

ACM
Directie Energie
Muzenstraat 41
2511 WB The Hague

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Subject: EFET¹ comments on the Concept Guidance on Network Companies and alternative energy carriers

EFET welcomes the opportunity to comment on the Draft Guidance (hereafter: “the Guidance”) on Network Companies (hereafter “NCs”) and alternative energy carriers (hereafter: “AEC”).

We believe that it is an important document addressing some of the pressing issues for the industry as a whole. Below, we would like to stress that in certain areas, any form of involvement of Network Companies is harmful to the future development of a market for alternative energy carriers.

In order to provide you a clear picture of our grievances with the draft guidance paper, we would first like to extract 4 vital statements from the guidance relating to the concept of AEC production installations. Then we will state our overall grievances and the reasons why we think NCs should be kept from building and managing production installations and provide our arguments why we believe AEC production installations need to be distinguished from infrastructural installation for AEC.

1. Article 10d(2)e places activities related to construction and management (including transport) of infrastructure AEC, meaning in any event pipes or installations for hydrogen, biogas, heat and cold in the scope of activities an NC is allowed to employ as long as article 2c is respected, meaning that a network company is not allowed to engage in production, supply, trade. Put simply, **an NC is allowed to own, construct and manage (including transport) pipes and installations for AEC.**
2. From the guidance in chapter 3.2 in the second paragraph you mention that the process whereby electricity or gas are converted into an AEC is to be considered a production process and is therefore off limits to NCs.
3. From the guidance in chapter 3.2 under the first paragraph you however seem to take a broad interpretation of the concept of installation whereby you conclude that storage and production installations fall within the definition of an infrastructure installation.

¹ The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org.

4. From the example on page 7 in the NL version of the guidance I understand that you seem to interpret article 10d(2)e in such a way that NCs are allowed to own, build and manage electrolyzers (and thus potentially also other P2X facilities).

In our understanding activities related to storing and producing natural gas, LNG or AEC should remain entirely off limits to NCs. Allowing NCs to be involved in P2X and building and maintaining AEC production installation will hinder (much sought after) merchant investment in P2X/ electrolyzers. As P2X and electrolyser production installation belong to the competitive domain, interference by NCs will hinder the energy transition and make the eventual market less efficient / more costly. Any investment in a P2X plant by an NC impacts the market as it impacts power prices and hydrogen prices. Those investments by NCs therefore also impact the value of other (existing) flexible assets, including batteries and demand-response, irrespective of whether the NCs refrains to building and management. The terms at which a NC can provide access to a producer to such a facility distort the commodity market and hinder merchant investment in AEC production capacity.

Because of the following arguments we are of the opinion that a production installation isn't part of the "other infrastructure for the transport of alternative energy carriers" for which the derogation in article 10d(2)e is provided.

- a) The derogation in article 10d(2)e only refers to pipes and installations relating to "other infrastructure" within the meaning of that same article. Though perhaps in an earlier stage, different definitions have been provided for the concept of "installation" as you refer to, those definitions cannot be applied here.
- b) Moreover, the definition in footnote 7 actually also only appears to relate to infrastructural materials and pipes or at least it is not possible to see how this definition broadens the scope of an installation to the whole production site.
- c) From article 10d(2)a, 9 follows a need to distinguish between production installation and other installations. An NC is for instance allowed to operate certain installations, except production installations.
- d) Similarly from article 10d(2)b, the derogation for storage and LNG facilities, from the definitions in article 1f and 1h also follows that NCs can't engage in building and managing the gas production facilities as part of the overall gas storage installation, similarly an NC is not allowed to build or manage the storage within an LNG facility.

Also from the perspective of AEC as a storage facility for electricity the necessary care should be taken, since the Electricity Directive 2019/944 of 5 June 2019 places very clear restrictions on TSOs and DSOs where it comes to these type of activities, in order to foster the market to come to efficient storage solutions.

- a) The participation by TSOs and DSOs in electricity storages is explicitly prohibited as follows from article 36(1): "*Distribution system operators shall not own, develop, manage or operate energy storage facilities*" and article 54(1): "*Transmission system*

operators shall not own, develop, manage or operate energy storage facilities of. Derogations can only be provided by regulators on very strict terms.

- b) The production of AEC in the form of heat, cold or hydrogen, synthetic gas needs to be considered as an electricity storage due to the definition of storages under article 1(59) of the same directive: *"'energy storage' means, in the electricity system, deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier"*.

Put straightforwardly, there is no need from the market's perspective for involvement by NCs. If a TSO, DSO or the NC have a need for "flexibility", they are required to organise a tender and procure grid support services / congestion management services. This required approach to procurement of flexibility enables the market to "decide" whether an investment for example in P2X, demand response, a battery or an electrolyser is the best choice. Such approach would ensure cost-efficient transition towards low-carbon economy with no negative impact on the prices of power and different gases.

The logic of the Guidance therefore goes against the unbundling principles and might rule out any contestable activity in power-to-gas-to-power in the future. The involvement of Network Companies in contestable activities is not only illegal, but also inefficient and unnecessary.

Kind Regards,

On behalf of EFET TF BeNeLux



Andrew Pearce,
Chairman of EFET TF BeNeLux



Doug Wood
Chair of Gas Committee, EFET