Response of Associations representing DSOs:
CEDEC, EDSO for Smart Grids and GEODE
(and further referred to as the Associations)

to

ENTSO-E's & ACER's call for comments on:
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

Brussels, 23 January 2015

Contacts

CEDEC

EDSO for Smart Grids

GEODE

Introduction

The Associations have already expressed in the past the need for a stakeholder platform regarding the implementation of the network codes and have also together with ENTSO-E asked the Commission to not wait to establish them until the first codes are published and enter into force. We therefore welcome ACER's and ENTSO-E's joint public consultation on the role of stakeholders in the implementation of network codes and the establishment of EU Stakeholder Committees. As proposed in the consultation and since consistency and transparency are crucial, it is vital that the network codes/guidelines implementation process and the functioning of the Stakeholder Committees actively involves all relevant stakeholders on the same footing.

As stated in the introduction of the consultation, experts from all our member companies have indeed devoted considerable time over the past few years to the development of the network codes for electricity.

With the first codes/guidelines that will probably enter into force in 2015, the Associations are equally convinced that an even greater challenge lies in front of us, namely their national (and regional/local) implementation and monitoring. The codes/guidelines define a lot of requirements – some of them are non-exhaustive, meaning that choices will have to be made on Member State level – but also define what still has to be developed, such as regional agreements, common methodologies, etc.

To manage this implementation (and monitoring) work, an efficient structure is fundamental. In this sense, we support ACER and ENTSO-E in their consideration to only create three Stakeholder Committees, one for each family of codes (Connection codes, Operational codes and Market codes).

The Associations also support the aim of setting up a perennial TSO/DSO expert group to discuss system operator-specific issues. We think this expert group should not only focus on the implementation of the network codes, but discuss the TSO-DSO interface in a broader scope, covering e.g. roles and responsibilities of TSOs and DSOs in the energy system, coordinated planning of TSO-DSO network development, etc.

However, in spite of an inspiring proposal by ACER and ENTSO-E, we encourage both organisations to clarify some elements of their proposal such as how to ensure stakeholder engagement, how to coordinate most efficiently the different stakeholder committees and expert groups and how to liaise with local structures directly involved in the implementation process, as further explained in detail in the general comments.

General Comments

Stakeholder Committees: How to make sure stakeholder engagement will be significant, and what will be expected from the stakeholders?

The Associations support the idea that the Stakeholder Committees will serve as a platform to 'share views' on network codes and guidelines implementation and monitoring, but it remains unclear whether only 'sharing of views' will be enough to engage all stakeholders to participate in these meetings and to gather all needed information. For that reason we think the role of Stakeholder Committees should be determined more clearly and it should also be clear if and what possible legal role they play. It cannot be expected that binding rules will be decided in these Stakeholder Committees but as an outcome we should at least expect clear explanations of network code/guideline articles (for which different interpretations are possible) and guidance documents – in which stakeholders' commonly agreed views are expressed on different topics – which can be used by all parties involved in network codes and guidelines implementation across Europe.

The establishment of Stakeholder Committee structure should allow for flexibility, since we have to learn from experience and will have to make the necessary changes to this structure if needed. We therefore suggest to perform an assessment of the Stakeholder Committee structure and functioning on a periodical basis, and based on transparent and relevant indicators.

A unique and neutral coordinator is needed to steer the stakeholder committees

It is important to guarantee coherence and consistency between the Stakeholder Committees by providing sufficient coordination. In this regard, we question the choice of having two different organisations chairing the Stakeholder Committees – ACER for the Stakeholder Committee on Market codes and ENTSO-E for the Stakeholder Committees on Connection and Operational codes.

Furthermore, during the drafting phase ENTSO-E has had a major hand in the writing of the network codes. To avoid any doubt of possible conflicts of interest and to ensure that the interests of all stakeholders are safeguarded and considered in a well-balanced way during the implementation, we propose that ACER - already in charge of monitoring the implementation - chairs all Stakeholder Committees.

We also encourage ENTSO-E and ACER to have only one set of Terms of Reference (ToR) for the three Stakeholder Committees. If the AESAG (Ad hoc Electricity Stakeholder Advisory Group) is transposed to one of the Stakeholder Committees (for Market Codes) we expect that its scope will be extended to meet the tasks of the Stakeholder Committee and that stakeholders not represented today in this group will be able to participate.

Expert groups are needed to support the Stakeholder Committees

The creation of time limited and issue specific expert groups seems very useful to tackle one specific network code or specific topics of the network codes and opens the possibility to include the right experts in the discussions. The number of expert groups active at the same time should however be

limited, to use the available resources in the most efficient way. The reality is that at the same time all experts will be heavily engaged in the implementation at national (regional/local) level and will probably only have limited availability.

In addition, the coordination between the expert groups and their respective Stakeholder Committee is very important, because all input from the expert groups needs to be treated and taken into account in the respective Stakeholder Committees.

ACER should be fully in charge of the amendment process

Regarding the amendment process for the network codes the Associations insist that a clear distinction is made between:

- On the one hand, informal discussions between stakeholders regarding lessons learnt from the implementation of the codes and guidelines, which may lead to evolution of these codes and guidelines and which can be discussed in the Stakeholder Committees;

- On the other hand, the formal process of amendment of the codes steered by ACER (or in some cases the Commission) and in which all interested parties can introduce amendments to the codes (and regulations) independently.

What to expect from National structures and Regional stakeholder committees?

The consultation document speaks about the Stakeholder Committees *liaising* with existing National Structures and Regional stakeholder committees. It should be clarified what role those existing structures and committees have to play and how they will liaise with each other.
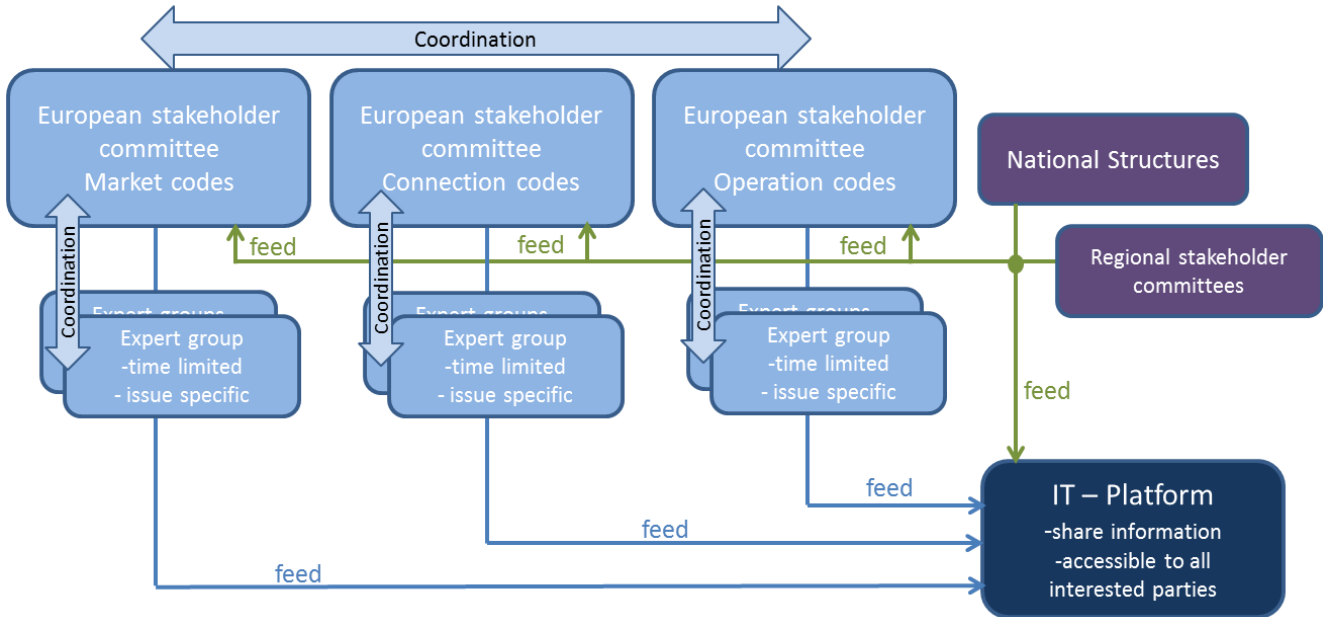
As a starting point those National Structures and Regional stakeholder committees should be identified and listed and this list should be updated on a regular basis. The Associations insist that ACER and ENTSO-E urge respectively the National Regulatory Agencies and the TSOs to set up the structures in Members States where these are still missing. As some of the early implementation projects show (e.g. balancing pilot projects) local/regional expertise is vital, but the local stakeholder involvement is currently almost non-existent.

For each of these structures and committees, it is also important to know what input might be expected from them (implementation issues, interpretation issues, MS choices, derogations, …) and for which code(s) and/or guideline(s), to be sure that relevant information and/or feedback is to be expected.

Furthermore, it must be clear that all Stakeholder Committees are organized independently from any National Structure or Regional Stakeholder Committee, but that their feedback on regional/local implementation issues will be considered and taken into account in the views of the Stakeholder Committees.

Proposal for Terms of Reference (ToR)

In this part the Associations propose the structure and content for the ToR of the Stakeholder Committees and the Expert Groups. The figure below *(figure 1 from the consultation document)*, should be part of both ToRs as an introduction, showing the overall organizational structure and the links between the different components.

Stakeholder Committee

1. *Purpose of the Committee*

   ▪ Serve as a platform to share general views on network codes and guidelines implementation – thereby contributing to ACER's monitoring role – and formulate interpretations and guidance;

   ▪ Be based on simple predefined rules and procedures, to avoid bureaucracy and maximize the benefit from stakeholder engagement;

   ▪ Define responsibilities to ensure clear leadership;

   ▪ Have the appropriate composition based on expertise, efficiency and regional balance;

   ▪ Ensure close links between the different groups;

   ▪ Ensure transparency;

   ▪ Periodically, bring their views, expertise and experience to the amendment process.

2. *Structure and Membership*

   The structure of the Committee is as follows:

   o Chairperson: from ACER. The Chairperson shall facilitate the meeting and act in a neutral way.

- o Permanent members: in order for the Committee to be able to work actively and efficiently the number of participants should be limited. Priority is given to participating relevant European associations, which are allowed to nominate one representative (and one replacement) as main contact, but participation can vary according to the topics and be extended to individual companies whenever relevant.

  As far as possible, an adequate geographical/regional representation should be taken into account.

  The membership of the Committee should be balanced and on equal footing, representing all parts of the value chain. Besides ACER, at least following type of associations should be represented:
    - TSOs;
    - DSOs;
    - Generators;
    - Electricity traders;
    - Consumers (industrial consumers, households);
    - Electrical equipment manufacturers/suppliers;
    - …

- o Invited speakers - depending on the agenda;

- o Observers: the European Commission, CEER;

- o ENTSO-E secretariat as permanent support.

3. *Role of participants*

   The stakeholder members shall commit to:
    - o Consistently attend meetings (with a stable membership);
    - o Actively participate in meetings and in the common agreed tasks;
    - o Contact their own members/stakeholders to update on implementation and monitoring;
    - o Give feedback and represent their views and concerns.

   ACER and ENTSO-E shall commit to:

    - o Act in an open and transparent manner to inform stakeholders;
    - o Provide information to facilitate participant's understanding;
    - o Initiate and provide information on aspects where participants input is expected:
      - in particular inform on a regular basis the Stakeholder Committee members on the state of implementation of network codes and guidelines. This reporting shall be sufficiently detailed, and also be provided in advance to give the Stakeholder Committee the opportunity to contribute to a consistent implementation, discuss potential problems and work on methodologies to be produced according to the requirements in network codes and guidelines;

- for the same purpose, ENTSO-E and ACER shall also inform in advance (i.e. sufficiently before any implementation/derogation) the Stakeholder Committee of any new or updated methodology, study, consultations etc. with regards to the network codes and guidelines.

4. *Meeting agenda*

The meeting agenda, objective of the meeting and working documents will be sent to the participants at least 2 weeks prior to the meeting date.

All members can propose items to the agenda, at least 3 weeks before the meeting. The chairperson shall not unduly refuse to put those items on the agenda.

The meeting agenda will be made publicly available on the IT-platform.

5. *Frequency of meetings - location*

The Stakeholder Committee will physically meet at least 3 times per year. The frequency of the meetings can be higher if needed – particularly during early implementation – and commonly agreed within the Stakeholder Committee.

The dates of the meetings will be agreed among members and will preferably be fixed for a whole year.

The dates of the different Stakeholder Committees will not coincide.

Stakeholder Committee meetings will take place in the ENTSO-E premises in Brussels for a full day (±10h30 – 16h00 CET).

6. *Meeting minutes*

ACER, supported by ENTSO-E, shall produce minutes of each meeting which accurately reflects the discussed points, maximum 2 weeks after the meeting.

Participants have 2 weeks to make comments on the minutes. Comments received, when justified, shall be incorporated and published as final draft.

The minutes will be approved in the next meeting and published as final.

7. *Publication of information*

All information related to the Stakeholder Committee will be made available on the IT-platform – under the format of a publicly accessible website – managed by ENTSO-E (or ACER). Confidential information will be treated as such.

The IT-platform will at least – as a starting point – include following documents per network code/guideline:
- o Published version of the network code/guideline in English (and hyperlink to other languages). If not available, latest available version of the network code/guideline available;
- o Current state of implementation of the network/guideline in the Member States including regular updates;
- o ENTSO-E's justification and supporting documents;
- o ACER's reasoned opinion and recommendation;
- o Commission's impact assessment if available;
- o Guidance on implementation if existing;

Further documents to be published:
- o Meeting agendas and meeting minutes;
- o 6-monthly report (cf. tasks);
- o Status of requested, granted or rejected derogations;
- o Mail to and from the Stakeholder Committees;
- o Presented material used in the discussion during meetings;
- o List of ongoing relevant consultations at EU and MS level.

8. *Tasks*
   - As a starting point for each Stakeholder Committee:
     - o read the relevant network codes and guidelines connected with this Stakeholder Committee:
       - Stakeholder Committee Connection: NC RfG, NC DCC, NC HVDC.
       - Stakeholder Committee Operation: NC OS, NC OPS, NC LFCR, NC ER.
       - Stakeholder Committee Market: Guideline CACM, NC FCA, NC EB.
     - o indicate national choices to be made for non-exhaustive requirements;
     - o indicate methodologies to be developed + timeline;
     - o indicate attention points regarding implementation;
     - o list all topics to be treated within the Stakeholder Committee, depending on the family of codes.

   - Draft a 6-monthly report on the status of the implementation on MS-level of the network codes and regulations. This report will be published on the IT-platform.
   - Discuss duly notified proposals for implementations and if necessary write common guidance. Give feedback on implementations and make suggestions for improvements.
   - Discuss feedback on derogations and if necessary write common guidance.
   - Install and instruct Expert Groups to deliver their views on specific topics. The task(s) shall be clearly described as well as the deadline for delivery. The number of Expert Groups working at the same time under one Stakeholder Committee will be commonly decided.
   - Discuss and take into account the feedback from the Expert Group(s) and decide on further actions if needed.
   - Ensure links with the other Stakeholder Committees, by informing them about results of the discussions and possible links/impacts on other network codes;
   - Liaise with National and Regional structures and exchange information where relevant. All different National and Regional structures need to be clearly defined.
   - Discuss standardization issues in relation to the network codes/guidelines implementation, take necessary actions to CENELEC where needed.
   - Write clear interpretations and guidance on implementation, with the help of Expert Group(s) if needed.
   - Organize a yearly common public workshop (of all Stakeholder Committees) to highlight the most important elements regarding the implementation of the network codes and the guidelines.
   - Periodically, bring its views, expertise and experience to the amendment process. The possible suggestions for changing of existing network codes and guidelines are informal.

Formal proposals for amendments by stakeholders to existing network codes and guidelines are NOT part of the tasks of the Stakeholder Committee.

- Publish all documents without delay on the IT-Platform.

Expert Group

1. *Purpose of the Expert Group*
   - Serve as a platform to study specific topics regarding the implementation of the network codes and guidelines on instruction from the relevant Stakeholder Committee.
   - Several Expert groups can work in parallel under the umbrella of each Stakeholder Committee.

2. *Structure and Membership*

   The structure of the Expert Group is as follows:
   - Chairperson: to be appointed by the relevant Stakeholder Committee. The Chairperson shall facilitate the meeting and act in a neutral way.

   - Members: in order for the Expert Group to be able to work actively and efficiently the number of participants should be limited. The participants are to be treated on equal footing. There should be as much as possible a geographically/regionally balanced participation, but the Expert Group should in the first place gather the experts in the relevant domains treated. The participants will change according to the topics on the agenda;

   - Invited speakers - depending on the agenda;

   - Observers: the European Commission, CEER;

   - ENTSO-E secretariat as permanent support.

3. *Role of participants*

   The stakeholder members shall commit to:
   - Once appointed, to consistently attend meetings (for that specific topic);
   - Actively participate in meetings and in the tasks received from the Stakeholder Committee;
   - Contact their own members/stakeholders to update on implementation and monitoring;
   - Give feedback and represent their views and concerns.

   ACER and ENTSO-E shall commit to:

   - Act in an open and transparent manner to inform stakeholders;
   - Provide information to facilitate participant's understanding;
   - Initiate and provide information on aspects where participants input is expected.

4. *Frequency of meetings - location*

The Expert Group will physically meet at a frequency depending on the topic and the deadline given by the Stakeholder Committee.

The dates of the meetings will be agreed among members and will be fixed beforehand.

The dates of the different meetings of Expert Groups under the umbrella of the same Stakeholder Committee will not coincide.

Expert Group meetings will normally take place in the ENTSO-E premises in Brussels unless agreed otherwise by the participants for a half or a full day depending on the agenda. Tele- and/or videoconference can also be considered when appropriate.

5. *Meeting agenda*

The meeting agenda, objective of the meeting – based on instructions from the Stakeholder Committee – including also working documents, will be sent to the participants at least 2 weeks prior to a meeting date.

All members can propose items to the agenda, at least 3 weeks before the meeting. The chair shall not unduly refuse to put those items on the agenda if within the scope of the assignment from the Stakeholder Committee.

The meeting agenda will be made publicly available on the IT-platform.

6. *Meeting minutes*

ENTSO-E shall produce minutes of each meeting which accurately reflects the discussed points, maximum 2 weeks after the meeting.

Participants have 2 weeks to make comments on the minutes. Comments received, when justified, shall be incorporated and published as final draft.

The minutes will be approved in the next meeting and published as final.

7. *Publication of information*

All information related to the Expert Groups will be made available on the IT-platform – under the format of a publicly accessible website – managed by ENTSO-E (or ACER). Confidential information will be treated as such.

Meeting agendas and meeting minutes will also be published.

8. *Tasks*
   - Follow the instructions and assignments given by the Stakeholder Committee.
   - Discuss feedback on the topic(s) to be handled.
   - Make a report (inform about results of the discussions), ask for further instructions if needed, make suggestions to the Stakeholder Committee.
   - On demand of the Stakeholder Committee, help writing interpretations and guidance on implementation.
   - On demand of the Stakeholder Committee give feedback on possible amendments of codes and guidelines.
   - Publish all documents without delay on the IT-Platform.