



EXPLANATORY NOTES

On the Implementation of EU Regulation 347/2013 - MC decision 2015/09

Part II: The Cross-Border Cost Allocation Process

Energy Community Secretariat

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Scope and Purpose

The aim of this document is to provide guidance, interpretation and practical information to the Energy Community Contracting Parties on the process and application of Cross-Border Cost Allocation (CBCA), in line with the stipulations of the adapted Regulation 347/2013: MC Decision 09/2015.

The current guideline is based on the publicly available documentation on the topic, such as the:

- > MC Decision 09/2015
- > ACER Recommendation on CBCA
- > ACER Decisions on CBCA
- > ACER Presentations on CBCA
- > Cost-Benefit Analysis Methodologies of the ENTSOs

The aim is also to present the process leading to a CBCA decision and its follow up, highlighting the conditions of a project to be met in order to initiate an Investment request, and start a CBCA process. The duties of various authorities and institutions throughout this process are also to be presented.

This document will not examine the Permit Granting Procedures of PEI and PMI projects (Art. 8-10), as this guidance has already been prepared and sent to the members of the Permanent High Level Group in mid-summer 2016.

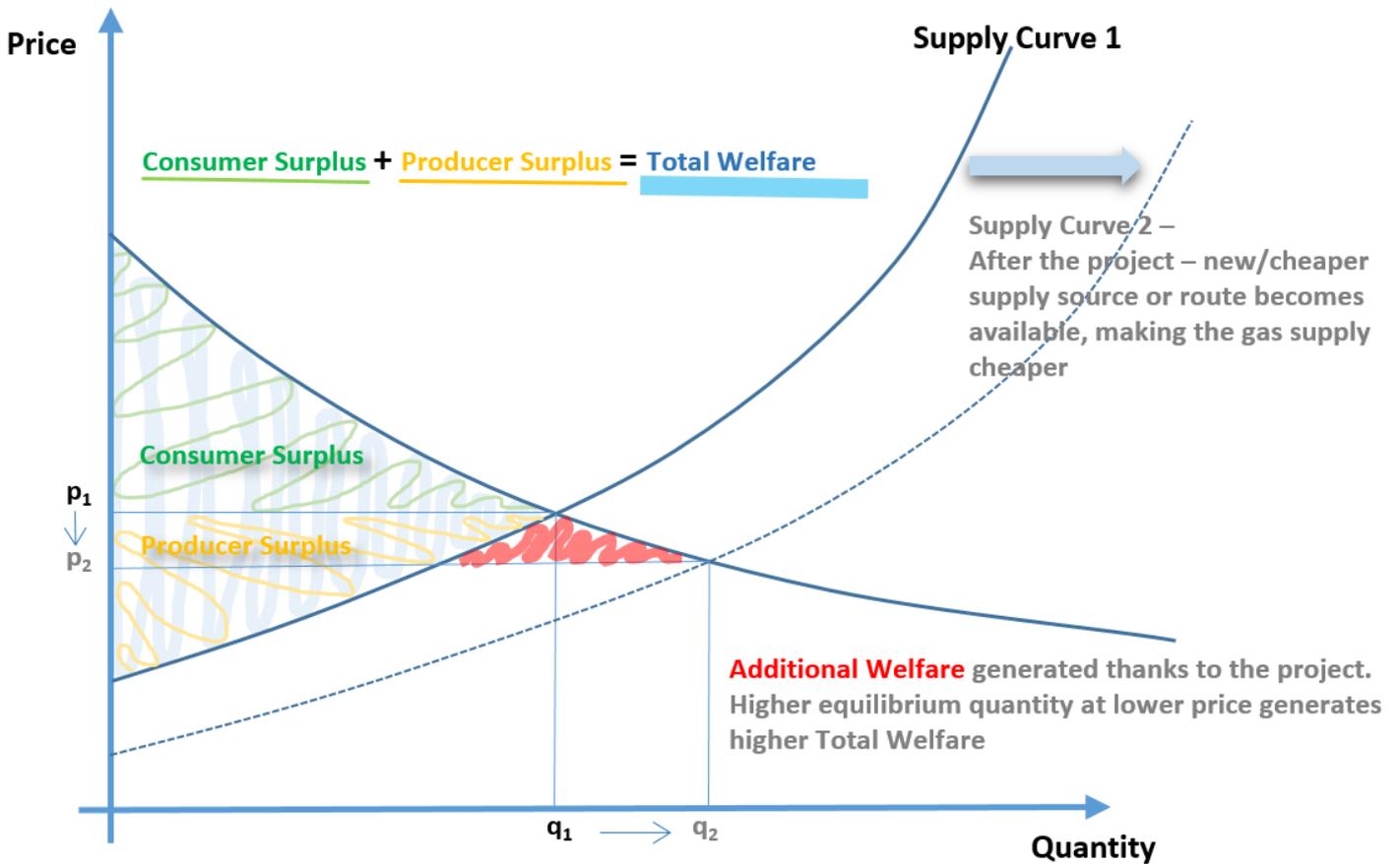
Rationale of the Cross-Border Cost Allocation – a practical introduction

The idea of the Cross Border Cost Allocation stems from the regional aspect of infrastructure development. Very simply, a CBCA can be justified for a project where:

- > its long term benefits outweigh its costs on regional level,
- > additional country(es) will benefit from the infrastructure development, apart from the host country, but
- > the costs outweigh the benefits in a given country or the costs of the infrastructure exceed the financial potentials of a country.

In line with the ACER recommendation, in case all countries are beneficiaries by default, there is no room for CBCA; with other words, the reallocation of benefits is not a reason for Cross-Border Cost Allocation

The below graphics demonstrate the impact of a project on the Social Welfare of a specific country or a region of impacted countries. For the sake of example let's assume a pipeline project, that brings gas from Country A as a gas source to Country C, which is the primary market of the gas, crossing Country B, with a relatively small market.



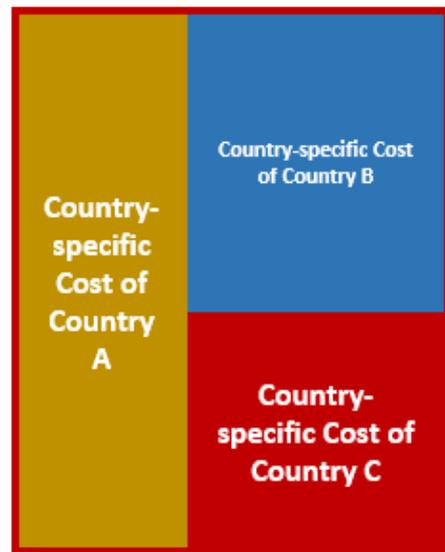
In reality this **Additional Social Welfare** will be generated as a sum of positive impacts in different countries, in case the project impacts more than one country. In this case however, it can happen that the generated positive impact in one country (B) is lower than the cost of the project in that given country (B). It still can happen however, that the regional additional welfare of the project is by far higher, than the aggregated cost of the project. In this case, it is in the region's interest to share the costs of the country where the local project costs are higher than the local benefits, in order to generate the additional regional welfare.

The below graphic demonstrates this situation. (For the sake of the graphical representation, the **Additional Social Welfare** triangle has been replaced with an imaginary rectangle.)

Additional Regional Welfare of the Project



Regional Cost of the Project



Comparison of country-specific Benefits and Costs



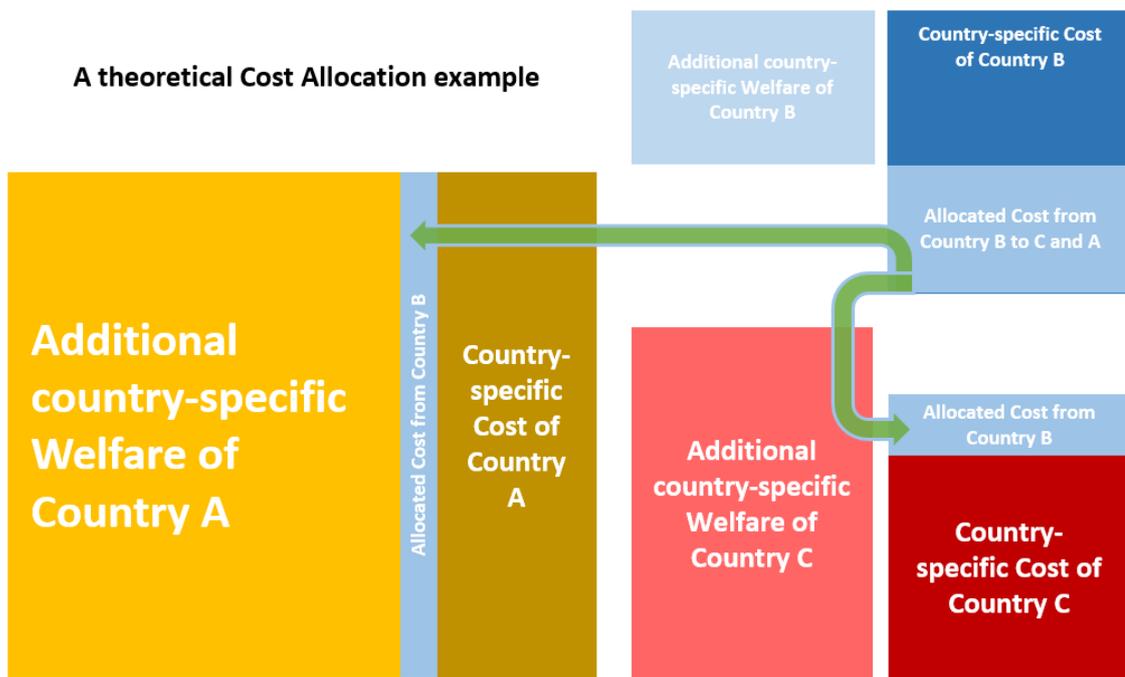
For the sake of example, we have selected country A as the initiator of the project: the project promoter. The reason for that is, that country A benefits the most from the project, the cost benefit ratio is the highest in this country. In the above example Country A and Country C are “winners” of the project, as their additional individual benefits outweigh the country-specific project costs. Country B however would lose from the realisation of the project, as the project costs are higher than the project benefits (blue rectangles), so the cost benefit ratio in Country B is negative if the project is realised. In a real world situation, Country B would not be keen to realize of the project, unless a Cross-Border Cost Allocation is put in place.

So it is clear, that the region formed by Countries A, B and C is better off with the project, as the total, regional benefit of the project outweighs the total, regional project cost. But this

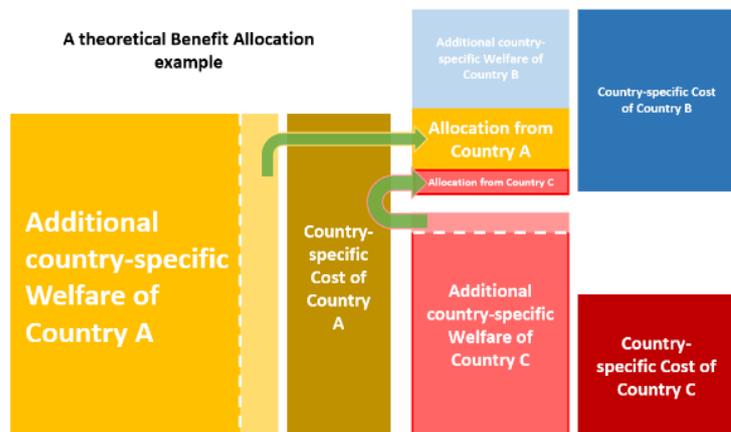
benefit is only going to realize if the project is realized, so only in case Country B is persuaded to participate in the project realization.

Thus, in reality it is of utmost importance for Country A and C to cover some of the cost of Country B (or share some of their benefits with Country B) to ensure that Country B reaches at least an equal level of costs and benefits¹ and thus engages in the project. Even though Country A and C will cover some of the project costs of Country B (sacrifice some of their benefits), they will still stay “positive”. In order to retain this positive benefit, the countries have to agree on a CBCA, because if the project is not realized, the benefit will not materialize either. These countries are “sentenced to cooperate”.

A theoretical Cross-Border Cost Allocation decision is represented on the below graphics. This shows that Country A and Country C take over some of the costs of Country B, but still remain beneficiaries of the project, and Country B is brought to a position when it is willing to participate in the realisation. This way Country B is not a “looser” from the project any more. In a real life situation, it will be probably Country B to initiate the CBCA process.



Looking at the issue from a different angle, we could also consider that Country A and Country C “sacrifice” some of their benefits, to ensure that Country B is not losing from the project. Although using the terminology: *Cost Allocation*, the first representation seems more



¹ Note that there are more possible CBCA arrangements: the costs of Country B are exactly covered; more benefits are provided for country B than the costs; benefit cost ration is the same for all countries. The negotiation power of Country B is relatively strong in this pure case.

appropriate.

The role of the market players, who plan to initiate a Cross-Border Cost allocation, is to assess the above situation transparently, into detail, under plausible future scenarios and prepare a practical CBCA proposal², possibly jointly with their counterparties, for submission to the concerned regulatory authorities.

The role of the regulators in this task is to assess the proposal, conduct reality check regarding the used input data, assumptions and the proposal itself and come to a practical, joint decision with the concerned regulators. In case that the project promoter and its counterparties did not submit a CBCA proposal, the regulators will have to design a CBCA based on the information submitted by the promoter and otherwise available to them. It is recommended that in any case the regulators conduct the CBCA process open for the stakeholders in data verification and assessment stages with numerous rounds of discussions.

1. Guidelines on the application of the Adapted Regulation

The project lifecycle in the context of the adopted Regulation is the following:

- i. Project submitted on time to the bi-annual call of the Energy Community for selecting PECl³ projects – project has to comply with the general and specific criteria specified in the adopted Regulation.
- ii. The Project-Specific Cost-Benefit Analysis (PS-CBA) assesses each project individually and results in a relative ranking of the submitted projects
- iii. The Gas and Electricity Groups (the Groups) overlook the process of data submission, methodology for the assessment and with the results available, compiles a project ranking for internal purposes.
- iv. After considering the results, the decision making body of the Groups proposes the draft, preliminary PECl/PMI list, which is to be approved by the Ministerial Council, when the PECl/PMI list becomes legally binding.
- v. Projects on the PECl list can initiate an Investment Request, with the possibility to propose a Cross-Border Cost Allocation, also identifying the Financial Gap of the project.
- vi. Regulators concerned should examine the potential of regulatory incentives provided to the riskier projects to facilitate realization and to ensure the mitigation of certain special risks attributable to the complex, cross-border nature of the projects.
- vii. The regulators concerned, within the timeframe set by the Regulation (6 months) should reach a decision on a CBCA.
- viii. In case a CBCA decision is not reached, the Energy Community Regulatory Board has the task to come to a decision (3+2 months).
- ix. In principle, if there is a financing gap and the project investment costs cannot be recovered from the tariff, projects with PECl status can also apply for investment grants from the funding instruments of the European Union, namely Neighbourhood Investment Facility (NIF) for Eastern Partnership countries, and Western Balkans Investment Framework (WBIF) for the WBs countries.

The detailed explanation about the above process based on the adopted Regulation, can be found in Annex II of the present document.

² Not compulsory, but a possibility under within an Investment Request.

³ It is recommended to apply the same treatment to Projects of Mutual Interest, as

2. Guidance on the preparation of an Investment Request

1.1 *Guidance on Consultation with concerned parties before submitting an Investment Request*

The detailed process and the necessary documents for the submission of an Investment Request have been presented in the section 4.3. These documents should be prepared by the project promoter(s) in a manner that enables a practical oversight of the project for the regulators and provide all necessary information to conduct reality check and decide on the Cross Border Cost Allocation. Although not compulsory, the project promoter should strive for a CBCA proposal in cooperation with the impacted TSOs to be submitted as part of the Investment Request.

To facilitate the CBCA decision for the NRAs, it is advisable that the project promoter(s) conduct(s) a wide, multi-step consultation process before the submission of the Investment Request, with all the stakeholders impacted or concerned. It is advisable to contact in advance at least the impacted:

- > Transmission System Operator(s)
- > Regulators and
- > Ministries,

already before the submission of the Investment Request. Such a multi-round consultation process will enable the parties and especially the project promoter(s) to present and explain why is it mutually beneficiary for each country to realize the project.

In case additional project assessment or market analysis would be deemed necessary by other parties (e.g. an update of the PS-CBA or additional market analysis), the purpose of such analysis should be discussed and agreed before it is done, to avoid the questioning of results in case they are not perceived favourable by a party.

The agreement on the:

- > Input data
- > Assumptions
- > Applied assessment methodologies
- > Purpose
- > Treatment of results

can be jointly agreed and signed in a joint statement before the actual work is done.

The Project-specific assessment conducted for the selection process of the PECL and PMI list derives numerous useful country-, and project specific results, which can be used for the preparation of an Investment Request.

3. Publicly available decisions of ACER– PL-LT

After the adoption of the Regulation 347/2013, within the European Union, more projects have already submitted Investment Requests to their concerned NRAs. Some CBCA decisions have been made on regional level (see above), which did not require ACER intervention, as the NRAs have agreed among themselves. Two projects however have already reached ACER to bring in a verdict. The projects in question were the Gas Interconnector Poland-Lithuania (GIPL) and the Electricity Interconnector Lithuania-Poland (LitPol). The decisions of ACER have been published on its website.

1.2 *ACER Individual Decision regarding the Gas Interconnector Poland – Lithuania - GIPL*

The official publication of the decision is available under the following link:

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Individual%20Decision%2001-2014.pdf

A summary about the calculation is provided below. Further to that, a very detailed description is available in the referenced decision about the:

- > project description,
- > consultation process as conducted by the Project Promoter and ACER
- > maturity assessment of the project as done by ACER
- > promoter proposed CBCA
- > re-calculation of the promoter-proposed CBCA by ACER
- > decision on cost allocation
- > tariff impact as calculated by ACER.

The project has been jointly proposed by Gaz-System S.A. in Poland and AB Amber Grid in Lithuania, the two gas TSOs in the respective countries. The project Stage 1, which was the subject of the Investment Request and CBCA is defined as a DN700 steel pipeline, with the length of 534 km, (357 km in Poland and 177 km in Lithuania) between the Polish town of Rembelszczyna and the Lithuanian town of Jauniunai.

The planned maximum capacity of project in the direction PL→LT is 2,4bcm/y and in direction LT→PL is 1bcm/y. After a non-binding market test and correction of the showed interest with probability factor, the assumed utilization rate lies at 20% capacity booking on the PL→LT direction and 0% at the revers flow direction.

According to the Business Plan the project was planned to be commissioned by December 2018. As submitted to the ENTSOG TYNDP 2017 the project is planned to be commissioned in 2019.

The project promoters have identified the following, undiscounted CAPEX in the Business Plan, submitted as part of the Investment Request:

	Polish Section	Lithuanian Section	Total
mEUR	422	136	558
% of Total	76%	24%	100%

The project promoters have identified the following OPEX in the Business Plan, submitted as part of the Investment Request in nominal, average terms per year.

	Polish Section	Lithuanian Section	Total
mEUR	12,3	1,9	14,1
% of Total	87%	13%	100%

The Project Promoters have also submitted a Financial Analysis, where they have identified that the project represents a **negative** Financial Net Present Value (FNPV) in the value of **369 mEUR**⁴.

⁴ Discounted at a nominal financial discount rate of 8%.

The calculation is a result of the following assessment:

Item	Value (mEUR)
PV of GIPL revenues	127 mEUR
PV of residual value ⁵	33 mEUR
PV of CAPEX	-430 mEUR
PV of OPEX	-98 mEUR
PV of changes in NWC ⁶	-1 mEUR
FNPV	-369 mEUR (-285 mEUR PL and -84 mEUR LT)

In the Cost-Benefit Analysis the project promoters have identified the following costs and socio-economic benefits:

Item	Value	Explanation
ENPV ⁷ of Total Cost	547 mEUR	CAPEX, OPEX, Residual Value
ENPV of Total Benefits	1170 mEUR	Out of which 1075 mEUR externalities (SoS, Market Integration, Competition, Sunstainability)
Regional Benefit/Cost Ratio (BCR) of the whole project	2,1	1170/547=2,1

The identified costs and benefits have been broken down on country level. Latvia and Estonia have also been identified as net beneficiaries.

Item	Value	Explanation
ENPV in Poland	-155 mEUR	BCR < 1
ENPV in Lithuania	431 mEUR	778 mEUR of total net benefits
ENPV in Latvia	263 mEUR	
ENPV in Estonia	84 mEUR	

The project promoters have also come up with a joint CBCA Proposal. In the CBCA proposal, the promoters have estimated the financial gap, which would be necessary to be covered by the beneficiary countries through a Cross-Border Cost Allocation:

⁵ After 20 years of operation

⁶ Net Working Capital

⁷ Economic Net Present Value, discounted at a Social Discount Rate (SDR) of 4,5%

Item	Value
Investment Costs	-558 mEUR
Financial Revenues minus OPEX	76 mEUR
<i>Expected</i> Grant from the EU ⁸	380 mEUR
Identified Financial Gap	-102 mEUR

The proposed CBCA by the promoters to cover the identified financial gap has been the following:

Country	Contribution	Share of net benefit
Lithuania	56,4 mEUR	55% → 431/778
Latvia	34,4 mEUR	34% → 263/778
Estonia	11 mEUR	11% → 84/778
Total	101,8 mEUR	100%

The base for the allocation proposal has been to cover the financial gap (102 mEUR), based on the share of each country in the total net benefits (778 mEUR).

Apart from the CBCA, the project promoters have proposed a guarantee mechanism, *“intended to enhance the degree of stability and predictability of capacity bookings”*, by the two TSOs of Latvia and Estonia guaranteeing a minimum booking of 20% of the Entry capacity.⁹

ACER, for the purpose of CBCA has recalculated the Net Future Value of the project for year 2018 when the project had been planned to be commissioned¹⁰, applying certain corrections as explained in the Decision. The result of the recalculation is the below table in the Decision document.

⁸ Calculation has been done during the CBCA process, so well before the project promoters have applied for Grant for Works. Finally the project has been granted €295,386,600 EURs for construction works from CEF fund.

https://ec.europa.eu/inea/sites/inea/files/cef_energy_brochure_superfinal_web.pdf

⁹ To be activated only in case the average annual capacity booking falls below 20%

¹⁰For the Social Benefit ACER used 4% SDR and for monetary flows the 8% FDR.

Table 1 Identification of net cost bearers and net beneficiaries in NFV

Values in € million, year 2018.

Country	Benefits	Costs	Net Benefits	Net Cost Bearer or Net Beneficiary
Poland	301.4	528.1	-226.7	Net cost bearer
Lithuania	723.2	145.0	578.2	Net beneficiary
Latvia	359.6	0.6	359.1	Net beneficiary
Estonia	118.5	0	118.5	Net beneficiary
Total	1502.7	673.7	829.1	

“The negative net benefit to the net cost bearer is compensated by the net beneficiaries, to the extent that the revenues¹¹ from the sale of capacity bookings, estimated at 20% of maximum technical capacity in the direction from Poland to Lithuania, cannot offset the said negative net benefit. The calculation of compensations uses a significance threshold set at 10% of the sum of all positive net benefits accruing to all net benefiting countries. As the total positive net benefits for the GIPL project are estimated at €1055.8 million, the significance threshold is therefore €105.6 million. A Contribution Indicator (CI) is applied to each net benefiting country proportionately to its share in the total positive net benefits over this threshold. The resulting compensations are presented in “the following table from the ACER decision Document.

Table 2 Compensations to be provided by net beneficiaries to net cost bearers

Values in € million, year 2018

Country	Net benefit	Benefit over 10% threshold of 105.6	Compensation on contribution indicator	Required total financial compensation	Value of financial revenues ^{a)}	Total financial cross-border compensation due after financial revenues	Cross-border cost allocation
Poland	n/a (cost bearer)	n/a (cost bearer)	n/a (cost bearer)	226.7	140.8	85.8	0
Lithuania	578.2	472.6	64.0%	0	31.6	0	54.9
Latvia	359.1	253.5	34.3%	0	0	0	29.4
Estonia	118.5	12.9	1.7%	0	0	0	1.5
GIPL Project Total	1055.8	739.0	100.0%		172.5	85.8	85.8

a) Discounted by the Financial Discount Rate (FDR, 8%).

Values in € million, year 2018, rounded to the nearest 1/10 million.

As explanation, please note, that ACER has set the significance threshold, to ensure that only those net beneficiary countries do contribute to the CBCA, where the benefit represents at least 10% of the total, regional net benefit of the project.

¹¹Discounted with the 8% FDR.

After applying the *significance threshold* and calculating the CI^{12} for each country, the necessary compensation for Poland is allocated among the benefiting countries, in line with their *CI* ratio in the benefit over the *10% threshold*.

ACER has also concluded that the tariffs and the amount of the needed external funding are very sensitive to utilization rate of the pipeline (an annual average of 20% of the Entry capacity to Lithuania was assumed).

Thus ACER finds that in case the project revenues realize higher than expected, “the contributing TSOs should have an opportunity to participate in the upside of the project by reducing their payments due as a result of the CBCA”.

The decision of ACER is represented in the following table from the Decision document:

Table 4 Compensations between TSOs

Payer TSO	Recipient TSO	Compensation Payments	
		€ million, year 2018	%
AB Amber Grid (Lithuania)	Gaz-System S.A (Poland)	54.9	64.0
JSC Latvijas Gāze (Latvia)	Gaz-System S.A (Poland)	29.4	34.3
AS EG Vorguteenus (Estonia)	Gaz-System S.A (Poland)	1.5	1.7
Total compensation, (€ million)		85.8	100

Payments shown in Table 4 are in Euro (€) million in values as of the year 2018.

Furthermore, in its decision ACER regulates the following:

- > The above established amounts are to be payed as a **Lump Sum** on the day following the commissioning date of the project, by the concerned TSOs to Gaz System S.A.
- > In case the actual investment costs in Poland are below the expected investment costs in Poland, the Lump Sum payment shall be corrected. In case the investment costs in Poland are higher, the payment shall not be corrected
- > In case the commissioning of the project occurs after 01 January 2020, the above values shall be adjusted for actual inflation.
- > *“In case of upwards deviation of the capacity booking and/or tariffs for capacity bookings [...] from the levels assumed by the project promoters in the investment request, the additional revenue [...] shall be distributed by the TSOs and monitored by NRAs...”*
- > *“...the investment costs [...] of the project promoters and the concerned TSOs [...], insofar they are efficiently incurred, shall be taken into account in the regulatory asset base...”*

1.3 ACER Individual Decision Electricity LitPol:

The official publication of the decision is available under the following link:

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20Decision%2002-2015.pdf

The ACER decision about the LitPol electricity connection has come across with more uncertainties and the discussions have been conducted between more stakeholders, thus

¹² As an explanation for the calculation, the calculations for Lithuania are the following:
 $472,6 = 578,2 \cdot (1055,8 \cdot 0,1)$ and $0,64 = 472,6 / 739$ and $54,9 = 85,8 \cdot 0,64$

the solution to the decision has been procedural-wise more complex. Due to this complexity, ACER has detailed the reflections, observations, comments and opinion of all these stakeholders in the Decision document.

A short¹³ summary about the decision is provided below. Further to that, a very detailed description is available in the referenced Decision document about the:

- > Procedural considerations on complaints and opinions of parties to the process:
 - whether the Investment Request can be considered as such
 - whether the Investment Request has been submitted to all required parties and in time
 - whether the six months NRA decision-making timeframe has been expired and whether ACER has jurisdiction regarding the decision on the Investment Request
 - whether the consultation before the submission of the Investment request have been done with the inclusion of all the necessary stakeholders and has been complete or not
 - which countries are the concerned countries for the decision
 - etc.

This section is very useful and instructive and shows in practice the application of the Regulation 347/2013 in numerous aspects.

- > project description/scope, cost assessment by the promoter
- > project maturity
- > Cost-Benefit Analysis update by the promoter
- > project description/scope and cost modification by ACER
- > maturity assessment of the project by ACER
- > choice of ENTSO-E Vision 1 for the purpose of CBA and CBCA
- > promoter proposed CBCA
- > update of the original CBA submitted by the promoter
- > decision on CBCA
- > tariff impact as calculated by ACER.

1.3.1 Project Description

The promoter of the project is Litgrid AB. The context of the project is to secure the synchronous connection of the Baltic market with the Continental European networks. The synchronous connection is scheduled to be operational by 2023 and includes two more projects:

- > LitPol Link Stage 2 and the
- > Estonia/Latvia/Lithuania synchronous connection with the Continental European networks.

The LitPol Link Stage 1 project, which is subject of the Investment Request includes the Lithuanian section of the synchronous connection between Poland and Lithuania, with a 51 km double-circuit 400kV overhead line from Alytus transformer substation to the LT-PL border, a new 400kV substation in Alytus, a new 500MW B2B high voltage direct current

¹³ The considerations and procedures leading up to the processes have been complex. For the full understanding of the logic of the decision it is recommended to read the ACER Decision document.

converter station and the reconstruction and expansion of the existing 330kV Alytus substation. This last item is not part of the investment request, is only included to provide full description of the project.

According to the updated CBA (also submitted to the concerned NRAs and ACER), the project also includes the reinforcement of the Lithuanian internal grid, with the construction of a new 53 km double-circuit 330 kV overhead line between Kruonis and Alytus.

The Polish part of the project includes ca. 112km of double-circuit 400kV overhead line from LT-PL border to new Elk Bis substation in Poland, as well as additional lines, substations and reinforcements in Poland. The Polish part has not been part of the Investment Request.

ACER has considered the following project items to be relevant for CBCA:

- > double-circuit 400kV overhead line from Alytus transformer substation to the LT-PL border
- > 400kV substation in Alytus
- > 500MW B2B station
- > Expansion of the 330kV Alytus substation – ACER confirms the relevance of this item

Whereas ACER concluded, that the construction of a new 53 km double-circuit 330 kV overhead line between Kruonis and Alytus is not necessary for the secure functioning of the interconnector, so removed from the scope of the CBCA.

1.3.2 Project Costs

According to the promoter, the NPV of the CAPEX for the whole project as described by the promoter is 115 mEUR, whereas OPEX is 117,7 mEUR¹⁴ assuming a 20 years' operation lifetime, in 2013 terms.

The Agency has assessed the scope of the project and made some cost modifications as described above, which have led to modifications in the cost of the project. ACER has also assessed the efficiently incurred costs of the project and has recalculated it on 2015 basis. For the purpose of CBCA, the efficiently incurred cost of LitPol Link, is **108,67 mEUR**.

The Agency has also assessed the OPEX of the project, and estimated it at 6,67 mEUR in 2015 terms.

ACER has assessed the cost of the expansion of the 330kV Alytus substation action at 11,03 mEUR.

Thus the total costs of LitPol Link in Lithuania in base case assessment amounts to 126,37 mEUR, which is relevant for cost allocation.

1.3.3 Project Benefits

The promoter (with ENTSO-E in the TYNDP) has assessed the benefits of the project in a CBA, where the following benefits have been identified:

Benefit	Monetized	Not Monetized	Explanation
Indicator B1 – Security of Supply		X	SoS increases with the project
B2 – Social and Economic Welfare (SEW) ¹⁵	135,6 mEUR for Lithuania and 495,5 mEUR for DK, EE, FI, DE, LV, NO, PL, SE		

¹⁴Including cost of losses, repair costs for labour and material, insurance and property tax

¹⁵ 20 years of operation from 2016 until 2035 with 4% SDR

B3 – Integration of RES	Already included in B2		
B4 – Variation in Losses	+170 GWh/yr: -10,2 mEUR/yr NPV -128,9 mEUR for Lithuania and --- 153,3GWh/yr: NPV +116,2 mEUR for PL		Monetization is achieved through using marginal prices of electricity from market studies. Hourly simulation. Increase of losses in Lithuania and on the Nordbalt Link.
B5 – Variation in CO2 emissions	Already included in B2		
B6 – Technical resilience/system safety margin		+ / + / + / 0 for LT .. / .. / + + for PL	“+” for subindicator “failures combined with maintenance” “++” for steady state analysis and “0” for voltage collapse
B7 – Robustness/flexibility		5+ out of 6+	

ACER has re-evaluated the benefits provided by the promoter, over a period of 25 years from 2016-2040 in 2015 NPV terms. Additional corrections have also been applied and the Agency has concluded the following benefits:

Benefit	Monetized
B2 - SEW	167,16 mEUR for LT
B4 – Variation in Losses	-146,79 mEUR for LT
Avoided/deferred network investments ¹⁶	62,34 mEUR
Security of Supply, decrease of Energy Not Supplied (ENS) ¹⁷	6,25 mEUR

The Agency has also analysed Pan-European externalities of the project outside of Lithuania and has estimated such in the magnitude of **1.000 mEUR** for the LitPol Link Stage 1 – 500 MW without SoS improvements.

The promoter has considered other economic effects in addition to the benefits:

- > ITC revenues
- > Grants received by LitPol Link.

The project promoter has incorporated these items as reduction in the LitPol Link costs. The Agency has made some simplifications and adjustments, and has concluded the following:

NPV of ITC revenue for LT– 25 years in 2015	30,63 mEUR
NPV of grants already provided to LT, out of which to be considered for CBCA	7,58 mEUR 3,39 mEUR

¹⁶ Additional benefit item due to the possible reutilization of the new B2B converter for asynchronous interconnection with Belarus after 2023.

¹⁷ Calculated based on 8000 EUR/MWh Value of Lost Load and 50MWh/year ENS from the promoter.

The Agency's conclusion is that the NPV of monetised benefits without SoS benefits is 83,47 mEUR. Furthermore the Agency concludes that the NPV of other economic effects is 38,21 mEUR.

Based on the above ACER has concluded in the below table that the net economic balance of the project for Lithuania is positive:

Impacts in Lithuania	Net present value (Million Euro year 2015)
Total costs (CAPEX and OPEX)	-126.37
Positive benefits (excluding security of supply)	230.27
Negative benefits	-146.79
Expected ITC revenues	30.63
Grants already awarded	7.58
Total economic effect (excluding security of supply)	-4.68
Security of supply	Positive, estimated greater than 4.68
Total economic effect	Positive

Furthermore, ACER has run sensitivity analysis on 4 variables:

- > Synchronisation year with continental Europe,
- > Value of losses,
- > Years of economic operation and the
- > Social Discount Rate.

Sensitivity analysis on year of synchronisation with continental Europe	2023 (base case)	2025	2027	2029
Impacts in Lithuania	NPV (M€ 2015)	NPV (M€ 2015)	NPV (M€ 2015)	NPV (M€ 2015)
Total costs (CAPEX and OPEX)	-126.37	-127.12	-127.80	-128.42
Positive benefits (excluding security of supply)	230.27	225.51	221.10	217.03
Negative benefits	-146.79	-151.00	-154.89	-158.49
Expected ITC revenues	30.63	30.63	30.63	30.63
Grants already awarded	7.58	7.58	7.58	7.58
Total economic effect (excluding security of supply)	-4.68	-14.41	-23.38	-31.66

Sensitivity analysis on value of losses	60.85 Eur/MWh (base case)	-10%	+10%
Impacts in Lithuania	NPV (M€ 2015)	NPV (M€ 2015)	NPV (M€ 2015)
Total costs (CAPEX and OPEX)	-126.37	-126.37	-126.37
Positive benefits (excluding security of supply)	230.27	230.27	230.27
Negative benefits	-146.79	-132.11	-161.47
Expected ITC revenues	30.63	29.02	32.24
Grants already awarded	7.58	7.58	7.58
Total economic effect (excluding security of supply)	-4.68	8.39	-17.75

Sensitivity analysis on years of (economic) operation	25 years (base case)	20 years	30 years
Impacts in Lithuania	NPV (M€ 2015)	NPV (M€ 2015)	NPV (M€ 2015)
Total costs (CAPEX and OPEX)	-126.37	-126.04	-126.63
Positive benefits (excluding security of supply)	230.27	208.53	248.14
Negative benefits	-146.79	-130.37	-160.29
Expected ITC revenues	30.63	27.06	33.45
Grants already awarded	7.58	7.58	7.58
Total economic effect (excluding security of supply)	-4.68	-13.25	2.25

Sensitivity analysis on discount rate	4% real (base case)	3% real	5% real
Impacts in Lithuania	NPV (M€ 2015)	NPV (M€ 2015)	NPV (M€ 2015)
Total costs (CAPEX and OPEX)	-126.37	-125.98	-126.81
Positive benefits (excluding security of supply)	230.27	254.11	209.60
Negative benefits	-146.79	-162.14	-133.62
Expected ITC revenues	30.63	33.99	27.75
Grants already awarded	7.58	7.53	7.64
Total economic effect (excluding security of supply)	-4.68	7.50	-15.44

The results show, that the impact the eventual change of the synchronization year with Continental Europe shows the highest difference. Variations in the other examined input data is also significant, but show smaller impact.

1.3.4 The CBCA Decision

The Promoter has come up with a CBCA proposal to the concerned NRAs, which has been the following:

Item	Monetary Value	Explanation
Required Compensation for Lithuania	-97 mEUR	CAPEX (-115 mEUR) + OPEX (-117,7 mEUR) – B2 SEW (135,6 mEUR)= -97,1 mEUR
Proposed Compensation from Sweden	47,1 mEUR	
Proposed Compensation from Norway	38,1 mEUR	
Proposed Compensation from Germany	11,8 mEUR	

The Promoter has however highlighted in the updated CBA, that on 1 December 2011 it has been agreed in a joint agreement by the TSO's of Lithuania and Poland to divide the project costs according to territorial principle, so that the promoters build and bear the cost of the project on the territory of their own countries.

The Agency, after conducting additional analysis on the costs, benefits and economic effects has concluded that the amount subject to CBCA is the difference between the CAPEX before grants (108,67 mEUR) and grants (3,39 mEUR), resulting in **105,28 mEUR** relevant cost.

Based on the above analysis and the improvements in the Security of Supply of Lithuania, ACER “concludes that there is no negative net benefit in Lithuania from LitPol Link.” In line with the ACER recommendation No 7/2013 “compensations are provided only if at least one country hosting the project deemed to have a negative net benefit”. Thus ACER concludes that “there is no need for compensation from non-hosting countries and that the efficiently incurred investment costs of LitPol Link shall be allocated to Lithuania”.

The Agency decided that “the expected efficiently incurred costs related to LitPol Link, up to a maximum amount of 105,28 mEUR, with a possible upward variation of 5,44mEUR [...] shall be paid for by tariffs...”

4. Conclusions

The document provides an overview of the process of Cross-Border Cost Allocation and the duties of the different stakeholders. It is important however to emphasize the basic characteristics of the projects that can reach the stage where a CBCA can be made. The project has to comply with the basic general and specific criteria of the PEI selection of course where the benefits must outweigh the costs for the entire project, although a situation also have to occur in at least one of the hosting countries, where the country is a net cost bearer, if the social-economic impacts of the projects are considered. In case all countries are net beneficiaries, (even to a different level), it should not create the basis for a CBCA decision.

The maturity of the project is also of utmost importance; the project promoter(s) should have been already in the situation to reasonably assess the CAPEX and OPEX of the project within the project lifetime, otherwise the basis for a CBCA is questionable. Of course, the risk mitigating measures can be considered in a CBCA decision, such as review of the actual usage of the given infrastructure in 1-3-5 years' time and correction of payments if the reality significantly deviates from the scenarios used as a basis for the decision.

In order to bring an informed decision on an eventual CBCA request, it is recommended to study in detail the documentation and references provided within this text, available from ACER and the ENTSOs. Special attention should be given to ACER recommendations and published ACER and NRA decisions (reference available in Annex I below).

Be it the project promoters initiating an Investment Request or the regulators having to make an actual CBCA decision, consultation across the concerned parties can facilitate and shorten the process and can help to avoid misunderstandings.

In the eventuality that national regulators would not reach a decision and the involvement of the Energy Community Regulatory Board would be required, it is recommended to hold early discussions on the process and the treatment of such requests in themselves, before a non-decision at national levels may be predictable.

Annex I

Available ACER documentation on the Investment Request and CBCA Procedure

ACER has prepared numerous handy and informative documents regarding the Investment Request and Cross-Border Cost Allocation. The Agency has already participated directly in two CBCA decisions. Apart from the decisions, ACER has also worked on streamlining the CBCA process within the EU, thus has come up with two Recommendations and a Summary Document. The documents can be found under the below links:

- 1) ACER Recommendation #1:
http://www.acer.europa.eu/official_documents/acts_of_the_agency/recommendations/acer%20recommendation%2007-2013.pdf
- 2) ACER Recommendation #2:
http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Recommendations/ACER%20Recommendation%2005-2015.pdf

In this document ACER summarizes among others the following:

- > Correct submission of the Investment Request including assessment of project maturity and TSO consultations, and the calculation of national net impacts, serving as a basis for the CBCA decision, etc.
 - > The procedural mechanism leading up to a CBCA decision by the NRAs, including cooperation between the concerned NRAs, quality of the information provided within the Investment Request, identification of costs subject for allocation, choice of input scenarios as underlying basis for benefit calculation, allocation of costs, inclusion of allocated costs in the tariff, etc.
 - > ACER has also developed recommendation regarding the applied CBA methodology for gas and electricity projects, about the calculation of national net impacts (benefits and costs) and a summary of relevant data for an investment request submitted by the promoter(s)
- 3) ACER Summary Report – Experience with cross-border cost allocation:
http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Annexes%20to%20ACER%20Recommendation%20052015/Summary%20report%20Experience%20with%20Cross-Border%20Cost%20Allocation.pdf

In this document, among others, ACER has collected the links to the available and published CBCA decisions made by the NRAs themselves for electricity and gas projects.

In its first recommendation, ACER has focused on the submission of a complete and adequate Investment and CBCA request, on a consistent approach among regulators and aimed at streamlining the decision making process.

In its second recommendation, ACER could take into consideration the already approved methodologies of the ENTSOs and their application in the Ten Year Network Development Plans. By then, ACER had experiences with two CBCA decisions, which helped to reflect also on outstanding issues raised by regulators, TSOs and stakeholders and helped to provide a practical guidance. In its second, more practical recommendation, ACER:

- > defined sufficient maturity of a project as a condition for CBCA,
- > defined the data requirements, which need to be submitted to the concerned regulators,

- > set limits to the application of CBCA,
- > defined conditions under which circumstances CBCA should be applied and
- > defined the usage of cost and benefit items, when calculating country-specific net impacts.

4) ACER Workshop on 2nd ACER CBCA Recommendation - 02 February, 2016:

<http://www.acer.europa.eu/Events/Workshop-on-2nd-ACER-CBCA-Recommendation/default.aspx>

The presentations include among others:

- > [A summary of past CBCA Decisions](#) by NRAs
- > [Recommendation for project promoters](#)
- > [Recommendation for NRAs](#)

This presentation includes a “dummy” CBCA example

These documents can be well used by the regulators or the ECRB eventually to develop their own approach towards the application of CBCA within the Energy Community, but also by the project promoters to enable them to prepare clear, informative and fit-for-purpose Investment Requests, including proposal for CBCA; they include informative and detailed explanation on numerous different aspects of Investment Request and CBCA process.

Annex II

Guidelines on the application of the Adapted Regulation

Detailed guidelines are provided on implementing the adapted Regulation 347/2013, with special attention to the life-cycle of a project within the CBCA process. The task of each stakeholder is mentioned below during the lifecycle, including where relevant: the Project Promoters/TSOs, Regulators, Energy Community Secretariat, Commission, ACER, Contracting Parties and EU Member States.

For further details and the exact legal text, please refer to the corresponding Articles of the adopted Regulation: MC Decision 09/2015 or the original Regulation 347/2013.

1. STEP 1 – The PEI/PMI selection

A project promoter who considers initiating a CBCA, first of all has to successfully apply for PEI status. The eligibility criteria for a project to become PEI, are the following:

a) General Criteria – Art. 4.

The project has to comply with **all of the following** criteria:

- > Complies with the infrastructure categories as defined in the adopted regulation Annex I and
- > Potential overall benefits of the project outweigh its costs and
 - The project involves at least two Contracting Parties or a Contracting Party (CP) and a Member State (MS) or
 - Is located on the territory of a Contracting Party and has a significant cross-border impact as defined in Annex III of the adopted Regulation

b) Specific Criteria – Art.4.

The project has to comply with **at least one of the following** criteria:

Electricity Project	Security of Supply, Market Integration, Sustainability
Gas Project	Security of Supply, Competition, Market Integration, Sustainability
Smart Grid Project	Art. 4/c
Oil Transport Project	Art. 4/d
Carbon Dioxide Transport Project	Art. 4/e

The project promoter has to submit an application, with the accurate data to the Energy Community Secretariat (ECS) to participate in the selection of Projects of Energy Community Interest (PEI). This submission shall be executed within the deadlines for the call for projects, as bi-annually set and published by the ECS. Starting from the submission for the second PEI list, the proposed projects shall be part of the latest available ENTSO Ten Year Network Development Plan (TYNDP) in case the TSO is member of the corresponding ENTSO. If this is not the case, the project has to be part of the latest available national TYNDP.

This application for selection shall include:

- > Assessment of the project with regards to contributing to the objectives of the Energy Community as set in the Treaty, EC law and the Energy Strategy of the EC

- > Analysis on the fulfilment of the General and Specific criteria
- > A project-specific cost-benefit analysis (PS-CBA), based on the methodologies of the ENTSOs¹⁸
- > Any other relevant information for the evaluation of the project

In practice, this application means the submission of the project on the Energy Community website during the call for projects timeframe, by filling out the **online** project questionnaire. The PS-CBAs are done during the assessment process of the projects and this assessment serves as a basis for creating the preliminary PEI lists.

Each project requires also the consent of the Contracting Party (CP) and/or Member State (MS), to whose territory the project relates. If a CP or MS does not provide such an approval, the reasons for doing so have to be presented to the Gas or Electricity Group respectively.

The Groups shall assess each project in a transparent and objective manner, assessing its aggregate contribution to the specific criteria, as presented above. This assessment shall lead to an internal ranking of projects. However, neither the preliminary, nor the final PEI list shall contain any ranking. The Groups, apart from the results of the Project-Specific Cost Benefit Analysis shall give consideration to:

- > Urgency of each project to meet the policy targets of Market Integration, Competition, Sustainability and Security of Supply,
- > Number of impacted CPs/MSs,
- > Contribution to territorial cohesion,
- > Complementarity with other projects.

The approval of the preliminary PEI list is made by the decision making bodies of the electricity and gas Groups, formed for PEI selection. The members of the Groups are:

- > Contracting Parties and Member States concerned
- > European Commission
- > National Regulatory Authorities (NRAs)
- > TSOs
- > Energy Community Secretariat
- > ENTSOs upon invitation

The decision making body of the Groups are restricted to the Parties to the Treaty:

- > Contracting Parties
- > European Commission

The Groups come up with the preliminary PEI lists for the different project categories, approved by the decision making body of the Groups. The preliminary list is sent to the:

- > Regulatory Board
- > Energy Community Secretariat (Secretariat)
- > ACER

¹⁸ In practice, to ensure comparability and consistency of the assessments, the Project-Specific Cost-Benefit Analysis is prepared by a consultant selected by the Secretariat for the purpose of the PEI/PMI selection.

The Regulatory Board, seeking cooperation with ACER, provides an opinion on the draft preliminary list. After the receipt of the opinion of the Regulatory Board the Groups approve the final preliminary list, which is finally approved by the Ministerial Council by way of a Decision, until 31 December 2016.

c) The methodology used for assessment

The methodology used for the assessment of individual projects for the purpose of the PECl/PMI selection is based on Article 11 of the Adopted Regulation.

The methodology, as implemented, is in line with the Project-specific Cost-Benefit Analysis methodologies as published by the ENTSOs¹⁹. The assessment, as in the case of the ENTSOs, combines the economic assessment of the projects, by comparing the Net Present Value (NPV) of costs and the socio-economic benefits. This approach is a well-documented, widely used approach to cost-benefit analysis. The economic assessment is coupled with a multi-criteria assessment, which takes into consideration project-specific impacts, which are not monetizable or widen the scope of the socio-economic analysis, such as system-flexibility or project maturity.

This assessment does not consider the bankability or the financial viability of the project. The assessment of the financial viability is a task for the project promoter, when submitting an Investment Request and assessing the financial gap.

2. *Implementation, Monitoring and PECl coordinators – Art. 5-6.*

Project promoters shall draw up an implementation plan of each PECl, including a timetable for the following:

- > Design- and feasibility study,
- > Approval by national or any other regulatory authority concerned,
- > Construction and commissioning,
- > The permit granting schedule.

TSOs and DSOs shall cooperate to facilitate the realization of the PEClS. The Energy Community Secretariat has to monitor the progress of the PEClS and if necessary make recommendations to facilitate the realization. Moreover, The Gas and Electricity Groups can require additional information and invite ECS to validate the provided information on site.

By 31 March of each year following the adoption of the PECl list, promoters shall submit the following annual report:

Project Type	Submit the Report To	Report to include
Electricity and Gas Projects - Annex I (1) and (2)	To the Competent Authority concerned	(a) the progress achieved in the development, construction and commissioning of the project, in particular with regard to permit granting and consultation procedures; (b) where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered; (c) where relevant, a revised plan aiming at overcoming the delays.
	Regulatory Board	
	Energy Community Secretariat	
Oil Projects - Annex I (3)	To the Competent Authority concerned	(a) the progress achieved in the development, construction and commissioning of the project, in particular with regard to permit granting and consultation procedures; (b) where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered; (c) where relevant, a revised plan aiming at overcoming the delays.
	The Group	
	Energy Community Secretariat	

¹⁹ ENTSG: <http://www.entsog.eu/publications/cba-methodology#CBA-METHODOLOGIES>
 ENTSE: <https://www.entsoe.eu/major-projects/ten-year-network-development-plan/CBA-Methodology/Pages/default.aspx>

Three months after the receipt of the above reports, The Secretariat shall submit to the Groups a consolidated report and where appropriate, provide recommendations.

Apart from the report of The Secretariat each year, the competent authorities also have to report on the permit granting process of the projects to the Groups on the progress and eventual delays in the implementation.

For delays in implementation, detailed measures under certain conditions are available in Art. 5 /(7), such as the promoter has to choose a third party to finance or construct the project, or in case it is not done, the regulator can appoint such a party, etc.

Projects can be removed from the list in line with a pre-defined process, in case the information based on which the project has been included, proves to be false or the project does not comply with Energy Community law. Project not included on the list any more, will lose all rights and obligations arising from the PEGI status.

The rights and obligations however will not be lost, in case the project has been accepted for examination by the competent authority and the removal is not due to the false information mentioned above – but for example due to losing the PEGI label during the next selection procedure.

The following table summarizes the duties of each stakeholder under the Article 5. of the adapted Regulation for the implementation and monitoring of the projects on the list.

Project Implementation and Monitoring Duties of different Stakeholders according to the adopted Regulation 347/2013 - Article 5.

Project Promoter/ TSO

Energy Community Secretariat/ The Groups

Competent Authority/ Regulator

1. Project promoters shall draw up an implementation plan for projects of Energy Community interest, including a timetable for each of the following:
(a) feasibility and design studies;
(b) approval by the national regulatory authority or by any other authority concerned;
(c) construction and commissioning;
(d) the permit granting schedule referred to in Article 10(4)(b).

2. TSOs, distribution system operators and other operators shall co-operate with each other in order to facilitate the development of projects of Energy Community interest in their area.

4. By 31 March of each year following the year of inclusion of a project of Energy Community interest on the Energy Community list pursuant to Article 3, project promoters shall submit an annual report, for each project falling under the categories set out in Annex I.1 and 2, to the competent authority referred to in Article 8 and either to the Regulatory Board or, for projects falling under the categories set out in Annex I.3, to the respective Group. That report shall give details of:
(a) the progress achieved in the development, construction and commissioning of the project, in particular with regard to permit granting and consultation procedures;
(b) where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered;
(c) where relevant, a revised plan aiming at overcoming the delays.

7/(b) if the measures of national regulatory authorities according to point (a) are not applicable, the project promoter shall choose a third party to finance or construct all or part of the project. The project promoter shall do so before the delay compared to the date of commissioning in the implementation plan exceeds two years;
(c) if a third party is not chosen according to point (b), the Contracting Party or, when the Contracting Party has so provided, the national regulatory authority may, within two months of the expiry of the period referred to in point (b), designate a third party to finance or construct the project which the project promoter shall accept;
(d) when point (c) is applied, the system operator in whose area the investment is located shall provide the implementing operators or investors or third party with all the information needed to realise the investment, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment and the secure, reliable and efficient operation and maintenance of the project of Energy Community interest.

9. Projects which are no longer on the Energy Community list shall lose all rights and obligations linked to the status of project of Energy Community interest arising from this Regulation. However, a project which is no longer on the Energy Community list but for which an application file has been accepted for examination by the competent authority shall maintain the rights and obligations arising from Chapter III, except where the project is no longer on the list for the reasons set out in paragraph 8.

3. The Energy Community Secretariat and the Groups concerned shall monitor the progress achieved in implementing the projects of Energy Community interest and, if necessary, make recommendations to facilitate the implementation of projects of Energy Community interest. The Groups may request that additional information be provided in accordance with paragraphs 4, 5 and 6, convene meetings with the relevant parties and invite the Energy Community Secretariat to verify the information provided on site.

5. Within three months of the receipt of the annual reports referred to in paragraph 4 of this Article, the Energy Community Secretariat shall submit to the Groups a consolidated report for the projects of Energy Community interest falling under the categories set out in Annex I.1 and 2, evaluating the progress achieved and make, where appropriate, recommendations on how to overcome the delays and difficulties encountered.

8. A project of Energy Community interest may be removed from the Energy Community list according to the procedure set out in Article 3(4) if its inclusion in that list was based on incorrect information which was a determining factor for that inclusion, or the project does not comply with Energy Community law.

6. Each year, the competent authorities referred to in Article 8 shall report to the respective Group on the progress and, where relevant, on delays in the implementation of projects of Energy Community interest located on their respective territory with regard to the permit granting processes, and on the reasons for such delays.

7. If the commissioning of a project of Energy Community interest is delayed compared to the implementation plan, other than for overriding reasons beyond the control of the project promoter:
(a) in so far as measures referred to in Article 22 (7)(a), (b) or (c) of Directives 2009/72/EC and 2009/73/EC, as incorporated and adapted by the Ministerial Council Decision 2011/02/MC-EnC, are applicable according to respective national laws, national regulatory authorities shall ensure that the investment is carried out;
 ...
(c) if a third party is not chosen according to point (b), the Contracting Party or, when the Contracting Party has so provided, the national regulatory authority may, within two months of the expiry of the period referred to in point (b), designate a third party to finance or construct the project which the project promoter shall accept;

a) PEI coordinators

Where significant implementation difficulties are encountered, the Permanent High Level Group may designate a PEI coordinator for up to one year (renewable twice), based on the proposition of The Secretariat and the agreement of the CPs and MSs concerned. The roles of the coordinator are the following:

- > Promote the project and the cross-border dialogue between the promoters and stakeholders,
- > Assist parties in consulting stakeholders and obtain permits,
- > Advise promoters on financing,
- > Ensure strategic support from the concerned CP for preparation and implementation,
- > Report every year or at the end of the mandate to The Secretariat about the progress and obstacles. The Secretariat forwards the report to the PHLG, who might inform the Ministerial Council.
- > The CPs shall fully cooperate with the PEI coordinator.

3. *STEP 2 – The Investment Request and the Cross-Border Cost-Allocation– Art. 12.*

In line with the stipulations of the MC Decision 2015/09/MC-EnC, Article 12/(1)-(3), the promoter(s) of projects **having reached sufficient maturity**, concerning more Contracting Parties and after having consulted the TSOs from Contracting Parties and Member States concerned to which the project provides a *significant, net positive impact*, shall submit an investment request. The investment request shall be submitted to all the national regulatory authorities concerned.

The investment request shall be accompanied by:

- > project-specific cost-benefit analysis, taking into account the benefits beyond the borders of the concerned Contracting Parties and Member States,
- > a business plan, evaluating the financial viability of the project, including the chosen financing solution and in case of gas projects (Annex I./(2)) the results of market testing and
- > if the project promoters agree, a proposal for a cross-border cost allocation.

If the project is promoted by more than one promoter, the investment request shall be submitted jointly.

The Regulatory Authorities shall take a coordinated decision on the allocated investment costs and their inclusion in the tariffs, after consulting the TSOs concerned, within 6 months after the last concerned Regulatory Authority has received the investment request.

The NRAs shall inform the Regulatory Board and the ACER about the decision without delay. The information shall include:

- > evaluation of the identified impacts, including tariffs in all Contracting Parties and Member States,
- > evaluation of the project business plan,
- > regional and Union-wide positive externalities generated by the project,
- > result of the consultation of the project promoters.

The decision shall be published.

In case no decision has been made in six months, the concerned NRAs shall inform without delay the:

- > Regulatory Board,
- > Energy Community Secretariat and the
- > European Commission.

In the above case, or upon joint request of the concerned NRAs, the Regulatory Board shall decide on the investment request including the cross-border cost allocation, within three months after referral of the NRAs. Before bringing the decision, the Regulatory Board shall consult the:

- > Energy Community Secretariat,
- > NRAs concerned and
- > Project promoters.

This three-month period can be extended by additional two months, if the Regulatory Board seeks additional information. The copy of each decision with all relevant information shall be submitted to the Secretariat by the Regulatory Board.

The above steps refer to cost allocation between Contracting Parties. Where Member States are involved, such cases are deemed to be solved by mutual agreement.

In case of certain exemptions, as detailed in Article 12, a CBCA decision cannot be initiated.

4. STEP 3 – Regulatory Incentives – Art. 13.

This step does not come strictly after the Investment Request or a CBCA. Of course discussions and decisions about regulatory incentives can be considered throughout the lifecycle of the project, within the discretion of the regulator, furthermore such incentives can be taken into consideration for a CBCA decision, and the definition of the financing gap.

In case a project promoter faces higher risks for:

- > development,
- > construction,
- > operation or
- > maintenance

of a project of Energy Community Interest compared to risks normally incurred by comparable projects, Contracting Parties and regulators shall ensure that incentives are granted to counter these risks.

The decision of the regulators when granting incentives shall consider the results of the project-specific cost-benefit analysis, in particular the positive externalities generated within the Energy Community. The regulators furthermore shall analyse the risk profile of the project, the planned mitigation measures and the justification of the presented risk profile.

Eligible risks for incentives shall include risks related to new transmission technologies, under-recovery of costs and development risks.

The incentives may cover among others the rules for:

- > anticipatory investment,
- > recognition of efficiently incurred costs before commissioning of the project,
- > providing additional return on the capital invested for the project or
- > any other measures deemed necessary.

By 30 June 2017, the regulators shall submit to the Regulatory Board and by 31 December 2017 publish their methodologies and criteria to evaluate investments in electricity and gas infrastructure and the higher risks incurred by them.

5. *STEP 4 – Technical and Financial Assistance – Art. 14-15.*

Electricity and gas Projects of Energy Community Interest are eligible for Union technical and financial assistance in the form of **grants for studies** and **financial instruments** from the Instrument for Pre-Accession Assistance (IPA) and the Neighbourhood Investment Facility.

Electricity and gas Projects of Energy Community Interest, except for hydro-pumped electricity storage projects, are also eligible for financial assistance in the form of **grants for works** from the Instrument for Pre-Accession Assistance (IPA) and the Neighbourhood Investment Facility if they fulfil all of the following criteria:

- > PS-CBA provides evidence of significant positive externalities
- > CBCA decision has been made (or for electricity storage projects shall aim to provide services across borders, bring technological innovation and ensure the safety of cross-border grid operation) grid operation
- > Project is not financially viable based on the business plan or other assessment carried out by e.g. investors, creditors or regulators. When assessing commercial viability, the regulator's decision on incentives shall also be considered.

Award criteria for IPA and NIF funds shall include the specific criteria as explained above (4.1) and shall consider the:

- > urgency of each project in meeting the Union energy policy targets of market integration, competition, sustainability and security of supply,
- > number of Contracting Parties and Members States impacted, while ensuring the peripheral countries have equal opportunities,
- > contribution to territorial cohesion and complementarity with other projects.

6. *STEP 5 – Reporting and evaluation, Transparency – Art. 17-18.*

The Energy Community Secretariat shall provide an implementation report about the PECIs by no later than 2018. The report shall evaluate the following:

- > Progress achieved in planning, development, construction, commissioning and delays in implementation or other difficulties;
- > Funds disbursed from the EU compared to the total value of funded PECIs;
- > Evolution of interconnectivity of gas and electricity grid among CPs and MSs, evolution of energy prices, number of network system failures, their causes and economic consequences;
- > Permit granting and public participation;
- > Regulatory treatment;
- > Effectiveness of the Regulation in contributing to the goals for market integration by 2016 and 2017, to the Treaty Objectives and renewable energy and energy efficiency targets of the CPs.

The Energy Community Secretariat, by six months after the date of adoption of the first Energy Community List shall set up a Transparency Platform. (TP). This TP shall include the following information:

- > General information including geographical information about all PECIs,
- > The implementation plan of each project,

- > The main results of the cost-benefit analysis, except for commercially sensitive data,
- > The list of PECIs,
- > Funds allocated and disbursed by the European Union for each PECEI.