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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on guidelines for trans-European energy infrastructure and repealing Regulation (EU)  
No 347/2013**

{SEC(2020) 431 final} - {SWD(2020) 346 final} - {SWD(2020) 347 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

In 2013 a new framework for cross-border energy infrastructure planning was established to modernise and expand Europe's energy infrastructure to address the fragmented interconnections between Member States, end their isolation from the gas and electricity networks, secure and diversify the Union's energy supplies, sources and routes and increase the integration of renewable energy sources. The TEN-E Regulation allowed the Union to meet its core energy policy objectives by laying down rules for identifying and the timely development of Projects of Common Interest (PCIs), that will ensure interoperability of trans-European energy networks the functioning of the internal energy market, security of supply in the Union and the integration of renewable forms of energy. It also requires Member States to streamline permit granting procedures for Projects of Common Interest (PCIs) and provides for regulatory assistance, rules and guidance for the cross-border allocation of costs and risk-related incentives and the conditions to access financing from the Connecting Europe Facility (CEF).

The President of the Commission has made the European Green Deal the top political priority, with the aim of transforming the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy. The Climate Target Plan<sup>1</sup> proposed by the Commission sets Europe on a sustainable path to make this a reality and achieve climate neutrality by 2050. The Green Deal further emphasises that unavoidable climate change will create significant impacts in Europe in spite of the mitigation efforts. Hence, strengthening the efforts on climate proofing, resilience building, disaster prevention and preparedness is crucial.

Energy infrastructure is a key enabler for the energy transition as reflected in the Commission's communication on the European Green Deal and A Clean Planet for all<sup>2</sup>. Infrastructure is a long-lived asset and will therefore need to be consistent with the climate neutrality and other environmental objectives, such as the "do no harm" oath in the Green Deal, to enable rapid and cost-effective decarbonisation of the energy system and more broadly the economy. As such, the TEN-E is a central instrument in the development of an internal energy market and necessary to achieve the European Green Deal objectives.

The current climate and energy targets are not sufficiently ambitious to deliver a 2030 climate target of at least 55% greenhouse gas (GHG) emission reductions, as proposed by the Commission<sup>3</sup> in its efforts to gear towards climate neutrality. The pathway to achieving this reduction in GHG emissions requires a profound transformation of the European energy system, both on the supply and the demand side.

The Union will have to significantly scale up renewable electricity generation to reach a share of more than 80% of electricity production from renewable energy sources by 2050, increasingly sourced from offshore locations<sup>4</sup>. Offshore wind capacity in Europe should increase to 300 GW and ocean energy to

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<sup>1</sup> Stepping up Europe's 2030 climate ambition, Investing in a climate-neutral future for the benefit of our people, COM(2020) 562 final

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0773>

<sup>3</sup> Stepping up Europe's 2030 climate ambition, Investing in a climate-neutral future for the benefit of our people, COM(2020) 562 final

<sup>4</sup> A Clean Planet for all. A European long-term strategic vision for a prosperous, modern, competitive and climate neutral economy, COM(2018) 773 final

40 GW by 2050 in order to meet the climate neutrality, or 25 times the current situation<sup>5</sup> triggering a significant need for coordination in long-term planning and development of offshore and onshore electricity grids in line with the EU strategy for offshore renewable energy<sup>6</sup>. The upscale of offshore renewable energy in Europe by 2050 has an estimated cost of EUR 800 billion of which two thirds for the associated grid infrastructure. To reduce the costs as much as possible, a strong focus on rational grid development is key.

The target agreed in the conclusions of the March 2002 Barcelona European Council for Member States to have a level of electricity interconnections equivalent to at least 10 % of their installed production capacity has not yet been achieved. In its conclusions of 23 and 24 October 2014, the European Council endorsed an electricity interconnection target of at least 15 %. The communication of the Commission of 23 November 2017 on strengthening Europe's energy networks assesses progress towards achieving the 10 % interconnection target and suggests ways in which to operationalise the 15 % interconnection target for 2030.

An estimated annual average investment of EUR 50.5 billion for electricity transmission and distribution grids is required for achieving the 2030 targets alone. The enhanced role of electricity will be complemented by a relative increase of the role of renewable and low carbon gases in the decarbonised energy mix, as indicated in all scenarios modelling pathways to climate-neutrality<sup>7</sup>. From its current low level in production, transport and consumption, hydrogen is expected to account for approximately 46% - 49% of all renewable and low-carbon gases in 2050. By 2030, total investments needs in hydrogen electrolyzers are estimated between EUR 24-42 billion. About EUR 65 billion will be needed for hydrogen transport, distribution and storage<sup>47</sup>.

While the objectives of the current Regulation remain largely valid, the current TEN-E framework does not yet fully reflect the expected changes to the energy system that will result from the new political context and in particular the upgraded 2030 targets as well as the 2050 climate neutrality objective under the European Green Deal.

In particular, the type and scale of cross-border infrastructure developments brought about by the current TEN-E is insufficient in that it does not cover all infrastructure categories relevant for the energy transition nor does it sufficiently reflect technological developments. The TEN-E in its current form therefore is not fit to support the achievement of the climate neutrality objective. Smart grid solutions, including demand response, have developed considerably over the past years because of the acceleration of the digital transformation of the electricity sector. Smart system integration between the power and gas systems, as well as with other sectors such as transport and industry, offers additional opportunities to decarbonise the gas grid and manage the power system more efficiently, for instance through the production of hydrogen and synthetic gases from renewable energy sources. The current system network planning is too much based on a sectoral approach and hence does not match the need for smart system integration as investment needs are assessed for the gas and electricity sectors in different processes. Also, the expected expansion of the offshore grid needs to be adequately reflected in future grid planning. In addition, the distribution system level will play a more important role in energy infrastructure planning also because a substantial part of renewable energy generation capacity

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<sup>5</sup> COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT, Stepping up Europe's 2030 climate ambition, SWD(2020) 176 final

<sup>6</sup> An EU Strategy to harness the potential of offshore renewable energy for a climate neutral future, COM(2020) 741 final

<sup>7</sup> These scenarios include those in the Union Long-Term Strategy (2018), the TYNDP 2020 scenarios developed by ENTSOG and ENTSO-E (2020), Eurelectric's "Decarbonisation pathways" (2018) or those developed for DG ENER in the framework of the study "Impact of the use of the biomethane and hydrogen potential on trans-European infrastructure" (2019).

is connected to the low and medium voltage grid. Moreover, the evaluation of the current TEN-E framework has shown delays in the implementation of PCIs that have been identified as necessary to achieve the Union climate and energy policy objectives. In 2020, 27% of electricity PCIs were delayed by on average 17 months against their initially planned commissioning date.

For this, the revised TEN-E will particularly aim at:

- Enabling the identification of the cross-border projects and investments across the Union and with its neighbouring countries that are necessary for the energy transition and achievement of the climate targets
- Improving infrastructure planning for energy system integration and offshore grids
- Shortening permitting procedures for PCIs to avoid delays in projects that facilitate the energy transition
- Ensuring the appropriate use of cost sharing tools and regulatory incentives

This initiative assessed and identified a set of measures to simplify and improve the efficiency of the TEN-E Regulation and reduce compliance and regulatory costs where possible. The initiative will allow for *i) streamlining of reporting and monitoring obligations, ii) opting out of pre-consultation requirements if already covered by the national rules under the same or higher standards as in the TEN-E Regulation and iii) simplification for the inclusion of PCIs in the TYNDP*. The simplification measures will generate direct benefits through reduced recurrent direct costs related to administrative burden as a result of reduced monitoring and reporting obligations. These direct benefits are mainly private benefits for certain stakeholders such as project promoters.

- **Consistency with existing policy provisions in the policy area**

The evaluation of the TEN-E Regulation the Commission carried out to assess its performance to date concluded that the current framework has not been able to demonstrate sufficient flexibility to adapt to changing Union policy objectives over time. This is particularly relevant in the light of the developments in the Union energy and climate policy – particularly the increased emphasis and ambition placed on decarbonisation objectives. The Paris Agreement and the European Green Deal require a significant transformation of the current energy infrastructures to enable a fully integrated carbon-neutral energy system by 2050. While the initial objectives of the TEN-E Regulation -security of supply, market integration, competition and sustainability- are still relevant, the revised TEN-E Regulation introduces changes that ensure consistency with the decarbonisation targets and alignment with the climate-neutrality objective and the “do no significant harm” principle as defined by the Taxonomy Regulation<sup>8</sup>.

The overall principles of the revised TEN-E Regulation respond to the need of consistency with various targets and objectives set out in the Clean Energy Package, notably the Electricity Market Directive and Regulation, the Governance Regulation and the Renewable Energy Directive, notably by enabling a large scale deployment and integration of renewable energy sources and supporting an increase in the role of distribution system operators.

The Green Deal, and the relevant emission reduction objectives, put the transport sector on a more dynamic decarbonisation pathway than earlier targets. Thus, oil demand is expected to drastically

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<sup>8</sup> Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13

reduce and all unabated oil consumption is expected to be phased out. Therefore, in line with the Green Deal objectives oil supply infrastructure are not included in this Regulation.

Although the evaluation did not indicate any direct incoherence between the current TEN-E Regulation and the specific measures contained within the Energy Efficiency Directive, revised provisions reinforce the energy efficiency first principle in the future cross-sectoral infrastructure planning.

The Connecting Europe Facility is complementary to the TEN-E Regulation by addressing the financing gap for PCIs with a high socioeconomic and societal value but which lack commercial viability. The eligibility for financial assistance under CEF is linked to the scope of the infrastructure categories covered under the revised TEN-E considering that enjoying the PCI status under TEN-E is a precondition for financing from CEF for cross-border infrastructure projects.

- **Consistency with other Union policies**

By strengthening the existing sustainability assessment of PCIs in the revised TEN-E, the Commission also aims to enhance the coherence of the initiative with the relevant aspects of the Union taxonomy for sustainable investments framework. The Taxonomy Regulation<sup>9</sup> establishes the framework for defining criteria that determine whether an economic activity qualifies as environmentally sustainable, thus imposing disclosure obligations for financial and non-financial undertakings of the private sector gearing capital towards (more) sustainable economic activities defined along the consideration of six environmental objectives.

Projects of common interest will follow the ‘do no significant harm’ principle as expressed in the Green Deal and in line with the Article 17 of the Taxonomy Regulation. To limit the impact on the environment, infrastructure planning and the infrastructure gaps identification will follow the energy efficiency first principle and consider with priority all relevant non-infrastructure related solutions to address the identified gaps based on an extensive stakeholder process. In addition, during project implementation, project promoters should report on the compliance with environmental legislation to ensure that projects do no significant harm to the environment. This reporting is an important element of the monitoring process and for applications for subsequent Union lists. Moreover, the Regulation introduces a requirement for projects of common interest to integrate climate adaptation measures. Article 171(3) TFEU provides for the possibility that the Union may decide to cooperate with third countries to promote projects of mutual interest (PMI)<sup>10</sup> and to ensure the interoperability of networks in the Union’s neighbourhood. Such cooperation can help reduce GHG emissions in the Union and in third countries, thus contributing to achieving the Green Deal objectives. The inclusion of PMIs in the revised TEN-E Regulation would take account of the increasing role of interconnections with third countries and allow extending the scope of benefits accruing from the implementation of the Union’s regulatory framework beyond its borders. Due account will be taken of the Communication from the Commission on An Economic and Investment Plan for the Western Balkans<sup>11</sup>.

The revised TEN-E Regulation aims to address some of the persistent problems such as delays in project implementation and access to financing for cross-border infrastructure projects reinforced by the sanitary crisis showing consistency with aims of the Recovery and Resilience Facility. Depending

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<sup>9</sup> Regulation (EU)2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU)2019/2088, OJ L 198, 22.6.2020, p. 13

<sup>10</sup> Art. 171(3) TFEU: “The Union may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.”

<sup>11</sup> Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An Economic and Investment Plan for the Western Balkans, SWD(2020) 223 final

on Member States' objectives, financing cross-border smart and sustainable energy interconnections will only be done to a small extent under the RRF.

Specific support measures which Member States could choose to grant to PCIs could qualify as State aid. Such measures would require a specific assessment under State aid rules. The PCI status is relevant under State aid rules, both under the 2014 General Block Exemption Regulation<sup>12</sup> and the 2014-2020 Energy and Environmental Aid Guidelines<sup>13</sup>. It is important to recall that national measures taken to support PCIs beyond the cross-border cross allocation and the investment incentives referred to in the TEN-E Regulation could amount to State aid and may be subject to an assessment under State aid rules. This is particularly relevant for electrolyzers and storage projects, which may have a more direct impact on energy generation markets.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

Article 170 of the Treaty on the Functioning of the European Union foresees that the Union shall contribute to the establishment and development of trans-European networks, including in the area of energy infrastructure. The Union will need to promote interconnection of national networks. The TEN-E Regulation is based on Article 172 of the Treaty on the Functioning of the European Union which provides for the legal base to adopt guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks as set out in Article 171. The guidelines are to identify projects of common interest that are necessary for achieving the policy goals of the TEN-E. The guidelines also set the conditions under which the Union may financially support the PCIs.

### **• Subsidiarity (for non-exclusive competence)**

Energy transmission infrastructure (including an interconnected offshore grid and smart grid infrastructure) has a European added value due to its cross-border impacts and is essential to achieve a climate neutral energy system. The TEN-E Regulation has provided value and has contributed to achieving results regarding the Union energy market integration, competition and security of supply. A framework for regional cooperation across Member States is necessary to develop cross-border energy infrastructure. Individual Member State regulations and actions are insufficient to deliver these infrastructure projects as a whole.

The internal energy market requires cross-border infrastructure, the development of which requires cooperation of two or more Member States, all with their own regulatory framework. The TEN-E Regulation has provided additional value compared to what could have been achieved at national or regional level alone. The implementation of over 40 key energy infrastructure projects since its entry into force helped most Member States reach the 10% interconnection target for 2020 and achieve a well-interconnected and shock-resilient gas grid. The Union energy market is more integrated and competitive than it was in 2013 and the Union's energy security has improved. Access to targeted financing under CEF enabled the implementation of 95 PCIs which have had otherwise difficulties in accessing financing under market rules.

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<sup>12</sup> Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, *OJ L 187, 26.6.2014, p. 1*

<sup>13</sup> Communication from the Commission — Guidelines on State aid for environmental protection and energy 2014-2020, *OJ C 200, 28.6.2014, p. 1*

The above progress could not have been achieved with Member State action alone. Various stakeholders confirmed the added value of the TEN-E Regulation, pointing to the importance of regional cooperation in implementing cross-border projects, transparency regulatory certainty and access to financing.

- **Proportionality**

The initiative complies with the proportionality principle. It falls within the scope for action in the field of the trans-European energy networks, as defined in Article 170 of the Treaty on the Functioning of the European Union. The policy intervention is proportional to the dimension and nature of the problems defined and the achievement of the set objectives.

The proposal does not go beyond what is necessary to achieve the general objective pursued to facilitate the timely development of sufficient energy infrastructures across the Union and in its neighbourhood to enable delivering on the Union's energy and climate objectives in line with the European Green Deal, in particular on the 2030/50 targets including the climate-neutrality objective, compliance with the “do no significant harm” principle, as well as market integration competitiveness, and security of supply.

Building on the results of the evaluation, the Commission assessed several policy options belonging to four impact areas of the current TEN-E framework, such as scope, governance/infrastructure planning, permitting and public participation, and regulatory treatment.

The assessment and the comparison of the options (see in particular sections 7 and 8 of the accompanying Impact Assessment) shows that no single option is sufficient to meet the identified objectives. The identification of package of policy options best suited to achieve the specific objectives is based on an assessment that includes the proportionality principle.

The package aims to “future proof” the TEN-E Regulation. The options on the future scope of the Regulation cover all technologies necessary for the energy transition and climate targets. The definitions are at the same time specific and sufficiently broad to accommodate technological developments to the extent possible. The PCI selection framework and the new approach to cross-sectoral infrastructure planning sets the key elements in terms of objectives and criteria. The future framework will maintain the role of the regional groups in the selection process to further specify and adjust these elements against new policy priorities and technological developments also considering the regional context.

- **Choice of the instrument**

Building on the overall positive evaluation of the current Regulation, the instrument chosen is a Regulation, an effective instrument which has direct application and is binding in its entirety, ensuring uniform implementation and legal certainty.

### 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

In March 2019, as part of the partial political agreement between the European Parliament and the Council on the Connecting Europe Facility for the period 2021-2027, the co-legislators agreed on the need to evaluate the effectiveness and policy coherence of the Regulation 347/2013 on the guidelines

for trans-European energy infrastructure (TEN-E Regulation) by 31 December 2020<sup>14</sup>. In December 2019 the Communication of the Commission on the European Green Deal<sup>15</sup> explicitly referred to the need for a review of the TEN-E Regulation to ensure consistency with climate neutrality objectives.

In view of the timeline for the evaluation and revision of the TEN-E Regulation, the Commission opted for a “back-to-back evaluation and impact assessment”. The evaluation of the TEN-E Regulation was carried out between January 2019 and September 2020. The evaluation assessed the extent to which the TEN-E Regulation has performed so far in achieving its stated objectives, identifying factors that helped or hindered their achievement. Specifically, it assessed the effectiveness of the Regulation compared to a baseline (i.e. the situation without the Regulation), to appraise whether or not it has had a significant impact and added value.

In short, the evaluation looked at:

- How and why the current TEN-E Regulation has worked well or not so well, and which factors have helped or hampered the achievement of its objectives;
- The impact of the Regulation, particularly in terms of progress towards achieving its objectives.

The “back to back” approach ensured that formative elements are drawn from the outcomes of the evaluation to conclude on the extent to which the Regulation will remain fit-for-purpose and relevant in the future in view of the adopted or planned policy initiatives which will accelerate the mid- and long-term decarbonisation. The forward-looking elements looked into how to ensure that enabling energy infrastructure is in place to match the increased decarbonisation and renewable energy deployment ambitions and indicate areas of intervention.

In line with the scope and applicability of the TEN-E Regulation, the evaluation covered all Member States. In accordance with the Better Regulation guidelines, five criteria were applied to evaluate the performance of the TEN-E Regulation: effectiveness, efficiency, relevance, coherence, and Union added value.

The evaluation has shown that since 2013, energy interconnections have increased across the Union as a result of the implementation of the TEN-E Regulation and PCIs in all regions. Increased interconnection effectively improved the integration of Member States’ networks, which in turned made the Union energy market more integrated and competitive than it was before the implementation of the TEN-E Regulation. Wholesale prices for electricity converged in almost all Member States. Gas prices also converged. An increase in security of gas supply has been achieved substantially since 2013 through new interconnections and LNG terminals. PCIs have helped fulfilling the current objectives of the TEN-E Regulation as it was conceived in 2013. However, infrastructure categories in the current TEN-E Regulation do not reflect the new climate ambitions and the climate neutrality objective nor the latest technological developments. This progress should be taken into account in the infrastructure categories covered by the Regulation, the PCI selection criteria as well as the priority corridors and thematic areas.

The PCI identification and selection process within the Regional Groups has been found effective in improving cooperation and enabling decisions on cross-border projects on the basis of a regional and European approach. The TYNDP process has proven effective as a first step for the identification of PCIs. However, while the ENTSOs and TSOs have an important role to play in the process, there is a need for more inclusiveness and scrutiny of the main inputs and assumptions to enhance trust in the process.

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<sup>14</sup> <https://www.consilium.europa.eu/media/38507/st07207-re01-en19.pdf>

<sup>15</sup> [http://www.europarl.europa.eu/doceo/document/TA-8-2019-0420\\_EN.pdf](http://www.europarl.europa.eu/doceo/document/TA-8-2019-0420_EN.pdf)

COM(2019) 640



The cross-border cost allocation mechanism is an important enabler for project implementation. However, in many cases the cross-border cost allocation did not result reducing the financing gap of the project, as intended.

While permitting procedures have been shortened, long permitting procedures persist in some cases. However, the underlying reasons are mainly related to national implementation and outside the scope of the TEN-E Regulation.

CEF financial assistance granted to 95 projects were an effective enabler of their implementation. Grants for studies helped projects to reduce risks in the early stages of development while grants for works supported projects addressing key bottlenecks that market-based finance could not sufficiently address.

The evaluation found that the benefits of the Regulation outweigh the costs proving its efficiency. TEN-E Regulation brought socio-economic benefits through an increase in security of supply and more integrated and competitive energy markets. The Regulation also contributed to improved information availability, coordination and transparency.

The initial objectives of the TEN-E Regulation -security of supply, market integration, competition and sustainability- remain relevant. However, the increased climate ambitions under the Paris Agreement and the European Green Deal call for a rebalancing of the objectives in order to fulfil the decarbonisation targets and contribute to climate-neutrality.

The evaluation showed limited evidence as to concerns around the internal coherence of the TEN-E Regulation, other than potential mechanistic changes and a lack of flexibility in adapting to rapidly evolving policy areas.

The TEN-E Regulation delivered results which could have not otherwise been achieved by action at Member State level, proving Union added value.

- **Stakeholder consultations**

In line with the Better Regulation Guidelines for “back-to-back evaluations and impact assessments”, the Commission carried out a comprehensive stakeholder consultation based on a consultation strategy that included a range of methods and tools. The consultation strategy aimed to ensure that all relevant evidence was taken into account, including data about costs, societal impact, and the potential benefits of the initiative. The strategy was designed in line with the intervention logic and combined both backward and forward-looking elements. Several consultation tools were employed: an online public consultation, a targeted online survey, in-depth interviews and (four) online stakeholder webinars.

The Commission received 215 responses to the open public consultation and targeted questionnaires with an additional 169 submissions via email, mainly from citizens, project promoters and industry associations. Approximately 80 in-depth interviews were carried out with the support of a consultant with key stakeholders of the TEN-E Regulation to provide detailed information and evidence on key aspects that could not be dealt with in length by the targeted questionnaire. Four stakeholder webinars attended by more than 40 panellists and 300 participants addressed key elements of the revision.

In general, stakeholders largely confirm the benefits brought by TEN-E to date in meeting overall objectives: it has contributed to energy market integration, achieved an adequate level of security of supply and contributed to competitiveness in the Union energy market. As regards the contribution towards the 2020 climate and energy targets, the opinions are split between the positive appraisal of transmission system operators and national competent authorities, often from Central and Eastern Europe, and the negative views expressed by a number of NGOs notably on the role of gas.

In general, stakeholders largely believe that the PCI process enables the selection of the most relevant PCIs for the fulfilment of the TEN-E objectives by means of regional cooperation within the Regional Groups. Whilst in principle the selection criteria are considered appropriate, stakeholders called for consistency with climate targets through a thorough sustainability check. Equally, the criteria are considered too restrictive for smart grids projects by some NGOs and stakeholders from the sector.

Stakeholders expressed the view that the TEN-E Regulation is not fully addressing key issues such as the deeper integration of renewable energy, improving energy efficiency and climate change mitigation. The input pointed towards some inconsistencies between the TEN-E Regulation and other policies or initiatives at Union level such as the European Green Deal / Long Term Strategy for Decarbonisation. In response to these challenges, the following infrastructure categories were seen as relevant for further inclusion in the TEN-E framework: hydrogen infrastructures and smart gas distribution grids, power-to-gas, energy network to support electric charging / hydrogen refuelling infrastructures and energy network in hybrid offshore wind projects. However, dedicated hydrogen infrastructure, smart gas grids and power-to-gas technologies received mixed support, notably from NGOs. Rather low support from stakeholders, notably civil society, NGOs and electricity industry associations, has been indicated towards CO<sub>2</sub> networks and in particular CO<sub>2</sub> storage. However, further analysis of the input received on the inclusion of CO<sub>2</sub> networks as an infrastructure category, indicated that there was limited evidence to remove CO<sub>2</sub> networks from the TEN-E Regulation.

As regards governance and role of different actors, stakeholders called for weakening the role of the ENTSOs, whilst strengthening the role of DSOs and other stakeholders, such as NGOs.

Whilst permit granting procedures have shortened since the entry into force of the TEN-E Regulation, their effectiveness strongly depends on national implementation as indicated by various stakeholders. While continuously complex national procedures are one cause for this, environmental issues of PCIs and public opposition causing lengthy court cases against the projects are other reasons for extended permitting times. The public consultation requirements under TEN-E seem to have increased awareness of PCI projects, improved public participation and trust in the process. However, provisions seem to have a limited impact on increasing public acceptance mostly due to the perceived lack of (up to date) information on the infrastructure needs and the lack of feedback on the design of the projects.

The approach introduced in the TEN-E to share costs between Member States in order to enable projects with benefits across borders, the cross-border cost allocation (CBCA) mechanism, was largely appraised as having addressed the pre-existing asymmetries between costs and benefits. CBCAs prove to be effective in some cases, although the valuation of the mechanism and the complexity of obtaining data, the additional time until an investment decision can be made and the lack of unambiguous results to base the decision on are factors reducing the satisfaction of stakeholders with the process.

There is widespread agreement among stakeholders that the TEN-E Regulation has Union added value and its results could not have been achieved individually by Member States. An equal majority indicated that the issues addressed by the TEN-E Regulation continue to require action at Union level. Moreover, the majority of respondents believe that the benefits of the TEN-E Regulation outweigh its costs.

- **Collection and use of expertise**

The proposal and its underpinning impact assessment draws on evidence from the evaluation of the Regulation 347/2013 on guidelines for the trans-European energy networks, from the stakeholder input to the extensive consultations carried out in this respect, as well as literature review, PCI portfolio analysis and modelling. Literature review included the results of a series of topical studies on key elements of the TEN-E Regulation, the outcomes of a mid-term evaluation of the TEN-E Regulation, as

well as evaluations and assessments carried out in the framework of other relevant Commission initiatives.

Formal conclusions adopted in the framework of stakeholder fora on energy infrastructure and related policy were also considered in the analysis. ACER's annual consolidated monitoring reports on the progress of electricity and gas PCIs, incremental capacity projects and virtual interconnection points as well other updates on the cross-border cost allocation decisions, project-specific risk-based incentives were equally considered.

- **Impact assessment**

Following the Better Regulation guidelines the Commission carried out an Impact Assessment of several policy options. This work was supported by structured consultation within the Commission via an Inter-Service Steering Group.

The impact assessment was presented to and discussed with the Regulatory Scrutiny Board (RSB). Recommendations made by the RSB in its first (negative) opinion of 25 September 2020 were notably addressed by: (i) further clarifying the background and key elements of the current TEN-E Regulation, ii) highlighting key conclusions of the evaluation on the successes and shortcomings of the current TEN-E Regulation and linking them systematically to the problem definition, iii) further clarifying the problem definition to better explain how the TEN-E framework fits into the new policy context of the Green Deal and how the objectives and options relate to the problems and underlying drivers, iv) better explaining why the package of preferred options is considered best suited to address the identified problems (and highlighting possible alternatives), and v) specifying success indicators. The second opinion from the Regulatory Scrutiny Board on 1 December was positive opinion with reservations which were notably addressed by: (i) further clarifying the different scope and purpose of the TEN-E Regulation and the Taxonomy Regulation, ii) explaining that the combined impacts of the proposed changes will align the PCI selection with EU policy objectives including the Green Deal, iii) further clarifying why the package of preferred options is considered “future proof”, and iv) better explaining that national implementation and enforcement is a key issue to address permitting delays and how the preferred option can contribute to timely implementation of PCIs.

Throughout the impact assessment work, a range of measures were considered across all areas to address the identified problems and problem drivers in order to reach the objectives of the initiative. Following an assessment of their effectiveness, efficiency, coherence and proportionality, a package of preferred options has been found best suited to contribute to the set objectives. The package of preferred options includes the following main provisions:

- Update of eligibility criteria for smart electricity grids
- Exclude natural gas infrastructure but include hydrogen, P2G and smart gas grids
- Inclusion of projects of mutual interest (PMIs)
- Integrated offshore development plans
- Strengthened governance and sustainability
- Accelerating the project implementation
- One-stop shop per sea basin for offshore renewable projects
- Inclusion full investment costs

Concerning the future scope of TEN-E, a key question is whether to keep natural gas infrastructure as eligible infrastructure category or not. Based on the analysis in sections 6 and 7 of the impact assessment, the exclusion of methane gas infrastructure appears as the most effective and coherent approach. At the same time, the inclusion of hydrogen infrastructure in the scope of the TEN-E framework appeared justified given its expected increasing role for the decarbonisation of certain sectors and potential for cross-border exchanges. Taken together, these changes would ensure that the future TEN-E would include all those infrastructure categories that are needed to deliver on the Union's energy and climate objectives in line with the European Green Deal, in particular on the 2030/50 targets. As regards the future approach to infrastructure planning, a radical change to infrastructure planning seems unjustified in view of the limited additional benefits and the significant increase in transaction costs which reduce efficiency and may make the instrument less effective compared to strengthening the current approach. However, given the specificities both in terms of the current situation and expected contribution to the long-term climate and energy objectives, a more radical change appears justified for offshore grids.

The options pertaining to “offshore grids” and “cross-sectoral infrastructure planning” improve the governance and the infrastructure planning framework to enable the identification of projects necessary for the energy transition and climate targets in line with the offshore renewable potential of each sea basin, environmental protection and other uses of the sea. There are two main improvements: first, the introduction of an integrated network development plan for offshore infrastructure on the basis of Member States' joint commitments to the amount of the offshore renewable deployment for each sea basin (top down approach for offshore planning); second, adjustments to the roles of the key actors involved in the development of the TYNDP with strengthened oversight from the Commission and ACER on the ENTSOs. Policy options concerning “permitting” and “regulatory treatment” will complement these improvements to facilitate the timely development of the identified PCIs: a) the introduction of a one stop shop for offshore infrastructure per sea basin, b) the access to urgent court procedures, where available, and c) the inclusion of full investment costs in the cross-border cost allocation. Apart from the changes that are specific to offshore grids, the changes will apply to the scope of the revised TEN-E Regulation and all eligible infrastructure categories. Finally, the above benefits will be extended to projects connecting the Union with third countries (PMIs) given their expected increasing role in achieving the climate objectives.

In addition, several technical options (see Annex 9 of the impact assessment) are part of the policy package: accelerating the permitting process, increasing the transparency of PCIs, possibility for smart grids projects to obtain a CBCA, clarifying CBCA provisions, and updating investment incentives. Moreover, oil pipelines and electricity highways will be removed as infrastructure categories and thematic areas.

The assessment of the impacts relies to a large extent on a qualitative approach. It was not possible to quantify the impacts for all options due to the lack of project specific data in particular for new infrastructure categories. Moreover, the proposed changes are mainly gradual improvements to the current framework, which has been deemed to work relatively well.

Adapting the scope of the instrument by ensuring the consistency of infrastructure categories with the climate-neutrality objective will lower greenhouse gas emissions supported by optimal and efficient integrated infrastructure planning which also minimizes potential environmental impacts. An accelerated permitting process will also allow for a faster implementation of key projects therefore bringing forward the environmental and socio-economic benefits.

The impact assessment identified the following key target groups who would be affected by this initiative: European citizens and consumers, non-governmental organisations, European Union Regulators, National Regulatory Authorities, National Competent Authorities and their local and regional representatives, European Network of Transmission System Operators (ENTSO-E and ENTSO-G), DSO branch organisations, project promoters, including Transmission System Operators, energy producers / industry, academics and thematic experts.

The *direct benefits* of the package of preferred policy options are mainly related to greenhouse gas emission savings and efficiency improvements at large scale through a more coordinated approach to infrastructure planning at European level and streamlined permitting for offshore developments. These direct benefits encompass both social benefits, e.g. society at large benefits from reduced greenhouse gas emissions and the achievement of the climate neutrality objective, and private benefits, e.g. reduced administrative costs related to shorter permitting procedures.

The simplification measures will generate direct benefits through reduced existing recurrent direct costs related to administrative burden as a result of reduced monitoring and reporting obligations. These direct benefits are mainly private benefits for certain stakeholders such as project promoters.

*Indirect benefits* include sectoral benefits by stimulating market demand for certain innovative technologies and in turn contributing to potentially higher employment rates.

The assessment of the preferred options showed positive impacts in social welfare and economic terms for different categories of stakeholders. However, such impact for the package of preferred policy options could not be fully quantified or monetised as this would have required information regarding the deployment rate for future PCIs or market upscale for new or emerging infrastructure categories, which is not available and cannot be estimated with sufficient degree of robustness.

It is important to underline that one general selection criterion for each project of common interest is that its potential overall benefits outweigh its costs, including in the longer term.<sup>16</sup>

The TEN-E Regulation does not introduce any regulatory charges, such as fees, levies, taxes, etc. The package of preferred policy options results in *direct costs* in terms of compliance costs and administrative burden for businesses (mainly project promoters) and administrations (national competent authorities, national regulatory authorities, the Commission, and ACER) in order to comply with substantive obligations or requirements contained therein. The application of the package of preferred options results in *indirect costs* for citizens/consumers, businesses and administrations through an increase in network tariffs to finance investments in the regulatory asset base (RAB). However, CEF financial assistance can alleviate the impact on network tariffs in case a PCI shows significant externalities in terms of security of supply, solidarity, or innovation.

It was not possible to estimate these costs for all actions at this stage but they are considered as non-significant. The additional costs would be marginal compared to the current costs.<sup>17</sup> Additional *enforcement costs* at national and Union level will depend on the implementation.

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<sup>16</sup> TEN-E Regulation, Art. 4(1)(b)

<sup>17</sup> Ecorys et al. (2020) Support to the evaluation of Regulation (EU)No 347/2013 on guidelines for trans-European energy infrastructure, Draft final report, p. 122

- **Regulatory fitness and simplification**

The revised TEN-E Regulation will aim at reducing reporting obligations by finding synergies between the competent authorities and the project promoters' reporting. To safeguard the transparency and access of the Regional Groups to the most updated project implementation status whilst achieving recurrent cost savings, the annual report of the competent authorities could be integrated into the report of the project promoters. Second, ACER monitoring obligations will be reduced to biennial reporting in time for the assessment of the new PCI candidates<sup>18</sup> generating efficiency gains of approximately 20% of ACER's workload on reporting, equivalent to annual savings of EUR 60 000 (or 0.4 FTE per year). Third, the revised TEN-E Regulation will allow the pre-consultation ahead of the launch of permitting procedure for PCIs to become optional, if already covered by national rules under the same or higher standards as in the TEN-E Regulation. Public participation and engagement with local communities and stakeholders affected by the construction of a PCI will be safeguarded whilst avoiding obligations that add to existing national procedures. Fourth and last, the new provisions recommend a simplified inclusion of existing PCIs in the Ten-Year Network Development Plans (TYNDPs), where projects on the Union list of PCIs having already provided necessary administrative and technical data to the TYNDP process can benefit from automatic inclusion in the subsequent plans provided the data remained unchanged.

No direct impacts in terms of compliance or administrative costs for SMEs are identified. SMEs could benefit from increased competitiveness in those technology areas that are included or strengthened in the future TEN-E framework (e.g. offshore renewable energy industry, digital services, or hydrogen).

The initiative is coherent with the Digital Single Market and coherent with the Union strategy for data.

- **Fundamental rights**

The initiative is not expected to have an impact on fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

The budgetary impact associated to the proposal concern the resources of the Agency for the Cooperation of Energy Regulators (ACER). ACER will take on additional responsibilities in the oversight of the Ten-Year Network Development Plan. This requires a limited number of additional resources (1 additional FTE, see Legislative Financial Statement).

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Building on the existing processes for monitoring data from regular reports prepared by project promoters and national regulators, several indicators have been developed to measure the achievement of each of the specific objective of the revised TEN-E Regulation. The actual impacts of the legislation will be monitored and evaluated against a set of indicators tailored to the specific policy objectives to be achieved with the legislation. In addition, four operational objectives related to the package of policy options will be measured against a set of indicators. All data will be monitored on the basis of regular reports from project promoters and national regulators.

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<sup>18</sup> This option corresponds to the input of ACER to the stakeholder consultation.

A review of the effectiveness of the new legislation should take place in 2026, when the second PCI selection process under the new framework should have been completed.

- **Explanatory documents (for directives)**

The Regulation will be directly and uniformly implemented in the Member States, and hence not requiring an Explanatory Document.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I of the revised Regulation outlines the general provisions, notably the subject matter and scope of the new infrastructure categories which have been revised to reflect the general objective to facilitate the timely development of adequate energy infrastructures across the Union and in its neighbourhood to enable delivering on the Union's energy and climate objectives in line with the European Green Deal, in particular on the 2030/50 targets including the climate-neutrality objective, as well as market integration, competitiveness, and security of supply at least cost for consumers and businesses.

Current Articles 2(7), 4(2)(c), 4(4) and Annexes I, II, IV defining the criteria for smart electricity grids have been updated to reflect technological change and include elements regarding innovation and digital aspects that could be considered among the equipment or installations for smart grids. The broadened scope of the smart electricity grids has been reflected in the adjustment of the selection criteria. Furthermore, the role of project promoters has been further clarified. Smart grid technologies should also help to improve energy network related support for high capacity recharging to support the decarbonisation of the transport sector.

Provisions regarding the inclusion of natural gas elements in the scope of the TEN-E, notably Article 4, and Annexes I, II, IV now reflect the significant improvements in the security of supply thanks to the implementation of the TEN-E policy to date. By the early 2020s, when the gas projects of common interest currently under construction will be in operation, Europe should achieve a well-interconnected and shock-resilient gas grid and all Member States will have access to at least three gas sources. Considering that the future natural gas demand is estimated to significantly decrease in line with the Green Deal objectives, natural gas infrastructure no longer needs support through the TEN-E policy.

On the other hand, the revised TEN-E is reflecting the changing gas landscape with an increased role for renewable and low carbon gases in Articles 2, 4 and Annexes I, II, IV by creating a new category of infrastructure for smart gas grids. This would support investments at distribution and/or transmission level to integrate green gases (typically biogas and biomethane but also hydrogen) in the network and help manage a resulting more complex system, building on innovative technologies. The candidate projects would consist of a range of investments directed at "smartening" and decarbonising a given gas network.

To support the decarbonisation needs of the hard to abate sectors, TEN-E will include dedicated new and repurposed hydrogen networks with cross border relevance (including hydrogen transmission pipelines and related equipment such as compressors, storage facilities, and facilities for liquefied hydrogen) and power-to-gas facilities above a certain threshold with cross-border relevance (i.e. aiming to supply at least two Member States). Hydrogen networks will be appropriately reflected in the Union-wide ten-year network development plans (TYNDPs) prepared by the European Network of Transmission System Operators for Gas.

New general selection criteria are added in Article 4(2) to reflect the inclusion of projects of mutual interest in the scope of the Regulation if they are able to demonstrate significant net socio-economic benefits for at least two Union Member States and at least one third country. Such projects would be eligible for inclusion in the Union list upon conditions of approximation of the regulatory framework of the third country with the Union and upon demonstrating a contribution to the Union's overall energy and climate objectives in terms of security of supply and decarbonisation.

For their lack of alignment with the long-term decarbonisation objectives and the Green Deal, cross-border oil pipelines will no longer be included in the Regulation.

Chapter II outlines the provisions as regards the process of preparing the Union lists of projects of common interest within the Regional Groups, the criteria for selection and monitoring of project implementation.

The criteria for selection of projects now cover a mandatory sustainability criterion for all infrastructure categories with at least one other criterion (market integration, security of supply, competition) at the stage of project selection to ensure coherence with the evolution of the infrastructure needs of the Union and the decarbonisation goals. Additionally, the implementation progress made by the project, together with proof of transparency and reporting obligations will now be considered by the regional group in the PCI selection process.

The new provisions under Chapter II and IV aim to improve infrastructure planning for energy system integration. To this end, the revised TEN-E strengthens the governance of the Union-wide ten-year network development plan, which is a basis for the identification of projects of common interest in the categories of electricity and gas. While the ENTSOs and transmission system operators have an important role to play in the process, there is a need for more scrutiny to enhance trust in the process, in particular as regards defining the scenarios for the future, identifying long-term infrastructure gaps and bottlenecks and assessing individual projects. Therefore, due to the need for independent validation, the Agency for the Cooperation of Energy Regulators ('the Agency') and the Commission will have an increased role in the process.

Provisions under Chapter III aim at shortening permitting procedures for PCIs to avoid delays in projects that facilitate the energy transition. As such, the revised TEN-E institutes the need for competent authorities to coordinate and find synergies with neighbouring countries in developing their manual of procedures, avoid additional requirements or legislative amendments during the permit granting process and show flexibility in applying the permitting stages depending on the infrastructure category so as to accelerate or shorten the overall permitting duration. The revised TEN-E introduces an "offshore one-stop shop" to simplify and expedite the permitting process for offshore grids for renewable energy that shall act as a repository of existing sea basin studies and plans, aiming at facilitating the permitting process of individual projects of common interest and issue the comprehensive decisions for such projects. In order to avoid that several consultations are required at an early stage the pre-consultation should be optional, if it is already covered by national rules under the same or higher standards as in the current TEN-E Regulation. Under the revised TEN-E, Member States would have to ensure that accelerated litigation procedures are applicable to PCIs under national legislations (where existing).

The new provisions equally strengthen the transparency obligation on the project promoters, as the owner of the information regarding the implementation of the PCIs to publish and update dedicated webpages in all languages of the Member States crossed or impacted by the PCIs. Moreover, the project promoter is obliged to take into account the opinions expressed in the public consultations and demonstrate how this has been done.



The project promoter shall publish on its website a report showing how the opinions expressed in the public consultations were taken into account by showing what amendments were done in the location, trajectory and design of the project or by justifying why such opinions have not been taken into account.

The provisions under Chapter V support the need for the development of the grid needed for the significant expected scale-up of electricity generation from offshore grids for renewable energy sources. TEN-E will ensure a coordinated long-term planning and development of offshore and onshore electricity grids thus moving away from project-by-project approach while minimising the environmental and climate impact.

In order to ensure the appropriate use of the cost sharing tools and regulatory incentives, chapter VI revises existing provisions to increase the clarity and transparency for cost allocation across borders and accelerate investment in cross-border infrastructure. As such, the TEN-E foresees the obligation of full inclusion of investments costs into tariffs followed by an affordability assessment on consumers. For specific projects likely to incur higher risks such as innovative transmission technologies for electricity allowing for large-scale integration of renewable energy, distributed energy resources or demand response in interconnected networks, and energy technology and digitalisation projects, or projects with high operational expenditure, regulatory frameworks should provide proportional and appropriate incentives for investment.

The new provisions under Chapter VII update the eligibility of projects for Union financial assistance for the new infrastructure categories. While projects of mutual interest will be eligible for Union financial assistance, only the investments located on the territory of the Union will be eligible for Union financial assistance from the Connecting Europe Facility in the form of grants for works under specific conditions.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on guidelines for trans-European energy infrastructure and repealing Regulation (EU) No 347/2013**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee<sup>19</sup>,

Having regard to the opinion of the Committee of the Regions<sup>20</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Commission has set out, in its Communication of 11 December 2019 entitled ‘The European Green Deal’<sup>21</sup>, a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. The Commission’s communication on the Climate Target Plan<sup>22</sup> proposing to increase the greenhouse gas emissions’ reduction level to at least 55% by 2030 - an ambition that was endorsed by the European Council on 11 December 2020 - and its underlying impact assessment confirms that the energy mix of the future will be very different from the one of today and underpins the necessity to review and if necessary to revise the energy legislation. The current energy infrastructure investments are clearly insufficient to transform and build the energy infrastructure of the future. That also means infrastructure needs to be in place to support the European energy transition, including rapid electrification, scaling up of renewable electricity generation, the increased use of renewable and low-carbon gases, energy system integration and a higher uptake of innovative solutions.
- (2) Following the Commission’s proposals as part of the Clean Energy for All Europeans package, an agreement was reached on a binding Union level target for renewable energy for 2030 of at least 32% of final energy consumption and a headline Union level target for energy efficiency of at least 32,5%.

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<sup>19</sup> OJ C , , p. .

<sup>20</sup> OJ C , , p. .

<sup>21</sup> Commission Communication - The European Green Deal, COM(2019) 640 final of 11 December 2019.

<sup>22</sup> Commission Communication - Stepping up Europe’s 2030 climate ambition, Investing in a climate-neutral future for the benefit of our people, COM(2020) 562 final of 17 September 2020

- (3) The 2015 Paris Agreement on climate change following the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (the ‘Paris Agreement’) sets out a long-term goal to keep the global temperature increase to well below 2 °C above pre-industrial levels and to pursue efforts to keep it to 1.5 °C above pre-industrial levels, and stresses the importance of adapting to the adverse impacts of climate change and making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. On 12 December 2019, the European Council endorsed the objective of achieving a climate-neutral European Union by 2050, in line with the objectives of the Paris Agreement.
- (4) Regulation (EU) No 347/2013 of the European Parliament and of the Council<sup>23</sup>, the current TEN-E Regulation, lays down rules for the timely development and interoperability of trans-European energy networks in order to achieve the energy policy objectives of the Treaty on the Functioning of the European Union to ensure the functioning of the internal energy market, security of supply and competitive energy markets in the Union, to promote energy efficiency and energy saving and the development of new and renewable forms of energy, and to promote the interconnection of energy networks. Regulation (EU) No 347/2013 puts in place a framework for Member States and relevant stakeholders to work together in a regional setting to develop better-connected energy networks with the aim to connect regions currently isolated from European energy markets, strengthen existing cross-border interconnections, and help integrate renewable energy. By pursuing those objectives, Regulation (EU) No 347/2013 contributes to smart, sustainable and inclusive growth and brings benefits to the entire Union in terms of competitiveness and economic, social and territorial cohesion.
- (5) The evaluation of Regulation (EU) No 347/2013 has clearly shown that the framework has effectively improved the integration of Member States’ networks, stimulated energy trade and hence contributed to the competitiveness of the Union. Projects of common interest in electricity and gas have strongly contributed to security of supply. For gas, the infrastructure is now well connected and supply resilience has improved substantially since 2013. Regional cooperation in Regional Groups and through cross-border cost allocation is an important enabler for project implementation. However, in many cases the cross-border cost allocation did not result in reducing the financing gap of the project, as intended. While the majority of permitting procedures have been shortened, in some cases the process is still long. The financial assistance from the Connecting Europe Facility (CEF) has been an important factor as grants for studies have helped projects to reduce risks in the early stages of development, while grants for works have supported projects addressing key bottlenecks that market finance could not sufficiently address.
- (6) The TEN-E policy is a central instrument in the development of an internal energy market and necessary to achieve the European Green Deal objectives. To achieve climate neutrality by 2050 and higher levels of greenhouse gas emission reductions by 2030, Europe will need a more integrated energy system, relying on higher levels of electrification based on renewable sources and the decarbonisation of the gas sector. The TEN-E policy can ensure that the Union energy infrastructure development supports the required energy transition to climate neutrality in line with the energy efficiency first principle.
- (7) While the objectives of Regulation (EU) No 347/2013 remain largely valid, the current TEN-E framework does not yet fully reflect the expected changes to the energy system that will result

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<sup>23</sup> Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009, OJ L 115, 25.4.2013, p. 39–75

from the new political context and in particular the upgraded 2030 targets and the 2050 climate neutrality objective under the European Green Deal. Besides the new political context and objectives, technological development has been rapid in the past decade. That development should be taken into account in the infrastructure categories covered by this Regulation, the projects of common interest selection criteria as well as the priority corridors and thematic areas.

- (8) Directives (EU) 2019/944<sup>24</sup> and 2009/73/EC of the European Parliament and of the Council<sup>25</sup> provide for an energy internal market. While there has been very significant progress in the completion of the internal energy market, there is still room for improvement by a better utilisation of existing energy infrastructure, the integration of the increasing amounts of renewable energy and system integration.
- (9) The Union's energy infrastructure should be upgraded in order to prevent technical failure and to increase its resilience against such failure, natural or man-made disasters, adverse effects of climate change and threats to its security, in particular as regards European critical infrastructures pursuant to Council Directive 2008/114/EC<sup>26</sup>.
- (10) The Union's energy infrastructure should be resilient to the unavoidable impacts that climate change is estimated to create in Europe in spite of the mitigation efforts. Hence, strengthening the efforts on climate adaptation, resilience building, disaster prevention and preparedness is crucial.
- (11) Security of supply, as one main driver behind Regulation (EU) No 347/2013, has been significantly improved through projects of common interest. Moreover, the Commission's climate target impact assessment<sup>27</sup> expects the consumption of natural gas to be reduced significantly because its non-abated use is not compatible with carbon-neutrality. On the other hand, the consumption of biogas, renewable and low-carbon hydrogen and synthetic gaseous fuels will increase significantly towards 2050. Therefore, the natural gas infrastructure no longer needs support through the TEN-E policy. The planning of energy infrastructure should reflect this changing gas landscape.
- (12) The importance of smart electricity grids in achieving the Union's energy and climate policy objectives has been acknowledged in the communication from the Commission on energy system integration<sup>28</sup>. The criteria for the category should include technological developments regarding innovation and digital aspects. Furthermore, the role of projects promoters should be clarified. Given the expected significant increase in power demand from the transport sector, in particular for electric vehicles along highways and in urban areas, smart grid technologies should also help to improve energy network related support for cross border high capacity recharging to support the decarbonisation of the transport sector.
- (13) The Commission's communication on energy system integration underlines the need for integrated energy infrastructure planning across energy carriers, infrastructures, and consumption sectors. Such system integration starts from the point of departure of applying the energy efficiency first principle and taking a holistic approach beyond individual sectors. It also

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<sup>24</sup> Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU OJ L 158, 14.6.2019, p. 125.

<sup>25</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94).

<sup>26</sup> OJ L 345, 23.12.2008, p. 75.

<sup>27</sup> SWD(2020) 176 final

<sup>28</sup> COM(2020) 299 final

addresses the decarbonisation needs of the hard to abate sectors, such as parts of industry or certain modes of transport, where direct electrification is, currently, technically or economically challenging. Such investments include hydrogen and electrolyzers, which are progressing towards commercial large-scale deployment. The Commission's Hydrogen Strategy gives priority to hydrogen production from renewable electricity, which is the cleanest solution and is most compatible with the EU climate neutrality objective. In a transitional phase however, other forms of low-carbon hydrogen are needed to more rapidly replace existing hydrogen and kick-start an economy of scale.

- (14) Moreover, the Commission's Hydrogen Strategy<sup>29</sup> concluded that for the required deployment of hydrogen a large-scale infrastructure network is an important element that only the Union and the single market can offer. There is currently very limited dedicated infrastructure in place to transport and trade hydrogen across borders. Such should consist of a significant extent of assets converted from natural gas, complemented by new assets dedicated to hydrogen. Furthermore, the Hydrogen Strategy sets a strategic goal to increase installed electrolyser capacity to 40 GW by 2030 in order to scale up the production of renewable hydrogen and facilitate the decarbonisation of fossil-fuel dependent sectors, such as industry or transport. Therefore, the TEN-E policy should include new and repurposed hydrogen transmission infrastructure and storage as well as electrolyser facilities. Hydrogen transmission and storage infrastructure should also be included in the Union-wide ten-year network development plan so as to allow a comprehensive and consistent assessment of their costs and benefits for the energy system, including their contribution to sector integration and decarbonisation, with the aim of creating a hydrogen backbone for the Union.
- (15) Moreover, a new infrastructure category should be created for smart gas grids to support investments which integrate renewable and low carbon gases such as biogas, biomethane, and hydrogen, in the network and help manage a resulting more complex system, building on innovative digital technologies.
- (16) Regulation (EU) No 347/2013 requires a candidate project of common interest to prove a significant contribution to at least one criterion from a set of criteria in the process for the elaboration of the Union list, which may, but does not need to, include sustainability. That requirement, in line with the specific needs of the internal energy market at the time, enabled development of projects of common interest which addressed only security of supply risks even if they did not demonstrate benefits in terms of sustainability. However, given the evolution of the Union infrastructure needs and the decarbonisation goals, the Conclusions of the 2020 July European Council, according to which "Union expenditure should be consistent with Paris Agreement objectives and the "do no harm" principle of the European Green Deal, sustainability in terms of the integration of renewable energy sources into the grid or the reduction of greenhouse gas emissions, as relevant, should be assessed in order to ensure that TEN-E policy is coherent with energy and climate policy objectives of the Union. The sustainability of CO<sub>2</sub> transport networks is addressed by their purpose to transport carbon dioxide.
- (17) The Union should facilitate infrastructure projects linking the Union's energy networks with third-country networks that are mutually beneficial and necessary for the energy transition and the achievement of the climate targets, and which also meet the specific criteria of the relevant infrastructure categories pursuant to this Regulation, in particular with neighbouring countries

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<sup>29</sup> A hydrogen strategy for a climate-neutral Europe, COM(2020) 301 final.

and with countries with which the Union has established specific energy cooperation. Therefore, this Regulation should include in its scope projects of mutual interest where they are sustainable and able to demonstrate significant net socio-economic benefits for at least two Member States and at least one third country. Such projects would be eligible for inclusion in the Union list upon conditions of regulatory approximation with the Union and upon demonstrating a contribution to the Union's overall energy and climate objectives in terms of security of supply and decarbonisation. Such regulatory alignment or convergence should be presumed for the European Economic Area or Energy Community Contracting Parties. In addition, the third country with which the Union cooperates in the development of projects of mutual interest should facilitate a similar timeline for accelerated implementation and other policy support measures, as stipulated in this Regulation. Therefore, in this Regulation, projects of mutual interest should be considered in the same manner as projects of common interest with all provisions relative to projects of common interest applying also to projects of mutual interest, unless otherwise specified.

- (18) Furthermore, to achieve the Union's 2030 and 2050 climate and energy targets and climate neutrality objective, Europe needs to significantly scale up renewable electricity generation. The existing infrastructure categories for electricity transmission and storage are crucial for the integration of the significant increase in renewable electricity generation in the power grid. In addition, that requires stepping up investment in offshore renewable energy<sup>30</sup>. Coordinating long-term planning and development of offshore and onshore electricity grids should also be addressed. In particular, offshore infrastructure planning should move away from the project-by-project approach towards a coordinated comprehensive approach ensuring the sustainable development of integrated offshore grids in line with the offshore renewable potential of each sea basin, environmental protection and other uses of the sea.
- (19) Relevant Member States should be able to assess the benefits and costs of the afferent sea basin offshore grids for renewable energy and carry out a preliminary cost sharing analysis at sea basin level to underpin joint political commitments for offshore renewable energy development at sea-basin level. Therefore, the Commission should develop uniform principles for a cost-benefit and cost-sharing methodology for the deployment of the integrated offshore network development plans which should enable Member States to carry out an adequate assessment.
- (20) The Union-wide ten-year network development plan process as basis for the identification of projects of common interest in the categories of electricity and gas has proven to be effective. However, while the European Network of Transmission System Operators for Electricity and for Gas (ENTSOs) and transmission system operators have an important role to play in the process, more scrutiny is required, in particular as regards defining the scenarios for the future, identifying long-term infrastructure gaps and bottlenecks and assessing individual projects, to enhance trust in the process. Therefore, due to the need for independent validation, the Agency for the Cooperation of Energy Regulators ('the Agency') and the Commission should have an increased role in the process, including in the process for drawing up the Union-wide ten-year network development plan pursuant to Regulation (EU) 2019/943 of the European Parliament

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<sup>30</sup> Offshore Strategy Communication

and of the Council<sup>31</sup> and Regulation (EC) No 715/2009 of the European Parliament and of the Council<sup>32</sup>.

- (21) It is important to ensure that only infrastructure projects for which no reasonable alternative solutions exist may receive the status of project of common interest. For that purpose, the infrastructure gaps identification will follow the energy efficiency first principle and consider with priority all relevant non-infrastructure related solutions to address the identified gaps. In addition, during project implementation, project promoters should report on the compliance with environmental legislation and demonstrate that projects do no significant harm to the environment in accordance with Article 17 of Regulation (EC) 2020/852<sup>33</sup>. For existing projects of common interest having reached sufficient maturity, this will be taken into account during project selection for subsequent Union list by the regional groups.
- (22) To ensure voltage and frequency stability, particular attention should be given to the stability of the European electricity network under the changing conditions, especially in view of the growing share of renewable electricity.
- (23) Following close consultations with all Member States and stakeholders, the Commission has identified 13 strategic trans-European energy infrastructure priorities, the implementation of which is essential for the achievement of the Union's 2030 and 2050 energy and climate policy targets. Those priorities cover different geographic regions or thematic areas in the field of electricity transmission and storage, offshore grids for renewable energy, hydrogen transmission and storage, electrolyzers, smart gas grids, smart electricity grids, and carbon dioxide transport.
- (24) Projects of common interest should comply with common, transparent and objective criteria in view of their contribution to the energy policy objectives. In order to be eligible for inclusion in the Union lists, electricity, and hydrogen projects should be part of the latest available Union-wide ten-year network development plan. As hydrogen infrastructure is not currently included in the Union-wide ten-year network development plan, this requirement for hydrogen projects should only apply as of 1 January 2024 for the purposes of the second Union list drawn pursuant to this Regulation.
- (25) Regional groups should be established for the purpose of proposing and reviewing projects of common interest, leading to the establishment of regional lists of projects of common interest. In order to ensure broad consensus, those regional groups should ensure close cooperation between Member States, national regulatory authorities, project promoters and relevant stakeholders. In the context of that cooperation, national regulatory authorities should, where necessary, advise the regional groups, inter alia on the feasibility of the regulatory aspects of proposed projects and on the feasibility of the proposed timetable for regulatory approval.
- (26) A new Union list of project of common interest ('Union list') should be established every two years. Projects of common interest that are completed or that no longer fulfil the relevant criteria and requirements as set out in this Regulation should not appear on the next Union list. For that reason, existing projects of common interest that are to be included in the next Union list should be subject to the same selection process for the establishment of regional lists and for

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<sup>31</sup> Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

<sup>32</sup> Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36).

<sup>33</sup> Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13

the establishment of the Union list applied to proposed projects. However the resulting administrative burden should be reduced as much as possible, for example by using to the extent possible information submitted previously, and by taking account of the annual reports of the project promoters. To that end, existing projects of common interest that have made significant progress should benefit from a streamlined inclusion process in the Union-wide ten-year network development plan.

- (27) Projects of common interest should be implemented as quickly as possible and should be closely monitored and evaluated, while keeping the administrative burden for project promoters to a minimum. The Commission should nominate European coordinators for projects facing particular difficulties. The progress in the implementation of the specific projects as well as the fulfilment of the obligations pertaining to this Regulation should be taken into account in the selection process for subsequent Union lists for the respective projects.
- (28) The process of permit granting should neither lead to administrative burdens which are disproportionate to the size or complexity of a project, nor create barriers to the development of the trans-European networks and market access.
- (29) The planning and implementation of Union projects of common interest in the areas of energy, transport and telecommunication infrastructure should be coordinated to generate synergies whenever it is feasible from an overall economic, technical, environmental, climate or spatial planning point of view and with due regard to the relevant safety aspects. Thus, during the planning of the the various European networks, it should be possible to give preference to integrating transport, communication and energy networks in order to ensure that as little land as possible is taken up, whilst ensuring, where possible, that existing or disused routes are reused, in order to reduce to a minimum any negative social, economic, environmental, climate and financial impact.
- (30) Projects of common interest should be given ‘priority status’ at national level to ensure rapid administrative treatment and should be considered by competent authorities as being in the public interest. For reasons of overriding public interest, projects which have an adverse impact on the environment should be authorised where all the conditions set out in Council Directive 92/43/EEC<sup>34</sup> and Directive 2000/60/EC of the European Parliament and of the Council<sup>35</sup> are met.
- (31) Projects of common interest should also be given ‘priority status’ at national level to ensure urgent treatment in all judicial and dispute resolution procedures relating to them.
- (32) In order to reduce complexity, increase efficiency and transparency and help enhance cooperation among Member States there should be a competent authority or authorities integrating or coordinating all permit granting processes (‘one-stop shop’).
- (33) In order to simplify and expedite the permitting process for offshore grids for renewable energy, the Member States around a particular sea basin should create unique points of contact, referred to as an ‘offshore one-stop shop’, in view of regional specificities and geography, for the for facilitating and coordinating the process of granting of permits to such projects. Moreover, the establishment of a one-stop shop per sea basin for offshore grids for renewable energy should

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<sup>34</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>35</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Union action in the field of water policy (OJ L 327, 22.12.2000, p. 1).



reduce complexity, increase efficiency and speed up the permitting process of offshore transmission assets often crossing many jurisdictions.

- (34) Despite the existence of established standards ensuring the participation of the public in environmental decision-making procedures, which apply fully to projects of common interest, additional measures are still required under this Regulation to ensure the highest possible standards of transparency and public participation in all relevant issues in the permit granting process for projects of common interest. Where already covered by national rules under the same or higher standards as in this Regulation, the pre-consultation ahead of the permitting procedure should become optional and avoid duplication of legal requirements.
- (35) The correct and coordinated implementation of Directives 2011/92/EU<sup>36</sup> and 2001/42/EC of the European Parliament and of the Council<sup>37</sup> and where applicable, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, signed in Aarhus on 25 June 1998<sup>38</sup> (the ‘Aarhus Convention’), and of the Espoo Convention on environmental impact assessment in a transboundary context (the ‘Espoo Convention’) should ensure the harmonisation of the main principles for the assessment of environmental and climate effects, including in a cross-border context. The Commission has issued guidance to support Member States in defining adequate legislative and non-legislative measures to streamline the environmental assessment procedures for energy infrastructure and to ensure the coherent application of environmental assessment procedures required under Union law for projects of common interest<sup>39</sup>. 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 in the permit granting processes.
- (36) It is important to streamline and improve the process of permit granting, while respecting to the extent possible with due regard to the principle of subsidiarity, national competences and procedures for the construction of new infrastructure. Given the urgency of developing energy infrastructures, the simplification of the process of permit granting should set out a clear time limit for the decision of the respective authorities regarding the construction of the project. That time limit should stimulate a more efficient definition and handling of procedures, and should under no circumstances compromise the high standards for the protection of the environment in line with environmental legislation and public participation. This Regulation should establish maximum time limits, however Member States can strive to achieve shorter time limits where feasible and, in particular, as regards projects like smart grids, which may not require a complex permitting processes as that for transmission infrastructure. The competent authorities should be responsible for ensuring compliance with the time limits.
- (37) Member States can include in comprehensive decisions, where appropriate, decisions taken in the context of negotiations with individual landowners to grant access to, ownership of, or a right to occupy property, spatial planning which determines the general land use of a defined region, including other developments such as highways, railways, buildings and nature

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<sup>36</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

<sup>37</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

<sup>38</sup> OJ L 124, 17.5.2005, p. 4.

<sup>39</sup> Guidance Document "Streamlining environmental assessment procedures for energy infrastructure 'Projects of Common Interest' (PCIs)", [https://ec.europa.eu/environment/eia/pdf/PCI\\_guidance.pdf](https://ec.europa.eu/environment/eia/pdf/PCI_guidance.pdf).

protection areas, which is not undertaken for the specific purpose of the planned project and granting of operational permits. In the context of the permit granting process, a project of common interest can include related infrastructure to the extent that it is essential for the construction or functioning of the project. This Regulation, in particular the provisions on permit granting, public participation and the implementation of projects of common interest, should apply without prejudice to international and Union law, including provisions to protect the environment and human health, and provisions adopted under the Common Fisheries and Maritime Policy, in particular Directive 2014/89/EU of the European Parliament and of the Council<sup>40</sup>.

- (38) The costs for the development, construction, operation and maintenance of projects of common interest should in general be fully borne by the users of the infrastructure. Projects of common interest should be eligible for cross-border cost allocation where an assessment of market demand or of the expected effects on the tariffs indicate that costs cannot be expected to be recovered by the tariffs paid by the infrastructure users.
- (39) The discussion on the appropriate allocation of costs should be based on the analysis of the costs and benefits of an infrastructure project carried out on the basis of a harmonised methodology for energy-system-wide analysis, using the same scenario used at the time when the project was included in the Union list of projects of common interest, in the framework of the Union-wide ten-year network development plans prepared by the European Networks of Transmission System Operators pursuant to Regulation (EU) 2019/943 and (EC) No 715/2009, and reviewed by the Agency. That analysis can take into consideration indicators and corresponding reference values for the comparison of unit investment costs.
- (40) In an increasingly integrated internal energy market, clear and transparent rules for cost allocation across borders are necessary in order to accelerate investment in cross-border infrastructure. It is essential to ensure a stable financing framework for the development of projects of common interest while minimising the need for financial support. In deciding on cross-border cost allocation, national regulatory authorities should allocate investment costs across borders in their entirety and include them in the national tariffs, and, afterwards determine whether their impact on national tariffs could represent a disproportionate burden for consumers. The national regulatory authorities should avoid the risks of double support for projects by taking into account actual or estimated charges and revenues. Those charges and revenues should be taken into account only insofar as they relate to the projects and designed to cover the costs concerned.
- (41) The internal energy market legislation requires that tariffs for access to networks provide appropriate incentives for investment. However, several types of projects of common interest are likely to bring externalities that can possibly not be fully captured in and recovered through the regular tariff system. In applying the internal energy market legislation, national regulatory authorities should ensure a stable and predictable regulatory and financial framework with incentives for projects of common interest, including long-term incentives, that are commensurate with the level of specific risk of the project. That should apply in particular to cross-border projects, innovative transmission technologies for electricity allowing for large scale integration of renewable energy, of distributed energy resources or of demand response in interconnected networks, and energy technology and digitalisation projects which are likely to incur higher risks than similar projects located within one Member State, or, promise higher

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<sup>40</sup> Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning, OJ L 257, 28.8.2014, p. 135

benefits for the Union. Moreover, projects with high operational expenditure should also have access to appropriate incentives for investment. In particular, offshore grids for renewable energy which serve the dual functionality of electricity interconnectors and connecting renewable offshore generation projects, are likely to incur higher risks than comparable onshore infrastructure projects, due to their intrinsic connection to generation assets which brings regulatory risks, financing risks such as the need for anticipatory investments, market risks and risks pertaining to the use of new innovative technologies.

- (42) This Regulation should apply only to the granting of permits for projects of common interest, public participation therein and their regulatory treatment. Member States can nevertheless adopt national provisions to apply the same or similar rules to other projects that do not have the status of projects of common interest within the scope of this Regulation. As regards the regulatory incentives, Member States can adopt national provision to apply the same or similar rules to projects of common interest falling under the category of electricity storage.
- (43) Member States that currently do not attribute the highest national significance possible to energy infrastructure projects as regards the process of permit granting, should be encouraged to consider introducing such a high national significance, in particular by evaluating whether that would lead to a quicker permit granting process.
- (44) Member States that do not currently have in place accelerated or urgent judicial procedures applicable to energy infrastructure projects should be encouraged to consider introducing such procedures, in particular by evaluating whether that would lead to a quicker implementation of such projects.
- (45) Regulation (EU) No 347/2013 has demonstrated the added value of leveraging private funding through significant Union financial assistance to allow the implementation of projects of European significance. In the light of the economic and financial situation, and budgetary constraints, targeted support, through grants and financial instruments, should continue under the multiannual financial framework, in order to attract new investors into the energy infrastructure priority corridors and areas, while keeping the budgetary contribution of the Union to a minimum.
- (46) Projects of common interest should be eligible to receive Union financial assistance for studies and, under certain conditions, for works pursuant to Regulation (EU)... [on a Connecting Europe Facility as proposed by COM(2018)438] in the form of grants or in the form of innovative financial instruments to ensure that tailor-made support can be provided to those projects of common interest which are not viable under the existing regulatory framework and market conditions. It is important to avoid any distortion of competition, in particular between projects contributing to the achievement of the same Union priority corridor. Such financial assistance should ensure the necessary synergies with the Structural Funds, in order to finance smart energy distribution networks and with the Union renewable energy financing mechanism pursuant to Commission Implementing Regulation (EU) 2020/1294<sup>41</sup>. A three-step logic should apply to investments in projects of common interest. First, the market should have the priority to invest. Second, if investments are not made by the market, regulatory solutions should be explored, if necessary the relevant regulatory framework should be adjusted, and the correct application of the relevant regulatory framework should be ensured. Third, where the first two steps are not sufficient to deliver the necessary investments in projects of common interest, it

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<sup>41</sup> Commission Implementing Regulation (EU) 2020/1294 of 15 September 2020 on the Union renewable energy financing mechanism (OJ L 303, 17.9.2020, p. 1).

should be possible to grant Union financial assistance where the project of common interest fulfils the applicable eligibility criteria. Projects of common interest may also be eligible under the InvestEU programme, which is complementary to grant financing.

- (47) Grants for works related to projects of mutual interest should be available only for the investments located on the territory of the Union and only in case where at least two Member States contribute financially in a significant manner to the investment costs of the project in view of its benefits.
- (48) Regulations (EC) No 715/2009, (EU) 2019/942<sup>42</sup>, and (EU) 2019/943 of the European Parliament and of the Council<sup>43</sup> and Directives 2009/73/EC and (EU) 2019/944 of the European Parliament and of the Council should therefore be amended accordingly.
- (49) Regulation (EU) No 347/2013 should therefore be repealed.
- (50) In order to ensure that the composition of the priority corridors and thematic areas reflects in the best manner the development of energy infrastructure and that the number of candidate projects in each group remains appropriate and reasonable as to allow a comprehensive thorough assessment, and to ensure that the Union list of projects of common interest is limited to projects which contribute the most to the implementation of the strategic energy infrastructure priority corridors and thematic areas, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission:
- to supplement this Regulation by reviewing the scope and composition of the priority corridors and thematic areas and adopting new lists of priority corridors and thematic areas;
  - to amend annexes to this Regulation so as to adopt and review the Union list of projects of common interest, while respecting the right of the Member States and third countries to approve projects of common interest or projects of mutual interest related to their territory.

Taking into account the need to ensure the achievement of the objectives of this Regulation, in view of the number of project on Union lists so far, the total number of projects of common interest should remain manageable, and therefore should not significantly exceed 220. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council. Where they consider this necessary, the European Parliament and the Council may each send experts to meetings of the Commission expert groups dealing with the preparation of delegated acts to which Member States' experts are invited. The discussions in the regional groups are instrumental for the Commission to adopt the delegated acts establishing the lists of projects of common interest. Therefore, it is appropriate, to the extent possible and compatible with the framework of this Regulation, that the European Parliament and Council are informed about and may send experts to the meetings of regional groups in line with the 2016 Interinstitutional Agreement on Better Law Making<sup>44</sup>.

- (51) In order to ensure uniform conditions for the implementation of this Regulation as regards cross-border cost allocation procedures and enable Member States to assess benefits and costs

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<sup>42</sup> Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ L 158, 14.6.2019, p. 22).

<sup>43</sup> Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, OJ L 158, 14.6.2019, p. 54

<sup>44</sup> OJ L 123, 12.5.2016, p. 1–14. Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making.

of the afferent sea basin offshore grids for renewable energy, in view also of the market and financial arrangements for the generation sites, such as support already granted, and carry out a preliminary cost sharing analysis at sea basin level, implementing powers in accordance with Article 291 of the Treaty on the Functioning of the European Union should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>45</sup>. The advisory procedure should be used for the adoption of those implementing acts.

- (52) Since the objectives of this Regulation, namely the development and interoperability of trans-European energy networks and connection to such networks, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### ***GENERAL PROVISIONS***

#### *Article 1*

#### **Subject matter**

1. This Regulation lays down guidelines for the timely development and interoperability of the priority corridors and areas of trans-European energy infrastructure set out in Annex I ('energy infrastructure priority corridors and areas') that contribute to the Union's 2030 climate and energy targets and the climate neutrality objective by 2050.

2. In particular, this Regulation:

(a) addresses the identification of projects of common interest necessary to implement priority corridors and areas falling under the energy infrastructure categories in electricity, smart gas grids, hydrogen, electrolysers, and carbon dioxide set out in Annex II ('energy infrastructure categories');

(b) facilitates the timely implementation of projects of common interest by streamlining, coordinating more closely, and accelerating permit granting processes and by enhancing public participation;

(c) provides rules and guidance for the cross-border allocation of costs and risk-related incentives for projects of common interest;

(d) determines the conditions for eligibility of projects of common interest for Union financial assistance;

(e) addresses the identification of projects of mutual interest.

#### *Article 2*

#### **Definitions**

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<sup>45</sup> OJ L 55, 28.2.2011, p. 13.

In addition to the definitions in Directives 2009/73/EC, (EU) 2018/2001<sup>46</sup> and (EU) 2019/944 of the European Parliament and of the Council and in Regulations (EC) No 715/2009, (EU) 2019/942, and (EU) 2019/943, the following definitions shall apply for the purposes of this Regulation:

- (1) ‘energy infrastructure’ means any physical equipment or facility falling under the energy infrastructure categories which is located within the Union, or linking the Union and one or more third countries;
- (2) ‘comprehensive decision’ means the final decision or set of decisions taken by a Member State authority or authorities, not including courts or tribunals, that determines whether or not a project promoter is authorised to build the energy infrastructure to realise a project of common interest by having the possibility to start, or procure and start, the necessary construction works (‘ready-to-build status’) without prejudice to any decision taken in the context of an administrative appeal procedure;
- (3) ‘project’ means one or several lines, pipelines, facilities, equipment or installations falling under the energy infrastructure categories;
- (4) ‘project of common interest’ means a project necessary to implement the energy infrastructure priority corridors and areas set out in Annex I and which is part of the Union list of projects of common interest referred to in Article 3;
- (5) ‘project of mutual interest’ means a project promoted by the Union in cooperation with third countries;
- (6) ‘energy infrastructure bottleneck’ means limitation of physical flows in an energy system due to insufficient transmission capacity, which includes inter alia the absence of infrastructure;
- (7) ‘project promoter’ means one of the following:
  - (a) a transmission system operator (TSO), distribution system operator or other operator or investor developing a project of common interest;
  - (b) where there are several TSOs, distribution system operators, other operators, investors, or any group thereof, the entity with legal personality under the applicable national law, which has been designated by contractual arrangement between them and which has the capacity to undertake legal obligations and assume financial liability on behalf of the parties to the contractual arrangement;
- (8) ‘smart electricity grid’ means an electricity network where the grid operator can digitally monitor the actions of the users connected to it, and information and communication technologies (ICT) for communicating with related grid operators, generators, consumers and/or prosumers, with a view to transmitting electricity in a sustainable, cost-efficient and secure way;
- (9) ‘smart gas grid’ means a gas network that makes use of innovative digital solutions to integrate in a cost efficient manner a plurality of low-carbon and renewable gas sources in accordance with consumers’ needs and gas quality requirements in order to reduce the carbon footprint of the related gas consumption, enable an increased share of renewable and low-carbon gases, and create links with other energy carriers and sectors;

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<sup>46</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, OJ L 328, 21.12.2018, p. 82

- (10) ‘authorities concerned’ means authorities that, under national law, are competent to issue different permits and authorisations related to the planning, design and construction of immovable assets, including energy infrastructure;
- (11) ‘works’ means the purchase, supply and deployment of components, systems and services including software, the carrying out of development and construction and installation activities relating to a project, the acceptance of installations and the launching of a project;
- (12) ‘studies’ means activities needed to prepare project implementation, such as preparatory, feasibility, evaluation, testing and validation studies, including software, and any other technical support measure including prior action to define and develop a project and decide on its financing, such as reconnaissance of the sites concerned and preparation of the financial package;
- (13) ‘national regulatory authority’ means a national regulatory authority designated in accordance with Article 39(1) of Directive 2009/73/EC or Article 57(1) of Directive (EU) 2019/944 or;
- (14) ‘commissioning’ means the process of bringing a project into operation once it has been constructed;
- (15) ‘relevant national regulatory authorities’ means the national regulatory authorities in the Member States to which the project provides a significant positive impact;
- (16) ‘climate adaptation’ is a process that ensures that the resilience to the potential adverse impacts of climate change of energy infrastructure is ensured through a climate vulnerability and risk assessment, including through relevant adaptation measures.

## **CHAPTER II**

### *PROJECTS OF COMMON INTEREST AND PROJECTS OF MUTUAL INTEREST*

#### *Article 3*

#### **Union list of projects of common interest and projects of mutual interest**

1. Regional groups shall be established (‘Groups’) as set out in Section 1 of Annex III. The membership of each Group shall be based on each priority corridor and area and their respective geographical coverage as set out in Annex I. Decision-making powers in the Groups shall be restricted to Member States and the Commission, who shall, for those purposes, be referred to as the decision-making body of the Groups.

The Commission shall be empowered to adopt delegated acts in accordance with Article 20 supplementing this Regulation concerning the scope and composition of the priority corridors and areas.

2. Each Group shall adopt its own rules of procedure, having regard to the provisions set out in Annex III.

3. The decision-making body of each Group shall adopt a regional list of proposed projects of common interest drawn up in accordance with the process set out in Section 2 of Annex III, the contribution of each project to implementing the energy infrastructure priority corridors and areas and their fulfilment of the criteria set out in Article 4.

Where a Group draws up its regional list:

(a) each individual proposal for a project of common interest shall require the approval of the states, to whose territory the project relates; where a state does not give its approval, it shall present its substantiated reasons for doing so to the Group concerned;

(b) it shall take into account the advice from the Commission that is aimed at having a manageable total number of projects of common interest.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 of this Regulation amending annexes to this Regulation in order to establish the Union list of projects of common interest ('Union list'), subject to the second paragraph of Article 172 of the Treaty on the Functioning of the European Union.

In exercising its power, the Commission shall ensure that the Union list is established every two years, on the basis of the regional lists adopted by the decision-making bodies of the Groups as established in point (2) of Section 1 of Annex III, following the procedure set out in paragraph 3 of this Article.

The first Union list pursuant to this Regulation shall be adopted by 30 November 2023 at the latest.

5. The Commission shall, when adopting the Union list on the basis of the regional lists:

(a) ensure that only those projects that fulfil the criteria referred to in Article 4 are included;

(b) ensure cross-regional consistency, taking into account the opinion of the Agency for the Cooperation of Energy Regulator ('the Agency') as referred to in point (12) of Section 2 of Annex III;

(c) take into account the opinions of Member States as referred to in point (9) of Section 2 of Annex III;

(d) aim for a manageable total number of projects of common interest on the Union list.

6. Projects of common interest included on the Union list pursuant to paragraph 4 of this Article under the energy infrastructure categories set out in points (1)(a), (b), (c) and (e) of Annex II, shall become an integral part of the relevant regional investment plans under Article 34 of Regulation (EU) 2019/943 and Article 12 of Regulation (EC) No 715/2009 and of the relevant national 10-year network development plans under Article 51 of Directive (EU) 2019/944 and Article 22 of Directive 2009/73/EC and other national infrastructure plans concerned, as appropriate. Those projects shall be conferred the highest possible priority within each of those plans. This paragraph shall not apply to projects of mutual interest.

#### *Article 4*

#### **Criteria for projects of common interest and projects of mutual interest**

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

(a) the project is necessary for at least one of the energy infrastructure priority corridors and areas;

(b) the potential overall benefits of the project, assessed according to the respective specific criteria in paragraph 3, outweighs its costs, including in the longer term;

(c) the project meets any of the following criteria:

(i) involves at least two Member States by directly crossing the border of two or more Member States;



(ii) is located on the territory of one Member State and has a significant cross-border impact as set out in point (1) of Annex IV.

2. Projects of mutual interest shall meet the following general criteria:

- (a) the project contributes significantly to the decarbonisation objectives of the Union and those of the third country and to sustainability, including through the integration of renewable energy into the grid and the transmission of renewable generation to major consumption centres and storage sites, and;
- (b) the potential overall benefits of the project, assessed in accordance with the respective specific criteria in paragraph 3, outweigh its costs, including in the longer term;
- (c) the project is located on the territory of at least one Member State and on the territory of at least one third country and has a significant cross-border impact as set out in point (2) of Annex IV;
- (d) for the part located on Union territory, the project is in line with Directives 2009/73/EC and (EU) 2019/944 where it falls within the infrastructure categories described in points (1) and (3) of Annex II;
- (e) the third country or countries involved have a high level of regulatory alignment or convergence to support the overall policy objectives of the Union, in particular to ensure:
  - i) a well-functioning internal energy market;
  - ii) security of energy supplies based on cooperation and solidarity;
  - iii) an energy system, including production, transmission and distribution, on a trajectory towards decarbonisation in line with the Paris Agreement and the Union's climate objectives; and, in particular, avoiding carbon leakage;
- (f) the third country or countries involved support the priority status of the project, as set out in Article 7, and commit to comply with a similar timeline for accelerated implementation and other policy and regulatory support measures as applicable to projects of common interest in the Union.

3. The following specific criteria shall apply to projects of common interest falling within specific energy infrastructure categories:

- (a) for electricity transmission and storage projects falling under the energy infrastructure categories set out in points (1)(a), (b), (c) and (e) of Annex II, the project is to contribute significantly to sustainability through the integration of renewable energy into the grid and the transmission of renewable generation to major consumption centres and storage sites, and at least one of the following specific criteria:
  - (i) market integration, including through lifting the isolation of at least one Member State and reducing energy infrastructure bottlenecks; competition and system flexibility;
  - (ii) security of supply, including through interoperability, system flexibility, cybersecurity, appropriate connections and secure and reliable system operation.
- (b) for smart electricity grid projects falling under the energy infrastructure category set out in point (1)(d) of Annex II, the project is to contribute significantly to sustainability through the

integration of renewable energy into the grid, and at least two of the following specific criteria:

- (i) security of supply, including through efficiency and interoperability of electricity transmission and distribution in day-to-day network operation, avoidance of congestion, and integration and involvement of network users;
- (ii) market integration, including through efficient system operation and use of interconnectors;
- (iii) network security, flexibility and quality of supply, including through higher uptake of innovation in balancing, cybersecurity, monitoring, system control and error correction.

(c) for carbon dioxide transport projects falling under the energy infrastructure categories set out in point (5) of Annex II, the project is to contribute significantly to all of the following specific criteria:

- (i) avoid carbon dioxide emissions while maintaining security of energy supply;
- (ii) increase the resilience and security of carbon dioxide transport;
- (iii) efficient use of resources, by enabling the connection of multiple carbon dioxide sources and storage sites via common infrastructure and minimising environmental burden and risks.

(d) for hydrogen projects falling under the energy infrastructure categories set out in point (3) of Annex II the project is to contribute significantly to sustainability, including by reducing greenhouse gas emissions, by enhancing the deployment of renewable hydrogen and supporting variable renewable power generation by offering flexibility and/or storage solutions. Furthermore, the project is to contribute significantly to at least one of the following specific criteria:

- (i) market integration, including by connecting existing or emerging hydrogen networks of Member States, or otherwise contributing to the emergence of an Union-wide network for the transport and storage of hydrogen, and ensuring interoperability of connected systems;
- (ii) security of supply and flexibility, including through appropriate connections and facilitating secure and reliable system operation;
- (iii) competition, including by allowing access to multiple supply sources and network users on a transparent and non-discriminatory basis.

(e) for electrolysers falling under the category set out in point (4) of Annex II, the project is to contribute significantly to all of the following specific criteria:

- (i) sustainability, including by reducing greenhouse gas emissions and enhancing the deployment of renewable hydrogen.
- (ii) security of supply, including by contributing to secure, efficient and reliable system operation, or by offering storage and/or flexibility solutions, such as demand side response and balancing services;

(iii) facilitating smart energy sector integration through linking different energy carriers and sectors.

(f) for smart gas grid projects falling under the energy infrastructure category set out in point (2) of Annex II, the project is to contribute significantly to sustainability by enabling and facilitating the integration of renewable and low-carbon gases, such as biomethane, or renewable hydrogen, into the gas distribution and transmission networks in order to reduce greenhouse gas emissions. Furthermore, the project is to contribute significantly to at least one of the following specific criteria:

(i) network security and quality of supply by improving the efficiency and interoperability of gas transmission and distribution in day-to-day network operation by, among others, addressing challenges resulting from the injection of gases of different qualities through the deployment of innovative technologies and cybersecurity;

(ii) market functioning and customer services;

(iii) facilitating smart energy sector integration through the creation of links to other energy carriers and sectors and enabling demand response.

4. For projects falling under the energy infrastructure categories set out in points (1) to (4) of Annex II, the contribution to the criteria listed in paragraph 3 of this Article shall be assessed in accordance with the indicators set out in points (3) to (7) of Annex IV.

5. In order to facilitate the assessment of all projects that could be eligible as projects of common interest and that could be included in a regional list, each Group shall assess each project's contribution to the implementation of the same priority corridor or area in a transparent and objective manner. Each Group shall determine its assessment method on the basis of the aggregated contribution to the criteria referred to in paragraph 3. That assessment shall lead to a ranking of projects for internal use of the Group. Neither the regional list nor the Union list shall contain any ranking, nor shall the ranking be used for any subsequent purpose except as described in point (14) of Section 2 of Annex III.

In assessing projects, each Group shall give due consideration to:

(a) the urgency of each proposed project in order to meet the Union energy policy targets of decarbonisation, market integration, competition, sustainability and security of supply;

(b) complementarity with regard to other proposed projects;

(c) for proposed projects that are, at the time, projects of common interest, the progress of the project implementation and its compliance with the reporting and transparency obligations.

As regards smart electricity grids and smart gas grids projects falling under the energy infrastructure category set out in points (1)(d) and point (2) of Annex II, ranking shall be carried out for those projects that affect the same two Member States, and 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 those users.

## *Article 5*

### **Implementation and monitoring**

1. Project promoters shall draw up an implementation plan for projects of common interest, including a timetable for each of the following:

- (a) feasibility and design studies including, as regards, climate adaptation and compliance with environmental legislation and with the principle of “do no significant harm”;
  - (b) approval by the national regulatory authority or by any other authority concerned;
  - (c) construction and commissioning;
  - (d) the permit granting schedule referred to in Article 10(5)(b).
2. TSOs, distribution system operators and other operators shall co-operate with each other in order to facilitate the development of projects of common interest in their area.
3. The Agency and the Groups concerned shall monitor the progress achieved in implementing the projects of common interest and, where necessary, make recommendations to facilitate the implementation of projects of common interest. The Groups may request that additional information be provided in accordance with paragraphs 4, 5 and 6, convene meetings with the relevant parties and invite the Commission to verify the information provided on site.
4. By 31 December of each year following the year of inclusion of a project of common interest on the Union list pursuant to Article 3, project promoters shall submit an annual report, for each project falling under the categories set out in points (1) to (4) of Annex II, to the competent authority referred to in Article 8.

That report shall include details of:

- (a) the progress achieved in the development, construction and commissioning of the project, in particular with regard to permit granting and consultation procedures as well as compliance with environmental legislation, with the principle that the project “does not do significant harm” to the environment, and climate adaptation measures taken;
  - (b) where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered;
  - (c) where relevant, a revised plan aiming at overcoming the delays.
5. By 31 January, each year, the competent authorities referred to in Article 8 shall submit to the Agency and to the respective Group the report referred to in paragraph 4 of this Article supplemented with information on the progress and, where relevant, on delays in the implementation of projects of common interest located on their respective territory with regard to the permit granting processes, and on the reasons for such delays. The contribution of the competent authorities to the report shall be clearly marked as such and drafted without modifying the text introduced by the project promoters.
6. By 30 April of each year when a new Union list should be adopted, the Agency shall submit, to the Groups a consolidated report for the projects of common interest subject to the competency of national regulatory authorities, evaluating the progress achieved and make, where appropriate, recommendations on how to overcome the delays and difficulties encountered. That consolidated report shall also evaluate, in accordance with Article 5 of Regulation (EU) 2019/942, the consistent implementation of the Union-wide network development plans with regard to the energy infrastructure priority corridors and areas.
7. Where the commissioning of a project of common interest is delayed when compared to the implementation plan, other than for overriding reasons beyond the control of the project promoter, the following measures shall apply:
- (a) in so far as measures referred to in Article 51(7)(a), (b) or (c) of Directive (EU) 2019/944 and Article 22(7)(a), (b) or (c) of Directive 2009/73/EC are applicable according to respective national laws, national regulatory authorities shall ensure that the investment is carried out;

(b) if the measures of national regulatory authorities pursuant to point (a) are not applicable, the project promoter shall choose a third party to finance or construct all or part of the project. The project promoter shall do so before exceeding a two year delay when compared to the date of commissioning in the implementation plan;

(c) if a third party is not chosen according to point (b), the Member State or, when the Member State has so provided, the national regulatory authority may, within two months of the expiry of the period referred to in point (b), designate a third party to finance or construct the project which the project promoter shall accept;

(d) where the delay compared to the date of commissioning in the implementation plan exceeds two years and two months, the Commission, subject to the agreement and with the full cooperation of the Member States concerned, may launch a call for proposals open to any third party capable of becoming a project promoter to build the project according to an agreed timeline;

(e) where points (c) or (d) are applied, the system operator in whose area the investment is located shall provide the implementing operators or investors or third party with all the 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.

8. A project of common interest may be removed from the Union list in accordance with the procedure set out in Article 3(4) if its inclusion in that list was based on incorrect information which was a determining factor for that inclusion, or the project does not comply with Union law.

9. Projects which are no longer on the Union list shall lose all rights and obligations linked to the status of project of common interest arising from this Regulation.

However, a project which is no longer on the Union list but for which an application file has been accepted for examination by the competent authority shall maintain the rights and obligations arising from Chapter III, except where the project is no longer on the list for the reasons set out in paragraph 8.

10. This Article shall be without prejudice to any Union financial assistance granted to any project of common interest prior to its removal from the Union list.

## *Article 6*

### **European coordinators**

1. Where a project of common interest encounters significant implementation difficulties, the Commission may designate, in agreement with the Member States concerned, a European coordinator for a period of up to one year renewable twice.

2. The European coordinator shall:

(a) promote the projects, for which he or she has been designated European coordinator and the cross-border dialogue between the project promoters and all concerned stakeholders;

(b) assist all parties as necessary in consulting concerned stakeholders and obtaining necessary permits for the projects;

(c) where appropriate, advise project promoters on the financing of the project;

(d) ensure that appropriate support and strategic direction by the Member States concerned are provided for the preparation and implementation of the projects;

(e) submit every year, and where appropriate, upon completion of their mandate, a report to the Commission on the progress of the projects and on any difficulties and obstacles which are likely to significantly delay the commissioning date of the projects. The Commission shall transmit the report to the European Parliament and the Groups concerned.

3. The European coordinator shall be chosen on the basis of his or her experience with regard to the specific tasks assigned to him or her for the projects concerned.

4. The decision designating the European coordinator shall specify the terms of reference, detailing the duration of the mandate, the specific tasks and corresponding deadlines, and the methodology to be followed. The coordination effort shall be proportionate to the complexity and estimated costs of the projects.

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

### **CHAPTER III**

#### ***PERMIT GRANTING AND PUBLIC PARTICIPATION***

##### *Article 7*

##### **‘Priority status’ of projects of common interest**

1. The adoption of the Union list shall establish, for the purposes of any decisions issued in the permit granting process, the necessity of those projects from an energy policy perspective, without prejudice to the exact location, routing or technology of the project.

2. For the purpose of ensuring efficient administrative processing of the application files related to projects of common interest, project promoters and all authorities concerned shall ensure that those files are treated in the most rapid way possible.

3. Without prejudice to obligations resulting from Union law, where such status exists in national law, projects of common interest shall be granted the status of the highest national significance possible and be appropriately treated in the permit granting processes — and if national law so provides, in spatial planning — including those relating to environmental assessments, in the manner such treatment is provided for in national law applicable to the corresponding type of energy infrastructure.

4. All dispute resolution procedures, litigation, appeals and judicial remedies related to projects of common interest in front of any national courts, tribunals, panels, including mediation or arbitration, where they exist in national law, shall be treated as urgent, in accordance with the urgency procedures provided for in national law.

5. Member States shall assess, taking due account of the existing guidance issued by the Commission on streamlining the environmental assessment procedures for projects of common interest, which legislative and non-legislative measures are necessary to streamline the environmental assessment procedures and to ensure their coherent application and shall inform the Commission of the result.

6. By [1 September 2022], Member States shall take the non-legislative measures that they have identified under paragraph 5.

7. By [1 January 2023], Member States shall take the legislative measures that they have identified under paragraph 5. Those measures shall be without prejudice to obligations resulting from Union law.

8. Provided that all the conditions set out in these Directives are fulfilled, with regard to the environmental impacts addressed in Article 6(4) of Directive 92/43/EEC and Article 4(7) of Directive 2000/60/EC, projects of common interest shall be considered as being of public interest from an energy policy perspective, and may be considered as having an overriding public interest.

Should the opinion of the Commission be required in accordance with Directive 92/43/EEC, the Commission and the competent authority referred to in Article 9 of this Regulation shall ensure that the decision with regard to the overriding public interest of a project is taken within the time limit set out in Article 10(1) of this Regulation.

## *Article 8*

### **Organisation of the permit granting process**

1. By [1 January 2022], at the latest, each Member State shall update, where necessary, the designation of one national competent authority which shall be responsible for facilitating and coordinating the permit granting process for projects of common interest.

2. The responsibility of the competent authority referred to in paragraph 1 and/or the tasks related to it may be delegated to, or carried out by, another authority, per project of common interest or per particular category of projects of common interest, provided that:

(a) the competent authority notifies the Commission of that delegation and the information therein is published by either the competent authority or the project promoter on the website referred to in Article 9(7);

(b) only one authority is responsible per project of common interest, and it is the sole point of contact for the project promoter in the process leading to the comprehensive decision for a given project of common interest, and coordinates the submission of all relevant documents and information.

The competent authority may retain the responsibility to establish time limits, without prejudice to the time limits set in Article 10.

3. Without prejudice to relevant requirements under international and Union law, the competent authority shall facilitate the issuing of the comprehensive decision. The comprehensive decision shall be the final proof that the project of common interest has achieved ready-to-build status and there shall be no other requirements for any additional permits or authorisations in that respect. The comprehensive decision shall be issued within the time limit referred to in Article 10(1) and (2) and in accordance with one of the following schemes:

(a) **integrated scheme** : the comprehensive decision shall be issued by the competent authority and shall be the sole legally binding decision resulting from the statutory permit granting procedure. Where other authorities are concerned by the project, they may, in accordance with national law, give their opinion as input to the procedure, which shall be taken into account by the competent authority;

(b) **coordinated scheme** : the comprehensive decision comprises multiple individual legally binding decisions issued by several authorities concerned, which shall be coordinated by the competent authority. The competent authority may establish a working group where all concerned authorities are represented in order to draw up a permit granting schedule in accordance with Article 10(4)(b), and to monitor and

coordinate its implementation. The competent authority shall, in consultation with the other authorities concerned, where applicable in accordance with national law, and without prejudice to time limits set in accordance with Article 10, establish on a case-by-case basis a reasonable time limit within which the individual decisions shall be issued. The competent authority may take an individual decision on behalf of another national authority concerned, where the decision by that authority is not delivered within the time limit and where the delay cannot be adequately justified; or, where provided under national law, and to the extent that this is compatible with Union law, the competent authority may consider that another national authority concerned has either given its approval or refusal for the project where the decision by that authority is not delivered within the time limit. Where provided under national law, the competent authority may disregard an individual decision of another national authority concerned if it considers that the decision is not sufficiently substantiated with regard to the underlying evidence presented by the national authority concerned; in doing so, the competent authority shall ensure that the relevant requirements under international and Union law are respected and shall duly justify its decision;

- (c) collaborative scheme : the comprehensive decision shall be coordinated by the competent authority. The competent authority shall, in consultation with the other authorities concerned, where applicable in accordance with national law, and without prejudice to time limits set in accordance with Article 10, establish on a case-by-case basis a reasonable time limit within which the individual decisions shall be issued. It shall monitor compliance with the time limits by the authorities concerned.

The competence of the authorities concerned could either be incorporated into the competence of the national competent authority designated in line with Article 8(1) or they would maintain, to a certain extent, their independent competence in line with the respective permitting scheme chosen by the Member State in line with this paragraph to facilitate the issuing of the comprehensive decision and cooperate with the national competent authority accordingly.

Where an authority concerned does not expect to deliver an individual decision within the set time limit, that authority shall inform the competent authority without delay duly justifying the delay. Subsequently, the competent authority shall set another time limit within which that individual decision shall be issued, in compliance with the overall time limits set out in Article 10.

Acknowledging the national specificities in planning and permit granting processes, Member States may choose among the three schemes referred to in points (a), (b) and (c) of the first subparagraph to facilitate and coordinate their procedures and shall opt to implement the most effective scheme. Where a Member State chooses the collaborative scheme, it shall inform the Commission of its reasons therefor.

4. Member States may apply different schemes set out in paragraph 3 to onshore and offshore projects of common interest.



5. Where a project of common interest requires decisions to be taken in two or more Member States, the respective competent authorities shall take all necessary steps for efficient and effective cooperation and coordination among themselves, including the steps referred to in Article 10(5). Member States shall endeavour to provide joint procedures, particularly with regard to the assessment of environmental impacts.

6. By [31 July 2022] and for each specific Regional Group per priority offshore grid corridor, as defined in Annex I, national competent authorities in Member States belonging to the respective Group, shall jointly create unique points of contact, ‘offshore one-stop shops’, for project promoters, which shall be responsible for facilitating and coordinating the permit granting process for offshore grids for renewable energy projects of common interest, taking into account also the need for coordination between the permitting process for the energy infrastructure and the one for the generation assets. The offshore one-stop shops shall act as a repository of existing sea basin studies and plans, aiming at facilitating the permitting process of individual projects of common interest and coordinate the issuance of the comprehensive decisions for such projects by the relevant national competent authorities. Each Regional Group per priority offshore grid corridor, with the assistance of the national competent authorities in the Members States belonging to the Group, shall set-up the offshore one-stop shops depending on regional specificities and geography and determine their location, resource allocation and specific rules for their functioning.

## *Article 9*

### **Transparency and public participation**

1. By [1 May 2023], the Member State or competent authority shall, where applicable in collaboration with other authorities concerned, publish an updated manual of procedures for the permit granting process applicable to projects of common interest to include at least the information specified in point (1) of Annex VI. The manual shall not be legally binding, but it may refer to or quote relevant legal provisions. The national competent authorities shall coordinate and find synergies with neighbouring countries in developing their manual of procedures.

2. Without prejudice to environmental law, and any requirements under the Aarhus and Espoo Conventions and relevant Union law, all parties involved in the permit granting process shall follow the principles for public participation set out in of point (3) of Annex VI.

3. The project promoter shall, within an indicative period of three months following the start of the permit granting process pursuant to Article 10(1)(a), draw up and submit a concept for public participation to the competent authority, following the process outlined in the manual referred to in paragraph 1 and in line with the guidelines set out in Annex VI. The competent authority shall request modifications or approve the concept for public participation within three months of receipt. In so doing, the competent authority shall take into consideration any form of public participation and consultation that took place before the start of the permit granting process, to the extent that such public participation and consultation has fulfilled the requirements of this Article.

Where the project promoter intends to make significant changes to an approved concept, it shall inform the competent authority thereof. In that case the competent authority may request modifications.

4. Where it is not already required under national law at the same or higher standards, at least one public consultation shall be carried out by the project promoter, or, where required by national law, by the competent authority, before submission of the final and complete application file to the competent authority pursuant to Article 10(1)(a). That public consultation shall be without prejudice to any public consultation to be carried out after submission of the request for development consent pursuant to Article 6(2) of Directive 2011/92/EU. The public consultation shall inform the stakeholders referred to

in point (3)(a) of Annex VI about the project at an early stage and shall help to identify the most suitable location or trajectory, also in view of adequate climate adaptation considerations for the project, and the relevant issues to be addressed in the application file. The public consultation shall comply with the minimum requirements set out in point (5) of Annex VI. The project promoter shall publish on the website referred to in paragraph 7 of this Article a report explaining how the opinions expressed in the public consultations were taken into account by showing the amendments made in the location, trajectory and design of the project or by justifying why such opinions have not been taken into account.

The project promoter shall prepare a report summarising the results of activities related to the participation of the public prior to the submission of the application file, including those activities that took place before the start of the permit granting process.

The project promoter shall submit the reports referred to in first and second subparagraphs together with the application file to the competent authority. The comprehensive decision shall take due account of the results of these reports.

5. For cross-border projects involving two or more Member States, the public consultations pursuant to paragraph 4 in each of the Member States concerned shall take place within a period of no more than two months from the date on which the first public consultation started.

6. For projects likely to have significant transboundary impacts in one or more neighbouring Member States, where Article 7 of Directive 2011/92/EU and the Espoo Convention are applicable, the relevant information shall be made available to the competent authority of the neighbouring Member States concerned. The competent authority of the neighbouring Member States concerned shall indicate, in the notification process where appropriate, whether it, or any other authority concerned, wishes to participate in the relevant public consultation procedures.

7. The project promoter shall establish and regularly update a dedicated project website with relevant information about the project of common interest, which shall be linked to the Commission website and the transparency platform referred to in Article 23 and which shall meet the requirements specified in point (6) of Annex VI. Commercially sensitive information shall be kept confidential.

Project promoters shall also publish relevant information by other appropriate information means open to the public.

## *Article 10*

### **Duration and implementation of the permit granting process**

1. The permit granting process shall consist of two procedures:

(a) the pre-application procedure, covering the period between the start of the permit granting process and the acceptance of the submitted application file by the competent authority, shall take place within an indicative period of two years.

The pre-application procedure shall include the preparation of any environmental reports by the project promoters, as necessary, including the climate adaptation documentation.

For the purpose of establishing the start of the permit granting process, the project promoters shall notify the project to the competent authority of the Member States concerned in written form, and shall include a reasonably detailed outline of the project. No later than three months following the receipt of the notification, the competent authority shall acknowledge or, if it considers the project is not mature enough to enter the permit granting process, reject the notification in written form, including on behalf of other authorities concerned. In the event of

a rejection, the competent authority shall justify its decision, including on behalf of other authorities concerned. The date of signature of the acknowledgement of the notification by the competent authority shall mark the start of the permit granting process. Where two or more Member States are concerned, the date of the acceptance of the last notification by the competent authority concerned shall mark the start of the permit granting process.

The competent authorities shall ensure that permit granting is accelerated in line with this Chapter for each category of projects of common interest. To that end, the competent authorities shall adapt their requirements for the start of the permit granting process and for the acceptance of the submitted application file, to make them fit for projects which, that due to their nature, or smaller scale, may require less authorisations and approvals for reaching the ready-to-build phase, and, therefore, might not require the benefit of the pre-application procedure. Such smaller scale projects may include gas and electricity smart grids and electrolysers.

(b) the statutory permit granting procedure, covering the period from the date of acceptance of the submitted application file until the taking of the comprehensive decision, shall not exceed one year and six months. Member States may set an earlier time-limit, where considered appropriate.

2. The competent authority shall ensure that the combined duration of the two procedures referred to in paragraph 1 does not exceed a period of three years and six months. However, where the competent authority considers that one or both of the two procedures of the permit granting process will not be completed within the time limits set out in paragraph 1, it may decide, before their expiry and on a case by case basis, to extend one or both of those time limits by a maximum of nine months for both procedures combined.

In that case, the competent authority shall inform the Group concerned and present it with concerned the measures taken or to be taken for the conclusion of the permit granting process with the least possible delay. The Group may request the competent authority to report regularly on progress achieved in that regard.

3. Any valid studies conducted and permits or authorisations issued for a given project of common interest, before entering the permit granting process in line with this Article, shall be taken into consideration by the competent authorities in the permit granting process and no longer required.

4. In Member States where the determination of a route or location undertaken solely for the specific purpose of a planned project, including the planning of specific corridors for grid infrastructures, cannot be included in the process leading to the comprehensive decision, the corresponding decision shall be taken within a separate period of six months, starting on the date of submission of the final and complete application documents by the promoter.

In that case, the extension period referred to in paragraph 2 shall be reduced to six months, including for the procedure referred to in this paragraph.

5. The pre-application procedure shall comprise the following steps:

(a) upon the acknowledgement of the notification pursuant to point (a) of paragraph 1, the competent authority shall determine, on the basis of the checklist referred to in point (1)(e) of Annex VI, and in close cooperation with the other authorities concerned, and where appropriate on the basis of a proposal by the project promoter, the scope of the reports and documents and the level of detail of information to be submitted by the project promoter, as part of the application file, to apply for the comprehensive decision;

(b) the competent authority shall draw up, in close cooperation with the project promoter and other authorities concerned and taking into account the results of the activities carried out under point (a), a detailed schedule for the permit granting process in line with the guidelines set out in point (2) of Annex VI;

For cross-border projects involving two or more Member States, the competent authorities of the Member States concerned shall coordinate to prepare a joint schedule, in which they align their timetables;

(c) upon receipt of the draft application file, the competent authority shall, where necessary, on its own behalf or on behalf of other authorities concerned, request the project promoter to submit missing information relating to the requested elements referred to in point (a). Within three months of the submission of the missing information, the competent authority shall accept for examination the application in written form. Requests for additional information may only be made where they are justified by new circumstances.

6. The project promoter shall ensure that the application file is complete and adequate and seek the competent authority's opinion on that matter as early as possible during the pre-application procedure. The project promoter shall cooperate fully with the competent authority to meet deadlines and comply with the joint schedule referred to in paragraph 5(b).

7. Competent authorities shall ensure that any legislative amendments introduced during the permit granting process do not affect the duration of any permit granting procedure started before the entry into force of those amendments.

8. The time limits laid down in this Article shall be without prejudice to obligations arising from international and Union law, and without prejudice to administrative appeal procedures and judicial remedies before a court or tribunal.

## CHAPTER IV

### ***CROSS-SECTORAL INFRASTRUCTURE PLANNING***

#### *Article 11*

##### **Energy system wide cost-benefit analysis**

1. By [16 November 2022], the European Network of Transmission System Operators (ENTSO) for Electricity and the ENTSO for Gas shall publish and submit to Member States, the Commission and the Agency their respective methodologies, including the network and market modelling, for a harmonised energy system-wide cost-benefit analysis at Union level for projects of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) and point (3) of Annex II.

Those methodologies shall be applied for the preparation of each subsequent Union-wide ten-year network development plans developed by the ENTSO for Electricity or the ENTSO for Gas pursuant to Article 8 of Regulation (EC) No 715/2009 and Article 30 of Regulation (EU) 2019/943. Those methodologies shall be drawn up in line with the principles laid down in Annex V and be consistent with the rules and indicators set out in Annex IV.

Prior to submitting their respective methodologies, the ENTSO for Electricity and the ENTSO for Gas shall conduct an extensive consultation process involving at least the organisations representing all

relevant stakeholders, including the entity of distribution system operators in the Union ('EU DSO entity'), all relevant hydrogen stakeholders and, where it is deemed appropriate the national regulatory authorities and other national authorities.

2. Within three months of the receipt of the methodologies together with the input received in the consultation process and a report on how it was taken into account, the Agency shall provide an opinion to the ENTSO for Electricity, the ENTSO for Gas, the Member States, and the Commission and publish it on the Agency's website.

3. The ENTSO for Electricity and the ENTSO for Gas, shall update the methodologies taking due account of the Agency's opinion, as referred to in paragraph 2, and submit them to the Commission for its opinion.

4. Within three months of the day of receipt of the updated methodologies, the Commission shall submit its opinion to the ENTSO for Electricity and the ENTSO for Gas.

5. No later than three months of the day of receipt of the Commission's opinion, as referred to in paragraph 4, the ENTSO for Electricity and the ENTSO for Gas shall adapt their respective methodologies taking due account of the Commission's opinion, and submit them to the Commission for approval.

6. Where the changes to the methodologies are considered to be of incremental nature, not affecting the definition of benefits, costs and other relevant cost-benefit parameters, as defined in the latest Energy system wide cost-benefit analysis methodology approved by the Commission, the ENTSO for Electricity and the ENTSO for Gas shall adapt their respective methodologies taking due account of the Agency's opinion, as set out in paragraph 2, and submit them for the Agency's approval.

7. In parallel, the ENTSO for Electricity and the ENTSO for Gas shall submit to the Commission a document justifying the reasons behind the proposed updates and why those updates are considered of incremental nature. Where the Commission deems that those updates are not of incremental nature, it shall, by written request, ask the ENTSO for Electricity and the ENTSO for Gas to submit to it the methodologies. In such case the process described in paragraphs 2 to 5 applies.

8. Within two weeks of the approval by the Agency or the Commission in accordance with paragraphs 5 and 6, the ENTSO for Electricity and the ENTSO for Gas shall publish their respective methodologies on their websites. They shall publish the corresponding input data and other relevant network, load flow and market data in a sufficiently accurate form in accordance with national law and relevant confidentiality agreements.

9. The methodologies shall be updated and improved regularly following the procedure described in paragraphs 1 to 6. The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request such updates and improvements with due justification and timescales. The Agency shall publish the requests by national regulatory authorities or stakeholders and all relevant non-commercially sensitive documents leading to a request from the Agency for an update or improvement.

10. Every three years, the Agency shall establish and make publicly available a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the infrastructure categories included in points (1) and (3) of Annex II. Those reference values may be used by the ENTSO for Electricity and the ENTSO for Gas for the cost-benefit analyses carried out for subsequent Union-wide ten-year network development plans. The first of such indicators shall be published by [1 November 2022].

11. By [31 December 2023], the ENTSO for Electricity and the ENTSO for Gas shall jointly submit to the Commission and the Agency a consistent and interlinked energy market and network model including electricity, gas and hydrogen transmission infrastructure as well as storage, LNG and electrolysers, covering the energy infrastructure priority corridors and the areas drawn up in line with the principles laid down in Annex V.

12. The consistent and interlinked model referred to in paragraph 11 shall cover at least the respective sectors' interlinkages at all stages of infrastructure planning, specifically scenarios, infrastructure gaps identification in particular with respect to cross-border capacities, and projects assessment.

13. After approval of the consistent and interlinked model referred to in paragraph 11 by the Commission in accordance with the procedure set out in paragraphs 1 to 6, it shall be included in the methodologies referred to in paragraph 1.

## *Article 12*

### **Scenarios for the ten-Year Network Development Plans**

1. By [31 July 2022], the Agency, after having conducted an extensive consultation process involving the Commission and at least the organisations representing all relevant stakeholders, including the ENTSO for Electricity, the ENTSO for Gas, Union DSO entity, and relevant hydrogen sector stakeholders, shall publish the framework guidelines for the joint scenarios to be developed by ENTSO for Electricity and ENTSO for Gas. Those guidelines shall be regularly updated as found necessary.

The guidelines shall include the energy efficiency first principle and ensure that the underlying ENTSO for Electricity and ENTSO for Gas scenarios are fully in line with the latest medium and long-term European Union decarbonisation targets and the latest available Commission scenarios.

2. The ENTSO for Electricity and ENTSO for Gas shall follow the Agency's framework guidelines when developing the joint scenarios to be used for the Union-wide ten-year network development plans.

3. The ENTSO for Electricity and ENTSO for Gas shall invite the organisations representing all relevant stakeholders, including the Union DSO entity and all relevant hydrogen stakeholders, to participate in the scenarios development process.

4. The ENTSO for Electricity and the ENTSO for Gas shall publish and submit the draft joint scenarios report to the Agency and the Commission for their opinion.

5. Within three months from the receipt of the draft joint scenarios report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion to the ENTSO for Electricity, ENTSO for gas and the Commission.

6. The Commission, giving due consideration to the Agency opinion defined under paragraph 5, shall submit its opinion to the ENTSO for Electricity and the ENTSO for Gas.

7. The ENTSO for Electricity and the ENTSO for Gas shall adapt their joint scenarios report, taking due account of the Agency's opinion, in line with the Commission's opinion and submit the updated report to the Commission for its approval.

8. Within two weeks of the approval of the joint scenarios report by the Commission in accordance with paragraph 7, the ENTSO for Electricity and the ENTSO for Gas shall publish their joint scenarios report on their websites. They shall publish the corresponding input and output data in a sufficiently accurate form, taking due account of the national law and relevant confidentiality agreements.

## *Article 13*

### **Infrastructure Gaps Identification**

1. Every two years the ENTSO for Electricity and the ENTSO for Gas shall publish and submit to the Commission and the Agency the infrastructure gaps reports developed within the framework of the Union-wide ten-year network development plans.

When assessing the infrastructure gaps the ENTSO for Electricity and the ENTSO for Gas shall implement the energy efficiency first principle and consider with priority all relevant non-infrastructure related solutions to address the identified gaps.

Prior to submitting their respective reports, the ENTSO for Electricity and the ENTSO for Gas shall conduct an extensive consultation process involving all relevant stakeholders, including the Union DSO entity, all relevant hydrogen stakeholders and all the Member States representatives part of the priority corridors defined in Annex I.

2. The ENTSO for Electricity and the ENTSO for Gas shall submit their respective draft infrastructure gaps report to the Agency and the Commission for their opinion.

3. Within three months following receipt of the infrastructure gaps report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion to the ENTSO for Electricity or ENTSO for Gas and the Commission.

4. The Commission, considering the Agency's opinion referred to in paragraph 3, shall draft and submit its opinion to the ENTSO for Electricity or the ENTSO for Gas.

5. The ENTSO for Electricity and the ENTSO for Gas shall adapt their infrastructure gaps reports taking due account of the Agency's opinion and in line with the Commission's opinion before the publication of the final infrastructure gaps reports.

## **CHAPTER V**

### ***OFFSHORE GRIDS FOR RENEWABLE INTEGRATION***

## *Article 14*

### **Offshore grid planning**

1. By [31 July 2022], Member States, with the support of the Commission, within their specific priority offshore grid corridors, set out in point (2) of Annex I, taking into account the specificities and development in each region, shall jointly define and agree to cooperate on the amount of offshore renewable generation to be deployed within each sea basin by 2050, with intermediate steps in 2030 and 2040, in view of their national energy and climate plans, the offshore renewable potential of each sea basin, environmental protection, climate adaptation and other uses of the sea, as well as the Union's decarbonisation targets. That agreement shall be made in writing as regards each sea basin linked to the territory of the Union.

2. By [31 July 2023] the ENTSO for Electricity, with the involvement of the relevant TSOs, the national regulatory authorities and of the Commission and in line with the agreement referred to in paragraph 1, shall develop and publish integrated offshore network development plans starting from the 2050 objectives, with intermediate steps for 2030 and 2040, for each sea-basin, in line with the priority offshore grid corridors referred to in Annex I, taking into account environmental protection and other

uses of the sea. Those integrated offshore network development plans shall thereafter be updated every three years.

3. The integrated offshore network development plans shall be compatible with the latest Union-wide ten-Year Network Development Plans in order to ensure coherent development of onshore and offshore grid planning.

4. The ENTSO for Electricity shall submit the draft integrated network development offshore plans to the Commission for its opinion.

5. The ENTSO for Electricity shall adapt the integrated offshore network development plans taking due account of the Commission opinion before the publication of the final reports and submit them to the relevant priority offshore grid corridors, set out in Annex I.

6. For the purpose of ensuring the timely development of the offshore grids for renewable energy, should the ENTSO for Electricity not develop, in time, the integrated offshore network development plans, referred to in paragraph 2, the Commission shall, on the basis of expert advice, draw-up an integrated offshore network development plan per sea-basin for each priority offshore grid corridor set out in Annex I.

#### *Article 15*

##### **Offshore grids for renewable energy cross-border cost sharing**

1. The Commission shall develop, by means of implementing acts, principles for a specific cost-benefit and cost-sharing methodology for the deployment of the integrated offshore network development plan referred to in Article 14(2) in accordance with the agreement referred to in Article 14(1) as part of the guidelines referred to in Article 16(10). Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 21(2).

2. Within 12 months from the publication of the principles referred to in paragraph 1, the ENTSO for Electricity, with the involvement of the relevant TSOs, the national regulatory authorities and of the Commission, shall present the results of the application of the cost-benefit and cost-sharing methodology to the priority offshore grid corridors.

3. Within six months from the presentation of the results as referred to in paragraph 2, the relevant Member States, shall update their written agreement referred to in Article 14(1) with the updated joint definition of the amount of the offshore renewable generation to be deployed within each sea basin in 2050, with intermediate steps in 2030 and 2040, and the relevant agreement to cooperate for the achievement of such amounts.

4. Within six months from the updated written agreements referred to in paragraph 3, for each sea basin, the ENTSO for Electricity shall update the integrated offshore network development plans by following the procedure set out in Article 14(2) to (5). The procedure described in Article 14(6) shall apply.



## CHAPTER VI

### **REGULATORY FRAMEWORK**

#### *Article 16*

##### **Enabling investments with cross-border impacts**

1. The efficiently incurred investment costs, which excludes maintenance costs, related to a project of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) of Annex II and projects of common interest falling under the category set out in point (3) of Annex II, where they fall under the competency of national regulatory authorities, shall be borne by the relevant TSO or the project promoters of the transmission infrastructure of the Member States which the project provides a net positive impact, and, to the extent not covered by congestion rents or other charges, be paid for by network users through tariffs for network access in that or those Member States.

2. The provisions of this Article shall apply to a project of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) of Annex II where at least one project promoter requests the relevant national authorities their application for the costs of the project. They shall apply to a project of common interest falling under the category set out in point (3) of Annex II, as relevant, only where an assessment of market demand has already been carried out and indicated that the efficiently incurred investment costs cannot be expected to be covered by the tariffs.

Projects falling under the category set out in points (1) (e) and (2) of Annex II may benefit from the provisions of this Article where at least one project promoter requests its application to the relevant national authorities.

Where a project has several project promoters, the relevant national regulatory authorities shall without delay request all project promoters to submit the investment request jointly in accordance with paragraph 3.

3. For a project of common interest to which paragraph 1 applies, the project promoters shall keep all relevant national regulatory authorities regularly informed, at least once per year, and until the project is commissioned, of the progress of that project and the identification of costs and impacts associated with it.

As soon as such a project of common interest has reached sufficient maturity, and is estimated to be ready to start the construction phase within the next 36 months, the project promoters, after having consulted the TSOs from the Member States which receive a significant net positive impact from it, shall submit an investment request. That investment request shall include a request for a cross-border cost allocation and shall be submitted to all the relevant national regulatory authorities concerned, accompanied by the following:

(a) up-to-date project-specific cost-benefit analysis consistent with the methodology drawn up pursuant to Article 11 and taking into account benefits beyond the borders of the Member States on the territory of which the project is located by using the same scenario as used in the selection process for the elaboration of the Union list where the project of common interest is listed;

(b) a business plan evaluating the financial viability of the project, including the chosen financing solution, and, for a project of common interest falling under the category referred to in point (3) of Annex II, the results of market testing;

(c) where the project promoters agree, a substantiated proposal for a cross-border cost allocation.

Where a project is promoted by several project promoters, they shall submit their investment request jointly.

The national regulatory authorities shall, upon receipt, transmit to the Agency, without delay, a copy of each investment request, for information purposes.

The national regulatory authorities and the Agency shall preserve the confidentiality of commercially sensitive information.

4. Within six months of the date on which the last investment request is received by the relevant national regulatory authorities, those national regulatory authorities shall, after consulting the project promoters concerned, take joint coordinated decisions on the allocation of investment costs to be borne by each system operator for the project, as well as their inclusion in tariffs. The national regulatory authorities shall include all the efficiently incurred investment costs in tariffs in line with the allocation of investment costs to be borne by each system operator for the project. The national regulatory authorities shall thereafter assess, where appropriate, whether any affordability issues might arise due to the inclusion of the investment costs in tariffs.

In allocating the costs, the national regulatory authorities shall take into account actual or estimated:

- (a) congestion rents or other charges,
- (b) revenues stemming from the inter-transmission system operator compensation mechanism established under Article 49 of Regulation (EU) 2019/943.

The allocation of costs across borders shall take into account, the economic, social and environmental costs and benefits of the projects in the Member States concerned and the need to ensure a stable financing framework for the development of projects of common interest while minimising the need for financial support.

In allocating costs across borders, the relevant national regulatory authorities, in consultation with the TSOs concerned, shall seek a mutual agreement based on, but not limited to, the information specified in paragraphs 3(a) and (b). Their assessment shall be based on the same scenario as used in the selection process for the elaboration of the Union list where the project of common interests is listed.

Where a project of common interest mitigates negative externalities, such as loop flows, and that project of common interest is implemented in the Member State at the origin of the negative externality, such mitigation shall not be regarded as a cross-border benefit and shall therefore not constitute a basis for allocating costs to the TSO of the Member States affected by those negative externalities.

5. National regulatory authorities shall, on the basis of the cross-border cost allocation referred to in paragraph 4 of this Article, take into account actual costs incurred by a TSO or other project promoter as a result of the investments when fixing or approving tariffs in accordance with Article 59(1)(a) of Directive (EU) 2019/944 and Article 41(1)(a) of Directive 2009/73/EC, insofar as those costs correspond to those of an efficient and structurally comparable operator.

The cost allocation decision shall be notified, without delay, by the national regulatory authorities to the Agency, together with all the relevant information with respect to the decision. In particular, the cost allocation decision shall set out detailed reasons for the allocation of costs among Member States, including the following:

- (a) an evaluation of the identified impacts on each of the concerned Member States, including those concerning network tariffs;
- (b) an evaluation of the business plan referred to in paragraph 3(b);
- (c) regional or Union-wide positive externalities, such as security of supply, system flexibility, solidarity or innovation, which the project would generate;
- (d) the result of the consultation of the project promoters concerned.

The cost allocation decision shall be published.

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

In that case or upon a request from at least one of the relevant national regulatory authorities, the decision on the investment request including cross-border cost allocation referred to in paragraph 3 as well as the necessity for the inclusion of the cost of the investments, in its totality, as allocated across borders in the tariffs shall be taken by the Agency within three months of the date of referral to the Agency.

Before taking such a decision, the Agency shall consult the relevant national regulatory authorities and the project promoters. The three-month period referred to in the second subparagraph may be extended by an additional period of two months where further information is sought by the Agency. That additional period shall begin on the day following receipt of the complete information.

The assessment of the Agency shall be based on the same scenario as used in the selection process for the elaboration of the Union list where the project of common interest is listed.

The Agency shall leave the way investment costs are included in the tariffs in line with the cross-border cost allocation prescribed for the determination of the relevant national authorities at the moment of the implementation of the decision in accordance with national law.

The decision on the investment request including cross-border cost allocation shall be published. Articles 25(3), 28 and 29 of Regulation (EU) 2019/942 shall apply.

7. A copy of all cost allocation decisions, together with all the relevant information with respect to each decision, shall be notified, without delay, by the Agency to the Commission. That information may be submitted in aggregate form. The Commission shall preserve the confidentiality of commercially sensitive information.

8. Cost allocation decisions shall not affect the right of TSOs to apply and of national regulatory authorities to approve charges for access to networks in accordance with Article 6 of Directive (EU) 2019/944, Article 32 of Directive 2009/73/EC, Article 18(1) and 18(3) to (6) of Regulation (EU) 2019/943, and Article 13 of Regulation (EC) No 715/2009.

9. This Article shall not apply to projects of common interest which have received an exemption:

- (a) from Articles 32, 33 and 34 and Article 41(6), (8) and (10) of Directive 2009/73/EC pursuant to Article 36 of that Directive;
- (b) from Article 19(2) and (3) of Regulation (EU) 2019/943 or Articles 6, 59(7) and 60(1) of Directive (EU) 2019/944 pursuant to Article 63 of Regulation (EU) 2019/943;
- (c) from unbundling or third party access rules pursuant to Article 64 of Regulation (EU) 2019/943 and Article 66 of Directive (EU) 2019/944 or
- (d) pursuant to Article 17 of Regulation (EC) No 714/2009.

10. By [31 December 2022], the Commission shall adopt implementing acts containing binding guidelines to ensure uniform conditions for the implementation of this Article and the offshore grids for renewable energy cross-border cost sharing as referred to in Article 15(1). The guidelines shall also address the special situation of offshore grids for renewable energy projects of common interest by including principles on how their cross-border cost allocation shall be coordinated with the financing, market and political arrangements of offshore generation sites connected to them. In adopting or amending the guidelines, the Commission shall consult ACER, the ENTSO for Electricity, the ENTSO for Gas, and, where relevant, other stakeholders. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 21(2).

### *Article 17*

#### **Incentives**

1. Where a project promoter incurs higher risks for the development, construction, operation or maintenance of a project of common interest falling under the competency of national regulatory authorities, when compared to the risks normally incurred by a comparable infrastructure project, Member States and national regulatory authorities shall ensure that appropriate incentives are granted to that project in accordance with Article 58(f) of Directive (EU) 2019/944, Article 41(8) of Directive 2009/73/EC, Article 18(1) and (3) to (6) of Regulation (EU) 2019/943, and Article 13 of Regulation (EC) No 715/2009.

The first subparagraph shall not apply where the project of common interest has received an exemption:

- (a) from Articles 32, 33, and 34 and Article 41(6), (8) and (10) of Directive 2009/73/EC pursuant to Article 36 of that Directive;
- (b) from Article 19(2) and (3) of Regulation (EU) 2019/943 or an exemption from Articles 6, 59(7) and 60(1) of Directive (EU) 2019/944 pursuant to Article 63 of Regulation (EU) 2019/943 ;
- (c) pursuant to Article 36 of Directive 2009/73/EC ;
- (d) pursuant to Article 17 of Regulation (EC) No 714/2009.

2. In their decision granting the incentives referred to in paragraph 1, national regulatory authorities shall consider the results of the cost-benefit analysis on the basis of the methodology drawn up pursuant to Article 11 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 promoters, the risk mitigation measures taken and the justification of the risk profile in view of the net positive impact provided by the project, when compared to a lower-risk alternative. Eligible risks shall in particular include risks related to new transmission technologies, both onshore and offshore, risks related to under-recovery of costs and development risks.

3. The decision shall take into account the specific nature of the risk incurred and may grant incentives covering, inter alia, the following measures:

- (a) the rules for anticipatory investment;
- (b) the rules for recognition of efficiently incurred costs before commissioning of the project;
- (c) the rules for providing additional return on the capital invested for the project;
- (d) any other measure deemed necessary and appropriate.

4. By [31 July 2022], each national regulatory authority shall submit to the Agency its methodology and the criteria used to evaluate investments in energy infrastructure projects and the higher risks incurred by them, updated in view of latest legislative, policy, technological and market developments. Such methodology and criteria shall also expressly address the specific risks incurred by offshore grids for renewable energy referred to in point (1)(e) of Annex II and by projects, which, while having low capital expenditure, incur significant operating expenditure.

5. By [31 December 2022], taking due account of the information received pursuant to paragraph 4 of this Article, the Agency shall facilitate the sharing of good practices and make recommendations in accordance with Article 6 of Regulation (EU) 2019/942 regarding:

(a) the incentives referred to in paragraph 1 on the basis of a benchmarking of best practice by national regulatory authorities;

(b) a common methodology to evaluate the incurred higher risks of investments in energy infrastructure projects.

6. By [31 March 2023], each national regulatory authority shall publish its methodology and the criteria used to evaluate investments in energy infrastructure projects and the higher risks incurred by them.

7. Where the measures referred to in paragraphs 5 and 6 are not sufficient to ensure the timely implementation of projects of common interest, the Commission may issue guidelines regarding the incentives laid down in this Article.

## CHAPTER VII

### *FINANCING*

#### *Article 18*

#### **Eligibility of projects for Union financial assistance under Regulation (EU)... [on a Connecting Europe Facility as proposed by COM(2018)438]**

1. Projects of common interest falling under the categories set out in Annex II are eligible for Union financial assistance in the form of grants for studies and financial instruments.

2. Projects of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) of Annex II and point (3) of Annex II, except for hydro-pumped electricity storage projects, are also eligible for Union financial assistance in the form of grants for works where they fulfil all of the following criteria:

(a) the project specific cost-benefit analysis pursuant to Article 16(3)(a) provides evidence concerning the existence of significant positive externalities, such as security of supply, system flexibility, solidarity or innovation;

(b) the project has received a cross-border cost allocation decision pursuant to Article 16 or, as regards projects of common interest falling under the category set out in point (3) of Annex II, where they do not fall under the competency of national regulatory authorities, and therefore they do not receive a cross-border cost allocation decision, the project aims at providing services across borders, bring technological innovation and ensure the safety of cross-border grid operation;

(c) the project is not commercially viable according to the business plan and other assessments carried out, in particular by potential investors or creditors or the national regulatory authority.

The decision on incentives and its justification referred to in Article 17(2) shall be taken into account when assessing the project's commercial viability.

3. Projects of common interest carried out in accordance with the procedure referred to in Article 5(7)(d) shall also be eligible for Union financial assistance in the form of grants for works where they fulfil the criteria set out in paragraph 2 of this Article.

4. Projects of common interest falling under the categories set out in points (1)(d), (2) and (5) of Annex II shall also be eligible for Union financial assistance in the form of grants for works, where the concerned project promoters can clearly demonstrate significant positive externalities, such as security of supply, system flexibility, solidarity or innovation, generated by the projects and provide clear evidence of their lack of commercial viability, in accordance with the cost-benefit analysis, the business plan and assessments carried out, in particular by potential investors or creditors or, where applicable, a national regulatory authority.

5. Projects of mutual interest shall be assimilated with projects of common interest and be eligible for Union financial assistance. Only the investments located on the territory of the Union which are part of the project of mutual interest, shall be eligible for Union financial assistance in the form of grants for works where they fulfil the criteria set out in paragraph 2, and where the cross-border cost allocation decision referred to in paragraph 2(b) allocates costs across borders for at least two Member States in a significant proportion in each Member State.

#### *Article 19*

#### **Guidance for the award criteria of Union financial assistance**

The specific criteria set out in Article 4(3) and the parameters set out in Article 4(5) shall apply for the purpose of establishing award criteria for Union financial assistance in in Regulation (EU)... [on a Connecting Europe Facility as proposed by COM(2018)438].

## **CHAPTER VIII**

### ***FINAL PROVISIONS***

#### *Article 20*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3 shall be conferred on the Commission for a period of seven years from [1 January 2022]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 3 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the

*Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 21*

##### **Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

#### *Article 22*

##### **Reporting and evaluation**

Not later than 31 December 2027, the Commission shall publish a report on the implementation of projects of common interest and submit it to the European Parliament and the Council. That report shall provide an evaluation of:

- (a) the progress achieved in the planning, development, construction and commissioning of projects of common interest selected pursuant to Article 3, and, where relevant, delays in implementation and other difficulties encountered;
- (b) the funds engaged and disbursed by the Union for projects of common interest, compared to the total value of funded projects of common interest;
- (c) the progress achieved in terms of integration of renewable energy sources and reduced greenhouse gas emissions through the planning, development, construction and commissioning of projects of common interest selected pursuant to Article 3;
- (d) the progress achieved in the planning, development, construction and commissioning of offshore grids for renewable energy and the enabled deployment of offshore renewable energy;
- (e) for the electricity and hydrogen sectors, the evolution of the interconnection level between Member States, the corresponding evolution of energy prices, as well as the number of network system failure events, their causes and related economic cost;
- (f) the process of permit granting and public participation, in particular:
  - (i) the average and maximum total duration of the permit granting process for projects of common interest, including the duration of each step of the pre-application procedure,

compared to the timing foreseen by the initial major milestones referred to in Article 10(5);

(ii) the level of opposition faced by projects of common interest, in particular the number of written objections during the public consultation process and the number of legal recourse actions;

(iii) an overview of best and innovative practices with regard to stakeholder involvement and mitigation of environmental impact during permit granting processes and project implementation, including climate adaptation;

(iv) the effectiveness of the schemes foreseen in Article 8(3) regarding compliance with the time limits set out in Article 10;

(g) regulatory treatment, in particular:

(i) the number of projects of common interest having been granted a cross-border cost allocation decision pursuant to Article 16;

(ii) the number and type of projects of common interest which received specific incentives pursuant to Article 17;

(h) the effectiveness of this Regulation in contributing to the climate and energy targets for 2030, and, in the longer term, to the achievement of climate neutrality by 2050.

### *Article 23*

#### **Information and publicity**

The Commission shall establish and maintain a transparency platform easily accessible to the general public through the internet. The platform shall be regularly updated with information from the reports referred to in Article 5(1) and the website referred to in Article 9(7). The platform shall contain the following information:

(a) general, updated information, including geographic information, for each project of common interest;

(b) the implementation plan as set out in Article 5(1) for each project of common interest presented in a manner that allows the assessment of the progress in implementation at any moment in time;

(c) the main expected benefits and the costs of the projects except for any commercially sensitive information;

(d) the Union list;

(e) the funds allocated and disbursed by the Union for each project of common interest.

### *Article 24*

#### **Transitional provisions**



This Regulation shall not affect the granting, continuation or modification of financial assistance awarded by the Commission pursuant to Regulation (EU) No 1316/2013 of the European Parliament and of the Council<sup>47</sup>.

*Article 25*

**Amendment to Regulation (EC) No 715/2009**

In Article 8(10) of Regulation (EC) No 715/2009, the first subparagraph is replaced by the following:

‘The ENTSO for Gas shall adopt and publish a Union-wide network development plan referred to in point (b) of paragraph 3 every two years. The Union-wide network development plan shall include the modelling of the integrated network, including hydrogen networks, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system’.

*Article 26*

**Amendment to Directive 2009/73/EC**

In Article 41(1) of Directive 2009/73/EC, point (v) is added:

‘(v) carry out the obligations laid out in Articles 3, 5(7), Articles 14, 15, 16 and Article 17 of [the TEN-E Regulation as proposed by COM(2020)824];’

*Article 27*

**Amendment to Directive (EU) 2019/944**

In Article 59(1) of Directive (EU) 2019/944, point (zz) is added:

‘(zz) carry out the obligations laid out in Articles 3, 5 (7), Articles 14, 15, 16 and Article 17 of [the TEN-E Regulation as proposed by COM(2020)824];’

*Article 28*

**Amendment to Regulation (EU) 2019/943**

The first sentence of Article 48 of Regulation (EC) 2019/943 is replaced by the following:

‘The Union-wide network development plan referred to under point (b) of Article 30(1) shall include the modelling of the integrated network, including scenario development and an assessment of the resilience of the system. It shall be fully consistent with the European resource adequacy assessment developed pursuant to Article 23.’

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<sup>47</sup> Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010, OJ L 348, 20.12.2013, p. 129

*Article 29*

**Amendment to Regulation (EU) 2019/942**

Points (c) and (d) of Article 11 of Regulation (EU) 2019/942 are replaced by the following:

(c) carry out the obligations laid out in Articles 5, Articles 11(2), 11(8), 11(9), 11(10), Articles 12, 13 and Article 17(5) and in point (12) of Annex III of [the TEN-E Regulation as proposed by COM(2020)824];

(d) take decisions on approving incremental changes to cost-benefit analysis methodologies pursuant to Article 11(6) and on investment requests including cross-border cost allocation pursuant to Article 16(6) of [TEN-E Regulation as proposed by COM(2020)824].

*Article 30*

**Repeal**

Regulation (EU) No 347/2013 is repealed from [1 January 2022]. No rights shall arise under the present Regulation for projects listed in the Annexes to Regulation (EU) 347/2013.

*Article 31*

**Entry into force**

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

It shall apply from [1 January 2022].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*  
[...]

*For the Council*  
*The President*  
[...]

## LEGISLATIVE FINANCIAL STATEMENT ‘AGENCIES’

### 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

#### 1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council on guidelines for trans-European energy infrastructure and repealing Regulation (EU)No 347/2013

#### 1.2. Policy area(s) concerned

Policy area: I. Single market, innovation and digital  
Activity: 02. European Strategic Investments

#### 1.3. The proposal relates to

- a new action
- a new action following a pilot project/preparatory action<sup>48</sup>
- the extension of an existing action
- a merger of one or more actions towards another/a new action

#### 1.4. Objective(s)

##### 1.4.1. General objective(s)

The general objective of the initiative is to facilitate the timely development of adequate energy infrastructure across the Union and in its neighbourhood to enable delivering on the Union’s energy and climate objectives in line with the European Green Deal, in particular on the 2030/50 targets including the climate-neutrality objective, as well as market integration, competitiveness, and security of supply at least cost to consumers and businesses.

##### 1.4.2. Specific objective(s)

###### Specific objectives

- 1) Enable the identification of the cross-border projects and investments across the Union and with its neighbouring countries that are necessary for the energy transition and climate targets;
- 2) Improve infrastructure planning for energy system integration and offshore grids;
- 3) Shorten permitting procedures for PCIs to avoid delays in projects that facilitate the energy transition;
- 4) Ensure the appropriate use of cost sharing tools and regulatory incentives.

<sup>48</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

#### 1.4.3. *Expected result(s) and impact*

*Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

Specific objective 1:

Implementation of PCIs that support the achievement of the climate neutrality objective by enabling RES integration.

Specific objective 2:

Achieve a significant increase in the deployment of offshore renewable energy.

Specific objective 3:

European approach to infrastructure planning for hydrogen networks.

Specific objective 4:

Reduce delays in PCI implementation.

#### 1.4.4. *Indicators of performance*

*Specify the indicators for monitoring progress and achievements.*

Specific objective 1:

The number and types of PCIs under the defined priority corridors / thematic areas: reduced curtailment of renewable energy; doubling the number of smart electricity projects compared to current levels by 2026.

Specific objective 2:

Number of PCIs: at least 10 PCIs to support the deployment of offshore renewable energy by 2026.

Specific objective 3:

Number of PCIs: at least 5 hydrogen PCIs by 2026.

Specific objective 4:

The average and maximum total duration of authorisation procedures for projects of common interest: reduce share of PCIs that are delayed in a given year compared to the initially planned commissioning date.

### **1.5. Grounds for the proposal/initiative**

#### 1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

The Regulation on trans-European energy networks (TEN-E), adopted in 2013, lays down rules for the timely development and interoperability of trans-European energy networks in order to achieve the energy policy objectives of the Treaty on the Functioning of the European Union (TFEU) to ensure the functioning of the internal energy market and security of supply in the Union, to promote energy efficiency and energy saving and the development of new and renewable forms of energy, and to promote the interconnection of energy networks. The TEN-E Regulation puts in place a framework for Member States and relevant stakeholders to work together in a regional setting to develop better connected energy networks with the aim to connect regions currently isolated from European energy markets, strengthen existing cross-border interconnections, and help integrate renewable energy.

As such, the TEN-E is a central instrument in the development of an internal energy market and necessary to achieve the European Green Deal objectives. To achieve climate neutrality by 2050 and higher levels of greenhouse gas emission reductions by 2030, Europe will need a more integrated energy system, relying on higher levels of electrification based on renewable sources and the decarbonisation of the gas sector. The TEN-E can ensure that the Union energy infrastructure development supports the required energy transition.

While the objectives of the current Regulation remain largely valid, their focus on 2020/30 targets must be upgraded to reflect the new political context and the 2050 climate neutrality objective under the European Green Deal. Besides the new political context and objectives, technological development has been rapid in the past decade. This progress should be taken into account in the infrastructure categories covered by the Regulation, the PCI selection criteria as well as the priority corridors and thematic areas.

In addition to the tasks already falling within its remit under the ACER Regulation, the present initiative results in ACER being given a mandate to carry additional tasks, namely:

- to develop framework guidelines to define and guide the ENTSO for Electricity and ENTSO for Gas in the development of their scenarios;
- to approve incremental improvements of the Cost Benefit methodologies developed by ENTSO for Electricity and ENTSO for Gas.

- 1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante)

Energy transmission infrastructure (including an interconnected offshore grid and smart grid infrastructure) has a European added value due to its cross-border impacts and is essential to achieve a climate neutral energy system. A framework for regional cooperation across Member States is necessary to develop cross-border energy infrastructure. Individual Member State regulations and actions are insufficient to deliver these infrastructure projects as a whole.

Expected generated Union added value (ex-post)

Internal energy market is based on cross-border interconnectors, development of which requires cooperation of two or more Member States; through cooperation the initiative will support a more cost-efficient and effective approach to develop an adequate cross-border infrastructure and the achievement of the Union climate and energy targets at least cost for consumers and businesses.

- 1.5.3. *Lessons learned from similar experiences in the past*

The evaluation of the current TEN-E Regulation has shown that it has effectively improved integration of Member States' networks, stimulated energy trade and hence contributed to Union competitiveness, as shown in the evidence on interconnection targets and energy prices and their convergence across the Union. PCIs in electricity and in particular in gas have strongly contributed to security of supply as a main contextual driver to the design of the TEN-E Regulation. For gas, the infrastructure is now well connected and supply resilience has improved substantially since 2013. Regional cooperation in Regional Groups and through cross-border cost allocation is an important enabler for project implementation. However, in many cases the cross-border cost allocation did not result in reducing the financing gap of the

project, as intended. While permitting procedures have been shortened, long permitting procedures persist in some cases. While the underlying reasons are mainly related to national implementation and outside the scope of the TEN-E Regulation, there are elements that can be improved. CEF financial assistance was an important factor, grants for studies helped projects to reduce risks in the early stages of development while grants for works supported projects addressing key bottlenecks that market finance could not sufficiently address.

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The initiative will contribute to achieving climate neutrality by 2050, starting with a 55% reduction in GHG emissions by 2030, the key climate objective of the European Green Deal presented by the von der Leyen Commission in December 2019. Providing for the eligibility criteria for financial assistance under the Connecting Europe Facility (CEF) for projects of common interest (PCIs), the initiative contributes to the objectives of the MFF 2021-2027 including on climate mainstreaming.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

The large majority of the budgetary implications of this proposal are dealt with under the legal financial statement of the Proposal for a Regulation establishing the Connecting Europe Facility. The specific budgetary impact of this initiative is limited to the resources necessary for ACER to fulfil its additional mandate. In the impact assessment different options have been assessed to meet the objective of an improved infrastructure planning for energy system integration. The preferred option is the most cost-efficient approach.

**1.6. Duration and financial impact of the proposal/initiative**

**limited duration**

- Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- Financial impact from YYYY to YYYY

**unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

**1.7. Management mode(s) planned<sup>49</sup>**

**Direct management** by the Commission through

- executive agencies

**Shared management** with the Member States

**Indirect management** by entrusting budget implementation tasks to:

- international organisations and their agencies (to be specified);
- the EIB and the European Investment Fund;
- bodies referred to in Articles 70 and 71;
- public law bodies;
- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

n.a.

<sup>49</sup> Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: <https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>.

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

*Specify frequency and conditions.*

The regular reporting and monitoring procedures existing under the current TEN-E framework remain in place such as the ACER report to the Regional Groups. In addition, ACER is publishing all the outcomes of their tasks on their website.

The large majority of the budgetary implications of this proposal are dealt with under the legal financial statement of the Proposal for a Regulation establishing the Connecting Europe Facility. Under the proposed CEF regulation, a revised performance framework will be put in place to monitor the achievement of the Programme's objectives and its contribution to Union policy objectives. In the field of Energy, indicators to monitor implementation and progress of the Programme will relate in particular to the contribution to interconnectivity and integration of markets, security of energy supply and sustainable development through enabling decarbonisation by an increased penetration of renewable energy in the energy systems as well cross-border cooperation in the field of renewables.

The additional tasks to be managed by ACER will contribute to ensure that the initiative's objectives are met, in particular improved infrastructure planning for energy system integration and the identification of the cross-border projects and investments across the Union and with its neighbouring countries that are necessary for the energy transition and climate targets.

In addition to the TEN-E specific reporting and monitoring procedures in place, all Union Agencies work under a strict monitoring system involving internal audit capability, the Internal Audit Service of the Commission, ACER's Administrative Board, the Court of Auditors and the Budgetary Authority. This system was laid down with the founding Regulation of ACER of 2009 and will continue to apply.

### 2.2. Management and control system(s)

#### 2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

The large majority of the budgetary implications of this proposal are dealt with under the legal financial statement of the Proposal for a Regulation establishing the Connecting Europe Facility. However, the attribution of additional tasks to ACER requires additional resources, corresponding to 1 FTE. This is justified by the work required to develop new framework guidelines to define and guide the ENTSO for Electricity and ENTSO for Gas scenarios in the development of their scenarios and the assessment of incremental improvements of the Cost Benefit methodologies developed by ENTSO for Electricity and ENTSO for Gas. These tasks require specific expertise to be built up and maintained within ACER.

#### 2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

The risks identified to the expenditure made under the Connecting Europe Facility, and the related mitigating controls are dealt with under the legal financial statement of the Proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014.



No specific risk was identified in respect of the additional tasks attributed to ACER. The additional resources put at the disposal of ACER will be covered by ACER's internal control system that is aligned with the relevant international standards and includes specific controls to prevent conflict of interests and ensure the protection of whistle-blowers.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

The assessment of the cost of control and the risk of errors related to the expenditure made under the Connecting Europe Facility are dealt with under the legal financial statement of the Proposal for a Regulation establishing the Connecting Europe Facility.

DG ENER maintains a supervision strategy covering the activities of ACER. The costs of control of the additional tasks entrusted to ACER will be assessed against the risk profile of the Agency and against the needs for monitoring and supervision of the Agency's activities. However, the limited scope of these additional activities should not have any significant impact on the cost of controlling the Agency. Over the last 5 years (2015-2019), the cost of control of ACER against the amount of the Union contribution remained relatively stable, in the range of 1.2% to 2%.

As the budgetary impact is limited to the provision of additional resources, the risk of error is expected to remain under the threshold of 2% of total expenditure over the lifetime of the programme.

### 2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The Commission will ensure that appropriate measures are in place to ensure that, when the actions are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities

DG ENER maintains a specific Anti-Fraud Strategy of DG ENER that will be updated by end 2020, following the revision of the Commission's Anti-Fraud Strategy in April 2019 (COM(2019) 196).

The measures taken to prevent fraud and irregularities for projects funded by the Connecting Europe Facility are presented under the legal financial statement of the Proposal for a Regulation establishing the Connecting Europe Facility.

ACER revised its anti-fraud strategy, based on an assessment of the fraud risks to which the Agency could be exposed in accomplishing its mandate. ACER cooperates with the Commission services on matters relating to preventing fraud and irregularity. The Commission will ensure that this cooperation will continue and will be strengthened. Furthermore, ACER adopted in 2018 Guidelines on the Management of Conflict of interests.

Provisions concerning the protection of the financial interest of the Union are included under Article 26 of the Proposal for a Regulation establishing the Connecting Europe Facility.

## 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. <sup>50</sup>	from EFTA countries <sup>51</sup>	from candidate countries <sup>52</sup>	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
I. Single market, innovation and digital	02 10 06 ACER	Diff.	YES	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual	Budget line	Type of expenditure	Contribution			
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<sup>50</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>51</sup> EFTA: European Free Trade Association.

<sup>52</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

financial framework	Number	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

### 3.2. Estimated impact on expenditure

#### 3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	Heading 1A
--	--------	------------

ACER (new tasks only)			2022	2023	2024	2025	2026	2027	TOTAL
Title 1:	Commitments	(1)	0.077	0.156	0.159	0.162	0.166	0.169	<b>0.889</b>
	Payments	(2)	0.077	0.156	0.159	0.162	0.166	0.169	<b>0.889</b>
Title 2:	Commitments	(1a)							
	Payments	(2a)							
Title 3:	Commitments	(3a)							
	Payments	(3b)							
<b>TOTAL appropriations for ACER</b>	Commitments	=1+1a +3a	0.077	0.156	0.159	0.162	0.166	0.169	<b>0.889</b>
	Payments	=2+2a +3b	0.077	0.156	0.159	0.162	0.166	0.169	<b>0.889</b>

<b>Heading of multiannual financial framework</b>	<b>5</b>	'Administrative expenditure'						
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EUR million (to three decimal places)

		2022	2023	2024	2025	2026	2027		TOTAL
DG: ENER supervision of new tasks only									
• Human Resources		0	0	0	0	0	0		0
• Other administrative expenditure		0	0	0	0	0	0		0
<b>TOTAL DG ENER</b>	Appropriations	0	0	0	0	0	0		0

<b>TOTAL appropriations under HEADING 5 of the multiannual financial framework</b>	(Total commitments = Total payments)	0	0	0	0	0	0		0
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EUR million (to three decimal places)

		2022	2023	2024	2025	2026	2027		TOTAL
<b>TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework</b>	Commitments	0.077	0.156	0.159	0.162	0.166	0.169		<b>0.889</b>
	Payments	0.077	0.156	0.159	0.162	0.166	0.169		<b>0.889</b>

3.2.2. *Estimated impact on [body]'s appropriations*

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs  ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
	Type <sup>53</sup>	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 <sup>54</sup> ...																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
<b>TOTAL COST</b>																		

<sup>53</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>54</sup> As described in point 1.4.2. ‘Specific objective(s)...’

### 3.2.3. Estimated impact on ACER's human resources

#### 3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	2022	2023	2024	2025	2026	2027		TOTAL
--	------	------	------	------	------	------	--	-------

Temporary agents (AD Grades)*	0.077	0.156	0.159	0.162	0.166	0.169		<b>0.889</b>
Temporary agents (AST grades)								
Contract staff								
Seconded National Experts								

<b>TOTAL</b>	<b>0.077</b>	<b>0.156</b>	<b>0.159</b>	<b>0.162</b>	<b>0.166</b>	<b>0.169</b>		<b>0.889</b>
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\* based on average costs of EUR 150.000 for temporary agent (AD Grades) and an annual inflation rate of 2%

Staff requirements (FTE):

	2022	2023	2024	2025	2026	2027		TOTAL
--	------	------	------	------	------	------	--	-------

Temporary agents (AD Grades)	1	1	1	1	1	1		
Temporary agents (AST grades)								
Contract staff								
Seconded National Experts								

<b>TOTAL</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>		
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The recruitment is planned in the second half of 2022, in order to prepare the implementation of the Regulation. Its adoption should come if possible in mid2022. Therefore, for 2022 only 50% of the average cost is taken into account.

The offsetting of the budget requested to cover the increase of HR resources in ACER will be done by reducing by the same amount the budget of the Connecting Europe Facility Energy Programme (CEF Energy) in the same Heading.



### 3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full amounts (or at most to one decimal place)*

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
<b>• Establishment plan posts (officials and temporary staff)</b>							
XX 01 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>55</sup></b>							
XX 01 02 01 (AC, END, INT from the 'global envelope')							
XX 01 02 02 (AC, AL, END, INT and JPD in the Delegations)							
<b>XX 01 04 yy<sup>56</sup></b>	- at Headquarters <sup>57</sup>						
	- in Delegations						
<b>XX 01 05 02 (AC, END, INT – Indirect research)</b>							
<b>10 01 05 02 (AC, END, INT – Direct research)</b>							
Other budget lines (specify)							
<b>TOTAL</b>							

**XX** is the policy area or budget title concerned.

The proposal does not require additional human resources in the DG. Its implementation and monitoring will be performed by the staff already assigned to TEN-E policy in DG ENER.

<sup>55</sup> AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD = Junior Professionals in Delegations.

<sup>56</sup> Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

<sup>57</sup> Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

3.2.4. *Compatibility with the current multiannual financial framework*

- The proposal/initiative is compatible the current multiannual financial framework.
- The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.  
n.a.

- The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework<sup>58</sup>.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.  
n.a.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

<sup>58</sup> See Articles 11 and 17 of Council Regulation (Union, Euratom) No 1311/2013 laying down the multiannual financial framework for the years 2014-2020.

### 3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
  - on own resources
  - on other revenue
  - please indicate, if the revenue is assigned to expenditure lines

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative <sup>59</sup>				
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)
Article .....						

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

<sup>59</sup> As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.