



# CEDEC Brief News | October 2023

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## REGISTER NOW! CEDEC Annual Congress 2023 - 'Never waste an unprecedented energy crisis: Boost local energy opportunities'

On 15 November 13.30-17.30 in Brussels, top-level speakers from EU institutions & local regional and regional energy companies discuss the local challenges ahead for implementing the recent EU energy reforms, building a bottom up approach for integrated energy planning, and filling the skill gaps for the energy transition workforce.

### Electricity Market Design reform – decisive Energy Council meeting

It is now in the hands of EU energy ministers (and in particular those representing Germany and France) that are meeting today for the Energy Council in Luxembourg to decide if trilogues on the reform of the Electricity Market Design (EMD) may begin. Last week, the Spanish Presidency distributed a new compromise, which completely removes the provisions allowing two-way Contracts-for-difference (CfDs) for existing power plants. According to the new proposal only new power plants will have access to the prices guaranteed by two-way CfDs. The new proposal does not prohibit CfDs for existing power plants, but obliges Member States to negotiate with the Commission on a case-by-case basis. Finally, the Presidency has simplified the provisions governing the distribution of possible revenues from CfDs.

Should the Energy Council be able to agree on a text, a kick-off trilogue could already take place on 19 October. As a quick reminder, the Parliament has been ready to enter trilogue negotiations since the plenary vote on 14 September, which confirmed the ITRE committee's position adopted already on 19 July.

Some overlaps are already visible in the positions of the co-legislators, such as on dedicated metering devices – which both institutions propose to rename to dedicated measurement device. CEDEC will closely follow the critical points, among which the Parliament's enlargement of the scope of dedicated measurement devices to include energy sharing (going beyond flexibility). Attention also has to be paid to a large group of MEPs supporting the principle of locally differentiated network charges in case of energy sharing (when referring to 'cost-reflective' network charges). Two-way CfDs will remain a thriller also in trilogue negotiations, as the Parliament's position restricts nuclear power plants' access to state-guaranteed price mechanisms.

### F-gas Regulation – we have a deal!

On 5 October, Parliament and Council reached an agreement on the F-Gas Regulation, marking the end of the trilogues for this highly technical file. While most issues had already been dealt with already back in July (see our [July issue](#)), negotiators were still struggling to work out the details concerning requirements on two key technologies for the energy transition: heat pumps and – of main interest for CEDEC members – switchgears.

At issue here were the specifics of the phase-out of f-gases in switchgear. F-gases indeed have a very high greenhouse gas potential, especially SF6 (22.800 more powerful than CO2) which is used in most current switchgear. However, switchgears are also crucial grid components whose availability and reliability are essential to deliver the upcoming electrification. CEDEC's priority in this file – again emphasised in a [joint statement](#) published in the run up to the concluding trilogue – was therefore to limit the global warming effects of f-gases as much as possible while keeping enough flexibility to not endanger the (significant) supply of switchgear needed to reach decarbonisation goals.

The deal reached by the co-legislators strikes a good balance between these two goals. Strict phase out requirements for f-gases are introduced for medium voltage and high voltage switchgear with an ambitious timeline. However, servicing, maintenance and repair of existing switchgear using f-gases is ensured, and several flexibilities are introduced to guard against supplier monopolies, ensure supply for niche applications, and prevent ongoing procurement procedures from becoming obsolete. The provisional agreement will now need to receive formal approval from Council (18 October) and Parliament (ENVI committee on 15 January 2024).

### Ongoing trilogues – state of play

- **Energy Performance of Buildings Directive:** In the trilogue on 12 October, negotiators reached a breakthrough on CEDEC's absolute priority, namely the ZEB definition (zero emission buildings) and the possibility to use renewable energies from the distribution grid. CEDEC had emphasised the crucial importance of this issue in a [joint letter](#) with other leading energy associations prior to the trilogue. The negotiators agreed to include carbon-free electricity from the grid, alongside renewable energy produced on-site or from a renewable energy community, and energy from an efficient district heating and cooling system. Moreover, if a technically or economically not feasible to meet the energy needs through these sources, other energy from the grid (including renewable gases) may be used. Progress on several other hot topics was equally achieved, including minimum energy performance standards (MEPS) and energy performance certificates.
- **Gas Package:** For the Directive, the distinction between transmission and distribution for hydrogen networks – CEDEC's key demand on this file – was finally agreed upon in the 12 October trilogue. Positively, the same vertical (operational and legal) unbundling rules will apply for both gas and hydrogen distribution; regrettably, the de minimis rule (exemption for companies with less than 100.000 customers) is not foreseen for hydrogen. The impactful vertical ownership unbundling rules will be mandatory only for TSOs, as originally designed for gas. Horizontal legal unbundling between gas and hydrogen distribution still figures in the text, although the Parliament foresees possible flexibilities to reach operational synergies between gas and hydrogen distribution. On the essential element of network planning, the Commission and Council actively oppose the Parliament's proposed integrated network planning approach, although requirements for "close cooperation" with gas, hydrogen and district heating/cooling operators have now been included in the Council's proposals. Regular meetings at technical level are planned until 4 December, indicating that the open-ended trilogue on 27 November will not be final. In the 28 September trilogue for the Regulation, the future status of the European Entity for hydrogen network operators remained highly contentious. The Parliament favours an integration with ENTSOG, and categorically rejects the idea of an independent Entity supported by the Council and Commission. Because the distinction between hydrogen distribution and transmission has not been integrated in the Regulation text yet, another important issue that remains unaddressed is the approval of hydrogen network tariffs, for which ACER would be responsible, including for distribution. The next trilogue is planned for 7 November.
- **Methane Regulation:** Negotiators are struggling to make progress in this file, despite the urgency imposed by the deadline for an agreement before the COP28 UN Climate Conference (30 November-12 December). In the 10 October trilogue, the deadlines and frequencies for monitoring, reporting and verification (MRV) as well as leak detection and repair (LDAR) – two key issues for CEDEC members – were on the agenda. In a preparatory note for the trilogue, the Spanish Presidency positively insisted on sticking close to the approach put forward in the Council mandate, including with regards to the particularities of distribution networks. However, the meeting had few concrete outcomes, and the LDAR intervals will again be on the agenda for the next political trilogue on 14 November.
- **AI Act:** At the 3rd trilogue meeting on 2-3 October, Parliament and Council already provisionally agreed on requirements for high-risk AI systems, sandboxes, market surveillance and enforcement, penalties and fines as well as on the architecture for classifying AI systems as high-risk. Despite these advances, many issues – which essentially do not concern CEDEC priorities – continue to divide the institutions. According to current state, the aim is to reach an agreement on the complete file at the 4th trilogue on 25 October, although a reserve meeting has already been set for 6 December.

### Gigabit Infrastructure Act – strong EP negotiation mandate

The European Parliament is coming out of its internal discussions on the Gigabit Infrastructure Act (GIA) with a strong mandate for interinstitutional negotiations with the Council, which yet has to decide on its position. After the summer break, the ITRE negotiating team (lead by rapporteur Alin Mituta (Renew, RO)) already agreed within a few weeks on the compromise amendments covering the complete text of the GIA. The report of the rapporteur was supported by a big majority of ITRE members on 19 September, and was confirmed in plenary. As already expected, the compromise amendments and, thus, the final EP position does not address the issue of infrastructure duplication and there was no appetite among the groups to consider 'bitstream access' as a viable alternative means of access to existing physical infrastructure or to the coordination of civil works, despite some very good amendments (among the 459 amendments tabled in the ITRE). On the other priority points for CEDEC, the Parliament provides improvements regarding the transparency obligations, foreseeing that information on civil works may be limited to ensure the security of critical infrastructures.

In the Council, a 2nd Presidency compromise text was circulated by the Spanish Presidency. Among the most relevant and positive changes for CEDEC members is the possibility for network providers to refuse access to their physical infrastructure if they provide a viable alternative means of non-discriminatory open wholesale access, and so to give 'bitstream access' to other operators. This option, however, only applies if certain conditions are fulfilled, like if the access seeker has significant market power in the area concerned. In addition, the text introduces the option for Member States not to publish information on planned civil works related to critical national infrastructure.

### Spotlight on: Šefčovič and Hoekstra approved as EU climate chiefs by European Parliament

On Thursday 5 October the European Parliament approved Maroš Šefčovič's new role as Executive Vice-President for the European Green Deal and Wopke Hoekstra as Commissioner for Climate Action. Following their hearings in the Environment Committee (ENVI) of the European Parliament (on 3 & 4 October), both candidates had to answer additional written questions – among others on their commitment to reduce CO2 emissions and on the timetable for pending legislative proposals – which finally convinced MEPs.

In terms of concrete actions for 2023, Šefčovič announces an "Action plan to facilitate grids roll-out" (November) – although the development of transmission and distribution grids only occupies rather marginal space in his written reply – as well as a report on Energy Subsidies (end of October) intended to speed up discussions on the pending review of the Energy Taxation Directive.

The two will split responsibilities inherited from ex-Commissioner Frans Timmermans, for the remaining mandate of this legislative period under the von der Leyen Commission, until the European elections 2024.

### Upcoming meetings & Events

- [CEDEC WG Gas - 18 October & 20/21 \(tbc\)](#)
- [CEDEC WG Smart Grids – 26 October](#)