CONSULTATION RESPONSE

Establishment of a new network code on demand response

Brussels, 12 September 2025

General comments

We appreciate the strong focus of market-based approaches foreseen within the draft Network Code on Demand Response (NC DR). This code is on the alignment of the provision of balancing services and local services (congestion and voltage support) services. To fully leverage their potential, this NC requires:

1. Strict limitation of possibilities to deviate from market-based procurement.
2. 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.
3. Interoperability and coordination between wholesale and local markets and avoid any negative impact on the first.
4. Rigorous requirements and conditions for the ownership, development, management or operation of an energy storage facility by system operators.

Detailed comments

Question6. How satisfied are you with ACER's proposal for the establishment of the Network Code on Demand Response according to Article 59(1)(e) of Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) (hereinafter: ACER proposal)?

X/10

Question7. Do you consider the allocation of content between each network code and guideline in the ACER proposal to be appropriate?

Yes

No

Question8. Is the scope of the network code on demand response in the ACER proposal regarding local services, including congestion management and voltage control services, for DSOs and TSOs adequate?

Yes

No

Question9. To what extent does the ACER proposal adequately address the roles and *responsibilities of all key stakeholders ?*

	Very adequately	*Adequately*	*Inadequately*	*Very inadequately*
**TSOs*			*X*	
**DSOs*			*X*	
**Regulatory authorities*			*X*	
**Balance responsible parties*			*X*	
**Service providers*			*X*	

Question9. If you have answered "Inadequately" or 'Very inadequately" to the previous question for at least one type of stakeholder, please explain. 500 characters maximum

The NC lacks clarity and harmonization in defining stakeholder roles and responsibilities. TSO responsibilities (e.g. baseline setting, prequalification) are vague; DSO roles risk fragmentation due to uncoordinated local operators; BRP impacts (e.g. imbalance charges and operational changes) need to be better addressed. The role of Congestion Service Providers lacks Union-wide recognition and harmonisation.

Imbalance adjustment, financial compensation that should be defined nationally need clarity for investment visibly. Forwarding bids should be carefully designed in the terms and conditions by TSOs/DSOs. Shared storage ownership by TSOs/DSOs needs better assessment. Interoperability of data formats need to be ensured.

Question10. Do you consider that the cooperation of DSOs at national level could benefit from a new entity to facilitate such cooperation or from other governance changes?

Yes

No

Question10. Please explain why yes/no? *500 characters maximum*

It would be beneficial for Distribution System Operators (DSOs) to be organized at a national level. While some DSOs may already have such structures in place—making the term 'new' potentially ambiguous—the Network Code could mandate cooperation where it does not yet exist. Collaboration between representatives of Transmission System Operators (TSOs) and DSOs at the Member State level is both feasible and encouraged.

** Question11. Which specific articles or elements of the ACER proposal do you support and would you like to keep the current wording?*

Aggregation models

National rules of procedure to develop common proposals

Balancing services

TSO-DSO coordination

DSO-DSO coordination

National framework for dedicated measurement devices (DMDs)

Grid prequalification and temporary limits

Table of equivalences

Observability areas

Baselining methods

Qualification, verification and prequalification of requirements and processes

Flexibility information system

Market-based procurement of local services

Data exchange and standards

Common information platforms on market-based procurement of local services

Question12. What are your main concerns regarding ACER proposal? Please list maximum 3 concerns by order of priority. 750 character(s) maximum

5. Art. 29-30 derogations from market-based procurement
6. Art. 34 forwarding bids to other markets and wholesale markets impacts
7. Art. 41 storage ownership

13. Which areas would benefit from additional harmonisation and standardisation at EU level compared to the ACER proposal?
a) Aggregation models
X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

b) National rules of procedure to develop common proposals
X/10. Indicate which areas would benefit most from EU harmonisation. 500 characters maximum
Energy Traders Europe welcomes the new approach to harmonisation and its permanent assessment. However, all aspects related to EU-wide markets, prequalification, baselining, table of equivalence, and standard balancing products should be harmonized from the outset to ensure fair competition and the level playing field.
The delegation of much of the development of procedures to national TCMs, risks creating inconsistencies across Member States. A more integrated approach to developing these procedures would reduce administrative complexity, enhance coordination between stakeholders, and facilitate cross-border market operations. Such harmonization would enable a truly integrated energy market while simplifying compliance for market participants.

c) Balancing services
X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum
Balancing rules harmonisation under the current EB GL and the inclusion of mandatory development of FCR services applicable and remunerated to all service providers, both existing and new ones, in every Member State.
d) TSO-DSO coordination

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

Strong collaboration between TSOs and DSOs, particularly regarding the operation of local markets (e.g., congestion management and voltage control). Without such harmonisation, there is a risk of market fragmentation, inefficiencies, and barriers to cross-border integration. We advocate for cooperation frameworks and the establishment of common interfaces for all market participants within each bidding zone to ensure consistent and efficient coordination.

e) DSO-DSO coordination
X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum
DSO-DSO coordination would benefit from additional harmonisation and standardisation at the EU level compared to the ACER proposal. We are concerned about the potential for market fragmentation caused by uncoordinated local market operators, particularly in Member States like Germany where numerous DSOs operate. We advocate for the creation of a common interface for market participants within each bidding zone to ensure efficient coordination and avoid duplication of efforts at the local level.

f) National framework for DMDs
X/10. i) What should be the appropriate governance for defining and approving the EU framework? 500 characters maximum.
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.
ii) Are there cross-border or EU-wide use cases where harmonised access to measurement data would be critical?
yes
no
g) Grid prequalification and temporary limits
x/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

h) Table of equivalences

x/10. Would a standardised guiding template help streamline national implementation?

yes

No

Observability areas

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

j) Baselining methods

X/10. What would be the most efficient way to achieve standardisation in the design of baselines? 500 characters maximum

k) Qualification, verification and prequalification requirements and processes

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

Due to the lack of harmonisation, prequalification rules will continue to differ. Therefore, some products will continue to be traded across borders in Common Merit Orders, even though they are of different quality depending on where they were prequalified (e.g. balancing products). We call for concrete and harmonized prequalification methodologies, along with standardized verification rules, to eliminate market distortions and facilitate seamless participation across the EU.

Do you see a need for further harmonization of cross-border aspects in these processes? Yes/No

l) Flexibility information systems

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

GOPACS (Grid Operators Platform for Congestion Solutions) is a flexibility coordination platform developed by Dutch grid operators, including TenneT (TSO) and regional DSOs in the Netherlands. It facilitates congestion management by enabling the strategic deployment of flexible generation and demand resources through well-designed redispatch mechanisms. Rather than functioning as a trading platform itself, GOPACS matches flexibility offers submitted by market participants, either directly or through Congestion Service Providers (CSPs), with real-time grid requirements.

m) Market-based procurement of local services

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum.

Article 29-30 provide 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 demonstrated, and a derogation should only be considered as a last resort. In addition, we support to have a process that is transparent, and we highly recommend gathering input from market participants.

n) Data exchange and standards

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

Provisions are currently left to national TCMs without a clear, centralized framework. Such an approach increases the risk of inconsistencies across Member States, complicating cross-border operations and hindering market integration. A harmonized framework ensures consistent data formats, protocols, and processes for data exchange, as well as robust coordination between TSOs and DSOs. Standardized data exchange mechanisms would simplify market participation and improve overall market efficiency.

Do you support a EU methodology on standardised data exchange formats?

Yes/no

o) Common information platforms on market-based procurement of local services

X/10. What would be the most effective way of achieving this harmonisation? 500 characters maximum

p) Is there any other area (not listed above) where additional harmonisation or transition would be highly needed? Please explain. 500 characters maximum

q) Overall, how satisfied are you with the harmonisation at EU level in the ACER proposal?

X/10

Part 2: Title I and Title II

A) National Terms and Conditions or Methodologies (hereinafter: TCMs):

** Question14. Is the ACER proposal, to first set up a national process for the development, amendment and approval of national TCMs, adequate to ensure a timely implementation while allowing for national specificities?*

Yes/No

B) National vs. EU TCM:

** Question15. In the ACER proposal, do you consider that the timing and sequence for the development of national and EU terms and conditions or methodologies is adequate?*
Yes/No
Question16. Is there any other element to share on Title I and Title II of the ACER proposal? 750 characters maximum

Part 3: Title III
A) Prequalification
** Question17. Should product verification at service providing unit or service providing group be established as a default requirement for all products?*
Yes/No
** Question18. Do you find the rules for switching the controllable units between service providers adequate, as proposed in Article 23 of the ACER proposal?*
Yes/No
** Question19. Would you recommend implementing additional duration limits to facilitate switching of controllable units between service providers?*
Yes/no
** Question20. Do you find the rules regarding the threshold on service providing unit or service providing group modification (10% or 5 MW whichever is lower and at least 500 kW) as proposed in Article 18 of the ACER proposal to be appropriate?*
Yes/No
** Question21. Would you consider further specifying the maximum timeframe of three weeks for the procuring system operator to perform product verification in Article 19(2)(a) as appropriate?*
Yes/no
B) Flexibility information system
Question22. ACER proposal in Article 25(4) requires each procuring system operator to operate and maintain one or more service provider modules and one or more controllable unit modules. Do you agree with the proposed governance, or do you consider that another distribution of responsibilities would be more adequate? Please explain. 750 characters maximum

Question23. Is there any other element to share on Title III of the ACER proposal? 750 characters maximum

Part 4: Title IV

A) Market-based procurement of local services:

* Question24. Do you support the ACER proposal regarding the governance and delegation of tasks for operating local markets?

Yes/No

Article 30(3)(d) of the revised DR NC, states that the duration of the derogation period for the procurement of voltage control services with reactive power is not restricted by the two years, which is the maximum duration for the other services.

We disagree with this and see no relevant reasons for different provisions for voltage control services. Derogations from market-based procurement of local services should not be longer than two years for all type of local services, including voltage control services.

When a system operator identifies a need for reactive power in its control area, it must quantify it and evaluate possible solutions. When reactive the procurement of reactive power through a voltage control service is identified, if the market cannot provide the solution through a tender process and a derogation is granted, this derogation must not exceed two years.

* Question25. Do you see a need for further clarification regarding Article 31 and the coordination of flexible connection agreements with local markets?

Yes/No. Please provide additional comments if needed. *750 characters maximum*

FCAs always come with a cost of "0". This would result in the FCAs being prioritized over local services when they compete on a day-to-day basis. Consequently, a market for local services is unlikely to arise in those areas and this might bear higher cost when considering long term overall cost. These costs include tariffs and opportunity cost.

Transparency of FCAs is essential for the development of markets. The amount and volume of FCAs should be made publicly available because the use of FCAs is highly likely to affect the provision of local services. Furthermore, these time slots effectively function as periods of unavailability, which is particularly relevant for wholesale markets. This information should therefore be made publicly available.

Art. 31.3(a) should be refined, because FCA should not participate in balancing and local markets in the same manner as firm connections and should not have right for any compensation/reward for activation. Otherwise:

1) Overall cost-efficiency and level playing field are not respected.
2) There is a transfer of rent between firm and FCA.
3) FCA become a sub-product in the market, and this is not the intention of upper regulation and NC DR.

* Question26. Do you consider the proposed framework in Article 34 for coordination and interoperability between local and day-ahead, intraday, and balancing markets sufficiently flexible while opening the market?
Yes/No
"When a bid has not been selected in a market, or the service for which the bid was selected is no longer needed, the service provider shall be allowed to submit this bid to another market."
We support the voluntary basis of the provision of bid forwarding.

Nonetheless, the implementation of bid forwarding may present considerable complexity:

8. It is unclear whether conditions for bid forwarding can be specified individually per contract or how frequently market participants (MPs) are permitted to modify their bid forwarding contracts with TSOs.
9. Verifying collateral becomes difficult when a bid is transferred to another exchange.

Forwarding of bids comes with many risks, which Energy Traders Europe has addressed, and we welcome the inclusion of requirements under Article 34 NCDR. However, we would like to reemphasize that transparency for all affected markets of a forwarded bid is crucial in order to reflect scarcity. A bid typically has a volume, price, marketplace, and in some cases, other properties such as being part of execution constraints (e.g. an iceberg order or other order). ' Behind a bid, a dispatch of production unit is connected. It is important to note that many markets affected from forwarding are ruled at European level (e.g. SDAC and SIDC). Bid forwarding raises several questions on the practical implementation. We do not have locational data in SDAC and SIDC but we will need this for local congestions. Forwarding bids should not restrict the ability of market participants to trade in day-ahead and intraday markets on portfolio basis. Forwarding bids could happen only from energy markets to local markets, not the opposite. Geographical or topological information should be handled outside the energy markets, according to clear rules defined for local services. There are questions on collaterals and who will be verifying if one bid from a market participant is transferred to another exchange.

Question27. Is there any other element to share on Title IV of the ACER proposal? *750 characters maximum*

Article 31.2 should read: ‘’ ~~Activation~~ **Injection or withdrawal limitations based on** of flexible connection agreements shall not lead to market-distortion and shall comply with the following principles”. Agreements are not activable.

34-1 ‘’If bids offered in day-ahead, intraday and balancing markets are used for solving physical congestion or voltage issues, the rules for the market-based procurement of local services pursuant to Article 32 shall consistently describe the coordination between the involved parties, ensuring that they do not over-ride, nor compromise the rules to participate in and applicable to other wholesale markets.” Using wholesale bids for local services requires deep involvement of SOs in market operation, undermining unbundling, market operation und functioning

34-3(g) ‘’how forwarded bids are priced and how service providers are compensated ‘’ Bids are always priced by service provider.

35-3(b) ‘’predetermined prices as part of the offer process for availability and/or activation of resources contracted in advance subject to an assessment of the economic efficiency’. It is unclear, what a predetermined price is, actually, a predetermined price is contradictory.

Article 37.5 ‘’Subject to the national terms and conditions pursuant to Article 32, procuring system operators may not publish the information on needed and offered prices and volumes of procured capacity or energy bids ~~if justified for reasons of market abuse concerns~~ and if not detrimental to the effective functioning of the electricity markets. The procuring system operators shall report such unpublished information at least once a year to the relevant regulatory authority in accordance with Article 59 of Directive (EU) 2019/944.” This should be dealt in the REMIT Regulation.

Article 39.1 ‘’The national terms and conditions for service providers shall include the list of all congestion management and voltage control products to be used by the system operators. ~~The system operators shall strive to use existing products from day-ahead or intraday markets or balancing products for congestion management or voltage control. These products shall also be included in the list of products.”~~ We suggest to delete the last paragraph. If existing products are used, e.g. balancing, separation of cost (33-9) is not possible.

Part 5: Title V and Title VI

A) Ownership of energy storage by system operators

* Question28. Is the ACER proposal in Article 40 and Article 41 regarding ownership, development or operation of energy storage by system operators, including rules for shared ownership of energy storage, adequate to ensure market-based and competitive storage services when the national market allows it?
Yes/No
The text has improved and now the current formulation clearly specifies how the decision to include shared ownership in the tender is made. However, art. 40.8 should read: '~~*If allowed by the national legal framework of the Member State, and*~~ *if assessed relevant and potentially beneficial by the regulatory authority consistently with Article 3(2), the regulatory authority may allow system operators to tender for sharing ownership, management and operation of a storage facility between the system operator and a third party. The tendering procedure should fulfil the requirements of paragraph 3 and the process should be in line with the process described in paragraphs 4 and 5".*
This might lead to a different treatment of storage shared ownership between Member States. We suggest that the assessment should be based on an objective and independent NRA assessment only.
* Question29. Do you consider Article 42 of the ACER proposal and the conditions for assessing the phase out of the system operators' ownership of energy storage facilities to be adequate for enabling third-party market entry and reducing the regulated asset base of system operators?
Yes/No

B) Distribution Network Development Plans (DNDPs)
* Question30. Do you envisage DSO observability areas, as described in Article 46, as dynamic concepts that adapt to production/consumption patterns or as fixed areas maintained over extended periods?
Dynamic/Fixed Please explain why? *500 characters maximum*

Question31. Is there any other element to share on Titles V and VI of the ACER proposal? *750 characters maximum*
Article 41.Header: Requirements and conditions for shared ownership, development, **manage** or operation of an energy storage facility by system operators and third parties
41-1 By way of derogation and following the regulatory authority's approval, the system operators may share the ownership, development, **management** or operation of an energy

storage facility with a third party. Such sharing shall be determined on the basis of a percentage, a sharing in time, season, capacity, output or any other defined shared aspect as approved by the regulatory authority.
41-4 Following the granting of derogation for shared ownership pursuant to Article 40, the third party shall: own, **manage** and operate its part of energy storage without further constraint, according to the terms of the relevant agreement with the relevant system operator

Article 42.1 "The regulatory authority shall conduct a regular public consultation on the ~~existing~~ energy storage facilities, **including after** a derogation has been granted pursuant to Article 36~~**(1)**~~ and Article 54~~**(1)**~~ of Directive (EU) 2019/944, **except where they are fully integrated network components**, to identify the availability or interest of any third party to undertake the energy storage facility operated by the system operator." The assessment of cost and benefits of phasing out system operators' ownership and operation of energy storage facilities is applicable to all SO-owned storage facilities. This includes both facilities owned and operated by SOs before entry into force of the NC DR and any future installations subject to the derogation provisions outlined in Articles 40 and 41.

Part 7: Title VII - Title X and other network codes
A) TSO-DSO and DSO-DSO coordination
* Question32. Regarding Article 49 of the ACER proposal, should cooperation between system operators on prequalification for service providing units or groups be limited to local services or extend to broader ancillary services?
Limited to local services/Extend to broader ancillary services Please explain why? *500 characters maximum*
Question33. Regarding Article 45 of the ACER proposal, how often should each system operator update the grid prequalification status? Please precise a duration and a justification for such duration.*750 characters maximum*

Question34. Do you consider that defining the concept of system operators' coordination areas, for which different system operators would need to coordinate, would be beneficial? *750 characters maximum*

Question35. Is there any other element to share on Titles VII to Title X of the ACER proposal? *750 characters maximum*

B) Data exchange (relevant for both Network code on demand response and electricity balancing guideline)
* Question36. Do you consider the topic of standardised data exchange and interoperability sufficiently covered in the ACER proposal, considering the activities of Expert Groups such as Data for Energy (D4E) and the implementing act on demand response?
Yes/No. Please provide additional comments if needed. *750 characters maximum*

C) Aggregation models
Question37. How do you view Article 55A of the Electricity Balancing Guideline of the ACER proposal to differentiate financial compensation and financial transfer? *750 characters maximum*
Article 52.2(a) does not foresee a compulsory financial transfer, which we consider crucial to avoid income transfers between agents, where one market participant captures surplus resulting in a reduced payoff for others. If a Member State does not implement financial transfer, this choice should be limited in time (e.g. maximum one year, subject to further derogations granted by the NRA after public consultation based on a TSO/DSO assessment report).
It is essential under Article 55A that the costs incurred by Market Participants (MPs) or Balancing Responsible Parties (BRPs) are treated independently of any potential "benefits" provided by aggregators.

10. MPs and BRPs should receive compensation strictly on their own costs, without such remuneration being contingent on the value or definition of "benefits" introduced by aggregators.
11. Notably, the term "benefits," as referenced in paragraphs 4 and 5, remains ambiguous and lacks a clear definition. Only once these benefits are precisely articulated should they be considered, if at all, in a separate process, distinct from the cost compensation of MPs or BRPs. This separation is crucial to ensure the accuracy of compensation costs.

D) Others
Question38. Is there any element to share on the ACER proposal for the revision of the Electricity balancing guideline? *750 characters maximum*
EBGL and the draft NC DR lack guidance on imbalance settlement between BRPs and Congestion Service Providers (CSPs). EBGL does not sufficiently define how imbalances are settled between

BRPs and BSPs, and omits the role of CSPs entirely. Currently, BSPs do not consistently inform BRPs after activation by the SO, leading to inaccurate settlements. Mandatory communication from BSPs to BRPs is needed to reflect realized activations. As BRP participation diversifies, this gap grows. Any EBGL revision must address these issues to support fair and efficient demand response integration.

Question39. Is there any element to share on the ACER proposal for the revision of the Demand Connection code? *750 characters maximum*

Question40. Is there any element to share on the ACER proposal for the revision of the System Operation guideline? *750 characters maximum*

Question41. Do you have any other element to share on the ACER proposal? *750 characters maximum.*

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