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Number: 111-52/2023/12
Date: 25. 08. 2023

The Energy Agency hereby issues, pursuant to Article 12(4) of 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 (OJ L, No 115, of 25 April 2013, p. 39) and on the basis of application of the natural gas transmission system operator, the company PLINOVODI. d.o.o., Cesta Ljubljanske brigade 11B, 1000 Ljubljana, represented by the Managing Director Marjan Eberlinc, the following

DECISION

1. The investment cost for PCI Project No 6.26.1, Cluster Croatia–Slovenia at Rogatec, shall be allocated in such a way that the operator of the Slovenian natural gas transmission system, PLINOVODI, Družba za upravljanje s prenosnim sistemom, d.o.o., Cesta Ljubljanske brigade 11B, 1000 Ljubljana, shall bear the cost of the investment on the Slovenian territory.
2. No specific costs related to the issue of this Decision were incurred.

Reasoning:

On 15 May 2023, the Energy Agency received an investment request from the natural gas transmission system operator, PLINOVODI, Cesta Ljubljanske brigade 11B, 1000 Ljubljana (hereinafter: applicant), including a request for cross-border cost allocation for PCI project of common interest No. No 6.26.1, Cluster Croatia–Slovenia at Rogatec (hereinafter: investment request). The investment request, which also contains a reasoned proposal for cross-border cost allocation, was accompanied by a cost-benefit analysis (CBA) and a business plan. On 13 July 2023, the Energy Agency received from the applicant an update of the investment request with a calculation model in MS Excel, explaining that the investment request refers to 'Option II', which contains the entire PCI 6.26.1 Croatia-Slovenia Coupling at Rogatec (hereinafter: project). On 1 August 2023, the applicant provided the Energy Agency with further clarifications and information on the consultations between the TSOs. The Energy Agency assessed the completeness of the investment request under points 2.2 and 2.3 of Recommendation No 5/2015 of the Agency for the Cooperation of Energy Regulators. In doing so, the Energy Agency established that the investment request contained all the necessary documents, and on 24 July 2023, the Energy Agency informed the Agency for the Cooperation of Energy Regulators (hereinafter: ACER) thereof. The Energy Agency also forwarded a copy of the investment request to ACER for information.

Pursuant to Article 12(1) of 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 (OJ L, No. 115, of 25 April

2013, p. 39), (hereinafter: Regulation), the efficiently incurred investment costs, which exclude maintenance costs related to a project of common interest falling under the categories set out in Annex II.1(a), (b) and (d) and Annex II.2 shall be borne by the relevant TSOs or the project promoters of the transmission infrastructure of the Member States to which the project provides a net positive impact, and, to the extent not covered by congestion rents or other charges, be paid for by network users through tariffs for network access in that or those Member States. Where a project has several project promoters, the relevant national regulatory authorities shall without delay request all project promoters to submit the investment request jointly in accordance with Article 12(3) of this Regulation.

Further, the national regulatory authorities shall, in accordance with Article 12(4) of the Regulation, within six months of the date on which the last investment request was received by the national regulatory authorities concerned, and 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. The national regulatory authorities may decide to allocate only part of the costs or allocate costs among a package of several projects of common interest. When deciding to allocate costs across borders, the economic, social and environmental costs and benefits of the projects in the Member States concerned and the possible need for financial support shall be considered.

Article 12(3) of the Regulation states that project promotors, after consulting the transmission system operators of the Member States to which the project provides a net positive effect, shall submit an investment request to all relevant national regulatory authorities. In the proceedings, the Energy Agency found that it was competent to deal with the investment request because:

- the project is located entirely on the territory of the Republics of Croatia and Slovenia; in Croatia, the project represents a 69 kilometres of pipelines Lučko–Zabok–Rogatec (TRA-0-086), and in Slovenia the upgrade of Rogatec interconnection (TRA-N-390), and CS Kidričevo, 2nd phase of upgrade;
- the cost-benefit analysis shows that the project delivers more than 10% of the net benefits to each country (Croatia, Slovenia and Austria); the cost-benefit analysis also shows that the net benefits to each of the remaining countries in the region are less than 10% of the total benefits of the project.

Pursuant to Article 12(5) of the Regulation the Energy Agency has examined the investment request, which includes a request for cross-border costs allocation. In doing so, the Energy Agency provides the following explanation:

a) Assessment of the effects identified in each Member State concerned, including those relating to network tariffs

   According to the applicant, the project is of particular importance for Slovenia in terms of gas market integration, as the benefits of market integration and the resulting convergence of gas prices (MINT indicator – Market Integration) for Slovenia over the lifetime of the project (2027–2052) are estimated at EUR 699 million, representing 67% of the total benefits on the Slovenian side. The remaining benefits are derived from the increase in security of supply, which is reflected in the reduction of exposure to constrained demand (REtCD indicator – Reduction in

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Exposure to Curtailed Demand) and are estimated at EUR 296 million (29% of the total benefits), and the benefits from reduced CO_2 emissions (the value of greenhouse emissions avoided as a result of the project - CO_2S[1]indicator - CO_2 Savings), estimated at EUR 41 million (4% of the total benefits).

The Energy Agency agrees that there are significant benefits of the project for Slovenia in market integration, as it allows for greater liquidity in the gas market and increased competition between suppliers, and may result in lower gas price for end-users. The project will enable gas to be transported from the LNG terminal on the Croatian island of Krk (LNG terminal Krk) to the CEHG[2] gas hub in Baumgarten, Austria, the most important trading hub for Slovenia's gas supplies. As ACER notes in its Market Monitoring Report[3] , the significant differences in gas prices between some European hubs in the summer 2022 period were largely due to the different levels of access of the gas hubs to the LNG market. ACER further notes that the increased availability of LNG import capacity has had the effect of improving price convergence in the European gas market. Furthermore, the Energy Agency also agrees with the applicant's assessment that Slovenia could benefit significantly from increased security of supply or reduced exposure to lower demand if the project is implemented, as the infrastructure criterion N-1 is only 74,2%[4] in 2023. Increasing the capacity of the existing Rogatec entry point and for Slovenia the new gas source from LNG terminal Krk would significantly increase security of supply in case of interruption of supply routes or gas sources from the direction of Austria or Italy.

The Energy Agency also notes that although the project is currently considered a market integration and security of natural gas supply project, it is designed in such a way that it could be transformed into a clean hydrogen transmission pipeline (hydrogen pipeline) in the future and thus form part of the European hydrogen backbone.

According to the applicant's estimates, the project would increase the entry and exit tariff rates of the Slovenian transmission system network over 25 years (2027–2052) by an average of 9% in the case without CEF funding and by an average of 7% in the case of CEF funding (75% co-financing of the initial CAPEX eligible for co-financing is foreseen). The project would require an increase of 36% (without CEF funds) and 26% (with CEF funds) in all entry and exit tariff lines of the network charge in the first year after project activation. Thereafter, tariffs would gradually decrease due to lower depreciation and the foreseen higher capacity leases, reaching almost exactly the same value in 2052 as in the year before the project activation. This is assuming a gradual increase in capacity leasing at the Rogatec entry point from less than 10% of technical capacity in the first years of the project to 25% of technical capacity in 2052. At the Ceršak border exit point, the assumed capacity lease is slightly lower, reaching 19% of technical capacity in 2052, with a gradual annual increase in capacity lease. No impact on capacity leasing is foreseen at the remaining border interconnection points.

The Energy Agency did not decide on the appropriateness of the level of the network charge tariff rates in the decision-making process on the cross-border cost allocation of the project in question, as such decision-making is foreseen in the economic viability test procedure in accordance with Commission Regulation (EU) 2017/459.

[1] The MINT, REtCD and CO_2S indicators are defined in accordance with 2nd ENTSOG Methodology for the Cost-Benefit Analysis of Gas Infrastructure Projects, February 2019

[2] Central European Gas Hub

[3] 2023 ACER Market Monitoring Report (MMR)

[4] Source: Ten-year development plan for the gas transmission network for the period 2024–2033

Nevertheless, the Agency considers that the network tariffs of each entry/exit point should reflect the costs of the transmission system and, in accordance with Commission Regulation (EU) 2017/460 establishing a network code on harmonised tariff structures for gas, the competitiveness of each transmission route may also be considered in the determination of each network tariff rate. Given the assessment that without co-financing the project would require a significant increase in the network charge tariff for the Croatia-Slovenia border interconnection point, which could also mean the uncompetitiveness of the new transmission route, while at the same time, the project would lead to an increase in the network charge tariff for other points on the Slovenian transmission system, co-financing by the CEF is crucial for the successful implementation of the project.

b) Evaluation of the business plan

The business plan is based on the modelling of estimated gas supplies and consumption in Croatia, Slovenia, and Austria. The applicant and the Croatian TSO propose to share the costs of the project in such a way that each TSO bears the costs of building the transmission system on its national territory. Ownership of fixed assets, operation and maintenance costs and duties and rights related to operational activities shall also be shared on a territorial basis. According to the estimates and calculations of the applicant, the cost of the project (CAPEX) on the Slovenian side amounts to EUR 127.1 million (47% of the total project cost), while the OPEX is estimated at EUR 88 million, which represents half of the maintenance costs of the whole project. Over the period 2027-2052, the applicant estimates that the Slovenian part of the project could generate EUR 41 million in revenues (discounted value), which, considering the residual value, investment and maintenance costs, would mean that the project is not financially sustainable. According to the applicant's calculations, all three financial indicators are insufficient (financial net present value NSV_f = −101.3 million EUR, financial internal rate of return ISD_f = −7.5 %, financial relative utility ratio K/S_f = 0.3).

The Energy Agency examined the business plan and concludes that, under existing assessments and assumptions and under the scenarios used, the project generates a negative financial flow and is therefore financially unfeasible without co-financing. Consequently, the Energy Agency supports the applicant in its intention to obtain financial assistance for the project in the form of CEF funds.

c) Positive effects at regional or Union level generated by the project

In the request for investment, the applicant cites a number of positive effects of the project at both national and regional level:

- the project will contribute to the creation of a resilient and interconnected European gas pipeline network by enabling additional LNG supplies via the LNG terminal Krk, thus helping to compensate for the loss of Russian gas imports;
- by increasing the technical capacity of the HR-SI-AT route, the project will remove bottlenecks in this part of the EU gas network. Countries in the region (notably Croatia, Slovenia and Austria) will gain better access to the LNG terminal Krk and the CEGH hub. This will reduce the risks of insufficient resources in case of an energy supply emergency;
- diversification of sources will also ensure greater reliability of supply. The project will enable new sources of natural gas supply to the region, as it will provide access to global LNG markets (through the LNG terminal Krk) and access to potential gas from

Azerbaijan (in connection with the Trans-Anatolian Gas Pipeline, Trans-Adriatic gas pipelines and the planned Ionian-Adriatic gas pipeline (IAP));

- the project will increase gas market liquidity in the countries of South-Eastern Europe, help to reduce the spread of locational gas prices and increase the security of gas supply, thereby increasing the prosperity not only of the countries directly involved but also of the region as a whole;
- the project will also increase the availability of gas on the Croatian, Slovenian and Austrian markets for electricity generation. It will thus support the objectives of sustainable energy supply by eliminating or reducing emissions from coal-fired power generation;
- the project will enable the transmission of a higher mix of hydrogen and methane in the short and medium term. The higher hydrogen content of the gaseous fuel will reduce emissions associated with electricity generation and other consumption sectors;
- in the long term, the project is expected to be fully adapted to the transport of hydrogen and other decarbonised gases, which are key in the process of decarbonisation of the European economy.

The Energy Agency agrees with the applicant's claims regarding the positive effects of the project at the regional and EU levels and adds that the project is in line with one of the key objectives of European energy policy, namely to increase competition between gas suppliers and increase energy security in the Energy Union.

d) Results of the consultations of the project promoters concerned

According to the investment request, the applicant worked closely with the Croatian natural gas transmission system operator, Plinacro d.o.o., during the project's development. The two operators have jointly developed the project and have also consulted the Austrian TSO Gas Connect Austria (GCA). The results of the investment request were presented to GCA on 17 March 2023, following a list of assumptions sent to GCA in December and jointly agreed upon in January. Further online communication with the GCA on the results of the investment request was carried out by the end of March 2023, which, according to the project promoters, completed all necessary consultations with the Austrian TSO.
In addition to the above consultations, in December 2022, a Memorandum was signed by the natural gas transmission system operators (Plinacro, Plinovodi and GCA) focusing on the continuation of cooperation in the field of energy infrastructure development (in line with EU rules). Particular attention is paid to infrastructure projects connecting the transmission systems at border interconnection points (including hydrogen projects), as well as to the coordination and cooperation concerning the submission of projects of common interest (PCIs).
In the process of preparing the investment request, the TSOs of Slovenia and Croatia held a meeting with the Energy Agency in March 2023 and presented a proposal for a final decision on the cross-border cost allocation of the project.

The Energy Agency has been following the development of the Croatia-Slovenia gas pipeline link since the preparation of the PCI status of the project on the first PCI list in 2013. As the project has been granted PCI status on all PCI lists so far, a large number of meetings and telephone discussions have been held and a lot of correspondence exchanged between the national regulatory authorities of Slovenia and Croatia and the respective TSOs over the last decade.

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Based on all the above activities, the Energy Agency concludes that the applicant has consulted regularly and extensively with both the Croatian and the Austrian TSOs and the Energy Agency to optimise the project from a technical, financial and economic point of view.

Following the findings specified above, the Energy Agency has decided as stated in the point one of the wording of this Decision, to impose the costs of the investment on the Slovenian territory in full on the applicant.

In accordance with the second paragraph of Article 12(5) of the Regulation, the Energy Agency shall notify ACER of its costs allocation decision.

No specific costs having been incurred in the procedure of issuing this Decision, therefore the Energy Agency decided on the basis of Article 118 of the General Administrative Procedure Act (Official Gazette of the Republic of Slovenia, Nos. 24/06 – official consolidated text, 105/06 – ZUS-1, 126/07, 65/08, 8/10, 82/13, 175/20 – ZIUOPDVE and 3/22 – ZDeb), as follows from the second point of the wording of this Decision.

This Decision is exempt from tax duty in accordance with Article 2(2) of the Administrative Fees Act (Official Gazette of the Republic of Slovenia, Nos. 106/10 — official consolidated text, 14/15 — ZUUJFO, 84/15 — ZZelP-J, 32/16, 30/18 — ZKZaš and 189/20 — ZFRO).

LEGAL INSTRUCTION:

No appeal is allowed against this Decision under paragraph one of Article 418 of the Energy Act (Official Gazette of the Republic of Slovenia, Nos. 60/19 – official consolidated text, 65/20, 158/20 – ZURE, 121/21 – ZSROVE, 172/21 – ZOEE, 204/21 – ZOP and 44/22 – ZOTDS). However, an administrative dispute is permitted and may be initiated by filing an action within 30 days after receipt of this Decision. The action is to be filled in writing directly with the Administrative Court of the Republic of Slovenia, Fajfarjeva 33, 1000 Ljubljana, or with any external department of the Administrative Court concerning the claimant's registered office or address, or sent to the court mentioned earlier by post. The action shall be deemed filed with the court on the day it was sent by registered mail. The action is to be filed in as many copies as there are parties to the proceedings. The original, transcript or copy of the administrative act being contested is to be enclosed with the action.

According to the Administrative Fees Act (Official Gazette of RS, nos. 37/08, 97/10, 63/13, 58/14 – CC Dec., 19/15 – CC Dec., 30/16, 10/17 – ZPP-E, 11/18 – ZIZ-L, 35/18 – CC Dec and 204/21), tax duty is payable upon filling an action in an administrative dispute, which, under tariff no. 6111, amounts to EUR 148.00. Tax duty is to be paid to the court's bank account, no. 01100-8450088976

REPUBLIKA SLOVENIJA NOSILEC JAVNEGA POOBLASTILA AGENCIJA ZA ENERGIJO MARIBOR 1

Mag. Duška Godina
Director

To be served – in person:

- družba PLINOVODI, d.o.o., Cesta Ljubljanske brigade 11B, 1000 Ljubljana