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General Secretariat

Brussels, 15 September 2023

WK 11623/2023 INIT

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	CY comments on the compromise proposals for Articles 3b, 4 and biomethane in the Hydrogen and Gas Regulation (WK 10924/23)

Delegations will find in the annex the CY comments on the compromise proposals for Articles 3b, 4 and biomethane in the Hydrogen and Gas Regulation (WK 10924/23).



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**Interinstitutional files:
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MEETING DOCUMENT

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

Subject: Compromise proposals for Articles 3b, 4 and biomethane in the Hydrogen and Gas Regulation

Delegations will find in the Annex compromise proposals for Articles 3b, 4 and biomethane in the Hydrogen and Gas Regulation.

Delegations are invited to send written comments to the Presidency ([REDACTED]) and to the Secretariat ([REDACTED]) by 7 September 2023.

CY COMMENTS

WK 10924/2023 INIT

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Disclaimer: CY reserves the right to make further comments as the discussions progress.

Proposal to delete Article 3b of the Regulation (lines 152c – 152h of the 4-column document) and replace with a recital as follows:

Option 1 – mirror the **recital on just transition** as set out in the electricity regulation article 4.

Option 2 – **recital based on the article introduced by EP**, which reflects possibly better the objective of EP. It would ensure that in the text reference is made to the need for Commission’s support to decarbonisation of coal and carbon intensive regions.

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

CY COMMENT 1

CY agrees with the deletion of Article 3b of the Regulation and the replacement with a recital. With regards to the two options outlined above, CY prefers **Option 2**.

Proposal for a compromise wording for Article 4 Gas Regulation

2. (157) *A Member State shall not allow financial transfers between regulated services that are separate within the meaning of paragraph 1.*

2a. (161a) *Member States may allow hydrogen network operators to spread the recovery of hydrogen network costs over time in order to ensure that future users duly contribute to initial hydrogen network development costs. Such an inter-temporal cost allocation and its underlying methodology shall not distort the level playing field between Member States and shall be subject to approval by the competent regulatory authority referred to in Article 70 of recast Gas Directive.*

2b. (161b) *By way of derogation from paragraph 2 of this Article, a Member State may allow financial transfers between regulated services that are separate within the meaning of paragraph 1, provided that:*

- (161c) *the regulatory authority referred to in Article 70 of recast Gas Directive has established that the financing of networks through network access tariffs paid by its network users only is not viable. The regulatory authority shall base its assessment on the projected financial transfers and the resulting cross-subsidisation between users of the respective networks and on the cost-efficiency of those financial transfers.*

CY COMMENT 2

In the current DIRECTIVE 2009/73/EC concerning common rules for the internal market in natural gas, it is the responsibility of the National Regulatory Authority to ensure that there are no cross-subsidies as mentioned above. This responsibility should not be transferred to the Member State.

- Lines 161d to 161g would be kept, with few technical adjustments as made by the Council in lines 158-161.
- Line 161h would be deleted (content to be merged with line 166).

4(4) (line 166) *By ... [one year after the date of entry into force of this Regulation] ACER shall issue recommendations to transmission system operators or hydrogen network operators and regulatory authorities on the criteria to allow and determine the inter-temporal allocation of network development costs among users of hydrogen networks and financial transfers between regulated services, in particular the methodologies for:*

Lines 167-170 no change.

CY COMMENT 3

CY agrees with the approach of the Presidency for the above points since they are in line with the General Approach of the Council.

Technical elements for consideration in the Gas Regulation regarding biomethane

1. **New Recital** on the consideration of biomethane throughout Gas Regulation (could be mirrored in Directive)

The amendments set out in this Regulation [Directive] are also intended to support the achievement of the Union's target of an annual production of sustainable biomethane of 35 billion cubic meters by 2030, set out in the Commission staff working document of 18 May 2022 accompanying the REPowerEU Plan, entitled 'Implementing the Repower EU Action Plan: Investment needs, hydrogen accelerator and achieving the bio-methane targets', thereby supporting security of supply and the Union's climate ambitions.

CY COMMENT 4

CY does not support any reference "to the achievement of the Union's target of an annual production of sustainable biomethane of 35 billion cubic meters by 2030" as it was set out in the Commission staff working document of 18 May 2022 accompanying the REPowerEU Plan in the recital, since this implies an obligation to Member States, although it is not clarified how this quantity will be allocated to the Member States. Thus, we suggest this reference to be deleted.

2. **New Recital** to link with NECPs process

That coordinated mapping for the deployment of biogas and biomethane serves as a basis for Member States to determine the estimated trajectories from 2021 to 2030, including expected total gross final energy consumption and total planned installed capacity, as requested in the National Energy and Climate Plans. In order to comply with these estimated trajectories, Member States should specify policies and measures to develop biogas and biomethane, such as adopting national strategies on sustainable biogas and biomethane or setting national targets of annual consumption of biomethane, either expressed in absolute volumes or as a percentage of the volume of gases consumed by customers connected to the natural gas network.

CY COMMENT 5

In line with our comments above (CY COMMENT 4), CY does not support the suggestion for addition of a new recital to link with NECPs process, into the Gas Regulation. The proposed recital is directly linked with the new Article 17a (especially with paragraph 3), which was introduced by the EP, and CY suggested its deletion, since that article is regulated by other Union legislation.

Additionally, with the suggested recital, new obligations are introduced regarding the trajectories which have as a basis a "coordinated mapping", reducing the flexibility of Member States.

3. Reference to the 35 bcm biomethane objective in the European supply adequacy outlook – **addition** in Article 23(4) (line 322 of the 4 column document)

[...] The European supply adequacy outlook referred to in paragraph 3, point (b), shall cover the overall adequacy of the gas system to supply current and projected demands for gas for the next five-year period as well as for the period between five and 10 years from the date of that outlook. The European supply adequacy outlook shall build on national supply outlooks prepared by each individual transmission system operator.

The European supply adequacy outlook shall specifically include a monitoring of the

progress towards achieving the Union’s target of an annual production of sustainable biomethane of 35 billion cubic meters by 2030, which is set out in the Commission staff working document of 18 May 2022 accompanying the REPowerEU Plan, entitled ‘Implementing the Repower EU Action Plan: Investment needs, hydrogen accelerator and achieving the bio-methane targets.

CY COMMENT 6

See also **CY COMMENT 4**

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