

ENTSO-E RECOMMENDATIONS TO ACER AND NRAs ON THE CBCA IMPLEMENTATION

INTRODUCTION

Regulation (EU) No 347/2013¹⁾ introduces the Cross-Border Cost Allocations (CBCA) process to support the development of new electricity transmission infrastructure.

The CBCA is a powerful tool, but it can become a complex process that involves many parties, and it must be carefully managed to keep it as simple as possible. As a matter of fact, it may produce counterproductive effects, slowing rather than fostering investments, adding bureaucracy, multiple and sterile cross-invoicing of TSOs across Europe and damaging the good cooperative spirit among project promoters, NRAs and Member States in developing transmission infrastruc-

ture. ENTSO-E believes it is important to streamline the process from the very beginning to achieve effective and coherent CBCA decisions. In this document, ENTSO-E provides several recommendations with the intention of increasing support by all affected parties for the outcomes of cases in which CBCA is applied. These recommendations are addressed to project promoters, national regulatory authorities, Member States, ACER and all project stakeholders.

RECOMMENDATIONS

1. KEEP IT RARE! – USE CBCA ONLY TO MAKE A PROJECT HAPPEN

Fundamentally, the CBCA is to be used as an exception for projects that would not materialise otherwise. It adds up in the project critical path, with a risk of postponing the commissioning date and the delivery of project benefits.

Therefore, when hosting countries get a positive benefit from an investment, a CBCA aiming at involving other countries is counterproductive: In essence, Member States contribute to developing Projects of Common Interest and each and every project brings benefits beyond its hosting countries. CBCAs should hence remain the exception.

2. KEEP IT SIMPLE! – ENSURE A ROBUST, LONG-LASTING DECISION

An agreement to share investment costs is the more robust, transparent, quick and fair in the long run when it relies on simple – even humble – bases that are easy to explain to all parties and interested stakeholders.

The CBCA should be based as far as possible on the simplest possible arguments and implementation processes that demonstrate fairness, trigger trust and make political agreement possible.

Conversely, complex, forecast simulations shall be avoided: If today's forecast of future benefits is likely to be reliable as far as its overall order of magnitude is concerned, it will most probably prove wrong in its details and hence will be easy for any opponents to challenge. The devil is in the details.

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

3. KEEP IT FAIR! – ENSURE ALL PARTIES’ BUY-IN

It is realistic to invite third parties in financing a project if they become full project partners, gaining insight into the project details, understanding and sharing its benefits and costs and eventually having a decision-making right.

Conversely, imposing cost recovery on third parties against their will is unrealistic because any claim will have to rely on agreed-upon forecasts and equivocal analyses perimeters that will be easily challenged by unwilling parties.

Therefore, to actually support project realisation, project promoters and hosting countries should consider enlarging the governance of a project to other TSOs and Member States and aligning and apportioning rights and duties of all project parties in a governance agreement, as much as, and before, any CBCA formal process.

NRAs must also ensure that CBCA cost recovery is ensured and financially neutral, i.e., subject to no efficiency assessment or reduction, for the concerned TSOs.

FURTHER GUIDANCE

CBCAs must be used wisely to support transmission projects. Abusing them would result in project delays, possible conflicts between project partners or eventually cancelled investments. It must be rare, fair and pragmatic and must rely on simple arguments.

In this respect, one can consider the following guidance.

1. The latest available and European-wide scenarios of TYNDP are likely to be best suited to deriving consensual analysis at the international level.
2. The variation of benefits for the affected countries for the different TYNDP contrasting scenarios can give the right orders of magnitude for the impact of a project on all countries.

4. KEEP IT COOL! – ENTER THE CBCA PROCESS AFTER AGREEING ON THE PRINCIPLES

A successful CBCA requires agreement of the project promoters and concerned NRAs. Negotiations can start before any official request is made, and they should do so to secure success.

Decision-making and agreement on CBCA will be all the easier and serene if the number of parties is minimal (see recommendation 3); parties admit to getting benefits from the project; the bases for sharing cost and benefits are simple and aligned (see recommendation 2); and no official request has yet been made (even though NRAs must be associated) and hence the regulation’s countdown hasn’t yet started.

Without a prior agreement, entering the official process will put pressure on the project promoters and NRAs, probably causing delays or even bringing the project to a stalemate.

5. KEEP IT PRAGMATIC! – LOOK FOR EFFICIENCY... AND EFFECTIVENESS

Keeping in mind that the goal is to make an investment happen that is profitable for Europe even if it brings a net deficit to the hosting countries and that forecasting the future is difficult, all these principles should be applied in the most pragmatic manner, looking for reasonable, possibly not perfect, but manageable solutions.

3. A net negative impact on a hosting country in less than 50% of all TYNDP scenarios makes a CBCA proposal difficult to envisage.
4. If the sum of net impacts in the hosting countries is positive, the scope of the financial transfer under a CBCA decision will be limited to the hosting countries.
5. Non-hosting countries should only be considered to be associated to the CBCA if they show a net positive benefit in at least 75% of all TYNDP scenarios.