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EU Regulation on Common Rules for the Internal Markets in Renewable and Natural Gases and in Hydrogen

Response

Berlin, 13th April 2022

About Initiative Energien Speichern e.V.

INES is the association of gas and hydrogen storage system operators in Germany. INES' members represent over 90 per cent of German gas storage capacities and account for about 25 per cent of gas storage capacities in the European Union. INES' member companies also push the development of underground hydrogen storage in numerous projects and thereby form pioneers in this important technology field for the energy transition.

Preliminary Remarks

The European Commission presented a proposal a Regulation on common rules for the internal markets in renewable and natural gases and in hydrogen on December 15, 2021. With this legislative initiative EU gas rules will be adapted to ease market introduction of renewable and low-carbon gases and eliminate inadequate legal obstacles.

Feedback on the Commission's proposal can be provided until April 13, 2022.

INES thanks for the opportunity to participate in this consultation and hereby provides feedback on specific aspects of the Regulation that will directly and indirectly influence the gas storage sector.

Hydrogen Network Regulation (Articles 4, 6, 40-43, 54, and 55)

Cross-Subsidization Natural Gas / Hydrogen

Article 4 introduces rules that separate the regulated asset base (RAB) of a hydrogen network operator from the RAB of a natural gas network operator. This provision carries on the unbundling of hydrogen and natural gas network operators proposed under the Gas Market Directive. Strict unbundling rules provide for transparency on network tariff development, freedom of choice concerning connection customers, and a cost-efficient network development based on cost allocations that follow the costs-by-cause principle. **Against this background, it seems quite absurd that the introduction of a so-called dedicated charge is proposed as it allows – even though in a limited way – for cross-subsidizing between hydrogen and natural gas networks. INES recommends avoiding this form of cross-subsidization through a dedicated-charge.**

If the concept of a dedicated charge should be continued, this cross-subsidization should be charged only at end-consumer level (as currently proposed by the Regulation). It would be desirable to see some clarification that gas storage is not considered to be end-consumption, such that this rule is clear for storage system operators.

Rules on Network Tariff Development

Article 6 provides specific rules on operating networks that give a binding direction for the development of network tariffs. This rule seems to act quite prematurely, especially in the light of the proposal to give member states the option to generally postpone the introduction of a regulation regime for hydrogen network operators even until the end of 2030. It makes sense to avoid regulatory intervention in the current early stage of hydrogen markets to prevent development impediments. **Consequently,**

comprehensive rules on the development of network tariffs should only be introduced under a “Network Code Tariff Hydrogen (NC TAR H2)”. The process of designing such a network code also provides an adequate framework to evaluate and define fundamental decisions on network tariffs while looking at the bigger picture.

This bigger picture also seems to have been left out regarding the proposal of a 75% discount on the injection of renewable and low-carbon gases. While the injection of those gases at an LNG terminal can be discounted up to 100% according to Article 16, injection and withdrawal of those gases at a storage facility could only be discounted up to 75%. As LNG terminals and storage facilities both provide flexibility, this rule introduces a competitive distortion. Not only regarding this aspect but also with respect to the question if network tariffs should be generally discounted at border crossing points, we propose developing a consistent rule within a new NC TAR H2.

Introduction of an ENNOH

In the light of a possible NC TAR H2 and with regard to the further design of hydrogen network rules, we welcome the introduction of a separate European Network of Network Operators for Hydrogen (ENNOH) under Article 40. Transferring tasks as proposed under Articles 42 and 43 is a direct consequence. It is, however, not quite understandable why the responsibility for a TYNDP for hydrogen is given to ENTSO-G. It should be made sure instead that the ENNOH is constituted on such a short-term that even the first TYNDP for hydrogen can be developed by ENNOH. Especially the first TYNDP will have determining influence on future developments and should therefore be created by the institution that will be responsible in the future. A transition period as proposed under Article 41 would then be obsolete.

The prioritizing and staged development of necessary network codes proposed under Article 54 is effective and should follow the idea of an adapted regulation. All relevant stakeholders should be included in the development process. If the European Commission does not include Storage System Operators in the term “system users and consumers” under Article 55, INES asks for clarification that Storage System Operators are explicitly to be included when developing network codes.

Terminal and Storage System Operator Regulation (Articles 8 and 31)

Market Evaluation of Renewable and Low-Carbon Gases

Article 8 formulates the task of Terminal and Storage System Operators (hydrogen and natural gas) to evaluate infrastructure demands for renewable and low-carbon gases every two years. Security of supply has to be considered. The results have to be made public in a transparent way.

These tasks defined for Terminal and Storage System Operators create no market-based benefit for the operators. By contrast, it seems contradictory to obligate companies that are not subject of a regulation regime to publicize evaluations that build the foundation of their investment plans and decisions. These obligations should therefore only be considered if the affected infrastructure operators are subject to a tariff regulation regime.

Transparency Rules for Terminal and Storage System Operators

Following Article 31, Terminal and Storage System Operators shall create a platform within 18 months after the coming into effect of the Regulation to publicize comprehensive information listed under Article 31 in a transparent and user-friendly way.

INES assumes that with the exception of number 5 these transparency rules will only apply for regulated Storage System Operators. Storage System Operators that are not regulated would suffer from a serious competitive disadvantage when they are made subject to these extensive publication obligations. Such an obligation of market-based Storage System Operators would therefore contradict an effective competition and would be inappropriate.

All considered transparency obligations should take into account existing platforms in order to ensure cost-effectiveness. Existing platforms are already established for market actors and thereby provide a cost-efficient and transparent information pool.

Security of Supply through Gas Storage (Article 7b)

Article 7b aims at securing an efficient use of gas storage facilities regarding a secure energy supply. Where the results of a common risk assessment indicate the need to take action, the Regulation proposes one or several of the following measures:

- a) obliging gas storage users to store a minimum volume of gas in underground storage,
- b) tendering, auctioning or equivalent mechanisms which incentivize bookings of storage capacities under which the potential shortfalls in costs are covered,
- c) obliging a transmission system operator to purchase and manage strategic stocks of gas,
- d) allowing for a possibility to fully integrate storages in the network of the transmission system operator in case the storage would otherwise stop operations, if such stop of operations would put at risk the secure and reliable functioning of the transmission system.

INES considers obliging storage customers to store minimum volumes of gas [a]) to be ineffective as customers can avoid this obligation by not booking storage capacities. This puts the operation of storage facilities at risk. Tendering or auctions of the Market Area Operator to fill storages [b]) can provide effective market-based incentives to reach desired volumes in storage facilities.

Unbundling of network operators is of fundamental importance for the organization of gas markets. For this reason, managing strategic stocks of gas [c]) or taking over operation of storage facilities [d]) by network operators is absolutely concerning as this expansion of network operator tasks would unfold heavy negative implications for gas markets.

In case of a necessary stocking of gas volumes [c]) it would be more efficient to regulate market-actors in their actions. Should gas storage be a necessary or helpful precondition for a secure network operation, there already exist several options for network operators to procure these services in the market. In Germany, the relevant instruments are market-based instruments (MBI) and long-term options (LTO).

The opportunity for a network operator to overtake complete storage infrastructures into a regulated operation would have severe negative ramifications for an else market-based storage system operation.

Harmonization of Gas / Hydrogen Qualities

Concerning cross-border coordination of gas qualities, network operators should have to consider the interests of connected facilities. If adaptations for these facilities are necessary that cannot be considered in order to provide for a further integration of the internal market, adaption costs should be socialized (e.g. through a levy charge). This, for example, includes costs for Storage System Operators that emerge if higher proportions of hydrogen are realized in the gas network which inevitably lead to adaptation necessities in storage facilities. In Germany, network users are already used to a similar process of network adaptations with regard to market area conversion.

To avoid cost-intensive adaptation necessities, INES recommends aiming for merely pure gas and hydrogen qualities at the level of gas transmission networks. In gas networks an admixture limit of maximum 1 per cent should be aimed for. Higher proportions of hydrogen in the network could lead in the worst case to a complete loss, i.e. a complete economic downfall (full depreciation) for storage facilities.

Additional Remarks on the INES Response to the Proposal of an EU Directive on Common Rules for the Internal Markets in Renewable and Natural Gases and in Hydrogen

Authorization Process for the Development of Hydrogen Storage Facilities

The rules to facilitate authorization processes under Article 7 should explicitly include projects to convert storage facilities from gas to hydrogen.

Exemptions from Regulated Access to Hydrogen Storage

Article 48 should include the opportunity to exempt not only hydrogen networks but also hydrogen storage facilities in hydrogen clusters. This would allow Storage System Operators to realize innovative and commercial storage solutions with the necessary flexibility, especially in the market run-up phase.

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Transparency Note

INES advocates for purposes indicated under the German Lobbying Registry Act („Lobbyregistergesetz“) and therefore holds a public entry in the registry. The entry is available online at <https://www.lobbyregister.bundestag.de/suche/R001797/>.

INES is also registered in the EU Transparency Register. The entry is available at <https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=289476237584-12&locale=en#en>.