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Deal on the Gas Package – Christmas come early?

The negotiations for the Hydrogen and Decarbonised Gas package are now concluded, with a deal on the Regulation on 7 December, following shortly on the agreement for the Directive on 27 November.

A better result for the Directive could hardly be imagined, as all of CEDEC's key priorities are reflected in the agreement. This outcome is no small feat, given the absence of any structural role for hydrogen at distribution level in the Commission's initial proposals, and the lack of interest or opposition originally expressed by the Council. In the end, the agreement consecrates the split between transmission and distribution networks for hydrogen, with definitions provided for each. The rules on vertical unbundling for gas DSOs will be extended to hydrogen DSOs, including the so called de minimis derogation for smaller DSOs. Integrated companies with fewer than 100.000 gas and hydrogen customers combined will therefore have the possibility to be exempt from the vertical legal and operational unbundling rules. The requirement for horizontal legal unbundling between hydrogen and gas activities has also been removed. Lastly, although network planning will not be fully integrated as proposed by the Parliament, this is compensated for by requirements for close cooperation between operators of networks for natural gas, hydrogen, electricity and district heating and cooling.

Although not as crucial, the outcomes for the Regulation are also largely positive. The agreement for example features tariff discounts at access points for renewable gases to promote their development, and workable requirements on financial transfers between gas and hydrogen networks. Hydrogen DSOs will also be able to join the EU DSO Entity, reflecting the split between distribution and transmission in the Directive. However, the Parliament's demand for an EU-level 35 bcm biomethane production target by 2030 (supported by CEDEC) did not make it into the final deal, due to strong opposition in the Council. Only a reference to the target is included in the Recitals, and ENTSOG will be required to report every two years on the progress of biomethane production at EU-level.

For more information on the agreements, please also consult the press releases for the Directive ([Council](#); [Parliament](#)) and the Regulation ([Council](#); [Parliament](#)).

EU finalises renovation of Buildings Directive

Negotiators laid down the final bricks of a political agreement on the Energy Performance of Buildings Directive (EPBD) in the trilogue meeting of 7 December. As previously reported in our [October issue](#), the agreement is highly positive on CEDEC's main priority in this file, namely the definition of zero emissions buildings (ZEBs) allowing the use of energy from distribution grids.

Also of interest to CEDEC members, the revised EPBD contains requirements on the phase out of boilers using fossil fuels. In a first phase, financial incentives for installation of standalone fossil-fuel boilers will be banned by 2025 at the latest. However, boilers combined with other systems such as solar thermal or heat pumps are excluded from this ban. In a second phase, Member States will have to adopt measures and policies to ensure that fossil fuel boilers are phased out by 2040, but the Commission is due to issue guidance specifying that the ban targets the fuel rather than the technology. This therefore leaves open the possible use of renewable fuels.

Commission unveils Grids Action Plan

On 28 November, the European Commission [published](#) an EU Action Plan for Grids under the title "Grids, the missing link", which sets out non-legislative actions to accelerate the reinforcement of Europe's electricity grids, make them more interconnected, more digitalised and cyber-resilient. The action plan – clearly recognising the essential role of electricity grids in achieving the energy transition, gives equal attention to both TSOs and DSOs.

The action plan describes 7 core challenges for grids and foresees 14 action – 7 of which there are several new tasks for the DSO Entity (mostly acting together with ENTSO-E) – points planned for implementation over 18 months (until 2025) :

- Improving long-term grid planning on distribution network planning;
- Introducing regulatory incentives for forward-looking grids build-out through guidance on anticipatory investments;
- Incentivising a better usage of the grids and improved network tariffs;
- Improving access to finance for grids projects;
- Stimulating faster permitting for grids deployment;
- Improving and securing grid supply chains.
- Accelerating implementation of PCIs and identifying & developing local grid projects;

CEDEC welcomes the action plan, as it finally brings grids more to the centre of the EU agenda, acknowledging that without reinforced and stable electricity grids, the energy transition cannot be achieved. Nonetheless, and to our regret, the action plan only addresses the needs on the electricity side, whereas sectoral integration and other infrastructures (i.e. for renewable gases or district heating), in particular for integrated network planning, are completely left out of the picture

AI Act - agreement after 36-hour negotiation marathon

Despite the tensions that were building up between the European Parliament and the Council over the issue of "foundation models" (systems that are trained on a large dataset that is able to perform a wide range of different tasks) co-legislators managed to strike a political agreement on the Artificial Intelligence (AI) Act, after a 36-hour marathon meeting, which ended late on Friday 8/12. The press releases of the Council and the European Parliament can be found [here](#) and [here](#).

The law will be of relevance for CEDEC members, as AI systems used in the management of critical infrastructure are categorised as high-risk systems. The obligations to which these systems will be subject will then depend on the degree of risk that their use presents. High-risk systems will be subject to stricter rules, as the AI Act aims to regulate high-risk AI uses. The political agreement includes a series of filtering conditions – as already reported previously in our [November issue](#) – meant to capture only genuine high-risk AI applications

Concerning the definition of AI systems – which is the core of the proposal and of particular of relevance for CEDEC members, since it is the one that determines which systems are covered by the regulation and which are not – co-legislators opted for aligning the definition with the approach [proposed by the OECD](#), to provide sufficiently clear criteria for distinguishing AI from simpler software systems. In addition, and with the raise of ChatGPT, co-legislators added new provisions aimed at regulating foundation models and general purpose AI. Moreover, an AI Office is supposed to be set up within the European Commission to monitor the most advanced AI models.

The extent to which obligations apply to CEDEC members and local companies can only be assessed once the final text of the agreement is available. The Regulation will be directly applicable for EU Member States two years after entry into force.

Gigabit Infrastructure Act – final sprint

Interinstitutional negotiations or trilogues on the Gigabit Infrastructure Act (GIA) started on 5 December, after the EU telecom ministers adopted the Council's common position (General Approach) in the Telecom Council (read the Council press release on the agreement [here](#)). Since the Spanish Presidency took over the dossier, the negotiations noticeably accelerated. Time is of essence as the European elections 2024 are coming closer, along with the final deadline for all negotiations to end within the expiring legislative term.

The Council's General Approach entails some new changes to the 4th Presidency compromise text, whereas the provisions on CEDEC priority points remained mostly unchanged on content. Among the positive elements are :

- Possibility for network operators to refuse access to physical infrastructure based on the alternative of active wholesale access ('bitstream access');
- Better consideration of critical infrastructure protection, especially when it comes to the obligations to make information on existing physical infrastructure and coordination of civil works available;
- Slightly longer deadlines for permit granting procedures and preservation of the local authorities' autonomy.

In addition, Member States made it their prerogative to give further guidance on specific articles (instead of the Commission), deleted the notion of 'tacit approval' (in the event of a missing response from the competent authority within the 4-month deadline for granting permits), introduced transitional measures for small municipalities, and finally extended the date of application of the Regulation from 6 to 24 months after entry into force. In the European Parliament, rapporteur Alin Mituta (Renew, RO) wants to advance quickly on the file. By 25 January or 5 February the latest, negotiations should be done and dusted.

Spotlight on: EMD reform – the deal is done !

Yesterday (13/12) negotiators from the Parliament and the Council met for a final round of political trilogue negotiations on the reform of the Electricity Market Design (EMD), where they managed to reach a provisional political agreement. This makes the EMD reform one of the speediest energy files ever negotiated, taking 9 months from the publication of the Commission proposal in March until the provisional political agreement. The agreement comes in time giving co-legislators ample room to formally endorse and approve the file in time before the 2024 European Elections.

This final round of trilogues was not supposed to be easy, as it had on the agenda the most contentious issues of the proposal for the institutions, i.e. two-way Contracts-for-Difference (CfDs) and capacity mechanisms. Concretely on two-way CfDs, and according to our sources, the political agreement takes over most of the text of the Council's General Approach, allowing these guaranteed price contracts to be concluded for new or existing renewable and nuclear assets (in the case of new investment).

Easy to agree points which are covering CEDEC priority topics includes the regional virtual hubs, on which a proposal for establishment is not foreseen anymore, but instead the Commission will have to assess the impact of their possible introduction. Concerning the new dedicated measurement devices (DMDs), the critical amendment from the Parliament – expanding the scope of DMDs beyond observability and flexibility settlement to include energy sharing and billing – positively seems not to be part of the final agreement.

For more information, please refer to the press releases ([Council](#); [Parliament](#)). The EMD reform is expected to enter into force around April-June 2024.

Upcoming meetings & Events

- CEDEC WG Electricity Market Design - 17 January 2024
- CEDEC Board of Directors - 28 February 2024 (online)