**Statnett´s comments to the revision of the grid connection codes**

**Background**

The current grid connection codes were never incorporated into the EEA Agreement. The main reason is uncertainty as to the legal nature of the codes. Do they set out minimum requirements, or is the intention to fully harmonise the requirements?

The grid topology in Norway makes it necessary to impose additional requirements, and we need to clarify whether this would be allowed or not. This is further elaborated below.

The rules on application to existing systems/facilities/modules (hereafter: systems) have been improved in the draft codes, but they are still not sufficiently clear. The need for a clear legal basis may differ in the various Member States. According to our assessment, they are not sufficiently clear in order for Statnett/NRA to impose necessary requirements on owners of the systems in Norway.

Based on this we would like to provide our input to the draft revised network code on HVDC systems. Our comments concern all the three grid connection codes.

**Minimum requirements or harmonised requirements**

To what extent may Member States have additional national requirements?

Article 58 (2) of the electricity regulation states clearly that the network codes "provide the minimum degree of harmonisation required to achieve the aims of this Regulation".

As far as we understand, the main purpose of the grid connection codes is to ensure that weaknesses in the power system of one Member States should not cause problems for power systems in other Member States. With this in mind, the grid connection codes should be regarded as minimum requirements.

Acer has created some confusion as regards this topic in its monitoring reports. Our NRA has been in contact with the Commission on this, but the answer from the Commission was not very clear. We suggest therefore to clarify this in the whereas clauses.

For the record, we agree that national legislation cannot be in contradiction to the codes. If a minimum and a maximum value is defined in the codes, national regulations cannot go outside these values. On the other hand, in some cases, the codes expressly allow for certain specifications to be decided on a national basis - in these cases there are no uncertainty. Our question on additional national requirements does not concern these two situations.

**In what cases should requirements apply to existing systems**

As a starting point, the requirements only apply to new systems. According to the three regulations, however, some or all of the requirements may apply to existing systems in two situations: when systems are being modernised or when there is a change of circumstances.

I order to keep the costs as low as possible, the preferred option is to only impose requirements on new components being installed in the system.

There are several problems with the proposed wording. The main problem is that the text doesn´t provide a clear legal basis for imposing the requirements. In the draft proposal it is stated that a change of components/assets may be defined as a significant alteration, and thus some or all of the requirements may apply. However, this does not apply to "maintenance and repair activities and spare parts". We can´t see how one would distinguish legally between a change of component on the one hand and maintenance or the insertion of a spare part on the other hand.

The other situations that can be defined as significant alteration concern a defined increase in output. This creates incentives not to upgrade the systems. As long as the systems are modernised in a way that does not increase output, the requirements will not apply to the system. We can´t see any good reasons for this proposal.

The third problem is that the revised text still refers to the connection agreement. Statnett is not able to use connection agreements to impose requirements since only some of the relevant systems are directly connected to the transmission grid.

The fourth problem concern the procedure in which the Member State shall take a decision in all cases where requirements are imposed on existing systems. This seems to be overly bureaucratic.

Change of circumstances

This procedure is very costly for the system owners and should be avoided. The procedure in the grid connection codes includes a cost benefit analysis and a public hearing. This is similar to the procedure for adopting new regulations. Instead of specifying this procedure in the grid connection codes, it would be better to simply state that Member States may by national legislation impose requirements on existing systems.

Possible solutions

Our preferred suggestion is to leave it up to the Member States to decide when the requirements should apply to existing systems. According to article 5, Member States shall apply the principle of proportionality. System owners will therefore have some protection in the grid connection codes. We believe all Member States also have requirements in their national legislation concerning proportionality, cost benefit analysis and public hearing. We can´t really see the need to harmonise on a European level the conditions and procedures for imposing requirements on existing systems.

If this nevertheless should continue to be regulated, the article needs to be improved.

If the article on application to existing system is to be regarded as a minimum requirement, we would be able to ensure a sufficient legal basis by adding national regulation. However, if the article is to be regarded as an exhaustive regulation on existing systems, it would not work as intended in Norway. According to our constitution there needs to be a clear legal basis for imposing obligations on private entities and persons.

**Reference to agreements and contracts**

As mentioned above, Statnett does not impose requirements by connection agreements. If the grid connection codes where to apply for Norway, we do not know how to handle articles that refer to the connection agreements. For the draft HVDC code this concerns article 4 and article 84.

**Conclusions**

It should be clarified that the requirements in the grid connection codes are to be regarded as minimum requirements.

It should be left to Member States to regulate existing systems, or to add national legislation on existing systems. Alternatively, the article needs to be improved.

References to the connection agreements should be avoided.