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European Energy Regulators' White Paper # 2

The Role of the DSO

Relevant to European Commission's Clean Energy Proposals

15 May 2017

1. Introduction

This Regulatory White Paper presents the views of the Agency for the Cooperation of Energy Regulators (the Agency) and National Regulatory Authorities in the Council of European Energy Regulators (CEER) on the European Commission's proposals related to the role of the electricity Distribution System Operator (DSO). The aim of this White Paper is to deepen understanding and to assist the EU Institutions in assessing the proposals contained in the "Clean Energy for All Europeans" legislative package of 30 November 2016¹.

2. Regulators' Key Recommendations

European Energy Regulators welcome the Clean Energy package's proposals on the role of the DSO as they reflect the growing importance of DSOs in the energy sector. We believe that the local nature of DSOs and their sheer number across the EU means that National Regulatory Authorities are best placed to oversee their regulation within a European framework. In this context, we support the following legislative measures, while in some cases recommending further elaboration of the European Commission's proposals, as detailed in the next sections.

• **DSOs as Neutral Market Facilitators**

1. European Energy Regulators support the prohibition on DSO ownership/operation of energy storage and electric vehicles' charging infrastructures in Articles 2, 33, 36 (and 54 for Transmission System Operators (TSOs)) of the Electricity Directive, but suggest that this is further clarified and that provisions are aligned between the different articles.
2. We support the case for enhancing unbundling requirements to ensure DSOs act as neutral market facilitators. This is especially important as the energy transition creates many new products and services, and appropriate unbundling ensures that the full effect of the Clean Energy package is achieved to the benefit of consumers.
3. We stress the importance of transparency of a medium-term forecast of network needs/service requirements, so that market participants are able to react and offer solutions.

¹ For ease of reading, reference to the Electricity Regulation refers to the re-cast Electricity Regulation (EC) COM/2016/0861final/2 - 2016/0379 (COD), and reference to the Electricity Directive refers to the re-cast Electricity Directive COM/2016/0864 final/2 - 2016/0380 (COD). References to specific Articles in the proposed recast legislation relate to the revised texts (corrigenda) published by the [European Commission](#) on 23.02.2017.

- ***Better Network Planning and Coordination***

4. European Energy Regulators welcome the proposal for DSO network plans. However, Article 53 of the Electricity Regulation and Article 32 of the Electricity Directive should require DSOs and TSOs to consult stakeholders on their network plans and take responsibility for their quality.
 5. We believe that an approach that gives the National Regulatory Authority discretion in defining the network plan requirements for a small DSO or integrated utility DSOs is preferred to a complete exemption in Article 32 of the Electricity Directive.
 6. We are of the view that ENTSO-E and the proposed EU DSO entity should have an appropriate obligation in Articles 27 and 53 of the Electricity Regulation to co-ordinate with one another.
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3. DSOs as Neutral Market Facilitators

DSOs operate local electricity networks, traditionally distributing electricity from the higher-voltage transmission network and from small generators into our homes and businesses, similar to regional/local roads on the road network. DSOs are typically natural monopolies, overseen by energy regulators to ensure that they deliver value for money to consumers.

DSOs are now becoming more important in the electricity sector because many new services and developments are happening at local distribution level. They include more active customers with varying electricity demand, self-generation, small-scale renewable generation, energy storage, power-to-heat and electric vehicles.

European Energy Regulators advocate that DSOs must act as neutral market facilitators performing regulated core activities and not activities that can efficiently and practicably be left to a competitive market. This approach is important because:

- Competitive markets are generally better than regulated markets in delivering outcomes that provide best value for money for consumers;
- When DSOs get involved in competitive activities - such as storage - there is a risk that they would favour their service over potentially cheaper services (e.g. storage over demand-side response), thereby raising costs and deterring investment and innovation;
- DSOs could unfairly favour different types of consumers if they are direct market participants for these services; and
- Confidence in the neutrality of DSOs is a key element of the market.

As a result, we welcome proposals in the Clean Energy package for National Regulatory Authorities to set incentives for DSOs to procure neutrally (rather than own/operate) such services and to integrate innovative solutions, in order to operate/develop the network in an efficient manner. We similarly support the Clean Energy package's prohibition on DSO ownership/operation of storage and electric vehicle infrastructure. In this context, European Energy Regulators underline:

- Transparency of medium-term forecast of network needs/service requirements is essential to enable market-based solutions to be developed;
- The rule on network operators not owning and operating storage or electric vehicles in Articles 33, 36 and 54 of the Electricity Directive is welcome. However, the derogation process should be clarified to provide more certainty to market investors - to the benefit of consumers and businesses - and to deliver a more efficient use of regulatory resources in assessing exemption applications. The derogation process in Articles 35 and 54 requires network operators to

procure services from the market in the first instance. We support this, but provisions should include an element of reasonable cost; and

- We welcome the requirements in Article 36 for National Regulatory Authorities to carry out a public consultation on the derogation process, and the requirement for the Member State to require network companies to phase out activities in owning and operating storage. We are of the view that Article 54 would be strengthened if it contained similar provisions.

4. Better Network Planning and Coordination

European Energy Regulators welcome the Clean Energy proposals for more TSO/DSO coordination, a new EU-wide DSO entity, and for DSOs to produce network plans which feed in to TSO plans. This will help deliver a whole system approach. However, we recommend the following changes to the Clean Energy package to facilitate better coordination:

- Article 53 of the Electricity Regulation and Article 32 of the Electricity Directive should require DSOs and TSOs, instead of NRAs, to consult stakeholders on their network plans and take responsibility for their quality. This reflects the fact that DSOs should engage with and respond to the reasonable needs of their stakeholders;
- There should not be an exemption in Article 32 of the Electricity Directive for integrated utility DSOs developing a network plan. Likewise, small DSOs should not be exempt in Article 32(2) - instead there should be an approach that gives the National Regulatory Authority discretion in defining the requirements for a small DSO; and,
- ENTSO-E and the proposed EU DSO entity should have an obligation to co-ordinate with one another in Article 53 of the Electricity Regulation, and this mutual obligation should also be reflected in Article 27.

Annex 1: Relevant CEER/ACER Papers

The White Paper builds on the “[European Energy Regulators' Overview Paper - Initial Reactions to the European Commission's Proposals on Clean Energy](#)”, published by the Agency and CEER on 23 January 2017. It is part of a series of White Papers from European Energy Regulators covering key topics related to the Clean Energy package.

1	European Energy Regulators' Overview Paper, “Initial Reactions to the European Commission’s proposals on Clean Energy”, 23 January 2017
2	CEER Report on Incentives Schemes for regulating DSOs, including for Innovation: CEER Consultation Paper, 24 January 2017
3	Electricity Distribution Network Tariffs, CEER Guidelines of Good Practice, 23 January 2017
4	CEER Position Paper on the Future DSO and TSO relationship, 21 September 2016
5	The Future Role of DSOs: A CEER Conclusions Paper, 13 July 2015
6	Energy Regulation: a Bridge to 2025, ACER in cooperation with CEER, 19 September 2014



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