

12 April 2022

BSP opinion on the:

- 1) Proposal for a Regulation on the internal markets for renewable and natural gases and for hydrogen (recast)**
- 2) Proposal for a Directive on common rules for the internal markets in renewable and natural gases and in hydrogen**

Business & Science Poland welcomes the opportunity to comment on the Gas Directive and Regulation. The proposed documents contain very ambitious proposals that will directly affect the shape and functioning of the European gas market. Hydrogen, at the heart of the European debate on the future of the EU, has a good chance of becoming the fuel of the 21st century. However, the documents still confirm some ambiguities.

Methodology for assessing greenhouse gas emissions (GHG) savings from low carbon fuels

We are concerned about a long deadline for issuing a delegated act by the European Commission (Directive, article 8, paragraph 5) relating to methodology for assessing greenhouse gas emissions (GHG) savings from low carbon fuels. The foreseen date in the Directive is the end of 2024. When planning investment activities in the field of low and zero-emission hydrogen production, the key issue is the adoption of the delegated act as soon as possible, which is the basis for calculating the GHG emission reduction from the hydrogen production installation and determining whether the produced hydrogen meets or will meet the low-emission condition - 70% GHG reduction. Currently, the provisions of the Directive do not contain a benchmark for which this reduction should be considered and the methodology itself. We propose the delegated act be published by the EC as soon as possible, without undue delay, shortly after the date of entry into force of the directive on common rules for the internal markets in renewable and natural gases and in hydrogen gas directive or the relevant provisions should already be included in this directive.

Hydrogen regulations in the 'Gas Package' vs. RED II/RED III rules

The provisions of the 'gas package' introduce additional categories of fuels and hydrogen compared to the RED II directive, such as low carbon hydrogen, low carbon gas, low carbon fuels, for the purposes provided for in these regulations (market development or access to infrastructure). These regulations also introduce appropriate definitions and rules for the certification of such fuels / gases (the RED II regulations and the proposed provisions in the RED III proposal do not apply to them). However, it should be emphasized that, despite the certification based on the gas package, these additional fuel categories will not be eligible for the implementation of the RED targets (except for those fuels that have been provided for in the RED, such as Recycled Carbon Fuels (RCF)). On the other hand, these additional fuel categories will benefit from gas package provisions, e.g. in terms of access to infrastructure, lower tariff prices, etc.

The delegated act in Article 8 (5) of the Gas Directive proposal would regulate only the methodology for calculating GHG emission savings from low carbon fuels. The hydrogen (RFNBO) will be covered by the provisions of the RED II directive and its delegated acts. As for

the benchmark, it will most likely appear in the delegated act to the Gas Directive, along with the methodology. In this context we note a certain inconsistency between the Gas directive proposal and RED II. Namely, low carbon fuels in the proposed definition also include recycled carbon fuels (RCF). The methodology for calculating GHG emission savings for recycled carbon fuels will be provided for in the delegated act to the RED II directive. Therefore, RCF certification should remain under RED II / RED III, as the provisions of the proposed Gas Directive and RED II may overlap in this respect. In the context of Art. 8 sec. 1 of the Gas Directive, RCF should be considered as well as Art. 29a RED III which will address the greenhouse gas emission reduction criteria for renewable, non-biological and recycled carbon fuels.

In this regard, we would like to pay the attention to another important issue. In Article 16 (5) of the Gas Regulation on tariff discounts for renewable and low-emission gases, it is provided that:

"As of 1 January in the year after the adoption, network users shall receive a discount of 100% on the regulated tariff from the transmission system operator at all interconnection points, including entry points from and exit points to third countries as well as entry points from LNG terminals for renewable and low-carbon gases, after providing the respective transmission system operator with a proof of sustainability, based on a valid sustainability certificate pursuant to Articles 29 and 30 of Directive (EU) 2018/2001 of the European Parliament and of the Council¹⁶ and registered in the Union database "

Based on the current regulations, it would be difficult to provide such a "proof of sustainability" available for all renewable and low carbon gases - especially since low carbon gases (except RCF) are not regulated by RED II regulations, including Articles 29, 30.

Internal hydrogen transport pipelines

In our opinion, to ensure a more efficient operation of hydrogen production companies, private/internal hydrogen transport pipelines should be subject to derogations from the provisions and guidelines for commonly available hydrogen pipelines. It will not violate the rules of the market, at the same time it simplifies procedures and will not cause additional costs related to the production and transmission of hydrogen.

Quality of hydrogen and level of blending

A key element of the gas package within the scope of hydrogen blending to the natural gas network should be the establishment of the quality of hydrogen injected. Differences in the quality and quantity parameters of hydrogen injected into gas pipelines, resulting from different production technologies and the specificity of transport, may affect the gas infrastructure, hinder cross-border flows, and cause additional costs. Moreover, the level of blending should be determined not only by gas network operators, but with consideration of gas consumers, considering the technical condition of gas-using installations and end-user capabilities.

Biomethane access to the gas system

The proposed rules allow the operator to deny access to the network, which is a significant barrier to a market development. Due to the impact of possible injection costs on the profitability of biomethane projects (or the possibility of issuing prohibitive conditions to discourage the producer from connection and injection), the cost of the connection should be the cost of the network operator and should be covered from the network development fund or implemented to the tariff. Insufficient network capacity or the need to maintain quality due to metering should be resolved by the operator.

Therefore, the new rules on biomethane production should specify:

- the maximum time of issuing connection conditions,
- the maximum duration of such a connection
- in case of a refusal to connect to the network for technical reasons, the operator should be obliged to indicate the closest possible connection point

Support measures for hydrogen production

In our opinion there should more incentives to further support the potential of Member States to move forward to a low carbon or decarbonized economy through hydrogen production. To stimulate the market and facilitate the development of hydrogen technologies, we propose that during the transition period the tariff for hydrogen should be reduced by 100% instead of the proposed 75%. The hydrogen and low carbon gas package do not provide for direct support measures for low carbon fuels or for hydrogen itself. Therefore, the legislative package should contain provisions on the support system, especially for the implementation of low-emission hydrogen, which may play an important transition role to a zero-emission economy, replacing 'gray' hydrogen.

Support measures for biomethane market

The regulations do not include direct support for biomethane. Provisions should include not only gas access to the network, but also biogas consumed at the place of its generation (e.g., to produce electricity for own needs), in particular, biomethane consumed locally should be eligible towards RES target in transport.

Incentives for the injection of biomethane into the grid and its consumption by end-users should be provided to promote the use of biomethane by end-users, apart of its support access to the market. In terms of exports, the proposed discount of 75% at entry points should also cover exit points. Currently, the regulations allow for a discount 75%, which due to the initial stage of market development is a disadvantage - the level of 75% should be at least a constant level. As regards the tariff discount, the full exemption of biomethane from transmission costs in the initial phase should be considered (e.g., the first 10 years) to increase the promotion of its production and use.

It is also important to remove obstacles to the development of the biomethane market in vertically integrated enterprises. Due to the scale of operations, the regulations on eliminating gases and hydrogen from vertically integrated companies from the market may be very problematic. Especially, it may consider the big energy companies that have the greatest potential for the rapid development of the biomethane market - in at least the first 10-20 years

of the market operation. In this context we propose to introduce regulatory framework that incentivizes and enables the market development and avoids lock-in effects.

About BSP

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