

CONSULTATION RESPONSE



Energy Traders Europe Demand Reponse Network Code (DRNC)

Brussels, 31 October 2024. Energy Traders Europe welcomes the opportunity to respond on the ACER draft Network Code on Demand Response (DRNC). We are pleased to see several improvements in the latest version of the draft. This includes the streamlining of the network code due to the transfer of certain topics to other relevant network codes and guidelines and the shift towards less detailed regulation.

We also welcome the reduction of methodologies to two Union-wide and four national methodologies. This simplification could result in shorter implementation times, as there would be fewer interactions between methodologies and other deliverables. We have observed improvements in areas such as aggregation, financial compensation, and transfer.

Additionally, the conditions for the derogation from market based redispatch have been more clearly formulated. However, in certain areas, further improvements can still be made.

Recommendations

1. Efficiency in delegated tasks related to market procurement

Energy Traders Europe believes it is essential that technical solutions for market functions delegated by system operators in local markets enjoy competition and innovation while avoiding unjustified market fragmentation and lack of standard procedures. These principles will consolidate expertise in nascent local markets at DSO level with the support of a manageable number of robust IT providers in competition, avoiding the costly duplication of systems across multiple SOs and lock-in effects, while maintaining competitive and flexible market dynamics.

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Text proposal

Article	Proposal	Explanation
Article 41(2)(d)	(d) avoid market fragmentation while promoting innovation, specifically when implementing proprietary IT solutions by third parties for the procurement of local services in accordance with Article 42(5), if such implementation-# leads to inefficiencies;	Functions delegated by SOs in local markets for procuring services must enjoy competition and innovation while avoiding unjustified market fragmentation and lack of standard procedures.
Article 42(3)	Each procuring system operator shall procure identify bids, SPUs, part of SPGs or volumes that can solve the congestion or voltage issue in accordance with the requirements in Article 56 and Article 57 by respecting rules for procurement set out in Article 44 and, if applicable, Article 43.	More accurate wording suggested reflects that the procurement in a specific local market does not interfere with other markets.
Article 42(4)	The costs of activation resulting from local services shall be kept separate from balancing.	This article should be clarified. We support not impacting balancing while managing local markets, as read in the proposal. However, the different solutions described are not sufficiently clear and do not favour the self-balancing solution that a service provider could offer as part of the

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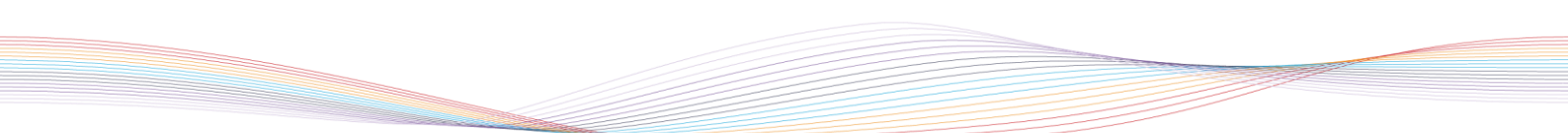
		service, for example. This can be more efficient than counter activations managed by the system operator.
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2. Redispatch

Energy Traders Europe welcomes the simplification of the derogation process and supports the establishment of strict guidelines, as outlined in Article 39 DRNC. However, the current process primarily considers existing solutions and resources, without adequately accounting for the market’s incentivising potential. We believe it is beneficial to allow market mechanisms to develop and use non-market based redispatch as a temporary, last-resort measure until these markets are fully established while respecting technological neutrality.

Text proposal

Article	Proposal	Explanation
Article 38(2)	System operators shall procure local services within a bidding zone, including redispatching of generation, energy storage and demand response, in accordance with a market-based mechanism, unless the regulatory authority has granted a derogation according to Article 39. Bid caps shall not be permitted with the exception of technical price limits applied to local services, to parts or the whole of the transmission or distribution grid, or to specific technologies or resource types.	Bid caps must be explicitly discarded in the network code on demand response, particularly when used in a partial way.



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<p>Article 38(3)(a)</p>	<p>the reasons for procuring the local services in accordance with a non-market-based mechanism, as concluded by the derogation approved by the regulatory authority in accordance with Article 39, are no longer applicable to parts or the whole transmission or distribution grid or to some technologies, resources or products;</p>	<p>Non-market-based mechanisms must respect technology neutrality.</p>
<p>Article 38(5)</p>	<p>[At least 6 months before starting the procurement of local services in accordance with a market-based mechanism], the relevant system operator(s) shall submit a proposal for a roadmap to implement market-based procurement of local services for the relevant part of the grids, technologies or type of resources to the regulatory authority for approval [within 3 months].</p>	<p>The local service must respect technology neutrality, in accordance with Article 41(2)(a)</p>
<p>Article 39(2)</p>	<p>The derogation process shall be transparent, non-discriminatory, non-biased, well documented, and based on reasoned grounds, take future resources into consideration and be subject to comprehensive consultation and publication.</p>	<p>his article provides detailed conditions under which deviations from a market-based procurement approach are permissible. Most of the specified criteria are reasonable. However, it should be emphasised that in cases where a derogation is approved by a regulatory authority, the economic inefficiency of market-based procurement must be clearly</p>

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		demonstrated, and a derogation should only be considered as a last resort. In addition, we support to have a process that is transparent, but we highly recommend gathering input from possible market participants.
Article 39(3)(c)	take into account the size of the DSO(s);	The derogation foreseen shall not be differentiate per size of DSOs and shall only specify elements of the grid and system needs (not system users in particular).
Article 39(4)	The derogation may be granted for a maximum period of two years one year.	
Article 41(2)	The rules for market-based procurement of local services shall consider the national specificities and shall:	National specificities are not accurately described and are not related to the general principles described in this paragraph. This is an open door to approve national exceptions. The DRNC is open enough to develop products adapted to national problems.
Article 41(2)(b)	Take into account the particularities of the different resources providing the local services;	Rewording to express that the design of the local service must respect technological neutrality but take into account characteristics of the providers, for example, while defining bidding formats.
Article 41(2)(d)	avoid market fragmentation while promoting innovation, specifically when implementing proprietary IT solutions by third parties for the	Functions delegated by System Operators (SOs) in local markets for procuring services must enjoy

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	procurement of local services in accordance with Article 42(5), if such implementation leads to inefficiencies	competition and innovation while avoiding unjustified market fragmentation and lack of standard procedures.
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3. Interactions between different congestion measures

There are five measures to handle grid issues (excluding grid expansion). This includes temporary limits, flexible connection agreements, redispatch, local markets, and grid prequalification's. These measures each address different issues they aim to resolve, but collectively, they are all designed to alleviate congestion, whether caused by dispatch or construction.

It is necessary to define when to apply each measure and how they interact with one another. In the current text, redispatch competes with temporary limits, the activation of flexible connection agreements, and local markets. When these measures are implemented, it is reasonable to assume that each will have a price. By applying the overarching principle of selecting the most efficient measure, the pricing of a regulated measure effectively imposes a price limit (cap or floor) on local markets indirectly. Article 40 of the DRNC marks a first step by requiring coordination with markets, but this guidance is insufficient and omits other measures.

Aggregating numerous small devices for demand response requires significant investment in data infrastructure, measurement, and management/dispatching. Only harmonisation and mass-produced devices, along with clear EU-wide rules, can justify these investments. If different SOs implement varying rules, it introduces a high level of complexity, especially in countries with multiple SOs, making them difficult to manage.

Furthermore, the DRNC lacks harmonisation in its pre-qualification rules, resulting in ongoing variability in pre-qualification criteria. Articles 29 and 30 DRNC do not achieve this

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harmonisation, instead delegating the responsibility to all TSOs. As a result, certain products, such as balancing products, will be traded across borders under Common Merit Orders, despite quality differences tied to their place of pre-qualification. Additionally, the DRNC does not standardise product certification rules, which—similar to the pre-qualification issue—prevents the establishment of a level playing field across the network. This inconsistency in regulatory requirements could hinder fair market competition and interoperability.

Text proposal

Article	Proposal	Explanation
Article 40(2)(b)	when flexible connection agreements and markets for local services co-exist, activation of flexible connection agreements shall be subject to coordination with and subordinated to relevant available products for local services, through a mechanism specified in the rules for market-based procurement of local services pursuant to Article 41 that ensures effectiveness and cost-efficiency; and	Pays in to establish a methodology or criteria on how on how these grid measures interact.
Article 40(2)(c)	when the activation of a flexible connection agreement is notified by the concerned system operator to a balance responsible party [later than 30 min before the cross-zonal intra-day gate closure time] , the activated volume of the	The right to include an imbalance adjustment would protect the FCAs of imbalances while socialising the cost of balancing. FCA is not a local product. It must not subject of imbalance adjustment.

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	flexible connection agreement shall be included in the imbalance adjustment to that balance responsible party, determined pursuant to Article 49 of Commission Regulation (EU) 2017/2195.	
Article 40(2)(d)	When the activation of a flexible connection agreement by a system operator occurs following the Day-Ahead market Gate Closure Time, the requirements in Article 42(4) shall apply.	Level the playing field between an activation in a local market and a FCA.
Article 54(3)(d)	(a) criteria, rules, requirements, methodologies and processes for setting temporary limits as measure of last resort pursuant to Article 58;	Pays in to establish a methodology or criteria on how these grid measures interact.

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4. Additional topics

Article	Proposal	Explanation
Article 6(3)	The regulatory authority shall revise and decide on the submitted proposals for common national terms and conditions in accordance with paragraph 1, within [six months] following the receipt of the proposal common for national terms and conditions from system operators, after a public consultation, or, where such consultation has not taken place, after providing a justification for the absence of such consultation.	There is a need for second round of consultation that is separate from the one required under Article 9(2).
Article 14(1)	The public consultation at Union level shall last for a period of not less than ± 2 months.	In order to foster stakeholder involvement.
Article 15	Such involvement shall, at a minimum , include regular bi-annual meetings with stakeholders to identify implementation problems and areas for improvements notably related to the areas covered in this Regulation.	In order to foster stakeholder involvement.

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<p>Article 20(1)</p>	<p>The injections and withdrawals for the settlement of the system operation balancing and local services.</p>	<p>System operation services are not defined in the text.</p>
<p>Article 26(4)</p>	<p>The procuring system operator shall be responsible for the product prequalification or product verification process applicable to each product. When multiple system operators procure the same product or a product deemed equivalent under national equivalence rules in accordance with Article 24, from the same SPU or SPG, such a SPU or SPG shall be prequalified or verified by a single procuring system operator.</p>	<p>Equivalence in qualification rules should not only apply for the same product but also for products deemed equivalent.</p>
<p>Article 42(3)</p>	<p>Each procuring system operator shall procure identify bids, SPUs, part of SPGs or volumes that can solve the congestion or voltage issue in accordance with the requirements in Article 56 and Article 57, by respecting the rules for procurement pursuant to Article 44 and, if applicable, Article 43.</p>	<p>More accurate wording suggested reflects that the procurement in a specific local market does not interfere with other markets.</p>

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<p>Article 42(4)</p>	<p>The costs of activation of resulting from local services shall be kept separate from balancing.</p>	<p>This article should be clarified. We support not impacting balancing while managing local markets, as read in the proposal. However, the different solutions described are not sufficiently clear and do not favour the self-balancing solution that a service provider could offer as part of the service, for example. This can be more efficient than counter activations managed by the system operator.</p>
<p>Article 42(6)</p>	<p>the procuring system operator shall forward bids combined or not to other markets</p>	<p>Combination of bids effectively leads to a central dispatch system.</p>
<p>Article 42(8)</p>	<p>Any third party which acts as market operator of local services shall be fully unbundled from the market activities of production and supply and demand.</p>	<p>Clarification needed.</p>
<p>Article 43(2)</p>	<p>Each service provider, SPU or SPG shall be allowed to provide services simultaneously, if technically feasible. submit the same bid in several markets, but this bid shall not be selected twice. When a bid placed by a service provider has not been selected in a market, or the service for which the bid was selected is no longer needed, the</p>	<p>On one hand, it is not clear or accurate to refer to the "same bid", as there is no way to identify a bid as the same. A service provider may bid with equivalent volumes without being the same bid, as long as the resource is able to partially bid within its technical capacity range. On the other hand, restricting simultaneous bids goes against article 15, 5, d) of the Internal Electricity</p>

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	<p>service provider shall be allowed to submit this bid to another market.</p>	<p>Market Directive that foresees, for active customers owning storage facilities, the possibility to provide several services simultaneously, if technically feasible.</p>
<p>Article 43(3)</p>	<p>If combined and/or forwarded bids are allowed, the rules for the market-based procurement of local services pursuant to Article 41 shall include at least:</p> <ul style="list-style-type: none"> (a) the requirements for combining and/or forwarding bids to other markets; (b) how information on consent of combining and/or forwarding bid is processed; (c) how locational information is included; (d) measures to maintain transparency for transferred bids; (e) whether and under which conditions under service providers are allowed to change pricing and volumes 	<p>Sharing of bids for several markets must not allow SOs to modify them (e.g. combination). Combination of bids lead to a kind of central dispatch system. Service provider must always keep the right to modify process and volumes or withdraw bids. Compensation is not needed if market participants bears the full responsibility of forwarding bids (or giving a consent).</p>

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	<p>or to withdraw bids;</p> <p>(f) liabilities and responsibilities for all market participants when transferred bids cannot be fully activated;</p> <p>(g) how forwarded and/or combined bids are priced and how service providers are compensated;</p> <p>(h) measures to avoid that the same bid is selected twice in separate markets or by different system operators; and</p> <p>(i) how forwarded and/or combined bids are handled with respect to validation of service provision.</p>	
Article 43(3)(d)	measures to maintain transparency for transferred bids to all markets, where the transferred bid is placed;	It is crucial to maintain transparency in all markets and to accurately reflect scarcity.
Article 49(2)	Where an energy storage facility does not qualify as a fully integrated network component, its ownership, development or	It is essential to reinforce and ensure that all other options have failed before the SOs own, develop and operate storage.

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	<p>operation by the system operators may only own, develop and operate if it is demonstrated to be needs to prove necessary, and that no third party can provide the service at a reasonable cost and within a suitable timeframe, in accordance with the conditions of points (a) to (c) of Articles 36(2) and 54(2) of Directive (EU) 2019/944. The requesting system operator shall provide sufficient evidence that all other alternatives have been exhausted.</p>	
Article 49(2)(a)	<p>Prior to initiating a tender process for storage, a sector dialogue shall be held to identify the optimal solution on a concept.</p>	<p>In order to foster stakeholder involvement.</p>
Article 49(3)	<p>The tendering procedure of paragraph 4 shall not preclude the possibility of submission of offers for shared ownership and operation of a storage facility between the system operator and a third party.</p>	<p>Request to delete Article 49(3) as it allows the submission of offers for shared ownership between an SOs and a third party during the tendering procedure. However, this is the procedure that takes place before an SO can request a derogation. The tendering process should be exclusively market-based, as it primarily determines whether other parties, apart from the SO</p>

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		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 49(4)(a)	the relevant system operator shall publish the technical specifications of the energy storage facility and other relevant design parameters, including the contract template between the system operator and the market participant. Additionally, the system operator shall provide details on the transfer of the storage facility in accordance with Article 51;	In order to ensure transparency of the tendering procedure.
Article 49(5)	The system operator requesting a derogation shall submit the proposed tendering documents to the regulatory authority for approval, which shall include the necessary requirements to fulfil the notification requirements pursuant to Article 49(6)(a) and (b). Before submitting the proposed tendering documents for approval, the system operator requesting a derogation shall	

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	publicly consult on the proposed tendering documents including the proposed contract with the third party.	
Article 49(6)(c)	an assessment indicating whether shared ownership of the storage facility is more economically efficient compared to full-system operators' ownership , in case there is an offer for shared ownership.	Paragraph 39 of the Framework Guideline (FG) on DRNC stipulates that "a derogation shall be preferred if economically efficient." The current draft of the DRNC inaccurately requires the SO to notify the NRA if shared ownership of the storage facility is "more economically efficient." This language strays from the FG by imposing an unnecessary comparative standard and neglecting to define "economically efficient." The FG emphasises the need for reasonable costs and timely service delivery without necessitating proof of relative economic efficiency.
Article 49(10)	If a derogation is granted, the national regulatory authority shall define and publish clear procedures regarding the allocation of energy associated to the necessary electricity	It is important to increase transparency on costs and tariff methodologies.

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	<p>withdrawal or discharge by these devices, cost recovery and tariff methodologies, considering these battery storage facilities shall not be used for buying or selling electricity in electricity markets, in accordance with Articles 36(2) and 54(2) of Directive (EU) 2019/944.</p>	
Article 63(1)	<p>At least [once every two years] every year, ENTSO-E and the EU DSO Entity shall publish a report on demand response covering the previous two calendar years, respecting the confidentiality of information in accordance with Article 18</p>	<p>The SOs should report on demand response every year. The same requirement applies for EBGL and CACM, and there is no reason why this network code should differ.</p>

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