



Council of the
European Union

Brussels, 20 February 2024
(OR. en)

6793/24

Interinstitutional File:
2021/0424(COD)

ENER 87
ENV 197
CLIMA 78
IND 96
RECH 79
COMPET 197
ECOFIN 220
CODEC 553

NOTE

From: General Secretariat of the Council
To: Delegations

No. Cion doc.: 15096/1/21 REV 1 + ADD 1 REV 1

Subject: 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)
- Letter sent to the Chair of the European Parliament Committee on
Industry, Research and Energy (ITRE)

Following the Permanent Representatives Committee meeting of 20 December 2023 which endorsed the final compromise texts on the abovementioned proposal with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee on Industry, Research and Energy (ITRE).



Council of the
European Union

SGS 23/5533

Brussels, 20 December 2023

Mr Cristian-Silviu BUȘOI

Chair, European Parliament Committee on Industry, Research and Energy
B-1047 Brussels

Subject: Proposal for a Regulation of the European Parliament and of the Council the internal markets for renewable and natural gases and hydrogen (recast)

Dear Mr Cristian-Silviu BUȘOI,

Following the outcome of the informal trilogue between the representatives of the three institutions held on 8 December 2023 in the European Parliament regarding the Regulation in subject, the draft compromise text was agreed today by the Permanent Representatives Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the exact form as set out in the compromise text contained in the Annex to this letter, but subject to revision by the legal linguists of both institutions, the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council I also wish to thank you for your close cooperation and expert Chairmanship which should enable us to reach agreement on this dossier at first reading.

Yours sincerely,

Mr Raúl FUENTES MILANI
Chairman of the Permanent Representatives
Committee (Part I)

copy to: Ms Kadri Simson, Commissioner
Mr Jerzy Buzek, Rapporteur

Rue de la Loi/Weistraat 175 – 1048 Bruxelles/Brussel – Belgique/België
Tél./Tel. +32 (0)2 281 61 11

1/1

PE-CONS .../... – 2021/0424 (COD)

REGULATION (EU) 2024/...

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on the internal markets for renewable gas and natural gas and for hydrogen, amending Regulations (EU) No 1227/2011, (EU) 2017/1938, (EU) 2019/42 and (EU) 2022/869 and Decision (EU) 2017/684 and repealing Regulation (EC) No 715/2009 (recast)

(Text with EEA relevance)

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,

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

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 323, 26.8.2022, p. 101.

² OJ C 498, 30.12.2022, p. 83.

³ *Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...*

Whereas:

- (1) Regulation (EU) No 715/2009 of the European Parliament and of the Council⁴ 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) ***By means of Regulation (EU) 2021/1119 of the European Parliament and of the Council ('European Climate Law')⁵, the Union has committed to cut greenhouse gas emissions. The internal market rules for gaseous fuels need to be aligned with this Regulation accordingly. The Union has set out how to update the energy markets in this context, including the decarbonisation of markets for gas, in the Communication of the Commission of 8 July 2020 (COM/2020/299 final) Powering a climate-neutral economy: An EU Strategy for Energy System Integration ('Energy System Integration Strategy'), the communication of the Commission of 8 July 2020 on a hydrogen strategy for a climate-neutral (the 'EU Hydrogen Strategy') as well as the European Parliament resolution of 10 July 2020 on a comprehensive European approach to energy storage⁶. This Regulation should contribute to achieving the Union's objective to cut greenhouse gas emissions, whilst security of supply and well-functioning internal markets for natural gas and hydrogen.***

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

⁵ ***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).***

⁶ ***European Parliament resolution of 10 July 2020 on a comprehensive European approach to energy storage (2019/2189(INI)) (OJ C 371, 15.9.2021, p. 58).***

- (3a) *This Regulation should be seen in conjunction with other policy and legislative instruments, notably those proposed under the European Green Deal, such as the reform and extension of the Union’s Emission Trading System, the Effort Sharing Regulation, the Renewable Energy Directive, the Energy Efficiency Directive, the ReFuelEU Aviation, FuelEU maritime initiatives seek to incentivise the decarbonisation of the Union’s economy and ensure that it remains on a trajectory towards a climate neutral European Union by 2050, as mandated by the European Climate Law. The main objective of this Regulation is to enable and facilitate such transition by ensuring the ramp up of a hydrogen market and an efficient market for natural gas.*
- (4) This Regulation aims to facilitate the penetration of renewable **gas** and low-carbon **gas and hydrogen** into the energy system enabling a shift from fossil gas ■ and to allow **renewable and low-carbon gas and hydrogen** to play an important role towards achieving the EU’s 2030 climate objectives and climate neutrality in 2050. **This** Regulation aims also to set up a regulatory framework **which** enables and incentivises all market participants to **shift away from** fossil gas **and plan** their activities to avoid lock-in effects and ensure gradual and timely phase-out of fossil gas notably in all relevant industrial sectors and for heating purposes.

- (5) The EU Hydrogen Strategy recognises that, as EU Member States have different potential for the production of renewable hydrogen, an open and competitive EU market with unhindered cross-border trade has important benefits for competition, affordability, and security of supply. Moreover, it stresses that moving towards a liquid market with commodity-based hydrogen trading would facilitate entry of new producers and be beneficial for deeper integration with other energy carriers. It would create viable price signals for investments and operational decisions. The rules laid down in this Regulation should thus be conducive for hydrogen markets and commodity-based hydrogen trading and liquid trading hubs to emerge. Any undue barriers, ***including disproportionate tariffs at interconnection points***, should be eliminated by Member States. Whilst recognising the inherent differences, existing rules that enabled efficient commercial operations developed for the electricity and ***natural*** gas markets and trading should be considered for a hydrogen market. ***Whilst this Regulation sets out general principles according to which also a hydrogen market is to operate, it is appropriate to take account of the development stage of this market in their application.***
- (5a) ***Supporting the coal and carbon intensive regions in the phase-out of fossil fuels and phase-in of renewables is a key element of the just transition policy. This has to be pursued consistently with the relevant legal framework, notably the Just Transition Fund (Regulation (EU) 2021/1056), which allow funding of technologies for renewable energy. The Commission plays a key role in ensuring such a support to national policies aimed at progressively reducing existing coal and other solid fossil fuel generation and mining capacity. As well, this process requires funding to address the social and economic impacts, including reskilling needs of the clean energy transition of regions that pass through structural change. This support to coal and carbon intensive regions will need to take into account the specific goals, scopes and criteria of each relevant European funding programme. The Just Transition Fund (Regulation (EU) 2021/1056) does not allow funding of technologies other than renewable energy.***

- (6) [Recast Gas Directive as proposed in COM(2021) xxx] provides for the possibility of a combined ■ system operator. The rules set out in this Regulation do not therefore require modification of the organisation of national ■ 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 ■ Regulation (EU) 2022/869, [Methane Regulation as proposed in COM(2021) xxx], Directive (EU) 2018/2001 and ■ Directive (EU) 2023/1791.
- (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, thus *contributing* to an investment climate supportive of the ■ decarbonisation objectives of *the Union. As an alternative to the expected higher network tariffs that would otherwise have to be charged on early hydrogen network users, 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. The methodology and features should be approved by the regulatory authority. It should be possible for Member States to accompany such mechanism by measures to cover the financial risk of hydrogen network operators, such as a State guarantee, provided they are compatible with Article 107 of the Treaty on the*

Functioning of the European Union (TFEU). Where the financing of networks through network access tariffs paid by network users is not viable, the regulatory authority should be able to allow financial transfers between separate regulated services from natural gas and hydrogen networks, subject to certain conditions. Costs associated with feasibility studies related to the repurposing of networks to hydrogen should not be considered to be a cross-subsidy. 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 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 *natural* 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 **■**, 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 hydrogen distribution network operators* and the organisation of capacity allocation between the transmission and distribution *levels for natural gas and hydrogen* 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.
- (12a) Member States should be able to establish full or partial regional integration where two or more adjacent entry-exit systems are merged. It should be possible for partial regional integration to encompass various balancing zones as an important step towards integrating fragmented natural gas markets and improving the functioning of the internal market for natural gas.*
- (12b) Where regional market integration is undertaken, the relevant transmission system operators and regulatory authorities should address issues having a cross-border impact such as tariff structures, the balancing regime, capacities at remaining cross-border points, investment plans and the fulfilment of transmissions system operators' and regulatory authorities' tasks.*
- (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 **approve the conditions and** ensure that the number of conditional capacity products is limited to avoid a fragmentation of the market and to ensure compliance with the principle of providing efficient third-party access.
- (14) A sufficient level of cross-border gas **natural** interconnection capacity should be achieved and market integration fostered in order to complete the internal market **for** natural gas.
- (14a) This Regulation aims to support the production of sustainable biomethane in the Union. In its staff working document of 18 May 2022 accompanying the REPowerEU Plan, entitled 'Implementing the Repower EU Action Plan: Investment needs, hydrogen accelerator and achieving the bio-methane targets', the Commission has proposed to increase significantly the production of sustainable biomethane in the Union up to 35 bcm per year by 2030.*

- (14b) *The coordinated mapping for the deployment of biogas and biomethane serves as a contribution for Member States to determine the contribution of biomethane to the estimated trajectories from 2021 to 2030, including expected total gross final energy consumption and total planned installed capacity, as requested in the National Energy and Climate Plans. Where Member States have established national trajectories for biogas and biomethane, they should in their NECPs specify policies and measures for their development, such as adopting national strategies on sustainable biogas and biomethane or setting national targets of annual production or consumption of biomethane, either expressed in absolute volumes or as a percentage of the volume of natural gas consumed by customers connected to the natural gas network. In order to facilitate this, the Commission has provided to Member States with significant biomethane potential an analysis of their national potential, as well as suggestions how the potential could be best harnessed. Furthermore Article 25(2) of Directive 2023/2413 (RED III) allows Member States to take into account for the transport targets in Article 25(1) biogas that is injected into the national gas transmission and distribution infrastructure.*
- (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 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.

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 (*OJ L 158 14.6.2019, p. 22*).

(16) In order to ensure optimal management of the *natural* gas transmission network in the Union, a European Network of Transmission System Operators for Gas (the ENTSO for Gas), should be provided for. *With the aim of ensuring a fair representation of small-size, non-interconnected or isolated Member States, in addition to natural gas transmission network operators, those natural gas network operators which benefit from a derogation from Article 54 of the [Gas Directive], granted under Article 80 of the [Gas Directive], should be eligible as members of ENTSOG. The Commission, when approving the statutes of ENTSOG, may seek to ensure an appropriate differentiation of membership rights reflecting the different status of the members.* The tasks of the ENTSO for Gas should be carried out in compliance with the Union's competition rules which are applicable to the decisions of the ENTSO for Gas. The tasks of the ENTSO for Gas should be well-defined and its working method should ensure efficiency, transparency and the representative nature of the ENTSO for Gas. *Where appropriate, network codes can be developed jointly by the ENTSO for Gas and the ENNOH, on subjects that are cross-sectoral in nature.* The network codes prepared by the ENTSO for Gas are not intended to replace the necessary national *technical rules applicable to* non-cross-border issues. Given that more effective progress may be achieved through an approach at regional level, transmission system operators should set up regional structures within the overall cooperation structure, whilst ensuring that results at regional level are compatible with network codes and non-binding ten-year network development plans at Union 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 *natural gas and hydrogen*.

- (17) In order to ensure greater transparency regarding the development of the *natural* gas transmission network in the Union, the ENTSO for Gas should draw up, publish and regularly update a non-binding Union -wide ten-year network development plan 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, including involvement of independent scientific bodies and it should be based on objective and scientific criteria. To that effect, the European Scientific Advisory Board on Climate Change may provide input on the scenarios for this Ten Year Network Development Plan, pursuant to the TEN-E Regulation.*** Viable *natural* 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 *natural* gas, it is vital that *natural* 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 *natural* 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 ***but should instead be*** 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) No 312/2014⁸ 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.

⁸ ***Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (OJ L 91, 27.3.2014, p. 15).***

- (20) Network users are to bear the responsibility of balancing their inputs against their off-takes with trading platforms established to better facilitate *natural* gas trade between network users. In order to *ensure equal access to the market for renewable gas and low-carbon gas*, the balancing zone should also cover, *to the extent possible*, the distribution system level. The virtual trading point should be used to exchange *natural* 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 *natural* 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 and liquefied natural gas (LNG) facilities is insufficient 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’)*. Such improvement should take into account the potential and uptake of renewable *gas* and low-carbon *gas* for these facilities in the internal market. Monitoring by the European Regulators' Group for Electricity and Gas concluded that the voluntary guidelines for good third-party access practice for storage system operators, agreed by all stakeholders at the Madrid Forum, are being insufficiently applied and therefore need to be made binding.
- (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 *laid down in Annex I* to this Regulation, more detailed rules are defined. Where appropriate, those rules should evolve over time, taking into account the differences of national *natural* gas systems and their development.
- (29) When proposing to amend the guidelines *laid down in Annex I* to this Regulation, the Commission should ensure prior consultation of all relevant parties concerned with *those* 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 *natural* 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.

- (35) The energy transition and the continuing integration of the *natural* 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 *operator* to a hydrogen network *operator* 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, *regularly* 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, *as well as the long-term evolution of transmission tariffs based on the expected changes in their allowed or target revenues and in natural gas demand. In order to ensure the proper process of collecting and interpreting the data for the transparent and reproducible transmission system operator efficiency comparison study, ACER should coordinate with the transmission system operators and ENTSO for Gas.*
- (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 *natural* 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 *natural* 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 *inter-TSO-compensation* ('TTC') mechanisms between operators either for regional integration or for the implementation of tariff discounts for renewable *gas* and low-carbon *gas* as set out in this Regulation.
- (38) In order to exploit the most economic locations for the production of renewable *gas* and low-carbon *gas*, network users should benefit from discounts in capacity-based tariffs. *Such discounts could* include a discount for *the* injection from renewable *gas* and low-carbon gas production facilities, a discount for tariffs at entry points from and exit points to storage facilities, and a discount on the cross-border *tariffs at interconnection* points *between Member States. Regulatory authorities should be able to decide not to apply the discounts to these tariffs under certain circumstances.* In case of a change of the value of non-cross border discounts, the regulatory authority *should* balance out the interest between networks users and network operators taking into account stable financial frameworks specifically for existing investments, in particular for renewable production facilities. Where possible, indicators or conditions for changing the discount should be provided sufficiently before any decision to change the discount is taken. This discount should not affect the general tariff setting methodology, but should be provided ex-post on the relevant tariff. In order to benefit from the discount, network users should present *to* the transmission system operator *the required information* on the basis of a certificate which would be linked to the union database.
- (39) Revenue decreases from the application of discounts *should* be treated as general revenue decreases, *for example* from reduced capacity sales, and *would* need to be recovered via tariffs in a timely manner, for instance by an increase of the specific tariffs following the general rules contained in ■ this Regulation. The Commission should be empowered to *adopt* delegated acts *to amend this Regulation by changing the discount levels* to mitigate structural imbalances of revenues for transmission system operators.

- (40) In order to increase efficiencies in the natural gas distribution networks in the Union and to ensure close cooperation with transmission system operators and the ENTSO for Gas, *as well as to increase efficiencies in the hydrogen distribution networks in the Union and to ensure close cooperation with hydrogen transmission network operators and ENNOH*, an entity of distribution system operators in the Union ('EU DSO entity') should be provided for which also includes natural gas distribution system operators *and may include hydrogen distribution network 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 *and network* operators. The EU DSO entity should *be free to establish its statutes and rules of procedures taking into account the differences between natural gas, hydrogen and electricity sectors. The EU DSO entity should* closely cooperate with the ENTSO for Gas *and with ENNOH* 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*.
- (41a) *Demand aggregation for natural gas and the mechanism for support to market development for hydrogen can play a pivotal role in achieving the objectives of the Union's energy policy: market transparency, decarbonisation, diversification and security of supply.*

- (41b) Both mechanisms contribute to the unity of the Union's energy market by improving transparency, as well as ensuring visibility of demand for energy sources across Member States for relevant suppliers.*
- (41c) Demand aggregation for natural gas may enhance international outreach to natural gas suppliers (both pipeline and LNG), that is essential to help achieve these objectives. In particular, much stronger coordination with and among Member States vis-à-vis third countries via both mechanisms would ensure a more effective use of the Union's collective weight.*
- (41d) Demand aggregation for natural gas can contribute to the Union's decarbonisation objectives by incorporating environmental standards in the aggregation of demand and the collection of offers. Launching the mechanism for support to market development for hydrogen may also help further those objectives.*
- (41e) The demand aggregation mechanism for natural gas developed under this Regulation should consist of, at least, the following steps: as a first step, natural gas undertakings or undertakings consuming natural gas established in the Union may aggregate their natural gas demand through a service provider, contracted by the Commission. This would allow natural gas suppliers to make offers on the basis of large, aggregated volumes, instead of many smaller offers to purchasers approaching them individually. The service provider would then collect the supply offers and match them with the amounts of natural gas previously aggregated. The negotiation and conclusion of contracts for the purchase of natural gas following demand aggregation should be voluntary.*

- (41f) *Demand aggregation can ensure more equal access for undertakings across Member States to new or additional natural gas sources and lead to competitive contractual conditions for the purchase of natural gas from the Member States and third countries which can benefit final consumers. Demand aggregation should continue to support also those undertakings that were previously purchasing natural gas only or mainly from one single supplier by helping them to obtain supplies from alternative natural gas suppliers or providers in advantageous conditions. Demand aggregation could improve the position of such undertakings at the global LNG markets.*
- (41g) *The Commission should ensure that the service providers organise the tasks defined in this Regulation taking into account the objectives of the mechanism and the specificities of natural gas. In particular, when allocating supply offers of natural gas among undertakings aggregating demand, the service providers should apply methods that would not discriminate between smaller and larger participants. For instance, the service provider should allocate supply offers of natural gas in proportion to the volumes that individual undertakings declared as demand. This might be relevant in cases where supply does not sufficiently cover demand for natural gas in the Union market. The Commission should specify the relevant requirements applicable to the tasks to be performed by the service providers in the respective tender specifications.*
- (41h) *The Commission should contract the necessary services of service providers through the relevant procurement procedures in accordance with the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁹ in order to set up the mechanisms set forth in this Regulation. In order to safeguard the essential security interests or security of supply of the Union or Member States, the services should be procured from entities established in the Union.*

⁹ *Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 30.7.2018, p. 1).*

- (41i) The process of aggregating demand for natural gas should be carried out by a suitable service provider. The aggregation of demand and the purchasing of natural gas is a complex process, which needs to take into account various elements, which are not limited to prices, but also include volumes, delivery points and other parameters. Given the importance of the services relating to demand aggregation of natural gas and the mechanism for support to market development for hydrogen for transparency, diversification, decarbonisation, and security of supply in the Union, in particular in case of a deterioration of the security of supply situation, undertakings targeted by Union restrictive measures established on the basis of Article 215 TFEU, or owned or controlled by any other natural or legal person, entity or body subject to such restrictive measures, should be excluded from becoming a service provider for demand aggregation for natural gas or a service provider for mechanism for support to market development for hydrogen. The Commission should specify the requirements applicable for the service providers in the tender specifications.*
- (41j) Industrial consumers which use natural gas intensively in their production processes, such as producers of fertilisers, steel, ceramic and glass, may also benefit from demand aggregation by enabling them to pool their demand, to contract gas and LNG cargoes, and to structure supply according to their particular needs. The process of organising the demand aggregation should have transparent rules on how to join it and should ensure its openness.*
- (41k) Demand aggregation for natural gas and the mechanism for support to market development for hydrogen should be open to undertakings from the Union and, given the close alignment with the EU energy acquis and the internal energy market, from the Energy Community Contracting Parties, provided that the necessary arrangements are in place.*

- (41l) However, in order to phase out existing or avoid new dependencies of the Union on natural gas or hydrogen supplied by undertakings from third countries subject to restrictive measures, and to protect essential security interests, demand aggregation and the mechanism for support to market development for hydrogen should not be open to undertakings targeted by Union restrictive measures established on the basis of Article 215 TFEU, or owned or controlled by any other natural or legal person, entity or body subject to such restrictive measures. Those undertakings should therefore be excluded from participating in both mechanisms, in particular as a supplier and as a buyer.*
- (41m) In order to effectively engage in joint purchasing of natural gas and conclude natural gas agreements with suppliers, undertakings can create consortia or enter into other forms of cooperation with the purpose of jointly negotiating certain conditions of the purchase, such as volumes, delivery conditions of the purchase points and time, within the limits of Union law. Undertakings engaging in joint purchasing should, however, ensure that the information directly or indirectly exchanged is limited to what is strictly necessary to achieve the objective pursued. The set-up and implementation of joint purchases under this Regulation should be done in compliance with the Union's competition rules, in particular Articles 101 and 102 TFEU.*

- (41n)** *The protection of commercially sensitive information is of utmost importance when information is made available to the Commission, the Steering Board, coordination groups, expert groups, or the service providers. The Commission should therefore apply effective instruments to protect this information against any unauthorised access and cybersecurity risks. Any personal data that might be processed as part of demand aggregation should be processed in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁰ and Regulation (EU) 2018/1725 of the European Parliament and of the Council¹¹.*
- (41o)** *Russia's unprovoked and unjustified war against Ukraine since February 2022, supported by Belarus, and subsequent weaponised reductions of natural gas supplies and manipulation of the markets through intentional disruptions of natural gas flows have laid bare vulnerabilities and dependencies in the Union and its Member States, with the clear potential of a direct and serious impact on their essential security interests and security of energy supply. At the same time, alternative gas supply sources from global LNG grew only modestly in the past two years. Significant new LNG liquefaction capacity is set to come online only in the course of 2025. Hence, global natural gas markets remain very tight and are expected to remain tight for a certain time, leading to a continued vulnerable situation for Member States and the Union. Against this background, it is appropriate to take measures to address that continued vulnerability.*

¹⁰ *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119 4.5.2016, p. 1).*

¹¹ *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

(41p) *The demand aggregation and joint purchasing mechanism is an important instrument to organise the diversification of supplies and phasing out of the dependency on Russian natural gas in many Member States, in line with the RePower Communication of 8 March 2022¹². In order to protect the essential security interests of one or several Member States or of the Union, including to ensure security of supply and to allow the effective and swift phase out of natural gas dependence, natural gas supplies originating in, and LNG supplies from LNG facilities located in, the Russian Federation or Belarus should not be offered through the demand aggregation and joint purchasing mechanism until 31 December 2025. After that, the Commission should still be able to decide to temporarily exclude natural gas originating in, or LNG supplies from LNG facilities located in, the Russian Federation or Belarus for periods of up to a year, which may be renewed if justified, where this is necessary to protect the essential security interests or security of energy supply of one or several Member States or those of the Union. Any such limitations should not unduly disrupt the proper functioning of the internal natural gas market, and cross-border flows of natural gas between Member States, not undermine the security of supply of the Union or a Member State, respect the principle of energy solidarity, and be taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.*

¹² **COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS REPowerEU: Joint European Action for more affordable, secure and sustainable energy, 8 March 2022.**

- (41q) The Commission should take the appropriate available measures to ensure that the exclusion of natural gas or LNG supplies originating in, and LNG supplies from LNG facilities located in the Russian Federation or Belarus, from the demand aggregation and joint purchasing mechanism is effective. In this regard, the Commission should request the relevant service provider to carry out the necessary verifications. These verifications could take the form, amongst others, of a request from natural gas suppliers or producers participating in the process of demand aggregation and joint purchasing to provide the relevant shipping documents when delivering the supplies, where appropriate. Furthermore, participants on the demand aggregation and joint purchasing mechanism should be requested to provide assurance on the compliance with their obligation to not offer or supply natural gas from, or LNG supplies from LNG facilities located in, the Russian Federation or Belarus, when applicable.*
- (41r) The Commission may be assisted by a Steering Board composed of representatives of Member States and the Commission with the aim to facilitate the coordination and information exchange in relation to demand aggregation of natural gas. The participation of Member States should be voluntary and may depend upon the agenda of the group and the issues to be discussed.*
- (41s) Hydrogen is an energy carrier with different features than natural gas in terms of quality, transport means and demand patterns. In addition, there is still an important gap between the costs of renewable and low-carbon hydrogen production and the market price of less sustainable alternatives, which may require public intervention to provide incentives until such time that electrolyzers and other related hydrogen technologies and inputs are sufficiently competitive.*

- (41t) Nevertheless, the EU has a strong renewable and low-carbon hydrogen production potential. In this regard, the initiative of the European Hydrogen Bank was launched by the European Commission in March 2023. The European Hydrogen Bank describes a number of initiatives, by which the Commission facilitates the creation of an EU domestic hydrogen market, enables supplies from reliable international partners, gathers and disseminates information on the development of the EU hydrogen market and on European funding for hydrogen projects. These activities are carried out within the framework of the relevant existing legal instruments, such as the Directive 2003/87/EC ('EU ETS Directive'). The voluntary tools applied to hydrogen under the European Hydrogen Bank, in particular the mechanism for support to market development for hydrogen, should focus on the acceleration of the scale-up of EU domestic hydrogen production and market development, including by increasing transparency on hydrogen demand, supply, flows and prices and playing a coordination role, connecting producers and consumers and facilitate blending with the existing financial instruments.*
- (41u) In the context of the work carried out under the European Hydrogen Bank, the Commission may establish the mechanism for support to market development for hydrogen, with a focus on Union based production. Given the abovementioned characteristics of hydrogen and the hydrogen market, the mechanism should be established for a time limited period in order to identify the most effective tools for identification of demand and supply in the Union and to explore the most optimal market and infrastructure arrangements.*
- (41v) Access to information for suppliers and off-takers in the context of the mechanism for support to market development for hydrogen should be subject to the consent of those entities and to compliance with competition law.*

- (41w) The Commission may establish the mechanism by itself or through the necessary service providers. If the Commission decides to establish such a mechanism through a service provider, the provisions regarding the contracts with service providers, the criteria for selecting service providers, and the tasks of service providers specified in this Regulation should apply.*
- (41x) A mechanism for support to market development for hydrogen could consist of tools focused on transparency, market development visibility and voluntary demand assessment. The mechanism should be implemented under the European Hydrogen Bank. The European Hydrogen Bank should coordinate such information to strengthen confidence in the developing hydrogen market, provide increased demand visibility for hydrogen producers and hydrogen off-takers. The mechanism for support to market development for hydrogen should take into account the maturity and liquidity of the hydrogen market as well as infrastructure availability.*
- (41y) Should the Commission set up a coordination group for matters related to the mechanism for support to market development for hydrogen, such coordination group should be dedicated specifically to hydrogen.*

(41z) *The Union's efforts aimed at phasing out existing and avoiding new dependence on natural gas supplies from the Russian Federation and protecting the essential security interests of the Member States and those of the Union should also be reflected in the context of the mechanism for support to market development of hydrogen also in view of the weaponisation of energy supplies by Russia as evidenced by the reduction of natural gas supplies and disruptions of natural gas flows. The Commission should therefore have the possibility to decide to restrict their activities in respect of the assessment of offers as regards supplies originating in the Russian Federation or Belarus within the mechanism for support to market development for hydrogen via an decision. Such decision should only be taken where necessary to protect the essential security interests of the Member States and those of the Union and based on the same principles as the those in Article 38g, but adapted to the activities carried out through the mechanism for support to market development for hydrogen. In particular, the timeline for adoption and prior assessment of such decision should be adjusted to the planned launch of the mechanism's operations.*

(41aa) *Prior to end of the period of operation of the mechanism, by 31 December 2029, the Commission should submit a report to the European Parliament and the Council assessing the performance of the mechanism and, in particular, its contribution to the development of the EU hydrogen market. Based on such assessment, the Commission may submit a separate legislative proposal for a voluntary demand aggregation mechanism for hydrogen.*

(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 using hydrogen in its pure form and diminishes the value of hydrogen. It also affects the operation of natural gas infrastructure, end-user applications, and the interoperability of cross-border systems. The production and use of hydrogen in its pure form and its transportation in the dedicated hydrogen system should therefore be prioritised. Best efforts should be made to avoid the use of hydrogen for applications with regard to which more energy-efficient alternatives exist.* Member States' *right to take the decision on whether to apply blending hydrogen in their national natural gas systems should be preserved. At the same time, a harmonised approach on blending hydrogen into the natural gas system in the form of a Union-wide allowed cap at cross-border interconnection points between* ■ Member States, where transmission system operators have to accept natural gas with a blended hydrogen level below the cap, would limit the risk of market segmentation. Adjacent transmission systems should remain free to agree on higher *or lower* hydrogen blending levels for cross-border interconnection points. *When considering such agreements, Member States should consult other Member States that are likely to be affected by the measure and take into account the situation in these Member States.*
- (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.

(44a) Member States should remain able to resort to their original gas quality specifications in case their regulatory authorities or ACER decide to maintain a cross-border restriction caused by differences in hydrogen blending levels or practices. The possibility of maintaining such cross-border restriction is particularly important in Member States with one single interconnection point or where natural gas volumes enter mainly through a single interconnection point. To ensure unhindered cross-border flows and preserve the integrity of the internal energy market, the relevant regulatory authorities, and ACER where relevant, should be empowered to restart the common dispute settlement process on a rolling basis, in order to reflect the developments occurred in natural gas markets and technologies.

(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 (*TFEU*) 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-Making¹³. 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.

¹³ OJ L 123, 12.5.2016, p. 1.

- (46) ■ Interoperability and data exchange rules for the natural gas system *as also set out in Commission Regulation (EU) 2015/703¹⁴ are essential*, 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 *natural* gas quantities, communication procedures in case of exceptional events; common set of units, gas quality, including rules on managing cross-border trade restrictions due to gas quality differences and due to differences in 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, a European Network of Network Operators for Hydrogen ('ENNOH') should be established. The tasks of the ENNOH should be carried out in compliance with Union competition rules. The tasks of the ENNOH should be well-defined and its working method should ensure efficiency, transparency and the representative nature of the ENNOH. ■ *Where appropriate, network codes can be developed jointly by the ENTSO for Gas and the ENNOH on subjects that are cross-sectoral in nature.*

¹⁴ 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).

(47a) In order to ensure that all Member States in process of developing hydrogen transmission networks are represented in ENNOH, in the exceptional case of Member States which have designated at least one hydrogen transmission network operator which benefits from a derogation from Article 62 and no other hydrogen transmission network operator is member of ENNOH, those Member States may nominate such hydrogen network operator as member. ENNOH should enable that Member States which have not yet a dedicated hydrogen transmission network operator but are planning to develop a hydrogen transmission network as stated in their National Energy and Climate Plans can nominate an entity as associated partner to be informed about the work undertaken in ENNOH, and as such able to attend assembly, board and committee meetings and participate in working groups, until their hydrogen network operators become ENNOH members. To this end, Member States can decide to delegate a representative of a national association dedicated to hydrogen issues.

█

(49) In order to ensure transparency regarding the development of the hydrogen network in the Union, the ENNOH should establish, publish and regularly update a non-binding Union-wide ten-year network development plan for hydrogen targeted at the needs of the developing hydrogen markets. Viable hydrogen **transport** networks and necessary interconnections, relevant from a commercial point of view, should be included in that network development plan. The ENNOH should participate in the development of the energy system wide cost-benefit analysis – including the interlinked energy market and network model including electricity, **natural** gas and hydrogen transport infrastructure as well as storage, LNG and electrolyzers –, 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 for the development of the lists of projects of common interest. For that purpose, the ENNOH should closely cooperate with the ENTSO for Electricity and the ENTSO for Gas to facilitate system integration.

- (49a) *To facilitate energy system integration, harness synergies and support overall system efficiency ENNOH, the ENTSO for Electricity and the ENTSO for Gas should cooperate closely in EU-level integrated network planning. This cooperation should cover the preparation of the joint scenarios for electricity, hydrogen and natural gas, the coordinated infrastructure gap reports, the consistent draft methodologies for energy system wide cost-benefit analysis and the integrated model pursuant to Articles 11, 12 and 13 of Regulation (EU) 2022/869. To make this cooperation efficient, ENNOH, the ENTSO for Electricity and the ENTSO for Gas should set up common working groups preparing these deliverables. For the transition period until 1 January 2027, the ENTSO for Gas should develop the 2026 hydrogen ten-year network development plan. For this the ENTSG for Gas should fully involve hydrogen transmission network operators and ENNOH as soon as ENNOH is established. The 2026 hydrogen ten-year network development plan should consist of two separate chapters, one for hydrogen and one for natural gas. ENNOH should develop the 2028 hydrogen ten-year network development plan in line with the EU-level integrated network planning pursuant to Article 43a of this Regulation.*
- (50) All market participants have an interest in the work expected of the ENNOH. An effective consultation process is therefore essential. Overall, *the* ENNOH should seek, build on and integrate in its work experience with infrastructure planning, development and operation in cooperation with other relevant market participants and their associations.
- (51) Given that more effective progress may be achieved through an approach at regional level, hydrogen network operators should set up regional structures within the overall cooperation structure, while ensuring that results at regional level are compatible with network codes and Union-wide non-binding ten-year network development plans. Member States should promote cooperation and monitor the effectiveness of the network at regional level.

- (52) Transparency requirements are necessary to ensure that trust in the emerging hydrogen markets in the Union can develop among market participants. Equal access to information on the physical status and functioning of the hydrogen system is necessary to enable all market participants to assess the overall demand and supply situation and to identify the reasons for market price developments. Information should be always disclosed in a meaningful and easily accessible manner and on a non-discriminatory basis.
- (53) The ENNOH *should* establish a central, web-based platform for making available all data relevant for market participants to gain effective access to the network.
- (54) The conditions for access to hydrogen networks in the early phase of market development should ensure efficient operation, non-discrimination and transparency for network users while preserving sufficient flexibility for operators. Limiting the maximum duration of capacity contracts should reduce the risk of contractual congestion and capacity hoarding.
- (55) General conditions for granting third-party access to hydrogen storage facilities and hydrogen terminals should be set out in order to ensure non-discriminatory access and transparency for network users.
- (56) Hydrogen network operators should cooperate to create network codes for providing and managing transparent and non-discriminatory access to the networks across borders and to ensure coordinated development of the network in the Union, including the creation of interconnection capacities. *The Commission should establish the first priority list for the identification of areas to be included in the development of network codes for hydrogen one year after the establishment of the ENNOH.* 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 ENNOH 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 *transport* 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 *transmission* 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 *transmission network* operators is essential to facilitate the transport of hydrogen across hydrogen *transmission* 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 ■ 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 Council¹⁵.

¹⁵ 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).

- (61a) *Network codes and guidelines should be applied to entry points from and exit points to third countries. Specific circumstances, including the existence of existing long-term contractual arrangements or legal difficulties to establish a dispute resolution procedure with transmission network operators or natural gas suppliers established in third countries, may prevent an effective application in the short-term. When justified by objective reasons, regulatory authorities should be able to apply to the Commission for a derogation from the application of the network codes or guidelines, or specific provisions thereof, which cannot be implemented at entry points from and exit points to third countries. Such derogations should be limited in time, for the minimum necessary period to remove the existing obstacles for the application of the network codes or guidelines.*
- (62) To ensure the efficient operation of the European hydrogen networks, hydrogen network operators should be responsible for the operation, maintenance and development of the hydrogen transport network in close cooperation with other hydrogen network operators as well as with other system operators their networks are connected with, including to facilitate energy system integration.
- (63) It is in the interest of the functioning of the internal market to have standards which have been harmonised at Union level. Once the reference to such a standard has been published in the *Official Journal of the European Union*, compliance with it should raise a presumption of conformity with the corresponding requirements set out in the implementing measure adopted on the basis of this Regulation, although other means of demonstrating such conformity should be permitted. In line with Article 10 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council¹⁶, the 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.

¹⁶ *Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).*

- (63a) *The current Union standardisation framework, which is based on the New Approach principles and on Regulation (EU) No 1025/2012, represents the framework by default to elaborate standards that provide presumption of conformity with the relevant requirements of this Regulation or set out in specific implementing or delegated acts adopted on the basis of this Regulation. European standards should be market driven and take into account the public interest, as well as the policy objectives clearly stated in the Commission’s request to one or more European standardisation organisations to draft harmonised standards, within a set deadline and be based on consensus. However, in the absence of relevant references to harmonised standards, or where the standardisation process is blocked or there are delays in the establishment of appropriate harmonised standards, the Commission should be able to establish, via implementing or delegated acts, common specifications for the requirements of this Regulation, provided that in doing so it duly respects the standardisation organisations’ role and functions. This option should be understood as an exceptional fallback solution to facilitate operators in applying relevant measures under implementing or delegated acts adopted under this Regulation and [recast Gas Directive as proposed in COM(2021) xxx]. If a delay in establishing harmonised standards is due to the technical complexity of the standard in question, this should be considered by the Commission before contemplating the establishment of common specifications.*
- (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 **should take into account** already existing standards setting such end-user requirements (for instance, the standard EN 17124).
- (65) Hydrogen **transmission network** operators should build sufficient cross-border capacity for the **transport** 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 *the notification obligations in accordance with Decision (EU) 2017/684* for intergovernmental agreements in the field of energy relating to *natural* gas *also applies to* intergovernmental agreements relating to hydrogen, including hydrogen compounds such as ammonia and liquid organic hydrogen carriers.
- (67a) *Investments in major new infrastructure should be strongly promoted while ensuring the proper functioning of the internal market for natural gas and for hydrogen. In order to enhance the positive effect of exempted infrastructure projects on competition and security of supply, market interest during the project planning phase should be tested and congestion management rules should be implemented. Where an infrastructure is located in the territory of more than one Member State, ACER should handle as a last resort the exemption request in order to take better account of its cross-border implications and to facilitate its administrative handling. Moreover, given the exceptional risk profile of constructing those exempted major infrastructure projects, it should be possible temporarily to grant partial or full derogations to undertakings with supply and production interests in respect of the unbundling rules for the projects concerned. The possibility of temporary derogations should apply, for security of supply reasons, in particular, to new pipelines within the Union transporting natural gas from third countries into the Union. Exemptions and derogations granted under Directives 2003/55/EC and 2009/73/EC with amendments should continue to apply for the period for which they have been granted by the applicable exemption or derogation decision.*

(68) In reaction to the significant and EU-wide energy price increases evidenced in autumn 2021 and their negative impacts, the Communication of the Commission of 13 October 2021 entitled ‘Tackling rising energy prices: a toolbox for action and support’ highlighted the importance of an effective and well-functioning internal energy market and *of a* better coordination of security of supply across borders ■ for the resilience against future shocks. On 20/21 October 2021, the European Council adopted conclusions inviting the Commission to swiftly consider measures that increase the resilience of the EU’s energy system and the internal energy market, including measures which enhance security of supply. *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 *crises* at Union level, specific rules to improve cooperation and resilience, *in particular* concerning ■ solidarity rules, should be introduced in this Regulation and in Regulation (EU) 2017/1938, *as amended by Regulation (EU) 2022/1032 on gas storage.*

(70a) *The escalation of the Russian military aggression against Ukraine since February 2022 has led to declining natural gas supplies from that country, and the resources from natural gas sales have been used to finance Russia's war at the Union's border. Notably, pipeline flows of natural gas from Russia through Belarus and the Nord Stream 1 pipeline have stopped and natural gas supplies through Ukraine have steadily decreased, seriously jeopardising the security of energy supply in the Union as a whole. Those weaponised reductions of natural gas supplies and manipulation of the markets through intentional disruptions of natural gas flows have laid bare vulnerabilities and dependencies in the Union and its Member States with the clear potential of a direct and serious impact on their essential international security interests. Past evidence has also shown that natural gas may be used to weaponise and manipulate energy markets, for instance by hoarding capacities in natural gas infrastructure, to the detriment of the Union's essential international security interests. In order to mitigate the impact of such events, both in the current context and for the future, Member States should exceptionally be able to take proportionate measures to limit temporarily up-front bidding for capacity by any single network user at entry points and at LNG terminals for deliveries from the Russian Federation and Belarus, where necessary to protect their essential security interests and those of the Union, taking into account also the need to ensure security of supply in the Union. Such temporary measures may be renewed where justified. This possibility should apply only in respect of the Russian Federation and Belarus, with a view to enabling Member States to respond with adequate measures to any threat to their essential security interests and those of the Union arising from the situation, including by phasing out their dependency on Russian fossil fuels, inter alia by taking early action in line with the REPowerEU objectives. Any such limitations should not run counter to international obligations of the Union or the Member States and should be in accordance with Article XXI of the General Agreement on Tariffs and Trade. Before applying any such limitations, Member States should consult the Commission and, in so far as they are likely to be affected by the limitation, other Member States, the Energy Community Contracting Parties, the Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland, and take into account the situation in those Member States and third countries, notably in terms of security of supply. Member States should take due account of potential effects of their measure on other Member States and notably respect the principle of energy solidarity,*

including with a view to ensuring security of supply, when assessing the appropriateness and scope of any envisaged limitation.

-
- (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 **natural** gas sub-sector are needed to ensure security of the European energy system.
- (73) As demonstrated in the Union wide **simulations** of 2017, 2021 **and 2022**, 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 **on** bilateral **agreements**, the default **rules** 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 **regulatory authorities and ACER** should have, as independent **authorities**, the power to audit the amount of compensation requested and paid and if necessary request a rectification, **in particular taking into account the level of indirect costs occurred due to the provision of solidarity based on non-market-based measures. The newly established cooperation between indirectly connected Member States using market-based measures pursuant to Article 13a also helps to reduce potentially substantial costs that may arise when using more costly non-market-based measures.**

- (74a) *Providing voluntary contributions of natural gas using market-based measures to indirectly connected Member States should be made in particular to avoid directly connected Member States having to use non-market-based measures where another non-directly connected Member State could provide volumes for solidarity by using market-based measures. The voluntary nature of the market-based measures and the resulting contribution of natural gas are without prejudice of the obligations of the Member States to assess and indicate in a timely manner whether and how market-based measures can provide the natural gas requested. Such mechanism aims at reducing the indirect and overall cost of solidarity, by avoiding the recourse to more costly non-market-based measures. Solidarity between indirectly connected Member States spreads to burden across more Member States and facilitates access of Member States without LNG facilities to global LNG supply.*
- (74b) *The risk-based approach to assess the security of gas supply and the establishment of preventive and mitigation measures should include scenarios examining the impact of a decrease in natural gas demand through energy savings or energy efficiency measures, including in the Union-wide simulations of gas supply and infrastructure disruption scenarios pursuant to Article 7(1). Examining energy savings and energy efficiency scenarios ensures that the Union-wide simulation, as well as the subsequent national and common risk assessments and preventive measures are future-proof and compatible with the energy efficiency first principle and the Union objectives of climate neutrality laid down in Regulation (EU) 2021/1119, as well as contribute to phasing out the dependence of the Union on Russian fossil fuels. Article 11(7a) of this Regulation also enables Member States to reduce the non-essential consumption of protected customers to facilitate more natural gas savings, in particular during a crisis.*

(74c) *The risks for the security of gas supply brought about by the Russian military aggression against Ukraine that justified the amendments to the Regulation (EU) 2017/1938 on security of gas supply introduced by Regulation (EU) 2022/1032 persist today. In addition, supplementary risks should be considered such as further disruptions of critical infrastructures, after the acts of sabotage against the NordStream pipelines in September 2022 and the disruption of the Balticconnector pipeline in October 2023, and a deterioration of the geopolitical environment and threat landscape in supplying regions, for example with the crisis in the Middle East. Therefore, the report that the Commission shall submit by 28 February 2025 may be accompanied, where necessary, by a legislative proposal to amend this Regulation.*

(74d) *Several provisions in this Regulation are building on the crisis measures introduced by Council Regulation (EU) 2022/2576¹⁷ in reaction to the Russian war of aggression against Ukraine and the subsequent natural gas supply crisis. While Regulation (EU) 2022/2576 addresses an immediate and severe natural gas supply crisis, including by derogating from the existing permanent framework, this Regulation aims at transforming some of the crisis measures into permanent features of the natural gas market. This concerns notably the mechanism for demand aggregation and joint purchasing, measures to enhance the use of LNG facilities and natural gas storage, as well as additional solidarity measures for the case of a natural gas emergency. However, the implementation of those permanent features of the natural gas market requires time, for instance due to the necessary tender procedures for the permanent demand aggregation platform and joint purchasing. This will not be finished before the end of 2024. In addition, the risks with natural gas supply are expected to last in the Union during the whole of 2024. Accordingly, in order to make sufficient allowance for the preparatory phase concerning those measures and with a view to avoiding an overlap with the measures introduced by Regulation (EU) 2022/2576, the relevant provisions in this Regulation should only apply as from [day after the end of the period of application of Regulation (EU) 2022/2576 to be inserted]. The provisions concerning the establishment and the selection of a service provider to perform tasks under the mechanism for demand aggregation and joint purchasing of natural gas should already apply as of entry into force of this Regulation,*

¹⁷ *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 335, 29.12.2022, p. 1).*

so as to ensure that the mechanism is operational when Regulation (EU) 2022/2576 expires.

- (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 *and of the measures with respect to demand aggregation for natural gas and the mechanism for support to market development for hydrogen*, 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 *natural gas and hydrogen as well as to contribute to the flexibility of the energy system*; and
- (b) facilitates the emergence *and operation* of a well-functioning and transparent wholesale market *in natural gas and hydrogen* with a high level of security of supply ■ and provides mechanisms to harmonise the network access rules for cross-border exchanges in *natural gas and hydrogen*.

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 *transmission* 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 *transmission system operator, distribution system operator, hydrogen transmission network operator and hydrogen distribution 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 *natural gas or hydrogen*;
 - (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;
- (9) ‘re-nomination’ means the subsequent reporting of a corrected nomination;
- (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 **natural gas or hydrogen**, expressed in units of energy, must be offset by every network user by means of the injection of the same amount of **natural gas or hydrogen** in accordance with the network code;
- (12) ‘network user’ means **network user as defined in Article 2, point (55a), of [recast Directive]**;
- (13) ‘interruptible services’ means services offered by the transmission system operator or hydrogen network operator in relation to interruptible capacity;
- (14) ‘interruptible capacity’ means **natural gas or hydrogen** 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 *natural* gas transmission, *distribution and hydrogen transmission and distribution* capacity contractually guaranteed as uninterrupted by the transmission *or distribution* system operator or *the* 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 *transmission* network operator;
- (24) ‘physical congestion’ means a situation where the level of demand for actual deliveries exceeds the technical capacity at some point in time;
- (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 *natural gas and hydrogen* which a user of a storage facility is entitled to use for the storage of *natural gas or hydrogen*;
- (27) ‘deliverability’ means the rate at which the storage facility user is entitled to withdraw *natural gas or hydrogen* from the storage facility;
- (28) ‘injectability’ means the rate at which the storage facility user is entitled to inject *natural gas or hydrogen* into the storage facility;
- (29) ‘storage capacity’ means any combination of space, injectability and deliverability; █
- (30) ‘entry-exit system’ means *entry-exit system as defined in Article 2, point (53) of [recast Directive]*;
- (31) ‘balancing zone’ means *balancing zone as defined in Article 2, point (54) of [recast Directive]*;
- (32) ‘virtual trading point’ means *virtual trading point as defined in Article 2, point (55), of [recast Directive]*;
- (33) ‘entry point’ means *entry point as defined in Article 2, point (56) of [recast Directive]*;
- (34) ‘exit point’ means *exit point as defined in Article 2, point (57) of [recast Directive]*;
- (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 *[the recast Gas Directive as proposed in COM (2021)] 803*;
- (37a) ‘target revenue’ means the sum of expected transmission services revenue calculated in accordance with the principles set out in Article 15(1) and expected non-transmission services revenue for the provision of services by the transmission system operator for a specific time period within a given regulatory period under a price cap regime;*
- (38) ‘new infrastructure’ means an infrastructure not completed by 4 August 2003;
- (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) ‘natural gas system’ means natural gas system as defined in Article 2, point (4) of [the recast Gas Directive, COD 2021/0425];*
- (38d) ‘hydrogen system’ means hydrogen system as defined in Article 2, point (5) of [the recast Gas Directive, COD 2021/0425];*
- (38e) ‘hydrogen storage facility’ means a hydrogen facility as defined in Article 2, point (6) of [the recast Gas Directive, COD 2021/0425];*
- (38f) ‘hydrogen storage operator’ means a hydrogen storage operator as defined in Article 2, point (6a) of [the recast Gas Directive, COD 2021/0425];*

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

- (38r) *‘hydrogen network operator’ means hydrogen network operator as defined in Article 2, point (22) of [the recast Gas Directive, COD 2021/0425];*
- (38s) *‘hydrogen transmission network operator’ means hydrogen transmission network operator as defined in Article 2, point (22a) of [the recast Gas Directive, COD 2021/0425];*
- (38t) *‘hydrogen distribution network operator’ means hydrogen distribution network operator as defined in Article 2, point (22b) of [the recast Gas Directive, COD 2021/0425];*
- (38u) *‘supply’ means supply as defined in Article 2, point (23) of [the recast Gas Directive, COD 2021/0425];*
- (38v) *‘storage facility’ means storage facility as defined in Article 2, point (25) of [the recast Gas Directive, COD 2021/0425];*
- (38w) *‘storage system operator’ means storage system operator as defined in Article 2, point (26) of [the recast Gas Directive, COD 2021/0425];*
- (38x) *‘LNG facility’ means LNG facility as defined in Article 2, point (27) of [the recast Gas Directive, COD 2021/0425];*
- (38y) *‘LNG system operator’ means LNG system operator as defined in Article 2, point (28) of [the recast Gas Directive, COD 2021/0425];*
- (38z) *‘system’ means system as defined in Article 2, point (29) of [the recast Gas Directive, COD 2021/0425];*
- (38aa) *‘ancillary services’ means ancillary services as defined in Article 2, point (30) of [the recast Gas Directive, COD 2021/0425];*

- (38ab) *‘interconnector’ means interconnector as defined in Article 2, point (33) of [the recast Gas Directive, COD 2021/0425];*
- (38ac) *‘hydrogen interconnector’ means hydrogen interconnector as defined in Article 2, point (34) of [the recast Gas Directive, COD 2021/0425];*
- (38ad) *‘system user’ means system user as defined in Article 2, point (40) of [the recast Gas Directive, COD 2021/0425];*
- (38ae) *‘customer’ means customer as defined in Article 2, point (41) of [the recast Gas Directive, COD 2021/0425];*
- (38af) *‘final customer’ means final customer as defined in Article 2, point (44) of [the recast Gas Directive, COD 2021/0425];*
- (38ag) *‘security’ means security as defined in Article 2, point (48) of [the recast Gas Directive, COD 2021/0425];*
- (38ah) *‘control’ means control as defined in Article 2, point (51) of [the recast Gas Directive, COD 2021/0425];*
- (38ai) *‘interconnection point’ means interconnection point as defined in Article 2, point (58) of [the recast Gas Directive, COD 2021/0425];*
- (38aj) *‘virtual interconnection point’ means virtual interconnection point as defined in Article 2, point (59) of [the recast Gas Directive, COD 2021/0425];*
- (38ak) *‘market participant’ means market participant as defined in Article 2, point (60) of [the recast Gas Directive, COD 2021/0425];*
- (38al) *‘interoperability’ means interoperability as defined in Article 2, point (66) of [the recast Gas Directive, COD 2021/0425];*

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

(38an) ‘energy efficiency first’ means ‘energy efficiency first’ as defined in Article 2, point (71a) of Regulation (EU) 2018/1999;

(38ao) ‘repurposing’ means repurposing as defined in Article 2, point (71b) of Regulation 2022/869.

2. ■ The definitions in *paragraph 1*, points 4 to 24 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, *natural gas* system operators *and* hydrogen system operators, and delegated operators such as market area *managers* or booking platform operators shall ensure that ■ markets *for natural gas and hydrogen* are operated in accordance with the following principles:

- (a) prices for *natural gas and hydrogen* 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. *Natural* 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 *natural* gas networks;

- (d) undertakings active in the same entry-exit system shall exchange *natural gas* at the virtual trading point. *Producers of renewable gas and low-carbon gas shall have equal access to the virtual trading point, irrespective of whether they are connected to the distribution or transmission system. Natural gas may be exchanged physically at entry points from or exit points to third countries;*
- (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 *in line with the network code on balancing established pursuant to Article 6(11) of Regulation 715/2009* and conducted on a trading platform *or by the use of balancing services in line with that network code;*
- (g) market rules shall avoid actions which prevent price formation on the basis of demand and supply for *natural gas and hydrogen;*
- (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 *natural gas and hydrogen*, fostering price formation and price transparency;
- (i) market rules shall enable the decarbonisation of the natural gas and hydrogen systems, including by enabling the integration into the market of *natural gas and hydrogen* from renewable energy sources and by providing incentives for energy *savings and* efficiency, *demand reduction, demand flexibility and energy system integration and facilitating the achievement of the Union's climate and energy targets;*

- (j) market rules shall deliver appropriate investment incentives, in particular for long-term investments in a decarbonised and sustainable **■** system *for natural gas and hydrogen*, for energy storage, energy efficiency, **demand reduction** and demand response to meet market needs **and system integration needs**, and shall facilitate fair competition and security of supply, **while implementing the energy-efficiency first principle in avoiding investment incentives that lead to stranded assets**;
- (ja) **rules on network planning shall, where appropriate, target the use of hydrogen for hard-to-decarbonise sectors taking into account greenhouse gas abatement potential, encourage measures to reducing fossil gas demand, and contribute to the prudent and rational use of natural resources and the achievement of the Union’s climate and energy targets**;
- (k) barriers to cross-border *natural gas and hydrogen* flows, if existing, between entry-exit systems shall be removed;
- (l) market rules shall facilitate regional cooperation and integration.

Article 3a

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

The Commission shall support and 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 with the aim to increase the share of renewable gas in particular in industrial processes, district heating and energy storage and thereby accelerate the phase out of solid fossil fuels in industrial and district heating sectors. The Commission shall further support the conversion of fossil fuels to renewable and low-carbon hydrogen and biomethane, as well as the creation of a hydrogen-ready workforce.

Article 4

Separation of regulatory asset bases

1. Where a transmission *or distribution* system operator or a hydrogen network operator provides regulated services for *natural* 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 *natural* 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 *is* established. The value set for the transferred asset is subject to an audit and approval by the competent regulatory authority. The value established *is* 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. *Member States may allow hydrogen network operators to spread the recovery through network access tariffs of hydrogen network costs over time in order to ensure that future users duly contribute to initial hydrogen network development costs. Such an inter-temporal cost allocation and its underlying methodology shall be subject to approval by the relevant regulatory authority referred to in Article 70 of recast Gas Directive. Member States may put in place measures to cover the financial risk of hydrogen network operators associated with the initial cost recovery gap arising from the application of inter-temporal cost allocation provided they are compatible with Article 107 TFEU, such as a state guarantee.*

By ... [one year from the date of entry into force of this Regulation] ACER shall issue recommendations to transmission system operators, distribution system operators and hydrogen network operators and regulatory authorities on the methodologies for setting the inter-temporal cost allocation.

ACER shall update the recommendations at least once every two years.

- 2b. By way of derogation from paragraph 2 of this Article, a Member State may allow financial transfers between regulated services that are separate within the meaning of paragraph 1, provided that the regulatory authority referred to in Article 70 [recast Gas Directive as proposed in COM(2021) xxx] has established that the financing of networks through network access tariffs paid by its network users only is not viable. The regulatory authority shall inter alia consider in its assessment the value of projected financial transfers, the resulting cross-subsidisation between users of the respective networks and the cost-efficiency of those financial transfers.*

The following conditions shall apply to a financial transfer in the meaning of this paragraph 1:

- (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;*
- (d) the approved dedicated charge and financial transfer and the methodologies, where methodologies are approved, are published no later than thirty days before their date of implementation;*
- (e) the Commission and ACER have been notified by the Member State that it has allowed financial transfers.*

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 **are not** larger than the allowed **and target** revenues;
 - (c) a financial transfer is approved for a limited period in time and, **in no event, for a longer period** than one third of the **remaining** depreciation period of the infrastructure concerned.

4. **ACER may** issue recommendations to transmission **system operators, distribution system operators and hydrogen** network operators and regulatory authorities on the 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.

Article 5

Third-party access services concerning transmission system operators

1. Transmission system operators shall:
 - (a) 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. Within ... [one year from the date of entry into force of this Regulation], the Commission shall:

- (a) carry out an evaluation of the impact on the natural gas system of a tariff regime whereby no tariffs will be charged for access to transmission systems at interconnection points between Member States, or at interconnection points with third countries whose systems connect two or more Member States; and***
- (b) submit a report to the European Parliament and the Council.***

The Commission may accompany the report, if appropriate, with legislative proposals to address the obstacles identified in the evaluation.

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.
- 5a. ***Paragraphs 1 to 5 shall be without prejudice to the possibility for Member States to take proportionate measures to temporarily restrict gas supplies from Russia and Belarus, for a fixed term which may be renewed if justified, by limiting up-front bidding for capacity by any single network user at entry points from the Russian Federation or Belarus, where this is necessary to protect their essential security interests and those of the Union, and provided that such measures:***

- (a) *do not unduly disrupt the proper functioning of the internal natural gas market and cross-border flows of natural gas between Member States, and do not undermine the security of supply of the Union or a Member State*
- (b) *respect the principle of energy solidarity,*
- (c) *are taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.*

Taking into account the need to ensure security of supply in the Union, measures taken by Member States pursuant to the first subparagraph may be aimed at diversifying natural gas supplies with a view to phasing out dependence on Russian natural gas, where it can be demonstrated that such measures are necessary to protect their essential security interests and those of the Union.

Before deciding on a measure referred in the first subparagraph, the Member State concerned shall consult the Commission and, in so far as they are likely to be affected by the measure, other Member States, the Energy Community Contracting Parties, third countries that are Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland. The relevant Member States shall take the utmost account of the situation in those Member States and third countries and any concerns raised in that respect by those Member States, third countries or the Commission.

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 *and safe* network operation.
3. The maximum duration for capacity contracts shall be 20 years for infrastructure completed by **1 January 2028** and 15 years for infrastructure completed after *that* 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 *transmission* network operators shall implement and publish non-discriminatory and transparent congestion-management procedures, which also facilitate cross-border exchanges in hydrogen on a non-discriminatory basis.
5. Hydrogen network operators shall regularly assess market demand for new investment, taking into account security of supply and the efficiency of the final hydrogen uses.
6. As of 1 January **2033**, hydrogen networks shall be organised as entry-exit systems.

6a. *Member States may decide not to apply paragraph 6 to hydrogen networks which benefit from a derogation pursuant to Article 48 [Recast Gas Directive] and are not connected to another hydrogen network.*

7. *As of 1 January 2033, or 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 2033, Article 15 shall apply also to tariffs for access to hydrogen networks and the obligations on transmission system operators set out in paragraphs 1, 2, 2b and 2c of Article 15 shall apply to hydrogen network operators. Articles 16 and 17 shall not apply to hydrogen networks, but only to the natural gas network.*

Regulatory authorities shall consult regulatory authorities of directly connected Member States and relevant stakeholders before taking a decision on the methodology for setting hydrogen network access tariffs for the entry and exit points at cross-border interconnection points between them, including for any virtual interconnection points. Regulatory authorities shall also submit the envisaged tariff methodology to ACER. By derogation from Article 15, the regulatory authorities may decide to charge no network access tariffs or, when capacity is allocated via auctions, to set the reserve prices to zero.

When deciding on the methodology for setting network access tariffs at an interconnection point between Member States, the regulatory authorities concerned shall apply the tariff principles set out in paragraphs 1, 2, 2b and 2c of Article 15 and take into account the outcome of the consultation, in particular with the regulatory authorities of directly connected Member States, and the impact of the chosen network access tariffs on cross-border trade and market functioning in the directly connected Member States.

The regulatory authorities of directly connected Member States may request ACER to provide a factual opinion on the methodology for setting the network access tariffs or reserve prices for such interconnection point, in accordance with Article 6(5) of Regulation (EU) 2019/942. ACER shall inform the Commission, where relevant, in accordance with Article 6(6) of Regulation (EU) 2019/942. When providing a factual opinion, ACER shall carry out its assessment with due regard to the principles referred to in paragraphs 1 and 2 of Article 15.

Further details required to implement elements of this paragraph, in particular the procedure for cross-border consultation or requesting an opinion of ACER, shall be set in a network code established on the basis of Article 54(2) of this Regulation.

8. As of 1 January 2033, hydrogen **transmission** network operators shall comply with the requirements on transmission system operators pursuant to Articles 5, 9 and 12 when offering their services, and **shall** publish tariffs for each network point on an online platform operated by the ENNOH. Until a network code on capacity allocation for hydrogen networks has been adopted pursuant to Article 54(2), point (d) and has entered into force, such publication **may** 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 ■ 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 *and hydrogen storage 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 *capacity*.

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.

6a. *Paragraphs 1 to 6 shall be without prejudice to the possibility for Member States to take proportionate measures to temporarily restrict LNG supplies from Russia and Belarus, for a fixed term which may be renewed if justified, by limiting up-front bidding or provision for LNG facility capacity by any single network user for deliveries from the Russian Federation or Belarus, where this is necessary to protect their essential security interests and those of the Union, and provided that such measures:*

- (a) do not unduly disrupt the proper functioning of the internal natural gas market, and cross-border flows of natural gas between Member States, and do not undermine the security of supply of the Union or a Member State;*
- (b) respect the principle of energy solidarity;*
- (c) are taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.*

Taking into account the need to ensure security of supply in the Union, measures taken by Member States pursuant to the first subparagraph may be aimed at diversifying LNG supplies with a view to phasing out dependence on Russian natural gas, where it can be demonstrated that such measures are necessary to protect their essential security interests and those of the Union.

Before deciding on a measure referred in the first subparagraph, the Member State concerned shall consult the Commission and, in so far as they are likely to be affected by the measure, other Member States, the Energy Community Contracting Parties, third countries that are Contracting Parties to the Agreement on the European Economic Area, and the United Kingdom of Great Britain and Northern Ireland. The relevant Member States shall take the utmost account of the situation in those Member States and third countries, and any concerns raised in that respect by those Member States, third countries or the Commission.

Article 8

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

LNG and storage system operators shall, at least every two years, assess market demand for new investment allowing the use of renewable *gas* and low-carbon *gas*, *including hydrogen compounds such as liquid ammonia and liquid organic hydrogen carriers*, in the facilities. *Those operators shall inform relevant regulatory authorities on the outcome of the market demand assessment.* When planning new investments, LNG and storage system operators shall assess market demand *in view of facilitating the usage of renewable gas and low-carbon gas in their facilities* and take into account security of supply. LNG and storage system operators shall make publicly available any plans regarding new investments allowing the usage of renewable *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, *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 *facility*, *LNG facility* 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. **Operators of** 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 *mechanisms* 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 **█** capacity on the primary market without delay; for *natural gas* storage facilities this shall be at least on a day-ahead and interruptible basis;

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

Article 11

Trading of capacity rights

Each transmission, storage, LNG, hydrogen *transmission network, hydrogen terminal and hydrogen storage* 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 *facilities*, 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 *natural* 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 *natural* gas trade carried out at the virtual trading point.

Article 13

Certification of transmission system operators and hydrogen *transmission* network operators

1. The Commission shall examine any notification of a decision on the certification of a transmission system operator or a hydrogen *transmission* 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 **62** of that Directive for hydrogen *transmission* 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 *transmission* 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, **a** hydrogen *transmission* 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 **supplement this Regulation by providing** 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(9) 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 13a

Certification of storage system operators

1. ***Member States shall ensure that each storage system operator, including any storage system operator controlled by a transmission system operator, is certified in accordance with the procedure laid down in this Article, either by the national regulatory authority or by another competent authority designated by the Member State concerned pursuant to Article 3(2) of Regulation (EU) 2017/1938 of the European Parliament and of the Council¹⁸ (in either case, “certifying authority”).***

This Article also applies to storage system operators controlled by transmission system operators which have already been certified under the unbundling rules laid down in Articles 9, 10 and 11 of Directive 2009/73/EC.

¹⁸ ***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).***

2. *The certifying authority shall issue a draft certification decision in respect of storage system operators that operate underground natural gas storage facilities with a capacity of over 3,5 TWh where, regardless of the number of storage system operators, total storage facilities were filled on 31 March 2021 and on 31 March 2022 at a level which, on average, was less than 30 % of their maximum capacity by 1 February 2023 or within 150 working days of the date of receipt of a notification pursuant to paragraph 9.*

In respect of storage system operators as referred to in the first subparagraph, the certifying authority shall make its best efforts to issue a draft certification decision by 1 November 2022.

In respect of all other storage system operators, the certifying authority shall issue a draft certification decision by 2 January 2024 or within 18 months of the date of receipt of a notification pursuant to paragraph 8 or 9.

3. *In considering the risk to the security of energy supply in the Union, the certifying authority shall take into account any security of natural gas supply risk at national, regional or Union-wide level as well as any mitigation of such risk, resulting, inter alia, from:*
- (a) ownership, supply or other commercial relationships that could negatively affect the incentives and the ability of the natural storage system operator to fill the underground gas storage facility;*
 - (b) the rights and obligations of the Union with respect to a third country arising under international law, including any agreement concluded with one or more third countries to which the Union is a party and which addresses the issue of the security of energy supply;*

(c) *the rights and obligations of the Member States concerned with respect to a third country arising under agreements concluded by the Member States concerned with one or more third countries, in so far as those agreements comply with Union law; or*

(d) *any other specific facts and circumstances of the case.*

4. *If the certifying authority concludes that a person who directly or indirectly controls, or exercises any right over, the storage system operator within the meaning of Article 9 of [recast Directive] could endanger the security of energy supply or the essential security interests of the Union or of any Member State, the certifying authority shall refuse the certification. Alternatively, the certifying authority may issue a certification decision subject to conditions to ensure the sufficient mitigation of the risks which could negatively influence the filling of the underground natural gas storage facilities, provided that the practicability of the conditions can be fully ensured by effective implementation and monitoring. Such conditions may include, in particular, a requirement that the storage system owner or storage system operator transfer management of the storage system.*

5. *Where the certifying authority concludes that the natural gas supply risks cannot be mitigated by conditions pursuant to paragraph 4, including by requiring the storage system owner or storage system operator to transfer management of the storage system, and therefore refuses the certification, it shall:*

(a) *require the storage system owner or storage system operator or any person that it considers could endanger the security of energy supply or the essential security interests of the Union or of any Member State to dispose of the shareholding or rights they have over the storage system ownership or storage system operator ownership, and set a time limit for such disposal;*

- (b) *order, where appropriate, interim measures, to ensure that such a person is not able to exercise any control or right over that storage system owner or storage system operator until the disposal of the shareholding or rights; and*
 - (c) *provide for appropriate compensatory measures in accordance with national law.*
- 6. *The certifying authority shall notify its draft certification decision to the Commission without delay, together with all relevant information.*

The Commission shall deliver an opinion on the draft certification decision to the certifying authority within 25 working days of such notification. The certifying authority shall take the utmost account of the Commission's opinion.
- 7. *The certifying authority shall issue the certification decision within 25 working days of receipt of the Commission's opinion.*
- 8. *Before a newly built underground natural gas storage facility is put into operation, the storage system operator shall be certified in accordance with paragraphs 1 to 7. The storage system operator shall notify the certifying authority of its intention to put the storage facility into operation.*
- 9. *Storage system operators shall notify the relevant certifying authority of any planned transaction which would require a reassessment of their compliance with the certification requirements set out in paragraphs 1 to 4.*
- 10. *Certifying authorities shall continuously monitor storage system operators as regards compliance with the certification requirements set out in paragraphs 1 to 4. They shall open a certification procedure to reassess compliance in any of the following circumstances:*
 - (a) *upon receipt of a notification by the storage system operator pursuant to paragraph 8 or 9;*

(b) *on their own initiative where they have knowledge that a planned change in rights or in influence over a storage system operator could lead to non-compliance with the requirements of paragraphs 1, 2 and 3;*

(c) *upon a reasoned request from the Commission.*

11. *Member States shall take all necessary measures to ensure the continuous operation of the underground natural gas storage facilities on their respective territories. Those underground natural gas storage facilities may cease operations only where technical and safety requirements are not met or where the certifying authority concludes, after having conducted an assessment and having taken into account the opinion of the ENTSO for Gas, that such a cessation would not weaken the security of natural gas supply at Union or national level.*

Appropriate compensatory measures shall be taken, where appropriate, if cessation of operations is not allowed.

12. *The Commission may issue guidance on the application of this Article.*

13. *This Article shall not apply to parts of LNG facilities that are used for storage.*

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 *natural* gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

Tariffs for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the regulatory authorities. *Regulatory authorities* 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 national 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 natural gas storage facilities and at entry points from LNG facilities, unless and to the extent that such a storage facility which is connected to more than one transmission or distribution network is used to compete with an interconnection point. This paragraph shall apply until 31 December 2025.*

From 31 December 2025, the national regulatory authority may apply a discount of up to 100% referred to in the first subparagraph for the purposes of increasing security of supply. The national regulatory authority shall re-examine that tariff discount and its contribution to security of supply every regulatory period within the periodic consultation carried out according to the network code adopted pursuant to Article 53(1), first subparagraph, point (e).

2b. *Regulatory authorities may merge adjacent entry-exit systems with a view to enable a full or partial regional integration where tariffs can be abolished at the interconnection points between the concerning entry-exit systems. Following the public consultation by the regulatory authorities or the transmission system operators, the regulatory authorities may approve a common tariff and an effective compensation mechanism between transmission system operators for the redistribution of costs on account of the abolished interconnection points.*

- 2c. *Member States with more than one interconnected entry-exit system or more than one network operator within one entry-exit system, may implement a uniform network tariff with the aim to create a level playing field for network users, provided that a network plan has been approved and a compensation mechanism between the network operators is implemented.*

Article 16

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

1. When setting tariffs, a discount for renewable *gas* and low-carbon *gas* shall be applied to:
 - (a) entry points from renewable and low-carbon production facilities. A discount of **100%** shall be applied to the respective capacity-based tariffs for the purposes of scaling-up the injection of renewable *gas* and **a discount of 75% to** low-carbon *gas*;
 - (b) capacity-based transmission tariffs at entry points from and exit points to storage facilities, unless a storage facility is connected to more than one transmission or distribution network and used to compete with an interconnection point. Such a discount shall be set at a level of **100%** in the Member States where the renewable *gas* and low-carbon gas was first injected into *the* system.

3. Details on the discounts granted in accordance with paragraph 1 may be set in the network code on tariff structures as referred to in Article **53(1)**, point (e).

4. The Commission shall re-examine the tariff reductions pursuant to *paragraphs 1 and 5, by ... [5 years from the date of entry into force of this Regulation] and every 5 years thereafter*. It shall issue a report providing an overview of their implementation and assess whether the level of the reductions set in *paragraphs 1 and 5* is still adequate in view of the latest market developments. The Commission shall be empowered to adopt delegated acts in accordance with Article 63 *to amend this Regulation by changing* the discount levels as set in *paragraphs 1 and 5*.
5. As of ... *[one year from the date of entry into force of this Regulation]*, network users shall receive a discount of 100% on the *capacity-based* tariff from the transmission system operator at ■ interconnection points *between Member States, for renewable gas and 75 % for low-carbon gas*, after providing the respective transmission system operator with a proof of sustainability, based on a valid sustainability certificate pursuant to Articles 29 and 30 of Directive (EU) 2018/2001 ■ and registered in the Union database.

With regard to *the discount referred to in the first subparagraph*:

- (a) Transmission system operators shall be required to provide the discount only for the shortest possible route in terms of border crossings between the location of where the specific proof of sustainability declaration, based on the sustainability certificate, was first recorded in the Union database and where it has been cancelled as considered consumed. Any potential auction premium shall not be covered by the discount.
- (b) Transmission system operators shall provide information on actual and expected volumes of renewable *gas* and low-carbon *gas* and the effect of applying the tariff discount on their revenues towards the respective regulatory authority. Regulatory authorities shall monitor and assess the impact of the discount on tariff stability.

- (c) Once the revenue of a transmission system operator from these specific tariffs is reduced by 10% as a result of applying the discount, the affected and all neighbouring transmission system operators **shall** negotiate an inter transmission system operator compensation mechanism. The **transmission** system operators concerned shall agree within 3 years. Where within that time period no agreement is reached, the involved regulatory authorities shall decide jointly on an appropriate inter transmission system operator compensation mechanism within 2 years. In absence of agreement among the regulatory authorities, Article 6 of ACER Regulation shall apply. Where the regulatory authorities have not been able to reach agreement within 2 years, or upon their joint request, ACER shall decide, in accordance with the second subparagraph of Article 6(10) of Regulation (EU) 2019/942.
- (d) Further details required to implement the discount for renewable **gas** and low-carbon **gas**, such as the calculation of the eligible capacity for which the discount applies and the required processes, shall be set in a network code established on the basis of Article 53 of this Regulation.

5a. *By way of derogation from paragraphs 1 and 5, regulatory authorities may decide not to apply discounts or to set discount rates lower than those set in paragraphs 1 and 5, provided that such derogation is in line with the general tariff principles as set out in Article 15 and in particular the principle of cost-reflectiveness, where one of the following criteria is met:*

- (a) *the derogation is necessary for the efficient operation of the transmission system operator, to ensure stable financial frameworks for existing investments or to avoid undue cross-subsidies, distortion to cross-border trade or ineffective inter-TSO compensation mechanism;*
- (b) *the application of discounts or the discounts rates set in paragraph 1 to 5 is not necessary due to the degree of advancement of the roll-out of renewable gas and low-carbon gas in the Member State concerned or the existence of alternative support mechanisms for scaling up the use of renewable gas or low-carbon gas.*

Article 17

Revenues of transmission system operators

1. As of ... [*one year from the date of entry into force of this Regulation*], 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 *subject to the protection of data considered by the relevant regulatory authority to be commercially sensitive*. This information shall be made available in a *freely accessible, downloadable and read only* 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 ... [*three years from the date of entry into force of this Regulation*] and every four years thereafter a study comparing the efficiency of Union transmission system operators' costs, *subject to the protection of data considered by ACER to be commercially sensitive*. 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 *natural* gas demand *in the relevant regulatory period and where available*, until 2050. To perform this assessment the regulatory authority shall include the information of the strategy described in the national energy and climate plans of the respective Member State and the scenarios underpinning the integrated network development plan as developed in accordance with Article 51 of [recast Gas Directive as proposed in COM(2021)xxx].

Section 3

Transmission, storage, LNG and hydrogen terminal system operation

Article 18

Firm capacity for renewable *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. *Major investments shall be reflected in the ten-year network development plan in accordance with Article 51(2), point (a) of [the recast Gas Directive as proposed in COM(2021) xxx].*

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 *including direct connection of production facilities of renewable gas and low-carbon gas to the transmission network*. 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.

Article 19

Cross-border coordination *of* 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 *at* interconnection points between **█** Member States. *When cooperating, transmission system operators shall take into account the characteristics of installations of final natural gas customers.*

This Article shall not apply to hydrogen blends where the hydrogen content blended into the natural gas system exceeds 2 % by volume.

- 1a. *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 natural gas flows. In addition, Member States shall ensure that hydrogen blends in the natural gas system are within the technical specifications acceptable to customers.*

2. Where a restriction to cross-border *flows* 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.
- 3a. ***For restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system and recognised pursuant to paragraph 3 of this Article, transmission system operators shall accept natural gas flows with a hydrogen content at interconnection points between Member States in the natural gas system subject to paragraphs 4 to 10 of this Article, and after completion of the procedure set out therein.***
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 *natural* gas treatment, in order to remove the recognised restriction ***taking into account information provided by end customers directly connected to the natural gas system of the concerned transmission 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 natural gas system*, 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 for removing the recognised restriction , taking into account the cost benefit analysis prepared by the concerned transmission system operators and the results of the public consultation within six months as set out in Article 6(10) of Regulation (EU) 2019/942.
- 6a. By way of derogation from paragraph 6, for restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system, the concerned regulatory authorities may jointly state that no further action should be pursued to remove such restrictions. The joint coordinated decision shall be taken within six months as set out in Article 6(10) of Regulation (EU) 2019/942 and shall take into account the cost benefit analysis and the results of the public consultation prepared pursuant to paragraph 4 by the concerned transmission system operators. A decision to maintain the recognised restriction pursuant to this paragraph shall be reviewed every four years by the concerned regulatory authorities.*

7. The joint coordinated decision of the concerned regulatory authorities *referred to in paragraph 6* 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 *the allowed or target revenue of transmission system operators*, taking into account the economic, social and environmental costs and benefits of the solution in the concerned Member States *and its consequences for tariffs*.
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 *decision* as referred to in paragraphs 6 and 7, ACER shall decide on the solution to remove the recognised restriction and on the allocation of the investment costs to be borne by each transmission system operator for implementing the agreed solution *or stating that no further action should be pursued pursuant to paragraph 6a of this Article* following the process set out in Article 6(10) of Regulation (EU) 2019/942. *A decision to maintain the recognised restriction pursuant to this paragraph shall be reviewed every four years by ACER.*
11. Further details required to implement elements of this Article, including details on the cost benefit analysis, shall be set in a network code established on the basis of Article 53(1).

Article 20a

Presumption of conformity of practices with harmonised standards for natural gas

Practices which are in conformity with 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 implementing acts adopted pursuant to Article 53(1), point (b) of this Regulation.

Article 20b

Common specifications for biomethane

1. *The Commission is empowered to adopt implementing acts laying down common specifications for facilitating the cost effective integration of large volumes of biomethane in the existing natural gas system, including at cross-border interconnection points, or may set those specifications in a network code pursuant to Article 53 (1), 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 has requested one or more European standardisation organisation to draft a harmonised standard for those requirements and at least one of the following conditions has also been fulfilled:*
 - (i) *the request has not been accepted by any of the European standardisation organisations;*

- (ii) the Commission observes undue delays in the adoption of requested harmonised standards;*
 - (iii) a European standardisation organisation has delivered a standard that does not entirely correspond with the request of the Commission; 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).

- (d) In the early preparation of the draft implementing act establishing the common specification, the Commission shall gather the views of relevant bodies or expert groups established under relevant sectorial Union law, and shall duly consult all relevant stakeholders. Based on that consultation, the Commission shall prepare the draft implementing act.*

- 2. Practices which are in conformity with common specifications or parts thereof shall be presumed to be in conformity with the requirements set out in the implementing acts adopted pursuant to Article 53(1), point (b) of this Regulation to the extent that those requirements are covered by those common specifications or parts thereof.*
- 3. Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union the Commission shall repeal implementing acts referred to in paragraph 1, or parts thereof which cover the same requirements or tests referred to in paragraph 1.*

4. *In setting the specifications pursuant to this Article, the Commission shall take the utmost account of the safety requirements necessary for the safe operation of natural gas system, in particular of the safe operation of the natural gas storages across the Union.*

Article 21

European network of transmission system operators for gas

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

Article 22

Organisation of the ENTSO for Gas

1. The ENTSO *for Gas* shall **publish and** submit to the Commission and to ACER the draft statutes, a list of members and draft rules of procedure, including the rules of procedures on the consultation of other stakeholders, of the ENTSO for Gas in case of changes of those documents or upon a reasoned request of the Commission or ACER.
2. Within four months of the day of the receipt, ACER, 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 *favourable* opinion the ENTSO for Gas shall adopt and publish the revised statutes and rules of procedure of the ENTSO for Gas.

Article 23

Tasks of the ENTSO for Gas

1. The ENTSO for Gas shall elaborate network codes in the areas referred to in *Article 53(1) and (2)* upon a request addressed to it by the Commission in accordance with Article 53(9).
The network code referred to in Article 53(1), point (ea) shall be developed jointly with ENNOH.
2. The ENTSO for Gas may elaborate network codes in the areas set out in *Article 53(1) and (2)* 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 ENTSO for Gas.
3. The ENTSO for Gas shall adopt:
 - (a) common network operation tools to ensure coordination of network operation in normal and emergency conditions, including a common incidents classification scale, and research plans;
 - (b) a non-binding Union -wide ten-year network development plan (Union -wide network development plan), including a European supply adequacy outlook, every two years;
 - (c) recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;

- (ca) *recommendations to transmission system operators on their technical cooperation with distribution system operators and hydrogen network operators;*
- (d) an annual work programme;
- (e) an annual report;
- (f) annual summer and winter supply outlooks;
- (g) a gas quality monitoring report by **1 January 2025** at the latest and every two years afterwards, including developments of gas quality parameters, developments of the level and volume of hydrogen blended into the natural gas system, forecasts for the expected development of gas quality parameters and of the volume of hydrogen blended into the natural gas system, the impact of blending hydrogen on cross-border flows as well as information on cases related to differences in gas quality specifications or in specifications of blending levels and how such cases were settled *in view of meeting the quality requirements of different end-use applications;*
- (h) The gas quality monitoring report shall also cover the development for the areas listed in point (g) where as far as relevant for the distribution network, based on information provided by the entity of distribution system operators in the Union ('EU DSO entity');
- (ha) *an annual report including the quantity of renewable gas and low-carbon gas injected into the natural gas network.*

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

In case both the European supply outlook and the final updated national energy and climate plans show that the annual production is not sufficiently progressing or that the natural gas consumption is not sufficiently decreasing in view of the available potential, the Commission may issue recommendations to the Member States, if necessary to achieve the objectives of the Energy Union, according to Article 34 of the Regulation (EU) 2018/1999.

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

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.

■

7. The network codes shall be developed for cross-border network issues and market integration issues and shall be without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade.
8. The ENTSO for Gas shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission in accordance with Article 53(13) or 56, and their effect on the harmonisation of applicable rules aimed at facilitating market integration. The ENTSO for Gas shall report its findings to 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 ENTSO for Gas shall make available all information required by ACER to fulfil its tasks under Article 24(1).
 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 national ten-year network development plan is elaborated 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.
 11. Upon request of the Commission, the ENTSO for Gas shall give its views to the Commission on the adoption of the guidelines as laid down in Article 56.
- 11a. The ENTSO for Gas shall cooperate with the ENTSO for Electricity and with the ENNOH.***

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 ENTSO for Gas and report to the Commission.

ACER shall monitor the implementation by the ENTSO for Gas of network codes elaborated under Article 23(2) and network codes which have been developed in accordance with Article 53 (1) to (12) but which have not been adopted by the Commission under Article 53(13). Where the ENTSO for Gas has failed to implement such network codes, ACER shall request the ENTSO for Gas 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, 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 and the efficient functioning of the market, and report to the Commission.

2. The ENTSO for Gas 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.

Within two months from the day of receipt, ACER shall provide a duly reasoned opinion as well as recommendations to the ENTSO for Gas and to the Commission where it considers that the draft annual work programme or the draft Union -wide network development plan submitted by the ENTSO for Gas do not contribute to non-discrimination, effective competition, the efficient functioning of the market or a sufficient level of cross-border interconnection open to third-party access. *The ENTSO for Gas 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 ENTSO for Gas 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 authorities, supply and production undertakings, network users including customers, distribution system operators, including relevant industry associations, technical bodies and stakeholder platforms. ***The ENTSO for Gas shall publish drafts of those documents for comment by the stakeholders and provide sufficient time for the stakeholders to effectively participate.*** It shall aim at identifying the views and proposals of all relevant parties during the decision-making process.
2. All documents and minutes of meetings related to the consultations referred to in paragraph 1 shall be made public.
3. Before adopting the annual work programme and the network codes referred to in Article 23 (1), (2) and (3), the ENTSO for Gas shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

Article 27

Costs

The costs related to the activities of the ENTSO for Gas referred to in Articles 21, 22, 23, 52 and 53 of this Regulation, and in Article 11 of Regulation (EU) 2022/869 shall be borne by the transmission system operators and shall be taken into account in the calculation of tariffs. Regulatory authorities shall approve those costs only if they are reasonable and appropriate.

Article 28

Regional cooperation of transmission system operators

1. Transmission system operators shall establish regional cooperation within the ENTSO for Gas to contribute to the tasks referred to in Article 23(1), (2) and (3).
2. Transmission system operators shall promote operational arrangements in order to ensure the optimum management of the network and shall promote the development of energy exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations and the integration of balancing mechanisms.
3. For the purposes of achieving the goals set in paragraphs 1 and 2, the Commission is empowered to adopt delegated acts in accordance with Article 63 *to supplement this Regulation* 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

Ten-years network development plan *for natural gas*

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

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

- (a) build on national investment plans and Chapter IV of Regulation (EU) **2022/869**;
- (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, notably with respect to cross-border capacities.

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 may be annexed to the Union -wide network development plan.

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 *natural* 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 **gas** quality ■ transported in **their networks**, 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 **system operators**, natural gas ■ storage system operators, hydrogen terminal operators **and hydrogen storage operators** shall make public detailed information regarding all services they offer and the relevant conditions applied, together with the technical information necessary for LNG **facility**, **natural gas** and hydrogen storage facility and hydrogen terminal users to gain effective access to the LNG and hydrogen **and natural gas** 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 **system operators**, **natural gas storage system operators**, **hydrogen terminal operators** and hydrogen storage ■ operators shall make public information on contracted and available **natural gas** storage **facility**, LNG **facility**, hydrogen storage facility **and** hydrogen terminal capacities on a numerical basis on a regular and rolling basis and in a user-friendly standardised manner.

4. **LNG system operators, natural gas storage system operators, hydrogen terminal operators** and hydrogen storage **■** 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 system operators, natural gas storage system operators, hydrogen terminal operators and** hydrogen storage **operators** shall make public the amount of **natural gas or hydrogen** in each storage **facility, hydrogen storage facility**, 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 **storage facility**, hydrogen storage, **■** 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 **natural** 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 *system operators*, natural gas *storage system operators*, *hydrogen terminal operators* and hydrogen storage **■** 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 *system operators* and *natural gas* storage system operators shall *publish* respectively *in a transparent, continuous and user-friendly manner the information required in this Article on a* single European platform *that shall be maintained by those operators*.

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 for the access of the production facilities of renewable *gas and low-carbon gas* connected to their grid. To this *effect*, 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. *Major investments in the transmission network resulting from the need for additional capacities in the distribution network shall be reflected in the ten-year network development plan in accordance with Article 51(2), point (a) of [the recast Gas Directive as proposed in COM(2021) xxx].*
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.

Article 34

Cooperation between distribution system operators and transmission system operators

Distribution system operators shall cooperate with other distribution system operators and transmission system operators to coordinate maintenance, system development, new connections, **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 **natural** gas quality management in their networks, they shall make public detailed information regarding the quality of **natural gas** transported in their networks, which might affect network users, based on Articles 16 and 17 of Commission Regulation (EU) 2015/703.

Article 36

European entity for distribution system operators

Distribution system operators operating a natural gas system shall ***and distribution network operators operating a hydrogen network may*** 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 Council¹⁹, 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 ***and hydrogen 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.***

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

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) **2019/943** shall also apply to distribution system operators operating a natural gas system **or hydrogen distribution network**.
2. The Strategic Advisory Group pursuant to Article 54(2), point (f), of Regulation (EU) **2019/943** shall also consist of representatives of associations representing European distribution system operators solely operating a natural gas system **or hydrogen distribution network**.
3. By ... [one year **from 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 ENTSO for Gas and other stakeholders, and draft updated financing rules.

The draft updated rules of procedure of the EU DSO entity shall ensure **fair and** balanced representation of all participating distribution system operators, including those solely owning or operating natural gas systems **or hydrogen distribution 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 for Gas on the monitoring of the implementation of the network codes and guidelines adopted pursuant to this Regulation which are relevant to the operation and planning of distribution grids and the coordinated operation of the transmission networks and distribution networks;
 - (b) cooperate with the ENTSO for Gas and adopt best practices on the coordinated operation and planning of transmission and distribution systems including issues such as exchange of data between operators and coordination of distributed energy resources;
 - (c) work on identifying best practices for the implementation of the results of the assessments pursuant to Article 23(1a) [proposal for REDIII] and Article 23 [proposal for revised EED] and for the cooperation between operators of electricity distribution *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 ENTSO for Gas for its reporting on *natural* gas quality, with regard to the distribution networks where distribution system operators are responsible for gas quality management, as referred to in Article 23(3).

Section 4a

Demand aggregation and joint purchasing for natural gas and mechanism for support to market development of hydrogen

Article 38a

Mechanism for demand aggregation and joint purchasing for natural gas

The Commission shall establish a mechanism to enable voluntary demand aggregation and joint purchasing of natural gas pursuant to Articles 38b to 38h.

Article 38b

Contract with a service provider

- 1. By way of derogation from Article 176 of Regulation (EU, Euratom) 2018/1046, the Commission may contract the necessary services of an entity or entities established in the Union through the relevant procurement procedures under Regulation (EU, Euratom) 2018/1046, in order to implement the objective set out in Article 38a.*
- 2. Where the Commission selects a service provider, it shall do so on the basis of criteria that safeguard the integrity of the internal market, ensure competition and security of supply, and are in line with Article 38c. The Commission shall specify the requirements applicable to the service provider in the relevant tender specifications.*

Article 38c

Criteria for selecting the service provider

- 1. The service provider shall be selected by the Commission among entities complying with the following eligibility criteria:*

- (a) *the service provider shall be established and have its operational seat in the territory of a Member State;*
- (b) *the service provider and its subcontractors shall not be:*
 - (i) *subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or*
 - (ii) *directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.*

2. *Without prejudice to other due diligence obligations, contractual obligations between the Commission and the service providers shall be put in place to ensure that the service provider when carrying out its tasks does not make any funds or economic resources available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies:*

- (a) *subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or*
- (b) *directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.*

3. *The service provider shall not be part of a vertically integrated undertaking active in the production or supply of natural gas as referred to Article 2, point (20), of Directive 2009/73/EC of the European Parliament and of the Council, except for an entity unbundled in accordance with Chapter IV of that Directive.*

Article 38d

Tasks of the service provider

1. *The service provider shall organise the tasks of demand aggregation and joint purchasing of natural gas. In particular, but not exclusively, the service provider may implement the following elements:*
- (a) assessment and aggregation of demand of natural gas undertakings and undertakings consuming natural gas;*
 - (b) collection of offers from natural gas suppliers or producers in order to match them with the aggregated demand;*
 - (c) allocation of supply offers to participants in demand aggregation, taking into account a proportionate distribution between smaller and larger participants depending on the volumes of demand submitted;*
 - (d) provide any related ancillary services, including services to facilitate the conclusion of contracts for the purchase of natural gas.*

Article 38e

Participation in demand aggregation and joint purchasing

- 1. Participation in the mechanism for demand aggregation and joint purchasing of natural gas shall be open to natural gas undertakings and undertakings consuming natural gas established in the Union on a non-discriminatory basis. Such undertakings shall be precluded from participating as suppliers, producers and purchasers, if they are:*
 - (a) subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or*
 - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.*

- 2. Contractual obligations shall be put in place to ensure that no funds or economic resources are made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies, which are:*
 - (a) subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or*
 - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.*

3. *Natural gas undertakings and undertakings consuming natural gas established in the Energy Community Contracting Parties may participate in demand aggregation and joint purchasing provided that the necessary measures or arrangements are in place to allow their participation in demand aggregation and joint purchasing pursuant to this Section.*
4. *Natural gas undertakings and undertakings consuming natural gas participating in demand aggregation may, on a transparent basis, coordinate elements of the conditions of the purchase contract or use joint purchase contracts in order to achieve better conditions with their suppliers, provided they comply with Union law, including Union competition law, in particular Articles 101 and 102 TFEU.*
5. *Participants in demand aggregation and joint purchasing shall report to the Commission or the relevant service provider, as appropriate, the following elements of the concluded contracts:*
 - (a) *volume;*
 - (b) *counterparts;*
 - (c) *duration.*
6. *Participants in demand aggregation and joint purchasing may report to the Commission or the relevant service provider, as appropriate, if matching and tendering did not result in the conclusion of a supply contract.*
7. *The recipient of the information reported under paragraphs 5 and 6 shall ensure that access to confidential information is strictly limited to the service provider and to Commission services for whom it is absolutely necessary to have the information available. Such information shall be handled with due confidentiality.*

Article 38f

Temporary limitation of participation in demand aggregation and joint purchasing

- 1. In order to protect the essential security interests of the Union and of its Member States, and in the interest of safeguarding security of supply, natural gas supplies originating in, and LNG supplies from LNG facilities located in, the Russian Federation or Belarus shall not be offered through the demand aggregation and joint purchasing mechanism until 31 December 2025.*

- 2. The exclusion referred to in paragraph 1 of this Article shall apply to all LNG supplies originating in any LNG facility located in the Russian Federation or Belarus and natural gas supplies entering the Member States or Energy Community Contracting Parties through the following entry points:*
 - (a) Greifswald*
 - (b) Lubmin II*
 - (c) Imatra*
 - (d) Narva*
 - (e) Värskä*
 - (f) Luhamaa*
 - (g) Sakiai*
 - (h) Kotlovka*
 - (i) Kondratki*
 - (j) Wysokoje*
 - (k) Tieterowka*
 - (l) Mozyr*

- (m) *Kobryn*
- (n) *Sudzha (RU)/Ukraine*
- (o) *Belgorod (RU)/Ukraine*
- (p) *Valuyki (RU)/Ukraine*
- (q) *Serebryanka (RU)/Ukraine*
- (r) *Pisarevka (RU)/Ukraine*
- (s) *Sokhranovka (RU)/Ukraine*
- (t) *Prokhorovka (RU)/Ukraine*
- (u) *Platovo (RU)/Ukraine*
- (v) *Strandzha 2 (BG)/Malkoclar (TR).*

Article 38g

Possibility to limit the participation in demand aggregation and joint purchasing

1. *As of 1 January 2026, the Commission may decide, by means of an implementing act, to temporarily exclude natural gas originating in, or LNG supplies from LNG facilities located in, the Russian Federation or Belarus from the participation in demand aggregation and joint purchasing, where this is necessary to protect the essential security interests or security of supply of one or several Member States or those of the Union, provided that such measures:*

- (a) *do not unduly disrupt the proper functioning of the internal natural gas market, and cross-border flows of natural gas between Member States, and do not undermine the security of supply of the Union or a Member State;*
- (b) *respect the principle of energy solidarity;*
- (c) *are taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.*

2. *Sufficiently in advance of the first tendering round in 2026 the Commission shall assess whether all the conditions under paragraph 1 are met with the view to deciding on any measures referred to therein. Any such decision shall be valid for a period of up to one year and may be renewed, if justified.*

The Commission shall continuously assess whether the conditions under paragraph 1 are met and shall keep the European Parliament and the Council duly informed about its assessments, including the assessment referred to in the first sub paragraph.

3. *Taking into account the need to ensure security of supply in the Union, the measures taken by the Commission pursuant to paragraph 1 may be aimed at diversifying natural gas or LNG supplies with a view to reducing dependence on Russian natural gas, where it can be demonstrated that such measures are necessary to protect the essential security interests of the Member States and those of the Union.*

4. *Decisions referred to in paragraph 1, shall contain a list of:*

- (a) *all entry points from the Russian Federation or Belarus or other third countries serving as transit countries, which shall not be used to deliver natural gas supplies subject to demand aggregation and joint purchasing;*
- (b) *all LNG facilities located in the Russian Federation or Belarus.*

Natural gas suppliers or producers participating in the demand aggregation and joint purchasing mechanism shall provide assurance on the compliance with Article 38f and the decisions adopted pursuant to paragraph 1 of this Article.

5. *The Commission shall take appropriate measures to ensure the effective application of this Article and of Article 38f and may require from natural gas suppliers or producers participating in the process of demand aggregation and joint purchasing all the necessary information to assist it in that task including the submission to the purchasers of the relevant shipping documents when delivering the supplies, where technically feasible.*

Article 38h

Coordination groups

1. *In order to facilitate the coordination and information exchange in relation to demand aggregation and joint purchasing of natural gas, the Commission shall be assisted by a Steering Board.*
2. *The Steering Board shall be composed of representatives of Member States and one representative of the Commission. The participation of Member States shall be voluntary and may depend in particular upon the agenda of the group and issues to be discussed. The representatives of the Energy Community Contracting Parties may participate in the Steering Board upon invitation of the Commission on all matters of mutual concern. The Commission shall chair the Steering Board.*

Article 38i

Guarantees

Member States, in respect of participants established in their territories, or other relevant stakeholders may provide liquidity support, including guarantees, to participants in the process of demand aggregation of natural gas organised by the service provider, and in compliance with State aid rules, where applicable, and in particular where the competent authority of the relevant Member State has declared one of the crisis levels referred to in Article 11(1) of the Regulation (EU) 2017/1938.

Article 38j

Reporting

The Commission shall regularly report to the Steering Board and submit an annual report to the European Parliament and to the Council on the functioning of the mechanism to enable voluntary demand aggregation and joint purchasing of natural gas.

The information provided in the report shall include at least:

- (a) information on the number of natural gas undertakings and volumes of natural gas participating in the mechanism of demand aggregation;*
- (b) information on the number of contracts concluded and the resulting volumes of natural gas respectively contracted and delivered to the Union;*
- (c) a description of the applicable rules in tendering rounds to participants in demand aggregation and natural gas suppliers or producers;*
- (d) an overview of the overall cost of the mechanism, including the expenses incurred for the service provider;*
- (e) any major development on the functioning of the mechanism.*

Article 38k

Mechanism for support to market development for hydrogen

1. *The Commission may establish a mechanism for support to market development of hydrogen including the elements specified in paragraph 2 to be implemented under the activities of the European Hydrogen Bank. This voluntary mechanism may be in place until 31 December 2029.*
2. *The Commission may contract the relevant service provider, in accordance with Articles 38b and 38c of the Regulation, for the implementation, in particular, but not exclusively, of the following elements:*
 - (a) *collection and processing market data on, for instance, availability of infrastructure or development of hydrogen flows and prices, to increase transparency on hydrogen market development;*
 - (b) *collection and assessment of demand from off-takers;*
 - (c) *collection of offers for supply of hydrogen from suppliers;*
 - (d) *access to relevant and necessary information collected pursuant to this paragraph to suppliers and off-takers, subject to their consent and within the limits of EU competition rules.*
3. *In order to contribute to the decarbonisation objectives set forth in this Regulation, Member States may ensure liquidity support, including guarantees, for hydrogen under the activities of the European Hydrogen Bank and in accordance with State aid rules, where applicable.*
4. *Coordination and information exchange in relation to the mechanism set forth in paragraph 1 of this Article may be facilitated by the relevant coordination group separate from expert groups dedicated to natural gas.*

In the case of hydrogen, such coordination group shall be implemented under the activities of the European Hydrogen Bank.

5. *Prior to the expiry of the mechanism for support to market development for hydrogen, the Commission shall submit a report to the European Parliament and the Council assessing the performance of the hydrogen mechanism established under paragraph 1 of this Article. In particular, the Commission shall assess the contribution of the mechanism to the development of the hydrogen market in the Union.*

Where appropriate, that assessment may be accompanied by a legislative proposal to develop a mechanism for voluntary demand aggregation and joint purchasing of hydrogen.

Article 38l

Participation in the mechanism for support to market development of hydrogen

1. *Participation in the mechanism for support to market development of hydrogen shall be open to hydrogen undertakings and undertakings consuming hydrogen established in the Union on a non-discriminatory basis. Such undertakings shall be precluded from participating as suppliers and off-takers, if they are:*
- (a) subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or*
 - (b) directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.*

2. *Contractual obligations shall be put in place to ensure that no funds or economic resources are made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies, which are:*
- (a) *subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union or Article 215 of the Treaty on the Functioning of the EU, consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze; or*
 - (b) *directly or indirectly owned or controlled by, or acting on behalf or at the direction of natural or legal persons, entities or bodies targeted by such Union restrictive measures.*
3. *Hydrogen undertakings and undertakings consuming hydrogen established in the Energy Community Contracting Parties may participate in the mechanism for support to market development of hydrogen provided that the necessary measures or arrangements are in place to allow their participation in the mechanism for support to market development of hydrogen pursuant to Articles 38k, 38l and 38m.*

Article 38m

Possibility to limit the participation in the mechanism for support to market development of hydrogen

1. *The Commission may decide, by means of an implementing act, to temporarily exclude offers of hydrogen supplies originating in the Russian Federation or Belarus from being collected through the mechanism for support to market development of hydrogen, where this is necessary to protect the essential security interests or security of supply of one or several Member States or those of the Union, provided that such measures:*
 - (a) *do not unduly disrupt the proper functioning of the internal hydrogen market and do not undermine the security of supply of the Union or a Member State;*
 - (b) *respect the principle of energy solidarity;*
 - (c) *are taken in compliance with the rights and obligations of the Member States and of the Union with respect to third countries.*

2. *Sufficiently in advance of the first collection of offers the Commission shall assess whether all the conditions under paragraph 1 are met with the view to deciding on any measures referred to therein. Any such decision shall be valid for a period of up to one year and may be renewed, if justified.*

The Commission shall continuously assess whether the conditions under paragraph 1 are met and shall keep the European Parliament and the Council duly informed about its assessments, including the assessment referred to in the first subparagraph.

3. *The Commission shall take appropriate measures to ensure the effective application of this Article.*

Chapter III

RULES APPLICABLE TO THE DEDICATED HYDROGEN NETWORKS

Article 39

Cross-border coordination on hydrogen quality

1. Hydrogen *transmission* 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 *transmission* 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 *transmission* 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 *transmission* 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 *transmission* network operators do not reach an agreement on a solution within 12 months, each hydrogen *transmission network* operator shall inform its regulatory authority without delay.
6. The regulatory authorities *concerned* shall take a joint coordinated decision for removing the recognised restriction taking into account the cost-benefit analysis prepared by the concerned *hydrogen transmission network* operators and the results of the public consultation within six months as set out in Article 6(10) of Regulation (EU) 2019/942.
7. The joint coordinated decision of the concerned regulatory authorities shall include a decision on the allocation of the investment costs to be borne by each hydrogen *transmission* network operator for implementing the agreed solution, as well as their inclusion in tariffs after 1 January 2033, 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 *transmission* 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 the recognised restriction and on the allocation of the investment costs to be borne by each *hydrogen transmission network* operator for implementing the agreed solution, following the process set out in Article 6(10) of Regulation (EU) 2019/942.
11. Further details required to implement this Article, including details on a common binding hydrogen quality specification for cross-border hydrogen interconnectors, cost benefit analyses for removing cross-border flow restrictions due to hydrogen quality differences, interoperability rules for cross-border hydrogen infrastructure, including addressing interconnection agreements, units, data exchange, communication and information provision among relevant market participants, shall be set in a network code established in accordance with Article 54(2), point (b).

Article 39a

Cooperation between hydrogen distribution network operators and hydrogen transmission network operators

Hydrogen distribution network operators shall cooperate with other hydrogen distribution network operators and hydrogen transmission network operators to coordinate maintenance, network development, new connections, decommissioning and the operation of the hydrogen system to ensure system integrity and with a view to maximising capacity and minimising the use of fuel gas.

European Network of Network Operators for Hydrogen

1. Hydrogen **transmission** network operators shall cooperate at Union level through the European Network of Network Operators for Hydrogen (ENNOH), in order to promote the development and functioning of the internal market in hydrogen and cross-border trade and to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen **transmission** network.
 - 1a. *ENNOH shall closely cooperate with the ENTSO for Electricity and the ENTSO for Gas on identifying synergies and on fostering system integration across energy carriers with the objective to facilitate overall energy system efficiency.*
 - 1b. *The ENNOH shall consist of certified hydrogen transmission network operators of Member States. Hydrogen transmission network operators are eligible to join ENNOH as members from the start of the certification procedure by the regulatory authority, subject to subsequent positive certification in line with Article 65 of [the recast gas Directive as proposed in COM(2021)803] and Article 13 of this Regulation within 24 months of joining ENNOH and subject to at least developing hydrogen infrastructure project(s) with a final investment decision within 4 years of joining ENNOH. If the final certification decision has not been taken within 24 months of joining ENNOH or if the final investment decision has not been taken within 4 years of joining ENNOH, the ENNOH membership of the hydrogen transmission network operator expires.*

- 1c. A designated hydrogen transmission network operator which benefits from a derogation from Article 62, is eligible to join ENNOH as a member in the exceptional case of being established in a Member State where no other hydrogen transmission network operator is member of ENNOH pursuant to paragraph 1b. Member States may nominate a hydrogen transmission network operator eligible under this paragraph as member of ENNOH, submitting such nomination to ENNOH, the Commission and ACER. Member States may revoke such nomination. The membership shall be conditional on taking a final investment decision on a hydrogen infrastructure project within 4 years of joining ENNOH. If the final investment decision has not been taken within 4 years of joining ENNOH, the ENNOH membership of the hydrogen transmission network operator expires.*
- 1d. Member States which have not designated any hydrogen transmission network operator, but plan to develop a hydrogen transmission network as stated in their National Energy and Climate Plans may nominate an entity as associated partner in ENNOH. The relevant Member State shall submit a nomination under this paragraph to ENNOH, the Commission and ACER and may revoke such nomination. This nomination shall expire when a hydrogen transmission network operator established in the relevant Member State joins ENNOH as a member.*
2. In performing its functions under Union law, the ENNOH shall act with a view to establishing a well-functioning and integrated internal market for hydrogen and shall contribute to the efficient and sustainable achievement of the objectives set out in the policy framework for climate and energy, in particular by contributing to the efficient integration of hydrogen produced from renewable energy sources and to increases in energy efficiency while maintaining system security. The ENNOH shall be equipped with adequate human and financial resources to carry out its duties.
3. By 1 September 2024, the hydrogen **transmission** network operators shall submit to the Commission and to ACER the draft statutes, a list of members and draft rules of procedure, including the rules of procedures on the consultation of stakeholders, of the ENNOH to be established.

4. The hydrogen *transmission* network operators shall submit to the Commission and to ACER any draft amendments to the statutes, list of members or rules of procedure of the ENNOH.
5. Within four months of receipt of the drafts and the draft amendments to the statutes, list of members or rules of procedure, ACER, after consulting the organisations representing all stakeholders, in particular the system users, including customers, shall provide an opinion to the Commission on these drafts or draft amendments to the statutes, list of members or rules of procedure.
6. The Commission shall deliver an opinion on the drafts and draft amendments to the statutes, list of members or rules of procedure taking into account ACER's opinion as provided for in paragraph 5 and within three months of receipt of ACER's opinion.
7. Within three months of receipt of the Commission's favourable opinion, the hydrogen *transmission* network operators shall adopt and publish the statutes, list of members and rules of procedure.
8. The documents referred to in paragraph 3 shall be submitted to the Commission and ACER where there are changes thereto or upon the reasoned request of either of them. The Commission and ACER shall deliver an opinion in accordance with paragraphs 5, 6 and 7.

Article 41

Transition to the ENNOH

2. Until the ENNOH is established, the ENTSO for Gas *shall* be responsible for the development of Union-wide network development plans for *natural* gas and hydrogen networks *referred to in Articles 29 and 43*. In carrying out this task ENTSO for Gas shall ensure the effective consultation and inclusion of all market participants, including hydrogen market participants.

Article 42

Tasks of the ENNOH

1. The ENNOH shall:
 - (a) develop network codes in the areas set out in Article 54 with a view to achieving the objectives set out in Article 40;

The network code referred to in Article 54(2), point (f) shall be developed jointly with ENTSG.
 - (b) adopt and publish biannually a non-binding Union-wide ten-year network development plan *referred to in Article 43*, including a European supply adequacy outlook;
 - (c) cooperate with the ENTSO for Electricity, *the ENTSO for Gas* and with the *EU DSO entity*;
 - (d) develop recommendations relating to the coordination of technical cooperation between *hydrogen network operators and* transmission and distribution system operators ■ in the Union;

- (e) develop recommendations relating to the coordination of technical cooperation between Union and third-party network operators;
- (f) adopt an annual work programme;
- (g) adopt an annual report;
- (h) adopt an annual outlook for the supply of hydrogen covering Member States where hydrogen is used in electricity generation **■** ;
- (i) adopt a hydrogen quality monitoring report by 15 May 2026 at the latest and every two years afterwards, including developments and forecasts for the expected developments of hydrogen quality parameters, as well as information on cases related to differences in hydrogen quality specifications and how such cases were settled;
- (j) promote cyber security and data protection in cooperation with relevant authorities and regulated entities;
- (ja) *develop and promote best practices in the detection, monitoring and reduction of hydrogen leaks.***

2. The ENNOH shall monitor and analyse the implementation of the network codes and the guidelines adopted by the Commission in accordance with Article 54, 55 and 56, and their effect on the harmonisation of applicable rules aimed at facilitating market development and integration. The ENNOH shall report its findings to ACER and shall include the results of the analysis in the annual report referred to in paragraph 1, point f) of this Article.
3. The ENNOH shall publish the minutes of its assembly meetings, board meetings and committee meetings and provide the public with regular information on its decision-making and activities.

4. The annual work programme referred to in paragraph 1, point (f) shall contain a list and description of the network codes to be prepared, a plan on the coordination of the operation of the network, a list of research and development activities, to be realised in that year, and an indicative calendar.
5. The ENNOH shall provide ACER with the information ACER requires to fulfil its tasks pursuant to Article 46. In order to enable the ENNOH to meet that requirement, hydrogen *transmission* network operators shall provide the ENNOH with the requested information.
6. Upon request of the Commission, the ENNOH shall give its views to the Commission on the adoption of the guidelines as laid down in Article 56.

Article 43

Ten-year network development plan for hydrogen

1. The Union-wide ten-year network development plan *for hydrogen* shall include the modelling of the integrated network, scenario development and an assessment of the resilience of the system.

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

- (a) build on the national hydrogen network development reporting as set out in Article 52 of recast Gas Directive where available and Chapter IV of Regulation (EU) **2022/869**;
- (b) regarding cross-border interconnections, also build on the reasonable needs of different network users and integrate long-term commitments from investors referred to in Articles 55 and Chapter IX Section 3 of recast Gas Directive;
- (c) identify investment gaps, notably with respect to *the necessary* cross-border capacities *to implement the priority corridors for hydrogen and electrolyzers as set out in point 3 of Annex I of Regulation (EU) 2022/869*.

With regard to the second subparagraph, point (c), a review of barriers to the increase of cross-border capacity of the network arising from different approval procedures or practices may be annexed to the Union-wide network development plan. *Such review may be accompanied, where appropriate, by a comprehensive plan to remove such barriers and accelerate the implementation of the priority corridors for hydrogen and electrolyzers.*

2. ACER shall provide an opinion on the national hydrogen network development reports where relevant to assess their consistency with the Union-wide network development plan. If ACER identifies inconsistencies between a national hydrogen network development report and the Union-wide network development plan, it shall recommend amending the national hydrogen network development report or the Union-wide network development plan as appropriate.
3. When developing the Union-wide ten-year network development plan as referred to in Article 42, the ENNOH shall cooperate with the ENTSO for Electricity and with the ENTSO for Gas, in particular on the development of the energy system wide cost-benefit analysis and the interlinked energy market and network model including electricity, *natural* gas and hydrogen transport infrastructure as well as storage, 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 that Regulation* and the infrastructure gaps identification referred to in Article 13 *of that Regulation*.

EU-level integrated network planning

1. *For the transition period until 1 January 2027, the ENTSO for Gas shall develop the 2026 hydrogen ten-year network development plan, with the full involvement of hydrogen transmission network operators and together with ENNOH as soon as it is established. The 2026 hydrogen ten-year network development plan shall consist of two separate chapters for hydrogen and for natural gas. The ENTSO for Gas shall without delay transfer all the information, including data and analyses it collected in the process of the preparation of the hydrogen ten-year network development plans up to 1 January 2027 to ENNOH.*
2. *The 2028 hydrogen ten-year network development plan shall be developed by ENNOH pursuant to this Article and Article 43.*
3. *ENNOH, together with the ENTSO for Electricity and the ENTSO for Gas shall closely cooperate to develop integrated ten-year network development plans pursuant to Articles 29 and 43 of this Regulation and Article 30 of Regulation (EU) 2019/943 respectively. This cooperation shall include in particular:*
 - (a) *ENNOH together with the ENTSO for Electricity and the ENTSO for Gas shall develop one set of joint scenarios for the ten-year network development plans pursuant to Article 12 of Regulation (EU) 2022/869;*
 - (b) *ENNOH, together with the ENTSO for Electricity and the ENTSO for Gas, shall each develop coordinated infrastructure gaps reports within the framework of the Union-wide ten-year network development plans pursuant to Article 13 of Regulation (EU) 2022/869;*

- (c) *Within six months of approval of the joint scenarios report pursuant to Article 12(6) of Regulation (EU) 2022/869 and every two years thereafter, ENNOH shall publish the infrastructure gaps reports developed within the framework of the Union-wide ten-year network development plans;*
- (d) *ENNOH shall draft a single sector draft methodology for an energy system wide hydrogen cost-benefit analysis and a consistent and progressively integrated model together with the ENTSO for Electricity and the ENTSO for Gas pursuant to Article 11 of Regulation (EU) 2022/869;*

This methodology shall be consistent with the methodologies developed both by the ENTSO for Electricity and the ENTSO for Gas pursuant to Article 11 of Regulation (EU) 2022/869. These methodologies shall provide transparency on the most cost-efficient solutions across energy carriers, including non-infrastructure based solutions;

- (e) *These methodologies shall be applied for the preparation of each subsequent Union-wide ten-year network development plan developed by the ENNOH pursuant to Article 43 of this Regulation;*
- (f) *ENNOH shall develop the joint scenarios, infrastructure gaps reports, the single sector draft methodology and the integrated model in line with the processes as set out in Articles 11, 12 and 13 of Regulation (EU) 2022/869;*
- (g) *Where decisions need to be made to ensure system efficiency across energy-carriers as defined in Article 2, point 4 of Directive 2023/1791 the Commission shall ensure that the ENTSO for Electricity, the ENTSO for Gas and ENNOH cooperate closely;*

- (h) *ENNOH, the ENTSO for Electricity and the ENTSO for Gas shall cooperate in an efficient, inclusive and transparent manner and facilitate consensus. They shall develop the necessary working arrangements enabling such cooperation and ensuring fair representation of all three associations;*
- (i) *ENNOH, together with the ENTSO for Electricity and the ENTSO for Gas, may establish working group(s) to fulfil its obligations pursuant to points (a), (b) and (d) of this paragraph. They shall ensure fair and equal representation of the three sectors in the working group(s).*

Article 44

Costs

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

Article 45

Consultation

1. While preparing the proposals pursuant to the tasks referred to in Article 42, the ENNOH shall conduct an extensive consultation process at an early stage and in an open and transparent manner, involving all relevant market participants, and in particular the organisations representing all stakeholders, in accordance with the rules of procedure referred to in Article 40 of this Regulation. The consultation process shall accommodate stakeholder comments before the final adoption of the proposal, aiming at identifying the views and proposals of all relevant parties during the decision-making process. The consultation shall also involve regulatory authorities and other national authorities, producers, network users including customers, technical bodies and stakeholder platforms.
2. All documents and minutes of meetings related to the consultation shall be made public.
3. Before adopting the proposals referred to in Article 42 the ENNOH shall indicate how the observations received during the consultation have been taken into consideration. It shall provide reasons where observations have not been taken into account.

Article 46

Monitoring by ACER

1. ACER shall monitor the execution of the tasks of the ENNOH referred to in Article 42 and report its findings to the Commission.
2. ACER shall monitor the implementation by the ENNOH of network codes and guidelines adopted by the Commission as laid down in Articles 54, 55, and 56. Where the ENNOH has failed to implement such network codes or guidelines, ACER shall request the ENNOH to provide a duly reasoned explanation as to why it has failed to do so. ACER shall inform the Commission of that explanation and provide its opinion thereon.

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

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

Article 47

Regional cooperation of hydrogen *transmission* network operators

1. Hydrogen *transmission* network operators shall establish regional cooperation within the ENNOH to contribute to the tasks referred to in Article 42.
2. Hydrogen *transmission* network operators shall promote operational arrangements in order to ensure the optimum management of the network and shall ensure interoperability of the interconnected Union hydrogen system for facilitating commercial and operational cooperation between adjacent hydrogen *transmission* network operators.

Article 48

Transparency requirements concerning hydrogen network operators

1. The hydrogen network operators shall make public detailed information regarding the services they offer and the relevant conditions applied, together with the technical information necessary for hydrogen network users to gain effective network access.
2. In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the hydrogen network, from 1 January 2031 hydrogen network operators or relevant authorities shall publish complete information on tariff derivation, methodology and structure.
3. The hydrogen network operators shall make public detailed information regarding the quality of hydrogen transported in their networks, which might affect network users.
4. The relevant points of a hydrogen network on which the information is to be made public shall be approved by the competent authorities after consultation with hydrogen network users.
5. The hydrogen network operators shall always disclose the information required by this Regulation in a meaningful, quantifiably clear and easily accessible manner and on a non-discriminatory basis.
6. The hydrogen network operators shall make public ex-ante and ex-post supply and demand information, including a periodic forecast and the recorded information. The regulatory authority shall ensure that all such information is made public. The level of detail of the information that is made public shall reflect the information available to the hydrogen network operators.

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

Article 49

Record keeping in the hydrogen system

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

Article 50

Presumption of conformity *of practices* with harmonised standards *for hydrogen*

Practices which are in conformity with 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 ***adopted pursuant to*** Article 54(2), point (b) of this Regulation **■** .

■

Article 51

Common specifications *for hydrogen*

- I.** 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 has requested one or more European standardisation organisation to draft a harmonised standard for those requirements and at least one of the following conditions has also been fulfilled:***
 - (i) ***the request has not been accepted by any of the European standardisation organisations;***
 - (ii) the Commission observes undue delays in the adoption of requested harmonised standards ■ ; ■
 - (iii) ***a European standardisation organisation has delivered a standard that does not entirely correspond with the request of the Commission; 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).

2. *In the early preparation of the draft implementing act establishing the common specification, the Commission shall gather the views of relevant bodies or expert groups established under relevant sectorial Union law, and shall duly consult all relevant stakeholders. Based on that consultation, the Commission shall prepare the draft implementing act.*
3. *Practices which are in conformity with common specifications or parts thereof shall be presumed to be in conformity with the requirements set out in the delegated acts adopted pursuant to Article 54(2), point (b) of this Regulation to the extent that those requirements are covered by those common specifications or parts thereof.*
4. *Where a harmonised standard is adopted by a European standardisation organisation and proposed to the Commission for the publication of its reference in the Official Journal of the European Union, the Commission shall assess the harmonised standard in accordance with Regulation (EU) No 1025/2012. When reference of a harmonised standard is published in the Official Journal of the European Union the Commission shall repeal implementing acts referred to in paragraph 1, or parts thereof which cover the same requirements referred to in paragraph 1.*

Chapter IV

NETWORK CODES AND GUIDELINES

Article 52

Adoption of network codes and guidelines

1. The Commission may, subject to the empowerments in Articles 53 to 56, adopt implementing or delegated acts. Such acts may either be adopted as network codes on the basis of text proposals developed by the ENTSO for Gas or the ENNOH, or, where so provided for in the priority list pursuant to Article 53(3), by the EU DSO entity, where relevant in cooperation with the ENTSO for Gas, the ENNOH 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) 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 *from ... [24 months from the date of entry into force of this Regulation]*.

2a. *Until ... [18 months from the date of entry into force of this Regulation] regulatory authorities may apply to the Commission for a derogation from the application of the network codes and guidelines at entry points from and exit points to third countries pursuant to paragraph 2, point (d). The request for derogation shall be submitted simultaneously to the Commission and ACER. Within three months of the date of receipt of the derogation request ACER shall provide a reasoned opinion to the Commission.*

The Commission shall issue a decision on the derogation request taking into account ACER's opinion and assessing whether the regulatory authority has:

- (a) demonstrated that a network code or guideline, or specific element of these acts, cannot be effectively implemented at entry points from and exit points to third countries. In the case of interconnection points with third countries which have the obligation to adapt to the Union energy acquis pursuant to an agreement concluded between the Union and those third countries, including this Regulation, but where adaptation or implementation has not been completed, the derogation request shall detail which provisions of this Regulation have not been effectively implemented in the relevant third country or which technical rules or lack of technical rules in the third country impede the application of the specific elements or provisions of the relevant network code or guideline;*
- (b) explained which measures were taken to alleviate the obstacles to the application of the specific provisions of the network code or guideline;*
- (c) demonstrated that the derogation is not detrimental to the effective functioning of the internal market in natural gas, or to security of supply in the Union or the Member States.*

The derogation shall be limited to the specific provisions that cannot be effectively implemented and granted for a limited period of time.

Establishment of network codes *for natural gas*

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

■

- (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, 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 *including for the allowed and target revenues* as well as the calculation of reserve prices for standard capacity products, discounts for LNG and storages, ■ 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 *pursuant to Article 15(4) and Article 16, where appropriate;*
- (ea) *rules for determining the value of transferred assets and the dedicated charge.*

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 *to supplement this Regulation* 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 **■** tools and facilities;
 - (d) rules for trading related to technical and operational provision of network access services and system balancing;
 - (e) energy efficiency of *natural* gas networks and components as well as energy efficiency with regard to network planning and investments enabling the most energy efficient solution from a system perspective;
 - (f) cyber security aspects of cross-border natural gas flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.
3. The Commission shall, after consulting ACER, the ENTSO for Gas, the ENNOH, the EU DSO entity and the other relevant stakeholders, establish every three years a priority list, identifying the areas set out in paragraphs 1 and 2 to be included in the development of network codes. If the subject matter of the network code is directly related to the operation of the distribution system and not primarily relevant to the transmission system, the Commission may require the EU DSO entity, in cooperation with the ENTSO for Gas, to convene a drafting committee and submit a proposal for a network code to ACER.

4. The Commission shall request ACER to submit to it within a reasonable period not exceeding six months of receipt of the Commission's request non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. The request of the Commission may include conditions which the framework guidelines shall address. Each framework guideline shall contribute to market integration, non-discrimination, effective competition, and the efficient functioning of the market. Upon a reasoned request from ACER, the Commission may extend the period for submitting the guidelines.
5. ACER shall consult the ENTSO for Gas, the ENNOH, the EU DSO entity, and the other relevant stakeholders in regard to the framework guidelines, during a period of no less than two months, in an open and transparent manner.
6. ACER shall submit a non-binding framework guideline to the Commission where requested to do so under paragraph 4.
7. If the Commission considers that the framework guideline does not contribute to market integration, non-discrimination, effective competition and the efficient functioning of the market, it may request ACER to review the framework guideline within a reasonable period and resubmit it to the Commission.
8. If ACER fails to submit or resubmit a framework guideline within the period set by the Commission under paragraph 4 or 7, the Commission shall develop the framework guideline in question.
9. The Commission shall request the ENTSO for Gas or, where provided for in the priority list referred to in paragraph 3, the EU DSO entity in cooperation with the ENTSO for Gas, to submit to ACER, within a reasonable period, not exceeding 12 months, of receipt of the Commission's request, a proposal for a network code in accordance with the relevant framework guideline.

10. The ENTSO for Gas, or where provided for in the priority list referred to in paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Gas, shall convene a drafting committee to support it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Gas, the ENNOH, where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The ENTSO for Gas or where provided for in the priority list pursuant to paragraph 3 the EU DSO entity, in cooperation with the ENTSO for Gas, shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2 where so requested by the Commission in accordance with paragraph 9.
11. ACER shall revise the proposed network code to ensure that it complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition, and the efficient functioning of the market, and shall submit the revised network code to the Commission within six months of receipt of the proposal. In the proposal submitted to the Commission, ACER shall take into account the views provided by all involved parties during the drafting of the proposal led by the ENTSO for Gas or the EU DSO entity and shall consult the relevant stakeholders on the version of the network code to be submitted to the Commission.
12. Where the ENTSO for Gas or the EU DSO entity have failed to develop a network code within the period set by the Commission under paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guideline. ACER may launch a further consultation. ACER shall submit a draft network code prepared under this paragraph to the Commission and may recommend that it be adopted.
13. Where the ENTSO for Gas or the EU DSO entity have failed to develop a network code, or ACER has failed to develop such a draft as referred to in paragraph 12, or upon the proposal of ACER under paragraph 11, the Commission may adopt, on its own initiative, one or more network codes in the areas listed in paragraphs 1 and 2.
14. Where the Commission proposes to adopt a network code on its own initiative, the Commission shall consult ACER, the ENTSO for Gas and all relevant stakeholders in regard to the draft network code during a period of at least two months.

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

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 *to supplement* 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 *at interconnection points* and standardisation, odorisation, cost benefit analyses for removing cross-border flow restrictions due to hydrogen quality differences and reporting on hydrogen quality;
- (c) rules for the system of financial compensation for cross-border hydrogen infrastructure;
- (d) capacity-allocation and congestion-management rules, including rules on cooperation of maintenance procedures and capacity calculation affecting capacity allocation, the standardisation of capacity products and units including bundling, the allocation methodology including auction algorithms, sequence and procedure for existing, incremental, firm and interruptible capacity, capacity booking platforms, oversubscription and buy back schemes, short and long-term use-it-or-lose it schemes or and any other congestion-management scheme that prevents the hoarding of capacity;
- (e) rules regarding harmonised tariff structures for hydrogen network access, including *for tariffs at interconnection points as referred to in Article 6(7)*, rules on the application of a reference price methodology, the associated consultation and publication requirements *including for the allowed and target revenues* 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;
- (fa) rules for determining the inter-temporal cost allocation;*

- (g) balancing rules including network-related rules on nominations procedure, rules for imbalance charges and rules for operational balancing between hydrogen network operators' networks, including network-related rules on nomination procedures, imbalance charges, settlement processes associated with the daily imbalance charge and operational balancing between transmission system operators' networks.
 - (h) cyber security aspects of cross-border hydrogen flows, including rules on common minimum requirements, planning, monitoring, reporting and crisis management.
3. The Commission shall, after consulting ACER, the ENNOH, the ENTSO for Gas, the EU DSO entity *where relevant* 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. ***The Commission shall establish the first priority list for the development of hydrogen network codes one year after the establishment of the ENNOH as set out in Article 40 of this Regulation.***
 4. The Commission shall request ACER to submit to it within a reasonable period not exceeding six months of receipt of the Commission's request non-binding framework guidelines setting out clear and objective principles for the development of network codes relating to the areas identified in the priority list. The request of the Commission may include conditions which the framework guideline shall address. Each framework guideline shall contribute to market integration, non-discrimination, effective competition, and the efficient functioning of the market. Upon a reasoned request from ACER, the Commission may extend the period for submitting the guidelines.
 5. ACER shall consult the ENNOH, the ENTSO for Gas *where relevant* and the other relevant stakeholders in regard to the framework guideline, during a period of at least two months, in an open and transparent manner.

6. ACER shall submit a non-binding framework guideline to the Commission where requested to do so under paragraph 4.
7. If the Commission considers that the framework guideline does not contribute to market integration, non-discrimination, effective competition and the efficient functioning of the market, it may request ACER to review the framework guideline within a reasonable period and resubmit it to the Commission.
8. If ACER fails to submit or resubmit a framework guideline within the period set by the Commission under paragraph 4 or 6, the Commission shall develop the framework guideline in question.
9. The Commission shall request the ENNOH to submit, within a reasonable period not exceeding 12 months of the receipt of the Commission's request, a proposal for a network code in accordance with the relevant framework guideline to ACER.
10. The ENNOH shall convene a drafting committee to support it in the network code development process. The drafting committee shall consist of representatives of ACER, the ENTSO for Gas, the ENTSO for Electricity and where appropriate the EU DSO entity, and a limited number of the main affected stakeholders. The ENNOH shall develop proposals for network codes in the areas referred to in paragraphs 1 and 2.
11. ACER shall revise the proposed network code to ensure that it complies with the relevant framework guidelines and contributes to market integration, non-discrimination, effective competition, and the efficient functioning of the market and, shall submit the revised network code to the Commission within six months of receipt of the proposal. In the revised network code, ACER shall take into account the views provided by all involved parties during the drafting of the proposal led by the *ENNOH* and shall consult the relevant stakeholders on the revised version to be submitted to the Commission.

12. Where the ENNOH has failed to develop a network code within the period set by the Commission under paragraph 9, the Commission may request ACER to prepare a draft network code on the basis of the relevant framework guideline. ACER may launch a further consultation in the course of preparing a draft network code under this paragraph. ACER shall submit a draft network code prepared under this paragraph to the Commission and may recommend that it be adopted.
13. Where the *ENNOH* has failed to develop a network code, or ACER has failed to develop a draft network code as referred to in paragraph 12, the Commission may adopt, on its own initiative, or upon the proposal of ACER under paragraph 11, one or more network codes in the areas listed in paragraphs 1 and 2.
14. Where the Commission proposes to adopt a network code on its own initiative, it shall consult ACER, the ENNOH, the ENTSO for Gas and all relevant stakeholders in regard to the draft network code during a period of no less than two months.
15. This Article shall be without prejudice to the Commission's right to adopt and amend the guidelines as laid down in Article 56. It shall be without prejudice to the possibility for the ENNOH to develop non-binding guidance in the areas set out in paragraphs 1 and 2 where such guidance does not relate to areas covered by a request addressed to the ENNOH by the Commission. The ENNOH shall submit any such guidance to ACER for an opinion and shall duly take that opinion into account.

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 *Articles* 52 to 55, including the ENTSO for Gas, the *ENNOH*, 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 **Articles** 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 **to supplement** 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 *with a view to specifying:*
- (a) *details of information to be published on the methodology used to set the regulated revenue of the transmission system operator, in accordance with Articles 30 and 31;*
 - (b) *details of principles of capacity-allocation mechanisms and congestion-management procedures implementing Article 9 and 10;*
 - (c) *details of technical information necessary for network users to gain effective access to the natural gas system implementing Article 30(1);*
 - (d) *details of definition of all relevant points, information to be published and time schedule for transparency requirements implementing Article 30;*
 - (e) *details on the format and content of technical information on network access to be published by hydrogen network operators implementing Article 48.*
5. When **amending** guidelines, the Commission shall consult:
- (a) ACER, the ENTSO for Gas *and* the EU DSO entity and, where relevant, other stakeholders *for guidelines that concern natural gas;*
 - (b) *ACER, the ENNOH and the EU DSO entity and where relevant other stakeholders for guidelines that concern hydrogen.*

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 *Member State or the regulatory authority concerned* 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 ***Member State or the regulatory authority concerned*** 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 ***except from paragraphs (5) and (6) of Article 31 and*** 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 ***storages*** may, upon request, be exempted, for a defined period of time, from the provisions of ***this Regulation except from paragraphs (5) and (6) of Article 31 and from the application*** of Articles 62, 31, 32, 33 of [recast Gas Directive] **■** . ***Any such exemption shall be subject to all of*** the following conditions **■** :
 - (a) the investment enhances competition in ***natural*** gas supply or hydrogen supply and enhance security of supply;
 - (b) the investment contributes to decarbonisation, ***the achievement of the Union's climate and energy targets and was decided by applying the energy efficiency first principle;***
 - (c) the level of risk attached to the investment is such that the investment would not take place unless an exemption was granted;
 - (d) the infrastructure is owned by a natural or legal person which is separate at least in terms of its legal form from the system operators in whose systems that infrastructure will be built;
 - (e) charges are levied on users of that infrastructure; **■**

(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 *integrated energy* market in *natural gas or hydrogen*, 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 Council*²⁰.

These conditions *shall* be assessed taking into account the principle of energy solidarity.

Competent national authorities *shall* take into account the situation in other affected Member State and balance possible negative effects with the beneficial effects on its territory.

2. The exemption in paragraph 1 shall also apply to significant increases of capacity in existing infrastructure and to modifications of such infrastructure which enable the development of new sources of renewable *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 within a reasonable time frame or within a set deadline not exceeding three months, the regulatory authority concerned may adopt the necessary decision.

²⁰ *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).*

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), (c) *and* (f), 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 Council²¹, both at regional and national level.

²¹ 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).

8. *Where a body other than the regulatory authority is tasked to adopt exemption decisions,* Member States may provide that their regulatory authority or ACER, as the case may be, shall submit *an opinion on the request for an exemption* to the relevant body in the Member State, *before the adoption of the formal exemption decision*. That opinion shall be published together with the decision.
9. The regulatory authority shall transmit to the Commission, without delay, a copy of every request for exemption as of its receipt. The exemption decision shall be notified, without delay, by the competent authority to the Commission, together with all the relevant information. That information may be submitted to the Commission in aggregate form, enabling the Commission to assess the exemption decision. In particular, the information shall contain:
- (a) the detailed reasons on the basis of which the regulatory authority, or Member State, granted or refused the exemption together with a reference to the relevant point or points of paragraph 1 on which that decision is based, including the financial information justifying the need for the exemption;
 - (b) the analysis undertaken of the effect on competition and the effective functioning of the internal market resulting from the grant of the exemption;
 - (c) the reasons for the duration of the exemption and the share of the total capacity of the infrastructure for which the exemption is granted;
 - (d) where the exemption relates to an interconnector, the result of the consultation with the regulatory authorities concerned;
 - (e) the contribution of the infrastructure to the diversification of supply.

10. Within 50 working days of the day following that of receipt of the notification under paragraph 7, the Commission may **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 401/2009²² 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:

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

²² ***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).***

11. The Commission is empowered to adopt delegated acts in accordance with Article 63 in order to *supplement this Regulation by setting* 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.

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) 803 *final*]. 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].

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 13**, 16, 28, 53, 54, 56 and 60 shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force *of this Regulation*].
3. The delegation of power referred to in **Articles 13**, 16, 28, 53, 54, 56 and 60 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to **Articles 13**, 16, 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 63a

Review and reporting

1. *By 31 December 2030 the Commission shall review this Regulation and shall submit a report to the European Parliament and to the Council, accompanied, if necessary by appropriate legislative proposals.*
2. *By ... [five years from the date of entry into force of this Regulation], the Commission may prepare a report assessing how to enable stronger system integration and harness further synergies across the hydrogen, electricity and natural gas sectors, including assessing the option of even closer cooperation or integration of the ENTSO for Electricity, the ENTSO for Gas and ENNOH, accompanied by, if necessary, appropriate legislative proposals.*

Article 64

Amendment to Decision (EU) 2017/684

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

Article 65

Amendments to Regulation (EU) 2019/942

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

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

‘(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the European Network of Network Operators for Hydrogen (ENNOH), the EU DSO Entity, regional coordination centres, nominated electricity market operators, and entities established by transmission system operators for *natural* gas, LNG system operators, *natural* 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 ENTSO for Gas, the ENNOH, the regional coordination centres, the EU DSO entity, the transmission system operators, hydrogen network operators, the nominated electricity market operators, and entities established by transmission system operators for *natural* gas, LNG system operators, *natural* gas or hydrogen storage system operators or hydrogen terminal operators shall provide to ACER the information in the same level of detail necessary for the purpose of carrying out ACER's tasks under this Regulation, unless ACER has already requested and received such information.’;

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

1. ACER shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure of the ENTSO for Electricity in accordance with Article 29(2) of Regulation (EU) 2019/943 and on those of the ENTSO for Gas in accordance with Article 22(2) of [Gas Regulation] and on those of the ENNOH in accordance with Article 40(5) of Regulation [the recast Gas Regulation as proposed in COM(2021) 804] 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 ENTSO for Gas in accordance with Article 24 of [the recast Gas Regulation as proposed in COM(2021) 804] and of the ENNOH in accordance with Article 46 of Regulation [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 ENTSO for Gas in accordance with Article 23(2) of [the recast Gas Regulation as proposed in COM(2021) 804] and to the ENNOH in accordance with Article XX of Regulation [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 ENTSO for Gas in accordance with the Article 24(2) of [the recast Gas Regulation as proposed in COM(2021) xxx], and to the ENNOH in accordance with Article 43(2) of [the recast Gas Regulation as proposed in COM(2021) 804] on the draft Union-wide network development plan and on other relevant documents referred to in Article 30(1) of Regulation (EU) 2019/943 *and* 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 ENTSO for Gas, the ENNOH, the EU DSO entity or regional coordination centres with their obligations under Union law, and shall take appropriate action in accordance with Article 59(1) point (c) and Article 62(1) point (f) of Directive (EU) 2019/944 or with Article 72(1) point (e) of [the recast Gas Directive as proposed in COM(2021) 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 ENTSO for Gas, the European Network of Network Operators for Hydrogen, the EU DSO entity or the regional coordination centres with regard to compliance with their obligations.

7. Where a reasoned opinion of ACER identifies a case of potential non-compliance of the ENTSO for Electricity, the ENTSO for Gas, the European Network of Network Operators for Hydrogen, the EU DSO entity or a regional coordination centre with their respective obligations, the regulatory authorities concerned shall unanimously take coordinated decisions establishing whether there is non-compliance with the relevant obligations and, where applicable, determining the measures to be taken by the ENTSO for Electricity, the ENTSO for Gas, ENNOH, the EU DSO entity or the regional coordination centre to remedy that non-compliance. Where the regulatory authorities fail to take such coordinated decisions unanimously within four months of the date of receipt of ACER's reasoned opinion, the matter shall be referred to ACER for a decision pursuant to Article 6(10).
8. Where the non-compliance by the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or a regional coordination centre that was identified pursuant to paragraph 6 or 7 of this Article has not been remedied within three months, or where the regulatory authority in the Member State in which the entity has its seat has not taken action to ensure compliance, ACER shall issue a recommendation to the regulatory authority to take action in accordance with Article 59(1) point (c) and Article 62(1) point (f) of Directive (EU) 2019/944 or with Article 74(1) point (d) of [the recast Gas Directive as proposed in COM(2021) xxx, in order to ensure that the ENTSO for Electricity, the ENTSO for Gas, the ENNOH, the EU DSO entity or the regional coordination centre comply with their obligations, and shall inform the Commission.'];

(5) Article 5(1) is replaced by the following:

- '1. ACER shall participate in the development of network codes in accordance with Article 59 of Regulation (EU) 2019/943 and 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 ENTSO for Gas, the ENNOH or the EU DSO entity, and shall consult the relevant stakeholders on the version to be submitted to the Commission. For this purpose, ACER may use the committee established under the network codes where appropriate. ACER shall report to the Commission on the outcome of the consultations. Subsequently, ACER shall submit the revised network code to the Commission in accordance with Article 59(11) of Regulation (EU) 2019/943 or Articles 53(11) or 54(11) of [the recast Gas Regulation as proposed in COM(2021) 804]. Where the ENTSO for Electricity, the ENTSO for Gas, the ENNOH or the EU DSO entity have failed to develop a network code, ACER shall prepare and submit a draft network code to the Commission where it is requested to do so under Article 59(12) of Regulation (EU) 2019/943 or 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 ENTSO for Gas, the ENNOH 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 **Regulation** as proposed in COM(2021) 804] 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].’;

(6a) Article 6(5) is replaced by the following:

- ‘5. *ACER shall provide a factual opinion at the request of one or more regulatory authorities or of the Commission, on whether a decision taken by a regulatory authority complies with the network codes and guidelines referred to in Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC, with other relevant provisions of those directives or regulations, or with Article 13 of Regulation (EU) 2017/1938.*’;

(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 *regulatory* asset bases pursuant to Article 4(4) of [*the recast Gas Regulation as proposed in COM(2021) 804*].
- 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*].
- 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:

‘1. 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(202) 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:

‘1. ACER, in close cooperation with the Commission, the Member States and the relevant national authorities, including the regulatory authorities, and without prejudice to the competences of competition authorities, shall monitor the wholesale and retail markets in electricity and natural gas, in particular *the levels and the formation of retail and wholesale prices, in order to facilitate that relevant authorities can identify 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:

‘2. ACER shall publish annually a report on the results of the monitoring referred to in paragraph 1. In that report, it shall identify any barriers to the completion of the internal markets for electricity, natural gas and hydrogen.’.

Article 66

Amendment to Regulation (EU) No 1227/2011

Regulation (EU) No 1227/2011 is amended as follows:

- (a) In Article 2, Article 3(3) and (4), Article 4(1), Article 8(5) the term ‘electricity or natural gas’ is replaced by the term ‘electricity, hydrogen or natural gas’;
- (b) In Article 6(2) the term ‘electricity and gas markets’ is replaced by the term ‘electricity, hydrogen and natural gas markets’.

Article 67

Amendments to Regulation (EU) 2017/1938

Regulation (EU) 2017/1938 is amended as follows:

(1) In Article 1, the first sentence is replaced by the following:

‘This Regulation establishes provisions aiming to safeguard the security of gas supply in the Union by ensuring the proper and continuous functioning of the internal market in natural gas and renewable *gas* and low-carbon *gas*, by allowing for exceptional measures to be implemented when the market can no longer deliver the gas supplies required, including solidarity measure of a last resort, and by providing for the clear definition and attribution of responsibilities among natural gas undertakings, the Member States and the Union regarding both preventive action and the reaction to concrete disruptions of gas supply.’;

(2) In Article 2, the following *point is* added:

‘(32) ‘gas’ – means natural gas as defined in point (1) of Article 2 of [recast Gas Directive as proposed in COM(2021) xxx]’;

■
(4) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. By 1 November **2026**, ENTSOG shall carry out a Union-wide simulation of gas supply and infrastructure disruption scenarios, ***including scenarios of a prolonged disruption of a single supply source***. The simulation shall include the identification and assessment of emergency gas supply corridors and shall also identify which Member States can address identified risks, including in relation to storage and LNG ***as well as scenarios examining the impact of a decrease in gas demand through energy savings or 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;’;

█
(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.’;



(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 *European Union Agency for Cybersecurity* (‘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 *to* in *Article 9 of Directive* (EU) 2022/xxx ■ 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 ■ 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 ■ ;’;

(iii) the following point (l) is added:

‘(l) information on measures related to cybersecurity, as referred to in Article 8a.’;

(13a) In Article 11, the following paragraph is inserted:

‘7a. By way of derogation from Articles 6(1) to (3), 6b(1), point (a), 6c(2), point (b) and 10(1), point (l), Member States may, exceptionally, decide to 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 is declared. Such measures shall be limited to non-essential uses of gas and shall take into account the following elements:

- (a) the impact of a disruption on supply chains that are critical for society;*
- (b) the possible negative impacts in other Member States, in particular on supply chains of downstream sectors that are critical for society;*
- (c) the potential long-lasting damage to industrial installations;*
- (d) the possibilities for reducing consumption and substituting products in the Union.*

Such exceptional measures may be taken only after an assessment is carried out by the competent authorities, as defined in Article 2, point (7), with regard to the conditions to determine such non-essential volumes of gas. As a result of measures referred to in the first subparagraph, the reduction of consumption of vulnerable customers, as defined by Member States in accordance with Article 25 of [recast Gas Directive], shall be avoided.’;

(13b) In Article 12, paragraph 6 is replaced by the following:

‘6. Where, at the request of a competent authority or a natural gas undertaking or on its own initiative, the Commission considers that, in a regional or Union emergency, action taken by a Member State or a competent authority or the behaviour of a natural gas undertaking is contrary to paragraph 5, the Commission shall request that Member State or competent authority to modify its action or to take action in order to ensure compliance with paragraph 5, informing it of the reasons therefor. Due account shall be taken of the need to operate the gas system safely at all times.

Within three days of notification of the Commission request, the Member State or the competent authority shall modify its action and notify the Commission thereof, or shall inform the Commission of the reasons for which it disagrees with the request. In the latter case, the Commission may, within three days of being informed, amend or withdraw its request or convene the Member State or the competent authority and, where the Commission considers it to be necessary, the GCG in order to consider the issue. The Commission shall set out its detailed reasons for requesting any modification to the action. The Member State or the competent authority shall modify its action or take action in order to ensure compliance with paragraph 5 as far as technically and safely possible for the integrity of the gas system. The competent authority or the Member State shall inform to the Commission of the measures adopted.’;

(14) Article 13 is amended as follows:

(a) paragraphs 3, 4 and 5 are replaced by the following:

‘3. A solidarity measure shall be ***taken as*** a last resort ***and*** shall apply only if the requesting Member State has:

(a) declared an emergency state under Article 11;

(b) not been able to cover the deficit in gas supply to its solidarity protected customers despite the application of the measure referred to in Article 11(3) ***or, where a Member State has taken temporary measures to reduce the non-essential consumption of protected customers in accordance with Article 11(7a), the essential volumes of consumption of gas to its solidarity protected customers;***

(c) exhausted all market-based measures (‘voluntary measures’), all ***non-market-based*** measures (‘mandatory measures’) and other measures contained in its emergency plan;

(d) notified an explicit request to the Commission and to the competent authorities of all Member States with which it is connected either directly or pursuant to paragraph 2 via a third country, accompanied by a description of the implemented measures referred to in point (c) of this paragraph;

3a. The Member States which are obliged to provide solidarity pursuant to paragraph 1 shall be entitled to deduct from the solidarity offer the supplies 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 11(7a), the supplies of the essential volumes of consumption of gas to its solidarity protected customers.

4. The Member States that receive a request for a solidarity measure shall make **■** offers on the basis of voluntary demand-side measures as much as and for as long as possible, before resorting to non-market-based measures.

Where market-based measures prove insufficient for the Member State providing solidarity to address the deficit in gas supply to solidarity protected customers in the requesting Member State, the Member State providing solidarity may introduce non-market-based measures in order to comply with the obligations laid down in paragraphs 1 and 2.

5. If there is more than one Member State that could provide solidarity to a requesting Member State, the requesting Member State shall, after consulting all Member States required to provide solidarity, seek the most advantageous offer on the basis of cost, speed of delivery, reliability and diversification of supplies of gas. Should the available market based offers not be *sufficient* to cover the deficit in gas supply to the solidarity protected customers in the requesting Member State *or, where the requesting Member State has taken temporary measures to reduce the non-essential consumption of protected customers in accordance with Article 11(7a), the deficit in gas supply of the essential volumes of consumption to its solidarity protected customers*, the Member States required to provide solidarity shall be obliged to activate non-market based measures.’;

(aa) *paragraph 8 is amended as follows:*

- (i) *the first subparagraph, introductory part is replaced by the following:*

‘Solidarity under this Regulation shall be provided on the basis of compensation. The Member State requesting solidarity shall promptly pay, or ensure prompt payment of, fair compensation to the Member State providing solidarity.

Where two Member States have agreed on the necessary technical and legal arrangements pursuant to paragraph 10 (‘solidarity agreement’), such fair compensation shall cover at least:’;

- (ii) *the third subparagraph is replaced by the following:*

‘Member States shall adopt the necessary measures, in particular the technical, legal and financial arrangements pursuant to paragraph 10, to implement the first, second and third subparagraphs of this paragraph. Such measures may provide for the practical modalities of prompt payment.’;

(ab) the following paragraphs are inserted:

‘8a. Where two Member States have not agreed on the necessary technical, legal and financial arrangements by way of a solidarity agreement under paragraph 10, the delivery of gas pursuant to the obligation in paragraph 1 in the event of an emergency shall be subject to the conditions set out in this paragraph.

The compensation for the solidarity measure shall not exceed reasonable costs and, unless both the Member State requesting solidarity and the Member State providing solidarity agree otherwise, it shall include:

(a) the price for gas in the Member State providing solidarity;

(b) the storage and transport costs;

(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.

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, at the closest accessible virtual trading point, or at an agreed hub over the day preceding the request for solidarity. Compensation for the gas volumes delivered in the context of a solidarity request 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.

The Member State to which the request for a solidarity measure is addressed shall provide the solidarity measure as soon as possible and no later than the indicated delivery time for the request. A Member State may refuse to provide solidarity to a Member State requesting solidarity only if it demonstrates that:

- (a) it does not have enough gas for the volumes referred to in Article 2(6); or*
- (b) it does not have sufficient interconnection capacity available, as set out in Article 13(7), or flows are restricted through a third country.*

Such refusal shall be strictly limited to the volumes of gas affected by one or both of the aforementioned limitations.

In addition to the default rules provided for in this paragraph, Member States may agree on technical arrangements and coordination of the provision of solidarity. This paragraph shall be without prejudice to existing arrangements for the safe and reliable operation of the gas system.

8b. Where two Member States have not agreed on the necessary technical, legal and financial arrangements by way of a solidarity agreement pursuant to paragraph 10, 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) contact details of the competent authority of the Member State;*
- (b) contact details of the relevant transmission system operators of the Member State (if relevant);*
- (c) contact details of the third party acting on behalf of the Member State (if relevant);*
- (d) delivery period including timing of the first possible delivery and the anticipated duration of deliveries;*

- (e) *delivery and interconnection points;*
- (f) *gas volume in kWh for each interconnection point;*
- (g) *gas quality.*

The solidarity request shall be sent simultaneously to Member States potentially being able to provide solidarity measures, to the Commission and to the crisis managers designated pursuant to Article 10(1), point (g).

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 and quality that can be supplied to the interconnection points at the time requested as referred to in paragraph 1, points (d) to (g). If the volume that can be supplied by voluntary measures is insufficient, the response shall indicate the volume resulting from possible curtailment, from the release of strategic stocks or from the application of other measures.

Solidarity requests shall be submitted at least 48 hours before the indicated delivery time for gas.

The response to solidarity requests shall be effective within 18 hours. The confirmation of the volume to be taken by the Member State requesting solidarity shall be effective within six hours of receipt of the solidarity offer and at least 24 hours before the indicated delivery time. The request may be submitted for a period of one day or several days, and the response shall match the requested duration. 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 paragraph shall only be applicable in relation to the other Member States providing solidarity. The Commission may facilitate the implementation of solidarity, in particular by means of a template accessible on a secured online platform to enable real-time transmission of requests and offers.

8c. *Where a solidarity measure been provided in accordance with paragraphs 1 and 2, the final amount of the fair compensation that has been paid by the requesting Member State shall be subject to ex-post control by the Regulatory Authorities of the providing Member State and the requesting Member State, within three months of the lifting of the emergency. Where the national regulatory authorities have not reached an agreement on the calculation of the final amount of the fair compensation, they shall inform the relevant competent authorities, the Commission and the Agency without delay. In that case, or upon a joint request from the national regulatory authorities, the Agency shall calculate the appropriate level of the fair compensation for the indirect costs occurred as a result of the provision of solidarity and provide a factual opinion within three months of the date of referral to the Agency. Before providing such factual opinion, the Agency shall consult the national regulatory authorities and the relevant competent authorities. The three-month period referred to in the second subparagraph may be extended by an additional period of two months where further information is sought by the Agency. That additional period shall begin on the day following receipt of the complete information. The Requesting Member State shall be consulted and give its opinion on the conclusion of the ex-post control. Following the consultation with the Requesting Member State, the authority which exercises this ex-post control is entitled to require a rectification of the amount of the compensation, taking into account the opinion of the Requesting Member State. The conclusions of this ex-post control shall be transmitted to the European Commission, which will take them into consideration in its report on the emergency pursuant to Article 14(3).’;*

(b) **█** paragraph 10 is replaced by the following:

‘The Member States shall adopt the necessary measures to ensure that gas is supplied to solidarity protected customers in the requesting Member State in accordance with paragraphs 1 and 2 and shall make their best endeavours to agree on technical, legal and financial arrangements. Such technical, legal and financial arrangements shall be agreed among the Member States which are directly connected or, in accordance with paragraph 2, connected via a third

country, and shall be described in their respective emergency plans. Such arrangements may cover, among others, the following elements:

- (a) the operational safety of networks;*
- (b) gas prices to be applied and/or the methodology for their setting, taking into account the impact on the functioning of the market;*
- (c) the use of interconnections, including bi-directional capacity and underground gas storage;*
- (d) gas volumes or the methodology for their setting;*
- (e) categories of costs that will have to be covered by a fair and prompt compensation, that may include damages for curtailed industry;*
- (f) an indication of the method how the fair compensation could be calculated.*

The financial arrangement agreed between Member States before solidarity is requested shall contain provisions that allow for the calculation of the fair compensation of at least all relevant and reasonable costs incurred when providing solidarity and an undertaking that such compensation will be paid.

Any compensation mechanism shall provide incentives to participate in market-based solutions such as auctions and demand response mechanisms. It shall not create perverse incentives, including in financial terms, for market players to postpone their action until non-market-based measures are applied. All compensation mechanisms or at least their summary shall be included in the emergency plans.

Where new and significant reasonable costs to be included in the fair compensation arise, as a result of national judicial proceeding pursuant to point (c) of the second subparagraph of paragraph 8 after concluding the ex-post control process, the providing Member State shall inform immediately the requesting Member State. The Regulatory Authorities, and the Agency where relevant, shall carry out a new ex-post control pursuant to paragraph 8c. The outcome of this new ex-post control is without prejudice to the obligation for a providing Member State to compensate damages to customers under national law and its right to receive a fair compensation.’;

(ba) paragraph 11 is replaced by the following:

‘11. For as long as a Member State can cover the gas consumption for its solidarity protected customers from its own production, it shall not be considered necessary to conclude technical, legal and financial arrangements with Member States with which it is directly connected or, in accordance with paragraph 2, via a third country, for the purpose of receiving solidarity. This shall not affect the obligation of the relevant Member State to provide solidarity to other Member States pursuant to this Article.’;

(c) paragraphs 12, 13 and 14 are deleted;

(ca) paragraph 15 is replaced by the following:

‘15. The obligations laid down in paragraphs 1 and 2 of this Article shall cease to apply immediately after the declaration of the end of an emergency or when the Commission concludes, in accordance with the first subparagraph of Article 11(8), that the declaration of an emergency is not or is no longer justified.’;

(14a) *the following article is inserted:*

‘Article 13a

Cooperation between indirectly connected Member States using market-based measures (“voluntary measures”)

- 1. Without prejudice to the principle of energy solidarity this Article shall apply when Member States which are indirectly connected via another Member State and have received a request pursuant to paragraph 2 contribute to provide the requested gas volumes pursuant to Article 13(1) or (2), using voluntary measures as defined in Article 13(3).*
- 2. The Member State requesting solidarity under Article 13 may send a request for a voluntary contribution based on market-based measures simultaneously to one or more indirectly connected Member States to seek the most advantageous offer or combination of offers on the basis of cost, speed of delivery, reliability and diversification of supplies of gas pursuant to Article 13(4).*

Requests pursuant to subparagraph 1 shall be submitted to the indirectly connected Member States potentially being able to provide gas volumes on the basis of voluntary measures, to the Commission and to the crisis managers designated pursuant to Article 10(1), point (g), at least 48 hours before the indicated delivery time for gas and indicate at least the information referred to in points (a) to (g) of the first subparagraph of Article 13(8b).

Member States that receive the request pursuant to subparagraph 1, shall respond to the requesting Member State, and inform the Commission and the crisis managers designated pursuant to Article 10(1), point (g) within 18 hours, indicating if they can make offer gas volumes on the basis of voluntary measures. The response shall indicate at least the information referred to in Article 13(8a). Member States may respond by indicating their inability to contribute using market-based measures.

3. *When the sum of the gas volumes resulting from the offers pursuant to Article 13(1) and (2) and offers pursuant to this Article do not reach the required volumes, offers pursuant to this Article shall be automatically selected.*

When the sum of the gas volumes resulting from the offers pursuant to Article 13(1) and (2) and offers pursuant to this Article exceed the required volumes, offers pursuant to this Article shall be taken into account in the process of selecting offers pursuant to Article 13(4), and the requesting Member State shall, after consulting all involved Member States, seek the most advantageous offer, or a combination of offers amongst offers pursuant to Article 13 or this article, on the basis of cost, speed of delivery, reliability and diversification. In case contributions under this Article are selected by the requesting Member States, the request pursuant to Article 13(1) and (2) shall be reduced accordingly.

The requesting Member State shall inform the concerned Member States which volumes it has selected within six hours of receipt of the offer and at least 24 hours before the indicated delivery time.

4. *When an indirectly connected Member State provides a voluntary contribution based on market-based measures to the requesting Member State pursuant to paragraphs 1 and 2, the fair compensation shall not exceed reasonable costs and may include the costs set out in the second subparagraph of Article 13(8a). The final amount of the fair compensation shall be subject to the ex-post control mechanism described in Article 13(8c).*
5. *The transmission system operators of the relevant Member States shall cooperate and exchange information using the ReCo System for Gas established by ENTSOG pursuant to Article 3(6), in order to identify the available interconnection capacities within six hours of a request of a Member State or the Commission. ENTSOG shall inform the Commission and the competent authorities of the Member States concerned accordingly.;*

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

‘2. The report that is to be submitted by 28 February 2025 shall also include a general assessment of the application of Articles 6a to 6d, Article 7(1) and (4)(g), Article 13, Article 13a, Article 16(3), Article 17a, Article 18a, Article 20(4), and Annexes Ia and Ib to this Regulation. The report shall be accompanied, where necessary, by a legislative proposal to amend this Regulation.’;

(16) Article 19 is amended as follows:

(a) ***in paragraph 2, the following sentence is inserted after*** the first sentence **■** :

‘The power to adopt delegated acts referred to in **■** Article 8a(2) shall be conferred on the Commission for a period of five years from ... [date of ***entry into force of this Regulation***].’;

(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) *or* 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.’;

(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.’;

█

Article 67a

Amendments to Regulation (EU) 2022/869

Regulation (EU) 2022/869 is amended as follows:

(1) Article 11 is replaced by the following:

‘Article 11

Energy system wide cost-benefit analysis

1. *The ENTSO for Electricity, and the European Network of Network Operators for Hydrogen (‘ENNOH’) referred to in Article 40 of [recast gas Regulation] shall draft consistent single sector draft methodologies, including the energy network and market model referred to in paragraph 10, for a harmonised energy system-wide cost-benefit analysis at Union level for projects on the Union list falling under the energy infrastructure categories set out in point (1)(a), (b), (d) and (f) and point (3) of Annex II.*

The methodologies referred to in the first subparagraph shall be drawn up in line with the principles laid down in Annex V, be based on common assumptions allowing for project comparison, and be consistent with the Union’s 2030 targets for energy and climate and its 2050 climate neutrality objective, as well as with the rules and indicators set out in Annex IV.

The methodologies referred to in the first subparagraph of this paragraph shall be applied for the preparation of each subsequent Union-wide ten-year network development plans developed by the ENTSO for Electricity pursuant to Article 30 of Regulation (EU) 2019/943, or the ENNOH pursuant to Article 43 of [recast H2/Gas Regulation].

By 24 April 2023, the ENTSO for Electricity shall publish and submit to Member States, the Commission and the Agency its consistent single sector draft methodology after having gathered input from the relevant stakeholders during the consultation process referred to in paragraph 2. Any methodology for an energy system-wide hydrogen cost-benefit analysis developed by the ENTSO for Gas by 1 September 2024 shall be approved pursuant to the process in this Article. By 1 December 2025, the ENNOH shall publish and submit to Member States, the Commission and the Agency its consistent single sector draft methodology after having gathered input from the relevant stakeholders during the consultation process pursuant to Article 43a(3), point (d)(ii), of [recast H2/Gas Regulation].

- 2. Prior to submitting their respective draft methodologies to the Member States, the Commission and the Agency in accordance with paragraph 1, the ENTSO for Electricity and the ENNOH shall publish preliminary draft methodologies and conduct an extensive consultation process and seek recommendations from Member States and, at least, the organisations representing all relevant stakeholders, including the EU DSO entity, associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations, civil society representatives and, where it is deemed appropriate the national regulatory authorities and other national authorities.*

Within three months of publication of the preliminary draft methodologies under the first subparagraph, any stakeholder referred to in that subparagraph may submit a recommendation.

The European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council (31) may, on its own initiative, submit an opinion to the draft methodologies.

Where applicable, Member States, and stakeholders referred to in the first subparagraph shall submit and make publicly available their recommendations and the European Scientific Advisory Board on Climate Change shall submit and make publicly available its opinion to the Agency and, as applicable, to the ENTSO for Electricity or the ENNOH.

The consultation process shall be open, timely and transparent. The ENTSO for Electricity and the ENNOH shall prepare and make public a report on the consultation process.

The ENTSO for Electricity and the ENNOH shall provide reasons where they have not, or have only partly, taken into account the recommendations from Member States or the stakeholders, as well as from national authorities, or the opinion of the European Scientific Advisory Board on Climate Change.

- 3. Within three months of receipt of the draft methodologies together with the input received in the consultation process and the report on the consultation, the Agency shall provide an opinion to the ENTSO for Electricity and the ENNOH. The Agency shall notify its opinion to the ENTSO for Electricity, the ENNOH, the Member States, and the Commission and publish it on its website.*
- 4. Within three months of receipt of the draft methodologies, Member States may deliver their opinions to the ENTSO for Electricity and the ENNOH and the Commission. To facilitate the consultation, the Commission may organise specific meetings of the Groups to discuss the draft methodologies.*
- 5. Within three months of receipt of the opinions of the Agency and Member States, as referred to in paragraphs 3 and 4, the ENTSO for Electricity and the ENNOH shall amend their respective methodologies to fully take into account the opinions of the Agency and the Member States and submit them together with the opinion of the Agency to the Commission for its approval. The Commission shall issue its decision within three months of submission of the methodologies by the ENTSO for Electricity, the ENTSO for Gas and the ENNOH, respectively.*

6. *Within two weeks of the approval by the Commission in accordance with paragraph 5, the ENTSO for Electricity and the ENNOH shall publish their respective methodologies on their websites. They shall publish the corresponding input data and other relevant network, load flow and market data in a sufficiently accurate form subject to restrictions under national law and relevant confidentiality agreements. The Commission and the Agency shall ensure the confidential treatment of the data received by them and by any party that carries out analytical work on the basis of those data on their behalf.*
7. *The methodologies shall be updated and improved regularly following the procedure described in paragraphs 1 to 6. In particular, they shall be amended after submission of the energy network and market model referred to in paragraph 10. The Agency, on its own initiative, or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders referred to in paragraph 2, first subparagraph, and the Commission, may request such updates and improvements, providing reasons and a timetable. The Agency shall publish the requests by national regulatory authorities or stakeholders and all relevant non-commercially sensitive documents leading to a request from the Agency for an update or improvement.*
8. *For projects falling under the energy infrastructure categories set out in point (1)(c) and (e) and in points (2), (4) and (5) of Annex II, the Commission shall ensure the development of methodologies for a harmonised energy system-wide cost-benefit analysis at Union level. Those methodologies shall be compatible in terms of benefits and costs with the methodologies developed by the ENTSO for Electricity and the ENNOH. The Agency, with the support of national regulatory authorities, shall promote the consistency of those methodologies with the methodologies elaborated by ENTSO for Electricity and the ENNOH. The methodologies shall be developed in a transparent manner, including extensive consultation of Member States and of all relevant stakeholders.*

9. *Every three years, the Agency shall establish and publish a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the energy infrastructure categories included in Annex II. Project promoters shall provide the requested data to the national regulatory authorities and to the Agency.*

The Agency shall publish the first indicators for the infrastructure categories set out in points (1), (2) and (3) of Annex II by 24 April 2023, to the extent that data is available to calculate robust indicators and reference values. Those reference values may be used by the ENTSO for Electricity and the ENNOH for the cost-benefit analyses carried out for subsequent Union-wide ten-year network development plans.

The Agency shall publish the first indicators for the energy infrastructure categories set out in points (4) and (5) of Annex II, by 24 April 2025.

10. *By 31 October 2025, following an extensive consultation process of stakeholders referred to in paragraph 2, first subparagraph, the ENTSO for Electricity, ENTSO for Gas, and the ENNOH shall jointly submit to the Commission and the Agency a consistent and progressively integrated model that will provide consistency between single sector methodologies based on common assumptions including electricity, natural gas and hydrogen transmission infrastructure as well as storage facilities, liquefied natural gas and electrolyzers, covering the energy infrastructure priority corridors and areas set out in Annex I drawn up in line with the principles laid down in Annex V.*

11. *The model referred to in paragraph 10, shall cover at least the relevant sectors' interlinkages at all stages of infrastructure planning, specifically scenarios, technologies and spatial resolution, infrastructure gaps identification in particular with respect to cross-border capacities, and projects assessment.*

12. *After approval of the model referred to in paragraph 10 by the Commission in accordance with the procedure set out in paragraphs 1 to 5, it shall be included in the methodologies referred to in paragraph 1, that shall be amended accordingly.*

13. *At least every five years, starting from its approval in accordance with paragraph 10, and more frequently where necessary, the model and the consistent single sector cost-benefit methodologies shall be updated in accordance with the procedure referred to in paragraph 7.*
14. *Until 1 January 2027, this Article applies subject to the transitional provisions set out in Article 43a of [recast H2/Gas Regulation].’;*

(2) *Article 12 is replaced by the following:*

‘Article 12

Scenarios for the ten-year network development plans

1. *By 24 January 2023, the Agency, after having conducted an extensive consultation process involving the Commission, the Member States, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO entity and at least the organisations representing associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations and civil society representatives, shall publish the framework guidelines for the joint scenarios to be developed by ENTSO for Electricity, the ENTSO for Gas and the ENNOH. Those guidelines shall be regularly updated as found necessary. The consultation process for any update of the guidelines shall also involve the ENNOH.*

The guidelines shall establish criteria for a transparent, non-discriminatory and robust development of scenarios taking into account best practices in the field of infrastructures assessment and network development planning. The guidelines shall also aim to ensure that the underlying ENTSO for Electricity, ENTSO for Gas and ENNOH scenarios are fully in line with the energy efficiency first principle and with the Union’s 2030 targets for energy and climate and its 2050 climate neutrality objective and shall take into account the latest available Commission scenarios, as well as, when relevant, the national energy and climate plans.

The European Scientific Advisory Board on Climate Change may, on its own initiative, provide input on how to ensure compliance of scenarios with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective. The Agency shall take duly into account that input in the framework guidelines referred in the first subparagraph.

The Agency shall provide reasons where it has not, or has only partly, taken into account the recommendations from Member States, stakeholders and the European Scientific Advisory Board on Climate Change.

2. *The ENTSO for Electricity, ENTSO for Gas and the ENNOH shall follow the Agency's framework guidelines when developing the joint scenarios to be used for the Union-wide ten-year network development plans.*

The joint scenarios shall also include a long-term perspective until 2050 and include intermediary steps as appropriate.

3. *The ENTSO for Electricity, ENTSO for Gas and the ENNOH shall invite the organisations representing all relevant stakeholders, including the EU DSO entity, associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations, civil society representatives, to participate in the scenarios development process, in particular on key elements such as assumptions and how they are reflected in the scenarios data.*

4. *The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall publish and submit the draft joint scenarios report to the Agency, the Member States and the Commission for their opinion.*

The European Scientific Advisory Board on Climate Change may, on its own initiative, provide an opinion on the joint scenarios report.

5. *Within three months of receipt of the draft joint scenarios report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion on compliance of the scenarios with the framework guidelines referred to in paragraph 1, first subparagraph, including possible recommendations for amendments, to the ENTSO for Electricity, ENTSO for Gas, ENNOH, Member States and the Commission.*

Within the same time limit, the European Scientific Advisory Board on Climate Change may, on its own initiative, provide an opinion on the compatibility of scenarios with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective.

6. *Within three months of receipt of the opinion referred to in paragraph 5, the Commission taking into account the opinions of the Agency and Member States, shall approve the draft joint scenarios report or request the ENTSO for Electricity, the ENTSO for Gas and ENNOH to amend it.*

The ENTSO for Electricity, the ENTSO for Gas and ENNOH shall provide reasons explaining how any request for amendments from the Commission has been addressed.

In the event the Commission does not approve the joint scenarios report, it shall provide a reasoned opinion to the ENTSO for Electricity, the ENTSO for Gas and the ENNOH.

7. *Within two weeks of the approval of the joint scenarios report in accordance with paragraph 6, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall publish it on their websites. They shall also publish the corresponding input and output data in a sufficiently clear and accurate form for a third party to reproduce the results, taking due account of the national law and relevant confidentiality agreements and sensitive information.*

8. *Until 1 January 2027, this Article applies subject to the transitional provisions set out in Article 43a of [recast H2/Gas Regulation].*’;

(3) *Article 13 is replaced by the following:*

‘Article 13

Infrastructure Gaps Identification

1. *Within six months of approval of the joint scenarios report pursuant to Article 12(6) and every two years thereafter, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall publish the infrastructure gaps reports developed within the framework of the Union-wide ten-year network development plans.*

When assessing the infrastructure gaps the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall base their analysis on the scenarios established under Article 12, implement the energy efficiency first principle and consider with priority all relevant alternatives to new infrastructure. When considering new infrastructures solutions, the infrastructures gaps assessment shall take into account all relevant costs, including network reinforcements.

The infrastructures gaps assessment shall, in particular, focus on those infrastructure gaps potentially affecting the fulfilment of the Union’s 2030 climate and energy targets and its 2050 climate neutrality objective.

Prior to publishing their respective reports, the ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall conduct an extensive consultation process involving all relevant stakeholders, including the EU DSO entity, associations involved in electricity, natural gas and hydrogen markets, heating and cooling, carbon capture and storage and carbon capture and utilisation stakeholders, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions and, energy consumer associations, civil society representatives, the Agency and all the Member States’ representatives that are part of the relevant energy infrastructure priority corridors that are set out in Annex I.

2. *The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall submit their respective draft infrastructure gaps report to the Agency and the Commission and Member States for their opinion.*
3. *Within three months of receipt of the infrastructure gaps report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion to the ENTSO for Electricity, ENTSO for Gas or ENNOH, the Commission and Member States and make it publicly available.*
4. *Within three months of receipt of the Agency's opinion referred to in paragraph 3, the Commission shall, taking the Agency's opinion into account and with input from the Member States, draft its opinion and submit it to the ENTSO for Electricity, the ENTSO for Gas or the ENNOH.*
5. *The ENTSO for Electricity, the ENTSO for Gas and the ENNOH shall adapt their infrastructure gaps reports taking due account of the Agency's opinion and in line with the Commission's and the Member States' opinions and make them publicly available.*
6. *Until 1 January 2027, this Article applies subject to the transitional provisions set out in Article 43a of [recast H2/Gas Regulation].';*

(4) in Article 31, the following paragraph is added:

'5. In the Annexes to this Regulation, any reference to 'ENTSO for Gas' shall be understood to mean 'ENTSO for Gas and ENNOH' for the purpose of the transitional provisions pursuant to Article 43a of [recast Gas/H2 Regulation]. As of 1 January 2027, any reference to 'ENTSO for Gas' shall be understood to mean 'ENNOH.'

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 IV.

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*.

It shall apply from ... *[six months from the date of entry into force of this Regulation]*.

Article 10(3), point (b), Article 31(6) and Article 67 shall apply as of ... [day after the end of the period of application of Regulation (EU) 2022/2576 to be inserted].

Section 4a shall apply from ... [day after the end of the period of application of Regulation (EU) 2022/2576 to be inserted] with the exception of Articles 38a, 38b, 38c, 38k, 38l and 38m, which shall apply from ... [the date of entry into force of this Regulation].

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

Done at █ ,

For the European Parliament

For the Council

The President

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 *regulatory* 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 *regulatory* 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 *regulatory* asset base per asset type detailed per year until its full depreciation, including:
 - (b) investments added to the *regulatory* 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 *shall* 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 *shall* 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 *transport* 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 *transport* 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 *transport* 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 *shall* 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 *shall* 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 2026 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 *transport* 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 *transport* 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 *transport* 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.

I

Annex III

Repealed Regulation with list of the successive amendments thereto

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

* Table to be updated during the legal-linguistic revision.

Regulation (EU) No 715/2009	This Regulation
Article 2(1) point 6	Article 2(1) point 7
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

Regulation (EU) No 715/2009	This Regulation
Article 2(1) point 21	Article 2(1) point 22
Article 2(1) point 22	Article 2(1) point 23
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

Regulation (EU) No 715/2009	This Regulation
-	Article 2(1) point 37
-	Article 2(1) point 38
Article 2(2)	Article 2(2)
-	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)

Regulation (EU) No 715/2009	This Regulation
-	Article 7(4) second subparagraph
Article 7(4)	Article 7(5)
Article 7(5)	Article 7(6)
-	Article 8
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

Regulation (EU) No 715/2009	This Regulation
-	Article 16
-	Article 17
-	Article 18
-	Article 19
-	Article 20
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

Regulation (EU) No 715/2009	This Regulation
-	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
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)

Regulation (EU) No 715/2009	This Regulation
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)
-	Article 31(6) second subparagraph
Article 20	Article 32
-	Article 33
-	Article 34
-	Article 35
-	Article 36
-	Article 37
-	Article 38

Regulation (EU) No 715/2009	This Regulation
-	Article 39
-	Article 40
-	Article 41
-	Article 42
-	Article 43
-	Article 44
-	Article 45
-	Article 46
-	Article 47
-	Article 48
-	Article 49
-	Article 50
-	Article 51
	Article 52
Article 6	Article 53

Regulation (EU) No 715/2009	This Regulation
	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)
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

Regulation (EU) No 715/2009	This Regulation
-	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)	-
Article 30, point (c)	-
Article 30 subparagraph 2	-
-	Article 63
-	Article 64
-	Article 65

Regulation (EU) No 715/2009	This Regulation
-	Article 66
-	Article 67
Article 31	Article 68
Article 32	Article 69
Annex I	Annex I
-	Annex II
-	Annex III
Annex III	Annex IV