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MEETING DOCUMENT

From: General Secretariat of the Council

To: Working Party on Energy

Subject: BE comments on the Gas package

Delegations will find in the annex the BE comments on the Gas package.

BE comments on the trilogues on the gas package

A. Pre-existing BE positions

Directive

- The European ambitions for hydrogen are very high and numerous efforts will be required on the European level to attain them. Additional flexibility in specific situations and/or regions could be envisaged if beneficial for local market development. A fixed transition period is necessary to offer sufficient guarantees for future investments.
- As far as the horizontal unbundling is concerned, BE thinks that a more flexible approach with account unbundling (instead of separated legal entities) would be sufficient to ensure cost-reflective tariffs and avoid cross-subsidization between natural gas and hydrogen networks.

Regulation

- concerning blending of hydrogen in the natural gas network (**Reg. Art. 19**): “Hydrogen should be transported via dedicated hydrogen networks and blending of hydrogen in the natural gas system should be avoided.” [DGE 215/10/2022] The current compromise to accept up to 2% hydrogen content at interconnection points seems a realistic percentage, according to industry. We should abstain from measures that hamper market function and possibly increase EU market fragmentation. In this regard, we propose inserting part of the previous wording under art. 19.3a: “For restrictions to cross-border flows caused by differences in hydrogen blending in the natural gas system and recognized pursuant to paragraph 3 of this Article, transmission system operators shall be able to not accept gas flows with hydrogen content **beyond the current applicable technical specifications** at interconnection points before the completion of the procedure described in paragraphs 4 to 10a of this Article”
- Belgium emphasizes that blending H2 should not rise beyond 2%.

B. New BE proposals

Regulation

- Art 4: Belgium supports the GA on cost mutualization
 - art 4.2.b (lijn 159) **tekst proposal to remove:**
 - “the dedicated charge is collected only from **exit points to final customers located within the same Member States as** the beneficiary of the financial transfer;”
- Art 5: Belgium supports the GA
- Art 6 : Belgium supports the GA
- Art 15 : Belgium supports the EP on not including a deadline. It makes more sense not to include an expiration date On access to underground storage and LNG facilities
- Art 16: Belgium supports the GA

Directive

- *Art 2 (20) Hydrogen networks: a network of pipelines used for the transport of hydrogen of a high grade of purity with a view to its delivery to customers, but not including supply, and excluding networks limited to the boundaries of a single site and which are owned and operated by the company or related undertaking having land use rights on all the parcels of the corresponding site and if for specific technical or safety reasons, the operations or the production process of the users of that network are integrated*
- Art 47 Member States may 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~~ in operation 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 49: the restriction of art 218 TFEU in the GA seems to be redundant
- Art 62 :
As regards unbundling requirements for hydrogen network operators (Dir. Art. 62) , we still “support the initial Commission proposal, where a good balance was found between clear long-term objectives and a more flexible transition phase. Belgium specifically welcomes the approach in which ownership unbundling is the norm.
- BE welcomes the TPA requirements on hydrogen networks set out in **art 31** with regulated TPA being the norm while offering some flexibility to the MS to apply where relevant negotiated TPA during a transition period. BE underlines that for some specific cases of geographically confined hydrogen networks negotiated TPA might still be needed for a longer period of time to ensure an optimal efficiency.

Within the **review foreseen under art 85**, BE would suggest to also assess the need to allow for negotiated TPA on such specific networks for a longer period of time.

Add a 3rd point in the list under art 85, 1°:

iii. the need to extend the possibility of application of a negotiated TPA to specific geographically confined hydrogen networks