

**RECOMMENDATION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 04/2014**

of 24 July 2014

**ON THE NETWORK CODE ON HIGH VOLTAGE DIRECT CURRENT
CONNECTIONS AND DC-CONNECTED POWER PARK MODULES**

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(9) thereof,

HAVING REGARD to the favourable opinion of the Board of Regulators of 17 July 2014, 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.
- (2) By letter of 29 April 2013, the European Commission invited ENTSO-E to start the drafting of a network code on High Voltage Direct Current connections and to submit it to the Agency by 1 May 2014.
- (3) In drafting this network code, ENTSO-E endeavoured to involve stakeholders in a transparent process by organising workshops, bilateral meetings, user group meetings and public consultations, including a call for stakeholder input. This is documented on ENTSO-E's website. ENTSO-E also ran a survey of manufacturers. The results of this survey have been used to inform the analysis of cost implications of the network code presented in the supporting documents.

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

- (4) On 30 April 2014, ENTSO-E submitted to the Agency, pursuant to Article 6(6) of Regulation (EC) No 714/2009, the Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules (the 'Network Code'), accompanied by the following supporting documents which the Agency also took into account when assessing the Network Code's content:
- Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules, Frequently Asked Questions;
 - Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules, Requirement Outlines;
 - NC HVDC, Evaluation of comments;
 - Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules, Explanatory Note.

The evolution of the Network Code has generally been reflected in the supporting documents. Yet, the Agency notes that the supporting documents have minor drafting discrepancies with the final version of the Network Code, as submitted to the Agency on 30 April 2014.

- (5) The Network Code is closely connected to the network codes that are being developed in other areas pursuant to Article 6 of Regulation (EC) No 714/2009. It is essential that this Network Code is consistent and coherent with those other network codes. In particular, it must be consistent with the Network Code on Requirements for Grid Connection Applicable to all Generators ('NC RfG'), the Network Code on Demand Connection ('NC DC'), the Network Code on Operational Security and the Network Code on Load Frequency Control and Reserves.
- (6) The Agency held on 19 May 2014 a workshop to collect stakeholders' views on the Network Code and its supporting documents,

HEREBY RECOMMENDS:

The adoption of the Network Code by the European Commission.

The Agency considers that there are a few areas where the Network Code could be improved. Though, in the Agency's view, these areas do not affect the compliance of the Network Code with the Framework Guidelines, a revision of the concerned provisions would indeed be appropriate and justified. Therefore, the European Commission may wish to take the following considerations into account when adopting the Network Code.

- Article 2 of the Network Code defines the notion of “Grid User” as “*the System User using the transmission or distribution system, as identified in this Network Code in relevant requirements. The term means any System User (other than the Relevant Network Operator or Relevant TSO) to whom the requirement applies*”. The Agency understands that this definition has been introduced in the Network Code, despite the already existing definition of “System User” in Article 2(18) of Directive 2009/72/EC, to clearly outline that Relevant TSOs or Relevant Network Operators are not Grid Users. Yet, the Agency believes the definition of System User in Article 2(18) of Directive 2009/72/EC provides similar guarantees as it is limited to natural or legal persons supplying to, or being supplied by, a transmission or distribution system. The Agency thus believes that the definition of Grid User could be deleted in Article 2 of the Network Code and that throughout the Network Code (Articles 22, 27, 42, 48 and 73) the term Grid User could be replaced by the notion of System User;
- In Article 2 of the Network Code, the definition of New HVDC System and of New DC-connected Power Park Module refers to a contract to purchase the main plant while Article 3(7)(a) and 3(8)(a) of the Network Code refer to the construction, assembly or purchase of the main plant. The Agency suggests that these references in Article 3 of the Network Code are aligned to the definition of New HVDC System and of New DC-connected Power Park Module in Article 2 of the Network Code which are in line with the forthcoming NC RfG;
- In Article 3(2) of the Network Code, the words “*which is not part of a Synchronous Area*” lack clarity and risk unintentionally excluding all DC-connected Power Park Modules. The Agency understands that these words are to be read in line with Recital (9) of the Network Code which provides that the application of this Network Code to DC-connected Power Park Modules connected in small island systems with local demand and non-synchronously operating with the main system via DC-links shall be defined according to national law. The content of this Recital then appears more normative than limited to statements and would thus be better suited in Article 3(2) of the Network Code, in addition to or instead of the words “*which is not part of a Synchronous Area*”;
- The Agency expects certain provisions of the Network Code, unless reasonably justified due to the specificities of the Network Code, to be replaced or completed with the equivalent provisions in NC RfG and the NC DC. These include, but are not limited to, the provisions on national scrutiny (Article 4), recovery of costs (Article 5), confidentiality obligations (Article 6) and derogations (Chapter 7) and, the provisions for a stakeholder committee and implementation monitoring. The Agency also notes that Articles 3(7) and 3(8) of the Network Code as currently drafted may require NRAs to assess contracts in a way which may interfere with the competencies of some national courts and the powers and duties of the NRAs under Directive 2009/72/EC, in particular their dispute settlement role. The Agency recommends these provisions are reviewed so as to avoid any such interference. A consistent approach in this respect should be adopted for all Grid Connection Codes;

- The Agency expects the legal drafting and enforceability of certain provisions in the Network Code will be improved. These include, but are not limited to, provisions drafted in the passive voice which do not identify clearly to whom they apply (e.g. Article 20(3)(a), Article 21, Article 27(5), Article 29(5) and Article 38(3)), as well as provisions whose drafting affects the enforceability of the obligations (e.g. Article 38(2)(a) where the words “*can obtain a bilateral agreement*” may be misleading);
- The supporting documents do not reflect the evolution of the Network Code in all cases. The Agency believes the supporting documents should be aligned in all instances to clarify the requirements of the Network Code.

This Recommendation is addressed to the European Commission.

The Agency’s Opinion No 14/2014 of 24 July 2014, the Network Code and the supporting documents received from ENTSO-E are attached to this Recommendation for information purposes.

Done at Ljubljana on 24 July 2014.

For the Agency:


Alberto Pototschnig
Director