



ANSWER TO THE PUBLIC CONSULTATION

Contribution of the Commission de régulation de l'énergie to the European Commission's Roadmap for the revision of the guidelines for trans-European Energy infrastructures

Executive summary

The process of selecting and supporting Projects of Common Interest defined by the guidelines for trans-European Energy infrastructure plays a crucial role in the planning of the European energy system. It is therefore fundamental that it is based on a shared governance and objective modelling tools. The CRE calls for a rebalancing of its roles, with greater involvement of regulators, and for a clear distinction to be made between the selection of PCIs, establishing a presumption of usefulness, and the treatment of investment requests, which makes it possible to record the value of projects and to allocate costs. The CRE also considers that additional efforts are needed to strengthen the quality of project evaluation, such as truly integrated and contrasted scenarios describing possible futures and a robust assessment of the extra-financial benefits and impacts of projects. Finally, the CRE calls for the eligibility of projects for PCI status and CEF funding to be based first and foremost on the analysis of their socio-economic benefit, while taking into account their distribution between Member States, in order to help achieve the objectives of the Green Deal in the most efficient and balanced way possible at European level.

The Commission de Régulation de l'Énergie (CRE) welcomes the opportunity to contribute to the evaluation of Regulation (EU) No. 347/2013 on the guidelines for trans-European Energy infrastructures. The CRE supports the European Commission's wish to align these guidelines with the Green Deal and notes with satisfaction the Commission's objective to bring more efficiency to the process.

Seven years after the entry into force of this Regulation, the CRE wishes to contribute to this collective reflection by sharing its experience of the implementation of this text acquired within the ACER working groups dedicated to infrastructures, in terms of the selection of Projects of Common Interest (PCI), and from the point of view of the cross-border cost allocation decisions it has adopted.

In general, the CRE considers that Regulation (EU) No. 347/2013 provides an adequate framework for the selection and promotion of strategic infrastructure projects on the basis of shared, transparent and objective criteria. This ambition is well highlighted by the increasing role of the tools developed by the European Networks of Transmission System Operators for Electricity and Gas (ENTSO-E and ENTSOG) to estimate the socio-economic value of projects.

However, recurrent debates at the various stages of the processes established by these guidelines have highlighted several areas for improvement with regard to:

- Governance: the construction of methodologies and the meetings of the regional groups should be rethought for greater objectivity and better stakeholder participation, which could be ensured in particular by an increased role for regulators. The competence of the latter as final decision-makers on the parameters to be considered and the approval of the request for investment should be explicitly guaranteed in the Regulation.
- The methodological quality of the selection: the scenarios used as a basis for the projects evaluation must be contrasted and the robustness of their assumptions justified in a transparent manner. The development of cost-benefit analysis methods must ensure a robust quantification of benefits based on proven and shared methodologies.
- The eligibility of projects for PCI status and CEF funding: the granting of PCI status should primarily be based on the capacity of a project to bring significant socio-economic benefits at European level, while the criteria

for access to CEF funding could be reviewed to better take into account the reality of funding for predominantly regulated projects, for which European funding can play a strong incentive role in the case of risk or imbalance of costs and benefits between Member States.

Thus, the CRE wishes to put forward several proposals to improve the Regulation's ability to select the most relevant projects to achieve the objectives of the Green Deal on the basis of an efficient process with clarified roles.

Defining a more balanced governance of the selection of Projects of Common Interest

Ensure greater objectivity and stakeholders' involvement in the selection process of Projects of Common Interest

Transparency and objectivity in the selection of PCIs and associated modelling tools are of the utmost importance. The recent experience of the CRE shows that improvements are needed in these fields to enhance the credibility and efficiency of the process.

The CRE calls for more balance in powers and roles in the selection of PCIs. On the one hand, political interferences in support of projects, whether at the level of the European Commission or of the Member States, must be limited during the techno-economic evaluation process, with Member States being able to legitimately intervene following the definition of a first provisional list by requesting the withdrawal of a project or by ensuring a favourable assessment. On the other hand, leaving the definition of methodologies for assessing the value of projects to the TSOs alone introduces a risk of bias in favour of solutions fostering the construction of infrastructure although alternatives might be better suited. Consequently, the CRE, together with the other European regulators, recommends that stronger guarantees should be introduced into the Regulation concerning the role of the Agency for the Cooperation of European Regulators (ACER) in defining quality criteria for modelling tools via guidelines and monitoring compliance with these criteria. These decisions of the Agency will have to be subject to a favourable opinion of the ACER Board of Regulators, in the same way as its previous opinions on the subject. The independence and expertise of the regulators in assessing the needs and operation of infrastructures, as well as their competence in terms of investment approvals, call for an appreciation of the importance of their role in this complex process.

Moreover, the participation and proper information of stakeholders is a crucial issue for improving the PCI selection process. In this respect, the CRE regrets that the regional groups' process has not allowed sufficient stakeholder participation so far, in particular because of the limited time available for reviewing project selection methodologies and the data provided by project promoters. ACER has also pointed out the methodological shortcomings of TYNDP, cost-benefit analysis (CBA) and PCI selection in its various opinions and recommendations, with limited effects. The CRE supports a greater involvement of regulators (including via ACER) in the development of these tools, and a better consideration of their opinions by the ENTSOs. Ensuring the conditions for a detailed examination of the project selection procedures and the possibility of taking into account the feedbacks from stakeholders would represent considerable progress, regardless of the future format of the groups (regional or thematic). In addition to market players, access to data and calculation formulae used to assess and rank projects should be guaranteed, in particular to national regulators, whose role in project assessment needs to be strengthened.

Acknowledge the competence of regulators in the appraisal of investment requests and their final approval.

While it is desirable to streamline and better balance the selection process for PCIs, the selection of PCIs should not, however, replace the formal decision-making process in the context of investment requests, in particular in accordance with Article 12 of the Regulation. Deciding on key investments and cross-border cost allocations requires a more detailed analysis than that carried out to select PCIs, particularly when projects are at an early stage of development. The CRE deems a clearer distinction between these two steps of analysis necessary in the Regulation, since the PCI label represents a presumption of usefulness, which can only be established by the in-depth analysis carried out by national regulators in the context of investment or cost-sharing decisions. In the case of innovative projects, the current multi-criteria analyses also show difficulties in providing reliable values, reinforcing the need for in-depth analysis by regulators.

The CRE insists on the fact that the cost-benefit analysis (CBAs) provided by project promoters in their investment request cannot in any way be imposed on the regulators for the final approval of the project. This approval must be the responsibility of the concerned regulators, as must be the inclusion of investment costs in the tariffs. Furthermore, the identification of the concerned regulatory authorities by the project promoters as defined in Article 12 of the Regulation can only be considered as an indication, which must be confirmed by those regulators.

Strengthening the methodological quality of the selection process for Projects of Common Interest

Modelling more objectively the possible futures of the European energy system

Scenarios are a strategic component of the infrastructure development process. They determine the data used as inputs for simulations, and for the calculation of project needs and values. In the context of the energy transition, the cooperation between ENTSO-E and ENTSG in scenario development and system modelling is a positive change. However, the communication on the underlying assumptions of these modelling exercises is still not sufficiently transparent, and the directions taken by ENTSGs on scenario pathways lack of clarity. Yet, the definition of robust paths based on a coordination between electricity and gas is fundamental, and represents one of the conditions for a good integration of innovative technologies (hydrogen, smart grids, green gases, etc.). Furthermore, the CRE considers that scenarios incorporating more ambitious energy efficiency assumptions are necessary, ensuring transparency and justification of consumption assumptions in order to be consistent with the European principle of energy efficiency first. A more prescriptive framework should be developed in this respect, with the definition of guidelines by ACER for the elaboration of the above-mentioned scenarios. The Regulation should encourage the study of alternatives with regard to the means of achieving the long-term objectives of EU energy policy. Scenarios should be constructed in such a way that they allow sensitivity analysis to be carried out during the evaluation of interconnection projects, including more "conservative" scenarios in order to have sufficiently contrasted visions of the future.

Another current shortcoming of CBAs is the simulation of projects on the basis of a hypothetical future representation of the European grid and energy mix. This approach does not adequately capture the dynamics of system development, including competition that may exist between power generation at national level and interconnections. In the electricity sector, CBA gives a critical role to the "reference grid", which can create distortions in situations where several projects are interdependent. Indeed, the reference grid does not allow for an assessment of the impact that projects may have on each other at a given border or between several borders, preventing strategic infrastructure development. The introduction of a more sophisticated sensitivity analysis in these cases would provide valuable information on the value of the projects.

Quantifying benefits more rigorously

Network operators are increasingly incorporating in their analysis the positive effects of projects in terms of security of supply or of achievement of environmental objectives. However, in practice, the economic evaluation of these positive externalities is very sensitive to methodological choices and often lacks rigour. The aggregation of benefits that may be redundant is therefore questionable and qualitative elements cannot become the exclusive justification for projects. The CRE is particularly concerned by the inclusion of indicative targets (such as interconnection level targets) in the PCI process. The CRE considers that the "additional benefits" of projects should only be taken into account if they are based on proven and shared methodologies, following sound CBA principles. It is crucial that the very ambitious European energy and climate policy objectives for 2030 and 2050 are achieved at the lowest cost for society. The addition of "ex-post" societal values for benefits such as CO₂ emission reductions thus presents a strong bias: it does not allow all alternatives to be considered on the same economic fundamentals, whether in terms of infrastructure, means of production or sources of flexibility, and does not take into account the interactions with the ETS market. This equal assessment of the different alternatives must therefore necessarily be made through more variants, which must reflect the possible evolution of the price of CO₂ on the ETS market and remain credible, in contrasting scenarios.

Furthermore, the CRE considers that efforts to quantify the negative externalities of projects are insufficient, and that more should be done to understand the impact of these infrastructures on the entire life cycle of projects. Thus, the CRE is in favour of improving the sustainability criterion for the analysis of gas projects, as this aspect should better be taken into account.

If new types of projects were to be considered as PCIs, modelling their impact would also be a challenge. In this respect, the CRE calls for a rigorous definition of the benefits to be considered, as the experience of the smart grids projects' selection has shown the difficulty of reliably capturing the benefits to be expected from innovative projects.

Refocusing the eligibility criteria for the PCI list and the CEF on the socio-economic contribution of projects

Define projects eligibility according to the effectiveness of their contribution to the Green Deal and their progress.

The question of the eligibility of new categories of projects for PCI status raised in the consultation should be considered in priority on the basis of the expected economic and societal contribution at European level, and not with

a view of encouraging the development of a specific technology. In this respect, the CRE considers that incentives for innovation are already in place in the European and national regulatory frameworks. Thus, the PCI status should be dedicated to projects whose benefits exceed costs, in order to achieve the objectives of the Green Deal in the most efficient way possible for the European community.

The CRE is also in favour of a greater differentiation of projects according to their stage of development when they are labelled PCI, and better signposting of the available support tools for them. Projects at an early stage of development can receive grants to finance feasibility studies, while only advanced projects are eligible for a cross-border cost allocation decision and grants for work. This distinction must be combined with a reinforced monitoring to be able to ensure their progress.

Amend the conditions of access to the CEF to make it more consistent with handling practices of investment requests.

The CRE welcomes the reflection proposed by the European Commission on the issue of incentives for the funding of European projects and the eligibility of projects to the CEF. EU funding is indeed an important tool to encourage the implementation of projects in cases where the distribution of benefits and costs is asymmetrical or even widespread outside the host countries or where there are major uncertainties surrounding the project. Cross-border cost allocation is a complex exercise, it is supported by calculations which include uncertainty that regulators need to take into account in their assessment. Where there are high levels of uncertainty, it can be very difficult to reach consensus, and EU funding can be a decisive factor for financing the project.

Without questioning the role of EU funding as a “last resort option”, the CRE would support a redefinition of the criterion of commercial viability, which is not suited to the reality of projects that are mainly funded under a regulated mode.

The CRE also calls for a better articulation of cost-sharing decisions between the involved countries and the allocation of European grants. Cross-border cost sharing agreements and grants being two tools for financing these projects, it seems necessary to link them: the decision to share costs is intended to address, where appropriate, the socio-economic imbalances that some projects may cause at national level, while access to the CEF can make it possible to address the considerable uncertainties associated with specific projects or to provide an incentive to carry them out in view, for example, of difficultly monetisable extra-financial benefits. The CRE is therefore in favour of an implementation of cost-allocation and project approval decisions that may be conditional and in which the decisions of the regulators include a condition relating to EU funding.