

BACKGROUND DOCUMENTS

of the 131st ACER Board of Regulators Meeting

2 April 2025

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EUROPEAN
COMMISSION

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**Amending Regulation (EU)2017/1938 as regards the role of gas storage for securing gas
supplies ahead of the winter season**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

a) Security of supply

The EU's energy-security challenges are mainly linked to its primary energy supply dependence on non-EU countries. With the introduction of the European Green Deal, the EU has set out important steps it will take to reduce its dependence on imported fossil fuels by setting ambitious renewables and energy-efficiency targets. However, the 2022 energy crisis and the energy-price shock that followed highlighted the need to do more and take further steps to decrease the EU's dependency on non-EU sources of primary energy. In particular, the REPowerEU plan sets out important steps to shield households and businesses from supply shocks by: (i) strengthening underground storage capacity of gas; (ii) upgrading and extending liquefied-natural-gas infrastructure; and (iii) diversifying both the sources and routes of pipeline gas.

To deliver on these objectives, the extension of some of the measures, mainly the November gas storage filling target, adopted previously for a limited period of time, is necessary. At the same time, market conditions have changed. With this proposal, and building upon the Commission Recommendation adopted today, the Commission aims to ensure energy security and resilience of the European union energy system while supporting Member States by providing an even higher degree of flexibility on filling trajectories to fulfil filling targets for gas storage at their own pace, reducing system stress and minimizing the room for market distortions.

b) Role of gas storage, current problems and flexibility

Gas storage contributes to security of supply by providing additional supply if there is strong demand or if supply is disrupted. Storage supplies 25-30% of gas consumed in the EU in winter. During the heating season, storage reduces the need to import additional gas and helps to absorb supply shocks.

Recognising this fact, and taking actions against both the weaponisation of Russian gas supplies and market volatility, the Commission drafted in spring 2022 – and the co-legislators quickly approved – amendments to Regulation (EU) 2017/1938 on the security of gas supply with regard to gas storage.¹ The amendments introduced a target to ensure that gas-storage facilities were 90% full by 1 November (filling target), with a series of intermediate targets for each Member State in February, May, July and September of the year thereafter (filling trajectory). At the same time, the amendments introduced certification requirements for storage system operators (SSOs) to improve control over strategic assets and avoid the risk of there being insufficient gas in storage ahead of the winter.

As a consequence of these amendments, the dramatic 2022 scenario of price spikes in gas was not repeated in 2023 or 2024, and the obligation to certify SSOs eliminated the practice

¹ Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage

(which occurred in 2021) where some of the third-party owned gas-storage facilities were intentionally filled below capacity or late ahead of the winter months.

The European gas market remains tight. The competition for global LNG supplies has increased and exposure to price volatility is stronger than before. This is evidenced by the gas market price development during winter 2024/2025.

From the security of supply perspective, the existence of a storage filling target and filling trajectory fosters predictability and sends important signals to market players. Under this framework, actions undertaken by the EU have improved the situation since 2022. However, ultimately, the single most important objective is to strengthen the security of supply of the EU energy system in particular for the winter, which translates into the compliance of Member States with the mandatory 1 November target.

At the same time, the overall framework to meet this 1 November target must be flexible enough during the filling season to allow a swift reaction to constantly changing market conditions and in particular to take advantage of the best purchasing conditions. The purpose of intermediary filling targets, agreed upon each year by the Member States, is to ensure that the mandatory 1 November target is met. However, these targets are indicative and if necessary, can be modified in such a way that there is maximum flexibility available for market participants throughout the year. Such approach combined with better coordination among Member States, guarantees sufficient level of flexibility to fill storage at their own pace, while reducing system stress and avoiding market distortions.

The Commission will continue to closely monitor the filling of the storage facilities, and through coordination and active dialogue with the Member States, including via the Gas Coordination Group, will make sure that potential substantial and sustained deviations from the filling trajectories do not endanger security of supply and that potential risks are mitigated. In addition, the Commission will do a comprehensive assessment as part of the review of the security of supply framework to examine the added value of any permanent storage measures for security of supply post 2027.

c) Objective of the proposal

The amendments in Regulation (EU) 2017/1938 on gas storage are set to expire at the end of 2025. The continuing tight situation in the global gas-market calls for an extension of these provisions beyond 2025.

At the same time, the European Commission plans to review the EU's energy-security framework, including by making an assessment as to whether a potential legislative proposal should incorporate permanent storage-filling measures for Member States. However, this proposal is not planned for next year.

A temporary extension of the existing gas-storage provisions is necessary to continue providing predictability and transparency in the use of gas-storage facilities across the EU.

• Consistency with existing policy provisions in the policy area

The gas-storage provisions in Regulation (EU) 2017/1938 were introduced through Regulation (EU) 2022/1032 for a period of three years. The provisions expire at the end of 2025. The proposal aims to extend the existing provision by a further two years on a temporary basis until a new energy-security framework is potentially put in place, most likely in the course of 2027. The extension would be consistent with the existing policy and would

help to improve energy security and gas-market stability. The proposal for prolongation does not aim to alter any other aspects of the gas-storage provisions.

- **Consistency with other Union policies**

Following geopolitical developments, in March 2022, the Commission issued the ‘REPowerEU’ Communication for a joint European action to promote more affordable, secure and sustainable energy. Consequently, the Commission presented a legislative proposal (the Gas Storage Regulation – Regulation (EU) 2022/1032) to ensure a sufficient level of annual storage from winter 2022/2023 and into the future.

As part of a fitness check of the current energy-security framework, the Commission launched a public consultation to gather the views of a broad range of stakeholders on the benefits and possible future challenges facing Europe in the area of energy security. The public consultation, concluded at the end of November 2024, is also taking stock of the gas-storage provisions and their contribution to overall energy security.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This proposal amends Regulation (EU) 2017/1938, the legal base of which was Article 194(2) of the Treaty on the Functioning of the European Union. This proposal is based on Article 194(2) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

The planned measures of the present initiative are fully in line with the subsidiarity principle. There is a need for an EU-level action because interruption to the EU’s gas supply: (i) poses high risks; (ii) would have significant effects on many Member States; and (iii) would affect gas prices across the EU.

- **Proportionality**

The initiative complies with the proportionality principle. Although the ultimate annual filling target for 1 November is laid down through the Regulation, the targets take into account the situation of individual Member States and the size of the gas-storage facilities located on their respective territories. Exemptions/derogations laid down by Regulation (EU) 2017/1938 relate to the Netherlands (Article 6a.3) and also to Austria, Czechia, Hungary, Latvia, and Slovakia (Article 6a.2). The proposed 90% filling rate is a necessary and appropriate level to ensure security of supply over the winter in the event of serious supply disruptions, without putting an excessive burden on Member States, energy companies or the public.

Intermediary filling targets are laid down on an annual basis, after consultation with the Member States (through their participation in the Gas Coordination Group). These targets allow for a sufficient level of flexibility for Member States to reflect both the existing energy situation as well as gas-market fundamentals.

- **Choice of the instrument**

This is a proposal to amend Regulation (EU) 2017/1938, and therefore the instrument chosen is an amending Regulation. Given that this is not a full revision of the Regulation, a recast is not considered appropriate.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

This proposal is accompanied by a report on the implementation and impact of gas-storage provisions, which concludes that both the gas-storage filling trajectories and the certification process for gas-storage facilities have had a positive impact on the security of energy supply.

The Commission submits annual reports, prepared in consultation with Member States, that include an analysis of the potential effects of the Regulation on gas prices and potential gas savings.

Additionally, as part of the fitness check of the energy-security framework, and in order to gather the views of a wide range of stakeholders, the Commission launched a public consultation. The consultation process was launched in September 2024 and lasted until November 2024. Over 100 participants provided insights and views to the consultation, including on the role of gas storage in the overall energy-security framework. Upon analysing the results of the public consultation, the Commission may conclude that a wider revision of the energy-security framework is needed and, in that context, may propose a continuation of the mandatory intermediate and ultimate annual targets for storage filling. However, the revision process is likely to last at least two years. Recognising the significant role that gas storage has played so far in boosting the energy security of Member States, a temporary prolongation of the mandatory filling target and of the intermediary targets requirement is considered necessary.

- **Stakeholder consultations**

As part of the public consultation related to the fitness check, stakeholders were consulted on the importance of gas storage and the utility of setting mandatory filling targets.

- **Collection and use of expertise**

During 2025, as part of the fitness check of the overall energy-security framework, the Commission intends to mandate an external contractor to carry out an impact assessment. The contractor would also be asked to collect external views and expertise at the same time.

- **Impact assessment**

As mentioned in the paragraph above, the Commission intends to carry out an impact assessment during 2025. Questions related to the gas-storage provisions will be part of the impact assessment. Due to the shortness of time remaining and the expiration of current provisions in December 2025, no impact assessment is being carried out for this temporary measure.

- **Fundamental rights**

The measure will enable support to be targeted at some of the most vulnerable customers, and in particular those already experiencing energy poverty.

4. BUDGETARY IMPLICATIONS

The impact on the EU budget associated with this proposal concerns the staffing and other administrative expenditures of the European Commission's Directorate-General (DG) for Energy. The proposal seeks to prolong provisions improving the EU's architecture for the

security of its gas supply. These prolonged provisions would entail continued obligations for Member States and, correspondingly, a continued strengthened role for DG Energy in a wide range of areas identified in the original proposal, namely:

- overall management and implementation of the Regulation (1 FTE);
- management of the strengthened role of the Gas Coordination Group (0.5 FTEs);
- monitoring of filling rates and drawing up of technical implementation specifications, such as filling trajectories (including economic and technical analysis and data management) (1.5 FTEs);
- assessment of the notifications on burden-sharing set out in Article 6c (1 FTE);
- administrative support (1 FTE).

In addition, the implementation, coordination and follow-up of this amending regulation among Member States will require additional administrative appropriations of up to EUR 150 000 a year for official trips and expert meetings, in particular meetings of the Gas Coordination Group.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

All current gas-storage-related provisions of Regulation (EU) 2017/1938 introduced by Regulation (EU) 2022/1032 would remain unchanged except the Article setting the application/validity date, which would be changed to 31 December 2027.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Amending Regulation (EU) 2017/1938 as regards the role of gas storage for securing gas supplies ahead of the winter season

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) 2022/1032 of the Parliament and of the Council² was adopted in reaction to the gas-supply crisis and unprecedented price increases caused by the escalation of the Russian military aggression against Ukraine since February 2022, impelling the Union to act in a coordinated and comprehensive manner to avoid potential risks resulting from further gas-supply disruptions.
- (2) Regulation (EU) 2022/1032 amended Regulation (EU) 2017/1938 by introducing a temporary legal framework for measures regarding the filling level of underground storage facilities to strengthen the security of gas supply in the Union, in particular gas supplies to protected customers.
- (3) Gas-storage facilities provide for 30% of the Union's gas consumption during the winter months, and well-filled underground gas-storage facilities contribute substantially to the security of gas supply by providing additional gas in the event of high demand or supply disruptions.
- (4) The laying down of a mandatory target to ensure that gas-storage facilities are 90% full by 1 November (filling target), with a series of intermediate targets for each Member State in February, May, July and September of the year thereafter (filling trajectory), proved to be fundamental amidst the energy crisis sparked by the weaponisation of Russian gas supplies and invasion of Ukraine in both: (i) weathering the gas-supply shortages; and (ii) reducing market uncertainties and price volatility.
- (5) Despite the substantial improvement of the gas market situation compared to 2022-2023 period, the European gas market remains tight. More intense competition for global LNG supplies can increase Member States exposure to price volatility. The gas price development during the 2024/2025 winter may confirm the trend. In such

² Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (*OJ L 173*, 30.6.2022, p. 17, *ELI*: <http://data.europa.eu/eli/reg/2022/1032/oj>).

situation, the role of gas storages remains paramount. Predictable filling trajectories increase transparency and prevent market distortion.

- (6) Pursuant to Regulation (EU) 2017/1938 the obligation of the Member States to follow an annual filling trajectory and to ensure that the filling target is achieved by 1 November of each year expires on 31 December 2025.
- (7) At the same time, the overall framework to meet this 1 November target must be flexible enough during the filling season to allow a swift reaction to constantly changing market conditions and in particular to take advantage of the best purchasing conditions.
- (8) The purpose of intermediary filling targets, agreed upon each year by the Member States, is to ensure that the mandatory 1 November target is met. However, these targets are indicative and should allow for storage filling in such a way that there is sufficient flexibility available for market participants throughout the year in accordance with Recommendation XXX.
- (9) Commission's assessment of the current energy-security framework has confirmed the positive impact of the storage-filling requirements on the security of gas supply and those positive effects should be preserved beyond 2025.
- (10) It is therefore necessary to extend by two years the relevant gas storage filling provisions that provide predictability and transparency as to the utilisation of gas-storage facilities across the Union.
- (11) Regulation (EU) 2017/1938 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EU) 2017/1938

In Article 22 of Regulation (EU) 2017/1938, the fourth paragraph is replaced by the following:

“Article 2, points (27) to (31), Articles 6a to 6d, Article 16(3), Article 17a, Article 18a, Article 20(4), and Annexes Ia and Ib shall apply until 31 December 2027.”

Article 2

Entry into force

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President