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CONTRIBUTION

From: General Secretariat of the Council
To: Working Party on Energy

Subject: EL comments on Art. 11-13 and Annex V of the TEN-E Regulation (ST 7124/21)

Delegations will find in the annex the EL comments on Art. 11-13 and Annex V of the TEN-E Regulation (ST 7124/21).

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Subject: Presidency revised proposal for Article 11,12,13 and Annex V of the TEN-E Regulation

Delegations will find in annex the Presidency revised proposal for Article 11,12,13 and Annex V of the TEN-E Regulation.

Written comments can be sent to the Presidency and GSC in copy, energy@consilium.europa.eu, until 24 March.

CHAPTER IV

CROSS-SECTORAL INFRASTRUCTURE PLANNING

Article 11

Energy system wide cost-benefit analysis

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

Those methodologies shall be applied for the preparation of each subsequent Union-wide ten-year network development plans developed by the ENTSO for Electricity or the ENTSO for Gas pursuant to Article 8 of Regulation (EC) No 715/2009 and Article 30 of Regulation (EU) 2019/943. Those methodologies shall be drawn up in line with the principles laid down in Annex V and be consistent with the rules and indicators set out in Annex IV. They shall be amended after submission of the energy market and network model referred to in paragraph 11.

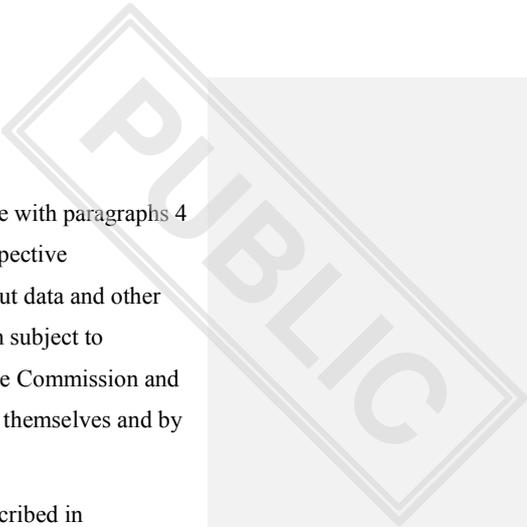
Prior to submitting their respective methodologies, the ENTSO for Electricity and the ENTSO for Gas shall conduct an extensive consultation process involving at least the organisations representing all relevant stakeholders, including the entity of distribution system operators in the Union ('EU DSO entity'), and, **all relevant hydrogen stakeholders** where it is deemed appropriate the national regulatory authorities and other national authorities.

Commented [REDACTED]: The removal of the role for "all relevant hydrogen stakeholders" is counter-productive for the development of a fully interlinked and harmonised CBA. The contribution of hydrogen stakeholders, as with all the other stakeholders listed in the regulation, will be necessary in the process to ensure a level-playing field. Hydrogen stakeholders are necessary to ensure transparency and the development of a fully interlinked and harmonised CBA, including hydrogen.

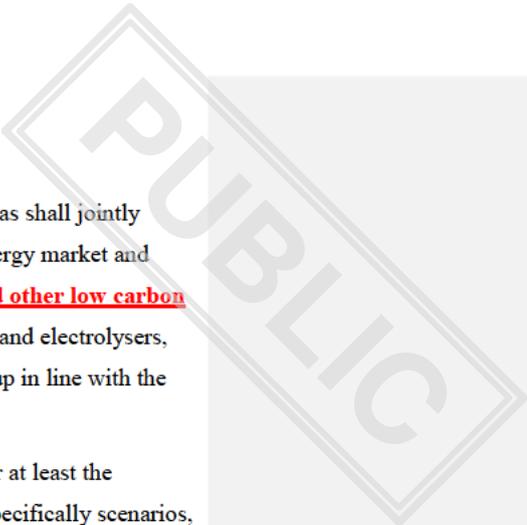
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2. Within three months of the receipt of the methodologies together with the input received in the consultation process and a report on how it was taken into account, the Agency shall complete an extensive consultation on the submitted draft methodologies. Within three months of the receipt of the methodologies, Member States and the Commission may deliver an opinion on the methodologies to the Agency and, as applicable, the ENTSO for Electricity or the ENTSO for Gas.³ The ENTSO for Electricity and the ENTSO for Gas, shall update the methodologies taking due account of the Agency's opinion (including Commission and Member states opinion), as referred to in paragraph 2.

4. No later than three months of the day of receipt of the last opinion, received under paragraph 2, the ENTSO for Electricity and the ENTSO for Gas shall adapt their respective methodologies taking due account of the opinions received from Member States and the Commission, and submit them to the Agency for approval.



5. Within two weeks of the approval by the Agency in accordance with paragraphs 4 , the ENTSO for Electricity and the ENTSO for Gas shall publish their respective methodologies on their websites. They shall publish the corresponding input data and other relevant network, load flow and market data in a sufficiently accurate form subject to restrictions under national law and relevant confidentiality agreements. The Commission and the Agency shall ensure the confidential treatment of the data received, by themselves and by any party carrying out analytical work for them on the basis of those data.
6. The methodologies shall be updated regularly following the procedure described in paragraphs 1 to 4. The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request such updates and improvements with due justification and timescales. The Agency shall publish the requests by national regulatory authorities or stakeholders and all relevant non-commercially sensitive documents leading to a request from the Agency for an update or improvement.
7. Every three years, the Agency shall establish and make publicly available a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the infrastructure categories included in points (1), (2), and (3) of Annex II and for demand-side management and flexibility measures. Those reference values may be used by the ENTSO for Electricity and the ENTSO for Gas for the cost-benefit analyses carried out for subsequent Union-wide ten-year network development plans. The first of such indicators shall be published by [1 November 2022].



8. By [31 December 2024], the ENTSO for Electricity and the ENTSO for Gas shall jointly submit to the Commission and the Agency a consistent and interlinked energy market and network model including electricity, gas, offshore, CO₂ ~~and~~ hydrogen **and other low carbon and renewable gases**, transmission infrastructure as well as storage, LNG and electrolyzers, covering the energy infrastructure priority corridors and the areas drawn up in line with the principles laid down in Annex V.
9. The consistent and interlinked model referred to in paragraph 8 shall cover at least the respective sectors' interlinkages at all stages of infrastructure planning, specifically scenarios, technologies and spatial resolution, infrastructure gaps identification in particular with respect to cross-border capacities, and projects assessment.
10. After approval of the consistent and interlinked model referred to in paragraph 8 by the Commission in accordance with the procedure set out in paragraphs 1 to 4, it shall be included in the methodologies referred to in paragraph 1.

Article 12

Scenarios for the ten-Year Network Development Plans

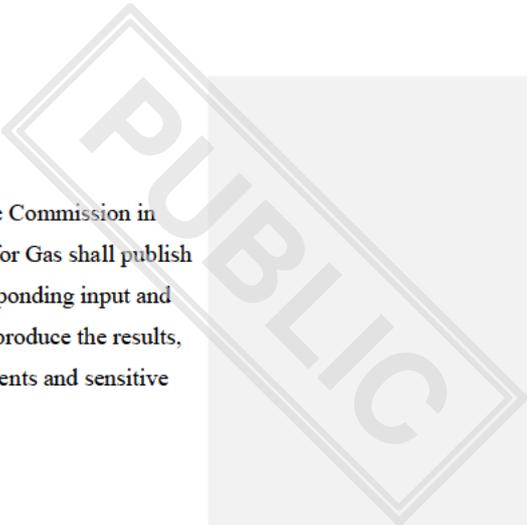
1. By [31 July 2022], the Agency, after having conducted an extensive consultation process involving the Commission, the Member States and at least the organisations representing all relevant stakeholders, including the ENTSO for Electricity, the ENTSO for Gas and the Union DSO entity **and relevant hydrogen sector stakeholders**, shall publish the framework guidelines for the joint scenarios to be developed by ENTSO for Electricity and ENTSO for Gas. Those guidelines shall be regularly updated as found necessary and shall define standards for a transparent, non-discriminatory and robust elaboration of the scenarios taking into account best practices in the field of infrastructures assessment.

Commented [REDACTED]: Same as above.

The guidelines shall also take into account energy system integration priorities, including the energy efficiency first principle and ensure that the underlying ENTSO for Electricity and ENTSO for Gas scenarios are fully in line with the Union's 2030 climate and energy targets and the climate neutrality objective by 2050 and take into account the latest available Commission scenarios to achieve them, as well as the National Energy and Climate Plans.

2. The ENTSO for Electricity and ENTSO for Gas shall follow the Agency's framework guidelines when developing the joint scenarios to be used for the Union-wide ten-year network development plans.
3. The ENTSO for Electricity and ENTSO for Gas shall invite the organisations representing all relevant stakeholders, including the Union DSO entity, **and relevant hydrogen sector stakeholders**, to participate in the scenarios development process.
4. The ENTSO for Electricity and the ENTSO for Gas shall publish and submit the draft joint scenarios report to the Agency, the Member States and the Commission for their opinion.
5. Within three months from the receipt of the draft joint scenarios report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion including recommendations for amendments to the ENTSO for Electricity, ENTSO for gas, Member States and the Commission.
6. The Commission, giving due consideration to the Agency and Member States' opinion, shall submit its opinion to the ENTSO for Electricity and the ENTSO for Gas. The Electricity coordination Group and Gas coordination Group may examine the draft joint scenarios.
7. The Commission shall approve, amend or request amendments on their joint scenarios report, taking due account of the Agency's opinion, Within two months of the date of receipt of such a request for amendments, the ENTSO for Electricity or the ENTSO for Gas shall submit the proposed changes to the Commission for approval.

Commented [REDACTED]: Same as above



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

Article 13

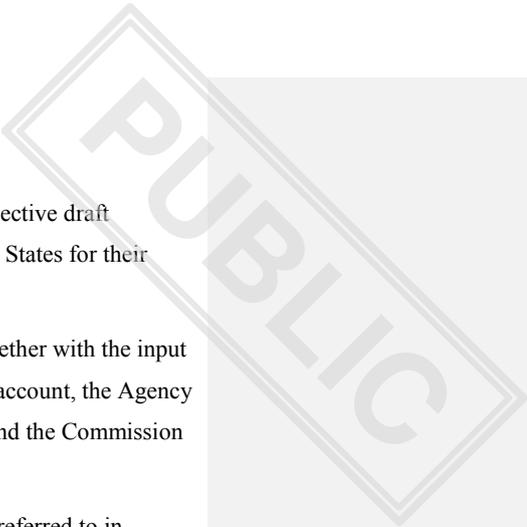
Infrastructure Gaps Identification

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

When assessing the infrastructure gaps the ENTSO for Electricity and the ENTSO for Gas shall base their analysis on all the scenarios established under Article 12, implement the energy efficiency first principle and consider with priority all relevant solutions which do not require new infrastructure (i.e. but not limited to, demand-side management, market arrangement solutions, implementation of digital solutions, renovation of buildings) ~~and recommend their implementation as a priority solution whenever they are judged more cost efficient on a system wide perspective than the construction of new supply side infrastructure~~. When considering new infrastructures solutions, the infrastructures gaps assessment shall take into account all relevant costs, including network reinforcements..

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

Commented [REDACTED]: ENTSG should provide a neutral and transparent assessment of projects. Such a proposal would empower ENTSG to conduct central planning of infrastructure – something which might be interpreted as a conflict of interest.



2. The ENTSO for Electricity and the ENTSO for Gas shall submit their respective draft infrastructure gaps report to the Agency and the Commission and Member States for their opinion.
3. Within three months following receipt of the infrastructure gaps report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion to the ENTSO for Electricity or ENTSO for Gas and the Commission and Member States.
4. The Commission, with Member States, considering the Agency's opinion referred to in paragraph 3, shall draft and submit its opinion to the ENTSO for Electricity or the ENTSO for Gas.
5. The ENTSO for Electricity and the ENTSO for Gas shall adapt their infrastructure gaps reports taking due account of the Agency's opinion and in line with the Commission's and Member States' opinion before the publication of the final infrastructure gaps reports.

ANNEX V

ENERGY SYSTEM-WIDE COST-BENEFIT ANALYSIS

The CBA methodologies developed by the ENTSO for Electricity, the ENTSO for Gas and the European Commission should be consistent, whilst taking into account sectorial specificities. The methodology for a harmonised and transparent energy system-wide cost-benefit analysis for projects of common interest and for projects of mutual interest shall be uniform for all applicable infrastructure categories, unless specific elements are justified. They shall address costs in the broader sense (including externalities) in view of the Union's objectives, in particular the 2030 climate and energy targets and the climate neutrality objective by 2050 and shall satisfy the following principles.

(1) the area for the analysis of an individual project shall cover all Member States and third countries, on whose territory the project is located, all directly neighbouring Member States and all other Member States significantly impacted by the project. For this purpose, ENTSO for electricity and ENTSO for gas shall cooperate with all the relevant system operators in the relevant third countries. In the case of projects falling under the category set out at point(3) of Annex II, the ENTSO for electricity and the ENTSO for gas shall cooperate with the project promoter also where it is not a system operator.

(2) each cost-benefit analysis shall include sensitivity analyses concerning the input data set, including generation and greenhouse gases costs as well as the level of development of demand-side response, the commissioning date of different projects in the same area of analysis, climate impacts and other relevant parameters.

(3) it shall define the analysis to be carried out, based on the relevant multi-sectorial input data set by determining the impacts with and without each project and include the relevant interdependencies with other projects..

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(4) it shall give guidance for the development and use of network, market and socio-economic modelling necessary for the cost-benefit analysis. The modelling shall allow for a full assessment of economic, including market integration, security of supply and competition, as well as lifting energy isolation, social and environmental and climate impacts, including the cross-sectorial impacts. The methodology shall be fully transparent to third parties and include details on why, what and how each of the benefits and costs are calculated.

(5) it shall include and explain how the energy efficiency first principle is implemented in all the steps of the ten-Year Network Development Plans.

(6) it shall ensure that the Member States on which the project has net positive impacts, the beneficiaries, and the Member States on which the project has a net negative impact, the cost bearers, are identified.

(7) it shall, at least, take into account the capital expenditure, operational and maintenance expenditure costs as well as the costs induced for the related system over the technical lifecycle of the project as a whole and decommissioning and waste management costs, including external costs. It shall also assess likely employment, GDP, air quality and energy security impacts. The methodology shall give guidance on discount rates, assessment lifetime and residual value to be used for the cost-benefit calculations. It shall furthermore include a mandatory Benefit-to-Cost ratio and the Net Present Value, as well as a differentiation of benefits according to the level of reliability of their estimation methods. Quantitative benefits regarding the environmental impact of the projects shall also be taken into account.

(9) it shall ensure that the climate adaptation measures taken for each project are assessed and reflect the cost of greenhouse gas emissions used for the assessment is robust and consistent with other Union policies in order to enable comparison with other solutions which do not require new infrastructures.

Note from the Presidency: We took good note of MS comments regarding article 11° (1) and we will work together to find a solution and cover all the categories in the CBA.

The **deadline** for comments on this proposal is March 24th.