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## **COMMISSION OPINION**

**of 17.7.2019**

**under Regulation (EU) No 2017/1938, concerning measures to safeguard the security of gas supply and repealing Regulation No 994/2010, on the Preventive Action Plan and Emergency Plan submitted by the Competent Authority of the Kingdom of Sweden to the European Commission**

(Only the Swedish text is authentic)

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#### **(1) PROCEDURE**

Articles 8(2)(a) and 8(2)(b) of Regulation (EU) 2017/1938 ("Regulation") require the Competent Authority of each Member State to establish a Preventive Action Plan ("PAP") and an Emergency Plan ("EP", together: "Plans"). In accordance with Article 9(11) and Article 10(2) of the Regulation, the Plans have to be updated every four years, unless circumstances require more frequent updates. The consultation provided for between Competent Authorities under Article 8(6) shall be carried out before the adoption of the Plans.

The Plans (as well as their updates) need to be based on the Risk Assessment that each Competent Authority has to adopt and notify to the Commission before the adoption of the Plans pursuant to Article 7 of the Regulation. The Risk Assessment should make a full assessment of the risks affecting the security of gas supply in the Member State on the basis of the common elements which include, inter alia, running various scenarios of exceptionally high gas demand and supply disruption.

The Competent Authority of the Kingdom of Sweden, the Swedish Energy Agency, has notified its Risk Assessment pursuant to Article 7 of the Regulation to the Commission on 2 October 2018.

The Swedish Energy Agency consulted with the Danish Competent Authority and notified to the Commission on 29 March 2019 its Preventive Action Plan and its Emergency Plan.

After having assessed the Plans, in view of the criteria mentioned in Article 8(8) and the templates provided for in Annex VI and VII of the Regulation, and having reported its main findings to the Gas Coordination Group on 19 March 2019 and June 2019, the Commission has the following remarks on the Plans.

#### **(2) COMMISSION ASSESSMENT OF THE PLANS**

The Commission welcomes the good quality of the Plans submitted by Sweden. By providing information on the gas supply situation, emergency management and contingent preventive measures the Plans address most of the main requirements of the Regulation.

The Emergency Plan sets out the roles and responsibilities of all relevant parties in a clear and comprehensive manner. The different crisis levels are well explained, including stakeholder involvement, procedural issues and reporting obligations.

Nevertheless, the Commission considers that some elements of the Plans do not fully comply with the requirements of the Regulation.

### **(3) Preventive Action Plan (PAP)**

#### *Missing description of some elements of the gas system*

Article 8(5) of the Regulation contains a legal obligation for the PAP to be developed in accordance with the template included in Annex VI of the Regulation. This template is meant to improve the transparency, comparability and homogeneity among the Plans prepared by all Member States.

The PAP submitted by the Swedish Energy Agency does not fully and adequately follow the mandatory template provided for in Annex VI. Both the consolidated description of the regional gas system (paragraph 1.1) and the description of the Swedish natural gas system (paragraph 1.2) are absent. Aspects and peculiarities of the Swedish gas system (for instance its connection solely with the Danish system) are partially mentioned throughout the PAP, however, not in a consistent and consolidated manner. For instance, the PAP does not provide sufficient information on:

- the main gas consumption figures: annual final gas consumption (in bcm), breakdown by type of customers and percentage of national annual final gas consumption (including industrial customers, electricity generation, district heating, residential and services, etc.), peak demand (mcm/d);
- a description of the role of storage and in particular a clarification on the current operational status of the Skallen storage facility, which according to section 3.2 of the PAP has been mothballed starting winter 2017/2018, and the consequences thereof;
- a description of the role of gas in electricity and heat production in western Sweden (total gas-fired generating capacity MWe and cogeneration MWe and MWt for district heating). The inter-linkages between gas supply and the electricity and heat sectors also have to be detailed in the same chapter.

The Commission takes the view that the Swedish PAP should be amended to include a dedicated section with the description of the gas system, following the template provided in section 1 of Annex VI of the Regulation and covering in detail all aspects mentioned in subsections 1.1 and 1.2 where they are applicable to Sweden. The Commission is aware that some of the missing information is contained in the Risk Assessment of the Western Swedish gas grid, submitted according to Article 7 of the Regulation. However, such missing information needs to be included in the PAP, as required by Article 9 of the Regulation and Annex VI thereof. For the sake of transparency, it is necessary that the required information is included in public documents, such as the PAP, and the Risk Assessments are often not public documents. Moreover, in the interest of transparency it is also necessary to ensure the comparability among the PAPs of all Member States as stakeholders may need to consult several of them.

#### *Clarification regarding the obligations to ensure the safe operation of the gas system*

Article 9(1)(d) of the Regulation establishes that the PAP should describe the obligations imposed on natural gas undertakings, electricity undertakings and other relevant bodies, such as the obligations for the safe operation of the gas system.

According to the Swedish PAP “[t]he system balancing operator must ensure that there is a sufficient quantity of gas in the Skallen storage facility to enable a controlled reduction in

*consumption/disconnection of non-protected customers ...*". Such measure appears to be an obligation for the safe operation of the gas system when the consumption of non-protected customers needs to be reduced to ensure the supply of the protected customers in the case described in Article 6(1)(c) of the Regulation (the supply standard). However, the Skallen facility has been mothballed starting winter 2017/2018 according to section 3.2 of the PAP. Therefore, it appears that it could not be used for the purpose of ensuring a safe operation of the gas system.

The Commission takes the view that the Swedish PAP needs to be amended to clarify the current situation of the Skallen storage facility and whether it can be used to ensure the safe operation of the gas system and to what extent.

#### *Missing information regarding the measures to comply with the supply standard*

Article 6(1) of the Regulation requires that gas supply to protected customers be ensured for certain minimum periods in case of an exceptionally high gas demand or supply interruptions, the so-called "supply standard". The "measures, volumes, capacities and the timing needed to fulfil the [...] supply standard" shall be contained in the PAP submitted by Member States in accordance with Article 9(1)(c) of the Regulation. The impacts of such measures need to be described in the PAP following Annex VI point 4 of the Regulation.

Section 5.4 of the Swedish PAP describes the impacts of the measures needed to comply with the supply standard, *inter alia* the disconnection of cogeneration and heating plants. It is mentioned that "*to a relatively large extent*" such plants are expected to be able to switch to a different fuel (fuel oil). However, there is not much detail in the Plans about the feasibility of such measure, e.g. how many plants can effectively switch fuel, availability of alternative fuels, or its impact on consumers.

The Commission considers that the Swedish PAP should be amended to clarify the feasibility of such switch in case of a disconnection order (i.e. technical possibility to switch to fuel oil, available stocks of fuel oil, permissible emissions, etc.) and whether it would have an impact in the supply of district heating.

#### *Missing details on stakeholder consultation*

Pursuant to Article 8(2) of the Regulation Member States have to consult natural gas undertakings, the relevant organisations representing the interest of households, industrial gas consumers and, where it is not the competent authority, the national regulatory authority before establishing the PAP and the EP. The mechanisms used for such consultations as well as their results have to be described in the PAP in accordance to Annex VI point 9.

Section 9 of the Swedish PAP describes the consultation carried out with stakeholders on the PAP but it only refers to "relevant stakeholders" without any indication on who such stakeholders are or what the results of the consultation have been. It is also not clear what the consultation mechanism was.

The Commission takes the view that the Swedish PAP should be amended to include the above-identified missing elements following the template contained in Annex VI point 9 of the Regulation.

#### (4) Emergency Plan (EP)

##### *Clarification regarding the measures to apply in case of an emergency*

According to Article 10(1)(i) and (o) of the Regulation, the PAP shall identify the contribution of non-market based measures planned for the emergency level as well as establish a list of predefined actions to make gas available in the event of an emergency.

The Swedish PAP refers to “*enforced storage withdrawal*” and “*use of strategic gas storage*” as non-market-based measures applicable at crisis level emergency (section 2.3). However, the PAP also informs that the Skallen storage facility has been mothballed as of winter 2017/2018 and will only be commissioned again if it is commercially viable. Therefore, it is unclear to what extent the use of strategic storage or enforced storage withdrawal is feasible.

The Commission consider that the Swedish Energy Agency should amend its EP to further clarify the situation of the Skallen storage facility and provide more details on the use “*strategic gas storage*” or “*enforced storage withdrawal*”.

##### *Missing information regarding specific measures for the electricity and district heating sectors*

Pursuant to Article 10(1)(e) and Annex VII section 3 of the Regulation, the EP should indicate the measures and actions to be taken to mitigate the potential impact of a disruption of gas supply on district heating and the supply of electricity generated from gas, or indicate why such measures would not be appropriate.

The EP submitted by the Swedish Energy Agency indicates that a disruption of gas supply would not have an impact on the supply of electricity but neither the EP or the PAP provide information on the concrete role of gas in the supply of electricity in Sweden.

As regards district heating, the PAP indicates that plants used for such purpose could be disconnected in order to ensure the compliance with the supply standard, i.e. the supply of gas to the protected customers in certain cases. The PAP refers to a possible fuel switching for some of these plants but this is not described in detail (see comments in section 2.1 above). The EP also does not provide further details on the measures to actually mitigate the impact of a gas disruption on district heating. *A priori* and absent further information, it appears that such impact could be relevant.

The Commission considers that the Swedish Energy Agency should amend the EP to describe the potential effects, as well as the measures and actions to be taken to mitigate the potential impact of a disruption of gas supply on the district heating sector or indicate why such measures would not be appropriate. The EP should provide further details on the role of gas in the electricity sector (see also comments in section 2.1. above) to explain why a disruption of gas supply would not have an impact on the electricity sector. The Commission is aware that some of the missing information is contained in the Risk Assessment of the Western Swedish gas grid, submitted according to Article 7 of the Regulation. However, such missing information needs to be included in the EP, as required by Article 10 of the Regulation and Annex VII thereof. For the sake of transparency, it is necessary that the required information is included in public documents, such as the EP, and the Risk Assessments are often not public documents. Moreover, in the interest of transparency it is also necessary to ensure the comparability among the EPs of all Member States as stakeholders may need to consult several of them.

### *Missing information on the application of solidarity provisions*

In a spirit of solidarity, Article 13 of the Regulation requires Member States to adopt a set of provisions to ensure the supply of gas to a minimum number of consumers in all Member States and the conditions thereof (hereafter “solidarity obligations”). This is a last resort measure to be applied in extreme situations. Article 10(1)(m) and Annex VII section 8.3 of the Regulation require Member States to describe the arrangements in place to apply the solidarity obligations laid down in Article 13 of the Regulation.

While the Commission is aware of the situation of Sweden due to its connection solely with the Danish system, and welcomes the current on-going work of the Swedish Energy Agency with Denmark to develop a solidarity agreement in accordance with the standards set on a (solely) receiving country, the Commission considers that the EP should be amended to include more details on the content of the solidarity agreement in accordance with Article 13 of the Regulation.

## **(5) CONCLUSION**

Based on the above assessment of the Plans, and in view of Article 8(8)(d) of the Regulation, the Commission concludes that some elements of the Plans do not comply with certain provisions of this Regulation

Therefore, the Commission requests the Swedish Energy Agency to amend the Plans taking duly into consideration the concerns expressed by the Commission in the present opinion and notify the amended Plans to the Commission within three months pursuant to Article 8(9) of the Regulation.

The Commission's assessment expressed in this opinion is without prejudice to any position it may take vis-à-vis Sweden as regards the compatibility of national measures with EU law, including in the context of infringement proceedings as well as enforcement of the European Union competition rules, including State aid rules.

The Commission will publish this opinion. The Commission does not consider the information contained herein to be confidential, in particular as it relates to the Plans which are publicly available. The Swedish Energy Agency is invited to inform the Commission within five working days following receipt of the opinion whether it considers that it contains commercially sensitive information, the confidentiality of which is to be preserved.

Done at Brussels, 17.7.2019

*For the Commission*  
*Miguel ARIAS CAÑETE*  
*Member of the Commission*