

## EFET proposed amendments to draft instruments within the Clean Energy Package

### DISTRIBUTION SYSTEM OPERATORS



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Strict unbundling rules are the corner stone of a sustainable liberalisation process in a network-backed industry like electricity. The separation of regulated monopoly system operation from all the other competitive activities in the sector ensures that Transmission System Operators (TSOs) in Distribution System Operators (DSOs) act as neutral facilitators of the market. In this sense, we welcome the establishment of a single entity at European level to ensure a better coordination and facilitate the dialogue with stakeholders and regulators. The tasks of the EU DSO entity should be as clear as possible. In particular, it should not be responsible for market design. It should rather concentrate on TSO/DSO cooperation to ensure that all market participants connected to the transmission or distribution networks are able to compete on a level-playing field. This however does not entail promotion of decentralised solutions by DSOs.

We believe that the application of unbundling requirements on DSOs should be reinforced. Indeed, these requirements have generally been loosely applied given the perceived lesser risk of DSOs stepping out of their market facilitator role and acting as market participants until now. With the expansion of intermittent renewable power generation at distribution level, and the development perspectives for demand-side response and electricity storage, the question of the strict separation of competitive commercial activities from monopolistic system operation activities at a distribution level becomes of high relevance to maintain DSOs in their sole role of market facilitator. In this respect, we believe that the review of the draft recast Electricity Directive would be a good occasion to ensure that regulators have the tools to properly enforce DSOs' unbundling requirements.

We welcome the principle enshrined in the draft recast Electricity Directive that DSOs, like TSOs, shall not be allowed to own, manage and operate electricity storage facilities. Storage assets – in the same manner as generation assets or demand-response capacities – should never be considered as part of a network unless they can only be used for purposes other than system operation (such as, e.g., transmission lines, phase-shifters or transformers). System operators who see the need to rely on storage capacity to perform their duties should procure this capacity from market participants, who are best placed to provide cost-efficient storage solutions. However, the principle of non-ownership and non-operation by system operators is stated to be subject to exemptions. In our view, these exemptions should not exist. If they are maintained, the limitations on the exemptions should be significantly strengthened.

Article	Draft CEP Proposal	Proposed EFET Amendments	Reasoning
<b>Art. 3.6.2 Electricity Directive</b>	<p>By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities only if the following conditions are fulfilled:</p> <p>(a) other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate storage facilities;</p> <p>(b) such facilities are necessary for the distribution system operators to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system; and</p> <p>(c) the regulatory authority has assessed the necessity of such derogation taking into account the conditions under points (a) and (b) of this paragraph and has granted its approval.</p>	<p><del>[Delete article 36.2 or amend as follows:]</del></p> <p>By way of derogation from paragraph 1, Member States may allow distribution system operators to own, develop, manage or operate storage facilities only if the following conditions are fulfilled:</p> <p><del>(a)</del> <u>the distribution system operators have performed a cost-benefit analysis of the various options available to solve the identified system need and storage has been identified as the cheapest available option</u></p> <p><del>(a)</del> <u>b</u> other parties, following an open, <del>and</del> transparent <u>and non-discriminatory</u> tendering procedure, have not expressed their interest to own, develop, manage or operate storage facilities;</p> <p><del>(b)</del> <u>c</u> such facilities are necessary for the distribution system operators to fulfil its obligations under this regulation for the efficient, reliable and secure operation of the distribution system; and</p> <p><del>(c)</del> <u>d</u> the regulatory authority has assessed the necessity <u>and cost-efficiency compared to other options</u> of such derogation taking into account the conditions under points (a), <del>(b)</del> and <del>(b)</del> <u>c</u> of this paragraph and has granted its approval.</p>	<p>The principle of non-ownership and non-operation by system operators is stated to be subject to exemptions in Article 36.2 and Article 54.2 of the draft recast Directive. In our view, <b>these exemptions should not exist</b>. If they are maintained, the limitations on the exemptions should be significantly strengthened: cost-efficiency analyses should be performed by the system operators to look at all alternative ways (not only storage) to solve the identified problem; tenders should be open to different types of technologies (not only storage) to respond to their needs; tenders should be established in such a way that the system operators are not the only ones that can fulfil their requirement; and tendering should last long enough to reduce costs for asset operators.</p> <p>Legislators ought to keep in mind that should storage assets be operated by system operators, these assets would in most likelihood be structurally under-used, resulting in higher costs overall. On the one hand, this would diminish the value of the system operator-owned assets: unlike market participants, system operators would not be able to pool the capacity and output of different storage assets to sell them both on the market and use them for system operation, thereby increasing the price of storage capacity use for all users, including themselves. On the other hand, under-used system operator-owned storage assets would weaken the business case for private investments in storage assets, as it would suppress signals of the value of storage capacity on the market.</p> <p>Note that this deletion/amendment proposal should also apply to Art. 54.2 of the draft recast Directive for TSOs.</p>
<b>Art. 51.1 Electricity Regulation</b>	<p>The tasks of the EU DSO entity shall be the following:</p> <p>(a) coordinated operation and planning of transmission and distribution networks;</p> <p>(b) integration of renewable energy resources, distributed generation and other resources embedded in the</p>	<p>The tasks of the EU DSO entity shall be the following:</p> <p>(a) coordinated operation and planning of transmission and distribution networks;</p> <p><del>(b)</del> <u>integration access to distribution networks</u> of renewable energy resources, distributed generation and other resources</p>	<p>The tasks of the EU DSO entity should be as clear as possible. It should not be responsible for market design. In that respect, the word “integration” (in Article 51.1.b of the draft recast Regulation is too broad and imprecise. DSOs are not responsible for the integration of (renewable) generation in the market. It would be better to rephrase this into providing access to the</p>

	<p>distribution network such as energy storage;</p> <p>(c) development of demand response;</p> <p>(d) digitalisation of distribution networks including deployment of smart grids and intelligent metering systems;</p> <p>(e) data management, cyber security and data protection</p> <p>(f) participation in the elaboration of network codes pursuant to Article 56.</p>	<p>embedded in the distribution network such as energy storage;</p> <p><del>(c) development of demand response;</del></p> <p>(<del>d</del>c) digitalisation of distribution networks including deployment of smart grids and intelligent metering systems;</p> <p>(<del>e</del>d) data management, cyber security and data protection</p> <p>(<del>f</del>e) participation in the elaboration of network codes pursuant to Article 56.</p>	<p>grid.</p> <p>DSOs are also not responsible for the development of demand side response. Therefore Article 51.1.c of the draft recast Regulation should be removed.</p>
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