



Brussels, 19.11.2021  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 19.11.2021**

**amending Regulation (EU) No 347/2013 of the European Parliament and of the Council  
as regards the Union list of projects of common interest**

{SWD(2021) 335 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

#### **Objective and legal basis of the proposed action**

This Delegated Regulation establishes a Union list of projects of common interest (PCIs) to replace the list, as established by the Commission Delegated Regulation (EU) 2020/389 of 31 October 2019<sup>1</sup>

PCIs are specific energy infrastructure projects that are critical for completing the European internal energy market, achieving the Union's energy policy objective of providing affordable, secure and sustainable energy to all Europeans, and for attaining the Union's targets and climate objectives.

Article 3(4) of Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure (the TEN-E Regulation) requires the Commission to adopt, every two years, a delegated act that establishes a Union list of PCIs.<sup>2</sup> The Union list is based on the regional lists of candidate PCIs prepared and adopted by the regional groups established by the TEN-E Regulation.

This Delegated Regulation takes the form of an annex to the TEN-E Regulation.

#### **General context of the Delegated Regulation**

The TEN-E Regulation provides for a legislative framework which aims at facilitating and accelerating the implementation process of PCIs.

The TEN-E Regulation establishes nine strategic geographical infrastructure priority corridors in the areas of electricity, gas and oil, and three Union-wide infrastructure priority thematic areas for smart grids, electricity highways and cross-border carbon dioxide network. It provides for an open, transparent and inclusive process of identifying specific PCIs that are needed to implement these priority corridors and areas.

The TEN-E Regulation also lays down a set of measures to ensure that PCIs are implemented in good time, including:

- strengthened transparency and improved public consultation;
- accelerated and streamlined permit granting procedure, including a binding three-and-a-half-years' time limit for this procedure;
- a single national competent authority acting as a one-stop-shop for permit granting procedures;
- improved regulatory treatment by allocating costs according to the net benefits, and regulatory incentives; and
- possibility of receiving financial assistance under Connecting Europe Facility (CEF) in the form of grants and innovative financial instruments.

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<sup>1</sup> Commission Delegated Regulation (EU) 2020/389 of 31 of October 2019 amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest.

<sup>2</sup> OJ L 115, 25.4.2013, p.39.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

### **PROCESS PRIOR TO THE ADOPTION OF THE UNION LIST OF PCIS**

The process of establishing the Union list of PCIs started in October 2020 and ends with the entry into force of this Delegated Regulation.

The identification process of PCIs is based on regional cooperation and it was managed by the regional groups. Regional groups for electricity, smart grids, and gas comprise representatives of the Member States, national regulatory authorities (NRAs), transmission system operators (TSOs), European Networks of Transmission System Operators for gas and electricity (ENTSOG and ENTSO-E), the Agency for the Cooperation of Energy Regulators (ACER), and the Commission. Regional groups for oil and carbon dioxide transport projects comprise representatives of the Member States, project promoters and the Commission.

In addition to the legal provisions of the TEN-E Regulation on the specific role of Regional Groups in establishing the regional lists of PCIs, the Commission acted on political commitments stemming from the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making and the Framework Agreement on relations between the European Parliament and the European Commission. The meetings of regional groups have been open to officials working for the Parliament's administration and information related to the preparation of this delegated act have been shared before adoption.

The PCI process also involved exchanges with relevant stakeholders acting in the field of energy, such as consumer and environmental protection organisations. Furthermore, four public consultations were carried out by the Commission to obtain views of stakeholders and the larger public on the necessity and merits of the proposed projects from a Union energy policy perspective.

The process of establishing the Union list consisted of the following main stages:

- (a) Identification of the infrastructure needs, and the improved assessment methodology

The PCI selection process in the electricity and gas sectors started in October 2020 with the identification at regional level of specific infrastructure needs that should be addressed by new infrastructure projects and that cannot be effectively resolved by other non-infrastructure means, including regulatory or market-based measures.

The infrastructure needs identified by the regional groups constituted the basis of the improved 2021 assessment methodologies of electricity and gas PCI candidates. These methodologies were developed within the Cooperation Platform comprising representatives of the Commission, ACER, ENTSOG and ENTSO-E as well as representatives of NRAs on an ad-hoc basis. The Cooperation Platform was established to ensure better coordination of the PCI process between the key participants, and to provide for greater transparency.

The assessment framework for the assessment of candidate PCIs in the priority area of smart grid deployment and CO<sub>2</sub> networks followed the same process as for the fourth Union list of PCIs.

(b) Submission of candidate PCIs by project promoters

In accordance with point 2(3) and 2(4) of Annex III to the TEN-E Regulation, electricity and gas infrastructure projects submitted by promoters during the dedicated calls as candidate PCIs were part of the 10-year network development plans (TYNDPs) for gas and electricity developed by ENTSOG and ENTSO-E respectively.

(c) Assessment of candidate PCIs by the regional groups

Each regional group carried out an assessment of the candidate PCIs proposed for its priority corridor.

In the first place, projects were assessed with regard to their compliance with the general criteria laid down in Articles 4(1) of the TEN-E Regulation, including their contribution to the objectives of the corridor and their cross-border dimension.

Subsequently, the regional groups assessed projects' contributions to the specific criteria laid down in Article 4(2) of the TEN-E Regulation according to the agreed dedicated methodologies developed within the Cooperation Platform (for electricity and gas PCI candidates) or by the respective working group for cross-border carbon dioxide network PCI candidates. Furthermore, electricity and gas candidate PCIs were subject to cost-benefit analysis carried out according to the methodologies developed by ENTSO-E and ENTSOG. In the priority thematic area of smart grid deployment, the cost-benefit analysis was prepared by the promoters themselves and the application for PCI was assessed in accordance with the Assessment Framework and the legal provisions.

(d) Consultation of stakeholders on candidate PCIs

Provisions of Annex III to the TEN-E Regulation provide for enhanced transparency and public participation in the PCI process. Each regional group should consult the organisations representing relevant stakeholders — and, if deemed appropriate, stakeholders directly — including producers, distribution system operators, suppliers, consumers, and organisations for environmental protection. The regional group may also organise hearings or consultations, where relevant for the accomplishment of its tasks.

Four public consultations on electricity, gas, smart grids and cross-border CO<sub>2</sub> networks candidate PCIs were carried out during the period from 14 January to 18 June 2021 complying with the Commission's better-regulation principles. Overall, 777 contributions from 21 Member States were submitted via the EU Survey consultation platform representing a wide range of citizens and stakeholders, including environmental organisations, trade associations, small and medium enterprises (SMEs) etc. Several position papers were submitted via a functional mailbox communicated to the public. In summary, the respondents largely supported the inclusion of smart grids and CO<sub>2</sub> network candidate projects in the Union list. With regards to electricity, and notably gas infrastructure, a number of environmental stakeholders emphasised the need to take into account the environmental merits of individual candidate projects in the course of the PCI identification and selection process, as well as the role of gas. The main goal of the consultation process was to assess the necessity of the proposed projects – taking account of their socioeconomic benefits and costs - from the Union energy policy perspective. All PCIs must comply with Union legislation and undergo a complete permit granting procedure, including an environmental impact assessment and public consultation. Should a PCI be found not to be in compliance with Union legislation, it may be removed from the Union list.

In addition to the online consultation process, bilateral meetings with representatives of consumer and environmental organisations were held to allow for more in-depth discussions on the methodology underpinning the assessment of PCIs.

Moreover, stakeholders were regularly invited to, and participated in meetings of the regional groups which discussed the needs in each corridor, assessed the PCI candidates and drew up the regional lists of PCIs.

(e) Check of the criteria and the cross-border relevance by the NRAs

The NRAs (coordinated by ACER) cross-checked, for the electricity, gas and smart grids PCI candidates, the consistent application of the criteria/cost-benefit analysis methodology and their cross-border relevance. Overall, the NRAs assessment has been positive and only some NRAs have expressed their reservations with regard to a low number of projects. Detailed findings were submitted to the regional groups.

(f) Agreement of the decision-making bodies on the draft regional lists of candidate PCIs

Following the assessment of candidate PCIs by the regional groups, their decision-making bodies at technical level (composed of the Commission and Member States representatives) agreed on the draft regional lists and the preliminary ranking of candidate PCIs. Meetings of the technical decision-making bodies of the regional groups were held on 15 July for electricity, smart grids, gas and CO<sub>2</sub> network candidate projects.

(g) ACER's opinions on the draft regional lists

In line with point 2(12) of Annex III to the TEN-E Regulation, ACER provided its opinions on the *draft* regional lists of electricity (including smart grids) and gas PCIs on 27 October 2021. ACER assessed the consistent application of the assessment criteria and of the cost/benefit analysis across the regions.

(h) Adoption of the final regional lists of PCIs by the decision-making bodies

The *final* regional lists in the relevant eight priority corridors and all two priority thematic areas were adopted by the decision-making bodies of the regional groups on 9 November 2021. The decision-making bodies adopted the final regional lists on the basis of the draft regional lists and by considering the ACER's opinion, the NRAs' assessments and in the case of carbon-dioxide transport projects the Working Group's assessment.

Mention should be made that the members of the oil Regional Group decided together that in view of the Union's climate neutrality objective and in line with the Green Deal no oil PCIs should be proposed for the 5<sup>th</sup> Union PCI list. Consequently, the 5<sup>th</sup> Union list will not contain any oil projects.

For a project to be eligible for inclusion in the e-highways thematic area it must align with the e-Highways thematic area objective and be part of any of the four TEN-E electricity priority corridors. Considering the fact that i) the 5<sup>th</sup> PCI list will be the last list to be approved under the current TEN-E framework and ii) the additional e-Highways label represents only a recognition of a project's relevance for the e-highway development with no additional TEN-E benefit associated to the label; it was decided to not select any project for this thematic area category. Consequently the 5<sup>th</sup> Union list will not contain any e-Highways projects.

The inclusion of the projects in the PCI list is without prejudice to the application of State aid rules in case of State support to the projects.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

#### **Summary of the proposed action**

This Delegated Regulation identifies 98 PCIs which are deemed necessary to implement the priority corridors in the electricity, gas and the priority thematic areas: smart grids and the cross-border carbon-dioxide networks, as identified in the TEN-E Regulation.

This Delegated Regulation is adopted pursuant to Article 3(4) of the TEN-E Regulation, which empowers the Commission to adopt, every two years, a delegated act establishing the Union list of PCIs. This list is to replace the fourth Union list of PCIs established by Commission Delegated Regulation (EU) 2020/389 of 31 October 2019. This Delegated Regulation takes the form of a new Annex VII to the TEN-E Regulation. In view of the ongoing legislative negotiations for the revision of the TEN-E Regulation, this Delegated Regulation shall remain in force until the sixth Union list of PCIs is adopted regardless of whether a new regulation replacing the current TEN-E Regulation enters into force in the meantime.

This Union list provides for 98 PCIs, including 67 in electricity, 20 in gas, 5 smart grids, and 6 cross-border carbon dioxide network projects.

The Union list includes projects that are critical for completing the European internal energy market, for achieving the Union's energy policy objective of affordable, secure and sustainable energy, and for attaining the Union's targets and climate objectives. PCIs include all the priority projects agreed by the High Level Groups established to facilitate at regional level development of cross-border and trans-European projects as well as implementation of harmonised rules. When completed, electricity PCIs will help Member States to comply with the 2030 climate and energy policy targets, and the 2030 electricity interconnection targets. Gas PCIs will address the remaining bottlenecks in the EU gas transmission grid identified by the Regional Groups. The list of PCIs will ensure that most Member States have access to at least three sources of gas, including to liquefied natural gas, and that no Member State remains in energy isolation.

This Union list contains in total 34% fewer PCIs than the (fourth) Union list adopted in 2019. The list contains 38% less gas PCIs than the fourth Union list. The lower number of gas PCIs results mainly from (i) the completion of some projects, (ii) a more robust PCI selection process, and (iii) the prioritisation of projects addressing the remaining and most urgent essential bottlenecks taking into account the decrease in the estimated gas demand in line with the European Union's decarbonisation objectives.

PCIs included in this Delegated Regulation are to be implemented only after successful completion of permit granting procedures in all countries concerned, including environmental impact assessments and public consultations. PCIs need to comply with Union and national legislation, including environmental legislation and the unbundling provisions in Directive (EU) 2019/944 and Directive 2009/73/EC where applicable.<sup>3,4</sup>

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<sup>3</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>4</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).

## COMMISSION DELEGATED REGULATION (EU) .../...

of 19.11.2021

### amending Regulation (EU) No 347/2013 of the European Parliament and of the Council as regards the Union list of projects of common interest

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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<sup>5</sup>, and in particular Article 3(4) thereof,

Whereas:

- (1) Regulation (EU) No 347/2013 establishes a framework for the identification, planning and implementation of projects of common interest ('PCIs') which are required to implement the nine strategic geographical energy infrastructure priority corridors identified in the fields of electricity, gas and oil, and the three Union-wide energy infrastructure priority areas for smart grids, electricity highways and carbon dioxide transportation networks.
- (3) The list of PCIs is established every two years. The latest list was established in 2019 and entered into force in 2020. Thus, it is necessary to replace it.
- (4) Projects proposed for the inclusion in the Union list have been assessed by the regional groups referred to in Article 3 of Regulation (EU) No 347/2013 who confirmed that they meet the criteria laid down in Article 4 of that Regulation.<sup>(5)</sup> The draft regional lists of PCIs were agreed by the regional groups at technical-level meetings. The oil Regional Group agreed not to put forward a draft list of oil projects to be included in the Union list of PCIs in view of the Union's climate targets and the carbon neutrality objective. Following the opinions of the Agency for the Cooperation of Energy Regulators ('ACER') on 27 October on the consistent application of the assessment criteria and the cost/benefit analysis across regions, the regional groups' decision-making bodies adopted the regional lists on 9 November. Pursuant to Article 3(3) point (a) of Regulation (EU) No 347/2013, prior to the adoption of the regional lists, all proposed projects were approved by the Member States to whose territory the projects relate.
- (6) Organisations representing relevant stakeholders, including producers, distribution system operators, suppliers, and consumer and environmental protection organisations were consulted on the projects proposed for inclusion in the Union list.
- (7) PCIs should be listed per strategic trans-European energy infrastructure priorities in the order laid down in Annex I to Regulation (EU) No 347/2013.

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<sup>5</sup> OJ L 115, 25.4.2013, p. 39.

- (8) PCIs should be listed either as stand-alone PCIs or as a part of a cluster of several PCIs because they are interdependent or (potentially) competing.
- (9) The Union list contains projects at different stages of their development, including pre-feasibility, feasibility, permit-granting and construction. For PCIs at an early development stage, studies may be needed to demonstrate technical and economic viability and compliance with Union legislation, including environmental legislation. In this context, potential negative impacts on the environment should be adequately identified, assessed and avoided or mitigated.
- (10) The inclusion of projects on the Union list is without prejudice to the outcome of the relevant environmental assessment and permit procedure.
- (11) Regulation (EU) No 347/2013 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex VII to Regulation (EU) No 347/2013 is amended in accordance with the Annex to this Regulation.

*Article 2*

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

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

Done at Brussels, 19.11.2021

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*