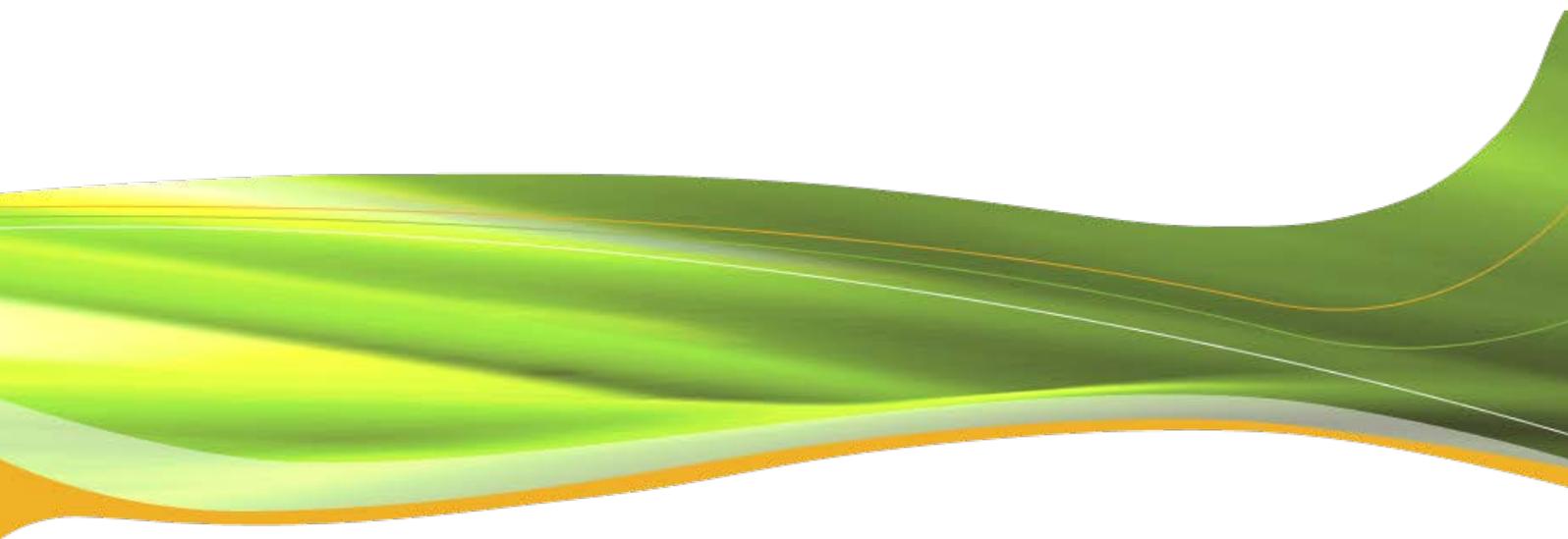


European Distribution System Operators for Smart Grids

EDSO position paper on local energy communities

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Contents

- Contents 2
- 1.Executive summary 3
- 2.Understanding local energy communities proposals in the CEP..... 4
- 3.Position and Recommendations on local energy communities 7
- 4.Proposal of Amendments to the Electricity Directive 10

1. Executive summary

EDSO for Smart Grids supports the European Commission's Clean Energy Package proposals on local energy communities as a way to foster customers' active participation in electricity markets. Energy communities can be an important tool to facilitate the energy transition, particularly in promoting the wider uptake of renewable energy and new energy services at the citizens' level.

In their dual function of neutral market facilitators and key enablers of the energy transition, DSOs will play a fundamental role in facilitating processes to empowering prosumers, either individually or collectively participating in electricity markets. DSOs will support the development of local energy communities with the most adequate grid infrastructure solutions and other services they may need.

However, EDSO believes that clear rules and responsibilities for all market players are needed to foster a clear and sound regulatory framework, ensuring fair participation and conditions for all customers. When new rules are introduced, they must defend the rights of the connected customers, by making sure that those who are not participating in a local energy community are not disadvantaged.

As an increase in self-consumption and local energy communities will affect the use of the distribution system, there may be a risk of reducing the recovery of network costs and other charges, which may raise the issue of additional investments needs for the DSOs. Regulation must avoid any type of possible discrimination regarding costs, obligations and rights, and ensure an equal and efficient level playing for all market participants. EDSO recommends the following changes:

- 1 Creating a new type of actor in an already complex energy market must respect economic sustainability by making sure that costs do not outweigh the benefits.
- 2 Avoid discrimination between local energy communities members and other systems users in terms of network charges and – when applicable - policy costs, levies and other taxes.
- 3 Local energy communities acting as DSOs must be in principle subject to the same rights and obligations, including an adequate regulatory supervision.
- 4 Further clarify the exact scope, rights and obligations of local energy communities to ensure consistency of the different legal concepts.
- 5 DSOs are prepared to start innovative collaborations with local energy communities to work out best solutions, but always in transparent and non-discriminatory forms.

This paper sets out EDSO's views on local energy communities, as introduced by the recast Electricity Directive, and the way they interact with DSOs and their activities. In doing so, it first starts with an analysis of the Commission's proposals, followed by a number of policy recommendations.

2. Understanding local energy communities proposals in the CEP

According to article 2 of the European Commission's for a proposed Electricity Directive, a local energy community (LEC) **may perform simultaneously many activities:**

“an association, a cooperative, a partnership, a non-profit organisation or other legal entity which is effectively controlled by local shareholders or members, generally value rather than profit-driven, involved in distributed generation and in performing activities of a distribution system operator, supplier or aggregator at local level, including across borders”.

Although the entire electricity system is built on the strict separation between regulated (network operators) and unregulated (supply) business¹, the Directive seems to allow LECs to develop both types of activities. LECs without grid activities and operation will merely act as an aggregation of generators, customers and prosumers. If LECs are involved in (regulated) grid activities, conditions must apply in the same way to LECs as to the DSOs, which includes compliance with unbundling rules.

For the sake of clarity of the functioning of the overall electricity system, it would be appropriate to consider that LEC are involved in either regulated or unregulated activities. Independently of what form they may take, every customer should be a free customer able to choose their own supplier.

In article 16.1, it sets out the basic principles of LEC:

1. Member States shall ensure that local energy communities:

- (a) are entitled to own, establish, or lease community networks and to autonomously manage them;*
- (b) can access all organised markets either directly or through aggregators or suppliers in a non-discriminatory manner;*
- (c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators or aggregators;*
- (d) are subject to fair, proportionate and transparent procedures and cost reflective charges;*
- (e) where relevant, may conclude agreements with the distribution system operator to which their network is connected on the operation of the community network*

In essence, this chapter stipulates that:

- They may own and operate distribution networks, and even agree its operation with the DSO they are connected to.
- They may access the energy markets.
- At the same time, it sets out that they will have rights and obligations related to all its different roles, although some rights and obligations **could potentially be contradictory** or incompatible between them if they are held simultaneously, as sometimes the right of a certain actor is an obligation for another one, or vice versa.

¹ With some exceptions for small DSOs with less than 100,000 customers

- Regarding charges, it is stated that they will be subject to fair charges, but **there is no reference to the charges that LEC will apply to the users connected to them.**

In article 16.2, it stipulates that Member States shall provide an enabling regulatory framework that ensures that:

- (a) participation in a local energy community is voluntary;*
- (b) shareholders or members of a local energy community shall not lose their rights as household customers or active customers;*

It describes the rights of the members, but it does not mention if they will have the same obligations as the rest of the customers, - especially the ones related to their share of distribution network charges and, where applicable policy costs, levies and other taxes that are introduced on customers' bills.

However, it suggests that members, as households and active customers, will be able to choose their supplier, **which discards the possibility that LEC may become or operate as Closed Distribution systems (CDS)**. In the case of CDS, these entities in practice act as a "big customer" with "internal private customers":

1. Users inside the CDS do not belong to the "system". The CDS itself is a customer, but not the users connected to it, who are not 'active customers' on the market.
2. Users inside the CDS do not pay network charges. They have private arrangements with the CDS owner, who does pay network charges to the DSO.
3. They may not choose supplier.
4. The CDS is the sole responsible for internal quality of service.
5. Regulator does not interfere behind the CDS meter.

Continuing with Article 16.2, it stipulates:

- (c) shareholders or members are allowed to leave a local energy community; in such cases Article 12 shall apply;*
- (d) Article 8 paragraph 3 applies to generating capacity installed by local energy communities as long as such capacity can be considered small decentralised or distributed generation;*
- (e) provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;*

We understand that all obligations shall apply to LECs as per Chapter IV. This means that they are considered as 'ordinary DSO'.

- (f) where relevant, a local energy community may conclude an agreement with a distribution system operator to which their network is connected on the operation of the local energy community's network;*

We understand that these agreements **are strictly voluntary**, and that may lead to charge for the services provided.

- (g) where relevant system users that are not shareholders or members of the local energy community connected to the distribution network operated by a local energy community shall be subject to fair and cost-reflective network charges. If such system users and local*

energy communities cannot reach an agreement on network charges, both parties may request the regulatory authority to determine the level of network charges in a relevant decision;

(h) where relevant local energy communities are subject to appropriate network charges at the connection points between the community network and the distribution network outside the energy community. Such network charges shall account separately for the electricity fed into distribution network and the electricity consumed from the distribution network outside the local energy community in line with Article 59 paragraph 8.

Several issues may arise from these paragraphs, as the charges that LEC may apply are not clear:

- It does not address **what members of the LEC exactly pay, and if they do pay any charges, and how to guarantee that the charges will be fair and the split of the costs between members and non-members is adequate.**
- It seems to refer to the NRA **only in case of disagreements** between non-members and LEC.
- There is no reference to the way how the network charges charged to the LEC members **include – insofar as mandated by the NRA - other costs such as policy, taxes and others.** Potentially, this could lead to discrimination between LEC members and other system users.
- There is no reference to rules and obligations about the metering, connection and billing arrangements of the customers that are connected to LEC, regardless if they are members or not. Besides, it does not stipulate who holds the Universal Service Obligations in the area that is served by the LEC. **These could be potentially be relevant issues and must be clarified.** Nevertheless, as per what is stated in Article 16.2.e, we could understand that the LEC that act as DSO, owns those responsibilities.

In summary, LEC are constituted and may act as “independent DSO”, whose users belong to the “system” and may choose supplier. However, there are relevant differences compared to the stipulations that affect ordinary DSOs, which seem to lead to a positive discrimination in favour of LEC:

1. They may carry out other activities simultaneously: generation, supply, etc.
2. Little clarity and non-existing regulatory oversight of the charges that they apply to members and non-members.
3. Little clarity of their obligations as DSOs and the overall regulatory supervision of LECs.
4. They may contract network services to large DSOs and lease networks.

3. Position and Recommendations on local energy communities

EDSO welcomes the possibility of creating LECs as a way to empower prosumers by enabling them to engage in collective energy initiatives. In a local energy community, engaged citizens can lead to the creation of a local market, fostering local optimisation of supply and demand. This may further facilitate the integration of renewables, and may enable cost-effective grid expansion or operation which represents a positive development. Collective self-prosumers can also become important enablers of the energy transition by promoting the uptake of electro-mobility and energy savings.

However, EDSO has some reservations on the proposed legislation, as LECs do have the possibility to operate and own distribution systems. Therefore, it is paramount that a level playing field is set for all actors and customers, so activities are performed in a transparent, non-discriminatory and efficient way. To achieve this, we believe that further clarifications on concrete roles and responsibilities will be needed, alongside the involvement of the NRAs to supervise their deployment and activities.

Recommendation 1:

Creating a new type of actor in an already complex energy market must respect economic sustainability by making sure that costs do not outweigh the benefits.

Any development of the energy system must be carried out for the benefit of customers and society at large. This represents a core duty and responsibility of regulators and policymakers. In creating a new actor with such a wide scope of activities, a first reflection would be to assess whether the expected services cannot be successfully provided by the system and its already existing stakeholders.

In the present case, the redundancy and competition between local energy communities and conventional DSOs should be avoided at all costs. Otherwise, this could potentially have a negative effect on customers. DSOs are regulated entities as the electricity grid is seen as a natural monopoly, which made it economically unattractive to have two or more electricity grids next to each other.

EDSO thus believes that it is crucial that national regulatory authorities supervise the development of local energy communities when they act as DSOs, in order to guarantee overall system efficiency.

Moreover, a careful assessment has to be carried out to balance the benefits and costs of having LECs acting as “little DSOs”, while preserving all the rights of the customers connected to them. Creating new type of entities will impact on procedures, data exchanges and overall system complexity.

Recommendation 2:

Avoid discrimination between local energy communities members and other systems users in terms of network charges and – when applicable - policy costs, levies and other taxes. Local energy communities and the customers connected to them should contribute in a cost reflective and fair manner to all system costs.

It is important to make sure that the microgrid structures associated with LECs do not result in unfair distribution of benefits at the expense of the connected customers. The legal framework for the new entities should be based on the principles of fair condition for participation for all customers.

The Commission's proposal should enable NRAs to establish the necessary mechanisms that guarantee that local energy communities and the consumers connected to them contribute to system costs as any other customers, including the taxes and levies needed to fund the energy transition and other costs. Otherwise there may be a risk of creating market niches, in which some customers do not pay for some certain system costs. There should be no discrimination of LEC member customers, but also no discrimination towards existing connected customers in the use of the distribution tariffs.

As an option, this problem could be solved if local energy communities pay network charges to the large DSO to which their system is connected to, that would include the costs that their members and the non-members are not paying for.

Recommendation 3:

Local energy communities acting as DSOs must be in principle subject to the same rights and obligations, including an adequate regulatory supervision.

LECs must take fully part in the electricity legislation, respecting the general governing principles of the electricity system related to any activities they may carry out, including operation as DSOs. In this case, the only way to guarantee that consumers have the same rights and quality of service, is to establish the same responsibilities and obligations for the distribution system owner (be it either a LEC or a DSO) to whom they are connected.

EDSO strongly recommends that the implementation and development of LECs shall be supervised and controlled by the NRAs in order to safeguard the public interest, and ensure that network developments can be managed in an efficient way. If LECs act as DSOs, they must be subject to the same regulatory oversight as for the DSOs, including rules on unbundling according to their operational area, and the right to receive a remuneration from their customers via network charges.

However, at the same time, they must be accountable for certain obligations and responsibilities relating to the planning and the operation of distribution networks, affecting areas such as:

- Network Planning and Development
- Operation & Maintenance
- Metering & Billing
- Quality of Service
- Customer Service
- Connections
- Switching arrangements
- Information and data exchanges with suppliers and other stakeholders

Although LECs could reach agreements to delegate or outsource some of these tasks to third parties (including DSOs), they must take responsibility for their quality and delivery.

Recommendation 4:

Further clarify the exact scope, rights and obligations of local energy communities to ensure consistency of the different legal concepts.

The areas that we believe should be clarified further are the following:

- **The different rules and roles for DSOs, LECs, Renewable Energy Communities² and Closed Distribution Systems.** In the already complex energy market, these different concepts must be clarified and aligned to avoid more confusion for customers and market players.
- **Universal Service Obligations in the area that is served by the LEC:** Some attention should be paid to what will happen when a LEC owns a distribution system but it ceases its activities subsequently.
- **Coexistence of Regulated/Non-regulated activities:** The entire electricity system is built on the strict separation between regulated (network operators) and unregulated (supply). It is questionable that the Directive seems to allow LECs to be both at the same time. For the sake of clarity of the functioning of the overall electricity system, it would be appropriate to define that LEC are involved in either regulated or in unregulated activities, but not both simultaneously. LECs acting as DSOs have to follow DSOs unbundling rules.
- **Geographical scope:** It would be adequate to clarify any possible geographical limitations that could apply to LEC, in other words, if they are subject to a confined area or not.
- **Other limitations:** It would also be adequate to extend this clarification to other types of limitations, e.g. in size or legal structure (e.g. in case of not for profit entities).

Recommendation 5:

DSOs are prepared to start innovative collaborations with local energy communities to work out best solutions, but always in transparent and non-discriminatory forms.

DSOs are willing to support and engage with LECs in order to offer and provide the grid infrastructure services they may need to fulfil their duties. These services may include many of the activities of the distribution network value chain, such as network development, operation and maintenance, metering, billing, customer services, data management, grid balancing and others.

This represents an opportunity for both DSOs and LECs to innovate and to deliver better services to customers, promoting an active involvement of European citizens' initiatives. DSOs are already experimenting new solutions in response to this societal evolution, including testing of collective self-consumption schemes and microgrids services.

As stated in the recast Electricity Directive, grid related services may be contracted by LECs, but always on a voluntary basis, not in a mandatory one. Moreover, as DSOs would be acting as contractors for LECs, all service obligations to final users will ultimately remain under the LEC's responsibility.

² Proposal for a revised Renewable Energy Directive

4. Proposal of Amendments to the Electricity Directive

Article 2 – Definitions

ORIGINAL TEXT	PROPOSED TEXT
<p>7. 'local energy community' means: an association, a cooperative, a partnership, a non-profit organisation or other legal entity which is effectively controlled by local shareholders or members, generally value rather than profit-driven, involved in distributed generation and in performing activities of a distribution system operator, supplier or aggregator at local level, including across borders;</p>	<p>7. 'local energy community' means: an association, a cooperative, a partnership, a non-profit organisation or other legal entity which is effectively controlled by local shareholders or members, generally value rather than profit driven, involved in distributed generation, supply or aggregation at local level, including across borders. It may perform the activities of a distribution system operator, provided that it complies with the rights and duties of distribution system operators detailed in Chapter IV.</p>

Article 16 – Local energy communities

ORIGINAL TEXT	PROPOSED TEXT
<p>1. Member States shall ensure that local energy communities:</p> <p>(a) are entitled to own, establish, or lease community networks and to autonomously manage them;</p> <p>(b) can access all organised markets either directly or through aggregators or suppliers in a non-discriminatory manner;</p> <p>(c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators or aggregators;</p> <p>(d) are subject to fair, proportionate and transparent procedures and cost reflective charges.</p>	<p>1. Member States shall ensure that local energy communities:</p> <p>(a) are entitled to own, establish or lease new community networks to the DSO to which their network is connected, or to autonomously manage them when the DSO fails to deliver a necessary service, in accordance with conditions laid down by each Member State,</p> <p>(b) can access all organised markets either directly or through aggregators or suppliers in a non-discriminatory manner;</p> <p>(c) benefit from a non-discriminatory treatment with regard to their activities, rights and obligations as final customers, generators, distribution system operators or aggregators;</p> <p>(d) are subject to fair, proportionate and transparent procedures and cost reflective charges;</p>

	<p><i>(e) contribute a cost-reflective and fair share of network charges and other system costs and charges and</i></p> <p><i>(f) are subject to supervision by the NRA in order to guarantee overall system efficiency and customers' rights.</i></p>
<p>2. Member States shall provide an enabling regulatory framework that ensures that:</p> <p>(a) participation in a local energy community is voluntary;</p> <p>(b) shareholders or members of a local energy community shall not lose their rights as household customers or active customers;</p> <p>(c) shareholders or members are allowed to leave a local energy community; in such cases Article 12 shall apply;</p> <p>(d) Article 8 (3) applies to generating capacity installed by local energy communities as long as such capacity can be considered small decentralised or distributed generation;</p> <p>(e) provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;</p> <p>(f) where relevant, a local energy community <i>may</i> conclude an agreement with a distribution system operator to which their network is connected on the operation of the local energy community's network;</p> <p>(g) where relevant system users that are not shareholders or members of the local energy community connected to the distribution network operated by a local energy community shall be subject to fair and cost-reflective network charges. If such system users and local energy communities cannot reach an agreement on network charges, both parties may request</p>	<p>2. Member States shall provide an enabling regulatory framework that ensures that:</p> <p>(a) participation in a local energy community is voluntary;</p> <p>(b) shareholders or members of a local energy community shall not lose their rights as household customers or active customers;</p> <p>(c) shareholders or members are allowed to leave a local energy community; in such cases Article 12 shall apply;</p> <p>(d) Article 8 (3) applies to generating capacity installed by local energy communities as long as such capacity can be considered small decentralised or distributed generation;</p> <p>(e) provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;</p> <p>(f) where relevant, a local energy community <i>shall</i> conclude an agreement with a distribution system operator to which their network is connected on the operation of the local energy community's network. <i>The local energy community's rights and duties shall be established in this cooperation agreement;</i></p> <p>(g) where relevant system users that are not shareholders or members of the local energy community connected to the distribution network operated by a local energy community shall be subject to fair and cost-reflective network charges. If such system users and local energy communities cannot reach an agreement</p>

the regulatory authority to determine the level of network charges in a relevant decision;

(h) where relevant local energy communities are subject to appropriate network charges at the connection points between the community network and the distribution network outside the energy community. Such network charges shall account separately for the electricity fed into distribution network and the electricity consumed from the distribution network outside the local energy community in line with Article 59 (8).

on network charges, both parties may request the regulatory authority to determine the level of network charges in a relevant decision;

(h) where relevant local energy communities are subject to appropriate network charges at the connection points between the community network and the distribution network outside the energy community. Such network charges shall account separately for the electricity fed into distribution network and the electricity consumed from the distribution network outside the local energy community in line with Article 59 (8). *Charges shall be non-discriminatory, in order to allow self-consumers to fairly contribute to system costs and other related costs. In such case, however, Member States may adopt specific measures to avoid that excessive burden may be placed to the final consumer and to ensure that self-consumption is incentivized without neglecting the need for costs to be recovered.*



EDSO for Smart Grids is a European association gathering leading electricity distribution system operators (DSOs) shaping smart grids for your future.

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