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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	CZ comments on potential TSO-DSO differentiation for hydrogen (WK 9414/23)

Delegations will find in the annex the CZ comments on potential TSO-DSO differentiation for hydrogen (WK 9414/23).

CZ comments on potential TSO -DSO differentiation for hydrogen (WK 9414/23)

Presidency steering note – TSO-DSO for hydrogen

The purpose of this note is to steer the debate in the Energy Working Group on the potential differentiation between transmission and distribution networks for hydrogen in the Hydrogen and Gas Package.

1. Background

The Commission had proposed a unified regulatory framework for hydrogen networks, as opposed to both natural gas and electricity sectors, where transmission and distribution grid levels are defined separately.

The Council general approach maintained this unified network category for hydrogen, but it extended the scope of the derogation for geographically confined hydrogen networks (Article 48 of the Gas Directive) to cover also meshed hydrogen networks different from main hydrogen pipelines.

The European Parliament has opted for an approach directly based on the framework for natural gas, with separate categories for hydrogen transmission and distribution, distinguished on the basis of pipeline pressure. However, the criterion of pipeline pressure to distinguish between hydrogen transmission and distribution may not be suitable for hydrogen pipelines, which are expected to be operated initially without compression. In addition, a preliminary assessment of hydrogen networks under development across the EU seem to cover a broad spectrum of relevant technical specifications (e.g. diameter, transmission capacity, topology). This would result in a lack of legal certainty and risk of regulatory divergence.

In order to find a possible compromise, the Presidency would like to explore with the delegations the possibility to create separate categories for transmission and distribution networks for hydrogen based on a functional definition of the respective network levels.

2. Possible approach

2.1 Hydrogen networks definition

It is proposed to define hydrogen transmission networks on the basis of three criteria: i) the purpose of the network (i.e. transporting hydrogen vs supplying directly connected customers); ii) the inclusion of hydrogen interconnectors and PCI projects; and iii) the direct connection to major hydrogen infrastructure (hydrogen terminals, hydrogen storage, more than one hydrogen interconnector).

The definition of hydrogen distribution complements the transmission definition to cover the rest of networks, i.e. networks that do not fulfil any of the three definition criteria for hydrogen transmission would be considered hydrogen distribution.

- New definitions:

- ***‘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 interest¹, or which are directly connected to hydrogen storage, hydrogen terminals or two or more hydrogen interconnectors, or which do not primarily serve the purpose of supplying directly connected customers.***

¹ Chapter II and Annex I point 3 of Regulation 2022/869 on Guidelines for trans-European energy infrastructure

- ***‘hydrogen distribution network’*** means a network of pipelines for the transport of hydrogen of a high grade of purity, which primarily 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, hydrogen terminals or two or more hydrogen interconnectors.

This approach would require amending a considerable number of articles in both the Directive and the Regulation.

2.2 Requirements applicable to hydrogen distribution and transmission

The main purpose of introducing separate categories for hydrogen transmission and distribution is the possibility of applying a more tailored set of regulatory requirements to the respective network levels:

- Hydrogen transmission:
 - Vertical ownership unbundling (Directive: Article 62)
 - Horizontal unbundling (Directive: Article 63, 64)
 - Certification (Directive: Articles 13, 65, 66)
 - Third-party access and tariff regulation (Regulation: Article 6)
 - Network planning (Directive: Article 51)
 - Transparency (Regulation: Article 48)
 - ENNOH Membership (Regulation: Articles 40-42)
 - Network Codes (as indicated in the Codes themselves)
 - Clarify tasks of hydrogen transmission network operators (Directive: Article 46) □ Separation of regulatory asset bases (Regulation: Article 4)
- Hydrogen distribution:
 - Vertical functional unbundling (Directive: Article 42)
 - Horizontal unbundling (Directive: Article 63, 64)
 - Third-party access and tariff regulation (Regulation: Article 6)
 - Network reporting (Directive: Article 52)
 - Transparency (Regulation: Article 48)
 - Membership in DSO Entity (Regulation: Articles 36, 37, 38)
 - Network Codes (as indicated in the Codes themselves)
 - Clarify tasks of hydrogen distribution network operators (Directive: Article 46)
 - Separation of regulatory asset bases (Regulation: Article 4)

Hydrogen distribution will benefit from a separate legal category and corresponding regulatory privileges, which will require to adjust the scope of Article 48 of the Directive (geographically confined hydrogen networks) currently envisaged in the general approach, including their network planning requirements.

3. Questions to Member States

Based on the above-mentioned proposals and taking into account the differences between the Parliament’s position and the Council’s general approach, the Presidency would appreciate to receive feedback from Member States on the possible approach described in point 2.

In particular, on the following questions:

- 1) Would you agree on defining separate categories for hydrogen transmission and distribution?

The Czech Republic in principle supports the distinction of the hydrogen network depending on if it is used for transmission or distribution of hydrogen as it has been proposed by the ES PRES.

- 2) If yes, would you agree with the approach to define hydrogen networks, the definitions and criteria proposed in point 2.1?

The Czech Republic understands the proposed definitions as a criterion according to which it will be possible to categorize hydrogen assets to either transmission or distribution level and in principle agrees with the definitions .

To reflect specifics of the Czech Republic where there are several existing underground gas storages connected to both transmission and distribution level, we suggest that you consider very carefully whether it is really necessary to have in the definition of Hydrogen distribution network that it is not connected to hydrogen storage.

With regard to the specifics of the Czech Republic (but other member states expressed themselves similarly on July 13 at H7) in this area, we recommend removing the impossibility of connecting the UGS for hydrogen to the hydrogen distribution network. At the same time, when it comes to compression, we draw attention to the fact that even distributors would need to compress hydrogen in order to connect as many hydrogen producers as possible, which would have a significant impact on the economics of operating these networks..

For the hydrogen interconnection line, the current definition in the Council's position appears to us to be appropriate.

- 3) Would you agree on the requirements applicable to hydrogen distribution and transmission networks as suggested under point 2.2?

The Czech Republic agrees with the adaptation of the articles in question depending on whether it is a matter of transmission or distribution of hydrogen. However, this does not mean that it is fully identified with the content of these articles.