

Opinion of the Committee of the Regions on the ‘Proposal for a Regulation on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC’

(2012/C 277/13)

THE COMMITTEE OF THE REGIONS

- notes that the challenge with high and maximum voltages is to bring renewable electricity from offshore and onshore sites to regions with the greatest energy requirements in a cost-effective and efficient manner, and that in the case of low and medium-voltage electricity, the required infrastructure for a multitude of new, decentralised producers feeding electricity into the system must be created;
- underlines the need to send an unequivocal political signal from the Commission to Member States, to the economy and the banking sector, and to partners across the globe, that the course of increasing the share of renewables in the energy mix of the future that has been embarked upon is irreversible and is a worthwhile area of private investment;
- stresses that in order to achieve the Europe 2020 goals, there should further development of smart networks at local and regional level, as called for in earlier CoR opinions (CdR 160/2008 fin, CdR 8/2009 fin, CdR 244/2010 fin, CdR 312/2010 fin, CdR 7/2011 fin and CdR 104/2011 fin). End-user prices must, in connection with computer-based load management, be connected to production and demand so as to act as an incentive for energy efficiency and more effectively align decentralised energy production with decentralised energy consumption;
- believes it should be examined whether, as a less intrusive tool, less detailed draft guidelines for the reference of national decision makers would not be more suitable. That way, the Commission would allow the Member States as broad a scope as possible for deciding on the concrete integration of existing structures. This concerns planning and authorisation authorities in the Member States – which may be structured along federal lines – as well as the existing regional groups from the third internal market package. In general, assigning tasks to existing, successful institutions should take priority over creating new structures.

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Reference document	Proposal for a Regulation on Guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC COM(2011) 658 final - 2011/0300 (COD)

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

1. welcomes the fact that this Regulation aims at the full integration of the internal energy market, ensuring that no Member State is isolated from the European network, guaranteeing security of supply and solidarity among Member States and adhering to the principles of sustainable development and protection of the environment. This is a key prerequisite for reducing greenhouse gas emissions, boosting energy efficiency and increasing the share of renewable energy in final energy consumption – all by 20 % by 2020;

2. stresses the crucial importance of this initiative, which should ensure energy security, with technical solutions of all kinds serving that end being used, especially the development of transport and distribution systems and all kinds of already available and potential renewables, and using available support measures;

3. expects this proposal to contribute to smart, sustainable and inclusive growth and bring forward crucial benefits for the entire European Union in terms of competitiveness and economic, social and territorial cohesion;

4. welcomes the fact that in order to meet the objectives more quickly, the initiative identifies, for the period up to 2020 and beyond, a limited number of trans-European priority corridors and areas covering electricity and gas networks as well as transport infrastructure for oil, natural gas, carbon dioxide and biomethane (cleaned biogas from biogas plants), for which European Union action is most warranted. By streamlining and speeding up approval procedures, strengthening legitimacy through timely public consultation, facilitating regulatory treatment of projects, fairly distributing costs according to use and thereby aligning profits and risk, and providing the necessary market-based and direct financial support through the EU, the initiative will make a sustained contribution to accelerating initiatives of common interest;

5. points out that the common European energy network has to meet higher safety standards. In particular, the possibility must be ruled out that cyber or physical attacks could jeopardise security of supply in Europe and adversely affect the economic output of Member States;

A. *State of play*

6. notes that each EU Member State currently relies on an energy mix determined by geographical, geological, and technological conditions, local energy policies, and national requirements. It consists of a base load that has hitherto mainly been fed by fossil, nuclear and some renewable sources (hydropower and solid biomass), and a variable load including a number of flexible fossil sources and a share of weather-dependent renewable sources, which is currently subject to fluctuations. In order to meet agreed climate targets, it will be necessary above all to improve energy efficiency, reduce consumption of energy used for heating and motor fuels (not taken into account in primary energy balances) and increase the share of total energy production made up by renewables. The resulting natural fluctuations must be balanced by a series of measures, such as modernising existing power stations, building highly versatile gas-fired power stations that combine production of heat and electricity, expanding pumped hydro-storage capacity or other storage technologies, and upgrading and expanding available transmission and distribution systems. All levels of the network are in need of modernisation. Whereas in the case of low and medium-voltage electricity, the required infrastructure for a multitude of new, decentralised producers feeding electricity into the system must be created, the challenge with high and maximum voltages is to bring renewable electricity from offshore and onshore sites to regions with the greatest energy requirements in a cost-effective and efficient manner;

7. in order to ensure the energy security of the Member States, solutions should be introduced based on modernisation and further exploitation and expansion of existing conventional and alternative commercial sources, as they make a decisive contribution to ensuring the stability of the electrical energy systems, e.g. at local and national level;

8. stresses that current ideas must emphasise testing feasible transmission and storage technologies, deploying information and communication technologies, and encouraging the development of local and regional energy plans;

9. notes that in the coming decades, natural gas can also play an important role in balancing electricity generation in Europe. To this end, gas imports must be diversified, its production developed in the EU Member States, using conventional and unconventional sources, biomethane (cleaned biogas) produced from biogas plants, gas networks extended using

transmission pipelines, and storage capacities enhanced. Operating additional gas power stations for regulating power will require a stronger pipeline network in those Member States where natural gas is an important energy source;

10. recognises that fossil fuels will inevitably play a part in the European energy mix in the foreseeable future too, even if their share falls steadily. Carbon capture and storage (CCS) technology can, during this time, make a contribution to controlling CO₂ emissions, but this presupposes that it can be developed into a technically feasible system that can be run affordably and safely. There is, however, still a need for research and development with a view to practical testing, especially as regards technical and economic aspects and the associated environmental impact. Nonetheless, the future development of a cross-border network for carbon dioxide transport as well requires steps to be taken now at European level;

B. *Subsidiarity*

11. stresses that the EU has agreed to climate targets, the achievement of which will require a considerable amount of effort on the part of all Member States. Part of this effort involves expanding energy infrastructure in as intelligent a way as possible. In addition to hooking up a multitude of small electricity producers that use renewable sources to existing networks, developing intelligent distribution networks able to manage demand and supply on a decentralised basis, and increasing and facilitating interconnections to countries with energy resources in order to boost the production of electricity from renewable energy sources, national infrastructures must also be connected to one another in an efficient and, most importantly, flexible manner. The Commission already picked up on these ideas some years ago with TEN-E;

12. acknowledges that in parallel to this, the Member States have developed national plans to increase the share of renewables in their energy mix and legislated correspondingly. Once the third EU energy package comes into force, there will also be a series of transnational institutions and groups successfully working together;

13. notes that despite the structures which have since developed, concrete, transnational energy projects face difficulties resulting from the composition of national infrastructures, specific energy policy priorities, or different responsibilities. These incompatibilities have led to time being lost on areas like planning, funding and development of TEN-E projects;

14. notes that with its proposal for a regulation, the Commission seeks to ensure that these incompatibilities are recognised as early on as possible and that the proposed consultation process is used to overcome them as quickly as possible. The Commission's plan aims to accelerate a restricted number of transnational key projects and national projects with

significant transnational impact, which should be seen as the building blocks of a future European high-voltage transmission network;

15. acknowledges that the much more extensive task of upgrading national networks to meet future energy demand is still in the hands of the Member States, and is only indirectly affected by the proposal. This procedure is based on Articles 170-172 of the TFEU. While this does affect the subsidiarity principle, due to the limited number of projects with transnational scope concerned, it does not breach it;

16. underlines the fact that the value lies not only in the development of a European master plan for transnational networks, but also in sending an unequivocal political signal from the Commission to Member States, to the economy and the banking sector, and to partners across the globe, that the course of increasing the share of renewables in the energy mix of the future that has been embarked upon is irreversible and is a worthwhile area of private investment, too;

17. notes that as its legal instrument, the Commission proposes a regulation immediately applicable to all Member States and binding in all parts. The CoR considers this broadly proportionate in the light of the desired acceleration of the authorisation process;

18. points out, however, that the streamlining of the authorisation process for infrastructure projects could constitute a serious encroachment on the planning rights of the Member States and on the rights of affected parties and the public to participate. The constitutionally guaranteed jurisdiction of the states in federal systems over the implementation and formulation of planning and authorisation procedures must also be taken into account in projects of common interest. The Committee does not consider that all of the policies detailed in Chapter III can still be seen as 'broad lines' or 'guidelines' for trans-European networks within the meaning of Article 171 of the TFEU, and therefore not as a genuinely necessary minimum alignment of national administrative procedures;

19. in this connection, believes it should be examined whether, as a less intrusive tool, less detailed draft guidelines for the reference of national decision makers would not be more suitable. That way, the Commission would allow the Member States as broad a scope as possible for deciding on the concrete integration of existing structures, facilitating and prioritising interconnections when a Member State has the resources to increase renewable electricity production. This concerns planning and authorisation authorities in the Member States – which may be structured along federal lines – as well as the existing regional groups from the third internal market package. In general, assigning tasks to existing, successful institutions should take priority over creating new structures;

20. is critical of the overly prescriptive time limits in the administrative procedure. Particularly when it comes to projects of common interest, quality must take priority over speed. Alongside security of supply, the quality of projects of common interest will play a not insignificant role in determining final consumer prices. Not just the interests of investors, but also the costs for local SMEs and citizens are also an important location factor;

21. recommends that problems arising during the planning and implementation of projects of common interest should be dealt with from the bottom up, i.e. in accordance with the subsidiarity principle and that all possible alternatives be examined thoroughly. Only when the local, regional, national or multinational authorities cannot reach a consensus in time should the European project coordinator step in. There have already been cases in the past where the intervention of a European moderator was helpful. The existence of a European coordinator helping to resolve difficulties on a case-by-case basis does not appear per se to breach the subsidiarity principle. Appeal for assistance by, or, where appropriate, extension of the mandate of the coordinator should take place on the basis of a joint decision by the Council and the European Parliament;

22. welcomes the establishment of a national authorisation authority as a 'one stop shop'. The decision on whether to apply integrated or coordinated regulation in the authorisation procedure should be left to the discretion of national authorities;

23. supports the proposed regulation on transnational cost sharing with ACER's involvement. This also applies to the obligation of national regulatory authorities to put in place incentives for investment through compensation for projects of common interest. These incentives should be proportionate to the risk;

24. believes it is essential that the list of projects of common interest be regularly reviewed and adapted to changing requirements;

C. Acceptance

25. expressly stipulates that the creation of the technical prerequisites for achieving our ambitious energy and climate targets can only succeed with the consent of the people, and never without it. For this reason, informing and involving citizens, communities and municipal authorities in a timely manner ought to be expressly welcomed;

26. underlines the fact that this turn towards low-carbon electricity production necessitates a reworking of network architecture. Whereas connecting new small-scale producers to the low and medium-voltage networks and intelligently managing them can largely take place without radical changes to the landscape, construction of new lines will be an unavoidable part of a new European high-voltage highway. Priority should be given to lines making it possible to increase interconnections to States

that can guarantee higher renewable electricity production. Given that the costs of building this system will ultimately be borne by electricity consumers, it is essential that its technical design be as intelligent and efficient as possible. This includes minimising its impact on the landscape. These implications must be explained to people as early on and as consistently as possible;

27. calls on national governments to create incentives aimed at fairly compensating citizens, municipalities and local authorities for any remaining damage. The experience of municipalities that were adversely affected by new infrastructure projects in the past shows that transparency and the local presence of a permanent point of contact for the project manager are important prerequisites for progress in planning and construction that is in keeping with timetables;

28. stresses that the manual to be compiled will be an important tool for informing citizens about the advantages of infrastructure development and intelligent networks in terms of security of supply, reducing greenhouse gas emissions, and energy efficiency. This information must not fail to discuss the downsides as well. Only comprehensive and transparent information will help people understand the scale of the challenge and more readily accept any negative effects. The flow of information to affected citizens must be tailored and pertinent to the situation at hand;

29. urges that, in addition to material compensation for citizens, municipalities and local authorities heavily affected through implementation of the projects, the precautionary measures taken and a socioeconomic and ecological impact assessment should be presented to the public. This 'transparency offensive' and a fair system of compensation are essential prerequisites for public acceptance of the accelerated development of the energy networks of the future;

D. Financing

30. acknowledges that that the existing TEN-E financial instruments have, according to the Commission, not been sufficiently successful. They should be superseded by the Connecting Europe Facility (CEF). Of the EUR 50 billion allocated in the Regulation on Guidelines for Trans-European Energy Infrastructure for the multi-annual financial framework, EUR 9,1 billion is earmarked for energy projects within a seven-year period. This allows funds to be made available for studies and financial instruments in support of electricity, gas and carbon dioxide projects, and non-repayable subsidies provided for electricity and gas projects that have a positive impact on security of supply, solidarity and innovation, whose business plans indicate a lack of commercial viability, and for which a decision on the transnational division of costs has not yet been made. In addition, intelligent networks and measurement stations as well as carbon dioxide projects that cannot be shown to be commercially viable are also eligible for non-repayable subsidies;

31. welcomes the fact that the 'Connecting Europe' facility places greater emphasis on those infrastructure projects that are important in energy terms but are commercially less attractive. The successful implementation of such projects would make a significant contribution to the completion of the EU single market and to security of supply;

32. feels that the European Commission sends entirely the wrong energy policy message given that most of the 12 priority infrastructure initiatives linked to the Connecting Europe Facility involve gas and oil pipelines requiring investments with long-term returns, since no convincing explanation has yet been given as to how the priorities set in favour of fossil fuels can be reconciled with the EU 2020 goals and the more far-reaching climate protection goals for 2030 and 2050;

33. stresses that, in order to achieve the Europe 2020 goals, as well as stepping up development of the major transmission networks, there should be further development of smart networks at local and regional level, as already called for in earlier CoR opinions (CdR 160/2008 fin, CdR 8/2009 fin, CdR 244/2010 fin, CdR 312/2010 fin, CdR 7/2011 fin and CdR 104/2011 fin). End-user prices must, in connection with computer-based load management, be connected to production and demand so as to act as an incentive for energy efficiency and more effectively align decentralised energy production with decentralised energy consumption. If energy taxation is among the instruments that Member States can use to combat climate change, subject to the conditions set out in Council Directive 2003/96/EC on restructuring the Community framework for the taxation of energy products and electricity, the CoR believes that the possibility of applying different tax levels should not be restricted to regions but should be extended to local authorities as well, who are also recognised in their own right as sustainable development stakeholders in the EU. These authorities – especially in Member States where they contribute to developing smart grids to improve security of supply, reduce greenhouse gas emissions and improve energy efficiency – should be able to set general taxation rates for energy consumption that differ from the corresponding national rates, provided that equal treatment for competing energy sources is maintained and that these differences in levels of taxation do not hinder the proper functioning of the internal market or the free movement of energy products between Member States;

34. with a view to the required market integration of renewable energies, is deeply concerned that pumped storage units and other technologies are specifically excluded from CEF financing. These units have a key role to play in making up for fluctuating wind and solar energy sources, in that they make it possible to store renewable energy;

35. finds it regrettable that the financial instruments to be made available from 2014 onwards have not yet been outlined in any detail by the Commission. The choice of instrument should take their additional benefits into account. They

should serve to complement the non-repayable subsidies that have hitherto been customary, and provide a consistent and uniform financing framework for rail, energy and telecommunication networks that builds on experience with the Risk Sharing Finance Facility, the Loan Guarantee Instrument, and the Marguerite fund;

36. recognises that, for financing purposes, plans include both equity and risk capital instruments and debt instruments. These include guarantees for intermediaries who make funds available for recipients with financing difficulties, and risk sharing with financial institutions in order to boost the volume of funds that can be drawn upon. Project bonds are also included;

37. accepts the Commission's impact assessment that the proposed financial instruments do not entail a distortion of the financial market, since they are financially viable, but in individual cases unable to obtain sufficient financing on the open market;

38. notes that this is, to a certain degree, in contradiction with Article 15 of the regulation, which says that financing problems do not constitute an eligibility criterion for financial instruments;

39. welcomes in principle the fact that as part of the CEF, up to 20 % of the available budget for risk sharing and equity instruments should be allocated over the course of the planning period. Providing it is implemented carefully, this increases financing opportunities and, unlike non-repayable subsidies, also promotes the autonomy of businesses. However, in both the cost and use analysis and in the assessment of the commercial viability of projects of common interest, the application of strict criteria needs to be guaranteed;

40. questions the eligibility of the proposed financial instruments for energy and network development projects;

41. highlights the need to adapt the Connecting Europe Facility's eligibility criteria so as to ensure that the outermost regions are able to access funding for projects aimed at increasing their energy self-sufficiency;

E. Project bonds

42. notes that a pilot phase is planned for the Project Bond Initiative in 2012 and 2013 under the supervision of the EIB. Projects will be eligible whose planning is already well advanced within the context of the TEN-E guidelines. In its impact assessment, the Commission expects that only one energy project will qualify in the pilot phase;

43. agrees with the Council of European Energy Regulators (CEER) that there will be limited scope for drawing on project bonds for investment in existing networks, since this delimitation seems problematic. They could be a useful instrument for offshore connections and transnational linkages;

44. notes that, given that this sort of project financing by network operators is still unusual, it could take some time before the new asset class is accepted by investors. By choosing projects based on reliable estimates, the Commission and the EIB should aim to build trust on the part of potential investors. The goal should be an investment-grade rating so that the bonds are also interesting for large, institutional investors;

45. on the positive side notes that, in terms of the allocation of budget funds, financial instruments will now complement non-repayable subsidies. It must however be ensured that financing is only allocated to projects that respond to an actual need and that are demonstrably not commercially viable. Under no circumstances should otherwise viable projects be oversubsidised, thereby crowding out private financing. In particular only projects based on reliably calculated estimates should receive second-tier debt. Under no circumstances should an artificial market be created that is only sustained through cofinancing by the EU and that must be constantly replenished with additional funds in order to avoid insolvency. There must be regular reviews, especially during the pilot phase, of whether alternative support methods would not be more economical in overall terms. Consortium financing could be considered as an alternative to the proposed bonds;

46. stresses that financing of the extension of energy infrastructure, recognised as urgently necessary, must primarily be a task of businesses. The task of the EU and the Member States is to provide support for infrastructure initiatives, and to create the necessary framework for market actors. In order to counter existing doubts about the scope of overall investment, the Commission should endeavour to make its estimates more

specific; at all events, appropriate network tariffs should ensure that the capital invested yields a return that is in line with market requirements;

F. *Overlap with other European regulations*

47. supports the Commission's plans to complete initiatives of shared interest within a shorter timeframe using a streamlined authorisation process coordinated by just one national authority, provided such processes allow sufficient room for national planning procedures. To this end, projects of major importance are to be given a priority status. In essence, the proposed regulation deals with questions of process and organisation;

48. notes that it would be logical to adapt the material standards that apply to projects of common interest to this priority status. In its current form, the proposed regulation offers little real alleviation. In view of the requirements of the EU's Habitats Directive and Water Framework Directive, the projects should be in the overriding public interest. However, this must not affect the material preconditions of the aforementioned directives. In this respect, the proposed regulation is ambivalent. The requirement for a Commission opinion under Article 6(4) of the Habitats Directive (92/43/EC) is unaffected, even though the Commission must prepare the list of projects of common interest. This seems to unnecessarily duplicate revision;

49. notes that, given that deadlines are set for completing the authorisation process, responsibility for streamlining the process is assigned first and foremost to the national or regional authorising authorities, which should take due account of the priority status of the project in question whereas the material standards set by the EU are broadly retained. The European Commission should work closely with the authorising authorities to draw up practical proposals for implementing these guidelines that take into account the practical requirements of efficient and transparent procedures. Therefore, the draft purports to outline a streamlined process without actually offering any genuine assistance.

Brussels, 19 July 2012.

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of the Committee of the Regions*
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