

Distribution Unbundling

The Future Development of DSO Unbundling

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Schedule

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Third Energy Package: Unbundling for DSOs

Third Energy Package: Unbundling for DSOs

- > No ownership unbundling required for DSOs
- > However, requirement to unbundle from vertically integrated undertaking (VIU) in terms of:
 - Separate legal form
 - Organisation
 - Decision-Making
 - Accounting (Art. 31 Electricity/Gas Directive)
 - Information (Art. 27 Electricity/Gas Directive)

(Art. 26 Electricity/Gas Directive)
- > Member States free to implement *de minimis threshold*: DSOs with less than 100,000 connected customers may be exempted from unbundling requirements under Art. 26 Electricity/Gas Directive.
- > Only 189 out of 2,400 electricity DSOs in Europe exceed the threshold*

* Source: CEER Conclusions Paper: The Future Role of DSOs, 13 July 2015

Future Challenges for DSOs

Future Challenges for DSOs

- > Particularly for electricity DSOs
- > Energy generation from RES fed-in mainly on distribution network level (decentralised and volatile)
- > New responsibilities, e.g. in the field of smart metering and smart grids
 - > Lechwerke AG/RWE – Projekt Smart Operator (Germany)
 - > RWE PowerMatching City II (Netherlands)
 - > E.ON Smart City Malmö (Sweden)
- > Activities in “grey” areas
- > Investment needs: ~ €1 trillion from 2011 until 2050 in the EU*

* Source: German Institute for Economic Research (DIW), weekly report No. 27/2014, European energy industry: High investment needs for sustainability and security of supply, Berlin July 2014

Future Development of DSO Unbundling

Future Development of DSO Unbundling

1. CEER Status Review on the Implementation of DSO's unbundling provisions of the Third Energy Package (2016)
2. CEER – Future Role of DSOs (2015)
3. European Commission



CEER Analyses

- > The **Council of European Energy Regulators**, a voluntary association of Europe's National Energy Regulatory Authorities (NRAs), published a series of papers since 2013 evaluating current and future role of the DSOs
- > July 2015: "*The Future Role of DSOs – A CEER Conclusion Paper*"
- > April 2016: "*Status Review on the Implementation of Distribution System Operators' Unbundling Provisions of the 3rd Energy Package*" based on a questionnaire for NRAs concerning the existing unbundling structures in the different Member States
- > CEER's suggestions and publications not binding
- > Also see ACER "Energy Regulation: A Bridge to 2025 Conclusions Paper" of 19 September 2014

CEER – Future Roles of DSOs (2015) (I)

- > In July 2015 CEER released a paper on the future role of DSOs
- > The paper concludes that there are four principles applicable when regulating DSOs:
 - > Business to be run to meet reasonable expectations of users and stakeholders
 - > DSOs to be neutral market facilitators in their core functions
 - > DSOs to act in public interest
 - > Consumers own their data

CEER – Future Roles of DSOs (2015) (II)

- > The paper also contains a framework for DSO activities which categorises three activities:
 - > Core regulated activity
 - > Activity allowed under conditions and with justification
 - > Not allowed, competitive non-DSO activity
- > Examples for non-core activities (“grey area”) are energy efficiency advice and other engagements with end consumers
- > *“The more that DSOs are involved in non-core activities, the greater the need for regulatory control or unbundling”*
- > CEER repeated this view in the Status Review 2016

CEER – Future Roles of DSOs (2015) (III)

CEER Position in the Conclusions Paper (2015):

- > Full ownership unbundling is not required, other models work well
- > Access to new data not to be used to the commercial advantage of DSOs or to distort competition
- > CEER suggests to significantly reduce the unbundling *de minimis* threshold
- > The threshold should be set on a level where **only a very small fraction of the total number of customers** in each Member State is connected to distribution systems operated by DSOs below the *de minimis* threshold
- > One possibility is to only recognise DSOs with a particular **balance sheet total** or **net turnover** as *de minimis* DSOs
- > CEER affirmed its position in a response jointly with **ACER** to the European Commission's consultation paper on a new energy market design

CEER Status Review 2016 – Overview

- > Only the Netherlands require full ownership unbundling by law. The main purpose was the creation of a ‘financially healthy’ grid manager, which is independent from production, trade and supply activities and delivers high quality
- > Most participating NRAs reported that the legal form chosen for the DSO ensures a sufficient level of independence of the DSOs
- > Almost half of the Member States have adopted the exemption according to Art. 26 (4) Electricity/Gas Directive for DSOs with less than 100,000 connected customers
- > Branding and communication is an issue since in some of the responding Member States, DSOs have proven to create confusion in their branding and communication policy
- > The majority of NRAs are satisfied with the compliance programmes set up by the DSOs

CEER Status Review 2016: Comparison to 2015 Paper

Comparison to CEER Position in 2015 Paper :

- In the Status Review 2016, CEER suggests that Member States, when deciding on possible derogation, may consider **national circumstances** and lower the threshold where this is appropriate
- Moreover, CEER stresses the possibility of a **gradual approach** by exempting the smaller sized DSOs from both legal and functional unbundling, whereas the bigger ones can obtain an exemption (just) from legal unbundling

CEER's position seems to have shifted from lowering the EU-wide *de minimis* threshold to a more differentiated approach on a national level



But considering the increasing non-core activities, ownership unbundling may be the right approach.

Position of the European Commission (I)

- > **The European Commission has not yet adopted a final position**
- > The European Commission commented on the future role of DSOs in its paper launching the consultation on a new energy market design, published in 2015, as follows:

*“[...] the role of DSOs needs **reconsidering**. DSOs should be **neutral market facilitators** to enable the development of market-based services to consumers [...]. This is especially true in cases where DSOs are bestowed with the responsibility of **smart metering** and **data handling**. Questions related to **ownership of data** and **security of data** against **cyber-attacks** must be resolved in a satisfactory manner independently whether this task is allocated to DSOs or other service providers.”*

Position of the European Commission (II)

Further comments on unbundling:

- > Unbundling has always been a **key priority**. The European Commission may desire to strengthen it as much as possible.
- > A lowering of the threshold for an exemption from unbundling seems to be considered but **further discussion is needed**.
- > The European Commission understands that a possible stricter unbundling is a „critical issue“ with **deep political implications**, therefore no developments will take place until political decisions are made.

Conclusions (I)

- With regard to the growing non-core activities of DSOs and the need for handling a big amount of data that comes with the smart meter roll-out and smart grids, **further unbundling provisions might be necessary** to ensure a non-discriminatory access to networks and use of data.
- **CEER suggests an adjusted approach on the *de minimis* threshold**, but seems to have changed its suggestions on how to handle this in detail. It appears that CEER considers detailed *de minimis* regulations on a national level to be more effective than on the European level, since the DSO landscape is rather heterogeneous.
- **The European Commission is aware of the topic**, but has not yet expressed an opinion whether or not there is an actual need for action or whether the existing regulations suffice.

Conclusion (II)

If the future role of DSOs requires new unbundling rules for DSOs, the following is to be considered:

- **Data protection rules** may be better suited to limit the ability of DSOs that are part of a VIU to use data from new activities (e.g. smart metering).
- On the other hand, the general reduction of the *de minimis* threshold could be **disproportionate** – at least in those Member States with a significant number of DSOs.
- If the threshold is set at a level where only a very small fraction of customers is connected to an exempted DSO, unbundling rules would also apply when it is **not economically viable**.
- Also, **innovative** DSOs which intend to get involved in non-core activities may be discouraged from doing so, if this leads to more regulation.

Questions?



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