



Publishing date: 27/03/2013

Document title:

We appreciate your feedback



Please click on the icon to take a 5' online survey
and provide your feedback about this document

**OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 06/2013**

of 25 March 2013

ON THE NETWORK CODE ON DEMAND CONNECTION

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹, and, in particular, Articles 6(4) and 17(3) thereof;

HAVING REGARD to Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003², and, in particular, Article 6(7) thereof;

HAVING REGARD to the favourable opinion of the Board of Regulators of 20 March 2013, issued pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

- (1) The Framework Guidelines on Electricity Grid Connections, FG-2011-E-001 (the 'Framework Guidelines')³, were adopted by the Agency on 20 July 2011, pursuant to Article 17(3) of Regulation (EC) No 713/2009.
- (2) Following the adoption of these Framework Guidelines, the Commission invited ENTSO-E, by letter of 5 January 2012, to start the drafting of a network code on Distribution System Operator and industrial load grid connection rules in electricity and to submit it to the Agency, pursuant to Article 6(6) of Regulation (EC) No 714/2009, by 5 January 2013.

¹ OJ L 211, 14.8.2009, p. 1.

² OJ L 211, 14.8.2009, p. 15.

³

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/FG%20On%20Electricity%20Grid%20Connections/110720%20FGC%202011E001%20FG%20Elec%20GrConn%20FINAL.pdf

- (3) In drafting this network code, ENTSO-E endeavoured to involve stakeholders in a transparent process by organising workshops, bilateral meetings, user group meetings open to European-wide associations representing members who have a direct stake in the network code, and public consultations, including a call for evidence, documented on ENTSO-E's website.
- (4) On 4 January 2013, ENTSO-E submitted to the Agency, pursuant to Article 6(6) of Regulation (EC) No 714/2009, the Network Code on Demand Connection (the 'Network Code'), accompanied by the following supporting documents which the Agency also took into account when assessing the Network's Code content:
 - Frequently Asked Questions;
 - Justification outlines;
 - Evaluation of comments;
 - A document entitled "How can the Demand Connection Code facilitate Demand Side Response measures across Europe?".
- (5) On 8 March 2013, ENTSO-E resubmitted an amended Network Code for Requirements for Grid Connection Applicable to all Generators (the "Network Code for Requirements for Generators"). The amendments introduced by ENTSO-E addressed, *inter alia*, concerns raised by the Agency in its Opinion No. 08/2012 with regard to provisions on national scrutiny of the requirements to be implemented at national level and on recovery of costs (Article 4(3) and Article 5 of the Network Code for Requirements for Generators). The same concerns apply to this Network Code because its Article 9(3) and Article 10 contain equivalent provisions on national scrutiny of the requirements to be implemented at national level and on recovery of costs.
- (6) Anticipating those concerns, by letter of 8 March 2013, which is attached to this Opinion, ENTSO-E supported a consistent alignment of this Network Code with the amendments to the Network Code for Requirements for Generators concerning the provisions on national scrutiny of the requirements to be implemented at national level and on recovery of costs under the Network Code. In its letter, ENTSO-E asked the Agency to consider the submitted Network Code as being amended as per the annex to its letter and stated that it saw no need, nor would it use the possibility, pursuant to Article 6(8) of Regulation (EC) No 714/2009, to resubmit a revised version of the Network Code merely to amend the provisions on the national scrutiny of the implementation of non-exhaustive requirements and on cost recovery.
- (7) The Agency has taken the amended provisions on national scrutiny and cost recovery into account when assessing the Network Code.

(8) The Network Code is interrelated with network codes that are being developed in other areas pursuant to Article 6 of Regulation (EC) No 714/2009. It is essential that those network codes are consistent and coherent with the Network Code. In particular, the other network codes to be developed by ENTSO-E in the area of system operation⁴ and in the area of balancing⁵ should ensure the efficient and optimal use, including through market-based procedures, of the capabilities required from demand facilities and distribution networks, including closed distribution networks pursuant to the Network Code. Furthermore, clear, measurable responsibilities for transmission system operators with regard to maintaining a stable and secure system operation in line with the Framework Guidelines on Electricity System Operation should be defined,

HAS ADOPTED this OPINION:

The Agency commends ENTSO-E's effort to align the Network Code submitted on 4 January 2013 with the Framework Guidelines and acknowledges that the requirements introduced by the Network Code shall help facilitate achieving the targets of the European Union on renewable energy sources, as well as market integration, while ensuring security of supply, as well as non-discrimination, effective competition and the efficient functioning of the market.

The Agency particularly recognises the potential for notable benefits to be delivered by the timely, effective and efficient rollout of demand side response ('DSR') in the near-term future. The Agency welcomes ENTSO-E's ambition to play a proactive role supporting the development of DSR, but does not consider that the Network Code is the best vehicle for delivery of demand side response at distribution level.

The Agency commends ENTSO-E for closely working with stakeholders and National Regulatory Authorities to facilitate improvements to the draft Network Code whilst under development.

The Agency acknowledges that the Network Code, as modified by the amendments indicated in ENTSO-E's letter of 8 March 2013, is in line with the Framework Guidelines and the objectives stated therein.

⁴ To be developed pursuant to Article 8(6)(a), (d), (e) and (f) of Regulation (EC) No 714/2009 and the Framework Guidelines on Electricity System Operation (as adopted by the Agency on 2 December 2011, FG-2011-E-0034, the "Framework Guidelines on Electricity System Operation", http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Framework%20Guidelines/FG-2011-E-003_02122011_Electricity%20System%20Operation.pdf).

⁵ To be developed pursuant to Article 8(6)(h) and (j) of Regulation (EC) No 714/2009 and the Framework Guidelines on Electricity Balancing (as adopted by the Agency on 18 September 2012, http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/Framework%20Guidelines/Framework%20Guidelines%20on%20Electricity%20Balancing.pdf).

The Agency considers that there are a number of areas where the Network Code should be improved. These do not affect the compliance of the Network Code with the Framework Guidelines and mainly relate to the drafting of the Network Code. The Agency advocates that these are addressed by the European Commission, so they are set out in the Agency's recommendation to the Commission. Those areas are the following:

- Clarity and appropriateness regarding Article 9(5) and the corresponding clarity of Recitals (4) and (5);
- Clarity regarding the competence and involvement of National Regulatory Authorities in Article 16(a)(i) and (ii), Article 23(1)(a) and Article 20(1)(f), Article 39(8);
- The definition of Connection Point in Article 2 which does not cover all the types of significant grid users identified under Article 4 of the Network Code;
- Consistency in the use of the terms Distribution Network and Distribution Network Connection, for instance in Articles 4 and 36;
- Roles and responsibilities of different parties and processes with regard to Demand Side Response (Articles 21 to 24);
- Roles and responsibilities of aggregators as well as clarity on different possible approaches to demand aggregation;
- Clarity regarding compliance testing and monitoring for small grid users.

Done at Ljubljana on 25 March 2013.

For the Agency:


Alberto Pototschnig
Director



Publishing date: 27/03/2013

Document title:

We appreciate your feedback



Please click on the icon to take a 5' online survey
and provide your feedback about this document