



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Industry, Research and Energy

2011/0300(COD)

28.3.2012

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC (COM(2011)0658 – C7-0371/2011 – 2011/0300(COD))

Committee on Industry, Research and Energy

Rapporteur: António Fernando Correia De Campos

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	66

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC (COM(2011)0658 – C7-0371/2011 – 2011/0300(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0658),
 - having regard to Article 294(2) and Article 172 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0371/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the United Kingdom House of Commons, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the Court of Justice of 1 February 2012¹,
 - having regard to the opinion of the European Central Bank of 1 February 2012²,
 - having regard to the opinion of the Committee of the Regions of 1 February 2012³,
 - having regard to Rules 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Economic and Monetary Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on the Internal Market and Consumer Protection, the Committee on Transport and Tourism and the Committee on Regional Development (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the

¹ OJ C 0000, 0.0.2012, p. 0.

² OJ C 0000, 0.0.2012, p. 0.

³ OJ C 0000, 0.0.2012, p. 0.

national parliaments.

Amendment 1
Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Whereas the best infrastructure, environmentally, socially and economically, is infrastructure whose building can be avoided; therefore energy efficiency is of vital importance, and full account should be taken of the likely effects of the proposed Energy Efficiency Directive in reducing the need for future infrastructure.

Or. en

Amendment 2
Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(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 EU 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.

Or. en

Amendment 3
Proposal for a regulation
Recital 17

Text proposed by the Commission

(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. This requires the decision on the list to be taken by the Commission, while respecting the right of the Member States to approve projects of common interest related to their territory. According to analysis carried out in the accompanying impact assessment, the number of **such** projects is estimated at some 100 in the field of electricity and 50 in the field of gas.

Amendment

(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. This requires the decision on the list to be taken by the Commission, 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 projects ***of common interest*** is estimated at some 100 in the field of electricity and 50 in the field of gas.

Or. en

Amendment 4
Proposal for a regulation
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) After evaluation of the effectiveness of the current provisions on permit granting, Member States should be encouraged to apply those provisions not only to projects of common interest, but also to all those projects deemed necessary in terms of technical viability.

Or. en

Justification

There are national projects which may have an impact on the projects of common interest and are important for the development of PCIs (enhancement of the national networks) but may not necessarily be included within the PCI itself and which may suffer significant delays.

Amendment 5
Proposal for a regulation
Recital 23

Text proposed by the Commission

Amendment

(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.

(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.***

Or. en

Amendment 6
Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) Given 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. 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 participation.

Amendment

(24) Given 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 participation.

Or. en

Amendment 7
Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) The existing internal energy market legislation requires that tariffs for access to gas and electricity networks shall provide appropriate incentives for investment. When applying the internal energy market legislation, national regulatory authorities should ensure **that** 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

Amendment

(28) The existing internal energy market legislation requires that tariffs for access to gas and electricity networks shall provide appropriate incentives for investment. When applying the internal energy market legislation, national regulatory authorities should ensure **a stable and predictable regulatory framework with** incentives for projects of common interest, including long-term incentives, 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

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.

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.

Or. en

Justification

A stable and predictable regulatory framework in Europe, enables promoters and investors to capture funds in the capital markets to carry out these investments without bearing a regulatory risk.

Amendment 8

Proposal for a regulation

Recital 30

Text proposed by the Commission

(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. 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 Structural Funds will finance smart energy distribution networks of local or regional importance. The two sources of funding will thereby complement each other.

Amendment

(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.*** 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 Structural Funds will finance smart energy distribution networks of local or regional importance. The two sources of funding will thereby complement each other.

Amendment 9
Proposal for a regulation
Article 2 – point 1

Text proposed by the Commission

1. 'energy infrastructure' means any physical equipment designed to allow transmission and distribution of electricity or gas, 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;

Amendment

1. 'energy infrastructure' means any physical equipment designed to allow transmission and distribution of electricity or gas, ***including the reception, re-gasification and decompression facilities for liquefied natural gas***, transportation of oil or carbon dioxide, or storage of electricity, gas, ***or carbon dioxide***, which is located within the Union or linking the Union and one or more third countries;

Or. en

Amendment 10
Proposal for a regulation
Article 2 – point 5 – point a

Text proposed by the Commission

(a) transmission system operator or distribution system operator or other operator or investor developing a project of common interest; *or*

Amendment

(a) transmission system operator or distribution system operator or other operator or investor developing a project of common interest ***as defined by this Regulation***;

Or. en

Amendment 11
Proposal for a regulation
Article 2 – point 5 a (new)

Text proposed by the Commission

Amendment

5a. 'Agency' means the Agency for the

Amendment 12
Proposal for a regulation
Article 2 – point 5 b (new)

Text proposed by the Commission

Amendment

5b. 'Regional Group' means a group set up according to the priority corridors as defined in Annex I, which may include representatives of the Member States, national regulatory authorities, transmission system operators, potentially eligible project promoters, and organisations representing producers and distribution system operators, as well as the Commission, the Agency and both the ENTSOs, and having the tasks of collaborating in the process of selecting projects of common interest, and in monitoring their implementation;

Or. en

Amendment 13
Proposal for a regulation
Article 2 – point 5 c (new)

Text proposed by the Commission

Amendment

5c. 'Consensus' means the outcome of a group decision-making process based on the consent, whether unanimous or not, of participants in the process.

Or. en

Amendment 14
Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 15
Proposal for a regulation
Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Project promoters shall submit an application for selection of their project as a project of common interest to the relevant Group in accordance with paragraph (2)(1) of Annex III within three months of the entry into force of this Regulation.

Or. en

Justification

For clarity and procedural transparency all time-limits should be counted from the time of entry into force of this Regulation.

Amendment 16
Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Each Group shall draw up its proposed list of projects of common interest

3. Each Group shall draw up its *regional* proposed list of projects of common

according to the process set out in section 2 of Annex III, *according to* the contribution of each project to implementing the energy infrastructure priority corridors and areas set out in Annex I and *according to their* fulfilment of the criteria set out in Article 4. ***Each individual proposal for a project shall require the approval of the Member State(s), to the territory of which the project relates.***

interest, *taking into account:*

- the process set out in section 2 of Annex III; ***and***
- the contribution of each project to implementing the ***objectives of the*** energy infrastructure priority corridors and areas ***as*** set out in Annex I; and
- the fulfilment ***by each project*** of the criteria set out in ***Article 4(1) and (2); and***
- an assessment of the ***project's contribution towards each*** of the ***specific criteria defined under Article 4. 2 (a) to (e), as applicable for each project category, and in accordance with Article. 4(3)); and***
- the contribution to the ***objectives of territorial cohesion.***

Or. en

Justification

The Lisbon Treaty establishes through the TEU and the TFEU, territorial cohesion and promotion of solidarity among Member States in the field of energy as general objectives of the Union and give the Union shared competences with Members States (Art. 174 TFEU; Art. 194 (1) TFEU) on this matter. It should be clear that each project must undergo a multi-criteria assessment which reflects more adequately each project's benefits and contribution towards European energy and climate policy goals, as opposed to a single criterion analysis.

Amendment 17
Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 1

Text proposed by the Commission

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**, submit its proposed list of projects of common interest to the Agency for the Cooperation of Energy Regulators ('Agency').

Amendment

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 **three** months **after** the **time limit defined in Article 2a** submit its proposed list of projects of common interest to the Agency for the Cooperation of Energy Regulators ("Agency").

Or. en

Amendment 18
Proposal for a regulation
Article 3 – paragraph 4 – subparagraph 2

Text proposed by the Commission

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**, submit its proposed list of projects of common interest to the Commission.

Amendment

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 **three** months **after the time limit defined in Article 2a**, submit its proposed list of projects of common interest to the Commission.

Or. en

Amendment 19
Proposal for a regulation
Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. When a Regional Group draws up its proposed list of projects of common interest, each individual proposal for a project shall require the approval of the Member State(s), on whose territory the project is located.

Refusal by a Member State of the selection of a project of common interest by a Regional Group must be accompanied by:

(a) a 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, provided that it respects the same level of economic efficiency and allocates the same benefits to other Member States without increasing their respective costs;

If at least one other Member State opposes the decision of the Member State(s) on whose territory the project is located, the matter shall be referred to the Agency for an opinion on the relevance of the proposed project for completing the Union's internal energy market, for achieving the energy and climate policy targets and for ensuring security of supply. Until the Agency has given its opinion, the proposed list of projects concerning the Group shall be put on hold.

If the Agency deems the project to be worthy of being a project of common interest, the Member States concerned, the Agency and the Commission should review the Member States' substantiated justification in order to ascertain whether a solution can be found so that the project can be included in the Union list of projects of common interest.

Or. en

Justification

Member States should take into consideration the European interest when deciding on rejecting a project. A neutral and levelled playing field should be ensured with the help of the Commission and the Agency, regarding the selection process when competing projects are at stake.

Amendment 20
Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission

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** 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 opinion** to the Commission **on the proposed lists** of projects of common interest, **in particular taking** into account the **consistent application of the** criteria set out in **across the Groups**, and the results of the analysis carried out by the ENTSOs for Electricity and Gas in accordance with point 2.6 of Annex III.

Amendment

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 **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, **a reasoned recommendation** to the Commission **proposing:**

– for each regional list, a ranking of projects **aggregated by clusters, in a limited number of categories, according to their priority;**

– a single Union-wide list of projects of common interest, **aggregated according to the corresponding clusters.**

In its analysis the Agency shall take into account the criteria set out in **Article 4**, the results of the analysis carried out by the ENTSOs for Electricity and Gas in accordance with point 2.6 of Annex III, **and their consistent application across the Groups. The Agency shall also take into account the consistency of the projects with a coherent expansion of the network in regard to economic efficiency, cross-border operational integration, as well as the specific potential of each region to best contribute towards reaching the EU's energy and climate policy goals.**

Or. en

Justification

The submission of project proposals for PCI by operators follows a bottom-up approach. The analysis carried out by the Groups builds on the TYNDPs, but they are still a patchwork of national TSO plans. The process is immature for assessing the efficiency of each project in contributing to the EU energy policy goals. Hence, the PCI selection should be complemented by a EU top-down approach through an independent entity such as ACER, which guarantees coordination and coherence of network expansion, ensures economically efficient investments and safeguard the consumers' interests. Ranking shall be carried out in an aggregated form on the basis of the cost benefit and multi-criteria analysis as tool for decision-making.

Amendment 21

Proposal for a regulation

Article 3 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Within two months of receipt of the recommendation for a list of projects of common interest by the Agency, the Commission shall establish a Union-wide list of projects of common interest aggregated by clusters, while ensuring that adequate attention is given to peripheral and small Member States and to the objective of ending energy isolation within the EU 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 paragraphs 3 to 6a of this Article.

Or. en

Justification

Attention to peripheral Member States, and to end "energy islands" is in agreement with the Council conclusions of 4 of February 2011.

Amendment 22

Proposal for a regulation

Article 3 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. The Commission shall present to the Regional Groups and make publicly available a detailed justification of the results of the Union list of projects of common interest.

Or. en

Justification

In respect for the principles of transparency.

Amendment 23
Proposal for a regulation
Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Projects of common interest shall meet the following general criteria:

1. Projects of common interest shall meet the following general **eligibility** criteria:

Or. en

Amendment 24
Proposal for a regulation
Article 4 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the project is in line with the EU's energy and climate goals;

Or. en

Amendment 25
Proposal for a regulation
Article 4 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the project **is necessary for** the implementation of the energy infrastructure priority corridors and areas set out in Annex I; and

(a) the project **contributes significantly to** the implementation of the **objectives of the** energy infrastructure priority corridors and areas set out in Annex I, **and as assessed in accordance with paragraphs 2 and 3 of this Article**; and

Or. en

Amendment 26
Proposal for a regulation
Article 4 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the project involves at least two Member States, **either by** directly crossing the border of one or more Member States or **by** being located on the territory of one Member State **and having** a significant cross-border impact as set out in point 1 of Annex IV;

(c) the project involves at least two Member States **if** directly crossing the **land or sea** border of one or more Member States, or **if** being located on the territory of one Member State **but nevertheless has** a significant cross-border impact, **or in the case of an internal reinforcement, the project is relevant to a cross-border interconnection** as set out in point 1 of Annex IV, **or if it has the purpose of connecting islands and peripheral regions to central regions of the Union**;

Or. en

Justification

In line with the development of renewable energy sources it is necessary to support the integration of renewable electricity production in internal transmission reinforcement projects if they contribute to cross-border transmission according to criteria defined in Annex IV.

Amendment 27
Proposal for a regulation
Article 4 – paragraph 2 – point a – introductory part

Text proposed by the Commission

(a) concerning electricity transmission and storage projects falling under the categories set out in points 1(a) to (d) of Annex II, **the project** shall contribute significantly to at least one of the following specific criteria:

Amendment

(a) concerning electricity transmission and storage projects falling under the categories set out in points 1(a) to (d) of Annex II, **eligible projects** shall contribute significantly to at least one of the following specific criteria:

Or. en

Amendment 28
Proposal for a regulation
Article 4 – paragraph 2 – point a – indent 1

Text proposed by the Commission

– market integration, competition and system flexibility;

Amendment

– market integration, competition and system flexibility; **with particular emphasis on increasing cross-border interconnection and preventing transmission bottlenecks;**

Or. en

Amendment 29
Proposal for a regulation
Article 4 – paragraph 2 – point a – indent 2

Text proposed by the Commission

– sustainability, inter alia through transmission of renewable generation to major consumption centres and storage sites;

Amendment

– sustainability, inter alia through **integration of renewable energy into the grid and** transmission of renewable generation to major consumption centres and storage sites;

Or. en

Amendment 30
Proposal for a regulation
Article 4 – paragraph 2 – point b – introductory part

Text proposed by the Commission

(b) concerning gas projects falling under the categories set out in point 2 of Annex II, **the project** shall contribute significantly to at least one of the following specific criteria:

Amendment

(b) concerning gas projects falling under the categories set out in point 2 of Annex II, **eligible projects** shall contribute significantly to at least one of the following specific criteria:

Or. en

Amendment 31
Proposal for a regulation
Article 4 – paragraph 2 – point b – indent 2

Text proposed by the Commission

– security of supply, inter alia through diversification of supply sources, supplying counterparts and routes;

Amendment

– security of supply, inter alia through diversification of supply sources, supplying counterparts and routes **and reverse flow**;

Or. en

Amendment 32
Proposal for a regulation
Article 4 – paragraph 2 – point e – indent 2

Text proposed by the Commission

– increase the resilience and security of carbon dioxide transport;

Amendment

– increase the resilience and security of carbon dioxide transport **or storage**;

Or. en

Amendment 33
Proposal for a regulation
Article 4 – paragraph 4

Text proposed by the Commission

4. When ranking projects contributing to the implementation of the same priority, due consideration shall also be given to the urgency of each proposed project in order to meet the energy policy targets of market integration and competition, sustainability and security of supply, the number of Member States affected by each project, **and** its complementarity with regard to other proposed projects. 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 resources in the area covered by these users.

Amendment

4. When ranking projects contributing to the implementation of the same priority, due consideration shall also be given to:

- the urgency of each proposed project in order to meet the energy policy targets of market integration and competition, sustainability and security of supply;
- the number of Member States affected by each project, **provided that no Member State is discriminated against by virtue of its geographical location;**
- the project's complementarity with regard to other proposed projects;
- 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, to the number of users affected by the project, the annual energy consumption and the share of generation from non dispatchable resources in the area covered by these users.

Or. en

Justification

The proposal should incentivise the participation in projects of more than just the operators from 2 neighbouring countries with the aim of promoting cooperation, trust-building among players, and market integration, transferring know-how and experience to other regions. This can serve as an incentive for first movers, and help avoid the moral hazard of providing incentives exclusively to those who have taken longer to move towards the European objectives of increased interconnection and renewables. The central geographical location is an element that can artificially favour projects in such regions against projects located in peripheral regions; this element needs to be balanced.

Amendment 34 **Proposal for a regulation** **Article 5 – paragraph 1**

Text proposed by the Commission

1. Project promoters shall implement projects of common interest **according to an implementation plan including** a timetable for feasibility and design studies, regulatory approval, construction and commissioning, and the permit granting schedule referred to in (3). Transmission system operators, distribution system operators or other operators shall operate projects of common interest in their area.

Amendment

1. Project promoters shall **draw up an implementation plan to be approved by the Agency to** implement projects of common interest. **That plan shall include** a timetable for feasibility and design studies, regulatory approval, construction and commissioning, and the permit granting schedule referred to in **Article 11(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. The Agency shall also advise the Groups on the feasibility of the regulatory aspects, notably on the timetable for regulatory approval.**

Or. en

Justification

It is key that project promoters comply with the implementation plans in order to avoid delays. The proposal should incentivise the participation in projects of more than just the operators from 2 neighbouring countries with the aim of promoting cooperation, trust-building among players, and market integration, transferring know-how and experience to other regions. This can serve as an incentive for first movers, and help avoid the moral hazard of providing incentives exclusively to those who have taken longer to move towards the European objectives of increased interconnection and renewables. The plan should be

subject to assessment by ACER.

Amendment 35
Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. The Agency and the Groups shall monitor the progress achieved in implementing the projects of common interest. The Groups may request additional information **provided** in 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 to take measures to **facilitate** the implementation of projects of common interest.

Amendment

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 to each Regional Group meeting on progress achieved.** The Groups may request additional information in accordance with paragraphs 3, 4 and 5, verify the 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, and instruct project promoters to take measures to accelerate** the implementation of projects of common interest **in accordance with the implementation plan.**

Or. en

Amendment 36
Proposal for a regulation
Article 5 – paragraph 3 – point b

Text proposed by the Commission

(b) where relevant, delays compared to the implementation plan and other difficulties encountered.

Amendment

(b) where relevant, delays compared to the implementation plan, **the reasons for such delays, and details of** other difficulties encountered.

Or. en

Amendment 37
Proposal for a regulation
Article 5 – paragraph 5

Text proposed by the Commission

5. Each year, the concerned competent authorities referred to in 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 of projects of common interest located on their respective territory.

Amendment

5. Each year, the concerned competent authorities referred to in **Article 9** 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 of projects of common interest located on their respective territory **and the reasons for such delays.**

Or. en

Amendment 38
Proposal for a regulation
Article 5 – paragraph 6 – introductory part

Text proposed by the Commission

6. If the commissioning of a project of common interest is delayed by more than two years compared to the implementation plan **without sufficient justification:**

Amendment

6. If the commissioning of a project of common interest is delayed by more than two years compared to the implementation plan **other than for overriding reasons beyond the responsibility of the promoter:**

Or. en

Amendment 39
Proposal for a regulation
Article 5 – paragraph 6 – point a

Text proposed by the Commission

(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

Amendment

(a) **Once the delay has amounted to two years, the** project **promoter** shall, **within 3 months,** accept investments by one or several other operators or investors **as defined in Article 2 (5)** to implement the project. The **relevant** operator, in whose

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.

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 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.

Or. en

Amendment 40
Proposal for a regulation
Article 5 – paragraph 6 – point b

Text proposed by the Commission

(b) the Commission **may** launch a call for proposals open to any project promoter to build the project according to an agreed timeline.

Amendment

(b) **when the project promoter has not complied with point (a), the Commission shall, within 2 months,** launch a call for proposals open to any project promoter **as defined in Article 2 (5)** to build the project according to an agreed timeline.

Or. en

Justification

PCIs are priority projects and delays are already tolerated up to a limit of two years; Delays beyond this time-limit are not acceptable other than for reasons beyond the control of the promoter. The responsibilities of the project promoter should be clear in this regard, as well as the time limits for further action from the Commission. Opening a call for proposals is an effective measure to avoid blockades and to promote market integration.

Amendment 41
Proposal for a regulation
Article 5 – paragraph 7 – subparagraph 1 – introductory part

Text proposed by the Commission

A project of common interest may be removed from the Union-wide list of

Amendment

A project of common interest, **as long as construction works have not begun or**

projects of common interest according to the procedure *set* in the second sentence of (I) if:

financial commitments to equipment suppliers have not yet been made, may be removed from the Union-wide list of projects of common interest according to the procedure in the second sentence of **Article 3(6a)** if:

Or. en

Justification

After a certain level of maturity, the project should no longer be removed from the list of PCIs in order to avoid uncertainty for investors.

Amendment 42

Proposal for a regulation

Article 5 – paragraph 7 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(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*;

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

Or. en

Amendment 43

Proposal for a regulation

Article 5 – paragraph 7 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

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

(b) 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*;

Or. en

Amendment 44
Proposal for a regulation
Article 5 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. For the purpose of monitoring the interoperability of the infrastructure network, project promoters shall consider in their proposals the integration of their project with the operation coordination system referred to in Article 14a.

Or. en

Amendment 45
Proposal for a regulation
Article 5 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. Once the project of common interest becomes functional, the Agency shall monitor its effective contribution to the fulfilment of the general and specific criteria that led to the inclusion of the project in the list of projects of common interest. For this purpose, the Agency shall have full access to the information mentioned in Article 14a and shall complement it with the information it already holds through the implementation of Regulation (EU) 1227/2011.

Or. en

Amendment 46
Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. When a project of common interest encounters significant implementation

1. When a project of common interest encounters significant implementation

difficulties, the Commission *may* designate a European coordinator for a period of up to one year renewable twice.

difficulties, the Commission *shall* designate, *in consultation with the Member States concerned*, a European coordinator for a period of up to one year renewable twice.

Or. en

Amendment 47
Proposal for a regulation
Article 6 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) attend and report back to the meetings of the corresponding Regional Group;

Or. en

Amendment 48
Proposal for a regulation
Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. The Member States concerned shall cooperate with the European coordinator in his/her execution of the tasks referred to in paragraph 2 and 4.

5. The Member States concerned shall cooperate *fully* with the European coordinator in his/her execution of the tasks referred to in paragraph 2 and 4.

Or. en

Amendment 49
Proposal for a regulation
Article 8 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission shall, within three months of the entry into force of this Regulation, issue guidance to support

The Commission shall, within three months of the entry into force of this Regulation, issue guidance to support

Member States in defining adequate measures and to ensure the coherent application of environmental assessment procedures required under EU legislation for projects of common interest.

Member States in defining adequate 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 Regional Groups in accordance with Article 11a(3).***

Or. en

Amendment 50
Proposal for a regulation
Article 9 – paragraph 2 – point b

Text proposed by the Commission

(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 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. 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.

Amendment

(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 on which all the authorities concerned are represented in order to define a permit procedure plan and to monitor its implementation. In respect of Article 11(1), the Competent Authority may 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 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.

Or. en

Amendment 51
Proposal for a regulation
Article 9 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. Member States shall ensure that appeals challenging the substantive or procedural legality of a comprehensive decision are handled in the most efficient way possible.

Or. en

Amendment 52
Proposal for a regulation
Article 10 – paragraph 4

Text proposed by the Commission

4. At least one public consultation shall be carried out by the project promoter, or, where this is laid down by national legislation, by the competent authority, before submission of the application file to the competent authority pursuant to paragraph 1(a) of. The public 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. 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

Amendment

4. At least one public consultation shall be carried out by the project promoter, or, where this is laid down by national legislation, by the competent authority, before submission of the application file to the competent authority pursuant to paragraph 1(a) of **Article 11**. The public 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. 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 when taking the comprehensive decision.

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 when taking the comprehensive decision. ***The competent authority shall monitor the public consultation process.***

Or. en

Amendment 53

Proposal for a regulation

Article 11 – paragraph 1 – point a – subparagraph 2

Text proposed by the Commission

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. 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.

Amendment

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 date for the time-limit if appropriate.***

Amendment 54
Proposal for a regulation
Article 11 – paragraph 1 – point b

Text proposed by the Commission

(b) The statutory permit granting procedure, covering the period from the acceptance of the submitted application file until the competent authority takes a comprehensive decision, shall not exceed one year. Member States may set an earlier date for the time-limit if considered appropriate.

Amendment

(b) The statutory permit granting procedure, covering the period from the ***date of*** acceptance of the submitted application file until the competent authority takes a comprehensive decision, shall not exceed one year. Member States may set an earlier date for the time-limit if appropriate.

Amendment 55
Proposal for a regulation
Article 11 – paragraph 6

Text proposed by the Commission

6. In the event of an expiry of the time-limit for the comprehensive decision, the competent authority shall present to the competent Group the 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.

Amendment

6. In the event of an expiry of the time limit for the comprehensive decision, the competent authority, ***or when Article 9 (2b) 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*** 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.

Amendment 56
Proposal for a regulation
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Monitoring of the priority status of projects of common interest and the permit granting process

- 1. The Competent Authority and the national authorities concerned shall report at the meetings of the Group on the progress of permit granting procedures concerning projects of common interest.***
- 2. The European Commission shall establish, organise and publicise an award which shall be given to a restricted number of competent authorities and their staff in recognition of their exemplary performance in conducting the permit granting procedures, with regard to stakeholder involvement, to the use of innovative practices and to overall effectiveness. National and cross-border mechanisms put in place by Member States for the exchange of best practice and capacity-building in the area of energy infrastructure permit granting shall also be eligible for the award.***
- 3. The Member States shall report to the Commission and the Regional Groups, within 10 months of the entry into force of this Regulation, on the measures put in place pursuant to Article 8(3) and (4), Article 9(1), (2b) (3) and (4), and Article 10(1). The Commission shall monitor the progress made and notify Member States, within 2 months, of the need for corrective measures, where necessary.***
- 4. Failure by Member States to put in place the prescribed measures within 3 months of the Commission notification referred to in paragraph 3, or failure by the competent authority and the authorities concerned in accordance with***

Article 9 (1) and (2b) to comply, within 2 months, with the reporting obligations set out in Article 11(6) and in Article 11a(1) and (3), will make the Member States liable to sanctions by the Commission in accordance with paragraph (5).

5. In accordance with paragraph (4) the Commission may withhold Union financial assistance, as determined in Article 15, from projects taking place within the territory of the Member State concerned.

Or. en

Justification

Delays in permitting procedures were identified as a major obstacle to cross-border infrastructure deployment, with an average duration of 12 years. Since enforcing the time-limit of 3 years can have adverse effects in the permitting procedures, other positive and negative incentives are necessary to tackle this major source of delays and blockades. Member States need to ensure compliance with the administrative and organizational terms in this Regulation for a swifter permitting process and a more efficient and effective use of resources at national level.

Amendment 57 **Proposal for a regulation** **Article 12 – paragraph 1**

Text proposed by the Commission

1. Within **one month** of the entry into force of this Regulation, 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 for projects of common interest falling under the categories set out in points 1(a) to (d) and 2 of Annex II. The methodology shall be elaborated in line with the principles laid down in Annex V.

Amendment

1. Within **three months** of the entry into force of this Regulation, 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 for projects of common interest falling under the categories set out in points 1(a) to (d) and 2 of Annex II. The methodology shall be elaborated in line with the principles **and criteria** laid down in **Article 4 (2), Annex IV and Annex V. The ENTSO for Electricity and the ENTSO for Gas shall**

consult with relevant stakeholders, including infrastructure users and non-TSO project developers, early during the development of the methodology.

Or. en

Amendment 58
Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

3. Within **three months** of the receipt of the opinion of the Agency, the Commission shall deliver an opinion on the methodology.

Amendment

3. Within **one month** of the receipt of the opinion of the Agency, the Commission shall deliver an opinion on the methodology.

Or. en

Amendment 59
Proposal for a regulation
Article 12 – paragraph 4

Text proposed by the Commission

4. Within **three** 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.

Amendment

4. Within **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.

Or. en

Amendment 60
Proposal for a regulation
Article 12 – paragraph 7

Text proposed by the Commission

7. The methodology shall be applied to the

Amendment

7. The methodology 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.

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. ***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 developed by the ENTSO for Gas and the ENTSO for Electricity at the latest three months after entry into force of this Regulation. The development of such methodology shall be carried out in close collaboration with the Agency and the Commission. The Commission shall validate the methodology within the time limit set out in this paragraph. The methodology shall subsequently be updated in accordance with this Article.***

Or. en

Amendment 61
Proposal for a regulation
Article 13 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The investment costs related to a project of common interest falling under the categories set out in points 1(a) **to** (d) and 2 of Annex II shall be borne by the transmission system operator(s) 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.

Amendment

The investment costs related to a project of common interest falling under the categories set out in points 1(a), **(b) and** (d) and 2 of Annex II shall be borne by the transmission system operator(s) **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.

Or. en

Justification

Electricity storage is a liberalized activity; Gas underground storage may, or may not be regulated.

Amendment 62
Proposal for a regulation
Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. National regulatory authorities shall, in cooperation with the Agency, establish a set of adequate indicators to compare unit investment costs between project promoters across Member States; if deemed necessary by the Agency, a benchmarking of investment costs will be carried out in cooperation between the Agency and the national energy regulators to ascertain if they are efficiently incurred.

Or. en

Amendment 63
Proposal for a regulation
Article 13 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Significant increases in investment costs shall be notified by the national regulatory authorities and the Agency to the Commission. On the basis of that information, the Commission may launch a call for proposals open to any project promoter to build the project.

Or. en

Amendment 64
Proposal for a regulation
Article 13 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The promoter(s) of a project of common interest falling under the categories set out in points 1(a) *to* (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 *a* project *of common interest selected pursuant to 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 cross-border cost allocation, to the relevant national regulatory authorities, accompanied by the following:

The promoter(s) of a project of common interest falling under the categories set out in points 1(a), *(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 *the* project has reached sufficient maturity, the project promoter shall submit an investment request including a cross-border cost allocation, to the relevant national regulatory authorities, accompanied by the following:

Or. en

Amendment 65
Proposal for a regulation
Article 13 – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(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*, the results of market testing.

(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 *II*, the results of market testing.

Or. en

Amendment 66
Proposal for a regulation
Article 13 – paragraph 4 – subparagraph 3

Text proposed by the Commission

For projects contained in the first Union-wide list of projects of common interest, project promoters shall submit their request **by 30 September 2013**.

Amendment

For projects contained in the first Union-wide list of projects of common interest, project promoters shall submit their **requests at the latest 2 months after the adoption of the first list**.

Or. en

Amendment 67
Proposal for a regulation
Article 13 – paragraph 5 – subparagraph 1

Text proposed by the Commission

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 or to allocate costs among a package of several projects of common interest.

Amendment

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 infrastructure concerned***, or to allocate costs among a package of several projects of common interest.

Or. en

Amendment 68
Proposal for a regulation
Article 13 – paragraph 5 – subparagraph 4

Text proposed by the Commission

The allocation decision shall be published.

Amendment

The ***cost*** allocation decision shall be published.

Amendment 69
Proposal for a regulation
Article 13 – paragraph 6 – subparagraph 4

Text proposed by the Commission

The allocation decision shall be published.

Amendment

The *cost* allocation decision shall be published.

Amendment 70
Proposal for a regulation
Article 14 – paragraph 2

Text proposed by the Commission

2. The decision of the national regulatory authorities for granting such incentives shall ***consider the results*** of the cost-benefit analysis on the basis of the methodology elaborated pursuant to 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, risks related to under-recovery of costs and development risks.

Amendment

2. The decision of the national regulatory authorities for granting such incentives shall ***include an assessment*** of the cost-benefit analysis ***and its results*** on the basis of the methodology elaborated pursuant to ***Article 12*** 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, risks related to under-recovery of costs and development risks.

Justification

NRAs shall independently assess the cost benefit analysis performed by the project promoter

Amendment 71
Proposal for a regulation
Article 14 – paragraph 5

Text proposed by the Commission

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** projects and the higher risks incurred by them.

Amendment

5. By 31 July 2013, each national regulatory authority shall publish its methodology and the criteria used to evaluate investments in electricity and gas **infrastructure** projects and the higher risks incurred by them, **as well as the appropriate incentives mentioned in paragraph 1 of this Article.**

Or. en

Amendment 72
Proposal for a regulation
Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Operational coordination

1. 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.

2. 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) governance models, including ownership;

c) implementation schedules;

3. Within 3 months of the date of receipt of the proposals, the Agency shall publish a reasoned opinion on the proposals.

4. Within 3 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.

5. The operational information referred to in Article 2a 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 concerning such information from the Agency or from other system operators, .

Or. en

Justification

Due to an ever increasing complexity and interdependency of the network, an operational systems coordination is needed at European level to collect real time information about the cross-border exchanges of electricity and gas, their relative costs, in order to provide the Commission, Member States, regulators and transmission system operators with useful data needed for the safe and effective operation of infrastructures networks and their future planning.

Amendment 73

Proposal for a regulation

Article 15 – paragraph 2 – introductory part

Text proposed by the Commission

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-*

Amendment

2. Projects of common interest falling under the categories set out in points 1(a) to (d) and 2 of Annex II shall be also

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

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 procedure referred to in paragraph 6(b) of **Article 5** or if they fulfil the following criteria:

Or. en

Amendment 74
Proposal for a regulation
Article 15 – paragraph 2 – point b

Text proposed by the Commission

(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 shall be taken into account when assessing the project's commercial viability; and

Amendment

(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 14** shall be taken into account when assessing the project's commercial viability; and

– ***For hydro-pumped electricity storage, commercial non-viability shall be assessed taking into account a comprehensive evaluation of all revenue streams under different business plan scenarios, reflecting different applicable regulatory regimes.***

Or. en

Justification

There is no reason to discriminate against hydro-storage infrastructure as compared to gas storage since this type of infrastructure may play an important role for cross-border energy balancing. However, when assessing the commercial viability of this category of infrastructure one should consider all possible direct and indirect revenue streams such as those arising from the optimization of a larger portfolio of energy infrastructures, as well as the applicable regulatory regime. Only none commercially viable infrastructures can be financially supported.

Amendment 75
Proposal for a regulation
Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Projects falling under the categories set out in points 1 and 2 of Annex IV are only eligible for Union financial assistance as set out in Article 15 (1), (2) and (3) if the operators involved are in compliance with current EU law governing the Union's internal energy market in electricity and gas, namely Directive 2009/72/EC and Directive 2009/73/EC.

Or. en

Justification

Market integration and competition are essential for the achievement of the EU energy policy goals of security of supply and competitiveness. Yet, some Member States have not yet implemented the 2nd and 3rd European energy policy packages needed to achieve a common European energy market. The concerned projects promoters should therefore not be eligible for EU financial support.

Amendment 76
Proposal for a regulation
Article 15 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. The implementation of the operational coordination functions mentioned in Article 14a is eligible for Union financial

support.

Or. en

Amendment 77
Proposal for a regulation
Article 16 – paragraph 1 – point d – indent 2 a (new)

Text proposed by the Commission

Amendment

– the comparison of applicable national legal frameworks and their relation to the effectiveness of the overall permit granting procedure, and the impact of extending the current provision to national level energy infrastructure projects;

Or. en

Amendment 78
Proposal for a regulation
Article 16 – paragraph 1 – point d – indent 2 b (new)

Text proposed by the Commission

Amendment

– the identification of best and innovative practices with regard to stakeholder involvement and mitigation of environmental impact during permit granting processes;

Or. en

Amendment 79
Proposal for a regulation
Article 16 – paragraph 1 – point e – indent 2 a (new)

Text proposed by the Commission

Amendment

– If the report on the implementation of projects of common interest concludes

that the progress achieved is insufficient to meet EU energy and climate policy goals, the Commission should, not later than 30th June 2018 propose a recast of this Regulation or, if appropriate, make a legislative proposal to address the challenges identified;

Or. en

Amendment 80
Proposal for a regulation
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

The Commission shall establish an infrastructure transparency platform easily accessible to the general public. This platform shall contain the following information:

Amendment

1. The Commission shall establish an infrastructure transparency platform easily accessible to the general public. This platform shall contain the following information:

Or. en

Amendment 81
Proposal for a regulation
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall run an information campaign on energy networks tailored to suit national and local audiences within twelve months of the entry into force of this Regulation.

Or. en

Amendment 82
Proposal for a regulation
Annex 1 – part 1 – point 2 – introductory part

Text proposed by the Commission

Amendment

(2) North-South electricity interconnections in Western Europe ('NSI West Electricity'): interconnections between Member States of the region and with Mediterranean third countries, notably to integrate electricity from renewable energy sources.

(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 to complete the internal market and integrate generation from renewable energy sources, and with*** Mediterranean third countries, notably to integrate electricity from renewable energy sources, ***and its transport to consumption centres and storage sites.***

Or. en

Amendment 83
Proposal for a regulation
Annex 1 – point 5 – introductory part

Text proposed by the Commission

Amendment

(1) North-South gas interconnections in Western Europe ('NSI West Gas'): ***interconnection capacities*** for North-South gas flows in Western Europe to further diversify routes of supply ***and increase*** short-term gas deliverability.

(1) North-South gas interconnections in Western Europe ("NSI West Gas"): ***gas infrastructure*** for North-South ***reversible*** gas flows in Western Europe, to further diversify ***external supply sources***, routes, ***and to enhance security*** of supply ***to Central Europe, increasing*** short-term gas deliverability ***and optimising the existing LNG terminals and storage infrastructure.***

Or. en

Justification

The Atlantic front and Iberic Peninsula are key to the European diversification of natural gas sources which shows today a high dependency on a small number of supplier countries. It can pay an invaluable contribute towards the objectives of the European energy policy of security of supply, competition and sustainability. By taking advantage of the existing infrastructure it

can offer a lower cost option entry route and the possibility of a comparatively faster implementation.

Amendment 84
Proposal for a regulation
Annex 1 – point 12 – introductory part

Text proposed by the Commission

(3) 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.

Amendment

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

Or. en

Amendment 85
Proposal for a regulation
Annex 2 – point 1 – point e

Text proposed by the Commission

(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 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;

Amendment

(e) any equipment or installation, both at transmission and 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 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;

Or. en

Justification

In accordance with proposed changes in Annex IV 1 e); The scope of smart grids needs to be extended to low voltage networks, where most benefits can presently be achieved from its deployment and where the highest numbers of consumers and small power generation facilities connect.

Amendment 86
Proposal for a regulation
Annex 2 – point 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) Permanent geological carbon dioxide storage facilities connected to the above mentioned pipelines which serve at least two Member States.

Or. en

Amendment 87
Proposal for a regulation
Annex 3 – part 1 – point 1 – subparagraph 1

Text proposed by the Commission

Amendment

(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.

(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, project promoters concerned by each of the relevant priorities designated in Annex I **who submitted a project potentially eligible for selection, and organisations representing producers and distribution system operators**, as well as the Commission, the Agency and the ENTSO for Electricity.

Justification

Non-TSO operators should be present in the Regional Groups through their representing association; they are often project promoters and they operate infrastructure which is essential for the well functioning of the internal energy market and of the transmission system. In spite of this, their representation in the TYNDP was not always ensured. Participation of national regulators shall not damage the responsibilities and obligations (such as tariff setting) placed on NRAs in this proposal and in other related European legislation.

Amendment 88**Proposal for a regulation****Annex 3 – part 1 – point 1 – subparagraph 2***Text proposed by the Commission*

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.

Amendment

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, project promoters concerned by each of the relevant priorities designated in Annex **I who submitted a project potentially eligible for selection, and organisations representing the infrastructure operators concerned** , as well as the Commission, the Agency and the ENTSO for Gas.

The participation of national regulatory authorities and the Agency in the Regional 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.

Justification

Candidate project promoters should be consulted in the process of PCI selection by regional groups but not be part of the decision-making body. Non-TSO operators should be represented in the Regional Groups by their association; they are often project promoters and operate infrastructure which is key for the well functioning of the internal energy market and of the transmission system. In spite of this, their representation in the TYNDP was not always ensured. Participation of NRAs shall not damage the responsibilities and obligations (such as tariff setting) placed on them in this proposal and in other related EU legislation.

Amendment 89 **Proposal for a regulation** **Annex 3 – part 1 – point 2**

Text proposed by 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.

Amendment

(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.***

Or. en

Amendment 90 **Proposal for a regulation** **Annex 3 – part 1 – point 4 a (new)**

Text proposed by the Commission

Amendment

(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 faithfully reflect the consensus referred to in Annex II 2, 6b .

Or. en

Amendment 91
Proposal for a regulation
Annex 3 – part 2 – point 1

Text proposed by the Commission

(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 implementing the *priorities* set out in Annex I, the fulfilment of the relevant criteria defined in Article 6, and any other relevant information for the evaluation of the project.

Amendment

(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 implementing the *objectives of the energy infrastructure priority corridors and areas* as set out in Annex I, *an evaluation of* the fulfilment of the relevant criteria defined in Article 4, *an assessment of the project's contribution towards each of the specific criteria defined under Article 4.2 (a) to (e) as applicable*, and any other relevant information for the evaluation of the project. *For projects with sufficient maturity, promoters shall submit a project specific cost-benefit analysis in accordance with the methodology in Article 12.*

Or. en

Amendment 92
Proposal for a regulation
Annex 3 – part 2 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) For projects falling under the 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 corrections where necessary.

Or. en

Amendment 93
Proposal for a regulation
Annex 3 – part 2 – point 1 b (new)

Text proposed by the Commission

Amendment

(1b) For projects falling under the categories 3 and 4 of Annex II, the Commission shall evaluate the consistent application of the criteria set out in Article 4, paragraphs d) and e).

Or. en

Amendment 94
Proposal for a regulation
Annex 3 – part 2 – point 3

Text proposed by the Commission

Amendment

(3) 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 development plan for electricity, developed by the ENTSO for Electricity pursuant Article 8 of Regulation (EC) 714/2009.

(3) After approval of the first list of projects of common interest, for all subsequent Union-wide lists of projects of common interest adopted, proposed electricity projects falling under the categories set out in point 1(a), ***(b) and (d)*** of Annex II, shall be part of the latest available ten-year network development plan for electricity, developed by the ENTSO for Electricity, pursuant Article 8 of Regulation (EC) 714/2009.

Or. en

Justification

The TYNDP is still progressing towards a comprehensive view of all relevant projects in gas and electricity.

Amendment 95
Proposal for a regulation
Annex 3 – part 2 – point 4

Text proposed by the Commission

(4) **For** all Union-wide lists of projects of common interest adopted **after 1 August 2013**, proposed gas transmission 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) 715/2009.

Amendment

(4) **After approval of the first list of projects of common interest, for all subsequent** Union-wide lists of projects of common interest adopted, proposed gas transmission 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) 715/2009.

Or. en

Justification

The TYNDP is still progressing towards a comprehensive view of all relevant projects in gas and electricity.

Amendment 96
Proposal for a regulation
Annex 3 – part 2 – point 4 a (new)

Text proposed by the Commission

Amendment

(4a) Pursuant to paragraphs (3) and (4) in this Annex, project proposals submitted for inclusion in the first list of projects of common interest which were not previously evaluated pursuant to Article 8 of Regulation (EC) 714/2009 and Regulation (EC) 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.

Or. en

Justification

For a coherent network expansion there is the need to ensure that project proposals are consistent with the Community-wide ten year development plan. The plan shall continue to be the basis for PCI identification.

Amendment 97

Proposal for a regulation

Annex 3 – part 2 – point 5

Text proposed by the Commission

(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** 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.

Amendment

(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 **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.

Or. en

Justification

For coherence with requirements for gas and electricity; As an industrially immature sector, the requirement for infrastructure encompassing a minimum of three Member States is too stringent.

Amendment 98

Proposal for a regulation

Annex 3 – part 2 – point 6 a (new)

Text proposed by the Commission

Amendment

(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 paragraph 2, projects that have been identified as being of Union interest by previous initiatives such as the TEN-E and European Energy Programme for

Recovery.

Or. en

Justification

Disruption of projects approved and funded under the framework of the previous instruments TEN-E or EEPR, but not yet completed, should be avoided.

Amendment 99
Proposal for a regulation
Annex 3 – part 2 – point 6 b (new)

Text proposed by the Commission

Amendment

(6b) Each Regional Group should seek to reach consensus on the projects that integrate its proposed list of projects of common interest.

Or. en

Amendment 100
Proposal for a regulation
Annex 4 – point 1 – point d

Text proposed by the Commission

Amendment

(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;

(d) for gas storage or liquefied/compressed natural gas, the project aims at fulfilling the infrastructure standard (N-1 rule) at regional level in accordance with Article 6(3) of Regulation (EU) No 994/2010;

Or. en

Justification

Gas storage or liquified natural gas can supply more than one country, provided interconnection infrastructure is in place.

Amendment 101
Proposal for a regulation
Annex 4 – point 1 – point e

Text proposed by the Commission

(e) for smart grids, the project *is* designed for equipments and installations at **high-voltage and medium-voltage** level **designed for a voltage of 10kV or more**. It involves **transmission and distribution system operators** from at least **two** Member States, which cover at least 100,000 users that generate or consume electricity or do both in a consumption area of at least 300 Gigawatthours/year, of which at least 20% originate from non dispatchable resources.

Amendment

(e) for smart grids, the project **may be** designed for equipments and installations at **any voltage** level. It involves **project promoters** from at least **three[p1]** Member States which cover at least 100,000 users that generate or consume electricity or do both in a consumption area of at least 300 Gigawatthours/year, of which at least 20% originate from non dispatchable resources.

Or. en

Justification

The scope of smart grids needs to be extended to low voltage networks, where most benefits can presently be achieved from smart grids and where the highest numbers of consumers and small power generation facilities connect. Having a high level of industrial incorporation, involvement of players from different Member States promotes the acquisition and exchange of know-how and technical expertise, thereby promoting the deployment of smart grids across Europe.

Amendment 102
Proposal for a regulation
Annex 4 – point 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) for CCS transport and storage infrastructure, the project is located in a geographic area of need and increases the carbon dioxide transport and/or storage infrastructure capacity or the project involves the creation of a hub/offtake facility to provide for the future transfer of carbon dioxide between at least two Member States and involves the participation of non-financial project promoters from at least three Member

States.

Or. en

Justification

For coherence with Article 4.1. Envisaging to promote the sharing of know-how and competences among European industrial market players in a still immature sector.

Amendment 103

Proposal for a regulation

Annex 4 – point 2 – point a – indent 2 a (new)

Text proposed by the Commission

Amendment

– 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.

Or. en

Amendment 104

Proposal for a regulation

Annex 4 – point 3 – point b

Text proposed by the Commission

Amendment

(b) Competition shall be measured on the basis of diversification, including the facilitation of access to indigenous sources of supply, taking *successively* into account diversification of sources, counterparts *and* routes *and* the impact of new capacity on the HHI index calculated at capacity level for the area of analysis as defined in point 10 of Annex V.

(b) Competition shall be measured on the basis of diversification *at Union level*, including the facilitation of access to indigenous sources of supply, taking into account *successively*: diversification of sources; *diversification of* counterparts; *diversification of* routes; the impact of new capacity on the HHI index calculated at capacity level for the area of analysis as defined in point 10 of Annex V.

Amendment 105
Proposal for a regulation
Annex 4 – point 3 – point c

Text proposed by the Commission

(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 system and to enhancing the remaining flexibility of the system to cope with supply disruptions 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.

Amendment

(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 under various scenarios **at Union level**, 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.

Or. en

Amendment 106
Proposal for a regulation
Annex 4 – point 3 – point d

Text proposed by the Commission

(d) Sustainability shall be measured as the contribution of a project to reduce emissions, to support the back-up of renewable electricity generation or power-to-gas and biogas transportation, taking into account expected changes in climatic conditions.

Amendment

(d) Sustainability shall be measured as the contribution of a project to reduce emissions, to support the back-up of renewable electricity generation or power-to-gas and biogas transportation, taking into account expected changes in climatic conditions. ***The measure shall assess the cost of reducing emissions through the project compared to the cost of saving the same quantity of emissions through alternative best practice investments.***

Or. en

Justification

The criterion is not quantified and is therefore difficult to use as a basis too identify PCI projects.

Amendment 107
Proposal for a regulation
Annex 5 – point 1 – point b

Text proposed by the Commission

(b) In gas: scenarios for demand, imports, fuel prices (including coal, gas and oil), carbon dioxide 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;

Amendment

(b) In gas: scenarios for demand, imports, ***domestic production, LNG availability and price***, fuel prices (including coal, gas and oil), ***electricity prices, geographical location of gas power plants, location of storage facilities***, carbon dioxide 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;

Or. en

Amendment 108
Proposal for a regulation
Annex 5 – point 5

Text proposed by the Commission

(5) The cost-benefit analysis shall at least take into account the following costs: capital expenditure, operational and maintenance expenditure over the technical ***lifecycle*** of the project and decommissioning and waste management costs, where relevant. The methodology shall give guidance on discount rates to be used for the calculations.

Amendment

(5) The cost-benefit analysis shall at least take into account the following costs: capital expenditure, operational and maintenance expenditure over the technical ***lifecycle*** of the project and decommissioning and waste management costs, 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 those Member States under financial assistance in such a way as to provide for a more level playing field and***

ensure that the comparative higher cost of capital is accounted for.

Or. en

Justification

The capacity for remuneration of energy infrastructure projects is subject to higher risk in Member States under financial assistance which reflects on a comparative higher cost of capital and a competitive disadvantage under the cost-benefit analysis.

Amendment 109
Proposal for a regulation
Annex 5 – point 6 – introductory part

Text proposed by the Commission

(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*. 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:

Amendment

(6) For electricity transmission and storage, the cost-benefit analysis shall at least take into account the impacts on the indicators defined in 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:

Or. en

Amendment 110
Proposal for a regulation
Annex 5 – point 6 – point e a (new)

Text proposed by the Commission

Amendment

(ea) Sustainability in terms of carbon emissions avoided;

Or. en

Justification

In accordance with criteria defined in Article 4(2)(a)

Amendment 111
Proposal for a regulation
Annex 5 – point 7 – introductory part

Text proposed by the Commission

(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* and the following impacts:

Amendment

(7) For gas, the cost-benefit analysis shall at least take into account the results of market testing, the impacts on the indicators defined in Annex *IV* and *positive externalities such as* the following impacts:

Or. en

Justification

The results of open seasons can vary significantly along the time according to context factors and are not always reliable indicators of market potential.

Amendment 112
Proposal for a regulation
Annex 5 – point 7 – point b

Text proposed by the Commission

(b) System resilience, including disaster and climate resilience, and system security, notably for European critical infrastructures as defined in Directive 2008/114/EC;

Amendment

(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;

Or. en

Amendment 113
Proposal for a regulation
Annex 5 – point 7 – point e a (new)

Text proposed by the Commission

Amendment

(ea) Contribution to a better balance of the different supply sources and entry

points into the Union gas network.

Or. en

Justification

It is important that all entry points are identified and contribute in a balanced way to supply gas into Europe. If this is achieved Europe will be able to avoid situations such as the over dependence of gas coming from certain countries. Each entry point has their own specificities and can contribute to bringing gas into Europe from different sources of origin and different routes. Infrastructures already in place should be maximised to take advantage of their full potential at a lower cost for citizens.

Amendment 114
Proposal for a regulation
Annex 5 – point 8

Text proposed by the Commission

(8) For smart grids, the cost-benefit analysis shall take into account the impacts on the indicators defined in Annex *III*.

Amendment

(8) For smart grids, the cost-benefit analysis shall take into account the impacts on the indicators defined in Annex *IV*.

Or. en

EXPLANATORY STATEMENT

Current Context

Sustainable, safe, secure and affordable energy is one of the Grand Challenges that unite Europeans, from civil society to decision makers, industry, and environmentalists. Despite this, European energy policy has progressed slowly, with scarce allocation of resources at European level, only recently gaining relevance in the Treaty of Lisbon. Even though the Commission has defined ambitious energy policy objectives of competitiveness, security of supply, sustainability, and decarbonisation, we still face today insufficient integration of the internal energy market, significant energy isolation of certain geographic areas, insufficient access to diversified sources of energy that contribute to energy security, and the lack of tangible benefits for consumers and businesses in terms of prices and sustainability. This overall panorama and a considerable level of interdependency among Member States call for a European-level approach. Faster, more decisive and concerted action is required, and a stronger role for Europe in coordinating and integrating national efforts is imperative.

Policy Context

European energy policy objectives set clear goals for 2020: 20% of reduction in greenhouse gas (GHG) emissions, 20% of final energy consumption from renewable sources, 20% increase in energy efficiency. Implementing legislation includes the GHG emission trading scheme directive¹, the renewable energy directive², the carbon capture and storage directive³, the regulation on the security of gas supply⁴, the third energy package⁵ and the energy efficiency directive currently in negotiations between the Parliament and the Council. The third energy package was an important first step in the direction of a more integrated European energy system. The recent initiative report on energy infrastructure priorities for 2020 and beyond (2011/2034(INI))⁶ was also an inspiring document for a comprehensive energy network policy proposal.

Obstacles to a cross-border energy market

Despite some recent progress, significant obstacles still remain to a competitive market: electricity transmission networks in Central Europe have important gaps. Despite minimum interconnection targets defined by the Council for individual Member States (MS) to have electricity interconnection of 10% of installed production capacity by 2005, in 2010 9 MS had not reached this level. Electricity transfers have increased by less than half as much as they did in the previous decade. Differences between average gas prices have risen considerably. At the beginning of 2011 more than 60 infringement procedures were underway regarding the second internal energy policy package alone. In what concerns transposition of the third energy package the deadline has elapsed (3rd of March, 2011), with the European

¹ Directive 2009/29/EC

² Directive 2009/28/EC

³ Directive 2009/31/EC

⁴ Regulation (EU) No 994/2010

⁵ Directives 2009/72/EC and 2009/73/EC and Regulations (EC) 713/2009, 714/2009 and 715/2009

⁶ Rapporteur: Francico Sosa Wagner

Commission having very recently issued eight reasoned opinions urging eight MS to comply with their transposition obligations.

Obstacles to cross-border energy infrastructure development

The new energy policy context triggers substantial needs for new infrastructures. Investment needs by 2020 are estimated at 200 billion Euros, only for energy infrastructure with cross-border relevance. Still, very long (averaging 12 years) national permitting processes for energy infrastructure often block projects and discourage investment decisions, in a context of higher public opposition and delays; lack of adequate financing instruments hamper investments in the middle of a deep financial crisis.

Issues in the energy infrastructure regulation proposal

The new regulation is a positive and important initiative as it aims at accelerating the accomplishment of the internal energy market, and at delivering on the EU's energy policy and climate goals. It may contribute, through the mobilisation of very significant investments, to the re-launch of economic growth and job creation in the EU.

The proposal envisages the modernisation and interconnection of energy networks. In electricity it aims at enhancing market integration and competitiveness, system security, and integration of renewable sources of energy, coping with decentralised and non-dispatchable power generation through smart grids, connection to storage sites and electricity highways. In gas, energy security can be accomplished through the diversification of sources and routes for gas supply, liquified natural gas (LNG) storage and reverse flow pipelines. The proposal also supports supply of crude oil to land locked countries, and deployment of pipelines for carbon capture and storage to connect production and storage sites.

The proposal defines nine priority geographic corridors and three thematic priority areas, sets rules to identify projects of common interest (PCI), and establishes, in each MS, a single authority (one-stop shop) to oversee and speed-up permit granting processes for PCI's; it proposes a cost-benefit analysis (CBA) for the ranking of PCI's and for the cost allocation of investments according to the cross-border location where benefits are incurred, granting incentives for higher risk projects and determining eligibility conditions for Union financial assistance through the Connecting Europe Facility (CEF).

There are several areas where this project regulation can be improved:

a) The selection process of PCI's shall aim at the Europeanization of networks

Submission of proposals by transmission system operators (TSO) and their analysis by the Regional Groups (RG) follows a bottom-up approach. The concept of Project Promoter was redefined and their reporting to Regional Groups (RG) was clarified. The governance of Regional Groups, responsible for PCI selection, omits details on the balance of powers among stakeholders, decision processes and conflict resolution mechanisms; recent discussions in Council with regard to RG governance put the tone on MS interest to safeguard national "strategic interests". This is an important concern on the development of any European infrastructure.

The safeguard of European Common interest during projects selection should prevail over individual interests. The PCI selection process should be made in accordance with the 3rd

legislation package and the Community ten years network development plan (TYNDP) process, with a European top-down internal market perspective to complement the embedded strong bottom-up and national approach. There should be an important role for the Agency for the Cooperation of Energy Regulators (ACER) in guaranteeing coordination and coherence of network expansion, economically efficient investments and in safeguarding the consumer perspective. The selection of projects and aggregation by clusters, first at regional, later at Union-wide level, taking into account a multi-criteria and a C/B analysis, will facilitate objectivity and consensus during the PCI list selection procedure.

b) The proposal shall provide effective instruments for the deployment of infrastructure

The development and implementation of cross-border energy network infrastructure has historically faced many obstacles and this is expected to continue in times to come, as is the delicate balance between subsidiarity and European common interest.

The proposal tries to create a pathway in this process: a description of the priority corridors will clarify the expected contribution of different regions towards energy policy objectives; consensus decision processes inside Regional Groups shall avoid unilateral blockades; more effective permitting arrangements, a time-limit of three years and an enforceable one-stop shop for national authorities to issue a project permit, are key instruments for the procedure; moreover, the assignment of special powers to European Coordinators to monitor projects facing implementation difficulties, according to past successful and unsuccessful stories may solve part of the problems. In addition, when project promoters are unable to implement projects within the planned time limits, other than for reasons beyond their control, and their execution is facing severe delays, clear time-limits and procedures are imposed in order to enable new project promoters to join efforts or to take over such projects.

We need effective instruments to overcome the deepening of geographic asymmetries and insulation, to guarantee territorial cohesion across the Union. In order to ensure the effectiveness of the prescribed measures and overcome obstacles, instruments need to be put in place to enable the alignment of stakeholders towards common cohesion goals and reduce artificial barriers to cross-border networks.

c) The proposal shall further promote cooperation and coordination of network operators to deliver the expected benefits

Different MS have progressed at different speeds towards European policy targets of increased interconnection and renewable energy production. Directing EU funding to those MS that have done little to progress, places them under moral hazard, where late movers will benefit relative to first movers by waiting for investment incentives to be put in place. Offering the possibility for the involvement of multiple operators (3+) to implement European funded projects would enhance a much needed cooperation among TSOs, potentiating the acquired know-how, building up trust between market players, and pushing forward market integration.

Cooperation and better system governance is required to ensure the optimized use and operation of energy networks by TSOs. The increasing technological complexity of the new energy mix, due to the contribution of renewable sources increased the risk of lack of coordination, even power breaks, inside multi-dependent networks. The collection and

monitoring of information on real-time cross-border exchanges can become an important tool for the safe and efficient operation of energy network infrastructure and also for its future planning. In the same way, infrastructure use optimization is of major importance, when considering the consumer perspective. The ENTSO for electricity and the ENTSO for gas shall submit to the Commission proposals for the design and implementation of appropriate real-time operational coordination, of the European energy infrastructure.

d) Enhancing investments

Mobilization of private investment is a key factor. The proposal foresees a mechanism for cross-border cost allocation according to the benefits incurred by the MS involved. Provisions in the regulation establish a role for national regulators in defining investment incentives proportional to the risks incurred by the project promoters. Clearer European guidelines, or the benchmarking of best practices across Europe may prove necessary to enhance investments.

Non-commercial viability was preserved as a key eligibility criterion for accessing EU financial support under CEF. This is crucial to avoid market distortion and to limit public support to those projects that have positive externalities but which would otherwise not be delivered by market mechanisms. A close link with the Connecting Europe Facility (CEF) financial instruments for mobilizing private funding for PCIs investments will be an essential instrument, while Structural Funds will finance smart energy distribution networks of local or regional importance. The two sources of funding will thereby complement each other. On the other hand, Member States should comply with the European energy market rules in order to get access to EU financing instruments under the Connecting Europe Facility.