

Establishment of the annual priority lists for the development of network codes and guidelines for 2019 and beyond

Public Consultation of the European Commission, 25.01.2019

Berlin, 25. January 2019. bne welcomes the opportunity to provide input into the establishment of the annual priority lists for the development of network codes and guidelines for 2019 and beyond. We have identified a number of issues in national implementation processes that need to be addressed for an efficient implementation of new flexible, digital and decentralized solutions. In addition, we suggest to quickly focusing on the development of new network codes based on the rules provided by the Clean Energy Package. bne members are committed to a modern and flexible electricity market design allowing for truly competitive solutions.

Link to EU consultation paper:

<https://ec.europa.eu/info/sites/info/files/656-en-ori.pdf>

General Messages

The European energy system is in a period of profound change and transformation. Since the adoption of the Third Internal Energy Market Package, policy decisions have enabled competition and increased cross-border flows of electricity. With the introduction of market coupling and flow-based capacity allocation, electricity can be traded more efficiently across Europe. At the same time, we are transitioning away from a power system in which controllable power stations follow electricity demand, to an overall efficient power system where flexible producers, flexible consumers and storage systems respond to increasing in-



intermittent supply of wind and solar power. In addition, most of the new generators (both in number and capacity) are being connected to the distribution networks. Under these new conditions, flexibility is at the core of synchronizing generation and consumption at all times. Current market regulations are less well suited to facilitate flexibility as they were designed for a system based on centralized generation. Market arrangements will need to be developed in many countries for the offering and pricing of flexibility services.

The Clean Energy Package which was provisionally agreed by negotiators from the European Council, the Parliament and the Commission on December 19th, 2018, provides the legal basis for major steps towards completing the Energy Union and combatting climate change. Improving the regulatory framework conditions for flexibility services was one of the core objectives which the new legislation sought to achieve. bne strongly supports the results and is looking forward to assist with national implementation processes in Germany once the market design proposals are adopted and enter into force.

We agree with the assessment of the Commission that in 2019 the implementation work should be prioritized. Nonetheless, it will be of utmost importance for the next years to quickly focus on the development of new network codes based on the legislative framework provided by the Clean Energy Package. As soon as the recasts of the electricity regulation and directive are adopted and the EU DSO entity is up and running these challenges should be tackled immediately. Furthermore, a deep understanding of the processes on national level should be developed by the Commission and results of national implementation work should be reviewed carefully in order to ensure a well-functioning internal energy market and the best regulatory framework setting for prosumers.

Focus on national implementation work

In Germany, bne has identified a series of problems with regard to network code implementation on the national level that we would like to bring to the attention of the Commission:

Responsibilities, process, consultation with market actors and regulatory oversight – the missing links

There are requirements on structuring conditions under national law apart from the concrete EU guidelines that are legally binding in every Member State. In Germany, the VDEIFNN takes over this implementation task on behalf of the Federal Ministry for Economic Affairs and Energy (BMWi).

Generally speaking, the VDEIFNN develops and disseminates technical application rules (VDE-Anwendungsregeln – “TAR”) for the operation and safety of transmission and distribution networks as part of the VDE Specifications Code of Safety Standards. As for the network codes, VDEIFNN describes in the VDE applications rules both, the concrete EU specifications and the specifics for the German electric power system. Extremely problematic is that the VDEIFNN mainly consists of Distribution System Operator representatives and there is hardly any vetting or consultation with market participants.

Currently, the development of technical application rules (TAR) is left to the VDE alone and without official intervention possibilities. Unfortunately, in the past the technical self-administration by the VDE has led to illegal formulations being included in the TAR, which could then only be removed from the general terms and conditions of the network operators by way of legal action or abuse proceedings which are extremely labor intensive and lengthy.

Therefore, it is not sufficient that the National Regulatory Authority (BNetzA) is only informed of the minimum technical requirements issued by the VDE. Rather, the regulatory authority should be actively involved in the procedure and only release the technical application rules for use after they are compatible with the applicable legal framework.

The standardization of such subordinate regulations should not take place without the regulatory authority setting the framework, supervision and approval. The Federal Network Agency should perform this task, which is laid down in the European network codes. There are inevitably always different interests between network operators and network users. One of the original tasks of the regulatory authority is to create a suitable balance here.

The rules and regulations may be drafted jointly by the network operators. However, the equal involvement of network users should be taken into account accordingly. Otherwise, only a contract at the expense of third parties, network users and consumers, is created here.

Harmonization of requirements on national level needed

As a result of the network codes, it is important to harmonize the minimum technical requirements for the connection to the grid of, inter alia, charging points for e-vehicles and RES generating installations. However, the changes in national law and regulation (§ 19 EnWG) which took effect in the beginning of 2019 and which implement the network code for grid connection of generators (EU 2016/631) and the network code on demand connection (EU 2016/1388), are not sufficient as each of the 900 electricity distribution networks and the 700 gas distribution networks can continue to use their own rules and forms. The individual contractual, technical and other conditions of the network operators should be replaced by nationwide standardized regulations on network connection.

The scope of the contractual and technical requirements, conditions and other rules and regulations that grid operators prescribe for the grid connection of loads and generation plants has long exceeded the "appropriate level" set out in the European network code. There are grid operators who have published over 60 (!) relevant documents on their website only for the "Electricity grid connection" section. In some cases, the regulations refer to technical rules that have been agreed throughout the industry, but each grid operator incorporates these differently into his own terms and conditions. In view of the abundance and complexity of regulations, it is currently only possible for prosumers to cope with the greatest effort by filtering out the conditions of the grid operator relevant to their application, understanding the requirements and registering the grid connection for a heat pump, a renewable energy generation system, a battery storage facility or a charging point for an electric vehicle. Also energy suppliers and service providers with new business models suffer from the current administrative burden.



The involvement and strengthening of prosumers are indispensable for the progress of the energy system transformation and on our way to a climate-neutral society. It is therefore necessary to achieve a complete standardization of processes and conditions for grid connection and connection usage. This current situation is unnecessarily complicated, hampers private involvement and causes high costs and thus economic damage.

Future work

Especially, the development of network codes with regard to the operationalization of Art. 32 (incentives for the use of flexibility in distribution networks) and Art. 33 (Integration of electro-mobility into the electricity network) in the Recast electricity Directive will be of great importance for the implementation on national level. Art. 55 in the Recast electricity Regulation has been adjusted accordingly and provides for network code development based on Art. 55 (g), (h), (m) and (n). There is an urgent need to start this process as soon as possible since those topics are crucial for ensuring the success of the energy transition and achieving a fully decarbonized energy system. Furthermore, a very fast uptake of electric vehicles is to be expected in the very near future and hence exacerbates the problem.

Flexibility trading and Demand Response are not fully embraced in the current network codes. bne sees the need for a network code on flexibility trading to define the services that can, and should be encouraged, to be provided by flexible technologies like storage or demand response. Currently, these technologies have to participate in the markets under rules designed, and benefitting, traditional generation. The network code on flexibility trading should lay the framework for product definitions that are designed with a system-needs perspective, being technology neutral and open to all decentralized flexibility providers.

The rules for flexibility trading should take into account the following points:

- Streamlined, technology neutral products to allocate flexibility efficiently and ensure liquidity in the markets.
- Differentiated products for congestion management and balancing services
- Portfolio-based bidding should always be possible
- Procurement should always be market-based avoiding, when possible, bilateral deals between DSOs and providers

Under the umbrella of the Smart Grid Task Force, the European Commission organized a group of industry stakeholders to provide input regarding the need, or lack thereof, for new network codes regarding flexibility and Demand Response. The final report of this group will be presented in the coming weeks. This exercise will cover in detail barriers identified in the current framework and recommendations to overcome them. These solutions could be included in a network code specific for flexibility trading and/or Demand Response, and as such should be considered when reviewing the results of the present consultation.



Who we are: Bundesverband Neue Energiewirtschaft e.V. (bne) / Association of Energy Market Innovators – a strong voice for independent energy companies

Market, competition, innovation: bne and its members are committed to these three elements. After all, continuous development is the key to success in tomorrow's digital and renewable world of energy. For more than fifteen years, we have been representing the interests of grid-independent energy suppliers and energy service companies in Germany. Our members operate on all levels of the value chain: from electricity and gas distribution to smart energy and other services, right through to mobility. Making sure that new business models get a fair chance is at the core of our work.

Interest Representative Register ID: 3394645201-03