Statement on the PCI Designation Procedure 2014/2015 from the point of view of transparency and public participation

Dear Mrs. Sikow-Magny,

Regulation (EU) Number 347/2013 (hereinafter: TEN-E Regulation) aims at the timely development of trans-European energy infrastructure and at the same time enhancing transparency and public participation. Participation is not only required by the TEN-E Regulation at the permitting stage of individual projects but also when it comes to the determination of the need for and the planning of trans-European energy infrastructures. An inclusive and transparent selection process on both national, regional and EU level shall be carried out in an effective manner in order to increase the acceptance of the list and help to achieve a common European consensus on the necessity of those projects.

Although the TEN-E Regulation sets certain rules for the process and the participation therein, we believe that in addition to the formal participation (defined by law as a minimum), the application of additional informal participation at an early stage is a necessary extra effort in order to give the most interested relevant stakeholders a chance for connecting to the process.

We believe that accepted and sound decisions can only be taken when the public is enabled to participate in accordance with the principles of the Aarhus Convention “within a transparent and fair framework, having provided the necessary information” and when due account is taken of the outcome of the public participation.

Our experiences gained during the current PCI designation process 2014/2015 however show the need for further measures in order to ensure effective participation:

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2 Article 7 in conjunction with Article 6 of the Aarhus Convention.
In our PCI Process Recommendations\(^3\) we indicated the importance information sharing and transparency on rules and substantive issues have for the quality and outcome of the public participation process. Transparency as regards the process (timetable, decision-making schedule, open meetings, evaluation and assessment regime) has increased considerably and positively since the last PCI designation process.

On the other hand transparency and information sharing on substantive issues as regards the PCI candidate projects does not allow stakeholders for effective participation in the PCI designation process:

- In our view especially information on the substantive parts of the process – meaning the PCI candidate projects themselves - have to be delivered in a comprehensible format so stakeholder groups can understand the rationale and the pros and cons of the respective candidates. This currently very high technical standard of the whole process is provoking the effect that participation becomes "pro forma".
- It would be advisable to have the assessment and evaluation of the PCI candidates contained in the relevant TYNDPs (for Electricity and Gas) extracted and made available (separately) not only to the Regional Groups but also the Public in order to have a common starting point for discussion. In order to ensure consistency, environmental and social costs of projects shall be equally discussed in the run of the PCI designation process and not only for the respective TYNDP preparations.

Regional Group Meetings are announced shortly in advance.\(^4\) NGOs cannot prepare adequately or even book flights and ensure their presence in Brussels with such ad hoc meeting announcements.

In the Regional Group Meetings stakeholder groups then did not have the appropriate "room" to participate and discuss the projects at stake. We would like to ask the European Commission and the Regional Groups to provide an adequate framework for in-depth discussion, which was not provided by the Regional Group Meetings in their current design.

The current Public Online Consultation is narrowed down in practice to single aspects of the selection process, like the compliance with the energy economic criteria of PCI candidates.\(^5\) At the same time the TEN-E Regulation provides for several more reasons, why a project shall or shall not be designated as PCI (eligibility, non-compliance with Union law, no development consent granted on national level etc.) and thus also the consultation should have allowed to provide a statement on more than just the PCI selection criteria as provided for by Art 4 TEN-E Regulation.


\(^4\) For example the e-mail invitation to the Southern Gas Corridor RG meeting to 17 March 2015 and to the NSI East Gas RG meeting to 19 March was sent on 12 March 2015.

\(^5\) Public consultation from 22 December 2014 to 13 March 2015: The question raised: "In your opinion, is a proposed project significantly contributing to market integration/sustainability/security of supply/competition and therefore needed from an EU energy policy perspective?"
Some PCIs (especially in the gas sector) have far reaching and transboundary (beyond the geographical extension of the EU-28) implications. So far we did not see a trans-boundary involvement of stakeholders on the proposed candidate PCIs. Thus we would like to remind the European Commission and the Regional Groups of the importance to have affected stakeholder groups beyond the EU borders involved into the process.

Based on the deficiencies listed above we strongly recommend

- To elaborate public participation procedures together with the Member States and other relevant stakeholders (NGOs, regional and local communities);
- To keep the process transparent and inform stakeholders on meetings and projects early in the process when all options are open;
- To provide processed data and comprehensible information on PCI candidates;
- To promote public participation on trans-boundary level and ensure effective participation of non-EU stakeholders as well and
- Ensure strategic planning, assessment and consultation carried out for oil PCIs.

By applying the principle of transparency and carrying out effective public participation in the run of the decision-making process, decisions taken under the TEN-E Regulation can be solid and better accepted. This may well have positive impacts on individual PCI permitting procedures and consequently the timely development of trans-European energy infrastructure complying with the EU’s energy and environmental goals at the same time.\(^6\) Strategic Environmental Assessments of energy infrastructure plans and programmes both on national and supra-national level would be a most useful tool in order to reach compliance with the above outlined principles and at the same time ensure consideration of environmental and social aspects of the respective plans.

Best regards,

Siim VAHTRUS
Justice & Environment Chair

\(^6\) Please see also: Justice and Environment and CEE Bankwatch joint Recommendations for the Improvement the PCI Designation Process and the Adjacent Public Consultation published on 23 June 2014.