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CONTRIBUTION

From: General Secretariat of the Council
To: Working Party on Energy

Subject: NL comments on the non-paper on demand aggregation (Doc. WK 9992/23)

Delegations will find in the annex the NL comments on the non-paper on demand aggregation (Doc. WK 9992/23).

Comments of the Netherlands on the non paper on demand aggregation – 25 August 2023

1. Introduction

On the 18th of July 2023 the Spanish Presidency circulated a document from the Commission with informal courtesy draft suggestions on demand aggregation of gases as part of the hydrogen and decarbonisation package (Council document WK 9992/2023 INIT). Delegations were invited to send written comments to the Presidency and to the Secretariat by 31 August 2023.

This document gives the initial, preliminary comments from the Netherlands. These comments make a distinction between the demand aggregation of natural gas and the demand aggregation of renewable or low-carbon gases, hydrogen or other energy resources. Moreover, the comments are on the articles only, not on the recitals.

2. Comments on natural gas demand aggregation

General comments

- In order to come to a well-balanced opinion on the continuation (or not) of the demand aggregation provisions for natural gas, the Commission should at first present an assessment of the demand aggregation activities undertaken in 2023 under Regulation (EU) 2022/2576. Including an assessment of their contribution to the gas security of supply situation of the Union as well as their impact on the functioning of the internal market for natural gas.
- This assessment should also include an evaluation of the activities undertaken by the service provider (Prisma), such as the set up and functioning of Aggregate EU.
- The assessment should be accompanied by a survey under (potential) participants in the demand aggregation activities, both buyers and suppliers (from inside and outside the Union). This to collect their experiences and their suggestions for improvement in case the demand aggregation activities will be continued.
- In case of continuation, it has to be clear that participation in the demand aggregation activities is on a voluntary basis only.
- In case of continuation, there should be no obligation on Member States to promote participation in the activities and to ensure certain quantities of demand. There should also be no monitoring requirements for Member States.

Specific comments

- Article X-0 – Mechanism for demand aggregation of gases
Paragraph 1: it should be the Council who decides to make the process of participation mandatory under the conditions set out in Article Xg and not the Commission.
- Article X b – Criteria for selecting the service provider
Paragraph 3: reference to Directive 2009/73/EC may be outdated if this becomes part of the revised directive under the decarbonisation package.
- Article X d – Participation in demand aggregation
 - Paragraph 4: this paragraph should be deleted. There is no reason to give specific benefits to undertakings coming from third countries with which the Union has a trade agreement. This is also not in line with open and free nature of the internal market. Moreover, this could lead to deals which are less favourable for Union undertakings than deals established under open competition.
 - Paragraph 5: this paragraph should be deleted. There is no reason to provide the Commission with commercially sensitive information.
- Article X e – Natural gas supplies excluded from demand aggregation
It should be the Council, not the Commission, to decide to temporarily limit offers of natural gas from the Russian Federation or Belarus.
- Article X f – Coordination Groups.
Not only the Gas Coordination Group should be involved but also the Committee that will be established under (the current) Article 84 of the 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). This to involve the gas market experts of the Member States as well and not only the gas security of supply experts.

- Article X g – Mandatory demand aggregation for natural gas in case of a Union alert due to deterioration of gas supply
 - In general the Netherlands has great reservations with regard to all the elements of this article, we therefore only give initial and very preliminary comments.
 - Paragraphs 1 to 4: these paragraphs should be inserted in Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply. They deal with the process of declaring a Union alert which in itself has got nothing to do with demand aggregation and should be part of the overall gas security of supply provisions.
 - Paragraph 5: if this paragraph is maintained it should be rewritten: "The Council after declaring a Union alert according to Article Y of Regulation (EU) 2017/1938 may decide to make the participation of natural gas undertakings and undertakings consuming gas in the process of demand aggregation for natural gas mandatory."
 - Paragraph 6 to 11: these paragraphs should be deleted. There is no reason to put specific obligations with regard to demand aggregation on Member States, not even during a Union alert. The demand aggregation activities undertaken on the basis of Articles X a to X d should in themselves provide enough added value to make it attractive for Union undertakings to participate in these activities, in particular in times of a Union alert.
- Article X h – Transparency and coordination in case of a Union alert due to deterioration of supply

This article should be deleted as the provisions in this article unduly limit the commercial and operational freedom of undertakings. Moreover, the provisions of this article, in particular those in paragraph 1 and 2 make the Union less attractive for suppliers from outside the Union. This is undesirable, especially in times of a Union alert.

3. Comments on the demand aggregation of renewable or low-carbon gases, hydrogen or other energy resources

General comments

- The extension of the demand *aggregation* mechanism to renewable or low-carbon gases, hydrogen or other energy resources seems premature. The rationale for the extension of the mechanism to these type of gases is unclear and lacks a clear explanation. As a general principle any public intervention should be temporary and should not have undue effects on the development of a competitive process and the role that market participants should take in order to create a market for renewable and low carbon gases (e.g. prevent moral hazard behaviour). Next to this, we do not see the added value of the mechanism in light of existing (financial) instruments at European level to support the development of the European hydrogen and the global hydrogen market. Hence, we suggest at this stage not to extend the aggregation mechanism to these type of gases.
- One of the main arguments to organize demand aggregation for natural gas is to make full use of 'the Union's collective weight to attract competitive offers for energy supplies from global and diversified sources'. The question is whether this argument equally holds for markets for renewable or low-carbon gases and hydrogen. They substantially differ from the existing natural gas market. Hydrogen can be considered as more 'heterogeneous' or diverse in terms of product (various derivatives), (overseas) transport mode (carrier), infrastructure needs and end-use (as self-standing commodity or further processed to source/withdraw gaseous hydrogen from a carrier), especially in the ramp up phase. Accordingly, the question is whether generated volumes can lead to collective weight to generate beneficial offers of the product.
- In addition, we have some concerns on the practical implementation of the mechanism:
 - In contrast with natural gas, hydrogen infrastructure is still under development. Accordingly, it should be explained what will happen if the infrastructure for renewable and low-carbon gases, and especially for gaseous hydrogen, is not ready once contracts (through the service provider) are concluded.
 - Article 2.3 of the hydrogen and gas markets decarbonisation package defines gases as 'natural gas and hydrogen'. Given the assumption that hydrogen imported from third countries will initially be transported as carriers/derivatives (such as ammonia, methanol and liquid organic hydrogen carriers), it should be explained whether these carriers/derivatives are also covered by the proposal in the working document.

- In light of the letter of Commissioner Simson and German Minister Habeck inviting Member States to make use of the H2 Global instrument, we invite the Presidency and the Commission to explain how (the institutional set-up of) both instruments relate to each other, especially the role of the service provider vis-à-vis H2 Global executive entity Hint.co. A duplication of efforts could have adverse effects.
- In line with the European Commission's communication on the European Hydrogen Bank of 16 March, we do however think that a (voluntary) coordinating or a central support role for the European Commission on demand *assessment*, infrastructure needs, transactions and prices and ensuring coordination of funding activities, could be beneficial in order to strengthen confidence in the developing European hydrogen market.

Specific comments

- Article X-0 – Mechanisms for demand aggregation
Paragraph 2: this paragraph should be deleted (see our general comments).
- Article X c – Tasks of the service providers
Paragraph (b): "gases" should be replaced by "natural gas".
- Article X fa - Application to renewable or low-carbon gases, hydrogen or other energy resources
This article should be deleted in light of our general comments on the need to establish demand aggregation for hydrogen. Alternatively, it should be clarified what is meant by the phrase 'the Commission shall take into account the specificities of these gases'.

For further information:

Natural gas

[REDACTED]

Renewable or low carbon gases, hydrogen.

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