



Central Office
3rd Floor North
200 Aldersgate
London EC1A 4HD

Tel: 03000 231 231
Fax: 03000 231 053
www.citizensadvice.org.uk

Agency for the Cooperation of Energy Regulators
By email

29 April 2015

Citizens Advice's response to invitation to comment on EU Emergency and Restoration Network Code (NC ER)

Citizens Advice has statutory responsibilities to represent energy consumers in Great Britain (GB), including as the consumer representative in the GB network code process. We have also taken a close interest in the development of the European Union Network Codes and have engaged with ENTSO-e European Commission and ACER during the development of the Emergency and Restoration Code (ER Code) as well as the other codes.

Recommended amendment to the NC ER to accommodate residential consumers

As explained below, Citizens Advice is concerned about the ambiguity within the code, over the degree to which domestic consumers may be affected. We believe there is a relatively simple way for ACER to remove this ambiguity and the potentially unmanageable burdens that this could give rise to.

Our recommendation is the following:

- Article 8 should be amended to make clear that the ER Code applies only to entities providing *DSP and/or RSP services* on a contractual basis, and not to the Type A *power generating modules* from which the services are derived.
- The word 'legal' in the definitions of DSP and RSP in Article 2 should also be deleted. Indeed we do not understand why the size of the generation module (at least at domestic scale) is relevant to the problem the TSOs are attempting to solve in the context of an emergency situation. Surely, if the intention is only to procure ER services on a voluntary basis, the important consideration is the total amount of generation it can procure/manage (through an aggregator) rather than how it is comprised?

Background

Drawing from the practical experience of 'code governance' in the GB market, it is essential that the focus of the EU NCs remains on the interactions between energy market participants

and does not impact domestic energy consumers in any direct way (i.e. that the codes do not 'reach into the home').

GB network codes are highly technical documents that are impenetrable to anyone but industry insiders, and the process to amend them is not designed to elicit or take account of the views of domestic consumers. The drafting process for EU network codes is even less accessible to outside stakeholders.

Citizens Advice acknowledges the work of Entso-E to address identified issues for domestic energy consumers, such as:

- amending the Code to create the concepts of 'Defence Service Providers' (Article 2,1) and 'Restoration Service Providers' (Article 2,2) that, in practical terms, aim to act as an intermediary between the domestic consumer and the TSO/DSO and assume the compliance testing, communications; and
- expanding the level of National Regulatory Authority (NRA) oversight over the conditions that TSOs could impose on qualifying households.¹

These improvements were further developed in the final draft of 25 March 2015 (detailed on page 65-66 of the Supporting Document). The most substantive of these changes is to allow Member States, through their national legal framework, to set the 'terms and conditions' for DSP/RSPs under articles 9(8) and 21(11), and therefore to intervene to protect consumers from unjustified and/or unreasonable obligations.

These modifications do go some way to addressing obligations that would likely make micro-generation and DSR too difficult a proposition for consumers – such as maintaining uninterrupted telephone links with TSOs (Article 38) and conducting regular compliance testing (Article 42) - obligations adapted to big centralised electricity generators but not at all to households with rooftop solar.²

However, this approach only introduces fixes for an unjustifiable burden on residential consumers, as opposed to removing the burden altogether.

Article 7 of the code links the DSP and RSP concepts to the owner and/or operator of the generation equipment rather than the emergency and/or restoration service that the equipment might provide. Whilst the eligible household can choose to meet this obligation indirectly through a third party such as an aggregator under Article 8, it is still burdened with these obligations towards the TSO. This means that a household with generation equipment above the Type A threshold is captured by the code and merely has a choice about how it discharges its obligations.

The fact that the definitions of DSP and RSP in Article 2 extends beyond entities that have a contractual (voluntary) obligation to those that have a 'legal' (involuntary) obligation to provide a service seems to reinforce the interpretation that the default for eligible consumers was that they would be captured by the ER Code.

The protection provided by the incorporation of NRA oversight over the conditions that TSOs could impose on DSP/RSPs under articles 8(8) and 20(9) also seems incomplete, given it

¹ Draft Network Code on Emergency and Restoration, 22 January 2015 <http://tinyurl.com/k39mt4n>

² Draft Network Code on Emergency and Restoration, 13 October 2014 <http://tinyurl.com/pk47z8s>.

does not appear to cover the obligation to install redundant voice communication obligation under Article 38.

Unwelcome, potential outcomes from this approach include, eg:

- insufficient protections for residential requirements as yet identified ,
- obligations placed on residential consumers, that they are likely to be unaware of or comprehend, and
- the need for each national regulator to individually identify and rectify potentially identical challenges

Citizens Advice therefore respectfully submits that our alternative proposal – that the obligations under the ER Code automatically applies to the *service* (under Article 8) rather than the owners or operators of the *equipment* - would be the most efficient and effective solution for domestic consumers.

Thank you for the opportunity to comment on the ER Code. Please do not hesitate to contact us if you would like to discuss the matters we have raised in this submission further.

Yours sincerely