



Council of the
European Union

Brussels, 2 October 2023
(OR. en)

13324/23

LIMITE

ENER 507
ENV 1033
CLIMA 420
IND 488
RECH 412
COMPET 909
ECOFIN 917
CODEC 1661

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	15111/1/21 REV 1 + ADD 1 REV 1
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules for the internal markets in renewable and natural gases and in hydrogen (recast) - Preparation for the trilogue

I. INTRODUCTION

1. On 15 December 2021, the Commission submitted a proposal for the Directive on the common rules for the internal markets in renewable and natural gases and in hydrogen that, together with the Regulation, will be the new EU framework to decarbonise gas markets and promote hydrogen.
2. The legislation aims at enabling the decarbonisation of natural gas consumption, creating a regulatory framework for dedicated hydrogen infrastructure and markets and integrated network planning. It also strengthens rules for consumer protection.
3. In the European Parliament, the Industry, Research and Energy (ITRE) is the leader for this file. The appointed rapporteur is MEP Jens Geier (S&D, Germany). The Parliament adopted its report on 16 February 2023.

4. On 19 May 2022, the European Economic and Social Committee adopted its opinion on the proposal and the European Committee of the Regions delivered its opinion on 12 October 2022.

II. INTERINSTITUTIONAL NEGOTIATIONS – STATE OF PLAY

1. The TTE (Energy) Council on 28 March 2023, agreed on a general approach on the above-mentioned proposal and the first trilogue, based on the Council general approach, took place on 1 June 2023.
2. During the first trilogue, both institutions explained their views on the main political issues and recognised the need to swiftly advance on this file. A broad mandate was given to the subsequent technical meetings to identify and make progress on areas of compromise in view of the second informal trilogue that took place on 18 July.
3. During the second trilogue, the discussions concerned differentiation between transmission system operators and distribution system operators for hydrogen as well as geographically confined hydrogen networks, local heating and cooling plans, distribution network development plans, protection of vulnerable customers, energy poverty and ban of disconnections as well as prioritization of hard-to-decarbonise sectors.
4. After the second trilogue intense discussions have taken place at technical meetings between the Parliament and the Council, and the Commission provided its support as an honest broker. At the Energy Working Party meetings between July and October 2023, delegations were invited to express their positions and flexibilities on the Parliament's amendments concerning the entire set of articles as well as on various compromise proposals.
5. The suggested 'provisionally agreed' compromise proposals discussed at technical level are included in document 13324/23 ADD 1.

III. PREPARATION FOR THE NEXT TRILOGUE

1. The third informal trilogue will take place on 12 October 2023. The agenda of the meeting will consist of the following chapters:
 - a) Split between Transmission System Operators (TSO) and Distribution System Operators (DSO) for hydrogen (*Progress report*)
 - b) Network planning (Articles 51, 52, 52a, 52b)
 - c) Existing hydrogen networks (Article 47) and geographically confined hydrogen networks (Article 48)
 - d) Consumer issues – protection of vulnerable groups (Articles 11a, 25, 25a)
 - e) Unbundling (Articles 62 and 63) (*Presentation of positions*)
2. All the above issues were discussed during technical meetings with the Parliament and the Commission. Moreover, the Presidency presented and discussed drafting proposals regarding most of the above-mentioned items at the Energy Working Party. Following these considerations, the Presidency asks for flexibilities and proposes the below compromises.
3. **Split between Transmission System Operators (TSO) and Distribution System Operators (DSO) for hydrogen** (TSO/DSO Split). This is a key issue for the European Parliament.

The Commission in its original proposal had intended a unified regulatory framework for hydrogen networks (no separation between TSOs and DSOs), as opposed to natural gas and electricity where transmission and distribution are defined separately. The Council general approach maintained this unified regulatory framework for hydrogen, but it extended the scope of the derogation for geographically confined hydrogen networks (Article 48 Gas Directive – mentioned below).

The European Parliament has opted for an approach directly based on the framework for natural gas, with separation of TSO-DSO categories for hydrogen distinguished based on pipeline pressure.

Member States expressed openness towards a possible compromise on such TSO-DSO split for hydrogen, based on new functional criteria, other than pipeline pressure, as it was considered not suitable for hydrogen pipelines.

At present work is on-going on technical level. **This point in trilogue will serve to reaffirm both co-legislators' commitment to finding a suitable compromise on this matter, in particular on appropriate functional definitions of "hydrogen transmission networks" and "hydrogen distribution networks"** while taking into account the concerns of both institutions. A potential split may only be agreed during the last trilogue and it is linked to the entire framework, in particular articles 47 and 48. **A compromise that is currently being discussed in the technical meetings can be found in the Annex.** The Permanent Representatives Committee is invited to assess if the draft text is a good basis for further work on this issue.

4. Articles regarding **network planning** are of high importance for both institutions and its structure is directly related to the approach in relation to the TSO/DSO split for hydrogen.

The Commission proposal maintained in article 51 (Network development and powers to make investment decisions) the existing approach for transmission network planning articulated around at least one Ten-Year Network Development Plan (TYNDP) per Member State for natural gas. In relation to the hydrogen sector, the Commission proposed a lighter network development reporting in article 52. The Council's General Approach preserved the Commission's structure of this chapter.

The Parliament; however, suggested in article 51 creating a single, integrated Ten-Year Network Development Plan per Member State for transmission networks of gas, hydrogen and electricity. It would be based on a joint scenario of energy supply and demand developed between National Regulatory Authorities (NRAs) and various infrastructure operators of gas, hydrogen, electricity and district heating.

The Parliament was also keen on a broad stakeholder consultation (mirroring the consultation agreed in TEN-E1) when building the TYNDP and involving the European Scientific Advisory Board on Climate Change in giving an opinion on the draft TYNDP. Parliament's inclusion of hydrogen in Article 51, resulted in deletion of Article 52.

In addition, the Parliament added articles 52a (local heating and cooling plans) and 52b (distribution network development plans for gas and hydrogen).

¹ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2022.152.01.0045.01.ENG&toc=OJ%3AL%3A2022%3A152%3ATOC

The Presidency intends to convey to the Parliament, that an obligation for one global joint TYNDP and one joint scenario for gas, hydrogen and electricity may result in an extremely complex and long process which would not lead to synergies as expected by the Parliament. With regards to the close links between the two, **it could be possible to envisage that the Member States would be able to decide on an integrated network plan, however, an outright obligation should be avoided**. Moreover, in case the TSO/DSO split for hydrogen is decided, **the Presidency proposes to apply article 51 to hydrogen transmission networks and keep article 52 for hydrogen distribution networks**.

Stakeholder consultation to prepare the TYNDP is a very important issue for the Parliament; therefore, **the Presidency proposes a compromise to reinforce such consultation without putting additional administrative burden neither on the network operators nor on the NRAs. The Presidency could also compromise on the involvement of the European Scientific Advisory Board on Climate Change if its participation in giving an opinion would only be voluntary**.

In relation to articles 52a and 52b, **the Presidency suggests deletion of article 52a**. This article was drafted before the adoption of the Energy Efficiency Directive. Now such plans are covered by article 25 of the said legislation.

However, **the Presidency proposes to explore a compromise on a modified article 52b** (distribution network development plans for gas and hydrogen). Although, the Parliament would prefer to apply the same provisions to hydrogen and gas distribution networks, they are emerging and mature sectors respectively and should be addressed differently.

Therefore, **the Presidency suggests limiting the application of this article to those gas distribution networks which are considering disconnecting a significant number of customers**, in order to decommission or repurpose these networks for hydrogen. That plan should be submitted to national competent authorities (instead of NRAs). The Presidency advises to take advantage of synergies between these plans and other provisions such as new article 11a (mentioned in part 6 of this note), in order to reinforce protection for final customers in the context of the phase-out of natural gas.

5. In case of existing **Hydrogen Networks (Article 47) and geographically confined hydrogen networks (Article 48)**, the Presidency recognises the importance of these articles for the Council and will ensure that the final compromise remains as close as possible to the General Approach.

As regards **article 47** the Parliament had not made any significant changes to this article, only aligned it with the potential future TSO-DSO split in hydrogen as detailed above and maintained a final date for the expiration of the derogation.

Considering **article 48**, one of the main differences with the Parliament, concerns the deadline for the application of this article. The Parliament did not modify Commission's proposal, which allows the derogation up to the end of 2030, and starting from 2031 the derogation would expire when certain condition(s) are fulfilled. The Council has removed these deadlines. Instead, the NRAs have to withdraw the derogation under certain conditions. **The Presidency proposes to remain with the Council text while monitoring closely the requests for access to these networks by new hydrogen producers or industrial customers. In addition, the Parliament may ask for a clarification regarding the isolated character of the networks, non-connected to other networks and further reinforcements of its scrutiny by NRAs.** The Presidency proposes compromises for articles 47 and 48 (**Annex to this note**).

6. **Consumer issues and the protection of vulnerable groups.** For articles 11a of the Parliament (Fuel Switch), 11a of the Council (Consumer rights and protection in relation to the phasing out of natural gas), 25 (Protection of vulnerable customers and suppliers of last resort) and 25a (Energy poverty and energy security monitoring), the Presidency notes an overall preference of the Member States for Council's General Approach. In this respect, the Presidency suggests that the EU establishes objectives providing for high level of consumer protection and leaves to the Member States the decision on precise measures.

The Presidency proposes compromises for **articles 11a, 25 and 25a (Annex to this note)**, based on Council's General Approach. The compromises take into considerations specific needs of vulnerable customers, and customers in energy poverty. In this respect, Member States would be invited to take into account the Commission's Recommendation on Energy Poverty in creating national customer protection measures. **The Presidency would propose to ensure that vulnerable customers are protected from gas disconnections, in particular in critical times and during the winter, rather than introducing a total ban on disconnections as defended by the Parliament.**

The Presidency would also like that Member States to consider if disconnections should be prohibited during ongoing judicial or out-of-court disputes between the supplier and customers. The Presidency's proposal attempts not to duplicate the customer protection provisions already established in the Energy Efficiency Directive (EED). In relation to article 25a, where the Parliament would prefer to task the Commission to report on the level of energy poverty in each Member State, **the Presidency would refuse any additional reporting obligations, in addition to those reflected in the NECPs.** The Presidency would welcome Member States support to these compromises.

7. **Unbundling of network operators in the hydrogen sector.** Currently, preliminary exchange of views is being undertaken with the Parliament at technical level. The objective of the discussion at political level is to clarify respective positions and identify the main political red lines for both institutions.

Existing vertical unbundling rules in gas are aimed at avoiding conflicts of interest between the operation of gas networks and the supply of gas.

In line with the future TSO-DSO split for hydrogen, **article 62** would be uniquely dedicated to unbundling of hydrogen transmission network operators. The position of the Parliament and Council converge on a number of elements. The Presidency recognises the importance for the Council in particular of paragraph 4 regarding the derogation from the general rules on unbundling of certain network operators where applying the 'Independent Transmission Operator' (ITO) model. **The Presidency could explore the possibility to combine Council and Parliament's text.**

In case of **Article 63 regarding horizontal unbundling** of hydrogen network operators, the Commission proposed to guarantee a legal separation between hydrogen network operators and gas or electricity network operators, i.e., different legal entities. However, the Parliament deleted this article, considering it is an unnecessary burden.

The Presidency proposes to stick to the General Approach and maintain this article.

Independence of a hydrogen network operator at least in terms of its legal form would allow a clear separation between sectors and would bring transparency in cost-allocation and avoid cross-subsidies. Moreover, it would not be administratively or financially burdensome. In addition, this article may be an important complement to article 62 paragraph 4. **The Presidency may also explore the possibility to grant targeted derogations from article 63 to small hydrogen distribution network operators.**

IV. CONCLUSIONS

1. The Permanent Representatives Committee is invited to:
 - reflect on the above-mentioned issues, and
 - to agree on a revised mandate for the third informal trilogue on 12 October 2023, on the basis of the above-mentioned issues, the text included in the Annex to this note and suggestions and flexibilities expressed during the meeting of the Permanent Representatives Committee.

Hydrogen transmission and distribution networks – Presidency compromise proposals on new definitions and articles 47 and 48

a) Definitions of hydrogen transmission and distribution networks

In **bold underline italics**, are most relevant changes compared to the document WK 10760/23 discussed at the Energy Working Party.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 2, first paragraph, point (21a)				
189a		<i>(21a) ‘hydrogen transmission’ means the transport of hydrogen through a network which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to the delivery of hydrogen to customers, excluding supply;</i>		<i>(21a) ‘hydrogen transmission network’ means a network of pipelines for the transport of hydrogen of a high grade of purity, in particular, networks which include hydrogen interconnectors or infrastructure projects of common interest, or which are directly connected to hydrogen storage, hydrogen terminals or two or more hydrogen interconnectors or which primarily serve the purpose of transporting hydrogen to other hydrogen networks, hydrogen storages or hydrogen terminals. <u>Such networks may serve the purpose of supplying directly connected customers.</u></i>
Article 2, first paragraph, point (21b)				
189b		<i>(21b) ‘hydrogen distribution’ means the transport of hydrogen through local or regional pipeline networks</i>		<i>(21b) ‘hydrogen distribution network’ means a network of pipelines for <u>the local or regional</u> transport of hydrogen of a high grade of purity, which primarily</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>with a view to its delivery to customers, excluding supply;</i>		<i>serve the purpose of supplying directly connected customers, and do not include hydrogen interconnectors or infrastructure projects of common interest, and are not directly connected to hydrogen storage, unless the network in question was a gas distribution system on [entry into force of this Directive] and has been partially or fully repurposed for the transport of hydrogen, to hydrogen terminals or to two or more hydrogen interconnectors.</i>

b) Existing hydrogen networks (article 47) and geographically confined networks (article 48)

In **bold underline italics** are marked the changes compared to the General Approach.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 47				
588	Article 47 Existing hydrogen networks	Article 47 Existing hydrogen networks	Article 47 Existing hydrogen networks	Article 47 Existing hydrogen networks
Article 47(1)				
589	1. Member States may decide to grant a derogation from the requirements of Articles 31, 62, 63 and 64 of this Directive, and Articles 6 and 47 of [recast Gas Regulation as proposed in COM(2021) xxx] to hydrogen networks that belonged to a vertically integrated undertaking on [date of entry into force]. The derogation shall be limited in scope to the network capacity in operation on [date of entry into force].	1. Member States may decide to grant a derogation from the requirements of Articles 31, 42, 62 and 64 of this Directive, and Articles 6 and 47 of [recast Gas Regulation as proposed in COM(2021) xxx] to hydrogen networks that belonged to a vertically integrated undertaking on [date of entry into force]. The derogation shall be limited in scope to the network capacity in operation on [date of entry into force].	1. Member States may decide provide for regulatory authorities to grant a derogation from the requirements of one or more of Articles 31, 62, 63, 64 and 65 and 64 of this Directive, and Articles 6 and 47 of [recast Gas Regulation as proposed in COM(2021)- xxx 804] to hydrogen networks that belonged to a vertically integrated undertaking on [date of entry into force]. The derogation shall be limited in scope to the network capacity in operation on [date of entry into force].	1. Member States may decide provide for regulatory authorities to grant a derogation from the requirements of one or more of Articles 31, 42, 62, 63, 64 and 65 and 64 of this Directive, and Articles 6 and 47 of [recast Gas Regulation as proposed in COM(2021)- xxx 804] to hydrogen networks that belonged to a vertically integrated undertaking on [date of entry into force]. The derogation shall be limited in scope to the network capacity in operation on [date of entry into force].
Article 47(2)				
590	2. The derogation shall be limited in time and shall expire:	2. The derogation shall be limited in time and shall expire:	2. The derogation shall be limited in time and shall expire:	2. The derogation shall be limited in time and shall expire:
Article 47(2), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
591	(a) where the vertically integrated undertaking submits a request to the regulatory authority to end the derogation and such request is approved by the regulatory authority;	(a) where the vertically integrated undertaking submits a request to the regulatory authority to end the derogation and such request is approved by the regulatory authority;	(a) where the vertically integrated undertaking submits a request to the regulatory authority to end the derogation and such request is approved by the regulatory authority;	(a) where the vertically integrated undertaking submits a request to the regulatory authority to end the derogation and such request is approved by the regulatory authority;
Article 47(2), point (b)				
592	(b) where the hydrogen network benefitting from the derogation is connected to another hydrogen network;	(b) where the hydrogen network benefitting from the derogation is connected to another hydrogen network;	(b) where the hydrogen network benefitting from the derogation is connected to another hydrogen network;	(b) where the hydrogen network benefitting from the derogation is connected to another hydrogen network;
Article 47(2), point (c)				
593	(c) where the hydrogen network benefitting from the derogation or its capacity is expanded;	(c) where the hydrogen network benefitting from the derogation or its capacity is expanded;	(c) where the hydrogen network benefitting from the derogation or its capacity is expanded by more than [5%] in terms of length or capacity compared to [date of entry into force of this Directive]; or	(c) where the hydrogen network benefitting from the derogation or its capacity is expanded by more than [5%] in terms of length or capacity compared to [date of entry into force of this Directive]; or
Article 47(2), point (d)				
594	(d) at the latest on 31 December 2030.	(d) at the latest on 31 December 2030.	(d) at the latest on 31 December 2030 where the regulatory authority concludes by decision that the continued application of the derogation would carry the risk of impeding competition or adversely affecting the efficient deployment of hydrogen infrastructure or the development of the hydrogen	(d) at the latest on 31 December 2030 where the regulatory authority concludes by decision that the continued application of the derogation would carry the risk of impeding competition or adversely affecting the <u>efficient</u> deployment of hydrogen infrastructure or the development of the hydrogen

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			market in the Member State or the Union.	market in the Member State or the Union.
Article 47(3)				
594a			3. Regulatory authorities may request operators of existing hydrogen networks to provide them with all information necessary for the execution of their tasks.	3. Regulatory authorities may request operators of existing hydrogen networks to provide them with all information necessary for the execution of their tasks.
Article 48				
595	Article 48 Geographically confined hydrogen networks	Article 48 Geographically confined hydrogen networks	Article 48 Geographically confined hydrogen networks	Article 48 Geographically confined hydrogen networks
Article 48(1)				
596	1. Member States may provide for regulatory authorities to grant a derogation from Article 62 for hydrogen networks which transport hydrogen from one entry point to a limited number of exit points within a geographically confined, industrial or commercial area..	-1. Member States may provide for regulatory authorities to grant a derogation from Article 42 or 62 for hydrogen networks which transport hydrogen from one entry point to a limited number of exit points within a geographically confined, industrial or commercial area. █	1. Member States may provide for regulatory authorities to grant a derogation from Article 62 Articles 62 and 65 for hydrogen networks which transport hydrogen from one entry point to a limited number of exit points within a geographically confined area. For the duration of the derogation, such network shall fulfil all of the following conditions: - industrial or commercial area..	1. Member States may provide for regulatory authorities to grant a derogation from Articles 62 and 65 or Article 42 , for hydrogen networks which transport hydrogen from one entry point to a limited number of exit points within a geographically confined area. For the duration of the derogation, such network shall fulfil all of the following conditions: - industrial or commercial area..
Article 48(-1), second subparagraph				
596a		<i>Before granting a derogation pursuant to the first</i>		<i>Delete</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>subparagraph, the regulatory authorities shall take into account the connection to the hydrogen network of end-users in hard-to decarbonise sectors with the highest greenhouse gas abatement potential where no other more energy or cost efficient alternatives are available.</i>		(Integrated in line 600: <i>Member States shall take the necessary measures to ensure that access requests of hydrogen producers as well as <u>connection requests of industrial customers</u> are notified to the regulatory authority and treated accordingly to articles 37 and 38).</i>
Article 48(1), first subparagraph i				
596b			i. It shall not include hydrogen interconnectors.	i. It shall not include hydrogen interconnectors.
Article 48(2), second subparagraph				
596c			ii. It shall not have direct connections to hydrogen storage facilities or hydrogen terminals, unless such storage facilities or terminals are also connected to a hydrogen network which does not benefit from a derogation under this Article or Article 47.	ii. It shall not have direct connections to hydrogen storage facilities or hydrogen terminals, unless such storage facilities or terminals are also connected to a hydrogen network which does not benefit from a derogation under this Article or Article 47.
Article 48(2), third subparagraph				
596d			iii. It shall primarily serve the purpose of supplying hydrogen to customers directly connected to this network.	iii. It shall primarily serve the purpose of supplying hydrogen to customers directly connected to this network. <i>[PRES note on the way forward: potential insertion to clarify the</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>geographically isolated character of these networks]</i>
Article 48(2), first subparagraph				
597	2. The derogations under paragraph 1 shall apply at least until 31 December 2030. As from 1 January 2031, the derogation shall expire when one of the conditions below is fulfilled:	2. The derogations under paragraph 1 shall apply at least until 31 December 2030. As from 1 January 2031, the derogation shall expire when one of the conditions below is fulfilled:	2. The derogations under national regulatory authority shall adopt a decision to withdraw the derogation pursuant to paragraph 1 shall apply at least until 31 December 2030. As from 1 January 2031, the derogation shall expire when one if it concludes that the continued application of the derogation would carry the risk of impeding competition or adversely affecting the efficient deployment of hydrogen infrastructure or the development of the hydrogen market in the Member State or the Union, or where any of the conditions below is listed under paragraph 1 is no longer fulfilled.	2. The derogations under national regulatory authority shall adopt a decision to withdraw the derogation pursuant to paragraph 1 shall apply at least until 31 December 2030. As from 1 January 2031, the derogation shall expire when one if it concludes that the continued application of the derogation would carry the risk of impeding competition or adversely affecting the efficient deployment of hydrogen infrastructure or the development of the hydrogen market in the Member State or the Union, or where any of the conditions below is listed under paragraph 1 is no longer fulfilled.
Article 48(2), first subparagraph, point (a)				
598	(a) where a competing renewable hydrogen producer wants to get access to the network;	(a) where a competing renewable hydrogen producer wants to get access to the network;	(a) where a competing renewable hydrogen producer wants to get access to the network;	<i>Delete</i> Partial integrated in line 597 (the risk of impeding competition).
Article 48(2), first subparagraph, point (b)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
599	(b) where the exempted hydrogen network becomes connected to another hydrogen network.	(b) where the exempted hydrogen network becomes connected to another hydrogen network.	(b) where the exempted hydrogen network becomes connected to another hydrogen network.	<i>Delete</i> Integrated in line 597 (where any of the conditions listed under paragraph 1 is no longer fulfilled).
Article 48(2), second subparagraph				
600	Member States shall take the necessary measures to ensure that access requests referred to in point (a) of this paragraph are notified to the regulatory authority.	Member States shall take the necessary measures to ensure that access requests referred to in point (a) of <i>the first subparagraph</i> are notified to the regulatory authority <i>and information on derogations, type of end-users served, type and extension of the geographically confined area are made publicly available, with due regard of commercially sensitive information.</i>	Member States shall take the necessary measures to ensure that access requests referred to in point (a) of this paragraph are notified to the regulatory authority.	(COM original text with additions) Member States shall take the necessary measures to ensure that access requests <u>of hydrogen producers as well as connection requests of industrial customers</u> are notified to the regulatory authority <u>and treated pursuant to article 38.</u> [PRES note on the way forward: compromise proposal to reinforce the monitoring of the access requests]

Network planning – new compromise proposal on articles 51, 52, 52a, 52b in the Directive

Changes in the 4th column taken from the *EP mandate are bold italics*, from **Council mandate bold**, and **new text added bold underline**.

Text in [] is in particular for Coreper's consideration.

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 51				
610	Article 51 Network development and powers to make investment decisions	Article 51 Network development and powers to make investment decisions	Article 51 Network development for natural gas and powers to make investment decisions	Article 51 Network development for natural gas and hydrogen and powers to make investment decisions
Article 51(1)				
611	1. At least every two years, all transmission system operators shall submit to the relevant regulatory authority a ten-year network development plan based on existing and forecast supply and demand after having consulted all relevant stakeholders. There shall be at least one single network development plan per Member State. Infrastructure operators, including LNG terminal operators, storage operators, distribution system operators as well as hydrogen, district heating infrastructure and electricity operators shall be required to provide and exchange all relevant information to the transmission system operators required for	1. At least every two years, <i>all transmission system operators, hydrogen transmission network operators and electricity transmission system operator in accordance with Article 51 of Directive (EU) 2019/944</i> shall submit to the relevant regulatory authority a ten-year network development plan based on existing and forecast supply and demand after having consulted all relevant stakeholders <i>in accordance with paragraph 8a of this Article</i> . There shall be at least one single network development plan per Member State <i>for natural gas, hydrogen and electricity. The single network development plan shall contain efficient measures</i>	1. At least every two years, all transmission system operators shall submit to the relevant regulatory authority a ten-year network development plan based on existing and forecast supply and demand after having consulted all relevant stakeholders. There shall be at least one single network development plan per Member State. Infrastructure operators, including LNG terminal operators, storage operators, distribution system operators as well as hydrogen, district heating infrastructure and electricity operators shall be required to provide and exchange all relevant information to the transmission system operators required for	1. At least every two years, all transmission system operators <u>and hydrogen transmission network operators</u> shall submit to the relevant regulatory authority a ten-year network development plan based on existing and forecast supply and demand after having consulted all relevant stakeholders <u>according to paragraph 2, point (e)</u> . There shall be [] at least one single network development plan per Member State <u>for natural gas and at least one single network development plan per Member State for hydrogen</u> . Infrastructure operators, including LNG terminal operators, storage operators, distribution system operators as well as hydrogen

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	developing the single plan. That network development plan shall contain efficient measures in order to guarantee the adequacy of the natural gas system and the security of supply, in particular the compliance with the infrastructure standards under Regulation (EU) 2017/1938. The ten-year network development plan shall be published and accessible on a website.	<i>in order to promote energy system integration in line with the ‘system efficiency’ principle, as defined in Article 2, point (3a) of Directive (EU) .../... and the energy efficiency first principle in accordance with the Commission Recommendation on Energy Efficiency First, contribute to climate neutrality and</i> guarantee the adequacy of the natural gas system and the <i>hydrogen system as well as the</i> security of supply, in particular the compliance with the infrastructure standards under Regulation (EU) 2017/1938. The ten-year network development plan, <i>and the information which the transmission system operator and the hydrogen transmission network operator considered in developing the ten-year network development plan,</i> shall be published and accessible on a website.	developing the single plan. That network development plan shall contain efficient measures in order to guarantee the adequacy of the natural gas system and the security of supply, in particular the compliance with the infrastructure standards under Regulation (EU) 2017/1938. The ten-year network development plan shall be published and accessible on a website.	<u>distribution network operators, hydrogen terminal operators and hydrogen storage operators,</u> district heating infrastructure and electricity operators shall be required to provide and exchange all relevant information to the transmission system operators required for developing the single plan. The network development plan <u>for natural gas</u> shall contain efficient measures in order to guarantee the adequacy of the natural gas system and the security of supply, in particular the compliance with the infrastructure standards under Regulation (EU) 2017/1938. The ten-year network development plans shall be published and accessible on a website <u>along with the outcome of the stakeholder’s consultation. The website shall be update regularly so that all the relevant stakeholders have visibility on when, what and how will be consulted.</u>
Article 51(2)				
612	2. The ten-year network development plan shall, in particular:	2. The ten-year network development plan shall, in particular:	2. The ten-year network development plan shall, in particular:	2. The ten-year network development plan shall, in particular:
Article 51(2), point (a)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
613	(a) contain the main infrastructure that needs to be built or upgraded over the next ten years;	(a) contain the main infrastructure that needs to be built or upgraded over the next ten years, <i>taking into account infrastructure developed by distribution system operators to enable reverse flows to the transmission network</i> ;	(a) contain comprehensive and detailed information on the main infrastructure that needs to be built or upgraded over the next ten years taking into account any infrastructure needed for connecting renewable and low-carbon gas installations and including infrastructure developed to enable reverse flows to the transmission network ;	(a) contain comprehensive and detailed information on the main infrastructure that needs to be built or upgraded over the next ten years taking into account any infrastructure needed for connecting renewable and low-carbon gas installations and including infrastructure developed to enable reverse flows to the transmission network ;
Article 51(2), point (b)				
614	(b) contain all the investments already decided and identify new investments which have to be executed in the next three years;	(b) contain all the investments <i>and demand-side solutions not requiring new infrastructure investments</i> already decided and identify new investments <i>and demand-side solutions not requiring new infrastructure investments</i> which have to be executed in the next three years, <i>including investments with regard to the decommissioning and repurposing of infrastructure</i> ;	(b) contain all the investments already decided and identify new investments which have to be executed in the next three years;	(b) contain all the investments already decided and identify new investments <i>and demand-side solutions not requiring new infrastructure investments</i> which have to be executed in the next three years;
Article 51(2), point (c)				
615	(c) include information on infrastructure that can or will be decommissioned; and	(c) include information on infrastructure that can or will be decommissioned <i>or repurposed for the transmission of hydrogen, in particular to rapidly deliver</i>	(c) include comprehensive and detailed information on infrastructure that can or will be decommissioned; and	(c) in the case of natural gas, include comprehensive and detailed information on infrastructure that can or will be decommissioned <u>in close</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>hydrogen to end-users in hard-to-decarbonise sectors with the highest greenhouse gas abatement potential per tonne of consumed hydrogen and where no other more energy and cost efficient options are available;</i>		<u>cooperation with the hydrogen transmission network operator;</u> and
Article 51(2), point (ca)				
615a		<i>(ca) identify the most relevant and cost-efficient network connections and network reinforcements for renewable gas, including renewable hydrogen;</i>		<u>(ca) in case of hydrogen include comprehensive and detailed information on infrastructure that can or will be repurposed for the transmission of hydrogen, in particular to deliver hydrogen to end-users in hard-to-decarbonise sectors taking into account the greenhouse gas abatement potential and the energy and cost-efficiency in relation to other options and in close cooperation with the transmission system operator;</u>
xxx				<i>(ex (ca)) moved and modified)</i> <i>(caa) identify the most relevant and cost-efficient network connections and network reinforcements for the integration of renewable and low-carbon gases;</i>
Article 51(2), point (d)				

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616	(d) provide for a time frame for all investment and decommissioning projects;	(d) provide for a time frame for all investment and decommissioning <i>or</i> projects <i>and all demand-side solutions not requiring new infrastructure investments</i> ;	(d) provide for a time frame for all investment and decommissioning projects;	(d) provide for a time frame for all investment and decommissioning projects;
Article 51(2), point (da)				
616a		<i>(da) include information on capacity needs, both in volume and duration, as negotiated between network users and hydrogen transmission network operators as well as the predicted supply and demand for hydrogen, specifically taking into account end-users in hard-to-decarbonise sectors, which have the highest greenhouse gas emissions abatement potential per tonne of consumed hydrogen and where no other more energy and cost efficient options are available;</i>		
Article 51(2), point (db)				
616b		<i>(db) identify investment gaps, in particular with respect to cross-border capacities, that are needed for the establishment of an integrated Union hydrogen market enabling hydrogen to move freely across borders, taking into account the hydrogen</i>		

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		<i>storage development and the integration of hydrogen imports;</i>		
Article 51(2), point (e)				
617	(e) be based on a joint scenario framework developed between the relevant infrastructure operators, including relevant distribution system operators, of at least gas and electricity;	(e) be based on a joint scenario framework developed between the relevant infrastructure operators, including relevant distribution system operators, of at least gas, <i>including hydrogen, electricity and district heating and the regulatory authorities, which shall incorporate reasonable assumptions for the evolution of production, consumption and trade of energy and shall be developed with input from all relevant stakeholders as referred to in paragraph 8a of this Article; evolution of biomethane production incorporated in the joint scenario framework shall be based on the regional maps referred to in Article 17a(1) of Regulation [recast Gas Regulation as proposed in COM(2021)xxx]; the joint scenario framework shall include a long-term perspective, with intermediate steps, until 2050 in line with point (g) of this paragraph and take into account the joint scenario framework</i>	(e) be based on a joint scenario framework developed between the relevant infrastructure operators, including relevant distribution system operators, of at least natural gas and electricity. Such scenarios shall be based on reasonable assumptions about the evolution of the production, supply, consumption and exchanges with other countries;	(e) be based on a joint scenario framework developed <u>every two years</u> between the relevant infrastructure operators, including relevant distribution system operators, of at least natural gas, <i>hydrogen</i> , and electricity <u>and, where applicable, district heating.</u> <u>Such scenarios shall be based on reasonable assumptions about the evolution of the production, supply and consumption, taking into account demand-side solutions not requiring new infrastructure investments, and in particular the needs of hard-to-decarbonise sectors [with a view to target the use of renewable and low-carbon hydrogen in hard-to-decarbonise sectors]. They shall also take into account cross-border exchanges, including with third countries and the role of hydrogen storage and the integration of hydrogen terminals.</u>

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		<i>from the Union-wide ten-year network development plan;</i>	<i>[PRES note on the way forward: to consider the emphasis on hard-to-decarbonise sectors].</i> <u>Infrastructure operators shall invite all relevant stakeholders to participate including the distribution system operators in natural gas and electricity, hydrogen distribution network operators, associations involved in electricity, gas and hydrogen markets, heating and cooling, supply and production undertakings, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations, civil society representatives, in the development of the scenarios, The consultations shall be effective and comprehensive and shall take place at an early stage prior to the development of the ten-year network development plan in an open, inclusive and transparent manner.</u> <i>[PRES note on the possible way forward: considering the inclusion of the potential list of stakeholders]</i>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>in a recital/annex, clarifying the responsibility for TSOs, reducing the administrative burden].</i> <u>All documents provided by the infrastructure operators to facilitate the consultations shall be made public, along with the outcome of the stakeholder's consultation. The website shall be updated in a timely manner when these documents are available so that all the relevant stakeholders have visibility on when, what and how will be consulted.</u> <u>The joint scenarios shall be in line with Union-wide scenarios established in accordance with Article 12 of Regulation (EU) 2022/869 and with the integrated national energy and climate plan and its updates, in accordance with Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1) and 4(1) of Regulation (EU) 2021/1119.</u> <u>The scenarios shall be approved by the competent national authority and the European</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 may, on its own initiative, provide an opinion on the compatibility of joint scenarios with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective, which has to be taken into account by the competent national authority.</u> [PRES note on the way forward: to evaluate the convenience of the role of the European Scientific Advisory Board on Climate Change]
Article 51(2), point (ea)				
617a		<i>(ea) be developed in a close cooperation between gas, hydrogen and electricity operators on the basis on identified coordinated priority corridors for renewable electricity and renewable gas in accordance with the joint scenario framework developed under point (e);</i>		
Article 51(2), point (f)				
618	(f) be consistent with the results of the common and national risk	(f) be consistent with the results of the common and national risk	(f) be consistent with the results of the common and national risk	(f) be consistent with the results of the common and national risk assessments under Article 7 of

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	assessments under Article 7 of Regulation 2017/1938;	assessments under Article 7 of Regulation 2017/1938;	assessments under Article 7 of Regulation 2017/1938;	Regulation 2017/1938, <u>where relevant</u> ;
Article 51(2), point (g)				
619	(g) be in line with the integrated national energy and climate plan and its updates, and with the integrated national energy climate reports submitted in accordance with Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1), of Regulation (EU) 2021/1119.	(g) <i>contribute to achieving</i> the integrated national energy and climate plan and its updates, the integrated national energy climate reports <i>and long-term strategies</i> submitted in accordance with Regulation (EU) 2018/1999 and support the <i>GHG emissions reductions and climate-neutrality objectives</i> set out in <i>Articles 2(1) and 4(1)</i> of Regulation (EU) 2021/1119 <i>and relevant national decarbonisation objectives</i> ;	(g) be in line with the integrated national energy and climate plan and its updates, and with the integrated national energy climate reports submitted in accordance with Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1), of Regulation (EU) 2021/1119.	(g) be in line with the integrated national energy and climate plan and its updates, and with the integrated national energy climate reports submitted in accordance with Regulation (EU) 2018/1999. <u>It shall also be consistent with targets set by Directive (EU) 2018/2011 [amended RED]</u> and support the climate-neutrality objective set out in Article 2(1) and 4(1) of Regulation (EU) 2021/1119.
Article 51(2), point (ga)				
619a		<i>(ga) be in line with and contribute to the latest Union energy and climate objectives for 2030 as defined under targets agreed in Directive (EU) .../... , Article 26 of the Directive (EU) .../... and in Directive (EU) 2018/2011 [amended RED];</i>		
Article 51(2), point (gb)				
619b		<i>(gb) be consistent with the Union-wide ten-year network development plan referred to in Article 29 of Regulation ... [recast</i>		<i>(gb) be consistent with the Union-wide ten-year network development plan <u>for natural gas</u> referred to in Article 29 of Regulation ... [recast Gas</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>Gas Regulation as proposed in COM(2021)xxx/.</i>		<i>Regulation as proposed in COM(2021)xxx/ <u>and the Union-wide ten-year network development plan for hydrogen referred to in Article 43 of Regulation ... [recast Gas Regulation as proposed in COM(2021)xxx], as applicable.</u></i>
Article 51(2), point (gc)				
619c		<i>(gc) take into account the distribution network development plans referred to in Article 52b.</i>		<i>(gc) take into account the hydrogen distribution network development reporting referred to in Article 52 and the natural gas distribution network plans referred to in Article 52b.</i>
Article 51(3)				
620	3. When elaborating the ten-year network development plan, the transmission system operator shall fully take into account the potential for alternatives to system expansion, for instance the use of demand response, as well as expected consumption following the application of the energy efficiency first principle, trade with other countries and the Union-wide network development plan. The transmission system operator shall assess how to address, where possible, a need across electricity and gases	3. When elaborating the ten-year network development plan, the transmission system operator and the hydrogen transmission network operator shall fully take into account the potential for alternatives to system expansion, in particular decommissioning or repurposing of infrastructure as well as demand-side solutions not requiring new natural gas or hydrogen infrastructure , and expected consumption following the application of the energy efficiency first principle, trade with other countries and the	3. When elaborating the ten-year network development plan, the transmission system operator shall fully take into account the potential for alternatives to system expansion, for instance the use of demand response, as well as expected consumption following the application of the energy efficiency first principle and demand reduction targets , trade with other countries and the Union-wide network development plan. In view of the energy system integration , the transmission system operator shall	3. When elaborating the ten-year network development plans, the transmission system operator and the hydrogen transmission network operator shall fully take into account the potential for alternatives to system expansion, for instance the use of demand response, as well as expected consumption following the application of the energy efficiency first principle, trade with other countries and the Union-wide network development plan. In view of the energy system integration , the

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	systems including information on the optimal location and size of energy storage and power to gas assets.	Union-wide network development plan. <i>The prioritisation of the end-users in hard-to-decarbonise sectors, which have the highest greenhouse gas emissions abatement potential per tonne of consumed hydrogen and where no other more energy and cost efficient options are available, shall be considered. The transmission system operator and hydrogen transmission network operator shall assess how to address, where possible, a need across electricity, heat and gas systems including information on the optimal location and size of energy storage, power to gas assets and hydrogen-ready plants as well as planning for co-location of future production and use sites, where possible. The hydrogen transmission network operator shall include information on the location of end-users in hard-to-decarbonise sectors with the highest greenhouse gas abatement potential per tonne of consumed hydrogen. The transmission system operator and the hydrogen transmission network operator shall make reasonable</i>	assess how to address, where possible, a need across electricity and gases systems including information on the optimal location and size of energy storage and power to gas assets.	transmission system operator <u>and the hydrogen transmission network operator</u> shall assess how to address, where possible, a need across electricity, <u>heat where applicable</u> and gases systems including information on the optimal location and size of energy storage and power to gas assets <u>and [hydrogen plants] as well as planning for co-location of future production and use sites, where possible. The hydrogen transmission network operator shall include information on the location of end-users in hard-to-decarbonise sectors taking into account the greenhouse gas abatement potential and the energy and cost-efficiency in relation to other options.</u> [PRES note on the way forward: to consider the not completely clear reference to hydrogen plants. The concept of co-location may be clarified in a recital]

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		<i>assumptions about the evolution of production, supply and consumption of gas and electricity.</i>		
Article 51(4)				
621	4. The regulatory authority shall consult all actual or potential system users on the ten-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential system users may be required to substantiate such claims. The regulatory authority shall publish the result of the consultation process, in particular possible needs for investments.	4. The regulatory authority shall consult all actual or potential system users <i>and all relevant stakeholders in accordance with paragraph 8a</i> , on the ten-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential system users may be required to substantiate such claims. The regulatory authority shall publish the result of the consultation process, <i>including possible needs for investments, decommissioning of assets and demand-side solutions not requiring new infrastructure investments.</i>	4. The regulatory authority shall consult all actual or potential system users on the ten-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential system users may be required to substantiate such claims. The regulatory authority shall publish the result of the consultation process, in particular possible needs for investments.	4. The regulatory authority shall consult all actual or potential system users on the ten-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential system users may be required to substantiate such claims. The regulatory authority shall publish the result of the consultation process, <i>including possible needs for investments, decommissioning of assets and demand-side solutions not requiring new infrastructure investments.</i>
Article 51(5), first subparagraph				
622	5. The regulatory authority shall examine whether the ten-year network development plan covers all investment needs identified during the consultation process, and whether it is consistent with the most recent Union wide simulation of disruption scenarios	5. The regulatory authority shall examine whether the ten-year network development plan <i>complies with paragraphs 1, 2 and 3</i> , covers all investment needs identified during the consultation process, <i>promotes energy system integration and is in line with the</i>	5. The regulatory authority shall examine whether the ten-year network development plan covers all investment needs identified during the consultation process, and whether it is consistent with the most recent Union wide simulation of disruption scenarios	5. The regulatory authority shall examine whether the ten-year network development plan <i>complies with paragraphs 1, 2 and 3</i> , covers all investment needs identified during the consultation process, and whether it is consistent with the most recent

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	carried out by the ENTSO for Gas under Article 7 of Regulation (EU) 2017/1938, with the regional and national risk assessments and the non-binding Union -wide ten-year network development plan (Union -wide network development plan) referred to in Article 30(1), point (b), of Regulation (EU) 2019/943. If any doubt arises as to the consistency with the Union -wide network development plan, the regulatory authority shall consult ACER. The regulatory authority may require the transmission system operator to amend its ten-year network development plan.	<i>energy efficiency first principle, the integrated national energy and climate plan and its updates, with the integrated national energy climate reports and long-term strategies submitted in accordance with Regulation (EU) 2018/1999</i>, and whether it is consistent with the most recent Union wide simulation of disruption scenarios carried out by the <i>ENTSO</i> under Article 7 of Regulation (EU) 2017/1938, with the regional and national risk assessments, <i>the Union-wide ten-year network development plan referred to in Article 29 of Regulation ... [recast Gas Regulation as proposed in COM(2021)]</i> and the non-binding <i>Union-wide</i> ten-year network development plan (Union -wide network development plan) referred to in Article 30(1), point (b), of Regulation (EU) 2019/943. If any doubt arises as to the consistency with the Union -wide network development plan, the regulatory authority shall consult ACER. The European Scientific Advisory Board on Climate Change may give an opinion on the draft ten-year	carried out by the ENTSO for Gas under Article 7 of Regulation (EU) 2017/1938, with the regional and national risk assessments and the non-binding Union -wide ten-year network development plan plans (Union -wide network development plan plans) referred to in Article 30(1), point (b), of Regulation (EU) 2019/943, Article 29 of [the recast Gas regulation as proposed in COM(2021)804] and Article 43 of [the recast Gas regulation as proposed in COM(2021)804] . If any doubt arises as to the consistency with the Union - wide network development plan, the regulatory authority shall consult ACER. The regulatory authority may require the transmission system operator to amend its ten-year network development plan.	Union wide simulation of disruption scenarios carried out by the ENTSO for Gas under Article 7 of Regulation (EU) 2017/1938, with the regional and national risk assessments and the non-binding Union -wide ten-year network development plan plans (Union -wide network development plan plans) referred to in Article 30(1), point (b), of Regulation (EU) 2019/943, Article 29 of [the recast Gas regulation as proposed in COM(2021)804] and Article 43 of [the recast Gas regulation as proposed in COM(2021)804]. If any doubt arises as to the consistency with the Union - wide network development plan, the regulatory authority shall consult ACER. The regulatory authority may require the transmission system operator to amend its ten-year network development plan.

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		<i>network development plan. The regulatory authority shall publish a decision, including a report, approving, amending or requiring the transmission system operator or the hydrogen transmission network operator to amend its ten-year network development plan to resolve any identified inconsistencies with paragraphs 1, 2 and 3.</i>		
Article 51(5), second subparagraph				
623	The competent national authorities shall examine the consistency of the ten-year network development plan with the national energy and climate plan and its updates and with the integrated national energy climate reports submitted in accordance with Regulation (EU) 2018/1999.		The competent national authorities shall examine the consistency of the ten-year network development plan with the climate-neutrality objective set out in Article 2(1), of Regulation (EU) 2021/1119 , national energy and climate plan and its updates and with the integrated national energy climate reports submitted in accordance with Regulation (EU) 2018/1999 and, in case of inconsistency, may provide the regulatory authority a substantiated opinion setting out the inconsistency, to be taken duly into account.	The competent national authorities shall examine the consistency of the ten-year network development plan with the climate-neutrality objective set out in Article 2(1), of Regulation (EU) 2021/1119 , national energy and climate plan and its updates and with the integrated national energy climate reports submitted in accordance with Regulation (EU) 2018/1999 and, in case of inconsistency, may provide the regulatory authority a substantiated opinion setting out the inconsistency, to be taken duly into account.
Article 51(6)				
624	6. The regulatory authority shall monitor and evaluate the	6. The regulatory authority shall monitor and evaluate the	6. The regulatory authority shall monitor and evaluate the	6. The regulatory authority shall monitor and evaluate the

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	implementation of the ten-year network development plan.	implementation of the ten-year network development plan. <i>Such monitoring and evaluation shall be made publicly available.</i>	implementation of the ten-year network development plan.	implementation of the ten-year network development plan.
Article 51(6a)				
624a		<i>6a. The regulatory authority shall take the examination of network development plan for hydrogen into account in its approval of dedicated charges within the meaning of Article 4 of [recast Gas Regulation as proposed in COM(2021)xxx].</i>		
Article 51(7), first subparagraph				
625	7. In circumstances where the independent system operator or independent transmission operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year network development plan, was to be executed in the following three years, Member States shall ensure that the regulatory authority is required to take at least one of the following measures to ensure that the investment in question is made if such investment is still relevant on the basis of the most recent ten-year network development plan:	7. In circumstances where the independent system operator, <i>independent transmission operator or the hydrogen transmission network operator is unbundled in accordance with the rules applicable to the operator concerned</i> , other than for overriding reasons beyond its control, does not execute an investment <i>in accordance with paragraph 2, point (b)</i> , which, under the ten-year network development plan, was to be executed in the following three years, Member States shall ensure that the regulatory authority is required to take at least one of the	7. In circumstances where the independent system operator or independent transmission operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year network development plan, was to be executed in the following three years, Member States shall ensure that the regulatory authority is required to take at least one of the following measures to ensure that the investment in question is made if such investment is still relevant on the basis of the most recent ten-year network development plan:	7. In circumstances where the independent system operator or independent transmission operator, <i>or the integrated hydrogen transmission network operator or independent hydrogen transmission network operator</i> , other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year network development plan, was to be executed in the following three years, Member States shall ensure that the regulatory authority is required to take at least one of the following measures to ensure that the investment in question is made

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		following measures to ensure that the investment in question is made if such investment is still relevant on the basis of the most recent ten-year network development plan:		if such investment is still relevant on the basis of the most recent ten-year network development plan:
Article 51(7), first subparagraph, point (a)				
626	(a) to require the transmission system operator to execute the investments in question;	(a) to require the transmission system operator <i>or the hydrogen transmission network operator</i> to execute the investments in question;	(a) to require the transmission system operator to execute the investments in question;	(a) to require the transmission system operator <i>or the hydrogen transmission network operator</i> to execute the investments in question;
Article 51(7), first subparagraph, point (b)				
627	(b) to organise a tender procedure open to any investors for the investment in question;	(b) to organise a tender procedure open to any investors for the investment in question;	(b) to organise a tender procedure open to any investors for the investment in question;	(b) to organise a tender procedure open to any investors for the investment in question;
Article 51(7), first subparagraph, point (c)				
628	(c) to oblige the transmission system operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.	(c) to oblige the transmission system operator <i>or the hydrogen transmission network operator</i> to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital. ■	(c) to oblige the transmission system operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.	(c) to oblige the transmission system operator <i>or the hydrogen transmission network operator</i> to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.
Article 51(7), second subparagraph				
629	Where the regulatory authority has made use of its powers under point (b) the first subparagraph, it may oblige the transmission system operator to agree to one or more of the following:	Where the regulatory authority has made use of its powers under point (b) the first subparagraph, it may oblige the transmission system operator <i>or the hydrogen transmission network operator</i> to	Where the regulatory authority has made use of its powers under point (b) the first subparagraph, it may oblige the transmission system operator to agree to one or more of the following:	Where the regulatory authority has made use of its powers under point (b) the first subparagraph, it may oblige the transmission system operator <i>or the hydrogen transmission network operator</i> to

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		agree to one or more of the following:		agree to one or more of the following:
Article 51(7), second subparagraph, point (a)				
630	(a) financing by any third party;	(a) financing by any third party;	(a) financing by any third party;	(a) financing by any third party;
Article 51(7), second subparagraph, point (b)				
631	(b) construction by any third party;	(b) construction, <i>repurposing or decommissioning</i> by any third party;	(b) construction by any third party;	(b) construction, <i>repurposing or decommissioning</i> by any third party;
Article 51(7), second subparagraph, point (c)				
632	(c) building the new assets concerned itself;	(c) building the new assets <i>or decommission or repurpose existing assets</i> concerned itself;	(c) building the new assets concerned itself;	(c) building the new assets concerned itself;
Article 51(7), second subparagraph, point (d)				
633	(d) operating the new assets concerned itself.	(d) operating the new assets concerned itself.	(d) operating the new assets concerned itself.	(d) operating the new assets concerned itself.
Article 51(7), third subparagraph				
634	The transmission system operator shall provide the investors with all information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment project.	The transmission system operator <i>or the hydrogen transmission network operator</i> shall provide the investors with all information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment project.	The transmission system operator shall provide the investors with all information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment project.	The transmission system operator <i>or the hydrogen transmission network operator</i> shall provide the investors with all information needed to realise the investment, shall connect new assets to the transmission network <u>or the hydrogen transmission network</u> and shall generally make its best efforts to facilitate the implementation of the investment project.
Article 51(7), fourth subparagraph				

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635	The relevant financial arrangements shall be subject to approval by the regulatory authority.	The relevant financial arrangements shall be subject to approval by the regulatory authority.	The relevant financial arrangements shall be subject to approval by the regulatory authority.	The relevant financial arrangements shall be subject to approval by the regulatory authority.
Article 51(8)				
636	8. Where the regulatory authority has made use of its powers under paragraph 7, the relevant tariff regulations shall cover the costs of the investments in question.	8. Where the regulatory authority has made use of its powers under paragraph 7, the relevant tariff regulations shall cover the costs of the investments in question.	8. Where the regulatory authority has made use of its powers under paragraph 7, the relevant tariff regulations shall cover the costs of the investments in question.	8. Where the regulatory authority has made use of its powers under paragraph 7, the relevant tariff regulations shall cover the costs of the investments in question.
Article 51(8a)				
636a		<i>8a. Without prejudice to other consultation or transparency provisions laid down in Union law, including this Directive and Regulation [recast Gas Regulation as proposed in COM(2021)xxx], or national law, when engaging in stakeholder consultations referred to in paragraph 1, paragraph 2, point (e) and paragraph 4 of this Article, the transmission system operator, the hydrogen transmission network operator and the regulatory authority shall comply with the following:</i>		
Article 51(8a), point (a)				
636b		<i>(a) the consultations shall be effective and extensive and shall take place at an early stage prior</i>		

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		<i>to the development of the ten-year network development plan in an open, inclusive and transparent manner; the participation shall be voluntary and all relevant stakeholders shall be invited to participate, including the distribution system operator and hydrogen distribution network operator, associations involved in electricity, gas and hydrogen markets, heating and cooling, supply and production undertakings, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, energy consumer associations, civil society representatives, research organisations and universities, where appropriate;</i>		
Article 51(8a), point (b)				
636c		<i>(b) as a derogation from point (a), infrastructure operators, including LNG terminal operators, storage operators, hydrogen storage and terminal operators, distribution system operators, hydrogen distribution network operators as well as district heating infrastructure and electricity operators shall be required to provide and exchange</i>		

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		<i>all relevant information to the transmission system operators and the hydrogen transmission network operators required for developing the single plan; end-users in hard-to-decarbonise sectors with the highest greenhouse gas abatement potential per tonne of consumed hydrogen where no other more energy and cost efficient options are available shall be required to provide and exchange all relevant information to the hydrogen transmission network operators; their views shall be fully taken into account without prejudice to paragraphs 1, 2 and 3;</i>		
Article 51(8a), point (c)				
636d		<i>(c) all official documents related to the consultations and documents used for development of the draft plan and the final plan shall be made public while taking into consideration commercially sensitive information and data protection;</i>		
Article 51(8a), point (d)				
636e		<i>(d) before the transmission system operator and the hydrogen transmission network operator submit the ten-year network</i>		

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		<i>development plan to the regulatory authority for approval, and in case the regulatory authority issues its decision approving or requiring amendments to the plan, the transmission system operator, the hydrogen transmission network operator as the case may be, shall be able to duly justify all instances where observations have not been taken into account, or have only partially been taken into account;</i>		
Article 51(8a), point (e)				
636f		<i>(e) to ensure early and effective participation, the transmission system operator shall publish its draft network development plan in a timely adequate manner prior to the submission to the regulatory authority, for comments by the stakeholders referred to in point (a).</i>		

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Article 52				
637	Article 52 Hydrogen network development reporting	<i>deleted</i>	Article 52 Hydrogen network development reporting	Article 52 Hydrogen distribution network development reporting
Article 52(1)				
638	1. Hydrogen network operators shall submit to the regulatory authority, at regular intervals as determined by that authority, an overview of the hydrogen network infrastructure they aim to develop. That overview shall in particular:	<i>deleted</i>	1. Hydrogen network operators shall submit to the regulatory authority, at regular intervals as determined by that authority every two years , an overview of the hydrogen network infrastructure they aim to develop. The first overview shall be submitted within six months of the certification of the hydrogen network operator pursuant to Article 65 of this Directive and Article 13 of [recast Gas Regulation as proposed in COM(2021) 804]], or within 12 months of receiving a derogation pursuant to Articles 47 or 48, whichever is earlier. For hydrogen network operators existing at the entry into force of this Directive, the first overview shall be submitted within six months of the entry into force of this Directive. That overview shall in particular:	1. Hydrogen distribution network operators shall submit to the regulatory authority, at regular intervals as determined by that authority, every two five years , an overview of the hydrogen network infrastructure they aim to develop. <u>The overview shall be developed in close cooperation with distribution system operators, hydrogen distribution network operators and, where relevant, district heating and cooling operators ensuring effective energy system integration. The first overview shall be submitted within six months of the certification of the hydrogen network operator pursuant to Article 65 of this Directive and Article 13 of [recast Gas Regulation as proposed in COM(2021) 804]], or within 12 months of receiving a derogation pursuant to Articles 47 or 48, whichever is earlier. For</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				hydrogen network operators existing at the entry into force of this Directive, the first overview shall be submitted within six months of the entry into force of this Directive. That overview shall in particular:
Article 52(1), point (a)				
639	(a) include information on capacity needs, both in volume and duration, as negotiated between network users and hydrogen network operators;	<i>deleted</i>	(a) include information on capacity needs, both in volume and duration, as negotiated between hydrogen network users and hydrogen network operators, as well as on the location of potential future hard-to-decarbonise end-users of the hydrogen network and hydrogen supply;	(a) include information on capacity needs, both in volume and duration, as negotiated between hydrogen <u>distribution</u> network users and hydrogen <u>distribution</u> network operators, as well as on the location and capacity needs of <u>existing and potential future hard-to-decarbonise end-users of the hydrogen <u>distribution</u> network and hydrogen supply with a view to target the use of renewable and low-carbon hydrogen in hard-to-decarbonise sectors.</u>
639x				<u>(aa) assess, taking into account the heating and cooling plans established pursuant to Art. 25(6) of the Energy Efficiency Directive (EU) .../... , how the</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>principle of energy efficiency is respected when considering hydrogen distribution network expansion in sectors where more energy efficient alternatives are available;</u>
Article 52(1), point (b)				
640	(b) include information on the extent to which repurposed natural gas pipelines will be used for the transport of hydrogen;	<i>deleted</i>	(b) include information on the extent to which repurposed natural gas pipelines will be used for the transport of hydrogen;	(b) include information on the extent to which repurposed natural gas pipelines will be used for the transport of hydrogen <u>in close cooperation with the relevant distribution system operator and in line with Art 52b as well as the extent to which this repurposing is required to fulfil the capacity needs established in accordance with point (a);</u>
640x				(ba) <u>I shall invite all relevant stakeholders, including the transmission system operator and hydrogen transmission system operator, the distribution system operator as well as district heating infrastructure and electricity operators, associations involved in electricity, gas and hydrogen</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>markets, heating and cooling, supply and production undertakings, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, industrial end-users, energy consumer associations and civil society representatives, for consultation when developing the plan and ensure their early and effective participation in the planning process. All relevant stakeholders shall provide and exchange all relevant information required for developing these plans with the distribution system operators.</u> <i>[PRES note on the possible way forward: considering the inclusion of the potential list of stakeholders in a recital/annex, clarifying the responsibility for DSOs, reducing the administrative burden].</i>
Article 52(1), point (c)				
641	(c) be in line with the integrated national energy and climate plan and its updates, and with the integrated national energy and climate reports submitted in	<i>deleted</i>	(c) be in line with the integrated national energy and climate plan and its updates, and with the integrated national energy and climate reports submitted in	(c) be in line with the integrated national energy and climate plan and its updates, and with the integrated national energy and

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	accordance with Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119.		accordance with Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119.	climate reports submitted in accordance with Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119.
Article 52(1), point (d)				
641a			(d) the information exchanged with hydrogen network operators in neighbouring Member States pursuant to paragraph 2.	
Article 52(2)				
642	2. Hydrogen storage and terminal operators shall provide and exchange all relevant information required for developing the overview with the hydrogen network operators. Hydrogen network operators shall exchange all relevant information required for developing the overview with other hydrogen network operators.	<i>deleted</i>	2. Hydrogen storage and hydrogen terminal operators shall provide and exchange all relevant information required for developing the overview with the hydrogen network operators. Hydrogen network operators shall exchange all relevant information required for developing the overview with other hydrogen network operators, including hydrogen network operators in neighbouring Member States.	2. Hydrogen storage and hydrogen terminal operators shall provide and exchange all relevant information required for developing the overview with the hydrogen distribution network operators. Hydrogen <u>distribution</u> network operators shall exchange all relevant information required for developing the overview with other hydrogen network operators, including hydrogen network operators in neighbouring Member States.
Article 52(3)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
643	3. The regulatory authority shall examine the overview. It shall take the overall energy-economic necessity of the hydrogen network into account in this examination as well as the joint scenario framework developed under Article 51 (2), point e).	<i>deleted</i>	3. The regulatory authority shall examine the overview and make recommendations for amendments to the overview by the hydrogen network operator. It shall take the overall energy-economic necessity of the hydrogen network into account in this examination as well as the joint scenario framework developed under Article 51 (2), point e). With regard to overviews submitted in relation to hydrogen networks benefitting from a derogation pursuant to Article 47 or Article 48, the regulatory authority may abstain from examining the overview and making recommendations for amendments.	3. The regulatory authority shall examine the overview and <u>may require</u> make recommendations for amendments to the overview by the hydrogen network operator. It shall take the overall energy-economic necessity of the hydrogen network into account in this examination as well as the joint scenario framework developed under Article 51 (2), point e). With regard to overviews submitted in relation to hydrogen networks benefitting from a derogation pursuant to Article 47 or Article 48, the regulatory authority may abstain from examining the overview and making recommendations for amendments.
Article 52(4)				
644	4. The regulatory authority shall take the examination of the overview into account in its approval of dedicated charges within the meaning of Article 4 of [recast Gas Regulation as proposed in COM(2021)xxx].	<i>deleted</i>	4. The regulatory authority shall take the examination of the overview into account in its approval of dedicated charges within the meaning of Article 4 of [recast Gas Regulation as proposed in COM(2021)xxx 804].	4. The regulatory authority shall take the examination of the overview into account in its approval of dedicated charges within the meaning of Article 4 of [recast Gas Regulation as proposed in COM(2021)804].
Article 52(5)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
645	5. Hydrogen network operators shall publish on a regular basis a joint report on the development of the hydrogen system based on the overview submitted to the regulatory authority. They shall take the examination of the regulatory authority under paragraph 3 into account.	<i>deleted</i>	5. Hydrogen network operators shall publish every two years on a regular basis a joint report on the development of the hydrogen system based on the overview submitted to the regulatory authority. They shall take the examination and recommendations of the regulatory authority under paragraph 3 into account. The regulatory authority may provide an opinion on the report.	5. Hydrogen distribution network operators shall publish every two five years on a regular basis a joint report on the development of the hydrogen system based on the overview submitted to the regulatory authority. They shall take the examination and recommendations of the regulatory authority under paragraph 3 into account. The regulatory authority may provide an opinion on the report.
Article 52(5a)				
645a			5a. Until 31 January 2035, and without prejudice to the powers of the regulatory authority to supervise grid access rules, Member States may task another competent authority to examine the overview and to make recommendations for amendments to the overview by the hydrogen network operator to ensure consistency with the integrated national energy and climate plans and its updates.	5a. Until 31 January [203x], and without prejudice to the powers of the regulatory authority to supervise grid access rules, Member States may task another competent authority to examine the overview and to make recommendations for amendments to the overview by the hydrogen distribution network operator to ensure consistency with the integrated national energy and climate plans and its updates.
Article 52(6)				

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646	6. Member States may decide to apply the requirements pursuant to Article 51 to hydrogen network operators.	<i>deleted</i>	6. Where Member States may decide to apply a system of regulated third party access to hydrogen networks in accordance with paragraph 1 of Article 31, Member States shall apply the requirements pursuant to Article 51 to hydrogen network operators with the exception of those requirements related to Regulation (EU) 2017/1938. Where this is the case, the regulatory authority shall also examine whether the ten-year network development plan submitted by hydrogen network operators is consistent with the Union-wide ten-year network development plan for hydrogen referred to in Article 43 of the [recast Gas Regulation].	
Article 52(6a)				
646a			7. Instead of applying this Article, Member States may decide to apply the requirements set out in Article 51 to hydrogen network operators as of [the entry into force of this Directive].	7. Instead of applying this Article, Member States may decide to apply the requirements set out in Article 51 to hydrogen <u>distribution</u> network operators as of [the entry into force of this Directive].
Article 52a				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
646b		<i>Article 52a Local heating and cooling plans</i>		<i>[PRES note on the way forward: deletion of this article to avoid overlapping with EED. Integration of local heating and cooling plans in art 52b].</i>
Article 52b				
646q		<i>Article 52b Distribution network development plans</i>		<i>Article 52b <u>Network plans for natural gas distribution system operators</u></i>
Article 52b(1)				
646r		<i>1. All distribution system operators or hydrogen distribution network operators shall submit a distribution network development plan to the regulatory authority for approval at least every four years in due time for being considered in the drafting of the ten-year network development plans referred to in Article 51. The distribution network development plan shall set out the planned investments for the next five-to-ten years, including main distribution infrastructure which is required to transport renewable gas from new production facilities, as well as the infrastructure which will be decommissioned and repurposed. Distribution system operators and hydrogen</i>		<i><u>1. Member States shall ensure that natural gas distribution system operators develop plans when the heating and cooling plans established pursuant to Art. 25(6) of the Energy Efficiency Directive (EU) .../... foresee a reduction in gas demand requiring the decommissioning of natural gas distribution networks or significant parts of such networks. Such plans shall be developed in close cooperation with other relevant distribution system operators, hydrogen distribution network operators and district heating and cooling operators ensuring effective energy system integration and</u></i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>distribution network operators that are active in the same regional area may opt to develop one single joint network development plan. Distribution network development plans shall:</i>		<u>reflecting the reduced use of natural gas at distribution level where more energy and cost efficient alternatives are available. The demand of sectors that are not covered by-Art. 25(6) of the Energy Efficiency Directive (EU) has to be duly taken into account.</u>
Article 52b(1), point (a)				
646s		<i>(a) be aligned with the Member State's integrated national energy and climate plan, national energy and climate report and long-term strategy submitted under Regulation (EU) 2018/1999, and contribute to the achievement of regional and national climate and energy targets for 2030 and 2050;</i>		
Article 52b(1), point (b)				
646t		<i>(b) be based on relevant strategies referred to in Article 52a(2), point (c) that establish requirements for the infrastructure on distribution level, including parts that may require decommissioning, aiming to reduce the use of gas in buildings in case more energy</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>and cost-efficient sustainable technologies are available;</i>		
Article 52b(1), point (c)				
646u		<i>(c) be based on reasonable assumptions about the evolution of production, injection, supply and consumption of gas while taking into account the relevant strategies of the local authorities for the heating and cooling of new residential areas as well as requests from final customers to switch fuels;</i>		
Article 52b(1), point (d)				
646v		<i>(d) be consistent with the ten-year network development plan referred to in Article 51;</i>		
Article 52b(1), point (e)				
646w		<i>(e) promote priority use of renewable gas and low-carbon gas in hard-to-decarbonise sectors where no other more energy and cost efficient options are available;</i>		
Article 52b(1), point (f)				
646x		<i>(f) contain all investments, including demand-side solutions not requiring new infrastructure investments, energy storage facilities or other available energy</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>system resources as an alternative to system expansion where doing so is more efficient as well as grid reinforcement for the injection of biomethane; and</i>		
Article 52b(1), point (g)				
646y		<i>(g) include information on infrastructure that could be decommissioned, where alternatives are available, or repurposed for the transport of hydrogen, including to rapidly deliver hydrogen to end-users in hard-to-decarbonise sectors, which have the highest greenhouse gas emissions abatement potential per tonne of consumed hydrogen and where no other more energy and cost efficient options are available.</i>		
Article 52b(2)				
646z		<i>2. The distribution system operator or the hydrogen distribution network operator shall conduct a public consultation on the draft distribution network development plan. The participation is voluntary and all relevant stakeholders shall be invited, including the transmission system operator and hydrogen</i>		<u>2. The distribution network plans shall at least comply with the following principles:</u> <u>a. The distribution network plans shall be based on the heating and cooling plans developed in accordance with Art. 25(6) of the Energy Efficiency Directive (EU) .../... and reasonable assumptions about the evolution of</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>transmission system operator, as well as district heating infrastructure and electricity operators, associations involved in electricity, gas and hydrogen markets, heating and cooling, supply and production undertakings, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, industrial end-users, energy consumer associations, civil society representatives, research organisations and universities, where appropriate. To ensure early and effective participation, the distribution system operator or the hydrogen distribution network operator shall publish a draft of the network development plan in advance for comments.</i>		<u>production, injection and supply of gases in the natural gas network, including biomethane on the one hand and the consumption of natural gas in all sectors at distribution level on the other.</u> <u>b. Distribution system operators shall identify required infrastructure adaptations, whilst demand-side solutions not requiring new infrastructure investments shall be prioritised. The distribution network plans shall list infrastructure that is to be decommissioned, also creating transparency with regard to the possible repurposing of such infrastructure for the transport of hydrogen in close cooperation with the relevant hydrogen distribution system operators.</u> <u>c. Distribution system operators shall invite all relevant stakeholders, including the transmission system operator and hydrogen transmission system operator, the hydrogen distribution system operator as well as district heating infrastructure and electricity operators, associations involved in electricity, gas and hydrogen</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>markets, heating and cooling, supply and production undertakings, independent aggregators, demand-response operators, organisations involved in energy efficiency solutions, industrial end-users, energy consumer associations and civil society representatives, for consultation when developing the plan and ensure their early and effective participation in the planning process. All relevant stakeholders shall provide and exchange all relevant information required for developing these plans with the distribution system operators.]</u> <i>[PRES note on the possible way forward: considering the inclusion of the potential list of stakeholders in a recital/annex, clarifying the responsibility for DSOs, reducing the administrative burden].</i> <u>d. The distribution network development plan shall be published on the distribution network operator website along with the outcome of the stakeholder's consultation. The website shall be update regularly so that all the relevant</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>stakeholders have visibility on when, what and how will be consulted.</u> <u>e. The distribution network plans shall be updated at least every five years based on the latest projections for gas demand and supply in the relevant region. The plans shall cover a ten-year period.</u> <u>f. Distribution system operators that are active in the same regional area may opt to develop one single joint network development plan.</u> <u>g. The distribution network plans shall be consistent with the Union-wide ten-year network development plan referred to in Article 29 of the Gas Regulation and the national network development plans developed in accordance with Article 51.</u> <u>h. The plan shall be consistent with the Member State's integrated national energy and climate plan, national energy and climate report and long-term strategy submitted under Regulation (EU) 2018/1999 and support the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119.</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 52b(3)				
646aa		<i>3. The distribution system operator or the hydrogen distribution network operator shall make public the results of the consultation processes together with the draft distribution network development plan.</i>		<u>3. Relevant national authorities shall assess whether the distribution network plans comply with the principles above. They shall approve or reject the distribution network plan and may require amendments to the plan.</u>
Article 52b(4)				
646ab		<i>4. The regulatory authority shall approve or reject the distribution network plan and may require amendments to the plan, based on its consistency or inconsistency with the requirements of paragraph 1, before making a decision to approve or reject the plan.</i>		<u>4. The development of the distribution network plans shall facilitate the protection of final customers in accordance with Article 11a as well as taking into account rights pursuant to Article 34(4) and 34(5).</u>
Article 52b(5)				
646ac		<i>5. However, Member States may decide not to apply the obligations set out in paragraphs 1 to 4 to distribution system operator which serve less than 35 000 connected customers by ... [the date of entry into force of this Directive].</i>		
Article 52b(6)				
646ad		<i>6. Where the strategy referred to in Article 52a(2), point (e), or the</i>		<u>6. Where parts of the natural gas distribution network may</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>distribution network development plan developed under this Article identifies that parts of the distribution system may require decommissioning, in particular before the end of their originally projected useful lifecycle, and will not be repurposed for the transport of hydrogen, Member States shall ensure regulatory guidance from the regulatory authorities and financial support for distribution system operators. Support measures shall take into account security of supply, the affordability of network tariffs and environmental requirements. Complementary, the distribution system operator shall propose interventions to the regulatory authority to equitably allocate the efficient costs of the assets over their remaining lifecycle until they are decommissioned. To that end, the regulatory authority may in coordination with the distribution system operator set up guidelines for a structural approach to the depreciation of assets. Such interventions could include, for example, adjusting the depreciation profile or timeline of the assets. The regulatory authority in</i>	<i>PUBLIC</i>	<u>require decommissioning before their originally projected lifecycle, the regulatory authority shall in coordination with the distribution system operator set up guidelines for a structural approach to the depreciation of such assets to ensure that costs are equitably allocated over the remaining lifecycle of the infrastructure. The regulatory authority in coordination with the distribution system operator shall decide whether such assets should be decommissioned before the end of their originally projected useful lifecycle and, if so, which interventions should be taken by the distribution system operator.</u> <i>[PRES note on the way forward: to avoid provisions on tariffs in this article and explore the integration of these principles in art 72.7].</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>coordination with the distribution system operator shall decide whether such assets should be decommissioned before the end of their originally projected useful lifecycle and, if so, whether any of the interventions proposed by the distribution system operator, or any alternative interventions, shall be implemented to equitably allocate the efficient costs of the assets over their remaining lifecycle until decommissioning. The repurposing of assets for the transport of hydrogen in accordance with paragraph 2, point (g), shall be taken into account. The distribution system operator shall implement the interventions decided by the regulatory authority.</i>		

Consumer issues and the protection of vulnerable groups – new European Parliament’s proposals of articles 11a, 25 and 25a in the Directive

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 11a				
342i		<i>Article 11a Fuel switch</i>	Article 11a Consumer rights and protection in relation to the phasing out of natural gas	Article 11a Consumer rights and protection in relation to the phasing out of natural gas
Article 11a(1)				
342j		<i>1. Where final customers are required to switch from heating with natural gas to alternative heat sources or district heating, including upon a decision stemming from a Member State, on the basis of the local heating and cooling plans prepared pursuant to Article 52a or the distribution network development plans referred to in Article 52b, Member States shall ensure that final customers that are directly concerned by that decision are fully informed by the distribution system operators and suppliers of those fuel switches sufficiently in advance of any planned switch.</i>	1. Where the disconnection of network users pursuant to Article 34(4) is allowed, Member States shall ensure that: a) the affected network users and other relevant stakeholders, notably consumer organisations, have been consulted (b) network users and relevant stakeholders are informed sufficiently in advance of the planned date and subsequent steps for disconnection; c) final customers have access to information and appropriate advice on sustainable heating options through the one stop shop procedure established in accordance with Article 21 of	1. Where the disconnection of network users pursuant to Article 34(4) is allowed, Member States shall ensure that: (a) the affected network users and other relevant stakeholders, notably consumer organisations, have been consulted. (b) network users, <u>final customers</u> and relevant stakeholders are informed sufficiently in advance of the planned date, and subsequent steps for disconnection including the procedure how this will be done, what steps are planned, and the relevant timeline. c) final customers have access to information and <u>sufficient</u> appropriate advice on

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			the of Directive (EU) .../... [recast EED]; (d) when planning and carrying out the phase out of natural gas, specific needs of vulnerable customers or customers affected by energy poverty are duly taken into account.	sustainable heating options, <u>how to adapt their homes, commercial or industrial properties and processes, as well as on financial support</u> through <u>relevant bodies to be identified by national authorities, including the one stop shop procedure established in accordance with articles 21 and 22 of directive.../.. (EED), article 15a of directive.../... (EPBD), and Art 16(3) of directive .../... (RED IV).</u> <i>[PRES note on the way forward: the scope of the advice seems to be beyond the replacement of the heating system. Any reference to financial support should be clarified as only 'information on financial support']</i>. (d) when planning and carrying out the phase out of natural gas, specific needs of vulnerable customers or customers <u>affected by energy poverty and people who live in social housing</u> are duly taken into account. <u>Where applicable, Member States shall take appropriate measures with the aim of removing adverse effects and ensuring a just and</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<u>inclusive energy transition</u>. <u>Those measures may include the use of public funding and funding facilities established at Union level.</u> <i>[PRES note on the way forward: to evaluate the feasibility to identify the specific needs of people who live in social housing and ensuring a just and inclusive energy transition].</i> <u>e) [there is no discrimination or cross-subsidisation between different categories of customers and between energy carriers]</u> <i>[PRES note on the way forward: to discuss the replacement of this paragraph by a reference to article 4 of Regulation].</i>
Article 11a(2)				
342k		<i>2. Member States shall ensure that final customers are fully informed about mandatory switches from non-gaseous fossil fuels by the relevant organisation or authority.</i>		
Article 11a(3)				
342l		<i>3. Member States shall, assisted by the relevant operators and suppliers, provide final customers</i>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>with a roadmap for the switch from heating with natural gas to alternative heat sources or district heating, including the procedure how this will be done, what steps are planned, and the relevant timeline.</i>		
Article 11a(4)				
342m		<i>4. Member States shall ensure that final customers receive information on options to prepare or adapt their homes, commercial or industrial properties and processes and on advisory assistance, financial support and any assistance available to manage the changes and costs associated with the planned fuel switch or a district heating connection. That information should be delivered by single points of contact as established under Article 21 of Directive (EU) .../...⁺, Article 26 of Directive (EU) .../... of the European Parliament and of the Council⁺⁺³¹ and Article [x] of Directive (EU) 2018/2001 [amended RED].</i> ⁺. OJ: Please insert in the text the number of the Directive		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>contained in document PE-CONS .../... (2021/0203(COD)).</i> <i>++ OJ: Please insert in the text the number of the Directive contained in document PE-CONS .../... (2021/0426(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.</i> <i>31. Directive (EU) .../... of the European Parliament and of the Council of ... on the energy performance of buildings (OJ L ...).</i>		
Article 11a(5)				
342n		<i>5. Discrimination and cross-subsidisation between different categories of customers and between energy carriers shall be avoided when carrying out a fuel switch or a district heating connection.</i>		
Article 11a(6)				
342o		<i>6. Member States shall ensure that measures are put in place to mitigate and resolve any inequities resulting from policies aiming to achieve an energy efficient and climate neutral energy system.</i>		
Article 11a(7)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
342p		<i>7. Member States shall take all measures necessary to ensure that fuel switches or district heating connections implemented pursuant to this Article have no adverse effect on final customers, vulnerable customers, customers affected by or at risk of energy poverty and people who live in social housing. Where applicable, Member States shall make the best possible use of funding, including public funding and funding facilities established at Union level, with the aim of removing adverse effects and ensuring a just and inclusive energy transition.</i>		
Article 25				
460	Article 25 Protection of vulnerable customers and suppliers of last resort	Article 25 Protection of vulnerable customers and <i>customers affected by or at risk of energy poverty and</i> suppliers of last resort	Article 25 Protection of vulnerable customers and suppliers of last resort	[Article 25 Protection of vulnerable customers and suppliers of last resort]
Article 25, first paragraph				
461	Member States shall take appropriate measures to protect final customers, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers. In this context, each Member State shall	Member States shall █ protect final customers, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers <i>and customers affected by or at risk of energy poverty</i> . In this context, <i>the term vulnerable</i>	1. Member States shall take appropriate measures to protect final customers, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers. In this context, each Member State shall	1. Member States shall take appropriate measures to protect final customers, and shall, in particular, ensure that there are adequate safeguards to protect vulnerable customers <u>█, customers affected by energy poverty,</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	define the concept of vulnerable customers which may refer to energy poverty. Measures to protect vulnerable customers may include, inter alia, to the prohibition of disconnection to such customers in critical times.	<i>customers is defined pursuant to Article 28 of Directive (EU) 2019/944.</i> Member States shall <i>refer to the definition of energy poverty in Directive (EU) .../...⁺ for the purpose of adopting a comparable definition of</i> customers <i>affected by or at risk of</i> energy poverty. <i>For the purpose of implementing the concept of energy poverty, Member States shall take into account the indicators and guidance set out in the Commission Recommendation on Energy Poverty and at least the following, namely the proportion of people whose:</i> ⁺. <i>OJ: Please insert in the text the number of the Directive contained in document PE-CONS .../... (2021/0203(COD)).</i>	define the concept of vulnerable customers which may refer to energy poverty. Criteria for the definition of the concept of vulnerable customers may include income levels, the share of energy expenditure of disposable income, the energy efficiency of homes, critical dependence on gas equipment for health reasons, age or other criteria. Measures to protect vulnerable customers may include, inter alia, to the prohibition of disconnection to of such customers in critical times.	<u>people in low-income households and, where applicable, people living in social housing</u>. <i>[PRES note on the way forward: gathering information on these categories of customers may not be feasible].</i> In this context, each Member State shall define the concept of vulnerable customers which may refer to energy poverty. In this context, <u>the definition of vulnerable customers shall be consistent with the definition of vulnerable customer in electricity adopted by the Member State pursuant to Article 28 of Directive (EU) 2019/944.</u> <i>[PRES note on the way forward: article 28 in the Electricity Directive include criteria, not a definition. Therefore, a possible compromise text may be: ‘...the concept of vulnerable customers shall be consistent with the criteria to define the concept of vulnerable customer in electricity...’].</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>For the purpose of implementing the concept of energy poverty, Member States shall take into account the [indicators and] guidance set out in the Commission Recommendation on Energy Poverty.</i> <i>[PRES note on the way forward: it is necessary to discuss if indicators really give guidance on a specific sector such as gas].</i> Criteria for the definition of the concept of vulnerable customers may include income levels, the share of energy expenditure of disposable income, the energy efficiency of homes, critical dependence on gas equipment for health reasons, age or other criteria. Measures to protect vulnerable customers may include, inter alia, to the prohibition of disconnection to of such customers in critical times, and in any event during the winter. [Member States shall prohibit disconnections of vulnerable customers, customers affected by energy poverty, <u>people in low-income households and, where applicable, people living in social housing in critical times and, in</u>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>any event during the winter. Member States may extend that prohibition to SME</i>. <i>[PRES note on the way forward: a complete ban on disconnections at any circumstances is not implementable, interfering in the necessary room for manoeuvre of Member States to apply these measures at national level. Possible compromise proposal based on Commission's proposal of article 28a of Electricity Directive: 'Member States shall ensure that vulnerable customers are protected from gas disconnections, in particular in critical times and during the winter']</i>. <i>Member States shall ensure that disconnections are prohibited during ongoing judicial or out-of-court disputes between the supplier and customers for a period of eight weeks</i>. <i>[PRES note on the way forward: a complete ban on disconnections during judicial or out-of-court disputes may not be implementable, interfering in the necessary room for manoeuvre of</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
				<i>Member States to apply these measures at national level].</i>
Article 25, first paragraph, point (a)				
461a		<i>(a) share of energy costs in proportion to their disposable income, after deducting housing costs, is more than double the national median share;</i>		
Article 25, first paragraph, point (b)				
461b		<i>(b) share of disposable income spent on energy services is above the national median and the disposable income after energy and housing costs is equal to or below the "risk of poverty" threshold;</i>		
Article 25, first paragraph, point (c)				
461c		<i>(c) absolute energy expenditure is lower than half of the national median energy expenditure.</i>		
Article 25, first paragraph a				
461d		<i>Measures to address energy poverty and to protect vulnerable customers and customers affected by or at risk of energy poverty may include support to ensure the necessary energy supply, to deploy renewable energy and</i>		<i>Proposal to move to a recital:</i> <i>Measures to address energy poverty and to protect vulnerable customers in the gas sector may include support to ensure the necessary energy supply, to</i>

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<i>improve energy efficiency, including building renovations, to sustainably overcome vulnerability and energy poverty. Measures may also include, inter alia, the prohibition of disconnection to such customers in critical times, and in any event during the winter.</i>		deploy renewable energy and improve energy efficiency, to overcome vulnerability and energy poverty. [Measures to address energy poverty and to protect vulnerable customers, <u>people in low-income households and, where applicable, people living in social housing</u>, and customers affected by or at risk of energy poverty may include support to ensure the necessary energy supply, to deploy renewable energy and improve energy efficiency, including building renovations, to sustainably overcome vulnerability and energy poverty.] Measures may also include, inter alia, the prohibition of disconnection to such customers in critical times, and in any event during the winter. <i>[PRES note on the way forward: gathering information on these categories of customers may not be considered feasible. In relation to the specific support, article 24 of EED ('Empowering and protecting vulnerable customers and alleviating energy poverty') already includes all these</i>

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				<i>measures. Overlaps should be avoided].</i>
Article 25, second paragraph				
462	In particular, Member States shall take appropriate measures to protect final customers in remote areas who are connected to the natural gas or hydrogen systems. Member States may appoint a supplier of last resort for household customers, and, where Member States deem it to be appropriate, small enterprises connected to the natural gas or hydrogen systems. They shall ensure high levels of consumer protection, particularly with respect to transparency regarding contractual terms and conditions, general information and dispute settlement mechanisms.	In particular, Member States shall take appropriate measures to protect final customers in remote areas who are <i>already</i> connected to the natural gas system or hydrogen system . Member States shall appoint a supplier of last resort for household customers, and, where Member States deem it to be appropriate, small enterprises connected to the natural gas or hydrogen systems. Member States shall take appropriate measures where vulnerable customers or customers affected by or at risk of energy poverty are unable to pay the supplier of last resort. Member States shall ensure consumer protection, in particular with respect to transparency regarding contractual terms and conditions, general information and dispute settlement mechanisms.	2. In particular, Member States shall take appropriate measures to protect final customers in remote areas who are connected to the natural gas or hydrogen systems. Member States may appoint a supplier of last resort for household customers, and, where Member States deem it to be appropriate, small enterprises and microenterprises connected to the natural gas or hydrogen systems. They Member States shall ensure high levels of consumer protection, particularly with respect to transparency regarding contractual terms and conditions, and competitive, transparent and non-discriminatory prices , general information and dispute settlement mechanisms.	2. In particular, Member States shall take appropriate measures to protect final customers in remote areas who are connected to the natural gas or hydrogen systems. Member States may appoint a supplier of last resort for household customers, and, where Member States deem it to be appropriate, small enterprises and microenterprises connected to the natural gas or hydrogen systems. Member States shall take appropriate measures where vulnerable customers, customers affected by energy poverty, people in low-income households or, where applicable, people living in social housing are unable to pay the supplier of last resort. They Member States shall ensure high levels of consumer protection, particularly with respect to transparency regarding contractual terms and conditions, and competitive, transparent and non-discriminatory prices , general information and dispute settlement mechanisms.

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				<i>[PRES note on the way forward: 'vulnerable consumers' and 'supplier of last resort' are two separate topics and should not be linked].</i>
Article 25, second paragraph a				
462a		<i>For final customers who are vulnerable or affected by or at risk of energy poverty, including those who are not connected to the natural gas or hydrogen systems, Member States shall, without delay, adopt measures to ensure their energy security, prioritising the most energy efficient and sustainable options.</i>		Delete <i>For final customers who are vulnerable, affected by energy poverty, <u>people in low-income households or, where applicable, people living in social housing</u>, including those who are not connected to the natural gas or hydrogen systems, Member States shall, without delay, adopt measures to ensure their energy security, prioritising the most energy efficient and sustainable options.</i> <i>[PRES note on the way forward: energy security is a very general concept, applicable to the system in general, not to individuals.</i> <i>Regulation on security of gas supply, a clear definition of responsibilities and tasks].</i>
Article 25, fifth paragraph				
462b		<i>The measures laid down in this Article shall not impede the</i>		

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		<i>effective opening of the market set out in Article 4 or market functioning. Member States shall notify the measures adopted to implement this Article to the Commission, where relevant, in accordance with Article 5. Such notifications may include measures taken within the general social security system.</i>		
Article 25a				
462c		<i>Article 25a Energy poverty and energy security monitoring</i>		<i>Article 25a Energy poverty and energy security monitoring</i>
Article 25a(1), first subparagraph				
462d		<i>Without prejudice to the reporting framework set out in Regulation (EU) 2018/1999, the Commission shall, by ... [two years after the date of entry into force of this Directive] and every two years thereafter, adopt and make publicly available a report mapping the level of energy poverty and risk of energy poverty in each Member State and per NUTS3 level.</i>		<u>Based on the information reported by Member States according to Regulation (EU) 2018/1999, the Commission shall, by ... [two years after the date of entry into force of this Directive] and every two years thereafter, adopt and make publicly available a report mapping the level of energy poverty in each Member State.</u> <u>The Commission shall assess the situation and developments of energy prices in the Union and in the Member States.</u>

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				<i>[PRES note on the way forward: any additional mapping exercise should not mean an additional administrative burden for Member States].</i>
Article 25a(1), second subparagraph				
462e		<i>The report shall include at least the following elements:</i>		
Article 25a(1), second subparagraph, point (a)				
462f		<i>(a) an assessment of the situation and developments of energy prices in the Union and in the Member States and the impact on households affected by or at risk of energy poverty and on how energy prices impact their energy security, including an assessment of whether changes in retail energy prices are due to an ineffective implementation of this Directive and of the lack of adequate market conditions, including insufficient competition between suppliers or anti-competitive conducts;</i>		
Article 25a(1), second subparagraph, point (b)				
462g		<i>(b) an assessment of the underlying conditions for the emergence of energy poverty,</i>		

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		<i>including an assessment of whether energy poverty is due to lack of infrastructure capacity, income situations or housing conditions;</i>		
Article 25a(1), second subparagraph, point (c)				
462h		<i>(c) a detailed mapping of social instruments and measures implemented in Member States to address energy poverty including measures referred to in Article 25.</i>		
Article 25a(1), third subparagraph				
462i		<i>The Commission shall use, inter alia, the criteria set out in Article 25, in addition to the indicators and guidance illustrated in the Commission Recommendation on energy poverty, to identify and report on the number of households that are affected by or at risk of energy poverty.</i>		<i>The Commission shall identify and report on the number of people affected by energy poverty, <u>vulnerable customers, people in low-income households and, where applicable, people living in social housing. This also includes identifying and addressing the specific needs of particular groups at risk of energy poverty or more susceptible to its effects.</u></i> <i>[PRES note on the way forward: any additional mapping exercise should not mean an additional</i>

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				<i>administrative burden for Member States</i>].