

**PGNiG's remarks on the Communication from the Commission "Guidelines on State aid for climate, environmental protection and energy 2022" (CEEAG)**

PGNiG welcomes the possibility to comment on the initiative concerning the Draft "Guidelines on State aid for climate, environmental protection and energy 2022" (CEEAG) (hereafter the "Draft CEEAG"). The initiative which would contribute to the development of investments in low-carbon technologies required in the process of the energy transition should be assessed positively.

Considering the significant investments required to meet the EU's strengthened climate ambitions and the urgency with which action is required to transform into a climate neutral economy, the CEEAG should facilitate the safe, responsible and sustainable production of gas in Europe, including allowing for support for emission reduction technologies. Continued gas production in Europe will be required during the transitional period to provide the basis for the development of many necessary low-carbon technologies and their supply chains. It is of key importance to allow each MS shape its decarbonisation pathways optimally in the respect of cost effectiveness, e.g. by supporting renewable as well as low carbon gases such as biomethane or hydrogen that will allow to ensure climate neutrality.

**Taking the above into account, we suggest the following remarks on the Draft CEEAG:**

**1) Definitions of CCS and CCU.**

We recommend that the definitions of CCS and CCU should ensure that all relevant sources of CO<sub>2</sub> are covered, including fossil CO<sub>2</sub> from industrial processes. Wording set out in the definition of energy infrastructure for CCS is more appropriate for covering a wide range of CO<sub>2</sub> sources (Art. 2 point 18 (35)) and using this wording consistently would be suggested.

Draft CEEAG	Proposed change
<p>Art. 2 point 18 (13):</p> <p>(13) 'carbon capture and storage' or 'CCS' means a set of technologies that captures the carbon dioxide (CO<sub>2</sub>) emitted from industrial plants based on fossil fuels or biomass, including power plants and waste-to-energy plants [or captures it directly from ambient air], transports it to a storage site and injects the CO<sub>2</sub> in suitable underground geological formations for the purpose of permanent storage of CO<sub>2</sub>;</p> <p>(14) 'carbon capture and use' or 'CCU' means a set of technologies that captures the CO<sub>2</sub> emitted from industrial plants based on fossil fuels or biomass, including power plants and waste-to-energy plants [or captures it directly from ambient air], and transports it to a CO<sub>2</sub> consumption or utilisation site;</p>	<p>Art. 2 point 18 (13):</p> <p>(13) 'carbon capture and storage' or 'CCS' means a set of technologies that captures the carbon dioxide (CO<sub>2</sub>) emitted from industrial plants <del>based on fossil fuels or biomass</del>, including power plants and waste-to-energy plants <b>that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds</b> or captures it directly from ambient air], transports it to a storage site and injects the CO<sub>2</sub> in suitable underground geological formations for the purpose of permanent storage of CO<sub>2</sub>;</p> <p>(14) 'carbon capture and use' or 'CCU' means a set of technologies that captures the CO<sub>2</sub> emitted from industrial plants <del>based on fossil fuels or biomass</del>, <b>that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds</b>, including power plants and waste-to-energy plants [or captures it directly from ambient air], and transports it to a CO<sub>2</sub> consumption or utilisation site;</p>

## 2) Definitions of “cogeneration” and “high-efficiency cogeneration”.

The definitions of “cogeneration” and “high-efficiency cogeneration” in the Draft CEEAG (Art. 2 point 18 (22 and 42) are directly linked to the Directive (EU) 2012/27 of the European Parliament and of the Council (the Energy Efficiency Directive) which is under revision as part of the “Fit for 55” package. We recommend to define these terms with taking into account the role of natural gas as a transitional fuel as the cogeneration should be considered as a mean to reduce emissions and increase energy efficiency. That is of pivotal importance in case of replacing solid fossil fuels with natural gas.

## 3) Definition of “energy-efficient district heating and cooling”.

Similarly to the point above, art. 2.4 point 18 (33) provide the definition of “energy-efficient district heating and cooling” which is also directly linked to Directive 2012/27/EU of the European Parliament and of the Council (the Energy Efficiency Directive). What is important, future change of the definition of “energy-efficient district heating and cooling” in the Energy Efficiency Directive should take into account regional conditions in order to create level playing field reflecting different stages of each region development. National circumstances such as w heavily dependence on solid fossil fuels cause that striving for clean district heating and cooling systems might be achieved gradually.

## 4) Definition of energy infrastructure concerning gas.

Inclusion of high-pressure distribution pipelines to the definition of energy infrastructure is crucial for the energy security of certain countries taking into account the specificities of the DSO in Europe.

Draft CEEAG	Proposed change
Art. 2.4 point 18 (35b): (i) transmission and distribution pipelines for the transport of natural gas, bio gas and renewable gases of non-biological origin that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas;	Art. 2.4 point 18 (35b): (i) transmission and distribution pipelines for the transport of natural gas, bio gas and renewable gases of non-biological origin that form part of a network, <del>excluding</del> <b>including</b> high-pressure pipelines used for upstream distribution of natural gas;

Smart gas grid emphasizes solutions related to digitization which is of key importance. However, it should also include necessity to adapt the network to a distributed generation model – e.g. reversers on TSO-DSO connections. Moreover, smart gas networks should take into account the transport of blends of natural gas with for example hydrogen or biomethane.

Draft CEEAG	Proposed change
Art. 2.4 point 18 (35b): (v) smart gas grids, which means any of the following equipment or installation aiming at enabling and facilitating the integration of renewable and low-carbon gases (including biomethane or hydrogen) into the network: digital systems and components integrating information and communication technologies, control systems and sensor technologies to enable the interactive and intelligent monitoring, metering, quality control and management of gas production, transmission, distribution and consumption within a gas	Art. 2.4 point 18 (35b): (v) smart gas grids, which means any of the following equipment or installation aiming at enabling and facilitating the integration of renewable and low-carbon gases (including biomethane, <b>synthetic gases</b> or hydrogen) into the network: digital systems and components integrating information and communication technologies, control systems and sensor technologies to enable the interactive and intelligent monitoring, metering, quality control and management of gas production, transmission, distribution and consumption

network. Furthermore, smart grids may also include equipment to enable reverse flows from the distribution to the transmission level and related necessary upgrades to the existing network;	within a gas network. Furthermore, smart grids may also include equipment to enable reverse flows from the distribution to the transmission level and related necessary upgrades to the existing network <b><i>including connections of the biomethane, synthetic gases and hydrogen production facilities;</i></b>
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## 5) Definition of energy infrastructure concerning hydrogen.

The challenge of creating a hydrogen commodity market will require that developed hydrogen infrastructure as well as natural gas infrastructure needs to be retrofitted for transporting blends. In particular, the technology neutral approach needs to be applied in order to bring the highest feasible volumes of hydrogen to the market, ensuring a swift and efficient (including cost-efficient) market kick-off. For that purpose the infrastructure developed under TEN-E regulation should serve transporting hydrogen in a technology neutral manner.

Draft CEEAG	Proposed change
Art. 2.4 point 18 (35c): (i) transmission pipelines, for the high-pressure transport of hydrogen, as well as distribution pipelines for the local distribution of hydrogen, giving access to multiple network users on a transparent and non-discriminatory basis;  (ii) underground storage facilities connected to the high-pressure hydrogen transmission or distribution pipelines referred to in point (i);	Art. 2.4 point 18 (35c): (i) transmission <b><i>and distribution</i></b> pipelines, for the <del>high-pressure</del> transport of hydrogen <b><i>(including blends of hydrogen and natural gas or other forms of renewable gases such as biomethane)</i></b> , as well as distribution pipelines for the local distribution of hydrogen, giving access to multiple network users on a transparent and non-discriminatory basis;  (ii) underground storage facilities connected to the <del>high-pressure hydrogen transmission or distribution pipelines</del> <b><i>or pipelines transporting blends of hydrogen and natural gas or other forms of renewable gases such as biomethane</i></b> referred to in point (i);

## 6) Definition of the energy infrastructure concerning carbon dioxide.

Regarding the definition of the energy infrastructure concerning carbon dioxide, we recommend to include the following changes which consider CO<sub>2</sub> transport, not only by pipelines but also other transport modes such as ships or trucks. A number of planned CCS projects in Europe aim to transport CO<sub>2</sub> for storage, either by pipelines or by other modes of transport (such as shipping).

Draft CEEAG	Proposed change
Art. 2.4. point 18 (35d) (i) pipelines, other than upstream pipeline network, used to transport carbon dioxide from more than one source, that is to say, industrial installations (including power plants) that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds, for the purpose of permanent geological storage of	Art. 2.4. point 18 (35d) (i) pipelines, <del>other than upstream pipeline network,</del> <b><i>and all infrastructure and equipment including ships and trucks</i></b> used to transport carbon dioxide from more than one source, that is to say, industrial installations (including power plants) that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing

carbon dioxide pursuant to Article 3 of Directive 2009/31/EC of the European Parliament and of the Council or for the purpose of using carbon dioxide as feedstock or to enhance the yields of biological processes;	compounds, for the purpose of permanent geological storage of carbon dioxide pursuant to Article 3 of Directive 2009/31/EC of the European Parliament and of the Council or for the purpose of using carbon dioxide as feedstock or to enhance the yields of biological processes;
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## 7) Projects of common interest and projects of mutual interests.

Regarding Art. 2.4 point 18 (35f) of the Draft CEEAG, for the purpose of well-functioning internal energy market, security of energy supplies based on diversification of sources and routes, competition and sustainability, it should be clearly defined that projects located in the territory of one Member State and one Energy Community country i.e. PL-UA interconnector should be eligible for PCI status. This would enable i.a. for the Ukrainian side to obtain PEI status and finance the project from the PEI fund. Moreover, any changes to the eligibility criteria for PCIs should not jeopardize the objectives of energy security and the implementation of the internal energy market.

Project promoted by at least one Member State in cooperation with third countries are eligible for PMI status what we strongly support. However, we are of the opinion that this provision needs to be strengthened with provision related to conditions on diversification of sources, suppliers and routes and undisturbed functioning of the EU internal energy market based on unbundling criteria, third party access (TPA) rules as well as transparent tariffs. Co-implemented projects with third countries that have not reached a high level of regulatory alignment or convergence in order to support Union internal market policy objectives should not be awarded PMI status. Granting PMI status to those projects could result in a distortion of competition, thereby strengthening the scenario of the dominant supplier.

## 8) Regulatory framework which would facilitate necessary investments in gas infrastructure.

The energy transition will require some Member States (e.g. Poland) to make a greater effort than others as due to historical national circumstances these MSs still depend heavily on coal. Increasing costs of transition due to more ambitious policy, would require additional support, in particular for those MSs facing highest challenges of transition. Support should be directed at solutions (including natural gas) that allow for energy transition and emission reduction as well as for mitigating the social and economic impact of energy transition. What is more, deployment of natural gas infrastructure (e.g. distribution grids or gas storage facilities) will facilitate development of renewable and low-carbon gases. Therefore, it is fundamental to ensure and implement enabling regulatory framework that will allow to make necessary investments in gas infrastructure. Similar approach should be applied in the whole document.

Draft CEEAG	Proposed change
Art. 3.3 point 71: Measures that directly or indirectly involve support to fossil fuels, in particular the most polluting fossil fuels, are unlikely to create positive environmental effects and often have important negative effects because they can increase the negative environmental externalities in the market. The same applies for measures involving new investments in natural	Art. 3.3 point 71: Measures that directly or indirectly involve support to <del>fossil fuels, in particular</del> the most polluting fossil fuels, are unlikely to create positive environmental effects and often have important negative effects because they can increase the negative environmental externalities in the market. <del>The same applies for</del> <b><i>This provision should not apply to</i></b> measures

gas, unless it is demonstrated that there is no lock-in effect. This will in principle render a positive balancing for such measures unlikely, as further explained in Chapter 4.	<p>involving new investments in natural gas, <del>unless</del> <b><i>in particular investments specified in art. 7(1h) in the ERDF Regulation:</i></b></p> <ul style="list-style-type: none"> <li>- <b><i>replacement of solid fossil fuels fired, namely coal, peat, lignite, oil-shale, in heating systems;</i></b></li> <li>- <b><i>expansion and repurposing, conversion or retrofitting of gas transmission and distribution networks provided that such investment makes the networks ready for adding renewable and low carbon gases, such as hydrogen, biomethane and synthesis gas, into the system and allows to substitute solid fossil fuels installations;</i></b></li> <li>- <b><i>investments in clean vehicles; investments in vehicles, aircraft and vessels designed and constructed or adapter for use by civil protection and fire services.</i></b></li> </ul> <p><del>it is demonstrated that there is no lock-in effect.</del> This will in principle render a positive balancing for such measures unlikely, as further explained in Chapter 4.</p>
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#### 9) Reduction and removal of greenhouse gas emissions.

Regarding aid for the reduction and removal of greenhouse gas emissions, including through support for renewable energy, we recommend to explicitly indicate supported sources of energy which would enable the process of transition to a low-carbon economy.

Draft CEEAG	Proposed change
Art. 4.1 point 76: Support for biofuels, bioliquids, biogas and biomass fuels can only be approved to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria in Directive (EU) 2018/2001 and its implementing or delegated acts.	Art. 4.1 point 76: Support for biofuels, bioliquids, biogas <b><i>(such as biomethane)</i></b> , <del>and</del> biomass fuels <b><i>and low carbon gases (such as hydrogen)</i></b> can only be approved to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria in Directive (EU) 2018/2001 and its implementing or delegated acts.

#### 10) Recognition of the role of natural gas as a transition fuel.

The State aid framework should support Member States and facilitate the coal-to-gas switch in the context of GHG emission reduction. Allowing for a fuel-switching to natural gas in a transitional phase is necessary to achieve decarbonisation through affordable and gradual transition. In a 2050 perspective, investing in the production of natural gas and low-carbon hydrogen as well as in gradual technical adaptations of the EU gas infrastructure to carry hydrogen can contribute to climate neutrality while making use of existing infrastructure in a more cost-effective way. We understand that investments in natural gas may be supported under certain conditions as set out in point 110, however the Draft CEEAG include footnote 64. Such an approach is too stringent and could result in excluding the most cost-effective solutions on the pathway to climate neutrality and as a consequence, increase

energy poverty rates, especially in those Member States which are heavily dependent on solid fossil fuels. We would therefore recommend deleting footnote 64.

Draft CEEAG	Proposed change
<p>Art. 4.1 point 110: Similarly, measures that incentivise new investments in energy or industrial production based on natural gas may reduce greenhouse gas emissions and other pollutants in the short term but aggravate negative environmental externalities in the longer term, compared to alternative investments. For investments in natural gas to be seen as having positive environmental effects, Member States must explain how they will ensure that the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target. In particular, the Member States should explain how a lock in of this gas-fired energy generation or gas-fired production equipment will be avoided. For example, this may include binding commitments by the beneficiary to implement decarbonisation technologies such as CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets<sup>64</sup>.</p> <p><sup>64</sup>In addition, where a project involves investment in a natural gas based energy generation or industrial production installation the costs of this installation would not generally be eligible for State aid under this section, since this would usually be considered the counterfactual investment that would take place in the absence of aid. Rather, the additional elements that deliver emissions reductions, such as CCS or extra costs associated with cogeneration, would be eligible for aid.</p>	<p>Art. 4.1 point 110: Similarly, measures that incentivise new investments in energy or industrial production based on natural gas may reduce greenhouse gas emissions and other pollutants in the short term but aggravate negative environmental externalities in the longer term, compared to alternative investments. For investments in natural gas to be seen as having positive environmental effects, Member States must explain how they will ensure that the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target. In particular, the Member States should explain how a lock in of this gas-fired energy generation or gas-fired production equipment will be avoided. For example, this may include binding commitments by the beneficiary to implement decarbonisation technologies such as CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets<sup>64</sup>.</p> <p><del><sup>64</sup>In addition, where a project involves investment in a natural gas based energy generation or industrial production installation the costs of this installation would not generally be eligible for State aid under this section, since this would usually be considered the counterfactual investment that would take place in the absence of aid. Rather, the additional elements that deliver emissions reductions, such as CCS or extra costs associated with cogeneration, would be eligible for aid.</del></p>

## 11) Electro-intensive sectors.

Art. 4.11 point 357 states that only sectors listed in Annex I to the Draft CEEAG which are meeting eligibility criteria may be granted by reductions from electricity levies. The Draft CEEAG do not anticipate that other sectors, which are not currently considered as electro-intensive in the Annex I, may become electro-intensive in the future (e.g. upon electrification of gas platforms). Therefore, to facilitate the electrification of gas platforms, the production of natural gas should be included in Annex I, and appropriate modifications should be made in the Draft CEEAG to reflect the calculation of electro-intensity, for example to reflect forward projections.

## 12) Solutions for the transport sector.

Points 162, 163, 185 and 186 of the Draft CEEAG should be amended as below. Taking into account the limited availability of hydrogen solutions and a lack of cleaner alternatives on the markets of some Member States, it would be advisable to grant the aid for the deployment or upgrade of CNG and LNG infrastructure as well as CNG and LNG vehicles to facilitate the transition towards cleaner technologies on a timeline consistent with the Union's climate targets.

Draft CEEAG	Proposed change
<p>Art. 4.3 (point 162):</p> <p>Aid for the acquisition or leasing of CNG and LNG vehicles may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term<sup>71</sup>. The aid may also be regarded as not having lock-in effects or displacing investments into cleaner technologies where the Member State commits to ensure that those vehicles would be operated using blending of biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).</p>	<p>Art. 4.3 (point 162):</p> <p>Aid for the acquisition or leasing of CNG and LNG vehicles may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term<sup>71</sup>. The aid may also be regarded as not having lock-in effects or displacing investments into cleaner technologies where the Member State commits to ensure that those vehicles would be operated using blending of biogas or renewable gaseous transport fuels of non-biological origin (<del>minimum 20%</del>).</p>
Draft CEEAG	Proposed change
<p>Art. 4.3 (point 185):</p> <p>Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term<sup>75</sup>. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).</p>	<p>Art. 4.3 (point 185):</p> <p>Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term<sup>75</sup>. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (<del>minimum 20%</del>). <b><i>This may include binding commitments by/from the beneficiary to implement blending CNG and LNG with biogas or renewable gaseous transport fuels of non-</i></b></p>

	<b><i>biological origin on a timeline consistent with the Union's climate targets.</i></b>
<b>Draft CEEAG</b>	<b>Proposed change</b>
<p>Art. 4.3 (point 186):</p> <p>Alternatives to fossil-based fuels are already available on the market for use in the road transport, inland and sea and coastal water transport, and railway transport sectors. Therefore, aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen is not considered to yield the same positive effects as aid for the deployment of refuelling infrastructure supplying non-fossil-based fuels. Firstly, the improvement in terms of CO2 emission reductions achieved in the transport sector is likely counterbalanced by the continuation of carbon emissions linked to the production and use of fossil-based fuels. Secondly, in the absence of a commitment from the Member State that the refuelling infrastructure will supply renewable or at least low-carbon hydrogen, the granting of aid for deploying hydrogen refuelling infrastructure may entail a risk of locking in the production of carbon-intensive hydrogen, thereby displacing investments into cleaner alternatives by shifting demand away from non-fossil-based production processes. This would also discourage the further development of the market for clean, future-proof non-fossil-based technologies for zero emission mobility, and for the production of non-fossil fuels and energy. The Commission therefore considers it generally unlikely that the negative effects on competition of aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen will be offset.</p>	<p>Art. 4.3 (point 186):</p> <p>Alternatives to fossil-based fuels are already available on the market for use in the road transport, inland and sea and coastal water transport, and railway transport sectors. Therefore, aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen is not considered to yield the same positive effects as aid for the deployment of refuelling infrastructure supplying non-fossil-based fuels. Firstly, the improvement in terms of CO2 emission reductions achieved in the transport sector is likely counterbalanced by the continuation of carbon emissions linked to the production and use of fossil-based fuels. Secondly, in the absence of a commitment from the Member State that the refuelling infrastructure will supply renewable or at least low-carbon hydrogen, the granting of aid for deploying hydrogen refuelling infrastructure may entail a risk of locking in the production of carbon-intensive hydrogen, thereby displacing investments into cleaner alternatives by shifting demand away from non-fossil-based production processes. This would also discourage the further development of the market for clean, future-proof non-fossil-based technologies for zero emission mobility, and for the production of non-fossil fuels and energy. The Commission therefore considers it generally unlikely that the negative effects on competition of aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen will be offset <b><i>unless beneficiaries commit themselves to gradually shift from supplying fossil-based fuels such as carbon-intensive hydrogen to supplying renewable or at least low-carbon hydrogen on a timeline consistent with the Union's climate targets.</i></b></p>