



The energy to lead

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**Response to the ACER/Entso-E Consultation Paper
“Role of stakeholders in the implementation of network
codes and related guidelines, and in particular the
establishment of European Stakeholder Committees for
network code implementation”**

Essen, January 20th 2015

RWE welcomes the opportunity to respond to the initiative taken by ACER and Entso-E to identify opportunities to strengthen stakeholder involvement within the area of European network codes and related guidelines.

Comments to “Purpose of this document” (Section 2)

- While RWE welcomes ACER’s and Entso-E’s attempt to review stakeholder consultation in the area of network codes and related guidelines, we are very surprised to see that the consultation paper is limited to the question of implementing the finalised codes. However, the numerous stakeholder comments that have triggered the discussion around strengthening stakeholder consultation have focussed on the **network code drafting process**, an area that is not covered by the consultation paper. Furthermore the paper includes no link to the announced guidelines of the European Commission and the relation between codes and guidelines. We therefore consider the current consultation paper as incomplete and believe that the future stakeholder committees should also be mandatory in cases, where network codes are drafted, amended or implemented as guidelines.

Comments to “Proposed structure for additional stakeholder engagement in the implementation process” (Section 3)

- We welcome the proposal that the European Stakeholder Committees should liaise with existing local structures to implement network codes. However, more than just liaising and proposing expert groups, the European Stakeholder Committees need more appropriate instruments at hand to make sure that implementation really takes place in the way foreseen in the network codes.
- The consultation paper sets very **narrow boundaries to the role and competencies of the European Stakeholder Committees**. Their remit would basically be limited to “sharing views”. We are concerned that such limited competencies will make it difficult to convince stakeholders to dedicate substantial resources and to actively take part in Committees and expert groups on a regular basis.

- The consultation paper is right in asking for “simple and predefined rules and procedures” for stakeholder engagement. These rules should include minimum standards on the **time span between Committee and expert group meetings and the mailing of preparatory documents, may it be drafts for new codes, amendments of existing codes or implementation issues and other related documents**. Today, this time span is often not sufficient to ensure stakeholder engagement in an optimum way.
- **ENTSO-E and ACER shall be obliged to take on board a Stakeholder Committees proposal in the drafting/amendment/implementation process** of the network codes and to **justify in written form**, if they decide not to do so.
- We agree with the consultation paper in asking for a clear definition of the rights and responsibilities of the different parties in the European Stakeholder Committees. In this respect and with a view to avoid potential conflicts of interest, **ACER** should be the party **to chair all three Stakeholder Committees**, including the “Operation” and “Connection” Committees. We consider the impacts of Operation and Connection Codes on market, stakeholders and overall system costs as strong as the Market Codes themselves.
- The European Commission should be closely involved in the work of the Stakeholder Committees. They should either become permanent Committee members or take part in the meetings on a regular basis.
- We welcome the establishment of a perennial TSO/DSO expert group to discuss system operator-specific issues. We ask for a level-playing field for DSOs and TSOs in such group, as both are in charge of maintaining the electricity system stable for the benefits of all customers according to European legislation (2009/72/EC).

- At the same time, we would welcome two additional expert groups: a **perennial TSO/generator expert group** not only reflecting their large share in system stability, but also because generators are particularly affected by the network code drafting and implementation process, often lacking the possibility to pass through the related costs. And a perennial TSO/wholesale market trading expert group reflecting the impact of network code implementation on the European wholesale markets.
- We welcome the proposal made in the consultation paper that, in addition to sharing views in the implementation process, the European Stakeholder Committees should also bring their views to a potential **network code amendment process**. It remains **unclear**, though, **what this competence effectively includes**. There is, for example, no stipulation that obliges ACER to take on board a Stakeholder Committees proposal to amend a network code nor an obligation to justify in written form a decision not to amend. What is more, discussing the need to amend or not an existing network code does not replace a proper stakeholder involvement in the network code drafting process as such. This drafting process however, as outlined in the beginning of this response, is not covered by the current consultation.

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