

Internal ENTSO-E decision making process and compromises regarding draft Network Codes and policy papers

The Advisory Council (AC) has addressed the question whether ENTSO-E's framework affects the way ENTSO-E performs its legally mandated tasks (development of Network Codes and Network Development Plans) and its non-mandated tasks (like drafting of policy papers / opinions).

As far as the legally mandated tasks are concerned, the objective is that ENTSO-E delivers clear and unambiguous results that foster a single EU power market.

The AC has observed that the drafting of the EU Network Codes has however not resulted in a single set of clear and harmonised rules and methods. It became necessary to label the Codes as "Guidelines" meaning that only the frame for developing clear and harmonised rules and methods has been set. Secondly, in many cases the Codes do not result in harmonisation or give room to individual TSOs to apply country specific rules. Some examples:

- The Codes allow for different approaches in balancing. Some TSOs will procure and activate Replacement Reserves to allow for restoration of activated Frequency Restoration Reserves. Whereas other TSOs will rely on the market (balancing responsible companies) to allow for such restoration.
- The Network Code Requirement for Generators is short on concrete details e.g. on Fault Ride Through specifications allowing for different implementation by different TSOs.

During the discussion at the 2nd meeting of the Advisory Council, the ENTSO-E representatives explained that this can be explained by differences in national legislation as well as in power systems.

The AC however finds these explanations not convincing. Existing national legislation should not be a restriction for the EU Network Codes, on the contrary. The Network Codes will become legally binding and national legislation should follow and then possibly be adapted. The power systems in different Member States, for example in terms of types of installed generation capacity, can indeed be very different. However this does not explain the need for different rules in the Network Codes.

Instead the AC feels that one root cause for the lack of clarity and harmonisation in the Codes lies in the fact that ENTSO-E is an association of many individual TSOs, where each TSO will, to a certain extent, be driven by the objective to allow its existing national practices to be compliant with the future Codes. Full harmonisation will result in tough consequences for many TSOs. As a result, a weaker text with less harmonisation is likely to emerge as a compromise.

The AC also notes that these mechanisms might function very differently when ENTSO-E develops policy papers. Issuance of policy papers or opinions does not fall under the legally mandated activities of ENTSO-E and such policy papers are not formally binding. The incentive for individual TSOs to ensure that its own vision is fully reflected in such policy paper is thus much less apparent. It is even well thinkable that the policy paper contains clear, unambiguous and ambitious statements that however do not reflect the views and positions of all member

TSOs. A more open elaboration of such different views in the policy paper may be more valuable for the reader than a single view.

The AC advises ENTSO-E:

- to give due account to these mechanisms in the drafting and decision making process,
- to consider making use of third parties in the drafting of legally binding rules to mitigate the risk of compromises that lack ambition in terms of harmonisation, and
- to ensure that possible different views among its members are well reflected in non-binding policy papers.