EURACOAL
European Association for Coal and Lignite
AISBL

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EURACOAL Position Paper

on the proposal for a regulation concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and replacing Council Regulation (EU, Euratom) No 617/2010

COM (2013) 153 final

Committee: ITRE Rapporteur: Adina-Ioana Vălean (ALDE)

Background

The Commission's proposal follows a judgment of the European Court of Justice to annul Council Regulation (EU, Euratom) N° 617/2010 adopted by Council under the consultation procedure. The Court ruled that the regulation had been adopted on the wrong legal basis. Hence, the Commission has now changed the legal basis. The scope of the proposed new regulation, to be adopted by ordinary legislative procedure (codecision), is identical as that of the annulled regulation: Member States are required to notify every two years to the Commission data and information on investment projects concerning production, storage and transport of oil, natural gas, electricity (including electricity from renewable sources), biofuels and the capture and storage of carbon dioxide.

The main objectives of this regulation are to: (i) collect up-to-date, reliable and comparable data to better observe energy infrastructure in the EU; (ii) identify potential gaps between energy demand and energy supply capacity and therefore decide on the future priorities to support investment projects and (iii) identify investment obstacles and propose best practices to address them.

EURACOAL position on the need for a regulation

The regulation appears to misunderstand the characteristics of a liberalised energy market in which competing actors are free to make investment decisions within a well-defined, transparent regulatory framework. Without that sense of competition – as opposed to central planning – then the actors would simply wait until the state was forced to solicit infrastructure projects.

The information that the Commission seeks is readily available from those who study energy markets. Notwithstanding the fact that publicly listed companies are required to inform shareholders of their major investment decisions, the job of energy market analysts is to monitor and understand market dynamics. The Commission cannot expect to be supplied with any information that is not already available in the market – indeed the market would be corrupted if it did. So, in reality, the Commission will collect information that is already available and publish it when it is out of date.

EURACOAL position on the inclusion of coal use for electricity generation

Amendments 5, 20, 27, 34, 36, 80 and 81 call for the inclusion of "coal" due to the existence of plans for new coal-fired power plants. In fact, the annex to the regulation – referred to in Article 1 – already includes this provision:

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"3. ELECTRICITY

3.1. Production

– thermal and nuclear power stations (generators with a capacity of 100 MWe or more),"

The term "thermal" covers all electricity generating plants where a fuel is combusted, so includes coal-fired, gas-fired and oil-fired power plants. It does not include nuclear, hydro or other renewables.

The amendments listed above are therefore superfluous and should be rejected.

EURACOAL position on amendments concerning coal extraction

With amendments 5, 20, 27, 34, 36, 80 and 81 the Rapporteur and other MEPs seek to extend the scope of the regulation and to introduce an obligation to notify investments in infrastructure in the sector of coal mining with an annual output of at least one million tonnes (or 500 000 tonnes in the case of amendment 80).

Whilst EURACOAL has no particular view on whether coal supply should be included in the regulation, we make the following point.

The main aim of the regulation is to contribute to achieving the objectives of EU energy policy, as set out in Article 194(1) TFEU, particularly as regards the security of energy supply and the risks faced by the Union as a whole. Coal supply is well diversified with no risks – hence it was not included by the Commission.

EURACOAL therefore recommends that amendments 5, 20, 27, 34, 36, 80 and 81 are rejected.

EURACOAL position on the definition of "investment"

An obligation to collect data on all energy infrastructure investments will lead to a lot of bureaucratic effort for companies in the energy sector. For example, coal mining requires "recurring investments" in machinery and equipment to continue operations. Hence, the regulation should distinguish between "capital investments" in new projects or expansion projects and "recurring investments" in existing operations. The regulation may mean that companies would have to collect and report data on all investments because Article 2 foresees an obligation to report not only on investments in new infrastructure but also on investments in transforming, modernising or decommissioning existing infrastructure. In the case of a coal mine, such changes to infrastructure take place continuously as mining progresses through new seams and old seams are abandoned.

These "recurring investments" do not result in any increase or decrease in the amount of coal extracted each year since they do not change a mine's capacity. Whilst Article 5 of the regulation hints that it is investments in new capacity or in the decommissioning of old capacity that is of interest, the regulation should be clear that "recurring investments" do not need to be reported.

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