator shall also publish ex- post information on the aggregate utilization of every flexibility service at the end of each gas day. If the national regulatory authority is satisfied that such information could give room to potential abuse by network users, it may decide to exempt the transmission system operator from this obligation.

5. Transmission system operators shall publish, per balancing zone, the amount of gas in the transmission system at the start of each gas day and the forecast of the amount of gas in the transmission system at the end of each gas day. The forecast amount of gas for the end of the gas day shall be updated on an hourly basis throughout the gas day. If imbalance charges are calculated on an hourly basis, the transmission system operator shall publish the amount of gas in the transmission system on an hourly basis. Alternatively, transmission system operators shall publish, per balancing zone, the aggregate imbalance position of all users at the start of each balancing period and the forecast of the aggregated imbalance position of all users at the end of each gas day. If the national regulatory authority is satisfied that such information could give room to potential abuse by network users, it may decide to exempt the transmission system operator from this obligation.
6. Transmission system operators shall provide user-friendly instruments for calculating tariffs.
7. Transmission system operators shall keep at the disposal of the relevant national authorities, for at least five (5) years, effective records of all capacity contracts and all other relevant information in relation to calculating and providing access to available capacities, in particular individual nominations and interruptions. Transmission system operators must keep documentation of all relevant information under point 3.3(4) and (5) for at least five (5) years and make them available to the regulatory authority upon request. Both parties shall respect commercial confidentiality.
8. Transmission system operators shall publish at least annually, by a predetermined deadline, all planned maintenance periods that might affect network users' rights from transport contracts and corresponding operational information with adequate advance notice. This shall include publishing on a prompt and non-discriminatory basis any changes to planned maintenance periods and notification of unplanned maintenance, as soon as that information becomes available to the transmission

system operator. During maintenance periods, transmission system operators shall publish regularly updated information on the details of and expected duration and effect of the maintenance.

4. FORMAT AND CONTENT OF THE PUBLICATION OF TECHNICAL INFORMATION ON NETWORK ACCESS BY HYDROGEN NETWORK OPERATORS AND INFORMATION TO BE PUBLISHED AT ALL RELEVANT POINTS AND TIME SCHEDULE

4.1. Format of the publication of technical information on network access

1. Hydrogen network operators shall provide all information necessary for network users to gain effective access to the network referred to under points 4.2 and 4.3 in the following manner:
 - (a) on a website accessible to the public, free of charge and without any need to register or otherwise sign on with the hydrogen network operator;
 - (b) on a regular/rolling basis; the frequency shall be according to the changes that take place and the duration of the service;
 - (c) in a user-friendly manner;
 - (d) in a clear, quantifiable, easily accessible way and on a non-discriminatory basis;
 - (e) in a downloadable format that has been agreed between hydrogen network operators and the regulatory authorities – on the basis of an opinion on a harmonised format that shall be provided by ACER – and that allows for quantitative analyses;
 - (f) in consistent units, in particular kWh shall be the unit for energy content and m³ shall be the unit for volume. The constant conversion factor to energy content shall be provided. In addition to the format above, publication in other units is also possible;
 - (g) in the official language(s) of the Member State and in English;
 - (h) all data shall be made available as of [1 October 2025] on one Union-wide central platform, established by the European Network of Network Operators for Hydrogen on a cost efficient basis.

2. Hydrogen network operators shall provide details on actual changes to all information referred to under points 4.2 and 4.3 in a timely manner as soon as available to them.

4.2. Content of the publication of technical information on network access

1. Hydrogen network operators shall publish at least the following information about their systems and services:
 - (a) a detailed and comprehensive description of the different services offered and their charges;
 - (b) the different types of transportation contracts available for these services;
 - (c) the network codes and/or the standard conditions outlining the rights and responsibilities of all network users including:
 - (1) harmonised transportation contracts and other relevant documents;
 - (2) if relevant for access to the network, for all relevant points, a specification of relevant hydrogen quality parameters and the liability or costs of conversion for network users in case hydrogen is outside these specifications;
 - (3) if relevant for access to the system, for all relevant points information on pressure requirements;
 - (d) the harmonised procedures applied when using the hydrogen network, including the definition of key terms;
 - (e) if applicable, the flexibility and tolerance levels included in transportation and other services without separate charge, as well as any flexibility offered in addition to this and the corresponding charges;
 - (f) a detailed description of the hydrogen network of the hydrogen network operator and its relevant points of interconnection as defined in point 2 as well as the names of the operators of the interconnected networks or facilities;
 - (g) the rules applicable for connection to the network operated by the hydrogen network operator;
 - (h) information on emergency mechanisms, as far as it is the responsibility of the hydrogen network operator, such as measures that can lead to the disconnection

of customers groups and other general liability rules that apply to the hydrogen network operator;

- (i) procedures agreed upon by hydrogen network operators at interconnection points, of relevance for access of network users to the hydrogen network concerned, relating to interoperability of the network.

2. Relevant points shall include at least:

- (a) all entry and exit points to and from a hydrogen network operated by a hydrogen network operator, with the exception of exit points connected to a single final customer, and with the exception of entry points linked directly to a production facility of a single producer that is located within the EU;
- (b) all entry and exit points connecting the networks of hydrogen network operators;
- (c) all points connecting the network of a hydrogen network operator with an LNG terminal, hydrogen terminals, physical gas hubs, storage and production facilities, unless these production facilities are exempted under point (a);
- (d) all points connecting the network of a given hydrogen network operator to infrastructure necessary for providing ancillary services.

3. Information for single final customers and for production facilities, that is excluded from the definition of relevant points as described under point 2(a) of this section shall be published in aggregate format and considered as one relevant point.

4.3. Information to be published at all relevant points and time schedule

1. At all relevant points, hydrogen network operators shall publish the information as listed in points (a) to (g), for all services on a numerical basis, in hourly or daily periods. This information and updates shall be published as soon as available to the hydrogen network operator ('near real time'):

- (a) the technical capacity for flows in both directions;
- (b) the total contracted capacity in both directions;
- (c) the nominations and re-nominations in both directions;
- (d) the available capacity in both directions;

- (e) actual physical flows;
 - (f) planned and actual interruption of capacity;
 - (g) planned and unplanned interruptions to services. Planned interruptions shall be published at least 42 days in advance;
2. At all relevant points, the information under points 1(a), (b) and (d) of this Article shall be published for a period of at least 24 months ahead.
 3. At all relevant points, hydrogen network operators shall publish historical information on the requirements of points 1(a) to (f) of this Article for the past 5 years on a rolling basis.
 4. Hydrogen network operators shall publish measured values of the hydrogen purity and contaminants at all relevant points, on a daily basis. Preliminary figures shall be published at the latest within 3 days. Final figures shall be published within 3 months after the end of the respective month.
 5. Further details required to implement points 4.1, 4.2 and 4.3, e.g. 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, shall be set in a network code established on the basis of Article 52 of this Regulation.

Annex II

DEFAULT TECHNICAL, LEGAL AND FINANCIAL ARRANGEMENTS PURSUANT TO ARTICLE 13(14) OF REGULATION (EU) 2017/1938

This Annex contains the procedure – in the form of mandatory templates – for implementing a solidarity measure under Article 13, to be followed in the event that the Member State requesting solidarity ('Requesting Member State') and the Member State obliged to provide the solidarity measure under Article 13(1) and (2) ('Providing Member State') have failed to agree or finalise the technical, legal and financial arrangements under Article 13(10).

Where there are several Providing Member States and bilateral solidarity arrangements are in place with one or several of them, those arrangements should prevail between the Member States having agreed bilaterally. The default arrangements will be applicable only with the remaining Providing Member State.

Communication between the Requesting and Providing Member States shall primarily be made by e-mail; if not possible, by telephone or any other available means, to be specified in the solidarity request and in confirmed in the acknowledgment of receipt of the request.

The following templates, as filled-in, shall be sent by e-mail to the relevant counterparts in other Member States (main addressee, for action), as well as to the Commission's contact point for gas crisis management (in copy, for information).

1. **Solidarity request** *(to be filled in in English)*

Instructions:

To be sent at the latest 20 hours before start of the delivery day *(save force majeure)*.

Where there are several Providing Member States, the solidarity request shall be sent simultaneously to all of them, preferably using the same e-mail.

The solidarity measures must be requested for the following gas day, as defined in Article 3(7) of Regulation (EU) No 984/2013. If needed, the request will be repeated for additional gas days.

Date: _____

Time: _____

1. On behalf of (*Requesting Member State*), I request from (*Providing Member State*) the implementation of solidarity measures under Article 13(1) and Article 13(2) (*delete the latter if not relevant*). I confirm that the requirements of Article 13(3) are complied with.

2. Short description of measures implemented by (*Requesting Member State*) (as foreseen in Article 13(3)(c)):

3. (*Requesting Member State*) undertakes to pay fair and prompt compensation for the solidarity measures to (*Providing Member State*) in accordance with Article 13(8). The compensation will be paid in EUR within 30 days of receipt of the invoice.

4. Competent authority of requesting Member State:

Contact person: _____

E-mail: _____

Phone: + _____ back-up phone: _____

Alternative instant messaging: + _____

5. Competent authority of providing Member State (please confirm it in your acknowledgement of receipt):

Contact person: _____

E-mail: _____

Phone: + _____ back-up phone: _____

Alternative instant messaging: + _____

6. Responsible TSO in requesting Member State:

Contact person: _____

Phone + _____

7. Responsible market area manager in requesting Member State (where relevant):

Contact person: _____

Phone + _____

8. In case of voluntary (market-based) solidarity measures, gas delivery contracts with market participants in the providing Member State shall be concluded

- by the requesting Member State or
- by an agent acting on behalf of the requesting Member State (under State guarantee).

Name: _____.

Contact person: _____.

Phone: + _____.

9. Technical details of the request

a) Volume of gas needed (total):

_____ kWh,

of which

high caloric gas: _____ kWh;

low caloric gas: _____ kWh.

b) Delivery points (interconnectors):

_____;

_____;

_____;

_____.

There are limitations with regard to the delivery points:

- No
- Yes

If yes, please indicate the exact delivery points and volumes of gas needed:

Delivery point:

Volume of gas:

_____	_____ kWh
_____	_____ kWh
_____	_____ kWh
_____	_____ kWh

Signature: _____

2. Acknowledgement of receipt / request for additional information *(to be filled in in English)*

Instructions:

To be sent within 30 minutes of receipt of the request.

To the attention of *(Competent Authority of the Requesting Member State)*:

On behalf of *(Providing Member State)* I acknowledge receipt of your request for solidarity measures under Article 13(1) and Article 13(2) *(delete the latter if not relevant)*.

I confirm / rectify the contact details to be used for the next steps:

Contact person: _____

E-mail: _____

Phone: + _____ back-up phone: _____

Alternative instant messaging: + _____

(If request is incomplete/contains errors or omissions) After verification, it seems that your request is incomplete / contains the following errors / missing information:

.....
.....

Please send us an amended request, with the missing / correct data within 30 minutes, if possible.

Done on (date) at (time)

Signature:

3. **Solidarity offer** *(to be filled in in English)*

Instructions:

(1) To be sent at the latest 11 hours before start of the delivery day (save force majeure).

(2) The solidarity offer shall include primarily gas offers based on voluntary measures ('Primary offers'). In addition, should the primary offers not be enough to cover the volumes stated in the solidarity request, the solidarity offer shall include additional gas offers ('Secondary offers'), based on mandatory measures. Should the primary offers from other Providing Member States (if relevant) not sufficient to cover the request for solidarity, (the competent authority of the providing Member State) shall be ready to activate non-market based measures and supply the missing volumes.

(3) The compensation pursuant to Article 13(8) for solidarity gas based on voluntary measures shall include the gas price (as resulting from contract clauses, tenders or other market based mechanism applied) and the transmission costs to the delivery point. This compensation shall be paid directly by the Requesting Member State to the gas supplier(s) of the Providing party.

(4) The compensation (to be paid to the Providing Member State) pursuant to Article 13(8) for the provision of solidarity gas based on mandatory measures shall include:

a. the gas price, which corresponds to the last available spot market price, for the relevant gas quality, on the exchange of the providing Member State at the date of the provision of the solidarity measure; if several exchanges in the territory of the providing Member State, it corresponds to the arithmetic mean of the last available spot market prices on all the exchanges; if the absence of an exchange in the territory of the providing Member State, it corresponds to the arithmetic mean of the last available spot market prices on all exchanges in the territory of the Union.

b. any compensation to be paid by the Providing Member State to affected third parties on the basis of the relevant laws and regulations as a result of the mandatory measure, including, if appropriate, any related non-judicial and judicial procedural costs, and

c. the transport costs to the delivery point.

(5) The providing Member State shall bear the transport risk for the transport to the delivery point.

(6) The requesting Member State shall ensure that the gas volumes provided at the agreed delivery points are taken off. The compensation for the solidarity measures will be due irrespective of the actual take-off of the gas volumes provided in line with the contract.

Date

Time.....

To the attention of (*Competent Authority of the Requesting Member State*).

1. Following your request for solidarity, measures under Article 13(1) and Article 13(2) (*delete the latter if not relevant*), received on (date) at (time), (*the competent authority of the providing Member State*) transmits you the following offer(s):

2. Information on the gas providing party

a. Gas supplier / market participant signing the contract

Contact person: _____

Phone: + _____

b. Contracting competent authority

Contact person: _____

Phone: + _____

c. Responsible TSO:

Contact person: _____

Phone: + _____

d. Responsible market area manager (where relevant):

Contact person: _____

Phone + _____

3. Primary offers – based on voluntary measures (‘market based’)

a. Volume of gas (total):

_____ kWh, of which
high caloric gas: _____ kWh,
low caloric gas: _____ kWh.

b. Period of supply:

c. Maximum transport capacity:

_____ kWh/h, of which
firm capacity: _____ kWh/h;
interruptible capacity: _____ kWh/h.

d. Delivery points (interconnectors):

Delivery point	Firm transport capacity	Interruptible transport capacity
_____	_____ kWh/h	_____ kWh/h
_____	_____ kWh/h	_____ kWh/h
_____	_____ kWh/h	_____ kWh/h
_____	_____ kWh/h	_____ kWh/h
_____	_____ kWh/h	_____ kWh/h

e. Reference to capacity booking platform:

f. Estimated compensation for the voluntary measure:

gas price: EUR;

other costs: EUR (please specify)

g. Payment details:

Recipient: _____

Bank details: _____

4. Secondary offers – based on mandatory measures (‘non-market based’)

a. Volume of gas (total):

_____ kWh, of which

high caloric gas: _____ kWh,

low caloric gas: _____ kWh.

b. Period of supply:

c. Maximum transport capacity:

_____ kWh/h, of which

firm capacity: _____ kWh/h;

interruptible capacity: _____ kWh/h.

d. Delivery points (interconnectors):

Delivery point	Firm transport capacity	Interruptible transport capacity
----------------	-------------------------	----------------------------------

_____	_____ kWh/h	_____ kWh/h
-------	-------------	-------------

_____	_____ kWh/h	_____ kWh/h
-------	-------------	-------------

_____	_____ kWh/h	_____ kWh/h
-------	-------------	-------------

_____	_____ kWh/h	_____ kWh/h
-------	-------------	-------------

_____	_____ kWh/h	_____ kWh/h
-------	-------------	-------------

e. Reference to capacity booking platform:

f. Likely costs of mandatory measures:

estimated price of gas per kWh: _____ EUR;

likely transportation costs: _____ EUR;

estimated amount of compensation payments to sectors of the economy of the providing Member State affected by reductions in supply:

_____ EUR.

g. Payment details:

Recipient: _____

Bank details: _____

Done on (date) at (time)

Signature:

4. Acknowledgement of receipt of the solidarity offer (to be filled in in English)

Instructions:

To be sent within 30 minutes of receipt of the solidarity offer.

To the attention of (*Competent Authority of the Providing Member State*).

On behalf of (*Requesting Member State*), I acknowledge receipt of your solidarity offer received on (date)....., at (time).

(*Competent Authority of the Requesting Party*)

Contact person:

Phone: +

Done on (date) at (time)

Signature:

5. Acceptance / refusal of solidarity offers based on voluntary measures (to be filled in in English)

Instructions:

(1) To be sent within 2 hours of receipt of the offer.

(2) If offer is accepted in full, the acceptance shall reproduce the exact terms of the offer, as received from the Providing Member State. Partial acceptance of the offer may only relate to the volumes to be provided.

Date Time

1. On behalf of (*Requesting Member State*), I (*fully / partially*) accept / refuse the offer made by (*Providing Member State*) on (*date*) at (*time*) in implementation of solidarity measures under Article 13(1) and Article 13(2) (*delete the latter if not relevant*).

2. Competent authority of requesting Member State:

Contact person: _____

Phone: + _____

3. Responsible TSO in requesting Member State:

Contact person: _____

Phone: + _____

4. Responsible market area manager in requesting Member State (where relevant):

Contact person: _____

Phone + _____

5. Accepted primary offer(s), based on voluntary measures (*please reproduce the exact*

terms of the 'Primary offer(s)', as accepted):

.....

Done on (date) at (time)

Signature:

6. Acceptance of solidarity offers based on mandatory measures (to be filled in in English)

Instructions:

- (1) To be sent within 3 hours of receipt of the solidarity offer.
- (2) If offer is accepted in full, the acceptance shall reproduce the exact terms of the offer, as received from the Providing Member State. Partial acceptance of the offer may only relate to the volumes to be provided by delivery point.
- (3) The acceptance of offers based on mandatory measures shall include: (a) short description of offers based on voluntary measures received from other Providing Member States; (b) if relevant, the reasons why these offers were not accepted (nb. reasons may not relate to price); (c) short description of offers based on mandatory measures received from other Providing Member States; (d) an indication of whether these offers have been accepted as well and, if not, the reasons for refusing them.
- (4) The Commission may convene a coordination call with the Requesting Member State and all Providing Member States; it shall convene it upon request of one Member State. This phone call shall be held within 30 minutes after receipt of the acceptance of the solidarity offers based on mandatory measures (if at Commission's initiative) or of after receipt of the request for a coordination call by a Member State.

Date Time

1. On behalf of (*Requesting Member State*), I (*fully / partially*) accept / refuse the offer made by (*Providing Member State*) on (*date*) at (*time*) in implementation of solidarity measures under Article 13(1) and Article 13(2) (*delete the latter if not relevant*).
2. Competent authority of requesting Member State:

Contact person: _____

Phone: + _____

3. Responsible TSO in requesting Member State:

Contact person: _____

Phone: + _____

4. Responsible market area manager in requesting Member State (where relevant):

Contact person: _____

Phone + _____

5. Accepted secondary offer, based on mandatory measures (*please reproduce the exact wording of the 'secondary offer', as received from the Providing Member State*).

.....

6. Additional information on the acceptance of secondary offers:

(a) short description of offers based on voluntary measures received from other Providing Member States:

.....

(b) have these offers been accepted? If not, state the reasons:

.....

(c) short description of offers based on mandatory measures received from other Providing Member States:

.....

(a) have these offers been accepted? If not, state the reasons:

.....

Done on (date) at (time)

Signature

Annex III

Repealed Regulation with list of the successive amendments thereto

Regulation (EC) No 715/2009 of the European Parliament and of the Council (OJ L 211, 14.8.2009, p. 36)	
Commission Decision 2010/685/EU (OJ L 293, 11.11.2010, p. 67)	
Commission Decision 2012/490/EU (OJ L 231, 28.8.2012, p. 16)	
Regulation (EU) No 347/2013 of the European Parliament and of the Council (OJ L 115, 25.4.2013, p. 39)	(Only Article 22)
Commission Decision (EU) 2015/715 (OJ L 114, 5.5.2015, p. 9)	
Regulation (EU) 2018/1999 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1)	(Only Article 50)

Annex IV

Correlation Table

Regulation (EU) No 715/2009	This Regulation
Article 1 first subparagraph (introductory wording)	Article 1 first subparagraph (introductory wording)
Article 1 point (a)	Article 1(a)
Article 1 point (b)	-
Article 1 point (c)	Article 1(b)
Article 1 second, third and fourth subparagraphs	Article 1 second, third and fourth subparagraphs
Article 2(1) (introductory wording)	Article 2(1) (introductory wording)
-	Article 2(1) point 1
Article 2(1) point 1	Article 2(1) point 2
Article 2(1) point 2	Article 2(1) point 3
Article 2(1) point 3	Article 2(1) point 4
Article 2(1) point 4	Article 2(1) point 5
Article 2(1) point 5	Article 2(1) point 6
Article 2(1) point 6	Article 2(1) point 7

Regulation (EU) No 715/2009	This Regulation
Article 2(1) point 7	Article 2(1) point 8
Article 2(1) point 8	Article 2(1) point 9
Article 2(1) point 9	Article 2(1) point 10
Article 2(1) point 10	Article 2(1) point 11
Article 2(1) point 11	Article 2(1) point 12
Article 2(1) point 12	Article 2(1) point 13
Article 2(1) point 13	Article 2(1) point 14
Article 2(1) point 14	Article 2(1) point 15
Article 2(1) point 15	Article 2(1) point 16
Article 2(1) point 16	Article 2(1) point 17
Article 2(1) point 17	Article 2(1) point 18
Article 2(1) point 18	Article 2(1) point 19
Article 2(1) point 19	Article 2(1) point 20
Article 2(1) point 20	Article 2(1) point 21
Article 2(1) point 21	Article 2(1) point 22
Article 2(1) point 22	Article 2(1) point 23

Regulation (EU) No 715/2009	This Regulation
Article 2(1) point 23	Article 2(1) point 24
Article 2(1) point 24	Article 2(1) point 25
Article 2(1) point 25	Article 2(1) point 26
Article 2(1) point 26	Article 2(1) point 27
Article 2(1) point 27	Article 2(1) point 28
Article 2(1) point 28	Article 2(1) point 29
-	Article 2(1) point 30
-	Article 2(1) point 31
-	Article 2(1) point 32
-	Article 2(1) point 33
-	Article 2(1) point 34
-	Article 2(1) point 35
-	Article 2(1) point 36
-	Article 2(1) point 37
-	Article 2(1) point 38
Article 2(2)	Article 2(2)

Regulation (EU) No 715/2009	This Regulation
-	Article 3
-	Article 4
Article 14	Article 5
Article 14(1)	Article 5(1) to (2)
-	Article 5(3)
Article 14(3)	Article 5(4)
Article 14(2)	Article 5(5)
-	Article 6
Article 15	Article 7
Article 7(1) to (2)	Article 7(1) to (2)
-	Article 7(3)
Article 7(3)	Article 7(4)
-	Article 7(4) second subparagraph
Article 7(4)	Article 7(5)
Article 7(5)	Article 7(6)
-	Article 8

Regulation (EU) No 715/2009	This Regulation
Article 16	Article 9
Article 16(1) to 3	Article 9(1) to (3)
-	Article 9(4)
Article 9(4)	-
Article 9(5)	-
Article 17	Article 10
Article 22	Article 11
Article 21	Article 12
Article 3	Article 13
-	Article 14
Article 13	Article 15
-	Article 16
-	Article 17
-	Article 18
-	Article 19
-	Article 20

Regulation (EU) No 715/2009	This Regulation
Article 4	Article 21
Article 5	Article 22
Article 5(1) to (4)	Article 22(1) to (4)
Article 8	Article 23
Article 8(1) to (3)(f)	Article 23(1) to (3)(f)
-	Article 23(3) point (g)
-	Article 23(3) subparagraph 2
Article 8(4)	Article 23(4)
-	Article 23(4) subparagraph 2
Article 8(5) to (6) point 1	Article 23(5) to (6) point 1
-	Article 23(6)(m)
Article 8(7) to (11)	Article 23(7) to (11)
Article 8 (11)	Article 23(10)
Article 8 (12)	Article 23(11)
Article 9	Article 24
Article 24	Article 25

Regulation (EU) No 715/2009	This Regulation
Article 10	Article 26
Article 11	Article 27
Article 12	Article 28
Article 29	Article 29
-	Article 29(a)
Article 29(b) and (c)	Article 29(b) and (c)
Article 18	Article 30
Article 18(1) to (6)	Article 30(1) to (6)
-	Article 30(7)
Article 19	Article 31
Article 19(1)	Article 31(1)
-	Article 31(2)
Article 19(2)	Article 31(3)
Article 19(3)	Article 31(4)
Article 19(4)	Article 31(5)
Article 19(5)	Article 31(6)

Regulation (EU) No 715/2009	This Regulation
-	Article 31(6) second subparagraph
Article 20	Article 32
-	Article 33
-	Article 34
-	Article 35
-	Article 36
-	Article 37
-	Article 38
-	Article 39
-	Article 40
-	Article 41
-	Article 42
-	Article 43
-	Article 44
-	Article 45
-	Article 46

Regulation (EU) No 715/2009	This Regulation
-	Article 47
-	Article 48
-	Article 49
-	Article 50
-	Article 51
	Article 52
Article 6	Article 53
	Article 53(1) to (15)
Article 6(1) to (12)	-
-	Article 54
	Article 55
Article 7	Article 55(1) to (3)
Article 7(1) to (4)	-
Article 23	Article 56
Article 23(1)	-
-	Article 56(1) to (5)

Regulation (EU) No 715/2009	This Regulation
Article 23(6) and (7)	-
Article 25	-
Article 23	Article 57
Article 58(1) and (2)	Article 58(1) and (2)
	Article 58(3) to (7)
Article 27	Article 59
-	Article 59(1) to (3)
Article 27(1) and (2)	-
-	Article 60
Article 28	Article 61
Article 28(1)	Article 61(1)
-	Article 61(2) and (3)
Article 28(2)	-
Article 30	Article 62
Article 30(, point a)	-
Article 30, point (b)	-

Regulation (EU) No 715/2009	This Regulation
Article 30, point (c)	-
Article 30 subparagraph 2	-
-	Article 63
-	Article 64
-	Article 65
-	Article 66
-	Article 67
Article 31	Article 68
Article 32	Article 69
Annex I	Annex I
-	Annex II
-	Annex III
Annex III	Annex IV

Justification

Amendments to parts of the proposal which remain unchanged ('white parts') were necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments

EXPLANATORY STATEMENT

Access to energy sources and the ways in which they are converted will determine the economic, social and civilisational development on our planet. Fossil fuels have been and are the primary source of energy, and a huge increase in their use has led to direct environmental degradation, but also to radical global warming and the dramatic risks associated with it, confirmed in Paris in 2015 by 196 countries at the UN Climate Summit.

It is therefore time for a rapid phase-out of fossil fuels and a transition to renewable, carbon-free energy. From the point of view of consumers — individual, industrial, collective — the most environmentally and climate-safe energy carrier is electricity. However, not all industrial processes, transport or means of communication can be electrified. Whereas it is therefore necessary to include another, environmentally and climate-safe source - hydrogen, of which the only after-use waste is water; hydrogen is also the best way of big-scale storing electricity in the future.

The era of hydrogen is coming, as has been predicted for decades; but only now, also thanks to the European Union's investment in cutting-edge research on the production, transport and use of hydrogen, this era becomes a reality. As part of the European Green Deal, we already have our Hydrogen Strategy. This Regulation, together with the Directive having a similar title, constitutes the first legislative package to pave the way for the creation of the hydrogen backbone and wide use of hydrogen as an energy carrier. The European Parliament will aim to ensure that the Hydrogen and Decarbonised Gases Package is in line with the Climate Law and consistent with the Fit for 55 Package and that it meets the conditions of a stable European legislation.

After a number of meetings with industry, SMEs, academia, trade unions, local and civil society organisations, the rapporteur can conclude that the European Commission's proposal for the Regulation has been well received by stakeholders. The following comments, as well as the rapporteur's amendments, stem in particular from these meetings.

The importance of precise definitions and compliance with them without exceptions was emphasised. Blending of hydrogen and natural gas was considered highly unfavourable, although in exceptional cases acceptable. When calculating costs and emissions for fuels, it is strongly recommended to take into account the full chain of production, supply, transport, disposal, etc.

The huge investment needs require incentives for hydrogen producers and consumers, including true tariff discounts and other financial incentives, access to research and technological innovation and creation of an internal European hydrogen market, as well as cooperation with reliable partners from the third countries.

Within the Union, cooperation between political authorities, industry, SMEs, science and NGOs and civil society is essential. This is why activities of institutions such as the European Clean Hydrogen Alliance and the Hydrogen Europe are so important. Broad public support should be sought for the European Green Deal, and in particular for hydrogen production, transport and use. Member States are required to introduce hydrogen strategies at national level. The European institutions will endeavour to secure financing of investments for

hydrogen from Community programmes and funds.

The amendments also take into account the solutions adopted in the European Commission's RePowerEU Plan, which is a response to Russia's violent and criminal assault against Ukraine and the need for the Union to move rapidly away from fossil fuel imports from Russia. An effective, fully transparent path to infrastructure investments related to the security of energy supply to the Union has been proposed; the investments must correspond to future-proof solutions and protect against the creation of stranded assets. Solutions have also been proposed to promote biomethane, with a goal to produce and inject into natural gas system of at least 35bcm of biomethane by 31 December 2030. The limit on gas imports by a Member State from a third country and the need for periodic reviews of the derogation for gas pipelines from third countries - in both cases from countries outside the European Economic Area - have been defined. The rules related to the possibility of joint EU purchases of gas from third countries - as called by the European Parliament already 12 years ago - have been strengthened. The provisions on opening of the common energy market to the Energy Community countries, in particular Ukraine, are being continued further. The amendments to the Regulation also introduced solutions recently adopted under the Gas Storage Regulation.

Serious reservations about the draft Regulation submitted by the European Commission were raised only on the proposal for the management of the newly created hydrogen market and infrastructure by the new institution: European Networks of Hydrogen Networks Operators (ENNOH). As a result of the numerous and lengthy discussions, the rapporteur has proposed a solution that avoids the creation of another energy market institution in the Union, given that this part of the market is still in its initial stage of development; at the same time the rapporteur appreciates the role of a clear, also public, articulation of the needs, risks and hopes of the participants in the hydrogen market by establishing of a separate hydrogen structure within ENTSO-G. An important reason behind such a proposal is also the need to repurpose natural gas infrastructure into hydrogen infrastructure and minimise stranded assets. The next decade will show if a separate structure (ENNOH) will be necessary.

The rapporteur also appreciates the role of ENTSO-E in creating and supporting the hydrogen market, in particular the production of renewable hydrogen from renewable energy, as the future solution in the Union is the market of only two main energy carriers: electricity and hydrogen, with a small share of biogas/biomethane and biomass. Hydrogen will be produced by electrolysis and, in addition to its direct use in industry or transport, it will also be used to store electricity.

ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
European Union <i>Agency</i> for the Cooperation of Energy Regulators (<i>ACER</i>)
Council of European Energy Regulators (CEER)
Energy Community
European Network of Transmission System Operators for Electricity (ENTSOE)
European Network of Transmission System Operators for Gas (ENTSOG)
Hydrogen Europe
European Consumer Organisation (BEUC)
Clean Air Task Force
International Association of Oil & Gas Producers (<i>IOGP</i>)
European Biogas Association
Eurogas
Climate Action Network (CAN) Europe
Agora Energiewende
Emerson Automation Solutions
European Steel Association (EUROFER)
Bellona Foundation
European Committee of Manufacturers of Domestic Heating and Cooking Appliances CEFACD - (CEFACD -)
PGNiG S.A.
SolarPower Europe
European Chemical Industry Council (CEFIC)
SSAB
Gas Distributors for Sustainability (GD4S)
France Hydrogen
Energinet
Eurelectric
ENGIE
Iberdrola
Gaz-System S.A.
Confederation of Norwegian Enterprise (NHO)
Gas Naturally
Euroheat & Power
European Industrial Gases Association (EIGA)
Polenergia S.A.

2.2.2023

LETTER OF THE COMMITTEE ON LEGAL AFFAIRS

Mr Cristian-Silviu Buşoi
Chair
Committee on Industry, Research and Energy
BRUSSELS

Subject: Opinion on a 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) (COM(2021)0804 – C9-0470/2021 – 2021/0424(COD))

Dear Mr Chair,

The Committee on Legal Affairs has examined the proposal referred to above pursuant to Rule 110 on recasting of Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

“If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible for the subject matter thereof.

In such a case, over and above the conditions laid down in Rules 180 and 181, amendments shall be admissible within the committee responsible for the subject-matter only if they concern those parts of the proposal which contain changes.

However, amendments to parts of the proposal which remain unchanged may, by way of exception and on a case-by-case basis, be accepted by the Chair of the committee responsible for the subject matter if he or she considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments.”

Following the here attached opinion of the Consultative Working Party of the Legal Services of the Parliament, the Council and the Commission, which has examined the recast proposal, and in keeping with the recommendations of the Rapporteur, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such and that, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, the proposal contains a straightforward codification of the existing text, without any change in its substance.

In conclusion, at its extraordinary meeting of 31 January 2023, the Committee on Legal

Affairs unanimously²⁶ decided to recommend that the Committee on Industry, Research and Energy (ITRE), as the committee responsible, proceed to examine the above proposal in accordance with Rule 110.

Yours sincerely,

Adrián Vázquez Lázara

²⁶ The following were present for the final vote: Adrián Vázquez Lázara (Président), Sergey Lagodinsky (Vice-président), Marion Walsmann (Vice-présidente), Lara Wolters (Vice-présidente), Raffaele Stancanelli (Vice-président), Pascal Arimont, Manon Aubry, Alessandra Basso, Brando Benifei, Jérémy Decerle (for Pierre Karleskind, pursuant to Rule 209(7)), Angel Dzhambazki, Ibán García Del Blanco, Frances Fitzgerald (for Esteban González Pons, pursuant to Rule 209(7)), Virginie Joron, Andrzej Halicki, Heidi Hautala, Gilles Lebreton, Karen Melchior, Sabrina Pignedoli, Jiří Pospíšil, Franco Roberti, Axel Voss, Tiemo Wölken.

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION



CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels, 6 December 2022

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a regulation of the European Parliament and of the Council internal markets for renewable and natural gases and for hydrogen
COM(2021)804 of 15.12.2021 – 2021/0424(COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 7 and 30 September 2022 for the purpose of examining the aforementioned proposal submitted by the Commission.

At those meetings²⁷, an examination of the proposal for a Regulation of the European Parliament and of the Council recasting 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 resulted in the Consultative Working Party's establishing, by common accord, as follows.

1. The following should have been marked with the grey-shaded type generally used for identifying substantive amendments:
 - in the title of the act, the replacement of the words '*on conditions for access to*' with the words '*on the internal markets for*' and the adding of the words '*renewable and*' and '*and for hydrogen*';
 - in recital 15, the deletion of the word '*transmission*';
 - in recital 16, the replacement of the final word '*gas*' with '*gases*'-
 - the entire text of Article 5(5);
 - in Article 9(3), second subparagraph, the replacement of the reference made to '*point (b) of the first subparagraph*' with a reference to '*the first subparagraph, point (a)*'-

²⁷ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

- in Article 10(1), the word 'or' preceding the words 'hydrogen storage'.
- in Article 22(1), the replacement of the words 'the transmission system operators for gas' with the words 'the ENTSO';
- in Article 22(2), the replacement of the word 'two' with the word 'four';
- in Article 23(8), the adding of the words 'or 56';
- in Article 25, first paragraph, the replacement of the reference made to 'Article 23' with a reference to 'Article 52 to 56';
- in Article 27, the replacement of the reference made to 'Articles 4 to 12' with a reference to 'Articles 21 to 23';
- in Article 29, second paragraph, point (b), the replacement of the reference made to 'Articles 14 and 22' with a reference to 'Articles 56 and 52';
- in Article 56(3), point (a), the replacement of the reference made to 'Articles 14 and 15' with a reference to 'Articles 5 to 7';
- in Article 56(3), point (d), the replacement of the reference made to 'Article 13' with a reference to 'Articles 15 and 16';
- in Article 58(1), the deletion of the final words 'Article 23';
- in Annex 1, the deletion of point 1.9 of Annex 1 of Regulation (EC) No 715/2009;
- in Annex 1, point 2.2.2.1, the replacement of the reference made to 'Article 16(1)' with a reference to 'Article 5'.

2. The following should have been marked with formal adaptation signs:

- in the title of the act, the replacement of the words 'the natural gas transmission networks' with the words 'natural gases' and the deletion of the words 'and repealing Regulation (EC) No 1775/2005';

in Article 9(3), second subparagraph, the replacement of the words 'In regard to' with the words 'As regards'.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.

F. DREXLER
Jurisconsult

J.B. LAIGNELOT
acting Director-General

D. CALLEJA CRESPO
Director-General

3.6.2022

LETTER OF THE COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

Mr Cristian-Silviu Buşoi
Chair
Committee on Industry, Research and Energy
ASP 11E102
BRUSSELS

Subject: AGRI opinion on the Commission proposals for a Regulation and a Directive on gas and hydrogen markets

Dear Chair,

At their meeting of 2 February 2022, AGRI Coordinators decided to issue an opinion in the form of a letter to the ITRE committee, as lead committee, on the following two Commission proposals:

- Commission proposal for a Regulation on the internal markets for renewable and natural gases and for hydrogen (COM/2021/804 - 2021/0424(COD));
- Commission proposal for a Directive on common rules for the internal markets in renewable and natural gases and in hydrogen (COM/2021/803 - 2021/0425(COD)).

Overall, AGRI committee has a positive view on both Commission proposals (so-called “Gas Package”) as a much needed and efficient framework to facilitate the access of renewable energy, including sustainable biogas and biomethane, to the distribution and transmission grids. This is all the more important in view of the crisis caused by the Russian invasion in Ukraine. Indeed, the case for a rapid clean energy transition has never been stronger and clearer.

Also importantly, renewable, low carbon and biogases are necessary for the EU to reach the climate targets set in “Fit for 55” and for decarbonizing hard-to-abate sectors. The Gas Package under consideration also extends the consumer and end-user rights and participation in the internal market. In addition, the AGRI committee considers it particularly important to encourage and support farmers who are already producing sustainable biogas and biomethane or planning to start production both on and off the grid.

The AGRI committee stresses the need for synergies with other legislation. In particular, coherence should be ensured between the Gas Package and the RED II Directive (Directive 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources and its revision as RED III). In addition, the AGRI committee asks the ITRE committee, as committee responsible, to take account of the following issues:

- Security of supply:

Considering the current energy crisis the EU is facing, the Commission proposals under consideration should be revised, as necessary, in view of recent events. In its “REPowerEU” communication of 8 March 2022 (COM(2022)108), the Commission suggests boosting biomethane production to 35bcm by 2030, which is equivalent to 10% of today’s natural gas production. This is more than double the amount outlined in the “Fit for 55” package, whereas the biomethane target represents over 20% of the current EU gas imports from Russia. Achieving this target will require close cooperation between the Commission, Member States and the entire biomethane value chain. The proposed directive and regulation must take that target into consideration. Together with stakeholders, the Commission should evaluate if further specific regulatory measures are needed to achieve the target. Therefore, the AGRI committee calls on the Commission to prepare an action plan to better make use of the potential of sidestream or waste biomass resources which have no alternative food or feed use, from agriculture and forestry for the production and distribution of biogas and biomethane;

- Linking biogas and biomethane production to agriculture:
 - ✓ In order to boost the agriculture-based biogas and biomethane production, the Commission should more clearly highlight the role it can play in achieving the set climate targets. In addition, it should ensure that, when possible, all legislative means (RED II, Gas Package, CAP, Emissions Trading System Directive, State aid rules, etc.) support the increased production of sustainable biogas and biomethane in the agriculture segment and acknowledge the multiple benefits it can bring;
 - ✓ Biogas and biomethane production can diversify farmers' income, generate additional revenue streams and provide opportunities for development and investment in rural areas;
 - ✓ Non-recyclable agricultural waste (i.e. manure) and residue streams with no alternative food or feed use can be utilised in anaerobic digesters to produce biogas and biomethane. When used for biogas production, such raw materials can effectively contribute towards reducing methane emissions from anaerobic decomposition processes in nature;
 - ✓ Sustainably produced renewable biogas and biomethane will help decrease emissions (in transport, heating, power production, industry) and the EU’s dependency on fossil fuels;
 - ✓ Biogas and biomethane production can provide efficient nutrient recycling. Nutrients recovered from this plant digestate can be processed into organic fertilisers in farming or for industrial use, decreasing dependency on fossil fertilisers. This potential should be taken into account also in the CAP Strategic Plans.

Furthermore, the AGRI committee wishes to make the following recommendations as regards the proposed Gas Package:

- A clear definition of biogas and biomethane production separate from natural gas is necessary.

The current definition of natural gas includes both biogas and biomethane. This is problematic since natural gas on one hand and biogas/biomethane on the other are

produced differently and the proposed regulation and directive should reflect this;

- Right to inject and cost-sharing:

It is necessary to ensure that farmers would not have to bear all the costs in entering the gas market and the grid. The Gas Package should therefore ensure that it is easy and straightforward for biogas and biomethane producers to inject their production into the gas grid. This can be done by ensuring the 'right to inject' for biogas and biomethane producers, subject to the required quality and safety testing and analysis, as well as cost-sharing between producers and grid operators. Most biogas and biomethane producers are small-scale, therefore bearing all the costs would create a significant barrier for them;

- Support also off-grid biogas production:

A lot of the biogas and biomethane production is off-grid, mainly in agricultural areas lands. Therefore, even though the Gas Package focuses on regulating production on the grid, it is important to take into consideration and ensure that off-grid biogas and biomethane production will receive the same treatment as biogas and biomethane injected to the gas transmission system. For example, the streamlined authorisation procedures proposed in the directive should also be applicable for off-grid production sites. Innovative collection systems should be researched and mainstreamed;

- GHG intensity reduction target of the gas supply by 2030 at EU level would be an additional driver for renewable gases.

A target to reduce GHG intensity in gas supply would inevitably increase the demand for biogas and biomethane, since this is one of the most efficient ways to reduce use of fossil-based gas. This target would be a clear signal to stimulate renewable and low carbon gas production and would significantly contribute to predictability and confidence among the gas value chain and investors;

- Call for the Commission to execute a regional mapping of sustainable biogas and biomethane production potential:

This mapping would assist production optimisation and serve as a basis for project development and for assessment of grid reinforcement needs. The mapping should include regional authorities, public energy agencies, national biogas associations and network operators. Moreover, in view of the current circumstances, it would be important for the EU to outline all the means to respond to the need for substitution of energy imports from Russia.

As AGRI committee Chair, I would like to ask the ITRE committee to take due account of this opinion in its reports on the proposed Gas Package regulation and directive.

Yours sincerely,

Norbert Lins

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Internal markets for renewable and natural gases and for hydrogen (recast)			
References	COM(2021)0804 – C9-0470/2021 – 2021/0424(COD)			
Date submitted to Parliament	15.12.2021			
Committee responsible Date announced in plenary	ITRE 17.2.2022			
Committees asked for opinions Date announced in plenary	BUDG 17.2.2022	ECON 17.2.2022	ENVI 17.2.2022	IMCO 17.2.2022
	AGRI 17.2.2022			
Not delivering opinions Date of decision	BUDG 13.1.2022	ECON 25.1.2022	ENVI 26.1.2022	IMCO 25.1.2022
Rapporteurs Date appointed	Jerzy Buzek 16.2.2022			
Discussed in committee	13.7.2022			
Date adopted	9.2.2023			
Result of final vote	+: 54 -: 17 0: 1			
Members present for the final vote	Nicola Beer, François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Michael Bloss, Paolo Borchia, Marc Botenga, Markus Buchheit, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Ignazio Corrao, Beatrice Covassi, Ciarán Cuffe, Josianne Cutajar, Nicola Danti, Marie Dauchy, Pilar del Castillo Vera, Christian Ehler, Valter Flego, Lina Gálvez Muñoz, Jens Geier, Nicolás González Casares, Bart Groothuis, Christophe Grudler, András Gyürk, Henrike Hahn, Robert Hajšel, Ivo Hristov, Ivars Ijabs, Romana Jerković, Seán Kelly, Izabela-Helena Kloc, Łukasz Kohut, Miapetra Kumpula-Natri, Eva Maydell, Iskra Mihaylova, Johan Nissinen, Mauri Pekkarinen, Mikuláš Peksa, Tsvetelina Penkova, Morten Petersen, Markus Pieper, Clara Ponsatí Obiols, Robert Roos, Sara Skytvedal, Maria Spyraki, Beata Szydło, Grzegorz Tobiszowski, Patrizia Toia, Henna Virkkunen, Pernille Weiss, Carlos Zorrinho			
Substitutes present for the final vote	Damian Boeselager, Jakob G. Dalunde, Margarita de la Pisa Carrión, Matthias Ecke, Cornelia Ernst, Klemen Grošelj, Elena Kountoura, Dace Melbārde, Alin Miţuţa, Jutta Paulus, Massimiliano Salini			
Substitutes under Rule 209(7) present for the final vote	Marco Campomenosi, Rosanna Conte, Jarosław Duda, France Jamet, Aušra Maldeikienė, Tilly Metz, Alessandro Panza, Rovana Plumb			
Date tabled	16.2.2023			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

54	+
ECR	Izabela-Helena Kloc, Margarita de la Pisa Carrión, Beata Szydło, Grzegorz Tobiszowski
ID	Paolo Borchia, Marco Campomenosi, Rosanna Conte, Marie Dauchy, France Jamet, Alessandro Panza
PPE	Hildegard Bentele, Tom Berendsen, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Pilar del Castillo Vera, Jarosław Duda, Christian Ehler, Seán Kelly, Aušra Maldeikienė, Eva Maydell, Dace Melbārde, Markus Pieper, Massimiliano Salini, Sara Skytvedal, Maria Spyraiki, Henna Virkkunen, Pernille Weiss
Renew	Nicola Beer, Nicola Danti, Valter Flego, Bart Groothuis, Klemen Grošelj, Christophe Grudler, Ivars Ijabs, Iskra Mihaylova, Alin Mituța, Mauri Pekkarinen, Morten Petersen
S&D	Beatrice Covassi, Josianne Cutajar, Matthias Ecke, Lina Gálvez Muñoz, Jens Geier, Nicolás González Casares, Robert Hajšel, Ivo Hristov, Romana Jerković, Łukasz Kohut, Miapetra Kumpula-Natri, Tsvetelina Penkova, Rovana Plumb, Patrizia Toia, Carlos Zorrinho

17	-
ECR	Johan Nissinen, Robert Roos
ID	Markus Buchheit
NI	András Gyürk, Clara Ponsatí Obiols
The Left	Marc Botenga, Cornelia Ernst, Elena Kountoura
Verts/ALE	Michael Bloss, Damian Boeselager, Ignazio Corrao, Ciarán Cuffe, Jakob G. Dalunde, Henrike Hahn, Tilly Metz, Jutta Paulus, Mikuláš Peksa

1	0
PPE	François-Xavier Bellamy

Key to symbols:

+ : in favour

- : against

0 : abstention