

The New EU Gas Directive

as set out in the EU COM Proposal
dated 15 December 2021

H2 networks: nTPA until 2030, then rTPA

- Spätestens ab 2030 werden H2-Tarife einheitlich, öffentlich, diskriminierungsfrei und vorab genehmigungsbedürftig sein
- Bis dahin können MS den verhandelten Netzzugang erlauben (wie im EnWG bislang vorgesehen)

Article 31 – [TPA] to hydrogen networks

1. [MS] shall ensure the implementation of a system of **regulated third party** access to hydrogen networks based on published tariffs and applied objectively and without discrimination ...
2. [MS] shall ensure that those tariffs... are approved ...
3. Hydrogen network operators shall, where necessary ..., have access to the network of other hydrogen network operators.
4. **Until 31 December 2030, a [MS] may decide not to apply paragraph 1.** In such case, the [MS] shall ensure the implementation of a system of **negotiated third party access** to hydrogen networks in accordance with objective, transparent and non-discriminatory criteria ... in good faith. ...

Grandfathering: national derogations

- Bestandsschutz: Unabhängig von den in den jeweiligen Artikeln genannten Ausnahmen, die regelmäßig bis 2030 beschränkt sind, gilt bis 2030 auch ein allgemeines Abweichungsrecht für MS.
- Es ist beschränkt auf den Schutz bereits bestehender Netze
- Unklar bei bestehenden industriellen Versorgungsleitungen das Verhältnis zu art. 48

Article 47 – Existing Hydrogen Networks

1. [MS] may decide to grant a derogation from the requirements of Articles 31 [third-party access to hydrogen networks], 62 [ownership unbundling], 63 and 64 [horizontal & accounting unbundling] of this Directive ... to hydrogen networks that belonged to a vertically integrated undertaking 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].
2. The derogation shall be limited in time and shall expire:
 - (a) where the vertically integrated undertaking submits a request to the regulatory authority ...;
 - (b) where the hydrogen network ... is connected to another hydrogen network;
 - (c) where the hydrogen network ... or its capacity is expanded;
 - (d) at the latest on 31 December 2030.

Local limited networks

- Bei lokalen industriellen Netzen mit nur einem Einspeiser gilt auch nach 2030 eine Ausnahme
- Sobald weitere Quellen hinzutreten, entfällt das Privileg

Article 48 – Geographically confined hydrogen networks

1. [MS] may ... **grant a derogation from Article 62 [ownership unbundling]** for hydrogen networks which transport hydrogen from one entry point to a limited number of exit points **within a geographically confined, industrial or commercial area.**
2. The derogations under paragraph 1 shall apply **at least until 31 December 2030. As from 1 January 2031, the derogation shall expire when** one of the conditions below is fulfilled:
 - (a) where **a competing renewable hydrogen producer wants to get access to the network;**
 - (b) where **the exempted hydrogen network becomes connected to another hydrogen network.**

Chère CRE: Il faut qu'on parle. – BNetzA

- Grenzüberschreitend abgestimmte H2-Tarife für grenzüberschreitenden Verkehr
- Bis 2030 festgelegt durch die relevanten NRAs, danach per ITC

Article 53 – Financing cross-border hydrogen infrastructure

1. Where a **hydrogen interconnector project is included in the [TYNDP]**, adjacent and affected hydrogen network operators shall design a project plan, including a request for cross-border cost allocation, and submit it jointly to the concerned regulatory authorities for a joint approval ...
3. **The concerned regulatory authorities shall ... take coordinated decisions on the allocation of investment costs to be borne by each network operator for the project ...**
5. **After 31 December 2030**, all affected **hydrogen network operators shall negotiate a system of financial compensation** to ensure financing for cross-border hydrogen infrastructure ...
9. Further details ... shall be set in a network code ...

H2: OU. ISO if already vertically integrated; ITO until 2030

- Entflechtung von H2 Netzen sehr streng: Ownership Unbundling ist die klare Regel
- Ausnahme bei Bestands-viEVU: Erhalt des Eigentums, aber Übertragung des Betriebs an ISO. ISO-Dienstleistung kann angeboten werden durch OU H2 oder OU CH4 Operators.
- Bis 2030 außerdem ITO-ähnliche Ausnahme

Article 62 – Unbundling of hydrogen network operators

1. [MS] shall ensure that ... hydrogen network operators are unbundled in accordance with the rules for natural gas transmission system operators set out in art. [54] ...
3. Where on [entry into force] the hydrogen network belonged to a vertically integrated undertaking, a [MS] may decide not to apply paragraph 1. In such case, the [MS] shall designate an independent hydrogen network operator unbundled in accordance with the rules on [ISOs] for natural gas set out Article 55. Hydrogen network operators and [TSOs] unbundled in accordance with Article 54(1) [ownership unbundling] can act as independent hydrogen network operator, subject to the requirements pursuant to Article 63.
4. [MS] may designate an integrated hydrogen network operator unbundled in accordance with the rules on [ITOs] ... Such designation shall expire by 31 December 2030 at the latest ...

Legal unbundling of H2 and CH4

- Selbst in OU Struktur muss H2 Betrieb durch eigene Gesellschaft erfolgen, wenn in dem Konzern auch CH4 transportiert wird; Personal etc darf sich aber überschneiden
- Wurde bei der 2021 EnWG Novelle noch verhindert

Article 63 – Horizontal unbundling of hydrogen network operators

Where a **hydrogen network operator** is part of an undertaking active in transmission or distribution of natural gas or electricity, it shall be **independent at least in terms of its legal form**.

Accounting of H2 operations separate from CH4 business

- Der H2 Betrieb benötigt eine getrennte Buchhaltung
- Keine Veränderung gegenüber dem EnWG-Rechtsrahmen

Article 64 – Unbundling of accounts for hydrogen system operators

[MS] shall ensure that the accounts of hydrogen system operators are kept in accordance with Article 69 [\[unbundling of accounts\]](#).