

Inclusion of the third party projects in the 2014 version of the TYNDP procedure

Stakeholders' suggestion implementation

1. Introduction

Answering to the Third Energy Package and to the draft Regulation on guidelines for the implementation of European energy infrastructure priorities requires ENTSO-E to develop a new procedure on the inclusion of the third party projects in the ten-Year Network Development Plan.

The procedure is a second of its kind. The first one, released in February 2011 and applied for the 2012 version of the TYNDP was perceived too restrictive (i.e. legal criteria) by the third party promoters. The current version, which is to be used for the TYNDP 2014 considers the previous received comments along with the additional suggestions underlined by the stakeholders, ACER and EC during the workshops and bilateral meetings in the last quarter of 2012.

Below one may find all the received inputs and their implementation in the present draft procedure which is to be finalised and published in January 2013.

2. Comments received on the ENTSO-E procedure

2.1. Comments received during the third party workshop, Brussels, 20 November 2012¹

Stakeholder suggestion	ENTSO-E implementation	Refected in the adapted draft; 17 December 2012
More clarity of the established criteria - specify the necessary documentation	The level of detail in the present procedure considers the different legal environments within Europe and avoids hindering its applicability by being very detailed.	The level of clarity in the procedure increased.

¹ The workshop's presentations and the minutes can be accessed at: <https://www.entsoe.eu/events/3rd-party-tyndp-2014/#c1175>.

<p>The criteria must consider also projects that are in the incipient phase and may require EU funding for the studies.</p>	<p>In order to accommodate this remark ENTSO-E has added in the legal criteria the following: „the promoter shall have requested the impacted TSOs to perform the prefeasibility/feasibility study at least 6 months before applying for the inclusion in the TYNDP.“</p>	<p>Yes</p>
<p>Add in the legal criteria: “The promoter has the feasibility study to be performed OR approved by the TSOs”.</p>	<p>ENTSO-E has updated the legal criteria accordingly.</p>	<p>Yes</p>
<p>Make the coherency with the legal criteria and the related documents</p>	<p>ENTSO-E has updated the legal criteria and the associated documentation accordingly.</p>	<p>Yes</p>
<p>Proposed to have the ministerial agreement in the legal criteria.</p>	<p>In order to accommodate this remark ENTSO-E has added in the legal criteria the following: “the promoter shall have a signed agreement between the ministries or between the regulators of the impacted countries that recognizes the potential benefit of the project.”</p>	<p>Yes</p>
<p>Include the EU funding as one of the legal criteria</p>	<p>In order to accommodate this remark ENTSO-E has added in the legal criteria the following: „ the promoter was granted funding for the proposed project under the Community financial aid in the field of the trans- European transport and energy networks (TEN-E) or the European Energy Programme for Recovery (EEPR)“.</p>	<p>Yes</p>
<p>Consider a third party project for the TYDNP assessment even if it does not fulfill the legal criteria.</p>	<p>As underlined also by other participants in the workshop ENTSO-E must transparently apply for all projects the same clear criteria, ensuring therefore a consistent and robust TYNDP.</p>	<p>This suggestion was disconsidered form the present procedure.</p>
<p>Explain the confidentiality issues and the way ENTSO-E proposes to use the data.</p>	<p>ENTSO-E has introduced a new chapter on confidentiality.</p>	<p>Yes</p>

Include in the present procedure the right to appeal. ENTSO-E has introduced a new chapter on the right to appeal. Yes

2.2. Comments received during the EC, ACER, ENTSO-E discussions

EC , ACER suggestions	ENTSO-E implementation	Refected in the adapted draft; 17 December 2012
Modify the technical criteria (GTC increase) in order to accomodate the definition of the project of European relevance (no MW threshold for the cross-border projects)	In order to accommodate this remark ENTSO-E has adapted the technical criteria as follows: “at least 500 MW of additional NTC , with the exception of cross-border projects where no additional NTC threshold is imposed”	Yes
Include the reasoning behind the need of technical and legal criteria	ENTSO-E has updated the text accordingly.	Yes
The criteria must consider also projects that are in the incipient phase and may require EU funding for the studies.	In order to accommodate this remark ENTSO-E has added in the legal criteria the following: „the promoter shall have requested the impacted TSOs to perform the prefeasibility/feasibility study at least 6 months before applying for the inclusion in the TYNDP.“	Yes
Ask for the acknowledgement form NRAs and not for the application of the NRAs to the EC	In order to accommodate this remark ENTSO-E has added in the legal criteria the following: “the promoter shall have applied (through the NRA) for the exemption to the EC according to art. 17 of Reg. (EC) 714/2009;” for which it must deliver “the acknowledgment receipt of the application for the EC exemption from the responsible regulatory authorities of the concerned EU countries”	Yes
In relation to the appeal chapter: <ul style="list-style-type: none"> - Specify the time frame for appeal - Specify when is still possible to make changes related to the projects - Specify that if ENTSO-E makes a mistake in its assessment will correct it but if the data sent by the promoter in the initial phase 	ENTSO-E has updated the text accordingly.	Yes

is wrong than ENTSO-E is not obliged to rerun the assessment.

Clarify the terminology: TSO, non-TSO	In order to avoid any misunderstanding ENTSO-E has replace the naming TSO/ non-TSO with the categories A and B for the types of promoter.	The procedure was simplified to avoid misunderstanding.
For the confidentiality reasons the third party stakeholder to deliver the cost information later in the process(in advance of the consultation process)	In order to accommodate this remark ENTSO-E has added the following: “Only the estimated cost of the project may be delivered at a later stage (and not later than October 2013).”	Yes
The appeal should be managed by a separate ENTSO-E instance different from the one having appraised the project.	The ENTSO-E assessment is carried out based on common data and methodologies at regional level. This is a peer-review process as the assessments are signed off by the ENTSO-E System Development Committee. This ensures that the assessments as well as the appeals’ treatment involve directly TSOs that are not immediately impacted by the third party project in question.	ENTSO-E commits to deliver an in-depth explanation of the reasoning behind the assessment results and acceptance decision.
In order for the promoter to have sufficient time for delivering the additional requested data, ENTSO-E must commit to contact the promoter two weeks after the submission deadline has passed.	The suggestion was implemented as following: „In case the submitted data is not complete, ENTSO-E will establish the first contact with the promoter no later than 2 weeks after the submission deadline in order to enquire further documentation and clarification.“	Yes
Small editorial changes.	ENTSO-E has updated the text accordingly.	Yes