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ANNEX 1

ANNEX

to the

COMMISSION IMPLEMENTING DECISION

on amending Commission Implementing Decision C(2014)2080 establishing the multiannual work programme for granting financial aid in the field of trans-European energy infrastructure under the Connecting Europe Facility for the period 2014-2020

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1. BASIC ACTS

Regulation (EU) No 1316/2013¹ of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (hereinafter the 'CEF Regulation'),

Regulation (EU) 347/2013² 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 (hereinafter the 'TEN-E Regulation')

Commission Delegated Regulation (EU) No 89/2016³ of 18.11.2015 amending Regulation (EU) No 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure as regards the Union list of projects of common interest,

Regulation (EU, EURATOM) No 966/2012⁴ of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (hereinafter the 'Financial Regulation') and in particular Article 53, thereof,

Commission Delegated Regulation (EU) No 1268/2012⁵ of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (hereinafter the 'Rules of Application') and in particular Article 94 thereof,

¹ OJ L 348 of 20.12.2013, p. 129

² OJ L 115 of 25.4.2013, p. 39

³ OJ L 19 of 27.1.2016

⁴ OJ L 298 of 26.10.2012, p. 1

⁵ OJ L 362 of 31.12.2012, p. 1

2. BUDGET

The total amount for the activities launched in 2014 and 2015 in terms of indicative commitment schedule (in EUR)⁶ is as it follows:

AMENDED ACTIVITY: 2014 : Commitments schedule											<i>In EUR (current prices)</i>
Action	Indicative time	Budget line	2014	2015	2016	2017	2018	2019	2020	Total	
GRANTS	Call for proposals launched 5 May 2014, Award Decision 21 November 2014 (C(2014)8580)	32 02 01 01	124,373,261	25,932,367	-	3,376,419	2,630,250	40,081,010	10,670,825	207,064,132	
		32 02 01 02	122,042,833	25,932,367	-	3,376,419	2,630,250	40,081,010	10,670,825	204,733,704	
		32 02 01 03	121,042,833	25,932,367	-	3,376,419	2,630,250	40,081,010	10,670,825	203,733,704	
		Total GRANTS	367,458,927	77,797,102	-	10,129,256	7,890,750	120,243,031	32,012,474	615,531,540	
Procurement for programme support actions	1 contract- call for tenders	32 02 01 01	-	-	-	-	-	-	-	-	
		32 02 01 02	-	-	-	-	-	-	-	-	
		32 02 01 03	1,000,000	-	-	-	-	-	-	-	1,000,000
		Total PROCUREMENT	1,000,000	-	-	-	-	-	-	1,000,000	
Financial Instruments	Commission Decision C(2014)9588	32 02 01 04	40,771,000	-	-	-	-	-	-	40,771,000	
		Total FIN. INSTRUMENTS	40,771,000	-	-	-	-	-	-	40,771,000	
		Total 2014 activities	409,229,927	77,797,102	-	10,129,256	7,890,750	120,243,031	32,012,474	657,302,540	
AMENDED ACTIVITY: 2015 : Commitments schedule											
Action	Indicative time	Budget line	2014	2015	2016	2017	2018	2019	2020	Total	
GRANTS	First call for proposals launched 4 March 2015, Award Decision 5 August 2015 (C(2015) 5388 - Second call for proposals launched 30 June, award decision to be adopted)	32 02 01 01	-	89,523,161	-	-	22,126,007	4,206,517	5,206,666	121,062,350	
		32 02 01 02	-	89,621,633	-	-	22,126,006	4,206,517	5,206,667	121,160,823	
		32 02 01 03	-	89,622,633	-	-	22,126,006	4,206,517	5,206,667	121,161,823	
		Total GRANTS	-	268,767,426	-	-	66,378,019	12,619,550	15,620,000	363,384,995	
Procurement for programme support actions		32 02 01 01	-	1,200,984	-	-	-	-	-	1,200,984	
		32 02 01 02	-	-	-	-	-	-	-	-	
		32 02 01 03	-	-	-	-	-	-	-	-	
		Total PROCUREMENT	-	1,200,984	-	-	-	-	-	1,200,984	
Financial Instruments	Commission Decision C(2015)8847	32 02 01 04	-	48,518,000	-	-	-	-	-	48,518,000	
		Total FIN. INSTRUMENTS	-	48,518,000	-	-	-	-	-	48,518,000	
		Total 2015 activities	-	318,486,410	-	-	66,378,019	12,619,550	15,620,000	413,103,979	

The total amount for the activities to be launched in 2016 in terms of indicative commitment schedule is as it follows (in EUR)⁷:

NEW ACTIVITIES: 2016 Calls for proposals - Commitments schedule										
Action	Indicative time	Budget line	2014	2015	2016	2017	2018	2019	2020	Total
GRANTS	2 calls for proposals, March + June 2016	32 02 01 01	-	-	144,293,584	-	-	41,722,811	66,666,667	252,683,061
		32 02 01 02	-	-	165,343,584	-	-	41,722,811	66,666,667	273,733,061
		32 02 01 03	-	-	165,194,400	-	-	41,722,811	66,666,667	273,583,877
		Total GRANTS	-	-	474,831,568	-	-	125,168,432	200,000,000	800,000,000
Procurement for programme support actions	call for tenders-second quarter 2016	32 02 01 01	-	-	1,300,000	-	-	-	-	1,300,000
		32 02 01 02	-	-	250,000	-	-	-	-	250,000
		32 02 01 03	-	-	400,000	-	-	-	-	400,000
		Total PROCUREMENT	-	-	1,950,000	-	-	-	-	1,950,000
		Total 2016 activities	-	-	476,781,568	-	-	125,168,432	200,000,000	801,950,000

The table above refers to the three budget lines:

32 02 01 01 Further integration of the internal energy market and the interoperability of electricity and gas networks across borders

32 02 01 02 Enhancing Union security of energy supply

32 02 01 03 Contributing to sustainable development and protection of the environment

A separate multisectoral annual work programme will be adopted for a contribution to financial instruments for the years 2016-2020 (budget line 32 02 01 04).

A separate multisectoral annual work programme covering the transport and the energy sectors and addressing synergies between these sectors will be adopted for a contribution to

⁶ The allocation for 2014 includes EUR 2330 428 corresponding to assigned revenue

⁷ The allocation for 2015 includes EUR 950 984 corresponding to assigned revenue. This amount may be increased to include further appropriations corresponding to assigned revenue, if they are available at the time when the financing decision is adopted

financial assistance with the view to launching a joint call for proposals in 2016 (budget line 32 02 01 01).

The total commitment appropriations for all activities covered by this Multiannual Work Programme (activities 2014, 2015 and 2016) are as it follows:

TOTAL: All activities covered by MAP 2014-2020											
Action	Indicative time	Budget line	2014	2015	2016	2017	2018	2019	2020	Total	
GRANTS	2014-2020	32 02 01 01	124,373,261	115,455,528	144,293,584	3,376,419	24,756,257	86,010,338	82,544,157	580,809,543	
		32 02 01 02	122,042,833	115,554,000	165,343,584	3,376,419	24,756,256	86,010,338	82,544,158	599,627,588	
		32 02 01 03	121,042,833	115,555,000	165,194,400	3,376,419	24,756,256	86,010,338	82,544,158	598,479,404	
		Total GRANTS	367,458,927	346,564,528	474,831,568	10,129,256	74,268,769	258,031,013	247,632,474	1,778,916,535	
Procurement	2014-2020	32 02 01 01	-	1,200,984	1,300,000	-	-	-	-	2,500,984	
		32 02 01 02	-	-	250,000	-	-	-	-	250,000	
		32 02 01 03	1,000,000	-	400,000	-	-	-	-	-	1,400,000
		Total PROCUREMENT	1,000,000	1,200,984	1,950,000	-	-	-	-	-	4,150,984
Financial Instruments	2014-2016	32 02 01 04	40,771,000	48,518,000	-	-	-	-	-	89,289,000	
		Total FIN. INSTRUMENTS	40,771,000	48,518,000	-	-	-	-	-	-	89,289,000
Total RESERVED			409,229,927	396,283,512	476,781,568	10,129,256	74,268,769	258,031,013	247,632,474	1,872,356,519	

3. OBJECTIVES

This multiannual work programme aims to enable projects of common interest to be prepared and implemented within the framework of the trans-European networks policy in the energy sector. In particular, this multiannual work programme shall contribute to supporting energy infrastructure projects of common interest that have significant societal benefits and that ensure greater solidarity among Member States, but which do not receive adequate financing from the market. Special focus shall be placed on the efficient use of public investment.

4. FORMS OF FINANCIAL ASSISTANCE, INDICATIVE AMOUNTS AVAILABLE AND TIMETABLE

This multiannual work programme shall provide financial assistance for the implementation of projects of common interest in the form of:

- grants for studies and grants for works, as well as
- procurement for programme support actions

The Commission plans the following activities under programme support actions as defined in Article 2(7) of the CEF Regulation: studies on a dedicated system for the development of a meshed offshore grid in the North Sea; studies to check the Member States compliance with the permit granting rules as laid down in the TEN-E Regulation; studies on the evaluation of security of supply for the cost benefit analysis for gas and electricity infrastructures; procurement activities to support the TEN-TEC front office which allows interactions with beneficiaries and applicants in the CEF-E grant management. Calls for tenders and specific contracts under a framework contract may be used for programme support actions. It is not foreseen that the Connecting Europe Facility contributes financially to corporate communication in 2016 in accordance with Art. 28(2) of the CEF Regulation. However, this is without prejudice to the fact that it shall do so in subsequent work programmes, as agreed by the Commission in the Communication SEC(2013) 486 final of 23.9.2013. This would be subject to an amendment of the work programme.

This multiannual work programme shall also cover the costs of external experts evaluating the received proposals submitted pursuant to calls for proposals under this multiannual work programme (Article 204 of the Financial Regulation) for a maximum amount indicated in the table below.

Activities to be covered in 2016 (grants and procurement activities):

Forms of assistance	Indicative timetable	Indicative amounts (up to EUR)
Grants	2 calls for proposals – March and June 2016	800,000,000 (200,000,000 and 600,000,000)
Procurement for programme support actions	Calls for tenders – Q2 2016 4 contracts	1,800,000
Experts evaluating proposals	expert contracts	150,000
TOTAL		801,950,000

Activities covered in 2015

Forms of assistance	Timetable	Amounts (up to EUR)
Grants	2 calls for proposals 1) Award Decision (C(2015) 5388) 2) launch: June 2015 Award Decision (expected February 2016) ⁸	363,384,995
Procurement for programme support actions	Calls for tenders – Q2 2015 2 contracts	1,200,984
Experts evaluating proposals	expert contracts	
Financial instruments	Work Programme 2015 (C(2015)8847)	48,518,000
TOTAL		413,103,979

⁸ Following positive opinion of the CEF Committee on 19.01.2016

Activities carried out in 2014:

Forms of assistance	Timetable	Amounts (EUR)
Grants	Call for proposals: Award Decision: 21 November 2014 (C(2014)8580)	615,531,540
Financial instruments	Launch of CEF Debt Instrument (C(2014)9588)	40,771,000
Procurement for programme support actions	Call for tenders – Q1 2015 1 contract	1,000,000
TOTAL		657,302,540

5. RESULTS EXPECTED FROM THE FINANCIAL ASSISTANCE

It is expected that the financial assistance (grants and programme support actions) contributes to further the development and the implementation of projects of common interest in electricity and gas, helping to achieve the broader energy policy objectives of:

- increasing competitiveness by promoting the further integration of the internal energy market and the interoperability of electricity and gas networks across borders
- enhancing Union security of energy supply, and
- contributing to sustainable development and protection of the environment, inter alia by the integration of energy from renewable sources and by the development of smart energy networks

Furthermore, in accordance with recital 57 of the CEF Regulation, this multiannual work programme aims at directing the major part of the financial assistance to electricity projects, subject to market uptake, the quality and maturity of actions proposed and their financing requirements, while fully recognising the importance of the gas projects on the PCI list.

6. GRANTS

6.1. Eligible applicants

Pursuant to Article 9 of the CEF Regulation:

- Proposals shall be submitted by one or more Member States or, with the agreement of the Member States concerned, by international organisations, joint undertakings, or public or private undertakings or bodies established in Member States
- The proposals may be submitted by entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on their behalf and offer guarantee for the protection of the Union's financial interests equivalent to that offered by legal persons
- The proposals submitted by natural persons shall not be eligible

- Where necessary to achieve the objectives of a given project of common interest and where duly motivated, third countries and entities established in third countries may participate in actions contributing to the projects of common interest. They may not receive funding under this Regulation⁹, except where it is indispensable to achieve the objectives of a given project of common interest
- In the calls for proposals the Commission will draw the applicants' attention to Articles 106 to 108 (exclusion criteria) and Article 131 (applications for grants) of the Financial Regulation, as well as to Article 141 of the Rules of Application

6.2. Eligible actions

6.2.1. Projects of common interest

In line with Article 7 of the CEF Regulation, only actions contributing to projects of common interest as identified in the Commission Delegated Regulation No 89/2016 of 18.11.2015 shall be eligible for support through Union financial aid in the form of grants.

Pursuant to Article 14(1) of the TEN-E Regulation, projects of common interest falling under the categories set out in Annex II.1, 2 and 4 of the TEN-E Regulation are eligible for Union financial assistance in the form of grants for studies (and financial instruments).

Pursuant to Article 14(2) and (3) of the TEN-E Regulation, projects of common interest falling under the categories set out in Annex II.1(a) to (d), 2 and 4 of the TEN-E Regulation, except for hydro-pumped electricity storage projects, are also eligible for Union financial assistance in the form of grants for works if they fulfil all of the following criteria:

- the project specific cost-benefit analysis pursuant to Article 12(3)(a) provides evidence concerning the existence of significant positive externalities, such as security of supply, solidarity or innovation
- the project has received a cross-border cost allocation decision pursuant to Article 12; or, for projects of common interest falling under the category set out in Annex II.1(c) and that therefore do not receive a cross-border cost allocation decision, the project shall aim to provide services across borders, bring technological innovation and ensure the safety of cross-border grid operation
- the project is commercially not viable according to the business plan and other assessments carried out, notably by possible investors or creditors or the national regulatory authority. The decision on incentives and its justification referred to in Article 13(2) shall be taken into account when assessing the project's commercial viability

Pursuant to Article 14(4) of the TEN-E Regulation, projects of common interest falling under the categories set out in Annex II.1(e) of the TEN-E Regulation, smart grids, are also eligible for Union financial assistance in the form of grants for works, if the concerned project promoters can clearly demonstrate the significant positive externalities generated by the projects and their lack of commercial viability, according to the business plan and other assessments carried out, notably by possible investors or creditors or, where applicable, a national regulatory authority.

⁹ The eligibility criteria formulated in Commission notice Nr. 2013/C 205/05 (OJEU C 205 of 19.07.2013, pp.9-11) shall apply for all actions under this work programme, including with respect to third parties receiving financial support in the cases where the respective action involves financial support to third parties by grant beneficiaries in accordance with Article 137 of the Financial Regulation.

6.2.2. *Other sources of financing*

Pursuant to Article 129 of the Financial Regulation, no Union financial aid shall be awarded to actions receiving funds from other sources of EU financing. In no circumstances shall the same costs be financed twice by the Union budget.

In accordance with Article 125 of the Financial Regulation, grants shall not have the purpose or effect of producing a profit within the framework of the action. Where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary to carry out the action.

6.3. **Eligible costs**

Costs shall be eligible from the date on which an application for financial aid is lodged.

Pursuant to Article 130 of the Financial Regulation, no grants may be awarded retrospectively for actions already completed.

6.4. **Selection criteria for grants**

6.4.1. *Financial capacity*

The applicants must have stable and sufficient sources of funding to maintain their activity throughout the period during which the action is being carried out and to participate in its funding. The applicants shall provide their annual accounts for the last financial year for which the accounts were closed or a letter of support in case the applicant has been operating for less than one financial year. These documents must be attached to the application for aid.

The need to demonstrate the financial capacity does not apply to Member States, third countries, international organisations, public bodies established in the EU, transmission system operators certified following the procedures laid down in Articles 10 or 11 of Directive 2009/72/EC¹⁰ or Articles 10 or 11 of Directive 2009/73/EC¹¹, and joint undertakings established in the EU which qualify as public bodies.

6.4.2. *Operational capacity*

The applicants must have the operational and technical competencies and capacities required to complete the proposed action for which the grant is awarded and must provide appropriate documents attesting to that capacity (e.g. organisations' activity report, proof of the experience in carrying out infrastructure actions).

The need to demonstrate the operational capacity does not apply to Member States, third countries, international organisations, public bodies established in the EU, transmission system operators certified following the procedures laid down in Articles 10 or 11 of Directive 2009/72/EC or Articles 10 or 11 of Directive 2009/73/EC, and joint undertakings established in the EU which qualify as public bodies.

The waiver of the verification of the operational capacity is allowed pursuant to a choice of the authorising officer.

6.5. **Award criteria for grants**

The proposals will be evaluated against the following award criteria taking into account the list of general orientation as stipulated in Article 17(5) and in Part V of the Annex of the CEF Regulation:

¹⁰ OJ L 211 of 14.8.2009, p. 55

¹¹ OJ L 201 of 1.8.2009, p. 94

- (1) Maturity of the action with regard to the developmental stage of the project, based on the implementation plan (Article 5(1) of the TEN-E Regulation)
- (2) Cross-border dimension of the action, area of impact and number of Member States involved in the action
- (3) Extent of the positive externality provided by the action involving works, impact of the action on solidarity
- (4) Need to overcome financial obstacles
- (5) Soundness of the implementation plan proposed for the action
- (6) Stimulating effect of the CEF financial assistance on the completion of the action
- (7) Priority and urgency of the action, will the project remove bottlenecks, end energy isolation and contribute to the implementation of the internal energy market

In the evaluation process, consideration will be given to the implementation of the Third Energy Package rules (Directive 2009/72/EC; Directive 2009/73/EC; Regulation 714/2009; Regulation 715/2009) for the Member States involved, and as relevant to the completion of the action.

6.6. Co-financing rate for grants

The maximum co-financing rates laid down in Article 10(3) of the CEF Regulation are applicable.

7. FINANCIAL INSTRUMENTS

7.1. Eligibility of projects

Pursuant to Article 14(1) of the TEN-E Regulation only projects of common interest falling under the categories set out in Annex II.1, 2 and 4 of the TEN-E Regulation may receive Union financial assistance in the form of financial instruments.

7.2. Implementation of Financial Instruments

Following an ex-ante assessment on the use of financial instruments under the Connecting Europe Facility conducted in 2014, a CEF Debt instrument was entrusted with funding contributions from the transport, energy and telecoms sectors to the European Investment Bank (EIB) under the 2014 Annual Work Programme adopted on 18 December 2014. The selection of the EIB as an entrusted entity has been made taking account of the CEF Regulation and of the requirements of Art. 84(3) of the Financial Regulation (EU, Euratom No 966/2012) and of Article 94 of its Rules of Application.

The CEF Debt instrument is a joint instrument of the European Commission and of the EIB. The Debt Instrument can provide added-value to the Union intervention, e.g. to grants, by enabling in another manner the financial support that addresses sub-optimal investment situations when valuable projects of common interest do not receive adequate financing from the markets. The Debt Instrument is designed to cumulate investment by attracting additional financing of these projects by Member States and / or by the private sector.

The 2015 CEF Annual Work Programme for financial instruments provided for a contribution to the CEF financial instruments (Debt and Equity instruments) with a view to promoting substantial participation of private-sector investors and financial institutions in

infrastructure investment. In 2015 the transport and energy sector contributions reinforced the Debt instrument, while the telecommunications sector contribution was made available for the Equity instrument.

In 2016, a CEF Annual Work Programme for financial instruments reinforces the 2014 and 2015 contributions of the transport and energy sectors to the Debt instrument, as well as the 2015 contribution of the telecommunications sector to the Equity instrument.

8. COMPLIANCE WITH UNION LAW

In accordance with Article 23 of the CEF Regulation, only actions in conformity with Union law and which are in line with the relevant Union policies shall be financed, in particular those relating to competition, the protection of the environment and public procurement.