Trans-European energy infrastructure: guidelines

2011/0300(COD) - 19/10/2011 - Legislative proposal

PURPOSE: to develop and ensure the interoperability of trans-European energy networks (TEN-E).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the TEN-E framework was developed and shaped in the 1990s through the successive TEN-E Guidelines and the corresponding financing Regulation. The report on the implementation of the TEN-E framework in the period 2007-2009 concluded that, while making a positive contribution to selected projects by giving them political visibility, the policy lacks focus, flexibility and a top-down approach to fill identified infrastructure gaps.

In order to achieve the key objectives of its energy policy in terms of competitiveness, sustainability and security of supply, the **Union as a matter of priority needs to modernise and expand its energy infrastructures and to interconnect networks across borders**. Several challenges need to be addressed:

- electricity networks must be upgraded and modernised to meet increasing electricity demand due to a major shift in the overall energy value chain and mix;
- grids must also be urgently extended and upgraded, including through electricity highways, to foster market integration and maintain the existing levels of system's security, but especially to transport and balance electricity generated from renewable sources, which is expected to more than double in the period 2007-2020;
- the need for more innovation and intelligence in the networks at both transmission and distribution level, in particular through information and communication technologies;
- in the medium term, depleting indigenous conventional natural gas resources call for additional, diversified imports;
- given the role of oil in the energy mix of the coming decades, maintaining uninterrupted crude-oil supplies to land-locked EU countries in Central-Eastern Europe, currently dependent on limited supply routes, is of strategic importance;
- carbon capture and storage (CCS) technologies would reduce carbon dioxide emissions on a large scale while allowing the use of fossil fuels, which will remain an important source for electricity generation over the next decades.

The Commission, in its communication entitled “Energy infrastructure priorities for 2020 and beyond” called for a new EU energy infrastructure policy to coordinate and optimise network development on a continental scale. It confirmed in particular the necessity to overhaul the existing trans-European Networks for Energy (TEN-E) policy and financing framework.

In the report that it presented to the June 2011 Energy Council, the Commission estimated total investment needs in energy infrastructures of European importance up to 2020 at about EUR 200 billion. Investment volumes for the period from 2011 up to 2020 will increase by 30% for gas and up to 100% for electricity compared to current levels.

The main identified obstacles, which will under business-as-usual assumptions prevent these investments from taking place or delay them far beyond the 2020 deadline, are problems related to permit granting (lengthy and ineffective permit granting procedures, along with public opposition), regulation (framework not geared towards delivering European infrastructure priorities) and financing (limited financing capacities of operators, lack of adapted funding instruments and sufficient support).

BACKGROUND: after a first impact assessment, undertaken in 2010, the 2011 assessment, on the basis of the first, deals in greater detail with the policy options in the following areas:

- ***Permit granting and public consultation:***The analysis compares three options: i) establishment of a regime of common interest; ii) definition of rules on the organisation and duration of the permit granting process, notably a "full one-stop shop" and a time limit; and iii) a combination of the two previous options. The overall impact of the last policy option is considered to be the most positive of all.
- ***Regulatory issues****:* the analysis compares three options: i) cross-border cost allocation; ii) investment incentives; and iii) a combination of the two previous options. The analysis shows that both an ex ante cross-border cost allocation mechanism and incentives commensurate with the risks incurred by the operator are necessary to ensure implementation of projects of common interest facing challenges with regard to their viability.
- ***Financing:*** four financing options were also examined: i) use of risk sharing instruments (including project bonds and guarantees); ii) use of risk capital instruments (including equity participations); iii) use of grant support for project studies and construction; and iv) a combination of grants, risk sharing and risk capital instruments. The overall impact of the last policy option was considered the most positive

LEGAL BASIS: Article 172 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims at replacing the existing TEN-E Guidelines and will lead to the repeal of Decision 1364/2006/EC as of 1 January 2014. It seeks to lay 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 i) ensure the functioning of the internal energy market, ii) to ensure security of supply in the Union, iii) to promote energy efficiency and the development of new and renewable forms of energy, and iv) to promote the interconnection of energy networks.

To this effect, this 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 oil and carbon dioxide transport infrastructure, for which European Union action is most warranted. It then aims at implementing these priorities by:

- streamlining permit granting procedures to significantly reduce their duration for projects of common interest and increase public participation and acceptance for the implementation of such projects;
- facilitating the regulatory treatment of projects of common interest in electricity and gas by allocating costs depending on the benefits provided and ensuring allowed returns are in line with risks incurred;
- ensuring implementation of projects of common interest (PCIs) by providing necessary market-based and direct EU financial support.

The main aspects of the proposal are as follows:

Priority to 12 strategic trans-European energy infrastructure corridors and areas:

- the proposal establishes a selection process based on regional expert groups and an advisory role for the Agency for the Cooperation of Energy Regulators (ACER) in electricity and gas, the final decision, to be updated every two years;
- the regional expert groups and the Agency for the Cooperation of Energy Regulators (ACER) are entrusted with the monitoring and evaluation of the implementation of PCIs. The Commission may nominate European coordinators for PCIs facing difficulties.

A regime of common interest for PCIs,:

- this would give particular responsibilities to one national competent authority within each Member State to coordinate and oversee the permit granting process for PCIs, set minimum standards for transparency and public participation and fix the maximum allowed duration of the permit granting process;
- this clarifies that PCIs can be implemented under certain conditions for reasons of "overriding public interest", as defined in Directives 92/43/EC and 2000/60/EC;
- Member States are free to design their specific internal procedures in line with their national legal systems.

Methodology and a process for the elaboration of a harmonised energy system-wide cost-benefit analysis:

- on the basis of this methodology, it gives responsibility to national regulatory authorities and ACER to allocate costs across-border for PCIs in these sectors according to the benefits in the Member States directly or indirectly concerned by these PCIs;
- national regulatory authorities are also requested to grant appropriate incentives through tariffs for the implementation of PCIs facing higher risks for justified reasons.

Eligibility of projects: the Regulation determines the conditions for eligibility of PCIs to Union financial assistance under the Connecting Europe Facility, for both studies (accessible to all PCIs except those in the oil sector) and works (accessible to all PCIs in the smart grids and carbon dioxide sector, and to PCIs in electricity and gas fulfilling certain conditions, notably having obtained a cross-border cost allocation decision).

BUDGETARY IMPACT: all budgetary implications of this proposal are dealt with under the legislative financial statement of the Proposal for a Regulation establishing the Connecting Europe Facility. This mechanism, announced by the Commission in its Communication of 29 June 2011 "A Budget for Europe 2020" on the next multi-annual financial framework (2014-2020), is designed to finance the completion of priority energy, transport and digital infrastructures with a single fund of EUR 40 billion, of which **EUR 9.1 billion would be dedicated to energy**.