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**OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS No 14/2014**

of 24 July 2014

**ON THE NETWORK CODE ON HIGH VOLTAGE DIRECT CURRENT
CONNECTIONS AND DC-CONNECTED POWER PARK MODULES**

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators¹, and, in particular, Articles 6(4) and 17(3) thereof,

HAVING REGARD to Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003², and, in particular, Article 6(7) thereof,

HAVING REGARD to the favourable opinion of the Board of Regulators of 17 July 2014, issued pursuant to Article 15(1) of Regulation (EC) No 713/2009,

WHEREAS:

- (1) The Framework Guidelines on Electricity Grid Connections, FG-2011-E-001 (the 'Framework Guidelines')³, were adopted by the Agency on 20 July 2011.
- (2) By letter of 29 April 2013, the European Commission invited ENTSO-E to start the drafting of a network code on High Voltage Direct Current connections and to submit it to the Agency by 1 May 2014.
- (3) In drafting this network code, ENTSO-E endeavoured to involve stakeholders in a transparent process by organising workshops, bilateral meetings, user group meetings and public consultations, including a call for stakeholders' input. This is documented on ENTSO-E's website. ENTSO-E also ran a survey of manufacturers. The results of this survey have been used to inform the analysis of cost implications of the network code presented in the supporting documents.

¹ OJ L 211, 14.8.2009, p. 1.

² OJ L 211, 14.8.2009, p. 15.

³

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Framework_Guidelines/FG%20On%20Electricity%20Grid%20Connections/110720%20FGC%202011E001%20FG%20Elec%20GrConn%20FINAL.pdf

(4) On 30 April 2014, ENTSO-E submitted to the Agency, pursuant to Article 6(6) of Regulation (EC) No 714/2009, the Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules (the 'Network Code'). The Network Code was accompanied by the following supporting documents, which the Agency also took into account when assessing the Network Code's content:

- Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules, Frequently Asked Questions;
- Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules, Requirement Outlines;
- NC HVDC, Evaluation of comments;
- Network Code on High Voltage Direct Current Connections and DC-connected Power Park Modules, Explanatory Note.

The evolution of the Network Code has been generally reflected in the supporting documents. Yet, the Agency notes that the supporting documents present minor drafting discrepancies with the final version of the Network Code, as submitted to the Agency on 30 April 2014.

- (5) The Network Code is closely connected to the network codes that are being developed in other areas pursuant to Article 6 of Regulation (EC) No 714/2009. It is essential that this Network Code is consistent and coherent with those other network codes. In particular, it must be consistent with the Network Code on Requirements for Grid Connection Applicable to all Generators ('NC RfG'), the Network Code on Demand Connection ('NC DC'), the Network Code on Operational Security and the Network Code on Load Frequency Control and Reserves.
- (6) The Agency held on 19 May 2014 a workshop to collect stakeholders' views on the Network Code and its supporting documents,

HAS ADOPTED THIS OPINION:

The Agency commends ENTSO-E's effort to align the Network Code submitted on 30 April 2014 with the Framework Guidelines. It acknowledges the forward-looking nature of the Network Code and that its requirements shall help facilitate achieving the targets of the European Union on renewable energy sources and market integration, while ensuring security of supply, non-discrimination, effective competition and the efficient functioning of the market. The non-exhaustive requirements, similar to the approach taken in the NC RfG and the NC DC, aim at striking a balance between the principle of subsidiarity and the harmonisation objective of the network codes to be adopted pursuant to Article 6 of Regulation (EC) No 714/2009.

The Agency commends ENTSO-E for working closely with stakeholders and National Regulatory Authorities to improve the Network Code whilst under development, as well as for endeavoring to align the Network Code with interrelated network codes that are being developed in other areas pursuant to Article 6 of Regulation (EC) No 714/2009. The Agency also welcomes the responses which ENTSO-E gave in the supporting documents and in discussions during the Agency's workshop on 19 May 2014 with regard to stakeholders' and National Regulatory Authorities' concerns.

The Agency acknowledges that the Network Code is in line with the Framework Guidelines and the objectives stated therein. In the Agency's view, there are a few areas, though not affecting the compliance of the Network Code with the Framework Guidelines, where the Network Code could be improved. These areas and improvements mainly relate to the drafting of the Network Code and its clarity and consistency with other network codes that are being developed pursuant to Article 6 of Regulation (EC) No 714/2009. The concerned issues, which should be attended to by the European Commission and therefore are set out in more detail in the Agency's Recommendation No 04/2014 of 24 July 2014 to the European Commission, are the following:

- Replacement of the definition of "*Grid User*" with the definition of "*System User*" as defined in Article 2 of Directive 2009/72/EC;
- Alignment of Article 3(7)(a) and Article 3(8)(a) with the definition of New HVDC System and New DC-connected Power Park Module in Article 2 of the Network Code;
- Clarification of the scope of application of the Network Code to DC-connected Power Park Modules;
- Replacement or completion of certain provisions in the Network Code, unless reasonably justified due to the specificities of the Network Code, with the equivalent provisions in the forthcoming NC RfG and NC DC. These include, but are not limited to, the provisions on national scrutiny (Article 4), recovery of costs (Article 5), confidentiality obligations (Article 6), derogations (Chapter 7) and, the provision for a stakeholder committee and implementation monitoring. In addition, the Agency recommends a review of the provisions on the assessment of contracts (Article 3) across all Grid Connection Codes given these provisions as currently drafted may interfere with other national and European legal requirements;
- Improvement of the legal drafting and enforceability of certain provisions in the Network Code. These include, but are not limited to, provisions drafted in the passive voice which do not identify clearly to whom they apply (e.g. Article 20(3)(a), Article 21, Article 27(5), Article 29(5) and Article 38(3)), as well as provisions whose drafting affects the enforceability of the obligations (e.g. Article 38(2)(a) where the words "*can obtain a bilateral agreement*" may be misleading);
- Completing the alignment of the supporting documents to the Network Code.

Finally, the Agency understands that the exemption from certain provisions of the Network Code (Articles 53 to 57, 65 to 70 and 76) of HVDC Systems owned by TSOs, pursuant to Article 3(5)(a) of the Network Code, is justified because these provisions require TSOs to assess the compliance of HVDC System Owners with their obligations. The Agency also notes that Article 3(5)(b) of the Network Code requires TSOs owning HVDC Systems to comply with the requirements applicable to HVDC Systems (Articles 7 to 35 of the Network Code) and that TSOs shall be subject to national scrutiny pursuant to Article 37(1)(b) of Directive 2009/72/EC.

Done at Ljubljana on 24 July 2014.

For the Agency:


Alberto Rototschnig
Director



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