

Input on the revision of EU rules on market access of gas networks

CEER feedback note for the European Commission

12 April 2022

CEER welcomes the European Commission's initiative to develop legislative proposals to update and future-proof the legal and regulatory framework for Europe's gases sector and thanks the European Commission for the opportunity to provide feedback on the legislative proposals on the Hydrogen and Decarbonised Gas Market Package, namely the proposals for a Directive¹ and a Regulation² on gas networks to revise the EU rules on market access of gas networks. This document will be submitted to the European Commission's separate requests³ for feedback on both proposals.

CEER's feedback will be provided according to the main parts of this package, reiterating regulators' previously published views on the various areas covered by the proposals. CEER would in particular draw the European Commission's attention to the [ACER-CEER Position Paper on the Key Regulatory Requirements to Achieve Gas Decarbonisation](#), published in December 2021. CEER further notes that it is undertaking a thorough analysis of the individual legislative proposals and will provide further insights, including a new publication reacting to the European Commission's proposals during the legislative process.

1. Promote consumer engagement

CEER fully supports efforts to ensure that consumer rights are promoted and protected whilst delivering on the EU's 2050 sustainability and climate neutrality objectives. As the energy transition advances, customer rights (regarding free choice of supplier; market-based pricing; public service obligations; affordability; basic contractual rights; billing and billing information; comparison tools; switching; data protection, management and interoperability; single point of contact; out-of-court dispute settlement; vulnerable consumers and energy poverty; etc.) should be safeguarded regardless of the type of energy used, while also acknowledging the role of gas for households' everyday needs in the medium term.

Hence, CEER welcomes the mirroring of certain provisions in the Electricity Directive as regards consumer rights to the present Gas Directive proposal.

Empowering consumers to engage with the energy market goes beyond promoting consumer choice and effective competition. It requires policies and practices which provide clear and trustworthy information, advice and support to help consumers understand their energy use. However, given the level of uncertainty and maturity of renewable and low-carbon gas technologies and their deployment for household consumers, discretion should be left to the Member States regarding when and how to apply innovation-dependent provisions based on socio-economic cost-benefit assessments.

¹ Proposal for a Directive of the European Parliament and of the Council on common rules for the internal markets in renewable and natural gases and in hydrogen, COM(2021) 803 final

² 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) 804 final

³ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12911-Gas-networks-revision-of-EU-rules-on-market-access_en and https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12766-Gas-networks-revision-of-EU-rules-on-market-access_en

Moreover, CEER would like to stress that, as outlined in the [CEER-BEUC 2030 Vision for Energy Consumers](#), charges to consumers should be clear and kept to reasonable levels, ensuring value for money. In particular, policymakers should conduct a “distributional impact assessment” of planned policies on consumers, to ensure that actions to decarbonise the energy system do not put an unreasonable extra burden on consumers, particularly those in vulnerable situations.

2. A dedicated hydrogen infrastructure and market

As hydrogen is not yet a mature and established sector, although it is important to establish key regulatory principles at an early stage, it must be acknowledged that there is plenty of uncertainty as regards consumption, production and network infrastructure. Hence, CEER reiterates its views on the need to adopt a gradual approach to the regulation of the hydrogen sector, in line with the evolution of the market and infrastructure.

Under this approach, temporary exceptions to the core market and regulatory principles might be justified. As regards Third Party Access (TPA), national regulatory authorities (NRAs) could apply the following exemptions:

- Exemptions for closed distribution systems from regulated TPA (if this is applied) in analogy to Article 28 in Directive 2009/73/EC; and
- Special provisions to require Member States to enable direct lines in analogy to Article 38 (Direct lines) in Directive 2009/73/EC.

As regards unbundling, regulators underline the need to safeguard a market-based approach for production and supply activities. Ownership unbundling should be the target model for hydrogen transmission network operation activities, requiring NRA approval for any temporary and time-limited exemptions under strict conditions to be assessed by NRAs, taking into account national market situations. However, considering that the hydrogen sector is at a very early stage, initially, lighter forms of unbundling should be allowed and could be gradually strengthened towards ownership unbundling as the hydrogen network evolves.

Additionally, regulators advocate the need for periodic monitoring of the development of the hydrogen sector by NRAs to identify the possible need for adaptation of the regulatory framework. At European level, it is important that ACER monitors the hydrogen sector and that it has a role in cases of cross-border issues.

3. Renewable and low-carbon gases

CEER considers it is important to ensure the traceability of renewable energy throughout the integrated energy system. Definitions and criteria for sustainable gases should be set unambiguously in order to monitor whether the gases coming from power-to-gas installations are environmentally sustainable, thereby allowing for their economic valorisation (for example, through a Guarantees of Origin system).

To foster the emergence of renewable and low-carbon gases, the re-examination of the current gas market regulatory framework should also ensure an integrated, liquid and interoperable EU internal gas market.

While regulators agree that cost reflectivity is a fundamental principle to design network tariffs, our view is that targeted deviations could be envisaged to allow for other policy objectives, such as fostering cross-border trade to be more effectively pursued. From a broader perspective, further market integration could be achieved through a more flexible approach to the application of the relevant network codes with respect to cross-border charges.

4. Integrated network planning

The progressive integration and emergence of new energy markets also make infrastructure more interdependent, requiring an integrated approach to infrastructure network planning, both in relation to the different levels of the supply chain (vertical) and the various energy carriers (horizontal).

On the need for such an integrated approach and the governance of the processes for the Ten-Year Network Development Plan (TYNDP) and the National Development Plans (NDPs), regulators have already called for improvements in the context of the revision of the TEN-E Regulation. Regulators continue to call for stronger links between the electricity and gas sectors, asking that scenarios for network development planning should be developed jointly for electricity and gas in a neutral way.

CEER's view on the planning process for hydrogen infrastructure development is that harmonisation at the EU level should not require the development of separate hydrogen NDPs, consistent with the gradual and flexible regulatory approach envisaged for the hydrogen market. However, there are clear benefits, especially in terms of transparency, in having a comprehensive overview of all infrastructure hydrogen projects – including those developed by non-regulated entities. Once hydrogen regulation is fully in place, regulated hydrogen infrastructure should be part of a NDP planning process subject to NRA approval.

With respect to network tariffs, in line with the European Commission's objective to enable fair competition between different decarbonisation solutions (e.g. smart electrification, energy efficiency, and renewable and low-carbon gases), CEER believes that those should be cost-reflective and should be applied to comparable activities across the electricity and gas sectors in a technologically-neutral way. They should not be used to subsidise technologies, activities or users and should provide a level playing field for comparable activities in the context of an integrated energy system. CEER also considers that the distortive effects of taxes and levies should be avoided, particularly in an integrated energy system.

5. Improve energy security and supply

Considering the latest proposal to amend the text of the Security of Supply Regulation, regulators recognise the relevance of the topic and the need to act rapidly. Thus, CEER will provide its views on the topic in the [call for feedback](#) that is open until 26 May 2022.

CEER reiterates the relevance of cybersecurity, which is crucial for the functioning of the EU's energy supply. Regulators agree that it could be useful to establish a comprehensive EU-level legislative framework for cybersecurity for the energy sector, covering the electricity, gases (including hydrogen), other energy carriers and the heating sector, given that they face similar cybersecurity challenges.

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For further reference and explanations of the views expressed above, we invite the European Commission to consider the following regulatory policy papers prepared by CEER and/or ACER:

- [ACER-CEER Position Paper on the Key Regulatory Requirements to Achieve Gas Decarbonisation](#), December 2021
- [CEER White Paper on Long-Term Storage](#), February 2021
- [ACER-CEER White Paper on Regulatory Treatment of Power-to-Gas](#), February 2021
- [ACER-CEER White Paper on the Regulation of Hydrogen Networks](#), February 2021
- [CEER-BEUC 2030 Vision for Energy Consumers: LET'S ASPIRE!](#), October 2020
- [ACER Report on NRAs Survey - Hydrogen, Biomethane, and Related Network Adaptations](#), July 2020

- [ACER-CEER Position on Revision of the Trans-European Energy Networks Regulation \(TEN-E\) and Infrastructure Governance](#), June 2020
- [ACER-CEER The Bridge beyond 2025 Conclusions Paper](#), November 2019
- [CEER Report on How to Foster LNG Markets in Europe](#), July 2019