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REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC

(Text with EEA relevance)

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 172 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy "Europe 2020". One of the priorities of the Europe 2020 strategy³ is sustainable growth to be achieved by promoting a more resource efficient, ~~greener~~ **more sustainable** and more competitive economy. The strategy put energy infrastructures at the forefront as part of the flagship initiative "Resource efficient Europe", by underlining the need to urgently upgrade Europe's networks, interconnecting them at the continental level, in particular to integrate renewable energy sources. [Am. 117]

(1a) The target for Member States of a level of electricity interconnections equivalent to at least 10% of their installed production capacity agreed by the Barcelona European Council of 15-16 March 2002 has not been achieved. [Am. 118]

¹ OJ C , , p. .

² OJ C , , p. .

³ COM(2010) 2020

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- (2) Communication from the Commission entitled "Energy infrastructure priorities for 2020 and beyond – A Blueprint for an integrated European energy network"⁴, followed by the Transport, Telecommunications and Energy Council conclusions of 28 February 2011 and the European Parliament resolution of 6 July 2011, called for a new energy infrastructure policy to optimise network development at European level for the period up to 2020 and beyond, in order to allow the Union to meet its core energy policy objectives of competitiveness, sustainability and security of supply.
- (3) The European Council of 4 February 2011 underlined the need to modernise and expand Europe's energy infrastructure and to interconnect networks across borders, in order to make solidarity between Member States operational, to provide for alternative supply or transit routes and sources of energy and develop renewable energy sources in competition with traditional sources. It insisted that no EU Member State should remain isolated from the European gas and electricity networks after 2015 or see its energy security jeopardized by lack of the appropriate connections.
- (4) *According to Article 171 of the Treaty on the Functioning of the European Union (TFEU), one aim of the Trans-European Networks is to achieve the objectives of Article 170 TFEU. In this respect, account should be taken of Decision No 1364/2006/EC of the European Parliament and of the Council of 6 September 2006 which lays down guidelines for trans-European energy networks⁵. These Guidelines (TEN-E) have as objectives to support the completion of the Union internal energy market while encouraging the rational production, transportation, distribution and use of energy resources, to reduce the isolation of less-favoured and island regions, to secure and diversify the Union's energy supplies, *sources and routes* also through co-operation with third countries, and to contribute to sustainable development and protection of the environment. [Am. 119]*
- (4a) *The challenge of autonomy and energy supply in the outermost regions of the Union should be taken into account, given their geomorphologic conditions and geographical location, particularly when identifying projects of common interest,*

⁴ COM(2010) 677

⁵ OJ L 262, 22.9.2006, p. 1.

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since those regions are privileged locations for the development of renewable energies, a key condition for achieving European energy and climate targets. Within its energy infrastructure priorities the Commission should allow for the special case of island energy systems. [Am. 1]

- (5) Evaluation of the current TEN-E framework has clearly shown that this policy, while making a positive contribution to selected projects by giving them political visibility, lacks vision, focus, and flexibility to fill identified infrastructure gaps ***and the Union is far from ready to meet future challenges in the field of Trans-European energy infrastructure development. In this context the importance of identifying potential future gaps in energy demand and supply should be emphasized. [Am. 2]***
- (6) Accelerating the refurbishment of existing and deployment of new energy infrastructure is vital to achieve the Union's energy and climate policy objectives, consisting in completing the internal market in energy, guaranteeing security of supply, notably for gas and oil, reducing greenhouse gas emissions by 20%⁶, increasing the share of renewable energy in the final energy consumption to 20%⁷, ***i.e. by connecting regions with high renewable energy production capacity and electricity storage potential***, and achieving a 20% increase in energy efficiency by 2020. At the same time, the Union has to prepare its infrastructure for further decarbonisation of its energy system in the longer term towards 2050. ***All these targets make a future interconnected European electricity grid and long-distance electricity highways a priority in energy infrastructure. [Am. 124]***
- (6a) ***Energy efficiency is a key instrument for attaining a sustainable energy future and reducing future need to invest in infrastructure. [Am. 126]***
- (6b) ***The present economic climate underscores the need to adopt an integrated approach to energy matters, taking into account their economic, environmental and social aspects. It is essential to pay heed to the beneficial and adverse side effects when***

⁶ 30% if the conditions are right

⁷ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources, OJ L 140, 5.6.2009, p. 16.

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carrying out the work required to ensure, in the medium and long term, that all Union citizens will have access to safe, sustainable and affordable energy.
[Am. 127]

- (7) Despite its legal existence as defined in Directives 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity⁸ and 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas⁹, the internal market in energy remains fragmented due to *the* insufficient interconnections between national energy networks *and to the sub-optimal utilisation of the existing energy infrastructure as a result of inadequate implementation of these Directives Member States, the target for Member States to achieve at least 10% of electricity and gas interconnection capacity agreed by the European Council in 2007 not having been achieved. Strict national implementation of the rules and the existence of well functioning*, Union-wide integrated networks, *with effectively separated supply and production activities from network operations and deployment of smart grid infrastructure allowing for increased energy efficiency and integration of distributed renewable energy sources* however are vital for *achieving the optimal utilisation of infrastructure assets and* ensuring a competitive and well functioning integrated market for promoting *resource efficient* growth, employment and sustainable development. [Am. 127]
- (7a) *The Union's internal pipeline network requires further integration between its western and its eastern and south-eastern parts in order to ensure security of supply throughout the Union.* [Am. 131]
- (8) The Union's energy infrastructure should be upgraded in order to prevent and increase its resilience to natural or man-made disasters, adverse effects of climate change and threats to its security, notably concerning European critical infrastructures as set out in Council Directive 2008/114/EC of 8 December 2008 on the identification and

⁸ OJ L 211, 14.8.2009, p.55.

⁹ OJ L 211, 14.8.2009p.94.

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designation of European critical infrastructures and the assessment of the need to improve their protection¹⁰.

(8a) *Reducing the use of risk-prone means for transporting oil, such as tankers, is an important element in lowering the environmental risk associated with the transportation of oil. [Am. 5]*

(9) The importance of smart grids in achieving the Union's energy policy objectives has been acknowledged in Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Smart grids: from innovation to deployment"¹¹.

The Commission should present a specific proposal for the development of Smart grids, in order to fully seize the benefits of existing synergies between Energy and Telecommunications infrastructures. [Am. 132]

(9a) *Energy storage facilities and reception, storage and re-gasification or decompression facilities for liquefied natural gas (LNG) and compressed natural gas (CNG) have an increasingly important role to play in the creation of a European energy infrastructure. The rapid expansion of such energy infrastructure facilities is thus desirable and an important component of a holistic approach and a functioning network infrastructure. There are, however, funding limitations for such categories of projects that compete with each other. [Am. 133] Competition in the construction and operation of pumped storage power plants should not be hampered by the charging of network tariffs which treat these plants as final consumers. Disincentives arising from such tariffs should be eliminated.*

(10) Communication from the Commission "The EU Energy Policy: Engaging with Partners beyond Our Borders"¹² underlined the need for the Union to include the promotion of energy infrastructure development in its external relations with a view to supporting the socio-economic development beyond the Union borders. The Union

¹⁰ OJ L 345, 23.12.2008, p. 75

¹¹ COM(2011) 202 final

¹² COM (2011) 539

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should facilitate infrastructure projects linking the Union's energy networks with third country networks, in particular in neighbouring countries and in countries, with which the Union has established specific energy cooperation.

- (10a) *To ensure voltage and frequency stability, particular attention should be focused on the stability of the European electricity network under the changing conditions caused by the growing incoming supplies of volatile renewable energy. Further research efforts are needed in order to enable smart grids, storage capacities, and intelligent energy mix concepts to compensate for supply fluctuations in electricity generated from renewable sources. [Am. 6]*
- (11) The investment needs up to 2020 in electricity and gas transmission infrastructures of European relevance have been estimated at about EUR 200 billion. The significant increase in investment volumes compared to past trends, *as a result of the faster and more comprehensive development of renewable energy sources and the efforts to achieve the Union objectives of reducing greenhouse gas emissions by 20 %, improving energy efficiency by 20 % and increasing the share of energy consumption accounted for by renewable energy sources by 20 %, all by 2020*, and the urgency to implement the energy infrastructure priorities, *especially in times of financial constraints*, requires a new approach in the way energy infrastructures, and notably those of cross-border nature, are regulated and financed. *This approach nonetheless should take account of fiscal consolidation mechanisms taking place across the EU, prioritise those projects of common interest providing genuine European added value, and recognise where authorities of Member States and the market are better placed to intervene. [Am. 135]*
- (11a) *The fact that the outermost regions of the Union depend greatly on imported fossil fuels imposes high additional costs on their growth and economic development. These regions have a role to play as natural laboratories for renewables and electricity and natural gas transmission, and this should be boosted by pursuing projects of common interest aimed at diversifying the regional energy base and enhancing sustainability and energy efficiency, thus helping to meet the targets laid down in the Europe 2020 strategy. [Am. 6]*

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- (12) The Commission Staff Working Paper to the Transport, Telecommunications and Energy Council of 10 June 2011 "Energy infrastructure investment needs and financing requirements"¹³ stressed that approximately half of the total investments needed for the decade up to 2020 are at risk of not being delivered at all or not in time due to obstacles related to permit granting, regulation and financing.
- (13) This Regulation lays down rules for the timely development and interoperability of trans-European energy networks in order to achieve the Treaty's energy policy objectives to ensure the functioning of the internal energy market and security of supply in the Union, *to reduce dependence on imports*, to promote energy efficiency and energy saving and the development of new and renewable forms of energy, and to promote the interconnection of energy networks. By pursuing these objectives, this proposal contributes to smart, sustainable and inclusive growth and brings benefits to the entire Union in terms of competitiveness and economic, social and territorial cohesion. *In order to achieve these objectives, this Regulation promotes consultations with regional authorities engaged in the process to be arranged at the relevant stage of the permit granting procedure.* [Am. 7]
- (13a) *The increasing technological complexity of the new energy mix, due to a significant additional contribution from renewable sources within a short period of time, has increased the risk of lack of coordination, and even of power cuts, in multi-dependent networks. Close coordination of electricity and gas systems, both at regional and at Union level, to collect information on real-time cross-border exchanges, could become an important tool for national regulators, transmission system operators, the Agency and the Commission, generating necessary information for the planning and effective operation of infrastructure networks/grids. The European Network of Transmission System Operators for Electricity (ENTSO-E) and for Gas (ENTSO-G) should submit proposals to the Commission for the design and implementation of appropriate real-time operational coordination of European energy infrastructure.* [Am. 2]

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- (13b) *In order to comply with the solidarity principle driving the energy policy of the Union as referred to in Article 194 TFEU, the balanced development of all the European regions should be taken into account for the prioritization and implementation of projects in the fields of electricity, gas and oil transmission infrastructures and for carbon dioxide transport and storage facilities. [Am. 141]*
- (13c) *The Agency for the Cooperation of Energy Regulators plays an important role in ensuring a trans-European perspective on the infrastructure developments to be promoted by this Regulation. The Agency for the Cooperation of Energy Regulators should be allocated sufficient resources to fulfil this important task. [Am. 142]*
- (14) The Commission has identified, following close consultations with all Member States and stakeholders, 12 strategic trans-European energy infrastructure priorities, whose implementation by 2020 is essential for the achievement of the Union's energy and climate policy objectives. These priorities cover different geographic regions or thematic areas in the field of electricity transmission and storage, gas transmission, storage and liquefied or compressed natural gas infrastructure, carbon dioxide transport and oil infrastructure.
- (15) The identification of projects of common interest should be based on common, transparent and objective criteria in view of their contribution to the energy policy objectives. For electricity and gas, proposed projects should be part of the latest available ten-year network development plan. This plan should notably take account of the conclusions of the 4 February European Council with regard to the need to integrate peripheral energy markets *and promote investment in renewable energy sources and safe and sustainable low carbon technologies. [Am. 149]*
- (15a) *Third parties that wish to invest in this area should not be excluded from applying for and receiving funding for projects of common interest. Furthermore, partnerships between third parties and governmental bodies, involving projects of common interest should also be encouraged. [Am. 7]*
- (16) In view of complying with article 172 of the Treaty on the Functioning of the European Union, regional groups should be established for the purpose of proposing

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projects of common interest that will be approved by Member States, *without undermining the existing Regional Initiatives*. In order to ensure broad consensus, these regional groups should ensure close cooperation between Member States, national regulatory authorities, project promoters and relevant stakeholders. The cooperation should rely as much as possible on existing regional cooperation structures of national regulatory authorities and transmission system operators and other structures established by the Member States and the Commission. [Am. 152]

- (17) The Union-wide list of projects of common interest should be limited to projects which contribute the most to the implementation of the strategic energy infrastructure priority corridors and areas *and which have a significant impact on the implementation of the Union's climate and energy objectives*. This requires the decision on the list to be taken by the Commission, *considering the results of the cost-benefit analyses*, while respecting the *principles of transparency and objectivity during the project selection process*. *The* right of the Member States to approve projects of common interest related to their territory *is safeguarded in accordance with the Treaty*. *In the event of Member States refusing projects of common interests in their territory, such refusal should be duly justified and supported by a substantive justification*. According to analysis carried out in the accompanying impact assessment, the number of ~~such~~ projects *of common interest* is estimated at some 100 in the field of electricity and 50 in the field of gas. [Am. 3]
- (17a) *Any project fulfilling the eligibility criteria as to qualify as project of common interest that has not been included in the ten-year network development plans should also be taken into consideration by the Regional Groups in the identification process, at all times*. [Am. 157]
- (18) Projects of common interest should be implemented as quickly as possible and should be closely monitored and evaluated, while keeping the administrative burden for projects promoters, *particularly with regard to small and medium-sized enterprises*, to a minimum. The Commission should nominate European coordinators ~~for~~ *to assist* projects facing particular difficulties *so as to prevent them being compromised*. [Am. 9]

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- (18a) *Cooperation through horizontal projects in the energy and transport area should be promoted in order to develop synergies with high Union added value. [Am. 9]*
- (19) Authorisation procedures should not lead to administrative burdens which are disproportionate to the size or complexity of a project, nor create barriers to the development of the trans-European networks and market access. The European Council of 19 February 2009 highlighted the need to identify and remove barriers to investment, including by means of streamlining of planning and consultation procedures. These conclusions were reinforced by the European Council of 4 February 2011 which again underlined the importance to streamline and improve authorisation procedures while respecting national competences.
- (19a) *Planning and implementation of Union projects in the area of energy and transport infrastructure should be coordinated to generate synergies where this makes sense from an economic, technical and environmental point of view and with due regard to the relevant safety aspects. [Am. 10]*
- (20) Projects of common interest should be given "priority status" at national level to ensure rapid administrative treatment. *Regional or national projects may also be given priority status if this serves to guarantee the integration of renewable energy sources and safeguard competition. This also includes projects involving third countries (e.g. Switzerland).* Projects of common interest shall be considered by competent authorities as being in public interest. Authorisation should be given to projects which have an adverse impact on the environment, for reasons of overriding public interest, when all the conditions provided for under Directives 92/43/EC and 2000/60/EC are met. *There is a need to identify, according to a hierarchy of importance and in the interest of cost-effectiveness, where infrastructure could be minimised through energy efficiency policies, where existing national and cross-border infrastructure can be upgraded or modernised and where new infrastructure is needed and can be built alongside existing energy or transport infrastructure. Moreover, Member States are encouraged to apply the provisions of the administrative treatment for projects of common interest and to projects of national interest. [Am. 161]*

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- (21) The establishment of a single competent authority at national level integrating or coordinating all permit granting procedures ("one-stop shop") should reduce complexity, increase efficiency and transparency and help enhance cooperation among Member States.
- (21a) *When the various trans-European networks are being planned, preference should be given to integrating transport, communication and energy networks in order to ensure that as little land as possible is taken up, whilst ensuring, where possible, that existing and/or disused routes are reused, in order to reduce to a minimum any social, economic, environmental and financial impact and the burden on the land.*
[Am. 13]
- (22) Despite the existence of established standards for the participation of the public in environmental decision-making procedures, additional measures are needed to ensure highest possible standards of transparency and public participation for all relevant issues in the permit granting process for projects of common interest.
- (23) The correct and coordinated implementation of Council Directive 85/337/EC as amended and of the Aarhus and Espoo Conventions should ensure the harmonisation of the main principles for the assessment of environmental effects, including in a cross-border context. Member States should coordinate their assessments for projects of common interest, and provide for joint assessments, where possible. *Member States should be encouraged to exchange best practice and administrative capacity-building for permit granting procedures, and the Commission should play a role in promoting such efforts.* [Am. 5](24) *Investment in trans-European energy infrastructure is particularly important in view of the development and job creation potential.* Given, *therefore*, the urgency to develop energy infrastructures, the simplification of permit granting procedures must be accompanied by a clear deadline for the decision to be taken by the respective competent authorities regarding the construction of the project *and by measures that encourage national entities to adopt new and more effective working methods.* This time limit should stimulate a more efficient definition and handling of procedures, and should under no circumstances compromise on the high standards for the protection of the environment and public

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participation. *On the contrary, this should promote timely and coherent identification and assessment of environmental issues, an open approach to available technical options and early public involvement.* [Am. 6]

- (24a) *Given the risk that many infrastructure projects will not meet the planned commissioning date on time due to lengthy approval processes, the project promoter should consider a technology neutral approach from the outset of the authorisation procedure, namely by considering all technology options as listed under Annex II (1a) or a combination thereof.* [Am. 169]
- (25) This Regulation, in particular the provisions on permit granting, public participation and implementation of projects of common interest, should apply without prejudice to international and Union legislation, including provisions to protect the environment and human health, and provisions adopted under the Common Fisheries and Maritime Policy.
- (25a) *Energy infrastructure, especially where transport networks are concerned, should be planned and laid down in such a way as to ensure that there would be no convoys carrying hydrocarbon products within or close to residential areas, in order to rule out all possibility of endangering residents' safety.* [Am. 15]
- (26) The assessment of the costs and benefits of an infrastructure project on the basis of a harmonised methodology for *long-term* energy system-wide analysis *in line with the targets of Directive 2009/28/EC, other relevant Union legislation and the EU 2050 objectives as envisaged in the Roadmaps of the Commission*, in the framework of the ten-year network development plans prepared by the European Networks of Transmission System Operators according to Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity¹⁴ and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks¹⁵, and reviewed by the Agency on

¹⁴ OJ L 211, 14.8.2009, p.15

¹⁵ OJ L 211, 14.8.2009, p.36

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the Cooperation of Energy Regulators according to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹⁶, should be the basis for the discussion on the appropriate allocation of costs. [Am. 171]

(27) In an increasingly integrated internal energy market, clear and transparent rules for cost allocation across borders are necessary in order to accelerate investment in cross-border infrastructure *for the benefit of Union businesses, not least for SMEs for which high energy prices may become a serious obstacle, and consumers*. The European Council of 4 February 2011 recalled the importance to promote a regulatory framework attractive to investment in networks, with tariffs set at levels consistent with financing needs and the appropriate cost allocation for cross-border investments, while enhancing competition and competitiveness, notably of European industry *and of SMEs*, and taking account of the impact on consumers. *In this regard, if deemed necessary, a benchmarking of investment costs between project promoters across Member States should be carried out to ascertain if costs are efficiently incurred.* [Am. 173]

(27a) *Considering that this Regulation aims at building up a highly competitive single market for energy, the projects of common interest should help achieve the objectives of the Union common energy policy and, as a matter of priority, complete the internal energy market and guarantee security of supply, paying due consideration to avoiding market distortion.* [Am. 174]

(27b) *For natural gas transmission projects having a cross-border impact, Member States should consider designating an appropriate entity to take long-term commitments in the form of capacity booking in another Member State for the purpose of cross-border cost allocation to the beneficiaries of the project. Such capacity should be offered to the market.* [Am. 175]

(28) The existing internal energy market legislation requires that tariffs for access to gas and electricity networks shall provide appropriate incentives for investment. When

¹⁶ OJ L 211, 14.8.2009, p.1

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applying the internal energy market legislation, national regulatory authorities should ensure ~~that~~ ***a stable and predictable regulatory framework with*** incentives for projects of common interest, including long-term incentives, ~~are~~ commensurate with the level of specific risk of the project. This applies notably in electricity to innovative transmission technologies to allow for large scale integration of renewable energy, of distributed energy resources or of demand response in interconnected networks, and to gas transmission infrastructure offering advanced capacity or additional flexibility to the market to allow for short-term trading or back-up supply in case of supply disruptions. [Am. 7]

(28a) ***Effective functioning of the market is essential so that enough investors are attracted and the majority of the investment costs can be financed by the market. In some cases, however, market mechanisms alone will not be sufficient to achieve the intended results. This is particularly the case for the financing of key projects which in the short term are not attractive to the market but whose development is nonetheless necessary in order to attain the intended energy infrastructure targets. It is therefore crucial that the public sector should provide the requisite financial support for such projects by establishing a mix of financing instruments geared to innovation.*** [Am. 177]

(29) The European Energy Programme for Recovery (EPR)¹⁷ has demonstrated the added value of leveraging private funding through significant Union financial aid to allow implementation of projects of European significance. The European Council of 4 February 2011 recognised that some energy infrastructure projects may require limited public finance to leverage private funding. In the light of the economic and financial crisis and budgetary constraints, targeted support, through grants and financial instruments ***together with a stable and predictable regulatory framework***, should be developed under the next multi-annual financial framework, which will attract new investors into the energy infrastructure priority corridors and areas, while keeping the budgetary contribution of the Union to a minimum.***The relevant measures should***

¹⁷ OJ L 200, 31.7.2009, p.31

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draw on the experience gained during the pilot phase following the introduction of project bonds to finance infrastructure projects. [Am. 178]

- (30) Projects of common interest in the fields of electricity, gas and carbon dioxide should be eligible to receive Union financial assistance for studies and, under certain conditions, for works under the proposed Regulation for a Connecting Europe Facility (CEF Regulation), either in the form of grants or in the form of innovative financial instruments. This will ensure tailor-made support can be provided to those projects of common interest which are not viable under the existing regulatory framework and market conditions *insofar as they are in accordance with Union internal energy market legislation. The avoidance of any distortion of competition, in particular between projects contributing to the achievement of the same Union priority corridor, should be duly taken into account.* Such financial assistance should ensure the necessary synergies with funding from instruments under other Union policies. In particular, the Connecting Europe Facility will finance energy infrastructure of European relevance, ~~while~~ *and in addition to this, the* Structural Funds will finance smart energy distribution networks of local or regional importance. The two sources of funding will thereby complement each other. [Am. 8]
- (30a) *In the current climate of economic crisis, the wide credit rating disparity between Member States and investors could lead to imbalances and major obstacles to project funding. The contribution of Union funding to overcoming these imbalances is of central importance in ensuring that the realisation of infrastructure projects helping to achieve the objectives of this Regulation is not compromised – particularly in view of the fact that the lion’s share of the necessary funding for energy infrastructure over the coming decade will be provided by the private sector.* [Am. 8]
- (31) Decision No 1364/2006/EC should therefore be repealed.
- (32) ~~Since~~ *The Member States' failure to meet the electricity interconnections target agreed by the Barcelona European Council in 2002 is evidence that the* the objective of this Regulation, namely the development and interoperability of trans-European

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energy networks and connection to such networks, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. **[Am. 186]**

HAVE ADOPTED THIS REGULATION:

CHAPTER I – GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down guidelines for the timely development and interoperability of priority corridors and areas of trans-European energy infrastructure set out in Annex I.
 - 1a. The guidelines laid down in this Regulation and, in particular, the rules and criteria to identify projects of common interest, shall comply with one or more of the following energy policy objectives:*
 - (a) competitiveness by promoting the further integration of the internal energy market and the interoperability of energy networks across borders;*
 - (b) enhancing Union security of energy supply and its system resilience and security of system operations;*
 - (c) a sustainable development and protection of the environment. [Am. 187]*
2. In particular, this Regulation:
 - (a) lays down rules to identify projects of common interest necessary to implement these priority corridors and areas and falling under the energy infrastructure categories in electricity, gas, oil, and carbon dioxide set out in Annex II;

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- (b) facilitates the timely implementation of projects of common interest by accelerating permit granting and ~~enhancing~~ **setting minimum requirements for** public participation; **[Am. 10]**
- (c) provides rules for cross-border allocation of costs and risk-related incentives for projects of common interest;
- (d) determines conditions for eligibility of projects of common interest for Union financial assistance under [Regulation of the European Parliament and the Council establishing the Connecting Europe Facility].

Article 2

Definitions

For the purpose of this Regulation, in addition to the definitions provided for in Directives 2009/28/EC, 2009/72/EC and 2009/73/EC, Regulations (EC) No 713/2009, (EC) No 714/2009, and (EC) No 715/2009, the following definitions shall apply:

1. 'energy infrastructure' means any physical equipment designed to allow transmission and distribution of electricity or gas, ***including the reception, storage, re-gasification and decompression facilities for liquefied natural gas (LNG) and compressed natural gas (CNG)***, transportation of oil or ~~carbon dioxide~~, or storage of electricity or gas, which is located within the Union or linking the Union and one or more third countries; **[Am. 9]**
2. 'comprehensive decision' means the decision taken by a competent authority to grant or refuse authorisation to build the energy infrastructure relating to a project, without prejudice to any subsequent decisions taken in the context of granting access to property, or administrative or judicial appeal procedures thereafter;
3. 'project' means one or several lines, pipelines, facilities, equipments, installations and related infrastructure categories as set out in Annex II, aiming at building new energy infrastructure or reinforcing or refurbishing existing energy infrastructure;

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4. 'project of common interest' means a project, which is necessary to implement the energy infrastructure priority corridors and areas set out in Annex I;
- 4a** *“energy bottleneck” means lack of capacity or limited physical flows of interconnection due either to absence of infrastructure or to faltering system management;*
5. 'project promoter' means:
- (a) transmission system operator or distribution system operator or other operator or investor developing a project of common interest; or
 - (b) if there are several transmission system operators, distribution system operators, other operators, investors, or any group thereof, the entity with legal personality under the applicable national law, which has been designated by contractual arrangement between them and which has the capacity to undertake legal obligations and assume financial liability on behalf of the parties to the contractual arrangement.
- 5a.** *'Regional Group ("Group")' means a group set up according to the priority corridors and areas set out in Annex I and the provisions of Annex III, and having the tasks of collaborating in the process of selecting projects of common interest, and in monitoring their implementation;*
- 5b.** *'Agency' means the Agency for the Cooperation of Energy Regulators established in Regulation (EC) No 713/2009;*
- 5c.** *‘smart grid’ means an energy network that can cost efficiently integrate the behaviour and actions of all users connected to it – generators, consumers and those that do both – in order to ensure economically efficient, sustainable power system with low losses and high levels of quality and security of supply and safety.*
- [Am. 9]

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CHAPTER II – PROJECTS OF COMMON INTEREST

Article 3

Identification of projects of common interest

- ~~1. The Commission shall establish a Union-wide list of projects of common interest. The list shall be reviewed and updated as necessary every two years. The first list shall be adopted by 31 July 2013 at the latest.~~
2. ***At the latest... [two months after adoption of this Regulation] and*** for the purpose of identifying projects of common interest, the Commission shall establish a Regional Group ("Group") as defined in section 1 of Annex III based on each priority corridor and area and their respective geographical coverage as set out in Annex I. ***In view of the efficient progress of works, the Commission may consider, where appropriate, subdividing Regional Groups. The Commission shall chair the Groups.***
- 2a. ***Project promoters shall submit an application for selection as project of common interest to the Group in accordance with point (1) of section 2 of Annex III.***
3. Each Group shall draw up its ***regional*** proposed list of projects of common interest according to the process set out in section 2 of Annex III ***and taking into account:***
 - (a) ~~according to the contribution of each project to implementing~~ ***achieving the objectives of*** the energy infrastructure priority corridors and areas ***as*** set out in Annex I ~~and according to their~~
 - (b) ***the*** fulfilment ***by each project*** of the ***general*** criteria set out in Article (1); ~~Each individual proposal for a project shall require the approval of the Member State(s), to the territory of which the project relates.~~
 - (c) ***an assessment of the contribution of each project towards each of the specific criteria set out in points (a) to (e) of Article 4(2), as applicable for each project category, and in accordance with Article 4(3);***

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- (d) *the results of the cost benefit analysis and the analysis carried out by the ENTSOs for Electricity and Gas in accordance with point 6 of section 2 of Annex III; and*
- (e) *the contribution of each project to the objectives of territorial cohesion as defined in the Lisbon Treaty.*

Due consideration shall be given to projects allowing synergies with telecommunications networks and transport networks.

On the basis of the analysis carried out according to points (a) to (e) of the first subparagraph the list of projects presented by the Groups shall be organised in a number of priority categories in line with Article 1 (1a).

4. For electricity and gas projects falling under the categories set out in points 1 and 2 of Annex II, each Group shall, at the latest ~~six months before the adoption date of the Union-wide list referred to in paragraph 1,~~ *three months after the submission of projects in accordance with paragraph 2a*, submit its proposed list of projects of common interest to the Agency for the Cooperation of Energy Regulators ("Agency").

For oil and carbon dioxide transport projects falling under the categories set out in points 3 and 4 of Annex II, each Group shall, at the latest ~~six months before the adoption date of the Union-wide list referred to in paragraph 1,~~ *three months after the submission of projects in accordance with paragraph 2a*, submit its proposed list of projects of common interest to the Commission.

- 4a. *When a Regional Group draws up its proposed list of projects of common interest, each project proposal shall require the approval of the Member State(s) on whose territory the project is located before it can be included in the Union-wide list of projects of common interest referred to in paragraph 6a.*

Refusal by one such Member State of the inclusion of a project in the list must be accompanied by:

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- (a) *a detailed and substantiated justification for the decision;*
- (b) *a detailed and proportionate plan of alternative measures required for the achievement of the objectives of the refused project, respecting the same level of economic efficiency, and allocating the same benefits to other Member States concerned without increasing their respective costs.*

The Commission shall evaluate the Member States' justification and its plan of alternative measures required for the achievement of the objectives in order to ascertain whether a solution can be found so that the project can be included in the Union-wide list of projects of common interest.

5. For electricity and gas projects falling under the categories set out in points 1 and 2 of Annex II, the Agency shall submit, within ~~two~~ **three** months from the date of receipt of the proposed lists of projects of common interest set out in the first subparagraph of paragraph 4, ~~an~~ **a reasoned** opinion to the Commission ~~on the proposed lists~~ **proposing a single Union-wide list** of projects of common interest, **organised in a number of priority categories in line with the policy objectives set out in Article 1 (1a)** in particular taking into account the consistent application of the criteria set out in Article across the Groups, and the results of the **cost benefit** analysis **and the analysis** carried out by the ENTSOs for Electricity and Gas in accordance with point 2.6 of Annex III.

The Agency shall also take into account the consistency of the projects with a coherent expansion of the European gas and electricity network with regard to economic efficiency, cross-border operational integration, as well as the specific potential of each region to best contribute towards reaching the Union's energy policy goals.

The opinion of the Agency shall be adopted in accordance with the procedure referred to in Article 15(1) of Regulation 713/2009.

6. For oil and carbon dioxide transport projects falling under the categories set out in points 3 and 4 of Annex II, the Commission shall evaluate the application of the

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criteria set out in Article . For carbon dioxide projects falling under the category set out in point 4 of Annex II, the Commission shall also take into account the potential for future extension to include additional Member States.

- 6a. *Within two months of receipt of the Agency's reasoned opinion proposing a Union-wide list of projects of common interest, the Commission shall establish a Union-wide list of projects of common interest organised in a number of priority categories in line with the policy objectives set out in Article 1 (1a), while ensuring that adequate attention is given to the objective of ending energy isolation inside the Union by 2015. The list shall be reviewed and updated as necessary every two years, in line with the Union's ten year network development plans, and following the procedure set out in this Article.* 6b. *The Commission shall present to the Groups and make publicly available a detailed justification of the results of the Union-wide list of projects of common interest.*
7. Following the Commission decision for adoption, ~~referred to in paragraph 1,~~ projects of common interest shall become an integral part of the relevant regional investment plans pursuant Article 12 of Regulations (EC) No 714/2009 and (EC) No 715/2009 and of the relevant national ten-year network development plans pursuant Article 22 of Directives 72/2009/EC and 73/2009/EC and other national infrastructure plans concerned, as appropriate. The projects shall be conferred the highest possible priority within each of these plans. **[Am. 14]**

Article 4

Criteria for projects of common interest

1. Projects of common interest shall meet the following general *eligibility* criteria:
 - (a) the project ~~is necessary for the implementation of~~ *contributes to the achievement of the objectives of the* energy infrastructure priority corridors and areas set out in Annex I *as assessed in accordance with paragraphs 2 and 3 of this Article*; and

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- (b) the project displays *long-term* economic, social and environmental viability; and
- (c) the project *either*:
 - involves at least two Member States, either by directly crossing the border at *land or at sea* of one or more Member States or by being located on the territory of one Member State; *or*
 - *is relevant to a cross-border interconnection or has ~~and having~~ a significant cross-border impact as set out in point 1 of Annex IV, or has the purpose of connecting islands and peripheral regions into the Union networks; or involves one Member State and one third country and has a significant cross-border impact as set out in point 1 of Annex IV;*
- (ca) *the project is in line with the Union's long-term energy goals; and*
- (cb) *the project has European added-value and, based on a cost-benefit analysis, the benefits outweigh the costs.*

2. In addition, the following specific criteria shall apply to projects of common interest falling under specific energy infrastructure categories:

- (a) concerning electricity transmission, *distribution* and storage projects falling under the categories set out in points 1(a) to (d) of Annex II, ~~the project~~ *eligible projects* shall contribute significantly to at least one of the following specific criteria:
 - market integration *and liquidity*, competition and system flexibility *with particular emphasis on increasing cross-border interconnection and preventing transmission bottlenecks and interconnecting isolated Member States;*

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- sustainability, *inter alia* through **renewable energy integration into the grid, and** transmission of renewable ~~generation~~ **energy** to major consumption centres and storage sites;
 - interoperability **system stability** and secure system operation;
 - **security of supply and solidarity between Member States in response to a temporary energy shortage in one of them;**
- (b) concerning gas projects falling under the categories set out in point 2 of Annex II, ~~the project~~ **eligible projects** shall contribute significantly to at least one of the following specific criteria:
- market integration, *inter alia* through **lifting Member State isolation and energy bottlenecks**, interoperability and system flexibility, **and market liquidity;**
 - security of supply, *inter alia* through **reverse flow**, diversification of supply sources, supplying counterparts and routes;
 - competition, *inter alia* through diversification of supply sources, supplying counterparts and routes, **reverse flows;**
 - sustainability, *inter alia* through **supporting intermittent renewable generation or enhancing deployment of alternative sources of gas such as biogas;**
- (c) concerning electricity smart grid projects falling under the category set out in point 1(e) of Annex II, the project shall contribute significantly to the **majority of the** following specific functions:
- integration and involvement of network users, **among others, distributed generators** with new technical requirements with regard to their electricity supply and demand;

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- efficiency and interoperability of electricity transmission and distribution in day-to-day network operation;
- network security, system control and quality of supply;
- optimised planning of future cost-efficient network investments;
- market functioning and customer services;
- involvement of users *and communities* in the management of their energy usage, *inter alia through supporting applications such as electric vehicles*;

(ca) concerning gas smart grid projects falling under the category set out in point 2(e) of Annex II, the project shall contribute significantly to the following specific functions:

- *integration and involvement of network users who create new technical requirements in terms of supply and demand for gas, in particular demand for biomethane and hydrogen;*
- *efficiency and interoperability of electricity transmission and distribution in day-to-day network operation;*
- *network security, system control and quality of supply;*
- *optimised planning of future cost-efficient network investments;*
- *market functioning and customer services;*
- *involvement of users in the management of their energy usage;*

(d) concerning oil transport projects falling under the categories set out in point 3 of Annex II, the project shall contribute significantly to the following three specific criteria:

- security of supply reducing single supply source or route dependency;

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- efficient and sustainable use of resources through mitigation of environmental risks;
 - interoperability;
- (e) concerning carbon dioxide transport projects falling under the categories set out in point 4 of Annex II, the project shall contribute significantly to the following three specific criteria:
- avoidance of carbon dioxide emissions at low cost while maintaining security of energy supply;
 - increase the resilience and security of carbon dioxide transport;
 - efficient use of resources, by enabling the connection of multiple CO₂ sources and storage sites via common infrastructure and minimising environmental burden and risks.
3. Concerning projects falling under the categories set out in points 1 to 3 of Annex II, the criteria listed in this Article shall be assessed in accordance with the indicators set out in points 2 to 5 of Annex IV.
4. When ~~ranking~~ **selecting** projects contributing to the implementation of the same priority, due consideration shall also be given to:
- the ***substantiated*** urgency of each proposed project in order to meet the ***Union*** energy policy targets of market integration and competition, sustainability ***by increasing the share of renewable energy and energy efficiency*** and security of supply;
 - ***the balanced development of energy networks of the Union and to end energy isolation;***
 - ***the project's cost-benefit analysis;***

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- the number of Member States *directly or indirectly* affected by each project, *provided that no Member State is discriminated against by virtue of its geographical location;*
 - ~~and its~~ *the project's* complementarity, *interoperability and potential for optimisation* with regard to other proposed projects *or existing infrastructure;*
 - *projects that involve the participation of operators from Member States other than solely those on whose territory the project is located;*
 - for projects falling under the category set out in point 1(e) of Annex II, ~~due consideration shall also be given to~~ the number of users affected by the project, the annual energy consumption and the share of generation from non dispatchable *and renewable* resources in the area covered by these users.
- [Am. 23]

Article 5

Implementation and monitoring

1. Project promoters shall ~~implement~~ *draw up and comply with an implementation plan for their* projects of common interest ~~according to an implementation plan including~~. *This plan shall include* a timetable for feasibility and design studies, regulatory approval, construction and commissioning, and the permit granting schedule referred to in Article (3). Transmission system operators, distribution system operators or other operators shall operate projects of common interest in their area *either independently or in association with operators from other Member States and shall cooperate in order to facilitate their implementation. National regulatory authorities shall also advise the relevant Groups on the feasibility of the regulatory aspects, notably on the timetable for regulatory approval.*
2. The Agency and the Groups shall monitor the progress achieved in implementing the projects of common interest. *To that end, national regulatory authorities and project promoters shall report back at the meetings of the Group concerned on progress achieved.* The Groups may request additional information provided in

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accordance with paragraphs 3, 4 and 5, verify the provided information on site and convene meetings with the relevant parties. The Groups may also request the Agency *or the relevant national regulatory authorities to issue guidelines or* to take *other* measures to facilitate the implementation of projects of common interest *in accordance with the implementation plans*.

3. By the 31 March of each year following the year of selection as project of common interest pursuant to Article 4, project promoters shall submit an annual report, for each project falling under the categories set out in points 1 and 2 of Annex II, to the Agency or, for projects falling under the categories set out in points 3 and 4 of Annex II, to the respective Group. ***The report shall also be communicated to the concerned competent authorities referred to in article 9.*** This report shall detail:
 - (a) the progress achieved for the development, construction and commissioning of the project, notably with regard to permit granting and consultation procedures;
 - (b) where relevant, delays compared to the implementation plan, ***the reasons for such delays*** and ***details of*** other difficulties encountered;

(ba) where relevant, a revised plan aiming at overcoming the delays.
4. Within three months of the receipt of the annual reports, the Agency shall submit to the Groups a consolidated report for the projects of common interest falling under the categories set out in points 1 and 2 of Annex II, evaluating the progress achieved and proposing, where appropriate, measures to overcome the delays and difficulties encountered. The evaluation shall also include, in accordance with the provisions of Article 6(8) and (9) of Regulation (EC) No 713/2009, the consistent implementation of the Union-wide network development plans with regard to the energy infrastructure priority corridors and areas set out in Annex I.
5. Each year, the concerned competent authorities referred to in Article shall, at the meeting following receipt of the annual reports referred to in paragraph 3, report to the respective Group on the status and, where relevant, delays in the implementation

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of projects of common interest located on their respective territory *and the reasons for such delays*.

6. If the ~~commissioning~~ **implementation** of a project of common interest is delayed by ~~more than~~ two years compared to the implementation plan, ~~without sufficient justification:~~ *other than for overriding reasons beyond the responsibility of the project promoter:*
- (a) ~~The project promoter of that project shall accept investments by one or several other operators or investors to implement the project. The system operator, in whose area the investment is located, shall provide the implementing operator(s) or investor(s) with all information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment and the secure, reliable and efficient operation and maintenance of the project of common interest.~~ *In so far as measures referred to in points (a), (b) or (c) of Article 22(7) of Directives 2009/72/EC and 2009/73/EC are applicable according to respective national laws, national regulatory authorities shall ensure that the investment is carried out.*
- (b) *If the measures referred to in point (a) of this paragraph are not applicable, the project promoter shall, within 3 months, accept investments or construction by one or several other operators or investors to implement the project.*
- (ba) *When within 3 months points (a) or (b) have not been complied with, the Commission may shall, within 2 months launch a call for proposals open to any project promoter to build the project according to an agreed timeline.*
- (bb) *Where points (a), (b) or (ba) are applied, the system operator, in whose area the investment is located, shall provide the implementing operator(s) or investor(s) with all information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment and the secure,*

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reliable and efficient operation and maintenance of the project of common interest.

7. A project of common interest may be removed from the Union-wide list of projects of common interest according to the procedure set in the second sentence of ~~Article~~ ~~(1)~~ **Article 3(6a)** if:

~~(a) The energy system wide cost benefit analysis carried out by the ENTSOs in accordance with point 6 of Annex III does not yield a positive result for the project;~~

~~(b) The project is no longer included in the ten-year network development plan;~~

(c) the inclusion in the list referred to in ~~paragraph 1 of Article~~ **Article 3 (6a)** was based on incorrect information which was a determining factor for the decision;

(d) the project does not comply with existing Union legislation.

Projects, which are withdrawn from the Union-wide list, lose all rights and obligations arising from this Regulation for projects of common interest. This article shall be without prejudice to any Union financing paid to the project prior to the withdrawal decision *and to the progress thus far reached in the permit granting process.* [Am. 34]

Article 6

European coordinators

1. When a project of common interest encounters significant implementation difficulties, the Commission ~~may~~ **shall** designate *in consultation with the Member States concerned* a European coordinator for a period of up to one year renewable twice.
2. The European coordinator shall fulfil the following tasks:

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- (a) promote the project(s), for which he or she has been designated European coordinator and the cross-border dialogue between the project promoters and all concerned stakeholders;
- (b) assist all parties as necessary in consulting concerned stakeholders and obtaining necessary permits for the project(s);
- (c) ensure that appropriate support and strategic direction by the Member States concerned are provided for the preparation and implementation of the project(s);
- (d) submit every year a report to the Commission on the progress of the project(s) and on any difficulties and obstacles which are likely to significantly delay the commissioning date of the project(s). The Commission shall transmit the report to the concerned Groups and the European Parliament.

(da) attend and report back to the meetings of the concerned Groups.

3. The European coordinator shall be chosen on the basis of his or her experience with regard to the specific tasks assigned to him or her for the concerned project(s).
4. The decision designating the European coordinator shall specify the terms of reference detailing the duration of the mandate, the specific tasks and corresponding deadlines and the methodology to be followed. The coordination effort shall be proportionate to the complexity and estimated costs of the project(s).
5. The Member States concerned shall *fully* cooperate with the European coordinator in his/her execution of the tasks referred to in paragraph 2 and 4. [**Am. 46**]

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CHAPTER III – Permit granting and public participation

Article 7

Regime of common interest

1. For the purpose of accelerating permit granting procedures and enhancing public participation, the provisions of this Chapter shall be applicable to all projects of common interest *and to all projects deemed necessary for the technical viability of projects of common interest.* [Am. 434]

Article 8

'Priority status' of projects of common interest

1. Projects of common interest shall be allocated the status of the highest national significance possible and be treated as such in permit granting procedures, ~~where and in the manner such treatment is provided for in national legislation applicable to the corresponding type of energy infrastructure.~~
2. The adoption of the Union-wide list of projects of common interest shall establish the public interest and necessity of these projects within the Member States concerned and shall be acknowledged as such by all parties concerned.
3. For the purpose of ensuring efficient administrative processing of the files related to projects of common interest, project promoters and all authorities concerned shall ensure that the most preferential treatment possible is given to these files as regards the resources allocated.
4. With the objective of meeting the time limits set out in Article and reducing the administrative burden for the completion of projects of common interest, Member States shall, within nine months from the entry into force of this Regulation, take *binding* measures to streamline the environmental assessment procedures, *notably by sufficient allocation of resources and competencies.* These measures shall be without prejudice to obligations resulting from Union legislation.

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The Commission shall, within three months of the entry into force of this Regulation, issue guidance to support Member States in defining *and implementing* adequate *binding* measures and to ensure the coherent application of environmental assessment procedures required under EU legislation for projects of common interest. *The Commission shall monitor the implementation of that guidance in close cooperation with the Member States and report back to the Regional Groups in accordance with Article 11a(3).*

5. With regard to the environmental impacts addressed in Article 6(4) of Directive 92/43/EC and Article 4(7) of Directive 2000/60/EC, projects of common interest shall be considered as being of public interest, and may be considered as being of "overriding public interest", provided that all the conditions foreseen in these Directives are fulfilled.

Should the opinion of the Commission be required in accordance with Directive 92/43/EC, the Commission and the competent authority pursuant to Article 9, shall ensure that the decision with regard to the "overriding public interest" of a project is taken within the time limit pursuant to paragraph 1 of Article . **[Am. 49]**

Article 9

Organisation of the permit granting process

1. Within six months of the entry into force of this Regulation, each Member State shall designate one national competent authority which shall be responsible for facilitating and coordinating the permit granting process for projects of common interest and for the implementation of the relevant tasks of the permit granting process as defined in this Chapter.
2. The competent authority shall issue, without prejudice to relevant requirements under Union and international legislation, the comprehensive decision within the time limit referred to in Article (1) according to one of the following schemes:
 - (a) integrated scheme: the comprehensive decision issued by the competent authority is the sole legally binding decision resulting from the statutory permit

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granting procedure. Where other authorities are concerned by the project, these may, in accordance with national legislation, give their opinion as input to the procedure, which shall be taken into account by the competent authority.

- (b) coordinated scheme: The comprehensive decision may encompass multiple individual legally binding decisions issued by the Competent Authority and other authorities concerned. The competent authority shall establish, on a case-by-case basis, *a working group where all concerned authorities are represented in order to define a permitting procedure plan and to monitor its implementation. In respect of Article 11(1), the Competent Authority shall establish* a reasonable time limit within which the individual decisions must be issued. The competent authority may take an individual decision on behalf of another national authority concerned, if the decision by that authority is not delivered within the time limit and if the delay cannot be ~~adequately~~ justified *other than for reasons beyond the control of the national authority concerned*. The competent authority may overrule an individual decision of another national authority, if it considers that the decision is not sufficiently substantiated with regard to the underlying evidence presented by the authority concerned. The competent authority shall ensure that the relevant requirements under international and Union legislation are respected and must duly justify its decision. *The coordinated scheme may only be used for a transitional period not exceeding 5 years after the entry into force of this Regulation.*
3. If a project of common interest requires decisions to be taken in two or more Member States, the respective competent authorities shall take all necessary steps for efficient and effective cooperation and coordination among themselves, including compliance with the Espoo Convention and the provisions referred to in 11(3). Member States shall endeavour to provide for joint procedures, particularly with regard to the assessment of environmental impacts.
4. Member States shall ~~endeavour to~~ ensure that appeals challenging the substantive or procedural legality of a comprehensive decision are handled in the most efficient way possible. [Am. 50]

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Article 10

Transparency and public participation

1. To increase transparency for all stakeholders concerned, the competent authority shall, within nine months of the entry into force of this Regulation, publish a manual of procedures for the permit granting process applicable to projects of common interest. The manual shall be updated as necessary and made available to the public. The manual shall at least include the information specified in point 1 of Annex VI. ***This provision is without prejudice to the national transparency and public consultation procedure at national level.***
2. Without prejudice to any requirements under the Aarhus and Espoo Conventions and relevant Union legislation, all parties involved in the permit granting process shall follow the principles for public participation set out in point 2 of Annex VI.
3. The project promoter shall, within three months of the start of the permit granting process pursuant to paragraph 1(a) of Article , elaborate and submit a concept for public participation to the competent authority. The competent authority shall request modifications or approve the concept for public participation within one month. The concept shall at least include the information specified in point 3 of Annex VI. ***The project promoter shall report any significant changes of an approved concept to the competent authority which may request modifications.***
4. At least ~~one~~ **two** public consultation shall be carried out by the project promoter, or, where this is laid down by national legislation, by the competent authority:
 - (a) ***The first public consultation shall be carried out at least 3 months before the submission of the permit application file to the competent authority pursuant to paragraph 1(a) of Article . The public In accordance with point 4 of Annex VI, this*** consultation shall inform stakeholders referred to in point 2(a) of Annex VI about the project at an early stage and identify the most suitable location or trajectory and the relevant issues to be addressed in the application file, ***including the transparent consideration of the options listed under point 1(a) of Annex II or a combination thereof.***

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- (b) *The second public consultation shall be carried out at an appropriate stage, as defined in the manual of procedures referred to in paragraph 1. The project promoter shall take due account of the measures taken, or to be taken, with regard to the issues raised in the first public consultation.*

~~The minimum modalities of this public consultation are specified in point 4 of Annex VI.~~ A report summarising the results of activities related to the participation of the public prior to the submission of the application file shall be prepared by the project promoter and submitted together with the application file to the competent authority, which shall take due account of these results, *as well as of the corresponding promoter's observations*, when taking the comprehensive decision. *The competent authority shall monitor the public consultation processes if they are carried out by the project promoter.*

5. For projects crossing the border of two or more Member States, the public consultations pursuant to paragraph 4 in each of the Member States concerned shall take place within a delay of no more than two months from the start date of the first public consultation in one of these Member States.
6. For projects likely to have significant adverse cross-border impacts in one or more neighbouring Member States, where Article 7 of Directive 85/337/EEC and the Espoo Convention are applicable, the relevant information, *required by Article 7 of Directive 85/337/EEC and the Espoo Convention* shall be made available to the competent authority of the neighbouring Member State(s). The competent authority of the neighbouring Member State(s) shall indicate whether it wishes to participate in the relevant public consultation procedures.
7. The project promoter, ~~or, where national legislation so provides,~~ *with the support and oversight of* the competent authority, shall establish and regularly update a project website to publish relevant information about the project, which shall be linked to the Commission website and which shall satisfy the requirements specified in point 5 of Annex VI. Commercially sensitive information shall be kept confidential.

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Project promoters shall, in addition, publish relevant information by other appropriate information means, to which the public has open access, *such as in the local media in the areas where the project locates*. [Am. 52]

Article 11

Duration and implementation of the permit granting process

1. The duration of the permit granting process shall consist of two phases and shall not exceed a period of three years:
 - (a) the pre-application procedure, covering the period between the start of the permit granting process and the acceptance of the submitted application file by the competent authority, shall not exceed two years.

For the purpose of establishing the start of the permit granting process, the project promoter(s) shall notify the project to the competent authority of the Member State(s) concerned in written form, and shall include a reasonably detailed outline of the project. No later than two weeks following the receipt of the notification, the competent authority shall accept or, if it considers the project as not mature enough to enter the permit granting process, refuse the notification in written form. In case of a refusal, the competent authority shall justify its decision *and specify to the applicant all necessary additional information, detailing the nature, source and attributes of the data requested*. The date of signature of the acceptance of the notification by the competent authority shall serve as the start of the permit granting process. Where two or more Member States are concerned, the acceptance of the notification by the last competent authority concerned shall serve as the date of the start of the permit granting process. *Member States may set an earlier time-limit for the pre-application procedure, if appropriate.*

- (b) The statutory permit granting procedure, covering the period from the *date of* acceptance of the submitted application file until the competent authority takes

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a comprehensive decision, shall not exceed one year. Member States may set an earlier date for the time-limit if considered appropriate.

2. Within one month of the *date of signature of the acceptance of the notification, which starts* ~~start~~ of the permit granting process, pursuant to paragraph 1(a), the competent authority shall identify, in close cooperation with the other authorities concerned, the scope of material and level of detail of information to be submitted by the project promoter, as part of the application file, to apply for the comprehensive decision. The checklist referred to in point 1(e) of Annex VI shall serve as a basis for this identification. At least one meeting between the competent authority and the project promoter, and, if considered appropriate by the competent authority, other authorities and stakeholders concerned shall take place to this aim. A detailed application outline, which shall include the results of this meeting, shall be transmitted to the project promoter ~~and be made available to the public~~ no later than one month after the meeting.

3. Within three months of the start of the permit granting process pursuant to paragraph 1(a), the competent authority shall elaborate, in close cooperation with the project promoter and other authorities concerned and taking into account the results of the activities carried out under paragraph 2, a detailed schedule for the permit granting process, identifying at minimum the following:
 - (a) the decisions and opinions to be obtained;
 - (b) the authorities, stakeholders, and the public likely to be concerned;
 - (c) the individual stages of the procedure and their duration;
 - (d) major milestones to be accomplished and their deadlines in view of the comprehensive decision to be taken,;
 - (e) the resources planned by the authorities and possible additional resource needs.

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The detailed schedule shall take into account Article 11(2), the concept for public participation pursuant to Article 10(3) and the best applicable authorization process as regards the specificity of the project.

For projects crossing the border between two or more Member States, the competent authorities of the Member States concerned shall align their timetables and elaborate a joint schedule.

4. The project promoter shall ensure the completeness and adequate quality of the application file and seek the competent authority's opinion on this as early as possible during the pre-application procedure. The project promoter shall **fully** cooperate with the competent authority to meet deadlines and comply with the detailed schedule as defined in paragraph 3.
5. Within one month of the receipt of the application file, the competent authority shall, if necessary, make further requests regarding missing information to be submitted by the project promoter, which may only address subjects identified in the detailed application outline. Within one month of the receipt of the complete application file, the competent authority shall accept the application in written form. Subsequently, requests for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.
- 5a. *The competent authorities concerned shall report at the meetings of the Group on the progress of the permit granting procedures concerning projects of common interest.*
6. In the event of an expiry of the time-limit for the comprehensive decision, the competent authority, *or when point (b) of Article 9 (2) applies the competent authority together with the authorities concerned*, shall present to the competent Group *within one month of the expiry of the time limit, a substantiated justification for the delay, and the additional* measures taken or to be taken to conclude the permit granting process with the least possible delay. The Group may request the competent authority to report regularly on progress achieved in this regard.

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7. The time limits in the above provisions shall be without prejudice to obligations arising from international and Union legislation.
- 7a. *In Member States, where parts of the permit granting process, including spatial planning and environmental impact assessment procedures, do not result in a legally-binding permit, competent authorities are required to ensure that their duration is well integrated in the overall time limits. [Am. 53]*

CHAPTER IV – Regulatory treatment

Article 12

Energy system wide cost-benefit analysis

- 1 *For the first round of selection of projects of common interest to take place after entry into force of this Regulation, and for a transitional period of one year, the applicable methodology of cost benefit analysis shall be the one developed in accordance with the principles laid down in this Article and available one month after entry into force of this Regulation. For preparing this transitional methodology, the Agency and the Commission shall act in close collaboration with the ENTSO for Gas and the ENTSO for Electricity in the process of developing the methodology and taking into account, as appropriate, the views of relevant stakeholders. The Commission shall validate the methodology within the time-limit set out in this paragraph.*
1. Within ~~one~~ *four* months of the ~~entry into force of this Regulation,~~*end of the transitional period referred to in paragraph -1*, the ENTSO for Electricity and the ENTSO for Gas shall submit to the Agency and the Commission their respective methodology, including on network and market modelling, for a harmonised energy system-wide cost-benefit analysis at Union-wide level *as well as for a project-specific analysis to be applied by project promoters for their* for projects of common interest falling under the categories set out in points 1(a) to (d) and 2 of

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Annex II. The methodology shall be elaborated *in a transparent manner and* in line with the principles *and criteria* laid down in *Article 4 (2), Annex IV and Annex V, and its underlying scenarios should be in line with relevant Union legislation and long-term policy objectives, taking into account the wider socio-economic as well as environmental benefits of energy infrastructure. The ENTSO for Electricity and the ENTSO for Gas shall consult with relevant stakeholders, including infrastructure users and project developers that are not transmission system operators, early during the development of the methodology. The draft methodology shall be made public.*

2. Within three months of the day of receipt of the methodology, the Agency, after formally consulting ~~the organisations representing~~ all relevant stakeholders, shall provide an opinion to the Commission on the methodology.
3. Within ~~three~~ *two* months of the receipt of the opinion of the Agency, the Commission shall deliver an opinion on the methodology.
4. Within ~~three~~ *two* months of the day of receipt of the Commission's opinion, the ENTSO for Electricity and the ENTSO for Gas shall adapt their methodology accordingly and submit it to the Commission for approval.
5. Within two weeks of the approval by the Commission, the ENTSO for Electricity and the ENTSO for Gas shall publish ~~the methodology~~ *their respective methodologies* on their websites. They shall transmit the corresponding input data sets as defined in point 1 of Annex V and other relevant network, load flow and market data in a sufficiently accurate form according to national legislations and relevant confidentiality agreements to the Commission and the Agency, upon request. The data shall be valid at the date of the request. The Commission and the Agency shall ensure the confidential treatment of the data received, by themselves and by any party carrying out analytical work for them on the basis of those data.
6. The ~~methodology~~ *methodologies* shall be updated and improved regularly by following the procedure laid down in paragraphs ~~4~~ 2 to 5, *and in line with the revision process of the ten-year network development plans*. The Agency, after

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formally consulting the organisations representing all relevant stakeholders and the Commission, may request such updates and improvements with due justification and timescales.

7. The ~~methodology~~ **methodologies** shall be applied to the cost-benefit analysis under all subsequent ten-year network development plans for electricity or gas developed by the ENTSOs for Electricity or Gas pursuant Article 8 of Regulation (EC) 714/2009 and Regulation (EC) 715/2009, **and the main results of the cost-benefit analysis in relevant scenarios shall be included in the consultation process and final reporting of the ten-year network development plans.**
8. By 31 December 2016, the ENTSO for Electricity and the ENTSO for Gas shall jointly submit to the Commission and the Agency ~~common~~ **their consistent and interlinked** electricity and gas market and network ~~model~~ **models** including both electricity and gas transmission and storage, **including LNG terminals**, covering the priority corridors and areas designated in Annex I and elaborated in line with the principles laid down in Annex V. After approval of ~~this model~~ **these models** by the Commission according to the procedure set out in paragraphs 2 to 4, ~~it~~ **they** shall be included in the methodology. [Am. 54]

Article 13

Enabling investments with cross-border impacts

1. ~~The investment costs related to a project~~ **The costs of projects** of common interest **as defined in point 5 of Annex V**, falling under the categories set out in points ~~1(a) to (d)~~ **1(a) (b) and (d)**, and 2 of Annex II shall be borne by the transmission system operator(s), **LNG operators, or by the storage system operator(s), as applicable**, of the Member State(s) to which the project provides a net positive impact, and be paid for by network users through tariffs for network access.

~~The provisions of~~ This Article shall not apply to projects of common interest having received an exemption pursuant **to** Article 36 of Directive 2009/73/EC or Article 17 of Regulation (EC) 714/2009.

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2. National regulatory authorities shall take into account actual costs incurred by a transmission system operator or other project promoter as a result of the investments and cross-border allocation of corresponding costs referred to in paragraph 3 when fixing or approving tariffs in accordance with Article 37(1)(a) of Directive 2009/72/EC and Article 41(1)(a) of Directive 2009/73/EC, insofar as these costs correspond to those of an efficient and structurally comparable operator.
 - 2a. *National regulatory authorities in cooperation with the Agency shall establish a set of adequate indicators to compare unit investment costs between project promoters across Member States. Where necessary, a benchmark of investment costs shall be carried out by the national energy regulators who shall cooperate in the framework of the Agency, to ascertain if those costs are efficiently incurred.*
 - 2b. *Significant increases in investment costs shall be notified by the national regulatory authorities and the Agency to the Commission. If no sufficient justification for such increases is provided by the project promoter, the Commission may, on the basis of this information, launch a call for proposals open to any project promoter to build the project.*
3. Without prejudice to investments in projects of common interest by mutual agreement between the transmission system operators concerned, national regulatory authorities shall jointly approve investments and decide on the cross-border allocation of corresponding costs for projects of common interest or packages thereof as well as the inclusion of investment costs in the transmission tariffs.
4. The promoter(s) of a project of common interest falling under the categories set out in points 1(a) ~~to (b)~~ **and** (d) and 2 of Annex II shall keep all concerned national regulatory authorities regularly informed of the progress of that project and the identification of costs and impacts associated with it. As soon as **such** a project of common interest selected pursuant to Article ~~and falling under the categories set out in points 1(a) to (d) and 2 of Annex II~~ has reached sufficient maturity, the project promoter shall submit an investment request including **a request for** a cross-border

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cost allocation *decision*, to the relevant national regulatory authorities, accompanied by the following:

- (a) a *detailed* cost-benefit analysis on the basis of the methodology elaborated pursuant to Article , *as well as all its supporting data*; and
- (b) a business plan evaluating the financial viability of the project, including the chosen financing solution, and, for projects of common interest falling under the category referred to in point 2 of ~~Annex I~~ *Annex II*, the results of market testing.

If a project is promoted by several operators or investors, they shall submit their request jointly.

For projects contained in the first Union-wide list of projects of common interest, project promoters shall submit their request ~~by 30 September 2013~~ *at the latest 2 months after the date of adoption of the list*.

A copy of each investment request shall be transmitted for information without delay by the national regulatory authorities to the Agency on receipt.

The national regulatory authorities and the Agency shall preserve the confidentiality of commercially sensitive information *and shall verify that the submitted cost-benefit analyses are concluded in an objective and neutral way*.

5. Within six months of the date on which the last request was received by the last of the national regulatory authorities concerned, the national regulatory authorities shall, after consultation of the project promoter(s) concerned, take a joint decision on the allocation of investment costs to be borne by each system operator for that project, as well as their inclusion in network tariffs. The national regulatory authorities may decide to allocate only part of the costs *insofar as these are not covered by any other remuneration for the concerned infrastructure*, or to allocate costs among a package of several projects of common interest.

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In deciding to allocate costs across borders, the economic, social and environmental costs and benefits of the project(s) in the Member States concerned and the possible need for financial support shall be taken into account.

The *cost allocation* decision shall be notified, without delay, by the national regulatory authorities to the Agency, together with all the relevant information with respect to the decision. In particular, the information shall contain detailed reasons on the basis of which costs were allocated among Member States, such as the following:

- (a) an evaluation of the identified impacts, including concerning network tariffs, on each of the concerned Member States;
- (b) an evaluation of the business plan referred to in paragraph 4(b);
- (c) regional or Union-wide positive externalities, which the project would generate;
- (d) the result of the consultation of the project promoter(s) concerned.

The allocation decision shall be published.

6. Where the national regulatory authorities concerned have not reached an agreement on the investment request within six months of the date on which the request was received by the last of the national regulatory authorities concerned, they shall inform the Agency without delay.

In this case or upon a joint request from the national regulatory authorities concerned, the decision on the investment request including cross-border cost allocation referred to in paragraph 4 as well as the way the cost of the investments are reflected in the tariffs shall be taken by the Agency within three months of the date of referral to the Agency.

Before taking such a decision, the Agency shall consult the national regulatory authorities concerned and the project promoter(s). The three-month period referred to

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in the second subparagraph may be extended by an additional period of two months where further information is sought by the Agency. That additional period shall begin on the day following receipt of the complete information.

The *cost* allocation decision shall be published. **Articles 19, 20 and 22 of Regulation (EC) No. 713/2009 shall apply.**

7. A copy of all *cost allocation* decisions, together with all the relevant information with respect to each decision, shall be notified, without delay, by the Agency to the Commission. That information may be submitted in aggregate form. The Commission shall preserve the confidentiality of commercially sensitive information.
8. This cost allocation shall not affect the right of transmission system operators to apply and national regulatory authorities to approve charges for access to networks in accordance with Article 32 of Directive 2009/72/EC and of Directive 2009/73/EC, Article 14 of Regulation (EC) No 714/2009, and Article 13 of Regulation (EC) No 715/2009. **[Am. 61]**

Article 14

Incentives

1. Where a project promoter incurs higher risks for the development, construction, operation or maintenance of a project of common interest falling under the categories set out in points 1 and 2 of Annex II, except for hydro-pumped electricity storage projects, compared to the risks normally incurred by a comparable infrastructure project, and where such risks are not covered under an exemption pursuant to Article 36 of Directive 2009/73/EC or Article 17 of Regulation (EC) No 714/2009, national regulatory authorities shall ensure that appropriate incentives are granted to that project when applying Article 37(8) of Directive 2009/72/EC, Article 41(8) of Directive 2009/73/EC, Article 14 of Regulation (EC) No 714/2009, and Article 13 of Regulation (EC) No 715/2009.
2. The decision of the national regulatory authorities for granting such incentives shall ***include an assessment of*** consider the results of the cost-benefit analysis on the basis

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of the methodology elaborated pursuant to Article and in particular the regional or Union-wide positive externalities generated by the project. The national regulatory authorities shall further analyse the specific risks incurred by the project promoter(s), the risk mitigation measures taken and the justification of this risk profile in view of the net positive impact provided by the project, when compared to a lower-risk alternative. Eligible risks shall notably include risks related to new ~~transmission~~ technologies ~~both onshore and offshore~~, **and** risks related to under-recovery of costs, ~~and~~ **as well as** development risks.

3. The incentive granted by the decision shall take account of the specific nature of the risk incurred and cover *inter alia*:
 - (a) rules for anticipatory investment; or
 - (b) rules for recognition of efficiently incurred costs before commissioning of the project; or
 - (c) rules for providing additional return on the capital invested for the project; or
 - (d) any other measure deemed necessary and appropriate.
4. By 31 December 2013, the Agency shall issue guidance in accordance with Article 7(2) of Regulation (EC) No 713/2009:
 - (a) regarding the incentives referred to in paragraph 1 on the basis of a benchmarking of best practice by national regulatory authorities;
 - (b) regarding a common methodology to evaluate the incurred higher risks of investments in electricity and gas ~~transmission~~ **infrastructure** projects.
5. By 31 July 2013, each national regulatory authority shall publish its methodology and the criteria used to evaluate investments in electricity and gas ~~transmission~~ **infrastructure** projects and the higher risks incurred by them.
6. The Commission, **in cooperation with the Agency shall** ~~may~~ issue guidelines regarding the incentives laid down in this Article in accordance with Article 18(1) to

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(3) of Regulation (EC) No 714/2009 and Article 23 (1) of Regulation (EC) No 715/2009 *taking into account national specificities, where necessary.* [Am. 70]

Article 14a

Operational coordination

- 1. Without prejudice to the provisions of Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 and in order to ensure the reliable and efficient operation of the Union's energy infrastructure, including projects of common interest, the ENTSO for electricity and the ENTSO for gas shall submit to the Agency and to the Commission, within 6 months of the entry into force of this Regulation, their respective proposals for the design and implementation of appropriate real-time operational coordination, taking into account different regional operational requirements.*
- 2. The proposals referred to in paragraph 1 shall be based on the network codes established in accordance with the process defined in Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009.*
- 3. The proposals shall include:*
 - a) complete functional specifications, clearly indicating the information to be collected and shared among all interconnected transmission system operators within each interconnected area;*
 - b) a functional description of the technological platform that will be used to provide the necessary data collection, coordination and transmission;*
 - c) an implementation schedule.*
- 4. Within 4 months of the date of the receipt of the proposals, the Agency shall publish a reasoned opinion on the proposals.*

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5. *Within 6 months of the date of the receipt of the Agency's opinion, the Commission shall instruct the ENTSO for electricity and the ENTSO for gas to start the implementation of the appropriate operational coordination.*
6. *The operational information referred to in this Article shall be made available in real-time to all interconnected system operators and to the Agency. Each system operator shall designate a contact point in charge of answering inquiries from the Agency or from other system operators, concerning such information.*
7. *After an implementation period of 2 years following the entry into force of the measures for the design and implementation of appropriate real-time operational coordination the coordination mechanism shall be subject to an evaluation by the Agency. [Am. 72]*

CHAPTER V – Financing

Article 15

Eligibility of projects *and conditionality* for Union financial assistance

1. Projects of common interest falling under the categories set out in points 1, 2 and 4 of Annex II *as well as projects for the implementation of the operational coordination set out in Article 14a* are eligible for Union financial support in the form of grants for studies and financial instruments in accordance with the provisions of [Regulation of the European Parliament and the Council establishing the Connecting Europe Facility].
2. Projects of common interest falling under the categories set out in points 1(a) to (d) and 2 of Annex II, except for hydro-pumped electricity storage projects, shall be also eligible for Union financial support in the form of grants for works in accordance with the provisions of [Regulation of the European Parliament and the Council establishing the Connecting Europe Facility], if they are carried out according to the

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procedure referred to in *point paragraph 6(b)* of Article (6) or if they fulfil the following criteria:

- (a) the project specific cost-benefit analysis pursuant to *point paragraph 4(a)* of Article (4) provides evidence concerning the existence of significant positive externalities, such as security of supply, solidarity or innovation; and
- (b) the project is commercially not viable according to the business plan and other assessments carried out, notably by possible investors or creditors. The decision on incentives and its justification referred to in *paragraph 3* of Article (3) shall be taken into account when assessing the project's commercial viability; and
- (c) the project has received a cross-border cost allocation decision pursuant to Article or, for projects having received an exemption pursuant to Article 36 of Directive 2009/73/EC or Article 17 of Regulation (EC) No 714/2009, an opinion from the competent national regulatory authorities and the Agency on the commercial viability of the project.

Union financial support in the form of grants for works as referred to in this paragraph shall only support projects of common interest if the same economic, social, and environmental benefits cannot be achieved by any other competing commercially viable project.

- 3. Projects of common interest falling under the categories set out in points 1(e) and 4 of Annex II shall be also eligible for Union financial support in the form of grants for works in accordance with the provisions of [Regulation of the European Parliament and the Council establishing the Connecting Europe Facility], if the concerned project promoters can clearly demonstrate the significant positive externalities generated by the projects and their lack of commercial viability.
- 3a. ***Conditionality for Union financial assistance for projects of common interest shall follow the projects' degree of contribution to one or more of the following relevant objectives:***

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- a) *promoting the further integration of the internal energy market and the interoperability of electricity and gas networks across borders;*
- b) *enhancing the Union's security of energy supply, by enhancing system resilience and security of systems operation;*
- c) *contributing to a sustainable development and protection of the environment, inter alia by ensuring transmission of renewable electricity from generation to major consumption centres and storage sites.*

The contribution to each of the above objectives shall be measured in accordance with the criteria defined in Article 4(2) and the indicators in Annex IV, following to the analysis described in this Regulation.

As matter of urgency for the annual work programmes of the Connecting Europe Facility for 2013 and 2014, priority shall be given to projects contributing to the promotion of further integration and the interoperability of electricity and gas networks across borders, notably reduction or elimination of energy isolation.
[Am. 73]

Chapter Va

Fast-track procedure in Member States experiencing or threatened with serious difficulties
[Am. 45]

Article 15a

Energy infrastructures as part of macro-economic adjustment programmes

1. *The technical assistance provided by the Commission to Member States experiencing or threatened with serious difficulties with respect to their financial stability and/or that have requested or are in receipt of financial assistance under Regulation (EU) No .../2012 shall include a consultation of their national competent authorities and the project promoters concerned in order to:*

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- a) *speed up the implementation of projects of common interest included in the Union-wide list in accordance with the urgency criteria set out in Article 4(4);*
 - b) *explore all available means to ease financing conditions for the various stakeholders involved.*
2. *For the purposes of point (a) of paragraph 1, the time limits laid down in Articles 10(3), 11, 13(5) and 13(6) may be shortened.*
 3. *The public participation of the relevant stakeholders shall not be weakened by a tighter time-frame. [Am. 46]*

CHAPTER VI – Final provisions

Article 16

Reporting and evaluation

1. Not later than 2017, the Commission shall publish a report on the implementation of projects of common interest *and submit it to the European Parliament and to the Council*. This report shall provide an evaluation of:
 - (a) the progress achieved for the *planning*, development, construction and commissioning of projects of common interest selected pursuant *to* Article , and, where relevant, delays in implementation and other difficulties encountered;
 - (b) the funds engaged and disbursed by the Union for projects of common interest in accordance with the provisions of [Regulation of the European Parliament and the Council establishing the Connecting Europe Facility], compared to the total value of funded projects of common interest;

(ba) the final costs and the Union-wide impact of projects of common interest;

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- (c) concerning the electricity and gas sectors, the evolution of the interconnection level between Member States, the corresponding evolution of energy prices, as well as the number of network system failure events, their causes and related economic cost;
- (d) concerning permit granting and public participation:
 - the average and maximum total duration of authorisation procedures for projects of common interest, including the duration of each step of the authorisation procedure, compared to the timing foreseen by the initial major milestones referred to in Article (3);
 - the level of opposition faced by projects of common interest (notably number of written objections during the public consultation process, number of legal recourse actions);
 - *the identification of best and innovative practices with regard to stakeholder involvement and mitigation of environmental impact during permit granting processes and project implementation;*
- (e) concerning regulatory treatment:
 - the number of projects of common interest having been granted a cross-border cost allocation decision pursuant to Article ;
 - the number and type of projects of common interest having received specific incentives pursuant to Article ;

2. *If the report on the implementation of projects of common interest concludes that the progress achieved is insufficient to meet energy policy objectives, the Commission shall, not later than 30 June 2018 propose a revision of this Regulation, or, if appropriate, make a legislative proposal to address the identified challenges. [Am. 77]*

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Article 17

Information and publicity

The Commission shall establish *on the internet, in the official languages of the Union*, an infrastructure transparency platform easily accessible to the general public. This platform shall contain the following information: [Am. 621]

- (a) general, regularly updated information, including geographic information *and cost*, for each project of common interest; [Am. 622]
- (aa) *regularly updated information on the work of the Groups including the agenda, the minutes of the meetings, the documents and analyses presented for consideration in the Groups while excluding any commercial secrets contained therein*; [Am. 623]
- (b) the implementation plan for each project of common interest;
- (c) the ~~main~~ *complete* results of the *ex-ante* cost-benefit analysis on the basis of the methodology elaborated pursuant Article for the projects of common interest concerned, except for any commercially sensitive information. [Am. 624]
- (ca) *the ex-post impact assessment which describes the Union-wide impacts of the projects of common interest materialised*; [Am. 629]
- (cb) *information about the updated list of projects of common interest*; [Am. 25]
- (cc) *the funds allocated and disbursed by the Union for each project of common interest*. [Am. 72]

Article 18

Transitional provisions

This Regulation shall not affect the granting, continuation or modification of financial aid awarded by the Commission on the basis of calls for proposals launched under Regulation

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(EC) No 680/2007 of the European Parliament and of the Council¹⁸ to projects listed in Annexes I and III to Decision 1364/2006/EC or in view of the targets, based on the relevant categories of expenditure for TEN-E, as defined in Council Regulation (EC) No 1083/2006¹⁹.

Article 18a

Amendments to Regulation (EC) No 713/2009

Regulation (EC) No 713/2009 is hereby amended as follows:

Article 22 (1) is replaced by the following:

“1. Fees shall be due to the Agency for requesting an exemption decision pursuant to Article 9 (1) and for any other services provided by the Agency pursuant to [Regulation on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC].” [Am. 630]

Article 19

Repeal

Decision 1364/2006/EC is hereby repealed from 1 January 2014. No rights shall arise under this Regulation for projects listed in Annexes I and III to Decision 1364/2006/EC.

Article 20

Entry into force

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

It shall apply from 1 January 2013.

¹⁸ OJ L 162, 22.6.2007, p. 1.

¹⁹ OJ L 210, 31.7.2006, p. 25.

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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

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ANNEX I

ENERGY INFRASTRUCTURE PRIORITY CORRIDORS AND AREAS

This Regulation shall apply to the following trans-European energy infrastructure priority corridors and areas:

1. PRIORITY ELECTRICITY CORRIDORS

- (1) *Northern Seas offshore grid (“NSOG”)*: integrated offshore electricity grid in the North Sea, the Irish Sea, the English Channel, the Baltic Sea and neighbouring waters, **and associated grid developments (interconnections, internal on-shore grid reinforcement)** to transport electricity from renewable offshore energy sources to centres of consumption and storage and to increase cross-border electricity exchange.

Member States concerned: Belgium, Denmark, France, Germany, Ireland, Luxemburg, the Netherlands, Sweden, the United Kingdom;

- (2) *North-South electricity interconnections in Western Europe (“NSI West Electricity”)*: **internal lines and** interconnections between Member States of the region (**namely between the Iberian peninsula and France**), **and further connections with Central Europe** and with ~~Mediterranean~~ third countries **to complete the internal market**, notably to integrate electricity from renewable energy sources **and enable their transport to consumption centres and storage sites**.

Member States concerned: **Austria**, Belgium, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Malta, Portugal, Spain, the United Kingdom;

- (3) *North-South electricity interconnections in Central Eastern and South Eastern Europe (“NSI East Electricity”)*: interconnections and internal lines in North-South and East-West directions **and with third countries** to complete the internal market **and/or** integrate generation from renewable energy sources.

Member States concerned: Austria, Bulgaria, Czech Republic, Cyprus, Germany, Greece, Hungary, Italy, Poland, Romania, Slovakia, Slovenia;

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- (4) *Baltic Energy Market Interconnection Plan in electricity ("BEMIP Electricity")*: interconnections between Member States in the Baltic region and reinforcing internal grid infrastructures accordingly, to end isolation of the Baltic States and to foster market integration in the region **and integrate generation from renewable energy sources**;

Member States concerned: Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, Sweden.

2. PRIORITY GAS CORRIDORS

- (5) *North-South gas interconnections in Western Europe ("NSI West Gas")*: interconnection capacities **and other relevant infrastructure** for North-South **reversible** gas flows in Western Europe to **remove bottlenecks and** further diversify routes **and enhance security** of supply and increase short-term gas deliverability, **thus making full use of alternative external supplies, and optimising the LNG terminals and gas storage infrastructure**.

Member States concerned: Belgium, France, Germany, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Spain, the United Kingdom;

- (6) *North-South gas interconnections in Central Eastern and South Eastern Europe ("NSI East Gas")*: regional gas connections **and other relevant infrastructures, including LNG and CNG, in the East Mediterranean Basin and** between the Baltic Sea region, the Adriatic and Aegean Seas and the Black Sea, notably to enhance diversification and security of gas supply;

Member States concerned: Austria, Bulgaria, Cyprus, Czech Republic, Germany, Greece, Hungary, Italy, Poland, Romania, Slovakia, Slovenia;

- (7) *Southern Gas Corridor ("SGC")*: ~~transmission~~ **Infrastructure for the transmission and storage of gas, including liquefied and compressed natural gas terminals to enhance diversification** of gas **supply and routes** from the Caspian Basin, Central

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Asia, the Middle East and the Eastern Mediterranean Basin to the Union to ~~enhance diversification of gas supply.~~

Member States concerned: Austria, Bulgaria, Czech Republic, Cyprus, France, Germany, Hungary, Greece, Italy, Poland, Romania, Slovakia, Slovenia;

- (8) *Baltic Energy Market Interconnection Plan in gas ("BEMIP Gas")*: *gas infrastructure between Member States in the Baltic region, reinforcing gas internal grid infrastructures accordingly*, to end the isolation of the three Baltic States and Finland and their ~~single-supplier~~ dependency *on a single supplier* and to increase diversification *and security* of ~~supplies~~ *gas supply and routes* in the Baltic Sea region;

Member States concerned: Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, Sweden.

3. PRIORITY OIL CORRIDOR

- (9) *Oil supply ~~connections~~ diversification corridors in Central Eastern and South Eastern Europe ("OSC")*: interoperability of the oil pipeline network in Central Eastern Europe to increase security of supply and reduce environmental risks.

Member States concerned: Austria, Czech Republic, Germany, Hungary, Poland, **Romania**, Slovakia.

4. PRIORITY THEMATIC AREAS

- (10) *Smart grids deployment*: adoption of smart grid technologies across the Union to efficiently integrate the behaviour and actions of all users connected to the electricity network, in particular the generation of large amounts of electricity from renewable or distributed energy sources and demand response by consumers;

Member States concerned: all;

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- (11) *Electricity highways: first electricity highways by 2020, in view of building an electricity highways system across the Union **that is capable of,***
- accomodating ever increasing wind surplus generation in and around the Northern and Baltic Seas and increasing renewable generation in the East and South of Europe;*
 - connecting these new generation hubs with major storage capacities and major consumption centres and*
 - coping with an increasingly flexible and decentralised elercticity demand and supply [Am. 82]*

Member States concerned: all;

- (12) *Cross-border carbon dioxide network: development of carbon dioxide transport infrastructure between Member States and with neighbouring third countries in view of the deployment of carbon dioxide capture and storage.*

Member States concerned: all.

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ANNEX II

ENERGY INFRASTRUCTURE CATEGORIES

The energy infrastructure categories to be developed in order to implement the energy infrastructure priorities listed in Annex I are the following:

- (1) concerning electricity:
 - (a) high-voltage overhead transmission lines, if they have been designed for a voltage of 220 kV or more, and underground and submarine transmission cables, if they have been designed for a voltage of 150 kV or more; ***and medium and low-voltage lines designed for a voltage of at least 10kV connected to the above-mentioned lines;***
 - (b) concerning in particular electricity highways; any physical equipment designed to allow transport of electricity on the high and extra-high voltage level, in view of connecting large amounts of electricity generation or storage located in one or several Member States or third countries with large-scale electricity consumption in one or several other Member States;
 - (c) electricity storage facilities used for storing electricity on a permanent or temporary basis in above-ground or underground infrastructure or geological sites, ~~provided they are directly connected to high voltage transmission lines designed for a voltage of 110 kV or more;~~
 - (d) any equipment or installation essential for the systems defined in (a) to (c) to operate safely, securely and efficiently, including protection, monitoring and control systems at all voltage levels;
 - (e) any equipment or installation, both at transmission and ~~medium voltage~~ distribution level, aiming at two-way digital communication, real-time or close to real-time, interactive and intelligent monitoring and management of electricity generation, transmission, distribution and consumption within an electricity network in view of developing a network efficiently integrating the

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behaviour and actions of all users connected to it – generators, consumers and those that do both – in order to ensure an economically efficient, sustainable electricity system with low losses and high quality and security of supply and safety;

(2) concerning gas:

- (a) transmission pipelines for the transport of natural gas and bio gas that form part of a network which mainly contains high-pressure pipelines, excluding high-pressure pipelines used for upstream or local distribution of natural gas,
- (b) underground storage facilities connected to the above-mentioned high-pressure gas pipelines,
- (c) reception, storage, *transport* and regasification or decompression facilities for liquefied natural gas (LNG) or compressed natural gas (CNG);
- (d) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity;

(3) concerning oil:

- (a) pipelines used to transport crude oil *to refineries*;
- (b) pumping stations and storage facilities necessary for the operation of crude oil pipelines;
- (c) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems and reverse-flow devices;

(4) concerning carbon dioxide:

- (a) dedicated pipelines, other than upstream pipeline network, used to transport anthropogenic carbon dioxide from more than one source, i.e. industrial installations (including power plants) that produce carbon dioxide gas from

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combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds, for the purpose of permanent geological storage of carbon dioxide pursuant to Directive 2009/31/EC;

- (b) facilities for liquefaction and buffer storage of carbon dioxide in view of its further transportation. This does not include infrastructure within a geological formation used for the permanent geological storage of carbon dioxide pursuant to Directive 2009/31/EC and associated surface and injection facilities.
- (c) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems. [**Am. 85**]

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ANNEX III

REGIONAL IDENTIFICATION OF PROJECTS OF COMMON INTEREST

1. RULES FOR REGIONAL GROUPS

- (1) For electricity projects falling under the categories set out in point 1 of Annex II, each Group shall be composed of representatives of the Member States, national regulatory authorities, transmission system operators following their obligation to cooperate on a regional level in accordance with Article 6 of Directive 2009/72/EC and Article 12 of Regulation (EC) No 714/2009 ~~and project promoters concerned by each of the relevant priorities designated in Annex I~~, as well as the Commission, the Agency and the ENTSO for Electricity ***relevant organisations representing producers, distribution system operators, and project promoters concerned by each of the relevant priorities designated in Annex I.***

For gas projects falling under the categories set out in point 2 of Annex II, each Group shall be composed of representatives of the Member States, national regulatory authorities, transmission system operators following their obligation to cooperate on a regional level in accordance with Article 7 of Directive 2009/73/EC and Article 12 of Regulation (EC) No 715/2009 ~~and project promoters concerned by each of the relevant priorities designated in Annex I~~, as well as the Commission, the Agency and the ENTSO for Gas ***relevant organisations representing the supply and storage infrastructure operators concerned, and project promoters concerned by each of the relevant priorities designated in Annex I.***

The participation of national regulatory authorities and the Agency in the Groups shall not jeopardise the fulfilment of their objectives and duties under this Regulation or under Articles 36 and 37 of Directive 2009/72/EC and Articles 40 and 41 of Directive 2009/73/EC, or under Regulation (EC) No 713/2009.

For oil and carbon dioxide transport projects falling under the categories referred to in Annex II(3) and (4), each Group shall be composed of the representatives of the

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Member States, project promoters concerned by each of the relevant priorities designated in Annex 1 and the Commission.

- (2) Each Group shall organise its workload in line with regional cooperation efforts pursuant Article 6 of Directive 2009/72/EC, Article 7 of Directive 2009/73/EC, Article 12 of Regulation (EC) No 714/2009, and Article 12 of Regulation (EC) No 715/2009 and other existing regional cooperation structures *such as the current electricity and gas Regional Initiatives*.
- (3) Each Group ~~shall~~ *may* invite, as appropriate in view of implementing the relevant priority designated in Annex I, representatives of national administrations, of regulatory authorities, project promoters, *potentially eligible for the project selection as a project of common interest*, and transmission system operators from EU candidate countries and potential candidates, the member countries of the European Economic Area and the European Free Trade Association, representatives from the Energy Community institutions and bodies, countries covered by the European Neighbourhood policy and countries, with which the Union has established specific energy cooperation. *The decision to invite third country representatives shall be based on consensus.*
- (4) Each Group shall consult the organisations representing relevant stakeholders, including producers, distribution system operators, suppliers, consumers, and ~~for the tasks set out in paragraph 2 of Article~~, organisations for environmental protection. The Group may organise hearings or consultations, where relevant for the accomplishments of its tasks.
- (4a) *Decision making powers in the Groups shall be restricted to the Commission and the Member States. The decisions taken shall be duly justified to the Group and shall be based on consensus.*
- (4b) *Member States that are not involved in a project under discussion shall not be entitled to block its inclusion on the Union-wide list of projects of common interest.*

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- 4c) *Each Group shall publish its internal rules, an updated list of members and regularly updated information on the progress of its work, its meetings agendas, as well as its final conclusions and decisions, and make them easily accessible at any time.*

2. PROCESS FOR REGIONAL IDENTIFICATION

- (1) Each project promoter shall submit an application for selection as project of common interest to the members of the respective Group, including an assessment of its project(s) with regard to the contribution *to achieving the objectives of the energy infrastructure priority corridors and areas as to implementing the priorities* set out in Annex I, *an evolution of the fulfilment of the relevant criteria defined in Article 6Article 4, an assessment of the project's contribution towards each of the specific criteria defined in points (a) to (e) of Article 4(2), as applicable*, and any other relevant information for the evaluation of the project. *Project promoters shall submit a project-specific cost-benefit analysis in accordance with the methodology referred to in Article 12.*
- (1a) *For projects falling under categories 1 and 2 of Annex II, the Agency, in cooperation with national regulatory authorities, shall ensure the consistent application of the assessment criteria and the cost-benefit analysis, proposing modifications where necessary.*
- (1b) *For projects falling under categories 3 and 4 of Annex II, the Commission shall evaluate the consistent application of the specific criteria set out in points (d) and (e) of Article 4(2).*
- (2) All recipients shall preserve the confidentiality of commercially sensitive information.
- (3) *After approval of the first Union-wide list of projects of common interest, for all subsequent Union-wide lists of projects of common interest adopted*, proposed electricity transmission and storage projects falling under the categories set out in point 1(a) to (d) of Annex II shall be part of the latest available ten-year network

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development plan for electricity, developed by the ENTSO for Electricity pursuant Article 8 of Regulation (EC) *No* 714/2009.

- (4) *After approval of the first Union-wide list of projects of common interest, for all subsequent* ~~For all~~ Union-wide lists of projects of common interest adopted after 1 August 2013, proposed gas transmission, *LNG terminals* and storage projects falling under the categories set out in point 2 of Annex II shall be part of the latest available ten-year network development plan for gas, developed by the ENTSO for Gas pursuant Article 8 of Regulation (EC) *No* 715/2009.
- (4a) *Pursuant to points (3) and (4), project proposals submitted for inclusion in the first Union-wide list of projects of common interest which were not previously evaluated pursuant to Article 8 of Regulations (EC) No 714/2009 and (EC) No 715/2009, must be assessed, under the supervision of the Agency, by the ENTSO for Electricity or by the ENTSO for Gas, as applicable, for consistency with the Union-wide ten year network development plan. Upon approval by the ENTSO, the project proposal is deemed eligible for assessment under this Regulation.*
- (5) Proposed carbon dioxide transport projects falling under the category set out in point 4 of Annex II shall be presented as part of a plan, developed by ~~more than~~ *at least* two Member States, for the development of cross-border carbon dioxide transport and storage infrastructure, to be presented by the Member States concerned or entities designated by those Member States to the Commission.
- (6) When evaluating proposed electricity and gas projects falling under the categories set out in points 1(a) to (d) and 2 of Annex II, each Group shall, without prejudice to the provisions of point 4, take account of the analysis made, in accordance with the provisions in paragraph 7 of Article 12, for proposed electricity and gas projects falling under the categories set out in points 1(a) to (d) and 2 of Annex II in the latest available ten-year network development plan for gas and electricity, developed by the ENTSOs for Electricity and Gas pursuant Article 8 of Regulations (EC) *No* 714/2009 and (EC) *No* 715/2009.

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- (6a) *When evaluating proposed electricity and gas projects falling under the categories set out in points 1(a) to (d) and 2 of Annex II, each Group shall take into account, without prejudice to points 3 and 4 of this section, those that have been identified as being of European interest by previous initiatives such as the TEN-E and European Energy Programme for Recovery.*
- (6b) *Each Group shall seek to reach consensus on the projects that integrate its proposed list of projects of common interest. [Am. 87]*

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ANNEX IV

RULES AND INDICATORS CONCERNING CRITERIA FOR PROJECTS OF COMMON INTEREST

- (1) A project with significant cross-border impact is a project on the territory of a Member State, which fulfils the following conditions:
 - (a) for electricity transmission, the project changes the grid transfer capacity at the border of that Member State with one or several other Member States or at any other relevant cross-section of the same transmission corridor by at least 500 Megawatt *or by at least 30% as* compared to the situation without commissioning of the project;
 - (b) for electricity storage, the project provides storage capacity allowing a net annual electricity generation of at least ~~250~~ 500 Gigawatt-hours;
 - (c) for gas transmission, the project concerns investment in reverse flow capacities or changes the capability to transmit gas across the border(s) of the concerned Member State by at least 10% compared to the situation prior to the commissioning of the project;
 - (d) for gas storage or liquefied/compressed natural gas, the project aims ~~at supplying directly or indirectly at least two Member States or at~~ fulfilling the infrastructure standard (N-1 rule) at regional level in accordance with Article 6(3) of Regulation (EU) No 994/2010;
 - (e) for smart grids, the project ~~is~~ *may be* designed for equipments and installations ~~at high voltage and medium voltage level designed for a voltage of 10kV or more~~ *at any voltage level, while excluding projects focused primarily on smart-meter deployment*. It involves ~~transmission and distribution system operators~~ *project promoters* from at least two Member States, which cover at least ~~100,000 users~~ *50,000 users* that generate or consume electricity or do both in a consumption area of at least ~~300~~ *150* Gigawatthours/year, of which at

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least 20% originate from non dispatchable resources *and/ or distributed resources*.

- (2) Concerning projects falling under the categories set out in points 1(a) to (d) of Annex II, the criteria listed in Article shall be measured as follows:
- (a) Market integration, competition and system flexibility shall be measured in line with the analysis made in the latest available ten-year network development plan in electricity, notably by:
- calculating, for cross-border projects, the impact on the grid transfer capability in both power flow directions, measured in terms of amount of power (in megawatt), *and their contribution to reach the minimum interconnection capacity of 10% installed production capacity* or, for projects with significant cross-border impact, the impact on grid transfer capability at borders between relevant Member States, between relevant Member States and third countries or within relevant Member States and on demand-supply balancing and network operations in relevant Member States;
 - assessing the impact, for the area of analysis as defined in point 10 of Annex V, in terms of energy system-wide generation and transmission costs and evolution of *wholesale* market prices provided by a project under different planning scenarios, notably taking into account the variations induced on the merit order.
- (b) Transmission of renewable energy generation to major consumption centres and storage sites shall be measured in line with the analysis made in the latest available ten-year network development plan in electricity, notably by:
- for electricity transmission, by estimating the amount of generation capacity from renewable energy sources (by technology, in megawatts), which is connected and transmitted due to the project, compared to the amount of planned total generation capacity from these types of

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renewable energy sources in the concerned Member State in 2020 according to the national renewable energy action plans as defined in Article 4 of Directive 2009/28/EC.

- for electricity storage, by comparing new capacity provided by the project with total existing capacity for the same storage technology in the area of analysis as defined in point 10 of Annex V.
- (c) Interoperability and secure system operation *shall take into account solidarity between Member States in response to a temporary or permanent energy shortage and* shall be measured in line with the analysis made in the latest available ten-year network development plan in electricity, notably by assessing the impact of the project on the loss of load expectation for the area of analysis as defined in point 10 of Annex V in terms of generation and transmission adequacy for a set of characteristic load periods, taking into account expected changes in climate-related extreme weather events and their impact on infrastructure resilience *and paying due attention to the availability of independent and reliable control of system operation and services.*

The total expenditure for the project over its technical lifecycle shall be taken into account when calculating these indicators.

- (3) Concerning projects falling under the categories set out in point 2 of Annex II, the criteria listed in Article shall be measured as follows:
 - (a) Market integration and interoperability shall be measured by calculating the additional value of the project to the integration of market areas and price convergence, to the overall flexibility of the system, including the capacity level offered for reverse flows under various scenarios.
 - (b) Competition shall be measured on the basis of diversification, including the facilitation of access to indigenous sources of supply, *while also* taking ~~successively~~ into account *successively*: diversification of sources, *diversification of* counterparts, ~~and~~ *diversification of* routes and the impact of

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new capacity on the HHI index calculated at capacity level for the area of analysis as defined in point 10 of Annex V.

- (c) Security of gas supply shall be measured by calculating the additional value of the project to the short and long-term resilience of the *Union's gas* system and to enhancing the remaining flexibility of the system to cope with supply disruptions *to Member States* under various scenarios, as well as the additional capacity provided by the project measured in relation to the infrastructure standard (N-1 rule) at regional level in accordance with Article 6(3) of Regulation (EU) No 994/2010.
 - (d) Sustainability shall be measured *by assessing the environmental impact of the gas infrastructure and* as the contribution of a project to reduce emissions, *in conformity to the 2020 targets* to support the back-up of renewable electricity generation or power-to-gas and biogas transportation, taking into account expected changes in climatic conditions.
- (4) Concerning projects falling under the category set out in point 1(e) of Annex II, each function listed in Article shall be evaluated against the following criteria:
- (a) Level of sustainability: This criterion shall be measured by assessing the reduction of greenhouse gas emissions *in conformity to the 2020 targets*, and the environmental impact of electricity grid infrastructure;
 - (b) Capacity of transmission and distribution grids to connect and bring electricity from and to users: This criterion shall be measured by estimating the installed capacity of distributed energy resources in distribution networks, the allowable maximum injection of electricity without congestion risks in transmission networks, and the energy not withdrawn from renewable sources due to congestion or security risks;
 - (c) Network connectivity and access to all categories of network users: This criterion shall be evaluated by assessing the methods adopted to calculate charges and tariffs, as well as their structure, for generators, consumers and

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those that do both, and the operational flexibility provided for dynamic balancing of electricity in the network;

- (d) Security and quality of supply: This criterion shall be evaluated by assessing the ratio of reliably available generation capacity and peak demand, the share of electricity generated from renewable sources, the stability of the electricity system, the duration and frequency of interruptions per customer, including climate related disruptions, and the voltage quality performance;
 - (e) Efficiency and service quality in electricity supply and grid operation: This criterion shall be estimated by assessing the level of losses in transmission and in distribution networks, the ratio between minimum and maximum electricity demand within a defined time period, the demand side participation in electricity markets and in energy efficiency measures, the percentage utilisation (i.e. average loading) of electricity network components, the availability of network components (related to planned and unplanned maintenance) and its impact on network performances, and the actual availability of network capacity with respect to its standard value;
 - (f) Contribution to cross-border electricity markets by load-flow control to alleviate loop-flows and increase interconnection capacities: This criterion shall be estimated by assessing the ratio between interconnection capacity of a Member State and its electricity demand, the exploitation of interconnection capacities, and the congestion rents across interconnections.
- (5) Concerning oil transport projects falling under the categories set out in point 3 of Annex II, the criteria listed in Article shall be measured as follows:
- (a) Security of oil supply shall be measured by assessing the additional value of the new capacity offered by a project for the short and long-term resilience of the system and the remaining flexibility of the system to cope with supply disruptions under various scenarios.

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- (b) Interoperability shall be measured by assessing to what extent the project improves the operation of the oil network, in particular by providing the possibility of reverse flows.
- (c) Efficient and sustainable use of resources shall be evaluated by assessing the extent to which the project makes use of already existing infrastructure *and the environmental impact of new oil transport infrastructure* and contributes to minimising environmental and climate change burden and risks. **[Am. 100]**

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ANNEX V

ENERGY SYSTEM-WIDE COST-BENEFIT ANALYSIS

The methodology for a harmonised energy system-wide cost-benefit analysis for projects of common interest shall satisfy the following principles laid down in this Annex.

- (1) The methodology shall be based on a common input data set representing the Union's electricity and gas systems in the years $n+5$, $n+10$, $n+15$, and $n+20$, where n is the year in which the analysis is performed. This data set shall comprise at least:
 - (a) In electricity: scenarios for demand, generation capacities by fuel type (biomass, geothermal, hydro, gas, nuclear, oil, solid fuels, wind, solar photovoltaic, concentrated solar, other renewable technologies) and their geographical location, fuel prices *and calorific values* (including biomass, coal, gas and oil), carbon dioxide prices, *base and peak load electricity prices*, the composition of the transmission and, if relevant, the distribution network, and its evolution, taking into account all new significant generation (including capacity equipped for capturing carbon dioxide), storage and transmission projects for which a final investment decision has been taken and that are due to be commissioned by the end of year $n+5$;
 - (b) In gas: scenarios for demand, imports, *domestic production, LNG availability and price*, fuel prices *and calorific values* (including coal, gas and oil), carbon dioxide prices, *base and peak load electricity prices*, the composition of the transmission network and its evolution, taking into account all new projects for which a final investment decision has been taken and that are due to be commissioned by the end of year $n+5$;
- (2) The data set shall reflect Union and national legislations in force at the date of analysis. The data sets used for electricity and gas respectively shall be compatible, notably with regard to assumptions on prices and volumes in each market. The data set shall be elaborated after formally consulting Member States and ~~the organisations~~

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~~representing~~ all relevant stakeholders. The Commission and the Agency shall ensure access to the required commercial data from third parties when applicable.

- (3) The methodology shall give guidance for the development and use of network and market modelling necessary for the cost- benefit analysis.
- (4) The cost-benefit analysis shall be based on a harmonised evaluation of costs and benefits for the different categories of projects analysed and cover at least the period of time referred to in point 1.
- (5) The cost-benefit analysis shall at least take into account the following ***benchmarked and efficiently incurred*** costs: capital expenditure, operational and maintenance expenditure over the technical lifecycle of the project and decommissioning and waste management costs ***as well as other environmental externalities***, where relevant. The methodology shall give guidance on discount rates to be used for the calculations. ***The cost-benefit analysis shall take into account the situation of the Member States under financial assistance in such a way as to provide for a more level playing field in ensuring that comparative higher costs of capital are accounted for. Due account shall be taken of energy isolated Member States with a limited number of network users where the market will be unable to self-finance the projects of common interest.***
- (5a) ***The cost-benefit analysis shall also consider the benefits obtained by an accelerated project implementation due to the consideration of the technology options listed under Annex II (1a) or a combination thereof, even if these may entail higher investment costs at the outset.***
- (6) For electricity transmission and storage, the cost-benefit analysis shall at least take into account the impacts on the indicators defined in ~~Annex III~~ ***Annex IV***. In line with the methods applied for the elaboration of the latest available ten-year network development plan in electricity, it shall in addition notably take into account the impacts of the project on the following:

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- (a) Competition in terms of market power of different operators and the convergence of prices between different Member States;
- (b) Costs of electricity generation, transmission and distribution, including the costs for power plant self consumption and those related to greenhouse gas emissions and transmission losses over the technical lifecycle of the project;
- (c) Future costs for new generation and transmission investment over the technical lifecycle of the project;
- (d) Operational flexibility, including optimisation of regulating power and ancillary services;
- (e) System resilience, including disaster and climate resilience, and system security, notably for European critical infrastructures as defined in Directive 2008/114/EC.

(ea Congestion in the electricity network.

- (7) For gas, the cost-benefit analysis shall at least take into account the results of market testing, ~~such as open seasons~~, the impacts on the indicators defined in ~~Annex III~~ **Annex IV** and the following impacts:
 - (a) Competition in terms of market power of different operators and the convergence of prices between different Member States;
 - (b) System resilience, including disaster and climate resilience, and system security **fulfilling N-1 security criteria**, , notably for European critical infrastructures as defined in Directive 2008/114/EC;
 - (c) Probability and quantity of energy not being supplied and increase in security and quality of supply **at Union level**;
 - (d) Contribution to the integration of different gas market areas **and the lifting of isolation of less-favoured and island regions**

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- (e) Flexibility of and congestion in the gas network.
 - (ea) *Contribution to a better balance of the different supply sources and entry points into the Union gas network and maximising already existing import infrastructures.*
- (8) For smart grids, the cost-benefit analysis shall take into account the impacts on the indicators defined in ~~Annex III~~ **Annex IV**.
- (9) The detailed method used to take into account the indicators referred to in points 6 to 8 shall be elaborated after formally consulting the organisations representing all relevant stakeholders.
- (10) The methodology shall define an area of analysis for the cost-benefit analysis of each individual project and for the analysis at regional or Union-wide level. The area for the analysis of an individual project shall cover all Member States and third countries, on whose territory the project shall be built, all directly neighbouring Member States and all other Member States significantly impacted by the project.
- (11) The methodology shall define the analysis to be carried out, based on the relevant input data set, by calculating the results of the objective function with and without each project. The analysis shall identify the Member States on which the project has net positive impacts (beneficiaries) and those Member States on which the project has a net negative impact (cost bearers). Each cost-benefit analysis shall include sensitivity analyses concerning the input data set, the commissioning date of different projects in the same area of analysis and other relevant parameters *as well as a risk assessment*.
- (12) Transmission, *storage system and compressed and liquified natural gas terminal operators* and distribution system operators shall exchange the information necessary for the elaboration of the methodology, including the relevant network and market modelling. Any transmission or distribution system operator collecting information on behalf of other transmission or distribution system operators shall give back to the participating transmission and distribution system operators the results of the

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collection of data. For the common electricity and gas market and network model set out in paragraph 8 of Article , the input data set referred to in point 1 shall cover the years $n+10$, $n+20$ and $n+30$ and the model shall allow for a full assessment of economic, social and environmental impacts, notably including external costs such as those related to greenhouse gas and conventional air pollutant emissions or security of supply. **[Am. 107]**

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ANNEX VI

GUIDELINES FOR TRANSPARENCY AND PUBLIC PARTICIPATION

- (1) The manual of procedures shall at least specify:
 - (a) the relevant legislation upon which decisions and opinions are based for the different types of relevant projects of common interest, including environmental legislation;
 - (b) the relevant decisions and opinions to be obtained;
 - (c) the names and contact details of the Competent Authority, other authorities and major stakeholders concerned;
 - (d) the work flow, outlining each stage in the process, including an indicative time frame;
 - (e) information about the scope, structure and level of detail of documents to be submitted with the application for decisions, including a checklist;
 - (f) the stages and means for the general public to participate in the process.

(fa) the manual shall not add to the existing legislation in the field.
- (2) To increase public participation in the permit granting process *and ensure in advance information and dialogue with the public*, the following principles shall be applied:
 - (a) The stakeholders affected by a project of common interest, including relevant *national, regional and local* authorities, landowners and citizens living in the vicinity of the project, the general public and their associations, organisations or groups, shall be extensively informed and consulted at an early stage, *when potential concerns by the public can still be taken into account* and in an open and transparent manner. Where relevant, the competent authority shall actively support the activities undertaken by the project promoter.

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(b) Competent authorities shall ensure that public consultation procedures for projects of common interest are concentrated where possible. Each public consultation shall cover all subject matters relevant to the particular stage of the procedure, ~~and one subject matter relevant to the particular stage of the procedure shall not be addressed in more than one public consultation.~~ The subject matters addressed by a public consultation shall be clearly indicated in the notification of the public consultation. Comments and objections shall be admissible from the beginning of the public consultation until the expiry of the deadline only. *To allow substantial input by the public and relevant stakeholders, the consultation shall have a sufficient duration. Information regarding the starting date and deadline of the consultation shall be published significantly prior to the start of the consultation.*

~~(e)~~—

- (3) The concept for public participation shall at least include information about:
- (a) the stakeholders concerned and addressed;
 - (b) the measures envisaged, *including proposed general locations and dates of dedicated meetings;*
 - (c) the timeline;
 - (d) the human resources allocated to the respective tasks.
- (4) In the context of the public ~~consultation~~ **consultations** to be carried out before submission of the application file, the relevant parties shall at least:
- (a) publish an information leaflet of no more than 15 pages, giving, in a clear and concise manner, an overview of the purpose and preliminary timetable of the project, at least three alternative routes considered, expected impacts, including of cross-border nature, and possible mitigation measures *which shall be published significantly prior to the start of the consultation;*

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- (aa) *provide a concise overview of the decision-making process including the national grid development plan, the ten-year network development plan, the identification as project of common interest in the regional groups and links to the websites of these processes;*
 - (b) inform all stakeholders affected about the project through the website referred to in Article (7) and other appropriate information means;
 - (c) invite in written form relevant affected stakeholders to dedicated meetings, during which concerns shall be discussed.
- (5) The project website shall make available as a minimum the following:
- (a) a non-technical and regularly updated summary of no more than 50 pages reflecting the current status of the project and clearly indicating, in case of updates, changes to previous versions;
 - (b) the project and public consultation planning, clearly indicating dates and locations for public consultations and hearings *and the subject matters relevant for those hearings*; [Am. 114]
 - (c) contact details in view of obtaining the full set of application documents;
 - (d) contact details in view of conveying comments and objections during public consultations;
 - (e) the manual of procedures pursuant Article (1).