ACER NCDR consultation

A Eurelectric response paper

October 2024

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

Dépôt légal: D/2024/12.105/37

Customers & Retail Services Committee
Distribution & Market Facilitation Committee
WG Retail Market Desing
WG Customers & New Services
WG Regulation & Network Customers
WG Market Integration & Network Codes
SG Distributed Flexibility & Data Management

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Date: 31/10/2024 16:50:29

Public Consultation - Network Code on Demand Response

Fields marked with * are mandatory.

Introduction

1. Objective

The objective of this consultation is to gather views and information from stakeholders regarding ACER's revisions on the EU DSO Entity's and ENTSO-E's proposal for a network code on demand response (related documents 'E' below). The input from the consultation will be used by ACER to further amend the draft network code and related legal framework before submitting the final recommendation to the European Commission by March 2025.

2. Target group

This consultation is addressed to Electricity Transmission System Operators (TSOs), electricity Distribution System Operators (DSOs), Regional Coordination Centres (RCCs), Nominated Electricity Market Operators (NEMOs), investors, network users, producers, suppliers, new market players, exchanges, balancing providers, public authorities, academics, think tanks, environmental groups, civic society and other interested parties.

3. Contact and deadline

You are kindly asked to submit your responses through the survey tool by **31 October 2024, 23:59 hrs (CET)**.

Apart from replying to the survey questions, expressing your level of agreement/disagreement with the revisions, and providing your comments, you are also welcome to submit proposed amendments to the public consultation documents, through the 'file upload' section of this survey. In this case, **please use the following Word files** (can be downloaded from Section 6 on this page):

> **A. "20240905 DR NC ACER public consultation"** with ACER's revisions to the EU DSO Entity´s and ENTSO-E´s proposal for a network code on demand response;

B. "20240905 EB Regulation amendments DR NC" with ACER's revisions to the Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (Electricity Balancing Regulation);

C. "20240905 SO Regulation amendments DR NC incl CACM 2.0" with ACER's revisions to the Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation (System Operation Regulation); and

D. "20240905 NC DC 2.0 amendments DR NC" with ACER's revisions to the Commission Regulation (EU) 2016/1388 establishing a network code on demand connection (Demand Connection Regulation).

In this case, and while providing your suggested amendments in **track changes** mode, please **use as "Author"** for your edits the name of the organisation/association/company on behalf of which the survey submission is made (**"entity name"** in the survey fields). Also, please use this approach (i.e. uploading a file) to **only** propose amendments to the text, NOT for providing comments, as the comments should only be submitted through the survey fields. Correspondingly, the survey fields should NOT be used for proposing amendments to the text.

In case of submissions that do not respect any of the above rules, they will be rejected and not be taken into consideration.

In case of questions on the public consultation you may send a request for clarification to **ACER-ELE-2024-008@acer.europa.eu**.

4. Identification data and confidential information

* Name of entity

Eurelectric

* Name of the respondent

Alessandro Zappi

* Email

azappi@eurelectric.org

* Country of the entity's seat

- ○ Austria
- ◉ Belgium
- ○ Bulgaria
- ○ Croatia
- ○ Cyprus
- ○ Czechia
- ○ Denmark

- ○ Estonia
- ○ Finland
- ○ France
- ○ Germany
- ○ Greece
- ○ Hungary
- ○ Ireland
- ○ Italy
- ○ Latvia
- ○ Lithuania
- ○ Luxembourg
- ○ Malta
- ○ Netherlands
- ○ Norway
- ○ Poland
- ○ Portugal
- ○ Romania
- ○ Slovak Republic
- ○ Slovenia
- ○ Spain
- ○ Sweden

* Activity

- ☐ Trader (or association)
- ☐ Energy supplier (or association)
- ☐ Aggregator (or association)
- ☐ Generator (or association)
- ☐ Utility (or association)
- ☐ End-user (or association)
- ☐ Market operator (or association)
- ☐ Transmission network operator (or association)
- ☐ Distribution network operator (or association)
- ☐ Regulatory authority
- ☑ Other (please specify)

* Please specify other activity

European federation of the electricity industry which includes different parts of the value chain (including energy traders, suppliers, generators, utilities, DSOs)

* Does your submission into this consultation contain confidential information?

- ○ Yes
- ◉ No

5. Publication of responses and privacy

The Agency will publish all non-confidential responses, and it will process personal data of the respondents in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, taking into account that this processing is necessary for performing the Agency's consultation task. For more details on how the contributions and the personal data of the respondents will be dealt with, please see the specific privacy statement attached to this consultation.

☑ I confirm having read the Data Protection Notice

6. Consultation documents

Consultation note (**Important:** please read this document before responding to the survey)
20240905_Note_on_public_consultation_on_DR_NC.pdf

A. "20240905 DR NC ACER public consultation" with ACER's revisions to the EU DSO Entity´s and ENTSO-E´s proposal for a network code on demand response
20240905_DR_NC_ACER_public_consultation.docx

B. "20240905 EB Regulation amendments DR NC" with ACER's revisions to the Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (Electricity Balancing Regulation)
20240905_EB_Regulation_amendments_DR_NC.docx

C. "20240905 SO Regulation amendments DR NC incl CACM 2.0" with ACER's revisions to the Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation (System Operation Regulation)
20240905_SO_Regulation_amendments_DR_NC_incl_CACM_2.0.docx

D. "20240905 NC DC 2.0 amendments DR NC" with ACER's revisions to the Commission Regulation (EU) 2016/1388 establishing a network code on demand connection (Demand Connection Regulation).
20240905_NC_DC_2.0_amendments_DR_NC.docx

E. Article mapping table of the network code on demand response (consultation document 'A' vs related document 'E')
Article_mapping_table_PC.xlsx

7. Related documents

A. Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators.

B. Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast).

C. Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive (EU) 2012/27 (recast).

D. ACER Framework Guideline on Demand Response, 20 December 2022.

E. EU DSO entity and ENTSO-E proposal for a network code on demand response (full proposal package)

DR NC Articles 1-18 (Title I)

What is your general opinion on the following Articles of ACER's revisions to the EU DSO Entity's and ENTSO-E's proposal for a network code on demand response?

Opinion table

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	No opinion
* Article 1	○	○	◉	○	○	○
* Article 2	○	◉	○	○	○	○
* Article 3	○	◉	○	○	○	○
* Article 4	○	◉	○	○	○	○
* Article 5	○	○	○	◉	○	○
* Article 6	○	○	○	○	○	◉
* Article 7	○	○	○	○	○	◉
* Article 8	○	○	◉	○	○	○
* Article 9	○	◉	○	○	○	○
* Article 10	○	○	○	○	○	◉
* Article 11	○	◉	○	○	○	○
* Article 12	○	○	○	◉	○	○
* Article 13	○	○	○	○	○	◉
* Article 14	○	○	○	○	○	◉
* Article 15	○	○	◉	○	○	○
* Article 16	○	◉	○	○	○	○
* Article 17	○	○	○	○	○	◉
* Article 18	○	○	○	◉	○	○

If you wish, please explain your answers in the comment table below.

Comment table

	Comment
Article 1	• Par. 1: If this Regulation establishes a network code which lays down the requirements in relation to demand response, including rules on aggregation. The rules on aggregation can't be totally delegated to the national terms and conditions related to balancing (EBGL Art 18). • Par. 1 and 2: Propose rephrasing paragraphs 1 and 2, to include all technologies under DR framework (and for all technologies to consider also aggregation), and access to all electricity markets (as foreseen in the Internal Electricity Market Regulation, and considering the definition of electricity markets from the Internal Electricity Market Directive). Also, DR curtailment is mentioned a few times as part of the scope but there aren't specific rules, so we propose to delete this reference. (see amendments document) • Par 5: We agree with ACER that DSO responsibilities can only be assigned to one or more specific DSOs. (see amendments document)
	• Par. 4: Baseline shall also reflect possible DR actions, namely by third-parties other than suppliers, in other markets such as intraday. It shall also be clear in the definition that this is always a forecast, and it isn't accurate to affirm that these are the quantities that would have been withdrawn or injected, but only the best estimate of that. • Par. 5: baselining method' is the formula for the calculation of a specific baseline; This definition seems to emphasize a particular mathematical equation rather than a comprehensive, systematic approach. As a result, it may be a limiting definition that could hinder the development of accurate baselines. • Par. 6: Our proposal is done for consistency purposes with the definitions already in place for congestion and to avoid create different scopes and understanding of congestion issues needed to be managed. • Par. 10: Changes are necessary otherwise it will not be clear how does selection SP works as a market without products • Par. 20: Changes are necessary because SP Module is not a BtoC module, and further system users has no meaning/role in SP context. Par.21: Changes are necessary to specify storage that seemed to be excluded from the definition. • Par 23: Before being qualified, a SP must apply. • Par. 26: aggregates cannot be bundles of SPU. Otherwise, this requires first to qualify SPU (which could be impossible for a single site) or leave unqualified SPU in the flexibility register, which creates unnecessary complexity in the processes and IT • Par. 29: Product pre-qualification, as an ex-ante process, is not necessarily a condition prior to participation, as for local and non-standard balancing services it is foreseen that an ex-post verification may apply and the ex-ante prequalification should be always applicable. Therefore, it's not accurate to define this as an element prior to

Article 2	the participation since some products might only apply an ex-post verification. • Par. 34: Changes are necessary to include also references to other types of DR such as ID participation through independent aggregator, with an impact on suppliers. • Par. 35: Changes reflected the fact that any device, not necessarily remotely controllable, commanded by a local Energy Management System, thus not a CU, could counter act the activation of a service. • Par. 24, 26, 29, 30: We suggest changing the different reference to congestion management, voltage control, balancing, and local services to "flexibility services" as this seems restrictive. it's a general comment for the overall draft. • “System user” is used a lot but doesn’t seem to be defined. • Suggest defining ‘ex-post service delivery’: Article 25 refers to near real-time and ex-post service delivery which aren’t defined anywhere and should either be included as new definitions or such provisions in article 25 deleted, in particular the provisions for ex-post service delivery. • Suggest defining ‘impact factor’: Article 46 refers to the “impact factor” of single or aggregated resources. However, the concept of “impact factor” isn’t defined anywhere and should either be included as new definitions or such provisions in article 46 deleted. • The definition of metering point should be complemented by “virtual metering point”. As foreseen in the proposal for the definition of the ‘metering point’, some physical metering points refer to multiple demand “sides” as is the case for electric vehicles that charge in different charging points. A charging point can then be of private access (as in the customer’s home) or of public or semi-public access, which mean that the metered data is disaggregated amongst different consumers and suppliers. The same way, the total demand for such electric vehicle is than provided by the sum of metered data in different physical metering points (charging points) and is thus a virtual metering point
Article 3	• There are no specific rules in this NC regarding demand curtailment. In that regard we propose to eliminate those references in this article in 1(a) and 1(b). • Par 1: If this regulation aims at setting out clear and objective principles for the development of rules regarding demand response, including rules on aggregation, the rules on aggregation can't be delegated to the national terms and conditions related to balancing (EBGL Art 18). According to the Framework Guidelines this set of rules should describe the grouping of the different aggregation models as an exhaustive list of the possible types of aggregation models that may be applied by the MSs, distinguished based on the number of BRPs per connection point and per metering point, as well as on the basis of the type of the applied compensation mechanism, if a compensation mechanism is applied. In particular, the new rules shall specify the roles, responsibilities and interactions of the market participants under each of the possible types of aggregation models, including the data exchanged with the SO(s) needed for accessing all electricity

	wholesale markets, the responsibilities for verifying the provision of the SO service, for informing the BRP(s) after activation of an SO service and for the settlement of the provided SO service. Regarding the settlement, the new rules shall indicate for each type of aggregation model, whether a financial compensation in line with Article 17(4) of the Electricity Directive applies; Therefore, it is our opinion that this set of rules do not comply to the requirements of the Framework Guidelines. As stated in the FWG an Aggregation Model consists of a description of BRPs per connection point and per metering point, if applicable the applied compensation mechanism, the roles, responsibilities and interactions of the market participants, including the data exchanged with the SO(s). Therefore, it makes no sense to put this in the national "Terms and conditions related to balancing" (EBGL 18). As is done in this proposed set of rules by ACER.
Article 4	• Par. 1: We propose that NRA be added here as well, so that this can be taken into account in national implementation. The schedule is too tight if the national role allocation has to be assigned to the right party through a legislative change. • Par. 2a: Since the term "competent system operators" it is not properly explained, it is unclear what is meant by that. Therefore, clarifications are needed here, which can be even done through the national T&C. • Par. 2d: Not all meetings can be integrally listed, some of them are informal and minutes are not available. However, meeting with stakeholders shall be processed with minutes.
Article 5	•Art. 5(1): We agree with ACER that this is a task for all System Operators.
Article 6	
Article 7	
Article 8	• It is important to be careful on what we consider “confidential information” because we could end up in a situation where any part of the T&Cs could be considered confidential and not disclosed. • It isn’t clear in which circumstances the approval of the regulatory authority would not be required. (see amendments)
Article 9	• Par. 1: Eurelectric suggests that the public consultation lasts for a period of not less than six weeks. One month is too short for the national associations to collect the views of their members and validate the answer. • Par. 2: Eurelectric strongly approves the requirement to publish sound justifications.
Article 10	

Article 11	• We find that the vast majority of potential flexibility products in local areas are under the purview of DSOs and think this should be more well-reflected in text regarding the development of proposals. • The idea of union-wide technical requirements for DMDs is somewhere lost in the article. Eurelectric suggest including it otherwise there is a clear risk of having different DMD requirements between member states, which could be detrimental.
Article 12	
Article 13	
Article 14	
Article 15	•Clarity should be provided in the Code on what should be covered by this stakeholder involvement and why
Article 16	• Par 3: We do not support requiring: “publish this decision on the internet.”, but decision should be made publicly available • Par.4: it is stated that the Member State or the NRA may assign tasks or obligations entrusted to systems operators under this Regulation to one or more assigned parties. Given the particularities of each Member State and regulatory framework it is important to state that this redistribution must be carried out under the terms defined by national legislation.
Article 17	
Article 18	

DR NC Articles 19-37 (Titles II, III)

What is your general opinion on the following Articles of ACER's revisions to the EU DSO Entity's and ENTSO-E's proposal for a network code on demand response?

Opinion table

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	No opinion
* Article 19	○	○	○	○	○	◉
* Article 20	◉	○	○	○	○	○
* Article 21	○	◉	○	○	○	○
* Article 22	○	◉	○	○	○	○
* Article 23	○	○	◉	○	○	○
* Article 24	○	◉	○	○	○	○
* Article 25	○	○	◉	○	○	○
* Article 26	○	◉	○	○	○	○
* Article 27	○	○	◉	○	○	○
* Article 28	○	◉	○	○	○	○
* Article 29	○	◉	○	○	○	○
* Article 30	○	◉	○	○	○	○
* Article 31	○	◉	○	○	○	○
* Article 32	○	○	◉	○	○	○
* Article 33	○	◉	○	○	○	○
* Article 34	○	○	○	◉	○	○
* Article 35	○	○	◉	○	○	○
* Article 36	○	○	◉	○	○	○
* Article 37	○	◉	○	○	○	○

If you wish, please explain your answers in the comment table below.

Comment table

	Comment
Article 19	
Article 20	• As written, article 20: o compromises the integrity and reliability of the energy system, as it seems to exclude valuable information (smart meter data) whenever whatever other data exists,for verifying that energy services have been effectively delivered to the grid. o And is inconsistent with the directive concerning the relationship between smart meter and DMD. Indeed, it seems to prioritize 1st some sort of a calculation method (which is unclear what that might even be), 2nd a dedicated measurement device (DMD) as one amongst other calculation methods, and as last resort the metering equipment at the connection point. o In our view this raise some concerns: It isn't clear what is considered here as a calculation method. This may be understood as a non-measured method based on statistical approaches, which even goes against the Internal Electricity Market Regulation. It seems to disregard the verification of actual delivery of the service at least at the connection agreement point (the connection point might also not be the applicable concept here), which can imply a payment for a non-delivered service. • The Electricity Regulation, in article 7b (Dedicated Measurement Devices) say that: o TSOs, DSOs and relevant market participants may (not "shall") use, upon the consent of the customer, data from DMDs, for observability and settlement of DR and flex services. o The use of DMDs data shall comply with articles 23 and 24 of the Directive o Where a final customer does not have a smart meter (and specifically in this circumstance), or where the smart meter does not deliver the necessary data to provide DR or flex services, TSOs and DSOs shall accept DMDs where available for settlement. o Member States shall establish the rules and requirements for a DMD data validation process to check and ensure the quality and consistency of the relevant data, and interoperability, in accordance with Articles 23 and 24 of Directive (EU) 2019/944. Therefore, the Regulation prioritizes: 1st the smart meter, unless this doesn't provide the necessary data (e.g. data granularity of access with close enough to real time, or multiple suppliers with multiple metering points compliant with the MID which are different from a DMD requirements) 2nd, if the smart meter does not provide enough data for the DR or flex service, or the customer does not have a smart meter in place, then a DMD shall be accepted if it complies with DMD data validation rules and

	requirements. There is nothing foreseeing the abovementioned calculation methods as metering is always required. This entire article shall be completely revised to comply with the Regulation. • Even if the controllable unit uses its own method of calculating injections and withdrawals of energy, it is essential to make a verification at the connection point in order to avoid the compensation effects. The service bought by a TSO/DSO is delivered at the accounting point, so the reality of this service should be verified at the accounting point. • Additionally, it is incorrect to say that “CU uses its own method”: o A CU is a device, it is not a subject that can “use” anything. It provides data, and someone else is using it. o CU has not its “own method”: the method is not up to the CU, nor to the SP, it is a method validated and performed by SO to process data. o We propose an alternative version of the article, consistent with the directive, which focusses on the availability and quality of data, and suppresses the idea of having “own” method and we suggest adding a new § For the settlement of balancing and local services, systems operators shall have the right to: • assess whether services are reflected at the connection agreement point or reflected over a set of several connection agreement points • settle the service as it is reflected at the connection agreement point or over a set of several connection agreement points.
Article 21	• Par. 2: o It is stated that it is the SP who is responsible for acquiring and reporting the measurement values. It is questionable that it is not a third party who is responsible since the SP has incentives for reporting incorrect data. o The entity that is responsible for the ownership, management and communications of such devices must be defined by each MS. This is because there are very different realities across member states, with different actors regarding data access and exchange (as the ones defined in the implementing regulation for data access). Thus, it is crucial that the MS, in national terms and conditions, must be able to define which entities have these roles
	• Par. 2 o These terms and conditions refer to the process to define, calculate and validate the baselining methods. It makes sense of course to foresee the minimum set of data, but it doesn’t seem to make sense to include it in the T&Cs (which define the process) the granularity required for the service provision in itself. o That will surely be necessary when defining the baseline methodology to apply to a specific product, but it’s not the process to define, calculate and validate the baselines that already determines this granularity, as it should apply to every type of product disregarding the granularity necessary for each.

Article 22	• Par. 3(d): o We welcome the fact that the paragraph is mentioning the rebound effect, which means the recovery effect associated to a change in the profile due to an activation for flexibility services in one time unit and how that translates into a symmetric (or close to it) change in another time unit. However, this rebound effect cannot be part of a baseline method since the baseline represents a counterfactual reference about what the SP's BRP allocated volume may be in the absence of the activation for the provision of the respective service. If the service is absent there is no rebound effect. o On compensation effects, we suggest to closely stick with the elements already agreed and defined in Art. 17 (4) of Directive 2019/944 for consistency o The option that the SP can provide the baseline is missing. This is mentioned in the FWG 31 (other alternative baseline methods are allowed, such as forecast by the SPs) This is also an option in Art. 61.3. • Par. 4 and new 5: Regarding the baselining method register, it shall be avoided to end up with very different levels of description of the models that don't allow to relate similar methodologies or to properly understand what they do and how they work. For instance, it is not enough to state that it is a baselining based on AI; the explanation should be understandable and accurate in the sense that it properly explains the system's process and reasoning for outputs. • It would also be relevant to include the process, regarding the reporting of these baselining methodologies to ENTSO-E and EU DSO Entity, to feed this register, as this seems missing from the NC.
Article 23	• It isn't clear in which circumstances the data used for determining the provision of a service wouldn't be based on measurement. • Also, ISP shall be the minimum for the purpose of imbalance settlement in aggregation models, but if the metered resolution is already higher that should be the provided data. For instance, in PT metered data resolution is 15' while ISP is still 1h. It should evolve to 15' in the defined timeframe (and surely well before the implementation of this Regulation) but still, the principle applies. • Additionally, the necessary data to validate the provision of a service is part of the National Terms & Conditions. To add again the right to require all data necessary will make it heavily dependent on what each procuring operator deems as necessary (which may vary between SO even for similar products). It is important to ensure that this does not exceed the NT&Cs and fall out of reasonable scope.
	• Standard balancing should already evolve to a European Table of Equivalences (ToE), and inclusion in the national ToE so that some pre-qualification can already also apply to non-standard balancing and to local products. • Balancing (and in particular standard products) are already mature markets and evolving to pan-European platforms where some TSOs already operate, and other already work with common regional markets (as it is the

Article 24	case for some capacity balancing products and even FCA). • In that regard we propose to review this article to consider a European ToE for balancing products. • Additionally, related to proposal for article 26(4), if a SPU or SPG is already qualified to a product that has stricter or equivalent requirements (as it applies to the same product with different SOs procuring), this qualification shall be accepted for products with equivalent or less demanding requirements, and for which the SPU or SPG should not be asked to qualify again. The goal of the ToEs was precisely to avoid duplication of qualification procedures by SOs when this is not necessary. • If one SO or other is assessing a SPU or SPG and this is already identified in the flexibility information system as being qualified to a more demanding, equivalent, or even the same product, it should not be subject to a new qualification process even if simplified. • The simplified process should apply for situations where part of the qualification process isn't required as it was already qualified for other products, but some product attributes still need to be qualified, and thus a simplified process.
Article 25	•We suggest not using undefined acronyms such as ICT for legal clarity
Article 26	• Par. 1(a): the service provider should be able to register on the system user's behalf • Replace throughout the text (here and in Art 30, art 32, art 35 and art 37 and 60) [system user] by [the service provider on behalf of the relevant system user(s)] o It is essential to re-establish/guarantee an end-to-end technical and contractual responsibility scheme from the SP to the CU (e.g. via the scope of qualification), ensuring data quality, compliance with cyber-security requirements, GDPR, and operational reliability, and robust to the possible intermediation of a third-party player on a link in the chain- cf previous art 30A. And ultimately, Do not put any responsibility on system user, as only SP should be responsible. o The proposed modification ensures no loophole in responsibility, as service providers are professionals than can be held accountable, and in particular qualified or not. A system user cannot be subject as such for qualification. Note that a system user acting as a service provider (such as offering a product) would be held accountable because they are SP. • Par. 4: As commented above, equivalence in qualification rules don't only apply for the same product but also for products with equivalence to others already qualified.
	• This article shall consider provisions to simplify or exempt procedures when the SPG changes are not relevant enough to impose additional verification procedures. • It's normal that a SPG has changes in terms of units that compose that portfolio, with switching-in and out of

Article 27	resources. If the portfolio doesn't change in a relevant way, even considering location for local services, there should be a threshold (defined in national terms) under which new qualification (verification in this case) is not required.
Article 28	• This article shall consider provisions to simplify or exempt procedures when the SPG changes are not relevant enough to impose additional verification procedures. • It's normal that a SPG has changes in terms of units that compose that portfolio, with switching-in and out of resources. If the portfolio doesn't change in a relevant way, even considering location for local services, there should be a threshold (defined in national terms) under which new qualification (prequalification in this case) is not required. • Par. 3: it should be "the same SP" not "any". It heavily depends on the capabilities of the SP whether the service is reliable.
Article 29	•Considering that balancing is an already quite mature market, and that this refers to standard balancing products this should provide for a EU harmonisation proposal and not just a methodology to harmonise.
Article 30	• Par. 1: Requiring 10 business days of advance notice sets a lower bound for the time taken for a customer to enroll or to change SPs. • Par 1(a): [ADD "or the service provider on their behalf"] and replace system user by SP on behalf of system user (see art. 26 comment) • Par 2: In paragraph 2, we suggest a differentiation, at least between local products and balancing (which are not comparable in terms of size). For balancing this should be the maximum between 10% and 3MW, which is quite different from what is foreseen here. Also, 10%, for a really small SPU or SPG, or 3MW for really large SPU or SPG might be very marginal and should not always imply this repetition. o Example 1: in certain situations (small needs at DSO level and/or small SP) 10% is an extremely low threshold. To make an example, if an SPG consisting of small loads enters the market with 1 MW and slowly adds more small loads, it'll go through the prequalification process 13 times before it reaches 3 MW. If it starts at 0.1 MW, then it would be 37 times through the prequalification process. This seems incredibly time and effort consuming o Example 2: conversely, at TSO level and/or big SP, the threshold of 3 MW causes the same problem. • For local products and markets this should be up to National Terms & Conditions. • Par 3: the current wording may be misleading as it may be understood as the service provider needing to pass this qualification within 1 business day, when this deadline applies to the notification of the system operator do the service provider, which shall undergo this repetition under the applicable timeframes (not 1 business day). We,

	therefore, suggest a minor reshuffle for the sake of clarity of what we consider to be the intention for this provision. • It might be argued that this is only setting an upper bound on the number of re-prequalifications, as the SO only has “the right to” require them. However, one of the aims of the NC should be to avoid creating not efficient options. Therefore, we suggest including an additional paragraph: o We’re suggesting 5 years rather than the previous 3 years so as to reduce the costs associated with re-testing of unchanged assets by 40%
Article 31	• We suggest that grid prequalification for service providing units or service providing groups should be moved from national Terms and conditions for SPs to National Terms and Conditions for SO Coordination since this is closely related to Temporary Limits processes and it involves only SO actions. SPs have no operational role to set or update the grid prequalification status. SPs will be informed of the grid prequalification status, and they can then adapt their SPUs/parts of SPGs/SPGs • Limit Setting Rights o The right to set temporary limits and grid prequalification must be supported by a scrutiny process led by the NRA o NRAs must be empowered to complete an assessment in each defined local market on the application of a compensation for such limits if that is applicable in the Member States. • Operational Implementation o Temporary limits must not be considered in bids sent by the service provider. It is the responsibility of SP to respect the limits set by the system operator. o A maximum timeframe must be established for temporary limits. We recommend a cap of three months to be set in the European framework – if we leave it to the member states, it risks market distortions due to wide variance of the timeframe between markets. • Par. 3(d): this needs to reflect only to the affected grid operator that doesn't answer. • Par. 3 (e): the generic justification will be part of the process and national TCs. On a case-by-case basis, reason will be given, whereas justification will not be done • Par. 8: The system operators, as applicable, shall annually report information to the regulatory authority on the SPU(s), SPG(s) and parts of SPG(s) with non-approved or conditionally approved grid prequalification
Article 32	• Propose minor improvements in paragraphs 1 and 2, to clarify the parties, consider information to the system user, and foresee the possibility to object when there is evidence from the system user against switching the service provider. • Par. 3: the assessment of grid prequalification doesn’t really make sense. If the CUs were already providing services as part of a SPU/SPG, nothing really changes in terms of impact to the grid.

	• This should only apply for a new CU that is entering these platforms to provide services. Changing service provider, but still providing services as it did already before, has no new impact on the grid whatsoever. • We therefore propose to delete this part.
Article 33	• Par. 1: we should add that the flexibility information system shall consist of one or several CU modules pursuant to article 37, one or several SP modules pursuant to article 36 and if necessary additional IT solutions to process other information such as temporary limits. Indeed, CU modules and SP modules should contain static data, whereas temporary limits are highly dynamic data, best handled through other IT solutions. • Either the flexibility information system is a way to encompass all data exchanges induced by this regulation, and the IT solutions will involve more IT data bases and fluxes than the sole CU and SP modules (that is the flexibility register), or the scope is only about the flexibility register and temporary limits will not be part of it, as this solution may not always be the best.
Article 34	• We agree in principle but there are some doubts regarding the identification of CUs. To our knowledge, a CU does not have a unique number allowing it to be identified with certainty and automatically. Consequently, the implementation may be complicated for system operators could create many errors. • Par. 5: It is not clear what “portable” means in this context.
Article 35	• Propose some minor clarifications as follow, to consider: (1) meeting the set of standards amongst the list of existing ones (but not all as some are alternative), (2) publication of information while safeguarding data privacy and security. • We suggest clarifying the requirements for the system operator(s) responsible for operating a SP module under paragraph 2 to grant access "at any point in time" to service providers and entitled actors to SPUs and SPGs data that is exchanged in the flexibility information system pursuant. For example, it would not allow e.g. for planned and unplanned outages.
Article 36	• There is a reference in paragraph 1, a) to a unique European-wide identification code. However, if the purpose is indeed to create an EU ID code, it shall be made clear who shall generate this EU ID code and based on which rules and procedures. • Paragraph 1, h) foresees a revocation procedure. However, as in article 37, a reactivation procedure should also be considered

Article 37	• (a), (b), (d), (g) also need to allow service providers to act on the system user's behalf. Therefore, we suggest replacing "system user" by "service provider on behalf of system users" in all bullets. Explanation in Art. 26 comment • It isn't clear why there should be controllable units registered but not assigned to any SPU or SPG. If this applies to active demand participation in wholesale markets such as intraday, this should be clarified. Otherwise, we propose to eliminate this provision. • Regarding the revocation procedure, in g), the way it reads, it seems that if a system user has no rights on a certain connection point (and thus his entitlement is invalidated) the revocation occurs automatically. This seems to be the exact opposite of what is intended; if a system user is not validated as being entitled to a certain connection point, the revocation shall not proceed.

DR NC Articles 38-53 (Titles IV, V, VI)

What is your general opinion on the following Articles of ACER's revisions to the EU DSO Entity's and ENTSO-E's proposal for a network code on demand response?

Opinion table

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	No opinion
* Article 38	○	◉	○	○	○	○
* Article 39	○	○	○	◉	○	○
* Article 40	○	◉	○	○	○	○
* Article 41	○	◉	○	○	○	○
* Article 42	○	◉	○	○	○	○
* Article 43	○	◉	○	○	○	○
* Article 44	○	◉	○	○	○	○
* Article 45	○	◉	○	○	○	○
* Article 46	○	○	◉	○	○	○
* Article 47	○	◉	○	○	○	○
* Article 48	○	◉	○	○	○	○
* Article 49	○	◉	○	○	○	○
* Article 50	○	◉	○	○	○	○
* Article 51	○	◉	○	○	○	○
* Article 52	○	○	◉	○	○	○
* Article 53	○	◉	○	○	○	○

If you wish, please explain your answers in the comment table below.

Comment table

	Comment
Article 38	• This article is confusing, making unclear to what does the derogation applies to, and repeating or adding elements to a framework that is already foreseen in the Internal Electricity Market Regulation and Directive, and as already foreseen in article 39. • System operators have different available tools which they shall assess, with flexibility procurement being one of them. And flexibility procurement shall be made through market-based, except in specific circumstances where the NRA may approve this to be rules-based. • The specific circumstances are detailed in the Internal Electricity Market framework (Regulation and Directive) and are also framed in article 39 that follows, again referring to the relevant articles in the Regulation and Directive. • Article 38 puts on the same level services for active power and services for reactive power. A whole specific title should be recovered from the ENTSOE-EU DSO proposal to acknowledge the specificity of reactive power, and the necessity to draft specific rules for reactive power: to name a few: no BRP, no imbalance, very local effect so that aggregation is very difficult to process, aggregation – very limited competition, no baselining, the effect of CUs behind the same connection agreement point is unknown • Par. 2: we welcome the clear statement for market-based solution as “the preferred and by-default option” • Par. 5: It is unclear and should be further clarified in terms of procedure.
Article 39	•The derogation here foreseen shall not be differentiate per size of DSO and shall only specify elements of the grid and system needs (not system users in particular).
	• Flexible connection agreements (FCAs) are framed under the Internal Electricity Market (IEM) Directive (with some additional elements in the Regulation). • This NC intends to set the rules for the co-existence between these and flexibility procurement so one doesn’t distort the other and the SO is able to assess the different options on a level-playing field, ensuring maximization of social welfare. • With this in mind, it is important to emphasise, as this isn’t clear in the IEM, that a flexible connection agreement is, as it is rightly called, supposed to be an agreement, which implies a voluntary nature, where the two parties (system user and system operator) agree, and under which terms. • This is hardly what is applied in some Member States where such so called framework do not respect this voluntary nature of a bilateral agreement and it is important to ensure that those historical frameworks shall be revised to comply with the new rules, so they won’t hinder or distort the market. • Par. 1:

Article 40	o it should be clarified, FCA are good instruments to accelerate connections in some areas, but it does matter how these are designed and comparable on a fair base. o The intrinsically purpose of DR is to decrease the recourse to FCA. This should be mentioned. o The aim is to thrive for the most cost-efficient solution to accelerate electrification. o There is a socialization of the cost unbalances when a FCA is activated. It should be proposed a solution for the cost of unbalances, in concrete, if the unbalance can be negotiated in intraday markets, to guarantee a level playing field with local markets or may be charged to FCA agreement • Par. 2(b): important to quantify “market-distortion” and define what “cost-effectiveness” means in this context • Par. 2(c): The proposed activation rules may create obstacles for flexible connection agreements in certain markets, as they assume that balance responsible parties can achieve balance up to 30 minutes before the intraday gate closure. Given the varying levels of liquidity in European power markets, this could be challenging in some cases and result in additional costs. We suggest applying the same rules and conditions as those used for the activation of balancing products and other local markets/services. • Besides clarifying the nature of FCAs, there are some elements in this article requiring clarification or minor adjustments. o In that regard: o We require clarification for paragraph 1. It is not clear what is meant in this paragraph that states SOs shall not consider FCAs when assessing the procurement of local services. When assessing the procurement of local services SOs shall consider all available tools, including FCAs, to assess the most cost-effective solutions. Or does this refer to the possible bids and activation of service providers, competing with the activation of existing FCAs? o We propose to add a new paragraph 2 and to revise the last paragraph as follow (see amendments), considering that, it’s not just the activation in itself which refers to making use of possible restrictions, once the FCA is in place. The framework for implementing FCAs shall, as a whole, not lead to market-distortion and comply with the principles stated bellow.
Article 41	• Par. 2: the use of “national specificities” here is misleading. Of course, there will always been some peculiarities that are proper to a local reality. However, the objective of the NC is to provide a minimum framework. • Par. 3: include a proposal taking into consideration that the interaction with wholesale markets must acknowledge these are not local or national and thus, any rules need to consider the existing framework, set of rules, platforms, and procedures. National T&Cs cannot determine changes or distortions in broader markets and rules, namely considering EU wide rules, platforms and algorithms (e.g. EUPHEMIA).
	• Paragraph 4 in this article doesn’t make sense in our view. A DSO that is procuring to solve congestion management or voltage control shall not have to perform counter-activations for self-balancing (which is supposed

Article 42	to be done at the level of the TSO control area and not locally). However, it seems to be what this paragraph implies, therefore we suggest deleting Par. 4. • Par. 8 refers to unbundling for third parties acting as operators of local markets. However, unbundling rules shall be equivalent to those already applicable to DSOs (already framed in the IEM Directive) and, in particular, considering that a third-party may be a market operator of local services, under a contract with DSOs.
Article 43	•We suggest replacing “local, day ahead, intraday and balancing markets” by “other electricity markets”, as “electricity markets” is a concept already defined in the internal electricity market Directive. Also, because most of these markets are not confined to national markets and benefit from cross-border trading (which is the case for day-ahead, intraday and balancing), it doesn’t seem reasonable to consider requirements for interoperability and portability at national level.
Article 44	• Title: ADD a comma between “procurement” and “pricing” • Par. 4(b): It is not clear the meaning of “claiming the recalculation”, this should be further developed and specified • We propose to reintegrate part of the text that was deleted by ACER from the EU DSO Entity/ENTSOE proposal
Article 45	• Par. 1: clarify MDA • Par. 2: we suggest to [DELETE “nationally assigned”] from that sentence. It is not clear since it is not only the TSO or DSO that could determine the baseline, but also other parties. • Par. 3a: the mapping to individual CUs isn’t available ex ante. At most, an expected mapping could be provided. • Par 5: It is best to only communicate the aggregated data. Improving both the efficiency of communication as well as privacy (privacy by design).
Article 46	• We propose a few improvements to clarify the text, as follow, considering: o There is no definition of an impact factor o Market results are more applicable to activation as procurement might just refer to an initial tender, and exclude the following actions o Transparency is key and, the requirements for publication shall be framed as default and as a factor of transparency and efficiency. The possibility for non-disclosure shall be the exception and reserved for situations where negative unintended effects are likely to occur. • Clarification is also needed on the national platform, referred to in paragraph 9, where this information is to be

	published. It seems to be similar to the transparency platform managed by ENTSO-E. It is unclear though, who manages this platform on the national level.
Article 47	• List of product attributes shall not be included in the NC DR itself, but be published through an EU methodology or harmonized in the national T&Cs • Some of these attributes, even if listed as part of the attributes to consider for the purpose of the ToE, do not apply to each and every product and it is important to acknowledge that.
Article 48	• Article 48 must differentiate local products used by DSOs (i.e. in a particular bus bar) from national products managed by TSOs (i.e., same rules and procedures for congestion issues at bidding zone level although the congestion arises at local/zonal level). The task of standardization referred to in Article 48(2) is too vague and can lead to a blockage of valuable DSO initiatives • Paragraph 1 shall be clarified or otherwise deleted. One thing is to use bids and bid portability upon consent of the service provider and considering the principles defined before. A very different thing is to say that balancing or spot products are to be used for congestion management or voltage control, without any relation to the principles defined before on bid portability. • Par. 3: We are skeptical on if what is foreseen in Par. 3 will always be possible (“The product definition shall facilitate the effective use of the local products for multiple system operators´ needs”), particularly between TSOs and DSOs given driver for product could be very specific to network conditions. Additionally, Par. 4 seems to contradict this (“The local products shall correspond with the specific needs of system operators, considering at least:”).
Article 49	• Still, and abiding by the Directive (regardless this tech non-neutrality), it is up to the system operator to publish the technical specifications of the services he needs to be provided (also as foreseen in c), bellow) by the storage, and not the technical specifications of the actual storage devices. • It is unclear what “other relevant design parameters” are supposed to be, but all technical requirements for the service needed are already covered so this is suggested to be eliminated. • Finally, if a derogation is granted, and considering these devices are not allowed to buy or sell electricity in the markets (any markets), but the operation of a battery requires to charge and discharge electricity, this has to come from somewhere and be dully allocated, which requires to be framed in specific procedures. • Par. 3: we propose to delete because it allows the submission of offers for shared ownership between a system operator and a third party during the tendering procedure. However, this is the procedure that takes place before a System Operator can request a derogation. The tendering process should be exclusively market-based, as it primarily determines whether other parties, apart from the system operator, can deliver the required services at a

	reasonable cost and in a timely manner. Allowing offers for shared ownership undermines this principle and could lead to a preference for shared ownership every time, which is not the intended outcome.
Article 50	• Article 50 provides for a strong regulatory oversight of the arrangements for shared ownership, but it seems to be inconsistent with Article 49 regarding the reservations in relation to shared ownership by a system operator and by a third party of an energy storage facility. • Moreover, the directive does not provide any grounds for the concept of shared ownership. The rules are dichotomic – it is either that System Operators are allowed to own storage by way of exception and after receiving a derogation or that market parties' own storage or take it over from a system operator. The concept seems excessively complex, may cause controversies with regard to unbundling of system operators, and does not seem necessary to fulfil the delegation included in article 59(1)(e) of Regulation 2019/943. • The connection agreement, and network charges, and in particular pursuant to the third party part of the storage is defined by a national framework. It is not part of the shared agreement.
Article 51	• Par. 1: Fully Integrated Network Components shall not be subject to this article. • The ACER proposal focusses on ceasing the System Operators storage activity but does ensure that the congestion/voltage issue will be solved once System Operators cease the storage activity. There must be added sine-qua-non check and gates before ceasing the System Operators storage activity: o ensuring that the congestion and voltage issue will be effectively solved, o ensuring that third party fulfills its commitments with respect to the undertaking of the storage, o ensuring an overall cost benefit analysis, to fulfill the cost-efficiency requirement of the directive. • When securing a market-based alternate solution to System Operators storage activity, System Operators shall have a technology neutral approach. System Operators shall not discriminate against or in favor of the new storage owner. Likewise, the new storage owner should be able to use and value its assets as it wants, expect if they plan to register and qualify the storage to contribute to the provision of the service. • As recognized by Art. 51, The NRA shall encompass a full cost-benefit analysis, in the up-to-date context (including means to solve the current and future congestion/voltage issue without System Operators storage activity, actual costs of keeping on or phasing out storage activity) and not the initial and possibly obsolete context (costs/needs). This CBA shall consider that System Operators are entitled to recover compensation from the third party and ensure that System Operators ceasing of activity does not yield to subsidize third party storage activity.
Article 52	•Considering that the Network Development Plan should assess grid investment also taking into account other alternative solutions, we propose to make a slight amendment in paragraph 5.

Article 53	•Par.2: “to enable system users to identify if estimated needs are relevant for them” is too vague. Medium Voltage and Low Voltage needs are likely to be aggregated, therefore specific customers will not be in a position to make such an assessment. In addition, eligible sites are identified only at the actual market stage.

DR NC Articles 54-66 (Titles VII-XI)

What is your general opinion on the following Articles of ACER's revisions to the EU DSO Entity's and ENTSO-E's proposal for a network code on demand response?

Opinion table

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	No opinion
* Article 54	○	○	○	○	○	◉
* Article 55	○	○	○	○	○	◉
* Article 56	○	○	○	○	○	◉
* Article 57	○	○	◉	○	○	○
* Article 58	○	◉	○	○	○	○
* Article 59	○	○	○	○	○	◉
* Article 60	○	○	○	○	○	◉
* Article 61	○	◉	○	○	○	○
* Article 62	○	◉	○	○	○	○
* Article 63	○	○	○	○	○	◉
* Article 64	○	○	○	◉	○	○
* Article 65	○	○	◉	○	○	○
* Article 66	○	○	○	○	○	◉

If you wish, please explain your answers in the comment table below.

Comment table

	Comment
Article 54	
Article 55	
Article 56	
Article 57	•We propose to review paragraph 3, for clarification and to frame under existing rules such as those in article 13 of the IEM regulation regarding redispatch:
Article 58	• In case of unplanned outages in the DSO network it may be necessary to feed affected clients through alternate grid configurations. To replenish service to most clients it might be necessary to impose limits to market participants. • Similarly, congestion is forecasted assuming a generation and load profile. If any generator, or consumption client, experiences an internal outage the forecast might change and require emergency actions by the DSO to avoid outages to many clients. • Therefore, it is advisable that the DSO has the possibility to apply emergency limitations to market participants even if their bids have already been accepted. The proposal is that in case of such emergency limitations apply the market participant should be rewarded by its accepted bid. • When bids or contracted capacity are selected and not activated or are limited, due to temporary limits in the connecting or intermediating grid, service providers that are limited in that regard shall be financially compensated in the same terms foreseen in article 57 of the code • Such limitations to bid or redispatch shall be compensated, ideally under market-based procedures or, even if using non-market based these shall foresee a financial compensation at least equal to the higher of the following elements or a combination of both if applying only the higher would lead to an unjustifiably low or an unjustifiably high compensation: o additional operating cost o net revenues would have otherwise generated; where financial support is granted to power-generating, energy storage or demand response facilities based on the electricity volume generated or consumed, financial support that would have otherwise been received shall be deemed to be part of the net revenues.
Article 59	
Article 60	

Article 61	• Par. 6: When implementing bidirectional real-time data exchange, it is also needed to also define interfaces for these processes. This enables online connection directly to the SCADA system. • Add new Art 61 data from system users relevant to the national TCs for TSO-DSO coordination and DSO-DSO coordination. This is the former article 80.2, which extends the applicability of data exchange, pursuant to NRA approval, to units below the declared threshold of significance. This data is needed by DSO for their forecasting processes, especially in those areas with higher congestions. More accurate forecasts enable more efficient selection of solutions, as well as a more precise procurement of local service volumes. DSO shall always justify to NRAs the need and added value of extending data exchange requirements to other grid users that do not have the requirement to provide data exchange and are not SPU or SPGs. At the Distribution grid level, this is particularly important in order to improve the accuracy of forecasts in highly congested grid areas.
Article 62	• Par. 1: o Steering Committees of national concepts with participating market participants must be foreseen o It refers to article 59 of the IEM Directive, which doesn't foresee any derogations by the NRA, so this reference shall be reviewed. • Par. 2: refers to the derogation of requirements "to be decided later" which doesn't allow stakeholders to comment.
Article 63	
Article 64	
Article 65	• Eurelectric welcome the attempts to prevent a hiatus in flexibility procurement while the new rules and systems are being developed • The art. defines the schedule for the implementation of the flexibility system. It is noteworthy that the overall implementation will require significant development efforts in several information systems and processes at a time when the need for development in other areas of the electricity distribution system is also increasing. We believe that the development work should be given a couple of years more than defined to ensure it is functional from the start.
Article 66	

Revisions to Electricity Balancing (EB), System Operation (SO) and Demand Connection (DC) Regulations

What is your general opinion on ACER's revisions to the Electricity Balancing (EB), System Operation (SO) and Demand Connection (DC) Regulations (per topic)?

EB Regulation: Revision topics & related articles
Topic 1. Functions and responsibilities: Articles 15-18
Topic 2. Requirements for standard products: Articles 25 and 62
Topic 3. Settlement of balancing energy: Articles 45 and 49
Topic 4. Imbalance settlement: Articles 52 and 54
Topic 5. Financial transfer and compensation: Article 55A

SO & DC Regulations: Revision topics & related articles
Topic 6. Moving provisions regarding demand units providing demand response from DC Regulation to SO Regulation: Articles 2, 52, 53, 54, 56, 81, 105, 107, 127, 154 and 156 (SO Regulation) / Articles 27-33, 41 and 45 (DC Regulation)
Topic 7. Consistency with demand response network code provisions regarding data exchange between TSOs and DSOs, in line with the DSO observability area: Articles 40, 51 (SO Regulation)
Topic 8. Consistency with demand response network code provisions regarding grid prequalification and temporary limits: Article 182 (SO Regulation)
Topic 9. Moving provisions regarding data exchange from system users from demand response network code to SO Regulation: Article 53 (SO Regulation)

Opinion table

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	No opinion
* Topic 1	○	◉	○	○	○	○
* Topic 2	○	○	○	◉	○	○
* Topic 3	○	◉	○	○	○	○
* Topic 4	○	◉	○	○	○	○
* Topic 5	○	○	○	◉	○	○
* Topic 6	○	○	◉	○	○	○
* Topic 7	○	○	○	○	○	◉
* Topic 8	○	○	○	○	○	◉
* Topic 9	○	○	○	○	○	◉

If you wish, please explain your answers in the comment table below.

Comment table

	Comment
Topic 1	• Article 2 (Definitions) o Par. 7a: Should the aggregation model also apply to aggregators suppliers, or just with aggregators other than suppliers? Considering this relation is relevant when the 2 entities are different, it is suggested to add the word “independent”. • Article 3 1(f) : We propose to review the paragraph, considering the need to clarify what demand response is considered to be. The wording in the consulting document infers that storage is not considered demand response, places storage out of scope for aggregation (as it says “including aggregated facilities and energy storage”) and, by specifying storage ends up excluding generation assets. o Suggest rewording just to structure what’s included in DR, and that it can all be aggregated (for multiple types of assets/technologies, including load, storage, generation). • Art. 15 - Paragraph 2 shouldn’t consider only those who operate a local market. o If any DSO that in the future implements a local market will have to comply with these national T&Cs, all DSOs should be consulted if they want to provide comments. o Additionally, it could be relevant to foresee a procedure for DSOs to propose changes, as something to be included in the National Terms & Conditions. • Art. 18: o Terms and conditions for balancing should evolve towards European wide terms and conditions, rather than keeping them national. o It must be noted this refers to balancing services which are now quite mature markets, converging to pan-European platforms and with already harmonized implementation frameworks in place, at least for standard balancing products. o Balancing is more than fit to evolve to a more harmonized model, rather than keep it all as NT&Cs. o Suggest to rather include a deadline for ENTSOE to propose an EU approach, with harmonised standard products, harmonised rules and procedures, Table of Equivalence, pre-qualification, baseline methodologies and procedure to propose and assess new ones, all at EU level. o If we keep balancing (that already had quite a few years for developing the learning curve) we’ll just keep the current status of non-compliance in several MSs, a patchwork of different approaches hindering a supposedly integrated market and creating barriers for market agents that operate in multi-geography. o This would apply to paragraphs bellow referring to these NT&Cs. o Par 5(e) seems to be incorrect and shall be reviewed. o This is under paragraph 5 which only refers to balancing service providers, and therefore the rules for aggregation models would than exclude any other energy activations in local markets or others, and refer just to balancing service providers, which is incorrect, or at least inconsistent with paragraph 6 bellow. o We would suggest to, instead, add this to a new (c) in paragraph 1 above and to detail a bit further in a new paragraph dedicated to aggregation models as this should be consistent and harmonized for all aggregated DR, in all electricity market timeframes, or to just keep it in paragraph 6 bellow, applicable to BRPs.

	o Par. 6(f): it seems to include all activations on day-ahead and intraday. Any activation of demand response, whether on balancing or the wholesale market, must be subject to a correction of the baseline. A correction must be made even if the activation occurred in D-1. It is wrong to think that no correction is needed in D-1 because the BRP of accounting point is informed, and it could rebalance its position. If BRP of accounting point rebalance its position, the sale of a demand reduction in wholesale markets will not have no physical reality (For example, the BRP of connection point would be incentive to reactivate the charging point of EV whereas as the service provider had sold a reduction of charging). Moreover, if there is no correction in case of activation on day-ahead, financial transfer and compensation defined in article 55A of EB NC proposal are not applicable (so there is an energy transfer not paid). • The reference to article 27 of DR NC is confusing and seems to be incorrect. We are wondering if it is not rather article 22 of NC DR.
Topic 2	• We agree with the reduction proposed • Art. 25: Par. 7 only foresee reviewing minimum bids for standard products to 0,1MW for both energy and capacity, by 2028 with a possible derogation by 2029. o This seems overly long. If the goal would be to have active demand response, lower minimum granularity is key especially in early stages of demand response in the markets.
Topic 3	• Art. 49: o The imbalance adjustment should apply to any intended variation that might affect balance responsible parties (BRP), and by default it shall always be applicable to any relevant adjustments from activations. o With that in mind, this shall consider (1) volumes activated for other purposes to be more aligned with covering all electricity markets, (2) services that, if activated before a BRP sets its trade schedules, might already be included in those schedules and therefore in the final position of the BRP, and for which duplication (with the imbalance adjustment) shall be avoided, and (3) activated volumes (by an SO) that are so scarce and marginal that might not justify setting IT developments and communication procedures to include something that, in proportion, has a truly marginal impact, if any (though, of course rules for what could be acceptable to exempt would have to be clearly defined). o The point above mentioned in (3) might apply for instance to emerging local markets for congestion management or voltage control where the activated volumes might be so low that any imbalance adjustment might be less relevant than any statistical noise of forecast errors and residuals, and just not justify the needed developments considering the very marginal impact (if any). In these cases, exemption rules could apply. o These considerations shall be reflected in the EB GL amendments and further detailed in the foreseen Terms and Conditions.
	• Art. 54 o The ACER Framework Guidelines are clearly stating “The new rules, respecting the requirements set in Article 17(3) of the Electricity Directive, shall describe this grouping of the different aggregation models as an exhaustive list of the possible types of aggregation models that may be applied by the MSs”. Therefore, the decision of ACER to remove the list which was present in the EU DSO Entity-ENTSOE proposal and make the article vaguer is worrying since we will risk ending up with several different types of aggregation models. o We recognize the inclusion from ACER of some criteria, and these are a good basis and cover the main points, but there are some

Topic 4	clarifications to be made: Correction is not clear and could be further detailed Net-benefits of the compensation refers only to suppliers, but we need to think about the overall reduction costs because we are making better use of the energy mix or impact on the network tariffs. Criteria should be the basis, but we could have guidance for the Member States through examples at least. o Par 4a: it is hard to understand, reformulation proposed to make it clearer. o Par 4.e(4b): This is unclear. The BRP of the supplier is not registered per metering point but per accounting point. The BRP of the SP is not registered per metering point but per CU o It is very positive that this article foresees a correction in the imbalance positions for cases of multiple BRPs, at least when there are aggregators involved, in order to ensure each agent takes proper accountability and is incentivized toward efficiency and accuracy with overall benefits for the system and the customers. It is also positive that paragraph 5a foresees, not only balancing and local services but also any volume activated for other purposes, thus really covering all electricity markets. o Some aspects in this article shall still be clarified: “same connection”: some paragraphs refer to multiple BRPs at the same connection, which is not an accurate term, considering it may be perceived as the connection point, the connection agreement point, the accounting point or the metering point. This might be further reflected at national level using one of these different concepts and not all reflect accurately the right points to determine the BRPs. This should be replaced by the “same accounting point”, as defined in the NC DR, considering this also includes DMDs when applicable and these are the ones more granular that also cover the more “simple” cases. “one or more corrections”: paragraph 4a, foresees that “for each individual aggregation model implemented at national level, one or more corrections of the options in paragraph 4 shall apply for the correct calculation and allocation of the imbalance to the balance responsible party of each service provider and for the balance responsible party of the respective connection. The same option may be applied to both cases.” Considering that paragraph 4 refers to a correction which we would consider to either be applicable in the final position or in the allocated volume, but not both, it is unclear how more than one can apply under one aggregation model. Non-activated service provider: Paragraph 4b refers to ensuring that when a service provider is not activated, in case of multiple BRPs on a metering point, the BRP registered with this metering point is fully responsible for the imbalances. We assume the intention is that in a simple case of 1 supplier and 1 independent aggregator acting as service provider, the imbalance is fully allocated to the supplier if no service is required, which makes sense. However, this doesn’t cover all cases and shall be clarified to avoid imposing imbalances to a supplier that were caused by third parties. There might be more than one registered BRPs in one metering point (and also add the accounting point as well), and not all as service providers (as the concept only considers balancing and local services, thus excluding participation in other electricity markets); There may also be more than one service provider, so even if one isn’t activated, that doesn’t mean the other isn’t. This paragraph should be simplified to something like this (considering what we assume to be the intention): “The rules of paragraph 4 shall ensure that, no imbalance responsibility is allocated to a service provider that was not activated or for which there was no considered rebound effect associated to an activation, or to an independent aggregator that participated in other electricity markets.”

	“imbalance adjustment”: paragraph 5a should be adjusted considering the comments we made above for article 49 (Imbalance calculation). “any volume activated for other purposes”: this is something to which we agree entirely, but that is only referred from time to time in EB GL. This reference should be made clear across the EB GL so that this truly covers all energy activations, in all electricity markets.
Topic 5	• The payment to the supplier (or aggregator) constitutes the necessary counterpart for this indispensable transfer of energy block by the supplier to the aggregator (and inversely). • The ACER’s proposal creates “the financial transfer” and specifies “the financial compensation” defined in article 17(4) of the 2019’s Directive. Even if Eurelectric understands that “the financial transfer” is based on the costs of energy part of the energy block, there is no definition to confirm it. It is why Eurelectric considers that a definition of “the financial transfer” is needed. o We should add a definition of Financial transfer (or in the article 2): “Energy costs incurred by the supplier of the participating customer and transferred to this customer (or to an aggregator) and sold by this in balancing, local market or wholesale markets or energy billed by the supplier of participating customer but bought by this (or an aggregator) on balancing market, local market or wholesale market.” • Eurelectric suggests splitting the article 55A into two articles: One for the transfer, one for the compensation. • It is very positive that this article foresees the adequate financial transfer associated to the correction from energy transfers, as indeed, the final positions were bought ahead by suppliers and will be paid to NEMOs, prior to any activations by independent aggregators. • It is also very positive to frame the possible financial compensations as foreseen in the IEM Directive, regarding aggregation models, and the typification of possible additional costs here considered. • Some aspects in this article shall still be clarified: o Par. 1 also refers to the fact that the financial transfer shall be based on a formula. We agree but it is important that this formula reflects the right reference cost and keeps the zero-sum end result. We suggest including that this formula shall reflect wholesale price references which is the cost incurred in DA/ID markets (or other sourcing costs incurred when applicable in specific national settings) or, in case of demand increase and if at national level it is defined the supplier also bills these volumes, the implied wholesale cost associated to that additional energy. Should still be based on wholesale markets (which is the proxy behind for the retail price) and not imbalance settlement price. o Par. 4: it states that the net benefits do not exceed the direct costs incurred by the supplier. It is needed to specify that the direct costs mean: Compensation + transfer? or compensation?. The formula must be fair for both BRPs and cannot be used to undue barriers if it means not reimbursing a cost to a BRP o Par. 4 and 5 refer to possible net benefits to be considered. This is a concept also framed in the IEM Directive, which refers to taking into account the benefits brought about by the independent aggregators to suppliers, customers and their balance responsible parties. However, it has to be acknowledged that these net benefits are not specifically benefits to that particular supplier, but to the system as a whole, and the supplier should not be hindered and have to support the cost. If financial compensations are in place, these shall apply, strictly limited to covering the resulting costs incurred by the suppliers as a result from activation of demand response and therefore be paid to that supplier in particular. Naturally, as a result of net benefits, other means of financing such compensation are in place so that the independent aggregator doesn’t need to support all the cost when there are evidence and rules are in place to consider the net benefits brought to the system (e.g. lower wholesale costs from optimised mixes and less use of peaker power-plants, lower network costs from optimize use of the infrastructure).

Topic 6	•SO GL – Art.56: Paragraph 1, e) shall be deleted. This shall be covered either through NC DR in qualification processes (verification or pre-qualification, depending on what applies), if the SGU intends to participate, or through the RfG or NC DC, if it is to assess the compliance to any technical requirements in this regard. There should be no need of additional requirements overlapping with existing NCs, for the verification of the technical capability to provide balancing or local services.
Topic 7	
Topic 8	
Topic 9	

General consultation topics and questions

Topic 1: Level of harmonisation

The aim of the new rules on demand response is to enable the participation of demand response including load, energy storage and distributed generation (individually or aggregated) in all electricity markets, contributing to market integration, non-discrimination, effective competition and the efficient functioning of the market. However, respecting the principle of proportionality, the new rules should not go beyond what is necessary to achieve this purpose. Following the requirements of the framework guideline, ACER tried to revise the proposal to achieve this balance, through the establishment of national TCMs, which will be further harmonised through European methodologies in the future.

Consultation questions

1. Do you see any harmonisation requirements of the framework guideline not being covered by the demand response network code articles or the amendments to the existing regulations?

- Yes
- No

2. Do you see any areas of the demand response network code where stronger requirements are needed when it comes to harmonisation?

- Yes
- No

Topic 2: Structure of terms and conditions or methodologies

As presented in Section 9.2 of the attached note on public consultation on DR NC, in the revised network code, ACER opted for splitting the various national TCMs, although the intention of the framework guideline was to have less TCMs. ACER considers that this merging should be the final goal, as it ensures higher consistency between the different TCMs and is beneficial for all involved parties: both administratively (development and approval of the respective proposal) and content wise (involvement of the stakeholders and implementation). Therefore, ACER considers potential merging and asks for the stakeholders' views on that.

Consultation questions

3. Do you see benefit in further merging the different national TCMs?

- Yes
- No

4. Do you consider that some topic should be addressed in a different national TCM?

- Yes
- No

Topic 3: Amendments to existing regulations

As mentioned in Section 9.3 of the attached note on public consultation on DR NC, ACER agrees with some of the system operators' proposed amendments to existing regulations, but further assesses the full

package, especially the amendments proposed by ENTSO-E alone. Although the stakeholders are invited to submit their views on the specific amendments proposed by ACER in the respective parts of the survey, below you are also invited to submit more general views on the amendment to existing regulations, as part of the new rules on demand response in the context of this process.

Consultation questions

5. Do you see additional amendments needed in the System Operation Regulation?
- Yes
- No

6. Do you see additional amendments needed in the Electricity Balancing Regulation?
- Yes
- No

7. Title III of the DR NC covers the qualification of service providers, SPUs and SPGs, for balancing and local services procured in accordance with a market-based mechanism. Do you consider that part(s) of Title III should be transferred in another regulation?
- Yes
- No

File upload

Important reminder

Before uploading proposed amendments to the consultation documents, please make sure that:

- the name of the organisation/association/company on behalf of which the survey submission is made (**“entity name”** in the survey fields) appears as **"Author"** for all edits made to the documents; and
- the documents to be uploaded include only **proposed amendments** to the text and not **comments**, which should only be submitted through the survey fields.

Please upload your proposed amendments to file "**20240905 DR NC ACER public consultation**"
Only files of the type doc,docx are allowed
eac6a57f-0dc2-42b5-99e2-3c2c66d8435f/Eurelectric_amendments_ACER_NCDR_consultation.docx

Please upload your proposed amendments to file "**20240905 EB Regulation amendments DR NC**"
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011384d8-2f25-4fec-bbac-a3f3501d9577/Eurelectric_amendments_ACER_NCDR_consultation.docx

Please upload your proposed amendments to file "**20240905 SO Regulation amendments DR NC incl CACM 2.0**"
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Please upload your proposed amendments to file "**20240905 NC DC 2.0 amendments DR NC**"

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Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability