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**WORKING DOCUMENT**

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| From: | General Secretariat of the Council |
| To: | Working Party on Energy |
| Subject: | DE Non paper on Uniform hydrogen network tariff („Postage Stamp“) |

Delegations will find in the annex the DE non-paper on Uniform hydrogen network tariff ("Postage Stamp").

***OnePager: Uniform hydrogen network tariff („Postage Stamp“)***

*I. Problem:*

Under the current rules, network fees are based on the actual cost structure of the respective network operator according to a principle of cost causation and cost reflectiveness in Art. 15 of the proposed Regulation. This implies, in the absence of a uniform entry/exit system and uniform tariff, network users would have to book their way through numerous individual networks (pancaking), each with separate pricing and booking solutions.

This would hamper trading in Germany, but also transit for European customers, and lead to **increased trading costs**. In fact, a multitude of regional hydrogen network tariffs would not only increase organizational trading costs for hydrogen suppliers, traders, customers and network operators. In addition, (unforeseen) particular building costs in the region of one network operator could not be offset in a fragmented network. That could create bottlenecks which could impede the (cost-)efficient transit through and thereby functioning of the network.

Different distance-dependent hydrogen network tariffs would also imply cost **disadvantages to some industrial customers** in highly competitive markets, dependent on their location within the country.

Given that Germany has uniform tariffs at transmission level for gas and for electricity, a fragmented hydrogen network would create a locational **incentive** to set up electrolysers near industrial consumers in southern Germany, i.e. **transport energy from north to south through the electricity grid** and transform it into hydrogen only in Southern Germany – which is the less efficient and would exacerbate bottlenecks in the electricity grid.

In order to send the long-term “right” locational signals for H2 pipelines, electrolysers and industrial consumption, Germany aims for a "postage stamp" approach in a uniform network area. With a uniform "postage stamp" approach each grid user would pay a uniform fee for both injection into and withdrawal from the grid - regardless of the route of the H2 flow, the distance, and the cost incurred for construction. Clarity is needed, however, that this would be in conformity with EU rules.

Conformity could be object of debate if the cost reflectiveness principle was applied before 2031 (or 2036 in the Council mandate) in the case of regulated third party access. Thus, Germany would require the cost reflectiveness criterion in Art. 15 to be compatible with the postage stamp - at least until a sufficiently meshed interregional grid together with one entry-exit system is established. [1]

[1] As is to be expected in new infrastructures, the initial H2 network will consist of unconnected regional networks that will grow together piece by piece to eventually form the large, meshed overall network from the mid 2030s onwards.

*II. Advantages of a postage stamp*

- The calculation method and resulting fees should not only be cause-related, but also **transparent and predictable**. Particularly in the ramp-up phase, transparency and predictability provide the necessary **planning security**. For customers from other European countries, feeding in and out as well as transit through a uniform network area is significantly simpler and more cost-effective.

- **Industrial Policy**: Every H2 user would pay an identical fee **regardless of the physical connection**. This does not call into question location/investment decisions that have already been made, **and relocations are counteracted**.
- **Energy Policy**: This also has a favorable effect on the choice of location for electrolysers with regard to electricity system bottlenecks, since the length of the transport route in the H2 grid would be irrelevant, as is the case for electricity.
- The goal, to be reached in the mid-2030s, for the H2 transport infrastructure is a supraregional, meshed network. The fee model should be planned accordingly and should not change en route. Multiple adjustments of the fee model to the network topology during the ramp-up phase counteract the goals of transparency and predictability and create uncertainty. This is detrimental to the ramp-up of production and consumption.

- Network fee differences (excluding postage stamp) arise from, among other things, **random geographic and historical circumstances**:
    - the spatial distance of customers from H2 entry/exit points (location decisions for e.g. steel mills or refineries have long been made and cannot be changed ad hoc)
    - Regionally differing shares of cost-intensive new construction or more favorable reallocation of networks
    - historically, very different regional user numbers in the ramp-up phase (not every network section can be connected to a large consumer)
    - regional uneven distribution of intentional oversizing
- The previous regulations based on causality were developed against the background of a largely already existing energy infrastructure. They are (at least in part) not a perfect fit for an infrastructure that is in the early stages of planning, development and investment decisions.

Conclusion:

It would be helpful if the Commission could give an indication/clarification that it acknowledges the rationale and supports an interpretation of the proposed texts in that sense.

Should this not be possible to an extent that provides for adequate legal certainty, we would ask the Commission and the Co-legislators to support a clarification along the lines outlined below:

| | Council Mandate | EP Mandate | GER's proposal |
|---|---|---|---|
| Article 6 (7) (Regulation) | | | |
| 191 | 7. As of 1 January [**2036**], Article 15 shall apply also to tariffs for access to hydrogen networks **and the obligations on transmission system operators set out in paragraphs 1 and 2 of Article 15 shall apply to hydrogen network operators**. Articles 16 and 17 shall not apply. **to hydrogen networks, but only to the natural gas system**. At interconnection points between Member States**, when capacity is allocated via auctions, competent national authorities may decide to apply zero reserve price.**<br><br>Where a Member State decides to apply regulated third party access to hydrogen networks in accordance with Article 31 of [recast Gas Directive] before 1 January [**2036**], paragraph 1 of Article 15 shall be applicable to access tariff to hydrogen networks in that Member State.<br><br>"Where a Member State has more than one entry-exit system or more than one hydrogen network operator within one entry-exit system it may decide to implement a uniform network tariff with the aim to create a level playing field for network users, given that a compensation mechanism between the hydrogen network operators is implemented." | 7. As of 1 January **2031**, Article 15 shall apply also to tariffs for access to hydrogen networks. Articles 16 and 17 shall not apply. **From 1 January 2031**, no tariffs shall be charged pursuant to Article 15 for access to hydrogen networks at interconnection points between Member States, **unless the regulatory authorities concerned jointly agree on a tariff regime for such access. In the absence of an agreement between the regulatory authorities concerned, ACER shall decide on the tariff regime, including the possibility of avoiding the application of tariffs, in accordance with Article 6(10) of Regulation (EU) 2019/942. When deciding on that tariff regime the regulatory authorities concerned or ACER shall ensure an appropriate return on investment and covering of the operational expenditure born by the hydrogen transmission network operators in relation to the given interconnection poin**t. Where a Member State decides to apply regulated third party access to hydrogen networks in accordance with Article 31 of [recast Gas Directive] before 1 January 2031, **Article 15(1) of this Regulation** shall be applicable to access tariff to hydrogen networks in that Member State. | Additional Sentence 4 to the proposal of the Council Mandate needed:<br><br>Where a Member State has more than one entry-exit system or more than one hydrogen network operator within one entry-exit system it may decide to implement a uniform network tariff with the aim to create a level playing field for network users, given that a compensation mechanism between the hydrogen network operators is implemented."<br><br>Rationale :<br><br>H2 network planning aims at quick development of meshed grid. This should be reflected by adding two tier option of (1) uniform tariff plus (2) compensation mechanism (as in electricity and gas). |