



## GAS PACKAGE

# RECOMMENDATIONS

13/4/2022

CEDEC represents the interests of 1.500 local and regional energy companies with a total turnover of €120 billion, serving 85 million electricity and gas customers and connections, with more than 350.000 employees.

These predominantly medium-sized local and regional energy companies have developed activities as electricity and heat generators, as operators of distribution grids and metering systems for electricity, gas and heating & cooling, and as energy (services) suppliers.



The wide range of services provided by local utility companies is reliable, sustainable and close to the customer. Through their investments and local jobs, they make a significant contribution to local and regional economic development.

## **MAKE THE GAS PACKAGE INCLUSIVE, NOT EXCLUSIVE.**

### **FOCUS ON FUTURE POTENTIAL, NOT ON CURRENT LIMITS.**

The European Commission has proposed in December 2021 its "Gas package" to bring the European legal framework for gas in line with the climate objectives. Now, the conflict between Ukraine and Russia has totally changed the political and economic context, in an unexpected and unprecedented way.

The priorities and the approach of the Gas package need to be brought in line with **the new reality: sustainability, security of supply and affordability need to be addressed with equal weight**, with specific attention to deliver already in the **short to medium term**.

*To enhance security of supply* and reduce the European Union's dependency from dominant global energy suppliers and today from Russian fossil fuels, European citizens and businesses need to speed up the reduction of their energy needs in general and must diversify their energy sources, including by maximizing the use of local resources.

*To realize cost-effective sustainability*, the energy sources must not only be low-carbon or renewable but also as close to energy consumers as possible, within an energy system that integrates seasonal storage capacities.

*To ensure sustainable affordability*, the investments in existing energy infrastructures and appliances must be taken into account when developing future more sustainable energy systems.

The challenge is so immense that **no options should be excluded upfront by a new legal framework** that currently is dogmatically restrictive and closing the doors for ongoing technological evolutions.

In the case of the Gas Package, the **vocabulary should reflect this new open mindset**: no more 'natural gas', but 'gas' – in all its possible and necessary evolutions from natural gas to low-carbon and renewable gases. No more 'biomass fuels', but 'renewable fuels of biological origin' as the sustainable twin of 'renewable fuels of non-biological origin'.

*Decentralizing energy systems and energy sources* make the energy supply more resilient and shock-proof: this is not only valid for renewable electricity where the large majority of production facilities is connected today to local distribution grids, but this can also become the new reality for renewable gases if comparable investment incentives are deployed.

*Integrated energy systems - especially at local and regional level* - make the energy supply more energy-efficient, sustainable and thus future-proof: imposing unnecessary barriers like vertical and horizontal unbundling for gas distribution grids just hinders investments in new technologies, will lead to massive privatisation or unmanageable legal constructs, and in the end to new concentration of potentially damaging market power.

There is **no single large-scale solution that fits all, no silver bullet**, like some are promising.

All the different pieces of the energy transition puzzle that are available to citizens and businesses should be treated with the biggest care, and not be wiped off the table even before the transition has really started. On the contrary, they should be embedded in an incentivizing legal framework.

Some of the alternative solutions will have to come from sustainable molecules, playing their role alongside renewable electricity where electrification is economically and technically not feasible. This lack of feasibility is currently and for the next decade not the exception but the rule for the large majority of the European population and businesses. A non-exclusive approach may also **ensure that contributing to the energy transition becomes affordable to everyone and does not remain a privilege for the happy few**.

## HOW CAN LOCAL AND REGIONAL ENERGY COMPANIES HELP TO DELIVER

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CEDEC welcomes a revision of the Gas Directive and Gas Regulation that aims at supporting the transition from natural gas to renewable and low-carbon gases, and developing an integrated European market for gases, within the new reality where sustainability, security of supply and affordability need to be addressed with equal weight.

The existing two million kilometres of gas distribution grids (managed by distribution system operators or DSOs) can connect the majority of the 'home-grown' renewable and low-carbon gases. Retrofitting existing infrastructure to transport and store renewable and low-carbon gases will speed up the transition away from natural gas. Injecting rising shares of renewable and low-carbon gases in the distribution grid will reduce the GHG intensity of the end-use in connected businesses and families already in the short term.

Contrary to the steep ambitions on renewable and low-carbon gases, the current EC gas proposal does not constitute a clear regulatory framework supporting the effective scaling up of renewable gases and the fastest possible replacement of imported natural gas in the European energy system.

The changes proposed by the Commission create confusion on terminology ('natural gas is renewable gas'), contain too many inconsistencies (complex TSO rules are applied to DSOs without added value) and raise artificial barriers against the potential transition of the gas distribution (especially ownership unbundling rules are imposed without justified reasons – even if this will unavoidably lead to massive privatization and market concentration on the supply side).

Proposed provisions on hydrogen network operators do not support the retrofitting and repurposing of existing infrastructures. They do not stimulate the transition of current natural gas distribution system operators towards operators of renewable and low-carbon gases. Driven by wrong assumptions about the European energy system structure and by the conviction that hydrogen production and demand will be located exclusively at transmission level, despite the fact that the majority of industry is connected to the gas distribution grids, the Commission proposal indirectly excludes European DSOs and their end-consumers from the development of the hydrogen economy while that development is already happening today. Whereas the biomethane potential is ready to be fully exploited, new ways of producing hydrogen are being developed every day. Electrolysers of small size already today offer suitable solutions for solar power plants and windmills, whereas the proposed rules are exclusively suitable for large-scale hydrogen networks comparable in size and tasks to a TSO.

**A future proof legislation supporting decarbonisation and ensuring security of supply in the short, medium and long term, must be open to all solutions that support affordable decarbonisation and effective security of supply.**

## GENERAL RECOMMENDATIONS ON AMENDING

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### THE GAS DIRECTIVE

#### Definitions – Chapter I

In the past, *natural gas* was the standard, but this is not and will not be the case anymore. Therefore ‘natural gas’ has to be changed in ‘gas’ which better reflects and enables the necessary evolution from natural gas to renewable and low-carbon gases. If this changed approach in the wording is not introduced, the directive (as it is proposed now) will contain barriers and limitations for consumer rights, permitting, distribution systems, smart metering and regulatory oversight, amongst others.

Through some limited adaptations in the definitions (art 2) several difficult issues would be automatically solved, like the scope of future DSO activities and indirectly their customers’ rights; new unbundling requirements; new formal EU structures. Some Chapters, Sections or articles would not apply to all system operators, or on the other hand would apply to all customers. An adaptation of some definitions would also enhance the consistency with other legislative proposals in the Fit for 55 package.

Three main clusters of definitions need amending:

- Natural gas and renewable gas (art 2.1 and art 2.3): The current definition on ‘natural gas’ (art 2.1) is inconsistent and confusing: it states natural gas includes biogas, biomethane and hydrogen (through ‘other types of gas’). Moreover, this contradicts with definitions of ‘gas’ and ‘gases’ elsewhere in the Directive and Regulation proposals, and even with the use of ‘renewable natural gas’ (art 72). → The ‘gas’ definitions need to be brought in a consistent line, based on the definition of ‘gas’ proposed by the Commission in the Security of gas supply Regulation (cf. Gas Regulation art 67 (1)): ‘gas’ is ‘natural gas and renewable and low-carbon gas’.  
The current definition on ‘renewable gas’ contains selective and incomplete quotes from RED, not mentioning biomass fuels. The final definition should be perfectly in line with RED, by simply referring to all renewable gaseous fuels compliant with RED.
- Hydrogen network, hydrogen transport and hydrogen network operator (art 2.20-22): Hydrogen network” is about transmission only, not about distribution. Although the EC proposal artificially implies that distribution is equally concerned (by using the word ‘transport’ instead of ‘transmission’), the details of the full text of Directive and Regulation confirm that rules for hydrogen network operators - literally copy/pasted from rules applicable for gas transmission operators – should apply only to transmission.
- Active customer and Citizen energy community (art 2.70-71): Same rights for household customers must be ensured whatever type of gas they are supplied with (natural, renewable or low-carbon).

#### Consumer rights – Chapters II & III

Same rights for household customers – on switching, public service, smart meters, etc - must be ensured whatever type of gas they are supplied with (natural, renewable or low-carbon).

In some articles all final customers have the same rights for all gases (Art 10.1, 11.1, 11.4), whereas in other articles they don’t (Art 4.3, 4.6, 10.10, 12.1, 13.2, 14.1, 16-22). Applying systematically the new definition for ‘gas’ partly solves the problem, while in other articles ‘natural gas’ has to be deleted.

## **‘Hydrogen’ or ‘natural gas’ or ‘gas’ infrastructure – confusion in all Chapters**

The whole text is mixing up the use of ‘natural gas’ or ‘gas’ or ‘hydrogen’, in articles where the rules then should apply for all types or only for some or only for one.

Titles of chapters and articles use ‘natural gas’ where it also applies to renewable gas (like Chapter IV, Section I, art 26) or to hydrogen (like Chapter V) or even to all types of gas (like in Chapter VI, explicitly confirmed in art 42.2(a), and in Chapter VIII). Terms are used that do not exist in the definitions, like ‘natural gas TSO’, ‘natural gas DSO’ or ‘natural gas network’.

All references to “hydrogen infrastructure” or “hydrogen network operators” (like in the whole chapter IX) are only applicable to transmission. If not, as an example, then DSOs are equally entitled to negotiated TPA until 2030, whereas DSOs insist on the general application of regulated TPA for all system operators and network operators.

To avoid complete confusion and strongly diverging interpretations during the implementation by Member States, a thorough cleaning of the text is necessary.

## **THE GAS REGULATION**

### **Definitions – Chapter I**

The proposed changes for definitions in the Gas Directive (‘gas’, ‘hydrogen network operator’ and others) have to be applied also throughout the Gas Regulation, where appropriate.

The basis for the proposed change of the ‘gas’ definition in the Gas Directive finds its basis in this Gas Regulation, namely in art 67 (page 96), where the Commission proposes a change in the Security of gas supply Regulation.

The mandatory connection of renewable and low-carbon gas production facilities at distribution level (see art 33) will have to be arranged through a transport contract (art 2.3). This is then linked with the offering of different types of transport services (art 2.13 till 2.19) and third-party access services (art 5), not only at transmission but also at distribution level. These changes have to be reflected correctly in the above-mentioned articles.

### **Tariff discounts for renewable and low carbon gases – Chapter II, Section 2**

For renewable and low-carbon production facilities a 100% discount could be applied: this has to be foreseen in the Regulation text, not only for transmission tariffs but also for distribution tariffs, as it is on the distribution level that most of the renewable and low-carbon production facilities are and will be connected.

## THEMES COVERED BY PROPOSED AMENDMENTS (Directive)

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- **Definitions**

Bringing the definitions back in line with the reality of different types of gases (natural gas, renewable and low-carbon gases), facilitating the necessary transition from natural gas to renewable and low-carbon gases at the distribution level, and establish a reasonable distinction on the rules applicable for distribution and transmission of hydrogen.

- **Gases**

Besides the definition of 'gas' (2.1) (including renewable and low-carbon gases, which includes different types of hydrogen) there is a definition of 'gases' (2.3) which more explicitly distinguishes between gas and hydrogen. This last definition then allows a distinction between a 'gas system' (2.4) and a 'hydrogen system' (2.5), as far as this is necessary but in line with the Commission proposal that systematically distinguishes between gas and hydrogen – also in articles where this brings no added value at all (see below).

The basis for the proposed change of the 'gas' definition (2.1) finds its basis in the Gas Regulation, namely in art 67 (page 96), where the Commission proposes a change in the Security of gas supply Regulation.

- **Undertaking / System operator**

As natural gas distribution companies should make a gradual transition away from natural gas towards renewable and low-carbon gases, the 'natural' in 'gas undertaking' (2.14), 'distribution' (2.18), 'distribution system operator' (2.19) and 'integrated undertaking' (2.36, 2.37, 2.38) must be deleted.

- **Hydrogen network operator**

As is demonstrated throughout the whole legislative proposals of Directive and Regulation, the concept of 'Hydrogen network operator' is directly related to the transmission level, and in its definition should not be artificially extended to distribution by using the word 'transport'. These definitions (2.20, 2.21, 2.22) should be aligned with the definitions on gas transmission (2.16, 2.17).

- **Customers**

All different types of customers ('customer', 'household customer', 'non-household customer', 'final customer' – described in definitions 2.41 till 2.45) that are connected to the distribution grid, are allowed to purchase *gases*: here the Commission correctly proposes to delete 'natural gas' to replace it with *gases*.

Also concerning basic contractual rights for consumers (art 10) and the right to switch (11.1) or collective switching (11.4), the Commission foresees that "all final customers are entitled to have *gases* provided by a supplier" and "have the right to switch *gases* suppliers" or "household customers for *gases* entitled to participate in collective switching".

These customers should then evidently also have the same rights whatever type of gas they purchase, which is not the case in the Commission proposal:

- The concepts of 'citizen energy community' (2.70) and 'active customer' (2.71) are now illogically restricted to natural gas systems and natural gas customers.
- On supply prices (art 4), contrary to natural gas, Member States are not allowed to apply public interventions in the price setting for the supply of renewable and low-carbon gases to energy poor or vulnerable household customers (4.3), or more generally to household customers and micro-enterprises (4.6).
- On public service obligations (art 5), the element of 'price' has been deleted, which deviates from the corresponding article in the electricity directive. This also contradicts with the previous article on supply prices.
- On basic contractual rights for consumers, and contradicting its own par 1, the obligation for suppliers to inform household customers on alternative measures to disconnection is not foreseen for renewable and low-carbon gases.
- On comparison tools for offers of suppliers (art 12), the access for household customers and micro-enterprises is only required for natural gas (12.1) and the requirement to cover the entire market is only for natural gas (12.1 in fine – however contradicted within the same paragraph which also refers to 'gas offers').
- On active customers (art 13) and 'citizen energy communities' (art 14), they are both artificially restricted to 'renewable natural gases' (sic) using 'the natural gas system' – totally confusing wording.
- On the competence of regulatory authorities (art 71(h)) to achieve high standards of public service (related with vulnerable customers, data exchange processes and customer switching), this is only foreseen for natural gas.

To ensure equal treatment of all gas customers, changes are required on all these points.

- **Vulnerable customers**

Compared to the electricity directive, the Commission proposal deletes the criteria for defining 'vulnerable'. The Commission also deletes the paragraph that obliges Member States to take appropriate measures for vulnerable customers.

- **Smart metering systems**

Different articles are foreseen for smart metering systems for gas (art 16) and smart metering systems for hydrogen (art 17), without any fundamental difference, except that:

- it is not recommended that hydrogen undertakings should optimise the use of gas by providing energy management services,
- there are no detailed rules for the deployment of smart metering systems for hydrogen,
- there is an obligation for member states to deploy smart metering systems for hydrogen, without the possibility to make this obligation subject to a cost-benefit assessment.

Logically, also articles on functionalities of smart meters (art 18) and entitlement to a smart meter (art 19) should be equally valid for hydrogen, which is not foreseen now.

- **Biomethane**

By using 'natural gas' instead of 'gas', biomethane facilities are currently not enjoying the same supporting measures as for hydrogen. This is the case amongst others for authorisation procedures (art 7.1, 7.2, 7.7).

Positively, on the competence of regulatory authorities (art 71(e)) to facilitate access to the network for new production capacities, the Commission continues to use the word 'gas'.

- **Third party access**

The title of Section I (*natural* gas infrastructure) is confusing as the first article (art 26) in this section is about market access for *renewable and low-carbon* gases. As distribution systems are also concerned, the 'natural' has to be deleted in the title and throughout the article.

Section II (hydrogen infrastructure) only applies for hydrogen transmission, in line with the required amendment on definition of 'hydrogen network'. If not, DSOs distributing hydrogen can also enjoy negotiated TPA till 2030, according to art 31.4 and 31.5. This is however not asked for by gas DSOs, who have experienced that third party access should be based on regulated grid tariffs from the start.

- **Rules applicable to transmission and storage**

Chapter V – wrongly referring only to 'natural gas' - makes very clear that these rules for gas should equally apply for hydrogen transmission and storage. The chapter even contains an article directly mentioning hydrogen (at 38).



- **Rules applicable to distribution**

**Chapter VI** should – in line with the amended definitions of ‘distribution’ (2.18) and ‘DSO’ (2.19) - refer to ‘Distribution system operation of *gas*’.

This is confirmed by the article 40 on the tasks of the DSO which clearly foresees ‘distribution of *gas*’.

The text on injection of renewable and low-carbon gases (40.2) is confusing in a chapter on natural gas.

The existing article 42 on unbundling of DSOs confirms this required change, as the Commission proposes itself to replace ‘natural gas’ with ‘gases’.

- **Rules applicable to dedicated hydrogen networks**

**Chapter VII** (general rules for dedicated hydrogen networks) and **Chapter IX** (unbundling rules for transmission, including Section 4 on hydrogen) apply only for the transmission level, in line with the amended definition of ‘hydrogen network’ (2.20).

- **Regulatory authorities**

Also Chapter X systematically makes clear that hydrogen network operator (HNO) is about ‘transmission’: see ‘transmission system and hydrogen network operators’ in art 72.2, 72.4 (e), 72.10, 74.2 (b).

Throughout the whole chapter, there is a systematic inconsistency in the use of terms related to transmission and distribution systems, networks and tariffs.

Also, non-defined terms are used throughout the chapter: ‘renewable natural gas’, ‘natural gas network’, ‘natural gas transmission’, ‘natural gas distribution system operator’.

## THEMES COVERED BY PROPOSED AMENDMENTS (Regulation)

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- **Definitions**

The proposed changes for definitions in the Gas Directive ('gas', 'hydrogen network operator' and others) have to be applied also throughout the Gas Regulation, where appropriate.

The basis for the proposed change of the 'gas' definition in the Gas Directive finds its basis in this Gas Regulation, namely in art 67 (page 96), where the Commission proposes a change in the Security of gas supply Regulation.

The mandatory connection of renewable and low-carbon gas production facilities at distribution level (see art 33) will have to be arranged through a transport contract (art 2.3) and different types of transport services (art 2.13 till 2.19) and third-party access services (art 5), not only at transmission but also at distribution level. This new decentralized production approach will have to be reflected correctly in the above-mentioned articles.

- **Separation of regulated asset bases**

On this topic, art 4.1 is referring only to 'transmission or network operator'.

Although the text most probably refers to (gas) transmission or (hydrogen) network operator, it would be advisable to add 'hydrogen' before 'network operator'. Moreover, as 'network operator' is not defined, nor in the gas Directive, nor in the gas Regulation, it is not clear if a distribution system operator is concerned: therefore, it would be advisable to add 'or distribution system' to make clear this article also applies to distribution system operators.

- **Third party access services**

The mandatory connection of renewable and low-carbon gas production facilities at distribution level (see art 33) will have to be arranged through third-party access services, not only at transmission level as currently foreseen in the text, but also at distribution level. This should be reflected in the title of art 5 and in art 5.1.

Art 6 is specifically on third party access services for hydrogen network operators, so not concerning the distribution level, in line with the amended definition of 'hydrogen network' (directive art 2.20). The fact that distribution is not concerned is also confirmed by the text in art 6.8, stating that "hydrogen network operators shall comply with the requirements on transmission system operators".

- **Tariff discounts for renewable and low carbon gases (Chapter II, Section 2 – Network access)**

For renewable and low-carbon production facilities a 100% discount could be applied: this should be foreseen in the Regulation text, not only for transmission tariffs but also for distribution tariffs, as it is on the distribution level that most of the renewable and low-carbon production facilities will be connected.

Although Chapter II, Section 2 (Network access) only applies to transmission, art 16.1(a) could be completed by including distribution.