

FSR Regulatory Policy Workshop Series 2023-2024

Cross-border cost allocation and cost-sharing for investment supporting the Energy Transition



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9 February 2024

Sala Europa and Online (listening only) on Zoom - Villa Schifanoia, Via Boccaccio 121 - Florence

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Introduction

Regulation (EU) No 347/2013^[1] (the 'TEN-E Regulation'), with its Article 12(4), introduced, for the first time in the EU regulatory framework for energy network investments, the concept of Cross-Border Cost Allocation (CBCA), to be applied to the so-called Projects of Common Interest (PCIs)^[2]. The CBCA was meant to remove one of the possible obstacles to the development of projects with cross-border impact. In fact, in some cases, benefits from these projects accrue to the affected Member States differently from the way in which these Member States are expected to contribute to the overall cost of the project according to the traditional 'territorial principle'^[3]. If this happens, Member States which are expected to bear costs higher than the benefits delivered to them by the new infrastructure might be reluctant to undertake the development of the project. Agreements between the affected Member States for an allocation of costs different from the territorial principle have always been possible, but no procedure for this was in place. The TEN-E Regulation filled this regulatory gap for the PCIs and defined a new procedure^[4] whereby:

- as soon as a PCI has reached sufficient maturity, the project promoters, after having consulted the TSOs from the Member States to which the project provides a significant net positive impact, submits to all the national regulatory authorities (NRAs) of the same Member States, an investment request, which should include a CBCA request and should be accompanied by a project-specific cost-benefit analysis (CBA);
- within six months, the national regulatory authorities concerned, after consulting the project promoters concerned, take coordinated decisions on the allocation of investment costs to be borne by each system operator for the project, as well as their inclusion in tariffs^[5].



In case NRAs were not able to reach an agreement on coordinated decisions, the EU Agency for the Cooperation of Energy Regulators (ACER) becomes responsible for dealing with the investment request, including the CBCA request.

Note that, as long as a project delivers overall net benefits, i.e. the overall benefits delivered by the project are greater than its total costs, there exists a cost allocation, in fact many cost allocations, among the affected Member States which is able to deliver positive net benefits to all of them.

In September 2013 and, again in December 2015, ACER recommended that, “*unless NRAs agree otherwise, compensations are provided if at least one Member State hosting the project is deemed to have a net negative impact in at least one of the scenarios deemed plausible by all involved NRAs*” and that “*in such a case, the aim should be, in general, to compensate the net negative impact in the relevant Member States*”[\[6\]](#). This is not the only approach possible. It is a somewhat ‘minimalistic’ approach, in the sense that it minimises the number of cases in which a cross-border cost compensation is required. This minimalistic approach was probably justified at the time of the first implementation of the TEN-E Regulation and of the CBCA. Now, the question should be asked of whether such an approach is still the most suitable to promote the effective development of PCIs or whether, instead, a different one, for example the one based on an allocation of costs among the Member States which makes all of them benefitting to a similar extent, might be preferable[\[7\]](#).

The CBCA is now enjoying a new spell of youth with the need to allocate costs of the new infrastructure to connect offshore windfarms to shore. In fact, since 2020, the EU’s ambitions to deploy offshore renewables, mainly wind-based generation, has been gradually increased. The ‘Offshore Strategy’ of November 2020[\[8\]](#) set a clear ambition to have an installed capacity of at least 60 GW of offshore wind by 2030 and 300 GW by 2050. In addition, an objective for ocean energy was set: to have at least 1 GW by 2030 and 40 GW by 2050. The 2030 target for offshore wind was increased to 510 GW following the REPowerEU Plan[\[9\]](#).

In the meanwhile, the TEN-E Regulation has been revised[\[10\]](#), but the rules governing the CBCA have not materially changed[\[11\]](#). As in the original 2013 text, no criteria are provided for the CBCA. However, in June 2023, ACER issued a new Recommendation[\[12\]](#), still proposing that only net negative benefits are compensated. In particular, ACER recommends that, unless NRAs agree otherwise, compensation should only cover the net negative impact in the relevant Member States, based on scenarios jointly agreed by NRAs, so that these impacts become neutral. However, ACER accepts that agreements that go beyond the compensation of the net negative impact, taking into account the uncertainties in the analysis of benefits or unreasonably different net impacts across Member States after cost allocation, are possible. Moreover, with the latest Recommendation, ACER also provides additional indications regarding, for example, the threshold when allocating costs and the treatment of uncertainty.

The revised TEN-E Regulation also introduces, in its Chapter V, rules for offshore grids for renewable integration. In this context, Article 15 governs the cross-border cost sharing for such grids. It provides that:

- by 24 June 2024, the Commission, with the involvement of the Member States, relevant TSOs, ACER and the NRAs, develops guidance for a specific cost-benefit analysis and cost-sharing for the deployment of the sea-basin integrated offshore network development plans;
- by 24 June 2025, ENTSO-E, with the involvement of the relevant TSOs, ACER, the NRAs and the Commission, shall present the results of the application of the cost-benefit and cost-sharing to the priority offshore grid corridors.

The cost sharing approach applicable to offshore grids could therefore potentially follow different criteria from the ones proposed by ACER for the CBCA. These criteria will be defined in the guidance to be provided by the European Commission; in fact, the revised TEN-E Regulation calls on ACER to update its Recommendation following the guidance provided by the Commission, itself subject to possible updates.

In this context, in October 2023, the Commission published its Communication on Delivering on the EU offshore renewable energy ambition[\[13\]](#), in which, *inter alia*, it indicates that its guidance for a specific cost-benefit analysis and cost sharing will have two angles: first, at the level of offshore network development plans per sea basin, with the aim to provide the principles that can help ENTSO-E improving future editions of the plans; and, second, at

project level, considering both renewable and infrastructure for cross-border offshore grid projects.

As the Commission is working towards providing the guidance for a specific cost-benefit analysis and cost-sharing for offshore development plans, this Workshop aims at reviewing the experience gained over the last ten years with CBCA for PCIs, which lessons could be gained from that experience, as well as considering the specificities of cost sharing for offshore renewable (wind) projects.

For this purpose, the Workshop will be structured in two sessions:

- **Session I**, in the morning, will focus on the experience gained in the application of CBCA to PCIs and which lessons could be learned, including those which could be useful in shaping the cost-sharing approach for offshore infrastructure for renewable energy;
- **Session II**, in the afternoon, will provide an opportunity to discuss different approaches to cost-sharing for offshore infrastructure for renewable energy.

Workshop format

This Workshop is organised 'in-presence' to promote a more effective interaction and discussion. However, while invited speakers are encouraged to join the Workshop in person, they might exceptionally participate through internet-based remote connection. Participation through internet-based remote connection is also possible for donors' representatives; however, in this case, they should abstain from intervening in the discussion (they will be in listening-only mode), but are welcome to send a recorded statement (not longer than 3 minutes) in advance, which will be shown during the Workshop.

Sustainability assessment

The FSR assesses the sustainability and carbon footprint of all its Workshops of the Regulatory Policy Workshop Series. This Workshop is run mainly 'in presence', with some exceptions for participation through internet-based remote connection. It is expected that most participants will join the Workshop in Florence to take advantage of the opportunity for more effective interaction and discussion. Those participants joining the event in Florence will be encouraged to offset any carbon emissions related to their air travel. It is considered that, in this way, a suitable balance is achieved between the effectiveness of the policy dialogue and the net carbon footprint of the event.

[1] Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009.

[2] CBCA only applies to Projects of Common Interest (PCIs), which, as defined by the TEN-E Regulation, are those infrastructure projects which link the energy systems of EU countries and can benefit from accelerated permitting procedures and funding. For more details on PCIs, please refer to: https://documents.acer.europa.eu/en/Electricity/Infrastructure_and_network%20development/Pages/Projects-of-common-interest.aspx.

[3] This principle, generally applied to investments in network, envisages that each Member State bears the cost of the portion of the infrastructure insisting on its territory.

[4] Article 12(4) of Regulation (EU) No 347/2013.

[5] The national regulatory authorities may decide to allocate only part of the costs, or may decide to allocate costs among a package of several projects of common interest.

[6] Section 2.2 of Recommendation No 7/2013 of the Agency for the Cooperation of Energy Regulators of 25 September 2013 regarding the cross-border cost allocation requests submitted in the framework of the first Union list of electricity and gas Projects of Common Interest, as confirmed by Section 2.6 of Recommendation No 5/2015 of the Agency for the Cooperation of Energy Regulators of 18 December 2015 on good practices for the treatment of the investment requests, including cross-border cost allocation requests, for electricity and gas projects of common interest.

[7] Such a consideration was already raised in Section 3.2.1 of the FSR Policy Brief 2020/27 of July 2020 'Making the TEN-E Regulation compatible with the Green Deal: Eligibility, Selection and Cost Allocation for PCIs' by Tim Schittekatte, Alberto Pototschnig, Leonardo Meeus, Tooraj Jamasb and Manuel Llorca, available at: https://cadmus.eui.eu/bitstream/handle/1814/67673/PB_2020_27_RSCAS.pdf?sequence=1&isAllowed=y.

[8] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Strategy to harness the potential of offshore renewable energy for a climate neutral future, Brussels 19.11.2020, COM(2020) 741 final.

[9] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, REPowerEU Plan, Brussels 18.5.2022, COM(2022) 230 final.

[10] Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013.

[11] The changes with respect to the original provisions in Regulation (EU) 347/2013 mainly pertain in ensuring that the CBCA applies to projects which are sufficiently mature in their development process.

[12] Recommendation No 02/2023 of the European Union Agency for the Cooperation of Energy Regulators of 22 June 2023 on good practices for the treatment of the investment requests, including Cross Border Cost Allocation requests, for Projects of Common Interest, as required by Article 16(11) of Regulation (EU) 2022/869.

[13] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Delivering on the EU offshore renewable energy ambitions, Brussels 24.10.2023, COM(2023) 668 final.

Draft Programme

09.15 – 09.20 Welcome and introduction to the Workshop
Alberto Pototschnig | Florence School of Regulation

09.20 – 09.30 Introductory remarks
Leonardo Meeus | Florence School of Regulation

SESSION I – ALLOCATING THE COST FOR PROJECTS OF COMMON INTEREST

Moderator: **Marzia Sesini** | Florence School of Regulation

9.30 – 9.45 The experience with CBCA decisions
Ellen Beckstedde | Florence School of Regulation

09.45 – 10.00 ACER's approach to CBCA decisions
Stefano Astorri | Policy Officer, Energy Infrastructure, ACER

10.00 – 10.30 The project developers' perspective
Alan Croes | Convenor, System Design Strategy Working Group, ENTSO-E
Daniel Czetó | GIE

10.30 – 11.00 *Coffee Break*

11.00 – 11.15 The regulatory perspective
Riccardo Vailati | Co-Convenor Electricity Infrastructure Task Force, ACER and ARERA

11.15 – 11.40 Roundtable of representatives of FSR Donors
Jean-Yves Beaudeau | Lead of System & Market Analysis and Strategic System Development, ENTSO-E

11.40 – 12.10 General discussion

12.10 – 13.20 *Lunch Break*

SESSION II – SHARING THE COST OF OFFSHORE INFRASTRUCTURE FOR RENEWABLE ENERGY

Moderator: **Alberto Pototschnig** | Florence School of Regulation

13.20 – 13.35 Enabling offshore renewables by a fair cost-sharing of infrastructure costs
Joachim Balke | Head of Unit, Infrastructure and Regional Cooperation, DG Energy

13.35 – 13.50 The regulatory perspective
Christine Materazzi-Wagner | Chair, Electricity Working Group, ACER

13.50 – 14.00 The perspective of project promoter
Benjamin Genêt | Head of EU Market & Offshore, Elia

14.00 – 14.25 Roundtable of representatives of FSR Donors
Bryan Brard | Shell
Stan Lambrechts | Convenor, Project team Sea Basin Cost Benefit and Cost Sharing, ENTSO-E

14.25 – 14.50 General discussion

14.50 – 15.00 Concluding remarks
Leonardo Meeus | Florence School of Regulation

