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Delivering Efficient European Networks: Position of the Agency for the Cooperation of Energy Regulators on improving the efficiency of the European framework for energy infrastructure development

22 June 2016

Introduction

The Third Package and the Energy Infrastructure Package (EIP)¹ aim at facilitating the development of the European energy networks, and prioritising the focus of European efforts. The EIP provides a more targeted approach for evaluating cross-border network issues, identifying and assessing necessary network developments and accelerating the development and the implementation of projects. However, there are still aspects in respect to which the EIP approach can be improved, as the Agency for the Cooperation of Energy Regulators (the Agency) believes that the EIP could and should play a stronger role in improving the efficiency of energy network development.

Following the adoption of the second list of projects of common interest (PCIs) and taking advantage of the experience gained in the last three years, the time is right to start a reflection on how the European framework for infrastructure development could be improved. The Agency and national regulatory authorities (NRAs) have been closely involved in the implementation of the EIP, notably regarding the development of the Ten-Year Network Development Plans (TYNDPs) and the cost-benefit analysis (CBA) methodologies, the selection of PCIs, the identification of unit investment costs (UICs), and topics related to the implementation of projects. Taking advantage of this experience, this paper outlines the current thinking of the Agency towards defining a more coherent and efficient architecture for infrastructure development.

Most of the proposals could be implemented under the current legislative framework, and the Agency is ready to work with the Commission, the European Networks of Transmission System Operators (ENTSOs) and stakeholders to facilitate this. The Agency also identifies some areas in which further work is needed, so that the EIP ensures optimal use of existing networks and enables efficient delivery of new cross-border infrastructure. In these areas, the Agency will provide additional input in the course of the envisaged EIP review process.

With this in mind, the Agency proposes the following four themes for improving the EIP:

1. Providing a **more comprehensive understanding of infrastructure needs**;
2. Addressing these needs by enabling **efficient network development**;
3. Providing **reliable information** and ensuring efficient monitoring;
4. Enhancing coordination between decision makers on the **financing framework**

¹ In this paper, “EIP” refers mainly to Regulation (EU) No 347/2013.

These proposals complement the recommendations contained in the letter that the Agency sent to the European Commission on 2 February 2016 on the PCI selection process². The informal “Cooperation Platform” of the European Commission, the ENTSOs, the Agency and NRAs aims to formulate constructive proposals to the Regional Groups on key aspects of the PCI selection process. The ideas in this paper will be brought into the work of the Cooperation Platform and other relevant work areas.

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http://www.acer.europa.eu/en/Electricity/Infrastructure_and_network%20development/Infrastructure/Documents/Dominique%20Ristori_EC_160202_Cooperation%20Platform_web.pdf

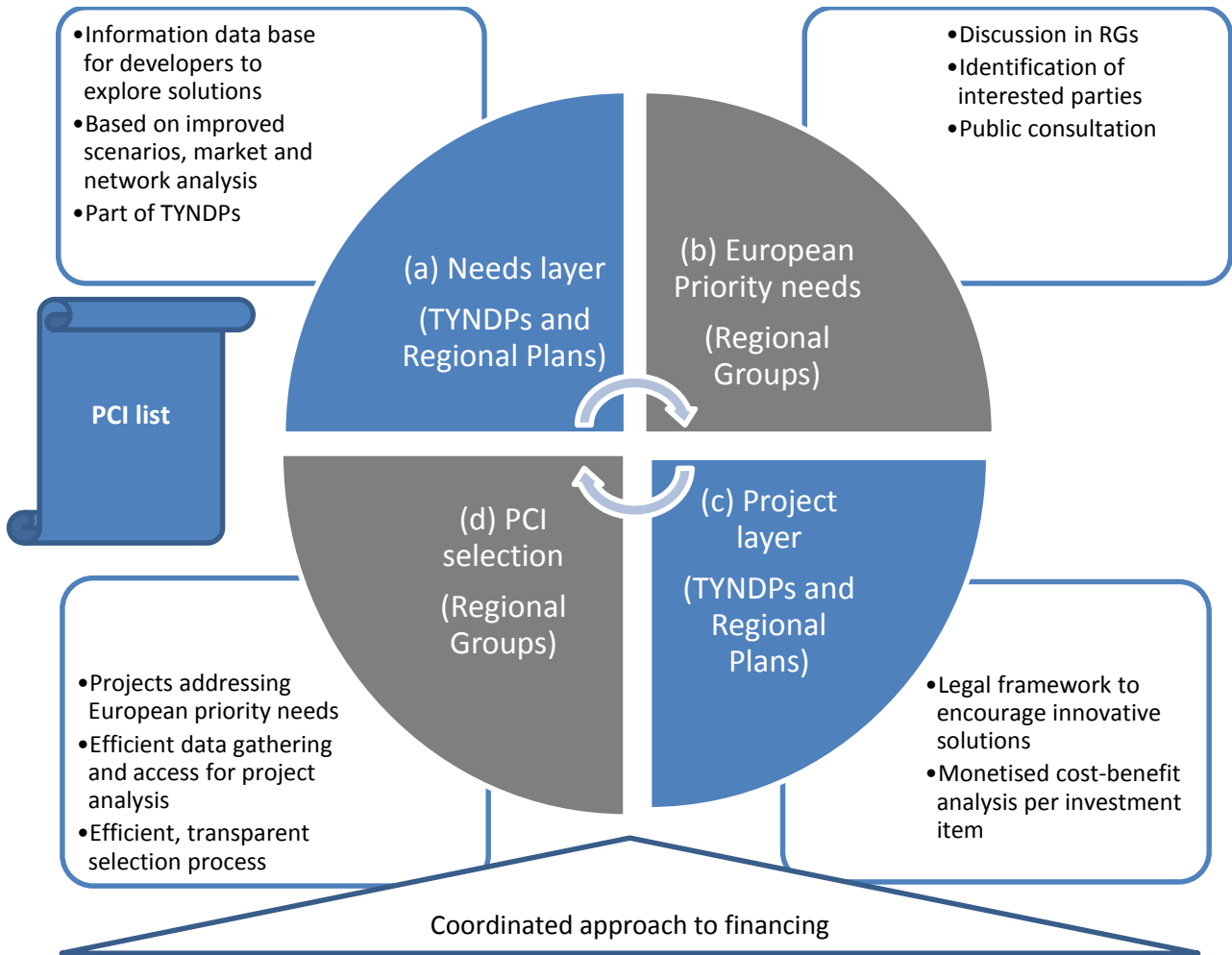
Executive Summary

The Agency believes that the EIP has begun to provide a foundation to facilitate cross-border network developments, but has identified several areas for further improvements. The Agency is of the view that the TYNDPs should transparently identify and describe infrastructure needs, independently of the possible projects which could address them. The identification of the needs in the TYNDPs should allow Regional Groups to discuss and agree on the “European priority infrastructure needs”, and on the countries interested in solving a given infrastructure need. By providing a solid platform for all developers to propose solutions on an equal basis, such a process would pave the way to a sound PCI selection, building on detailed and reliable information to be provided by project promoters, in particular to allow an adequate and timely assessment of the proposed projects by NRAs.

It should however be clearly acknowledged that in complex cases, selecting the most efficient project is far from straightforward, as a project can be dependent on future market and network developments or compete with other projects. For these reasons, not all PCIs should necessarily be built.

For the projects progressing towards implementation, the various financing and funding options made available by the EIP should be used, where necessary, based on the particular characteristics of each given project, as supported by the results of a monetised CBA. A clearer definition of which instruments should be used for which purpose is therefore needed, to help avoid overlaps, optimise the use of public funds and network tariffs, and facilitate an increased coordination of decision-makers, while maintaining their respective roles and responsibilities.

Diagram: Vision for the EIP



1. Understanding infrastructure needs

Current state of play

TYNDPs should identify where infrastructure needs³ - i.e. areas where network capacity should be expanded - may occur in the future. However, past Opinions of the Agency on the TYNDPs found that the plans missed an analysis of infrastructure needs or provided it with an inadequate level of detail. In particular, the plans have so far fallen short of providing sufficient information on infrastructure needs to help Regional Groups and developers identify where further action should be explored.

Significant room for improvement was also identified in terms of the granularity of information to be provided and the level of transparency to be achieved. Stakeholder involvement should also be further fostered.

Target Model: what the EIP should be doing

The TYNDPs should go further in terms of providing a more comprehensive identification and evaluation of needs. This will be essential for providing a full picture of where efforts should be focused on addressing Europe's infrastructure gaps.

The first, challenging step is the elaboration of a limited set of credible scenarios to identify infrastructure needs. It requires the strong involvement of policy makers, market participants and stakeholders to reflect on the possible evolutions of energy policies, markets and networks. **A more active role of the European Commission and Member States in the definition of scenarios, with the Agency and NRAs having a major consultative role, would reinforce the credibility of the scenarios and their acceptance by all stakeholders.** In the short-term, the Agency recommends that consultation processes on scenarios for both TYNDPs be aligned to maximise stakeholders' involvement and to optimise consistency across the two sectors. **The ENTSOs should jointly describe, in a common document, the scenarios and the rationale behind them.**

After elaborating the scenarios, **TYNDPs should transparently identify and describe infrastructure needs, independently of the possible submitted projects.** Particular attention should be paid to the time differentiation of needs, ideally presenting the evolution of each need under the scenarios across the full study horizon of the TYNDP. At a minimum, four points in time over the study horizon should be used. The objective of this needs-layer would be to provide a reliable and detailed platform of information for all developers, both transmission system operators (TSOs) and non-TSO developers, to enable them to assess how to address the needs in the most economically efficient way at the best time. Ideally, on the basis of this information, developers would also be able to propose competing solutions. Time differentiation of needs should also enable a more targeted prioritisation of European efforts.

This **'needs-layer'** of the TYNDPs should precede the evaluation of projects to allow a clearer understanding of where efforts should be focused. Projects submitted for inclusion in the TYNDP should be assessed later in a separate *'project-layer'*, and be classified according to the needs they are

³ Infrastructure needs should be understood as needs in terms of security of supply, market integration, system flexibility, interoperability, competition or sustainability that are due to infrastructure shortcomings.

addressing. The TYNDPs thus have a key role to play as the main pan-European source of information on existing networks, current and future needs, and possible projects to address those needs.

It is the responsibility of the ENTSOs⁴ to perform the identification, justification and quantification of infrastructure needs in the TYNDPs, in line with the EIP's key objectives. In electricity, the possible role of Regional Security Coordinators and of other competent bodies in contributing to the assessment of current needs, alongside ENTSO-E's evaluation of future needs, could be investigated.

The assessment of the infrastructure needs should take into account the criteria foreseen in the EIP:

- Market integration;
- Security of supply;
- Sustainability;
- Competition.

This list of infrastructure needs should be seen as an indication of where potential projects should be explored, and as a platform of data for developers to propose solutions. Any benefit that a project brings by addressing a specific need will have later to be assessed against the costs of that project. If there are no projects that can adequately address the need in a cost-efficient manner, then the need should be highlighted as "explored, but not met".

On the basis of the needs-layer of the TYNDPs, **the Regional Groups should identify the European priority infrastructure needs**. However, the goal of this process should be not only to identify priority infrastructure needs, but also **to identify and agree on the countries which would be interested in solving them**. Such a process should be open to countries outside the European Union. To facilitate the early identification of concerned countries, each Regional Group member (Member States, NRAs, and TSOs) could provide a substantiated document outlining what the priority needs⁵ are from their perspective. This early identification of interested countries (and the respective positions of Member States, NRAs and TSOs) should allow simplifying subsequent steps, notably the financing, as countries which are interested in solving a given issue should also be ready to consider participating financially, if needed⁶.

This stage of the process should build on the needs-layer of the TYNDPs, but also take into account other relevant sources of information, covering both energy policy orientations⁷ and the analysis of the current functioning of markets and networks⁸.

⁴ From this perspective, the capability of the ENTSOs to do this work should be monitored and ensured

⁵ Those needs identified in the TYNDPs which should be implemented with priority.

⁶ Stating an interest to solve a given need should not be understood as an automatic agreement financially to contribute to its solution, but rather as a willingness to participate in the decision-making process.

⁷ Building on the policy documents issued by the Commission and the Member States.

⁸ Building on documents such as the ACER/CEER Market Monitoring Report, as well as ACER Congestion Monitoring Report and ACER Gas Target Model.

When doing so, Regional Groups could notably elaborate on:

- The assessment of the scale and the urgency of investment needs, and what the impacts of not addressing the needs would be;
- The assessment of whether there is added value in dealing with the issue at European, regional or bilateral level.

This process of reviewing existing policy orientations, and assessment of priority needs should be run biennially, and take place in the Regional Groups. This regular, systematic, identification of “*European priority infrastructure needs*” should then allow a more efficient subsequent selection of “*Projects of Common Interest*”.

| Measures for Improvement | Responsibility | Implementation |
|---|-------------------------------|---|
| The TYNDPs should include a systematic and detailed analysis of infrastructure needs – separately from the assessment of projects. | ENTSOs | Immediately |
| A common and transparent process for the elaboration of scenarios in gas and electricity should be established, conducted jointly by both ENTSOs, in order to foster stakeholder involvement and to ensure consistency between the two TYNDPs. | ENTSOs | 2017, scenarios for the 2018 TYNDPs |
| The next TYNDPs’ needs-layer should be published before the projects are submitted for inclusion in the TYNDP. Such a needs-layer should outline how each need may evolve over time under different scenarios, and provide all developers with a platform to propose projects or innovative solutions. | ENTSOs | 2017, as a preparatory step before the 2018 TYNDPs |
| Discussing and agreeing on European priority infrastructure needs within Regional Groups, before selecting projects | Regional Groups, Stakeholders | Immediately after the TYNDP analysing needs are published |
| The discussion of European priority infrastructure needs should allow the identification of countries interested in solving a given issue. To facilitate the early identification of concerned countries, each Regional Group member (Member States, NRAs, and TSOs) could provide a substantiated document outlining what are the priority needs they identify from their perspective. | Regional Groups | Next PCI selection |

2. Addressing infrastructure needs

Current state of play

The current implementation of the EIP provides tools to encourage the development of certain projects with net positive European benefits, and seeks to prioritise where European efforts are focused through the PCI selection process. However, there is room to improve the efficiency and effectiveness of this process, to ensure that the right projects that address the European priority infrastructure needs can get the appropriate support at European level.

During the first two PCI selections, the strong focus on methodological issues, the late submission of project-specific CBA results, the insufficient level of detail of CBA information, time restrictions for the evaluation of PCI candidates by NRAs and for the Agency to provide its opinion on the consistent application of the selection criteria and of the CBA, as well as limited time for discussion of PCI candidates within the Regional Groups, hampered an efficient and effective PCI selection. These issues need to be addressed in the next selection round.

Smarter solutions, exploiting the existing networks, are not always given the opportunity to be considered and to compete with larger new projects. If there are credible, smarter and cheaper alternatives to addressing the identified needs⁹ compared to a project in the TYNDP, then Regional Groups should transparently consider whether it is right to grant such alternative projects the PCI status.

Non-TSO developers can play a useful role in encouraging new and innovative solutions to infrastructure needs. However, some non-TSO developers have indicated that they face limitations in the projects that they can propose to address needs, or additional barriers, compared to those faced by incumbent TSOs, in the development phase, even if the project has acquired PCI status. In extreme cases, non-TSO developers may be denied the connection of new projects or appropriate regulatory support. This issue has been raised particularly in electricity.

Currently, there is also no opportunity in the process for prospective developers to use the TYNDPs as a basis for proposing solutions to the identified needs, and to achieve PCI status in the same cycle. As a result, this set-up unnecessarily limits the developer-led options for addressing cross-border needs and restricts innovation.

Target Model: what the EIP should be doing

The EIP could and should play a stronger role in facilitating the identification of the most efficient projects and in providing opportunities for finding innovative alternative solutions (including the better use of the existing network). The EIP is not, nor should it be, a mechanism for centrally-planned network investment. But its role in prioritising European efforts and support can be improved to ensure that the most efficient and effective solutions are identified and supported.

⁹ These solutions may not involve infrastructure development or may involve infrastructure projects that could be submitted for future TYNDPs, while still being on time to address the identified need.

To facilitate the PCI selection, **the *project-layer* of the TYNDPs should offer monetised cost-benefit analyses under different scenarios that quantify how each investment item is likely to address the specific infrastructure need over time**, thus allowing decision-makers to compare *comparable and even competing* solutions. The CBAs need to provide costs and benefits for individual investment items to enhance the decision-making process, including sensitivity analyses.

This should pave the way for a sound PCI selection process, adapted to the infrastructure needs identified at the previous stage. The PCI selection methodology needs to be adjusted to be able to deliver meaningful, clear and reproducible results on the basis of the TYNDPs, the CBAs and other relevant project-related information submitted by the promoters in a timely manner. **The publication of the methodology before the start of the selection process**, coupled with a transparent, publicly available explanation on how each project attribute is taken into account and what role the methodology plays in drawing up the final list of PCIs, would greatly enhance the robustness of the PCI selection. Moreover, the selection process should not only take into account CBA results, but should also consider the feasibility of projects.

Building on lessons learned from the past PCI selections, the Cooperation Platform was set up so as to facilitate future selection processes, and will work to achieve the following objectives:

- Ensuring that Regional Groups can focus their attention on the analysis of candidate projects rather than on methodological issues;
- Proposing adequate PCI application requirements, in terms of information, data and CBA results to be provided by project promoters in a timely manner¹⁰, taking into account the differences of maturity between projects;
- Ensuring that both methodological and application requirement issues are solved in a timely manner, so as to allow a smooth selection process.

In complex cases, selecting the most efficient project is far from straightforward, potentially requiring the consideration of competing projects. The need for a given project can also be dependent on future market and network developments in a way that a reassessment at a later stage is needed. In either case, **it should be clearly acknowledged that not all PCIs should necessarily be built, as some could be competing and some longer-term PCIs could be conditional upon future developments¹¹.**

The current TYNDP, PCI and Connecting Europe Facility (CEF) funding cycle is currently too lengthy for some developers, and reduces the impact that CEF funding for studies, which can be needed at the early stage, may have on the efficient development of projects. This is especially problematic for projects that require EIP support at the beginning of their development and need to wait for the next TYNDP window to begin the process to achieve PCI status. To start addressing this, **the timing between TYNDP project submission, achieving PCI status and receiving appropriate support should be aligned, streamlined and shortened where possible.**

¹⁰ Which is a prerequisite for NRAs to be able to perform proper assessments of candidate projects

¹¹ The EIP should allow NDPs to reflect the possible uncertainties associated with the PCI projects. Where projects in NDPs need to be implemented, the inclusion of PCIs in the plans should be examined by NRAs

By increasing the number of developer-led options (including from non-TSO developers) to resolving European infrastructure challenges, the EIP should help to drive costs down, identify more efficient options for network development and encourage more innovation within TSOs and across the European network as a whole. All developers should be on an equal footing when being asked to address European infrastructure needs.

Areas to be further investigated

A detailed list of indicators to be used for the CBA methodologies are provided in annexes IV(2) and IV(3) of Regulation (EU) No 347/2013. This has presented unnecessary legal limitations to how the ENTSOs and Regional Groups can present and use data to select the best possible projects, restricting the efficiency of the selection process. As the CBA methodologies are subject to regular refinement, the validity of these annexes should be reassessed to see if the CBA criteria could be made more flexible for the needs of the Regional Groups.

In electricity, further work investigating whether there are substantial national barriers faced by non-incumbent developers in selected countries, and whether such a situation is compliant with the Third Package and the EIP, is needed. This includes both barriers for non-incumbent TSOs developing solutions to European infrastructure needs and barriers to the development of PCIs of non-incumbent promoters.

As outlined above, the current cycle - from submitting projects for inclusion in the TYNDP to achieving PCI status - is lengthy and can reduce the efficiency delivered by the resulting PCI lists. Therefore, **ways should be explored to address this issue**, including the consideration of whether, under exceptional circumstances, projects that were not explicitly registered in the project-layer of the TYNDP, but which can address an identified, but unmet European infrastructure need, could be considered for PCI status, while making sure that the requirements of the EIP regarding the level of regulatory scrutiny of the PCI candidates are met¹². This could allow an efficient PCI selection process in which potentially beneficial projects that address European infrastructure needs would enjoy critical EIP support at the beginning of their development, rather than having to wait an additional 2 years before the next PCI selection. Such an approach would have to ensure modelling reliability for all projects.

Finally, the approval and revision processes involving public authorities defined by the EIP could also be reviewed to ensure both that procedures are as smooth as possible and that the key views of public authorities are adequately taken into account, in a timely manner.

¹² More detailed criteria for projects entering at this point in the process should be developed to ensure only robust projects are taken into account

| Measures for Improvement | Responsibility | First Time Implementation |
|---|-----------------------------------|---|
| The Project-layer of the TYNDPs should offer monetised cost-benefit analyses under different scenarios that quantify how each investment item is likely to address the specific investment needs over time. | ENTSOs | Next PCI selection |
| In complex cases, allow the inclusion of competing and conditional projects, while clearly acknowledging that not all PCIs should be built. | Regional Groups | Next PCI selection |
| The timing between TYNDP project submission, achieving PCI status and receiving appropriate support should be streamlined and shortened where possible | Commission | Next PCI selection |
| Ensure that Regional groups can focus their attention on the analysis of candidate projects rather than on methodological issues, by proposing application requirements for PCI candidates and selection methodologies adapted to the infrastructure needs to be addressed. Ensure that the overall process is adequately planned and that timings are respected. | Cooperation Platform | Next PCI selection |
| <i>Further work is needed</i> to assess whether, under exceptional circumstances projects that were not registered in the project-layer of the TYNDP, but which can address an unmet European infrastructure need (as specified by the Regional Groups), could be considered for PCI status | Commission | The Commission's 2017 review of the EIP |
| <i>Further work is needed</i> on whether the selection criteria for PCIs in Regulation (EU No 347/2013 should be made more flexible to address the requirements of Regional Groups | Commission, the Agency and ENTSOs | The Commission's 2017 review of the EIP |
| <i>Further work is needed</i> on ensuring all projects and alternative solutions (including from non-TSOs promoters) can be developed and treated equally (to incumbent TSO proposed solutions). | Member States and the Commission | The Commission's 2017 review of the EIP |

3. Reliable information under the EIP

Current state of play

One of the most significant barriers to developing an efficient network is the lack of accurate, reliable and up-to-date information. To redress this situation requires, on the one hand, sharing current technical network data and an efficient monitoring of the status and costs of projects, and, on the other, ensuring that Regional Group members, especially NRAs, have access to the relevant data for assessing proposed solutions, advising on CBAs, and challenging assumptions about efficiency.

The EIP lays the groundwork for further addressing these challenges with the help of the TYNDPs and the PCI monitoring activities and the obligation to publish a report on Unit Investment Costs. However, as indicated in the 2015 Unit Investment Cost Report published by the Agency¹³, such unit investment costs can only provide a limited insight into the efficiency and the business cases of projects, and further progress still needs to be made to foster efficient network development through the use of accurate and comparable project cost data by NRAs.

Target Model: what the EIP should be doing

Data provided from project promoters and used in the various processes under the EIP should be fully reliable and consistent. The administrative burden for project promoters should be minimised, while guaranteeing the adequate quality of the information provided for the respective processes. Finally, the data required for the inclusion of projects in the TYNDP and PCI selection process should be clearly defined in advance.

Therefore **the ENTSOs, as well as the Regional Groups, need to develop a minimum set of required data and information. Such minimum requirements must consider the needs of the CBA methodology in order to allow a proper selection of projects at the PCI selection stage.** To enable a proper evaluation of PCI candidates, information on costs and benefits needs to be provided at the level of individual investment items, at country level, accompanied by information on input data, assumptions and detailed calculations. Furthermore, it is essential that **NRAs are provided with the right information and granted sufficient time to conduct a coordinated evaluation and to present their findings to the Regional Groups.**

TSOs should provide transparent information on planned and actual costs, particularly investment costs. As uncertainty on the project cost is higher in the earlier project stages (as already documented by the Opinion of the Agency on the draft ENTSO-E TYNDP 2014), information requirements should be defined accordingly, considering the use of reference costs where relevant.

By doing so, the EIP will allow network users clearly to understand how much they are spending for an infrastructure project and which benefits will be delivered. It is essential that this cost information

¹³ http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/uic%20report%20-%20gas%20infrastructure.pdf
http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/UIC%20Report%20-%20Electricity%20infrastructure.pdf

is available to NRAs for them to fulfil their duties according to the EIP. Nevertheless, sensitive cost data must not be publicly disclosed¹⁴. Transparency on the actual investment costs of recently commissioned projects (particularly for the case of innovative technologies) is fundamental to provide sound indications on the foreseeable costs of future projects.

Areas to be further investigated

To help improve the efficiency of network development, NRAs need a better understanding of proposed as well as actual project costs. Access to cost information is key, and there is a need to assess legal limitations that could prevent NRAs from obtaining cost information and sharing it in the framework of the Agency. **The possible framework and actual tools, such as databases and the associated rules of procedure, for sharing project-cost information in the framework of the Agency, should be investigated.**

Moreover, the availability of unit investment cost data over time should be ensured, in order to enable the Agency and NRAs accurately to monitor the progress of project costs over the various project development stages. If the NRAs, cooperating in the framework of the Agency, are to repeat the unit investment cost exercise, **the legislative framework would need to be changed to place an obligation on infrastructure owners to provide the data that NRAs and the Agency require.** The Regulation would also need to stipulate the periodicity with which the exercise should be repeated.

The standardisation of reporting and monitoring obligations of project promoters in order to reduce the administrative burden needs to be investigated by the Commission, the Agency and the ENTSOs. This could prevent the need to submit the same data several times for different reporting purposes, for example, by using a common database for different reporting purposes, where data would only be updated when needed. Additionally, this could reduce the risk that information is reported differently to different audiences. This might be achieved by cooperation between the Commission, the Agency and NRAs, and the ENTSOs, with clear guidelines regarding confidentiality and data protection as well as competencies regarding data access.

¹⁴ Individual project costs should only be published at an aggregated level (per investment item), rather than, for instance, on an equipment or component level.

| Measures for Improvement/Investigation | Responsibility | First Time Implementation |
|---|--|---|
| Setting up minimum data requirements for submission of projects to TYNDP and PCI candidates. | ENTSOs, and Regional Groups | Next TYNDP / PCI selection |
| Ensure data availability in order to enable the Agency and NRAs to accurately monitor the progress of project costs over the various project development stage monitoring reports | Project promoters, the Agency and NRAs | Immediately |
| <i>Further work is needed</i> on the possible framework and actual tools for sharing project-cost information between NRAs and the Agency | The Commission, the Agency and NRAs | The Commission's 2017 review of the EIP |
| If the NRAs are to repeat the unit investment cost exercise, the legal basis would need to be reviewed to place appropriate obligations on data providers | The Commission | The Commission's 2017 review of the EIP |
| <i>Further work is needed</i> to assess how reporting obligations of project promoters can be streamlined and standardised | ENTSOs, the Agency and NRAs | Until next TYNDP round |

4. The financing and funding issue: identifying the project-specific obstacles, and using the appropriate instruments to tackle them through coordination of decision-makers

Current state of play

The Agency's Recommendation No 03/2014 on incentives demonstrated that existing regulatory frameworks already provide numerous measures to cover financing issues and - if necessary – provide incentives for necessary investments. There is thus no general issue of “financeability” of TSOs and investments that would need to be addressed by general measures¹⁵, but rather there could be particular projects in need of tailored solutions.

Within the current EIP framework, project promoters are the ones responsible for requesting or applying for non-commercial financing sources (investment requests including cross-border cost allocations - CBCAs - and applications for CEF funding and other financing instruments and funds - e.g. European Fund for Strategic Investment, structural funds), and thus of the content and the timing of these applications. Having an entirely sequential decision-making process (market test for gas, CBCA, CEF application) can lead the project promoter to make some hypotheses on the level of financing that will be granted in the subsequent steps. This process does not necessarily allow for an optimal overall use of other available financing and funding sources, could possibly lead to attempts to gaming and free-riding in some instances, and can cause inefficient delays in project implementation.

Target Model: what the EIP should be doing

The various financing and funding options made available by the EIP should be used, where necessary, based on the particular characteristics of each project, in particular the benefits which it would deliver. **A clear definition of which instruments should be used is therefore needed, to help avoid overlapping and optimise the use of public funds and network tariffs.** This should allow the optimal use of the various financial instruments available, either separately or jointly.

In practice there may be opportunities for gaming and therefore the financing problems of specific projects, as well as possible solutions, should be discussed among decision makers. This approach would **foster establishing a common understanding about the benefits of each project, of the financing obstacles it faces, and of whether its costs should be carried by particular users of the infrastructure, by network users in general, or by the public at large.**

In case a specific project were to face a potential financial hurdle preventing its implementation, the coordinated analysis of the project characteristics would have to include, but not be limited to, the following questions:

- To what extent can the project be financed through capacity bookings (gas) or future congestion rents (electricity)?

¹⁵ This is also confirmed by the “CEER Report on Investment Conditions in European Countries”, published on 14 March 2016 and ACER PCI Monitoring Report.

- Is the project facing an up-front investment barrier¹⁶?
- Is the delivery of the benefits of a cross-border project dependent on several promoters? How to ensure a coordinated regulatory approach?
- Is the hosting country facing a net negative impact from the project (costs that are higher than benefits at national level)?
- Does the project's cost create a disproportionate burden for network users, even though the project is beneficial overall?

The answers to these questions, which require a common understanding by all decision-makers, should determine which financing tools – other than the commercially available ones - should be used (if any), and in which order. There is thus a need for an enhanced cooperation between decision makers (while maintaining their respective roles and responsibilities) to discuss the financing structure of the project.

From this point of view, it should be noted that the CEF and CBCA instruments should have clear and pre-defined objectives and criteria, differentiating between what should be financed by European taxpayers on the one hand, and energy consumers in a given region on the other hand. The purpose of a CBCA should be, in general, to address cases where the hosting country faces a net negative impact (benefits in the hosting country alone are not sufficient to justify the implementation of the project) which could be compensated by contributions from net benefiting countries¹⁷.

The risks of a cross-border project not delivering its benefits (which is mainly¹⁸ a risk to society, not the project promoter) because of the non-performance by one of the promoters of the required actions or investments should be addressed through an enhanced coordination between the NRAs concerned by the project. The regulatory framework should encourage the involved promoters to implement the project as planned in a timely manner.

Areas to be further investigated

The relationship between CBCA and CEF grants for works should be investigated further, to enable the best use of available financing instruments.

It should also be investigated **how consensual solutions between decision-makers could be fostered at an early stage to allow countries to express their willingness to finance a given project**, and thus identify whether a CBCA decision process would be needed and justified.

¹⁶ For instance because the amount of investment needed is high compared to the size of the promoter.

¹⁷ See the Agency's Recommendation on CBCA n°05/2015

¹⁸ Depending on the regulatory frameworks, see the Agency's Recommendation No 03/2014

| Measures for Improvement | Responsibility | First Time Implementation |
|--|------------------|---|
| A clear definition of which financing instruments should be used for which purpose should be established, to help avoid overlapping and optimise the use of public funds and network tariffs | Commission | Near future |
| The financing structure of a given project should be discussed between all decision-makers (NRAs for tariffs, EC for public funding) prior to the submission of the investment request | Commission, NRAs | Immediately |
| As CBCA and CEF serve different purposes, <i>further work is needed</i> to explore the best relationship between CBCA decisions and CEF funding. | Commission | The Commission's 2017 review of the EIP |
| <i>Further work is needed</i> on how consensual solutions between decision-makers could be fostered at an early stage to allow countries to express their willingness to finance a given project | Commission | The Commission's 2017 review of the EIP |



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