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Position Paper

Amendment to the Electricity Market Regulation for “Future-Proofing Electricity Bills”

Proposal of the European Commission of 17 July 2026,
COM(2026) 600 final

The German Association of Energy and Water Industries (BDEW), Berlin, represents over 2,000 companies. The range of members stretches from local and communal through regional and up to national and international businesses. It represents around 90 percent of the electricity production, over 60 percent of local and district heating supply, 90 percent of natural gas, over 90 percent of energy grid as well as 80 percent of drinking water extraction as well as around a third of wastewater disposal in Germany.

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Key BDEW recommendations:

- › **Regulations on network charges, smart meters and performance indicators should remain the responsibility of the competent national authorities**, as they are best placed to assess local network structures and market conditions.
- › **EU-wide binding, uniform rollout quotas for smart meters for all final customers should be avoided.** The regulatory framework is already harmonised through the detailed provisions of the Electricity Market Directive (EU) 2024/1711; national implementation is based on careful cost-benefit analyses carried out by Member States.
- › **The legal basis for delegated acts on requirements for network charges should be deleted.** Implementing acts should be limited to clearly defined technical matters. A broad transfer of powers regarding network charges to the European Commission must be rejected.
- › The amending regulation should include a clear recommendation that a **capacity-based network charge is allowed and desirable as the primary instrument for financing grid costs.** Mandatory cost contributions by electricity generators must be avoided. It should be explicitly acknowledged that adjustments to the network charges system may require **appropriate transitional and grandfathering provisions for existing installations.**
- › The provision in Article 18(2)(f) of the Electricity Market Regulation, stipulating that network charges arrangements must contribute to achieving the **targets set out in the National Energy and Climate Plans (NECPs), must be retained at all costs.**
- › **Annex B to the ITC Regulation (838/2010)** on financial compensation between European transmission system operators **must be retained** as long as no viable alternative is available.
- › It should be clarified that a well-founded prohibition of negative discrimination against, amongst others, storage facilities, prosumers and energy communities, **does not imply an unconditional exemption from cost-reflective network charges.**
- › **The restriction of state subsidies to reduce network charges to the temporary financing of additional/ costs arising from decarbonisation is too far-reaching.** Furthermore, subsidies approved by Member States prior to the entry into force of the amendment should not be affected by the new rules.

- › **The introduction of a mandatory EU-wide efficiency benchmarking among transmission system operators should be avoided.** If retained, the reports must serve solely the purpose of transparency and not form the basis for assessments or have any impact on revenue. Furthermore, the reporting cycle must be designed in such a way that no outdated data is published alongside current data across Member States.
- › **The introduction of a mandatory national efficiency comparison scheme for distribution system operators must be firmly rejected.** Should it be retained, the Regulation must explicitly clarify that proven national differentiation mechanisms (in particular simplified procedures with fixed efficiency values for smaller distribution system operators) may continue to exist and that the mandatory inclusion of all distribution system operators is not required.
- › The decision as to whether and how **performance indicators in the efficiency comparison** of transmission and distribution system operators are taken into account in relation to revenue **must remain with national regulatory authorities** and not be taken at EU level.
- › **EU-wide harmonised smart grid indicators through an implementing regulation should be avoided.** The design of such indicators should be left to national regulatory authorities. At the same time, the use of EU-wide smart grid indicators for the efficiency benchmarking of grid operators as regulated in Article 18(7) or for other regulatory assessments should be avoided.
- › The Regulation should provide a clear, **legally binding definition of 'grid data'** and associated **data-sharing obligations**. Instead of uniform requirements, data sharing should be **voluntary and for specific use-cases**; any further mandatory data collection should be avoided.
- › **A specific implementation deadline is required for Member States to adjust taxes on electricity and gas.** Possibilities for Member States to request deferrals on the grounds of specific national circumstances should be avoided.
- › The option to **prioritise grid connections** must also be available **where scarcity is already foreseeable** but cannot be addressed in time through grid expansion. It must be clear that the possibility of granting preferential treatment applies not only to entire user groups but also **on the basis of specific grounds and criteria** (e.g. efficient use of grid connections). It must also be clarified whether the provision applies not only to consumption facilities but **also to generation facilities**, and that, insofar as it covers generation facilities, prioritisation does not establish a hierarchy whereby consumption facilities take precedence over generation facilities.

1 General comments

BDEW generally supports the European Commission’s intention to lower electricity prices through specific measures targeting their individual components, such as network charges and taxes, as called for by the European Council in its [decision](#) of 19 March 2026. However, the Commission’s legislative proposal of 17 July 2026 reflects the recent trend to impose ever more detailed and binding requirements at EU level, on the grounds of a need for harmonisation within the European single market. The Commission’s proposals would significantly restrict national regulatory authorities’ independence by predetermining important aspects of regulation at EU level. By developing EU-wide standardised smart grid indicators, efficiency comparisons and harmonised assessment criteria, ACER would gain greater influence over the general design of regulation in Member States, without any specific need or added value stemming from different starting points and requirements across the Member States. In practice, measures that grant Member States greater discretion, such as the Commission’s [guidelines](#) on grid connections from 2025, generally prove to be more helpful.

In principle, the design of network charges regulation should remain the sole responsibility of the national regulatory authorities, as they are best placed to assess local grid structures and market conditions. Electricity grids in the EU differ greatly in terms of their structure, user groups (generators, consumers, storage facilities, etc.), investment needs and degree of digitisation. Furthermore, the policy objectives and approaches set at national level differ. A network charges methodology must reflect this. Therefore, safeguarding the necessary regulatory discretion for national regulatory authorities shall be maintained in the Regulation, as also called for by the Council of European Energy Regulators (CEER) (see [press release](#) of 17 July 2026).

The proposed empowerment for the Commission to adopt further rules on network charges by means of delegated acts is to be rejected. Instead, national approaches are needed, which national regulatory authorities are best placed to define and develop. Furthermore, any implementing acts, where necessary, should be strictly limited to narrowly defined and purely technical matters.

The implementation of new requirements on network charges is only possible with several years’ lead time for national regulatory authorities. Comprehensive reforms of network charges methodology are already underway in some Member States, including the ‘[AgNes](#)’ process in Germany due to be completed by the end of 2026. These reforms alone require two years of implementation. Overlapping European regulation would require further implementation and thus create additional uncertainty for market participants. Given the

already strained economic situation in European countries, such a situation should be avoided.

With regard to the recast of Article 18 and the new Article 18a of the Electricity Market Regulation, it is unclear whether the aim is merely to transpose established revenue caps into a system of network charges, or whether the European legal framework is to be extended to cover the determination of revenue caps. The latter would entail an even greater encroachment on the national regulatory framework. More important than detailed specifications regarding network charges is to strengthen the investment capacity of grid operators, as well as to simplify planning and permitting procedures, in order to reduce grid bottlenecks and enable the smooth integration of increasing volumes of renewable energy sources (RES) into the system.

The comprehensive and detailed publication requirements set out in Article 18(5) go significantly beyond existing publication requirements in various ways and, in such detail, are not necessary for an economically efficient management of the electricity grid. The proposed extension of such obligations creates additional bureaucracy and would thereby increase grid costs and therefore counters the initial aim of the proposed revision. A justification should at least be provided as to what purpose the publication of this data is intended to serve.

2 Smart meter roll-out

Article 18b is intended to introduce, for the first time, EU-wide minimum requirements for the roll-out of smart meters. The article should not be retained at all, and the introduction of undifferentiated, EU-wide binding roll-out targets for smart meters should be avoided.

The European Commission is correct in assuming that smart meters make a significant contribution to digitisation and the continuous development of smart grids. However, when comparing the roll-out rates across the EU, an important distinction must be made between a) the functions and security levels offered by devices classified as 'smart meters' in the respective Member States, and b) the purpose they are intended to fulfil and must fulfil in each Member State.

The Commission's explanatory memorandum on Article 18b does not sufficiently clarify why additional regulation at EU level is necessary. The rules governing the use of smart meters are already detailed and comprehensively harmonised. Article 20 et seq. of the Electricity Market Directive set out very specific requirements for the implementation and roll-out of smart meters. It defines requirements for the devices, including all security and data protection requirements, which Germany has fully implemented. It also defines the scope of the roll-out by making it conditional on a cost-benefit analysis.

In Germany, cost-benefit analyses have confirmed that a differentiated roll-out, distinguishing between mandatory and optional installation cases, represents the economic optimum.¹ Accordingly, the installation of smart meters is particularly appropriate for generators and, more generally, for those installations that require control in order to be better integrated into the electricity grid. Cost savings or load shifting can also contribute to system stability and efficiency.

Uniform roll-out quotas therefore run counter to the aim of reducing system costs. With its legislative proposal, the Commission has not provided a justification, for example through a prior analysis, that a comprehensive roll-out of smart meters will always save costs in the grid.

Customers who wish to have such a device installed because they want to participate actively in the market must be able to receive it within four months, regardless of the outcome of the cost-benefit analysis. Furthermore, unlike in all other EU Member States, customers in Germany can commission a competitive metering point operator for the installation. This already fulfils the objective pursued by the Commission’s new proposal: Active customers – or all customers – can obtain the relevant devices and participate in the market. Any further harmonisation at EU level would require further explanation – particularly as the companies affected have adapted to the current legislative provisions, made substantial investments and aligned technical and business processes accordingly.

Moreover, failure to meet roll-out obligations is subject to sanctions, meaning that a significant extension or shorter deadlines of these obligations would have immediate consequences for companies. Despite careful planning, they would, on the one hand, face a risk of sanctions for failing to meet the quotas and, on the other hand, incur increased costs due to the regulatory change on roll-out obligations. Companies have already procured the necessary resources for installation and are not able to change at short notice in order to

¹ See [analysis](#) by the German Federal Ministry for Economic Affairs and Energy, “Resilienz weiter stärken, den Systemnutzen der Digitalisierung der Energiewende konsequent heben“ (in German), <https://www.bundeswirtschaftsministerium.de/Redaktion/DE/Downloads/Energiedaten/digitalisierungsbericht-energiewende.html>.

install a significantly higher number of devices. For Germany, this entails a retrofit of over 40 million additional mandatory installations within a significantly shorter timeframe. This would place an undue burden on companies.

The Commission’s approach would also significantly delay or even set back the key objective – integrating renewable energy sources into the energy system and securely shifting loads for additional flexibility in the grid. It creates no additional benefit for active customers, as every customer is already entitled, under the Electricity Market Directive, to obtain a smart meter within four months. Customers would lose this entitlement under the new regulation, as it applies only to cases not covered by the roll-out.

Germany has adopted a forward-looking approach in its smart meter roll-out. From the outset, it has provided for a very high standard of technical and cyber security for installed devices that can be securely controlled, whilst placing a clear focus on the cost-benefit ratio, the contribution to system security and acceptance amongst grid customers. Although this approach has led to a delayed rollout in Germany, it provides a secure foundation for reliably using grid flexibility in the event of increasingly frequent Europe-wide bottlenecks. BDEW supports this approach.

The smart meter rollout in Germany is currently proceeding according to plan, based on the total number of devices to be installed defined as mandatory cases. Germany has set a binding number of mandatory installations based on the Electricity Market Directive and the cost-benefit analysis provided for therein. Once successfully completed, the smart meter infrastructure in Germany will provide the basis for a future-proof energy system. This development should not be hampered by new and detailed regulation on EU level.

The standard for smart meters in Germany offers a high level of cyber and data security in line with the NiS2 Directive, including the option of secure remote control. Secure communication, protected against cyber-attacks, via officially certified smart meter gateways is therefore mandatory in Germany. Cyber security is more important than ever, particularly in view of the growing threat posed by hybrid attacks on the energy grid. It is justified that cyber security must be ensured to a significantly higher standard than before, in accordance with the requirements of the NiS2 Directive.

The Commission’s proposal, by contrast, aims to equip *all* final customers and as indicated in the recitals, primarily active customers. This falls significantly short in terms of reducing system costs and the benefits achieved.

BDEW assumes that renewable energy installations connected into the grid are also covered by Article 18b and contribute to the envisaged deployment rates. RES-installations and new consumer devices such as storage, wall boxes or even heat pumps in the low-voltage sector

are particularly relevant for a future-proof energy system. These installations must be equipped, as a matter of priority, with technology that allows for secure control. Instead of a uniform roll-out quota aiming at transmitting various data, a particular focus shall be put on a forward-looking design of the smart meter roll-out, together with secure control – at least in those Member States which require it for system stability. In Germany, for example, this includes not only operators of renewable energy installations or systems with controllable consumption, but also final customers with higher consumption (currently 6,000 kWh/year or more). This distinction enables metering point operators to focus on the installation units that are more relevant to the stability of the overall system and to prioritise the roll-out for these customers.

Small consumers and small generators must be given the opportunity, at any time and on a voluntary basis, to obtain a smart meter and to make full use of its functions. Furthermore, so as not to jeopardise public acceptance, customers with low energy consumption or a lack of flexibility options should be able to decide themselves whether they wish to have a smart meter installed. Only in cases where the grid operator deems the installation of a smart meter necessary for system-related reasons are customers required to allow such installation.

As both the installation and operation of smart meters translate into additional costs, the installation should be accompanied by tangible financial benefits for customers. Furthermore, data security and data protection are of great importance to German customers. It is therefore to be expected that the roll-out quotas proposed by the Commission – which would affect most individual customers – will reduce the general acceptance of smart meters.

The regulation proposed by the Commission also restricts the scope for action of national regulatory authorities, which the Commission highlights as central to digitisation in the explanatory memorandum to the draft. If a uniform absolute number of smart meters to be installed is required within an overly ambitious timeframe, the regulatory authority has only very limited scope for prioritisation. To meet the quota, it is no longer important what benefit installing these meters adds to the overall system. A small consumption installation with low consumption under a fixed-price contract would have the same effect on meeting the quota as a large generator, which is also a final customer through its own consumption.

In addition to roll-out costs and affordability for consumers, a stable regulatory framework that guarantees predictability and reliability for market participants is of crucial importance for the efficient functioning of the energy market.

- › **BDEW recommends:** There is an urgent need to refrain from introducing EU-wide binding and uniform roll-out quotas for smart meters for all final customers. The regulatory framework is already harmonised through the detailed provisions of the

Electricity Market Directive, based on careful cost-benefit analyses carried out by the Member States.

Should roll-out quotas be introduced, the provisions in the Electricity Market Regulation must be appropriately amended to ensure that the affected companies can implement the roll-out within a reasonable timeframe, whilst taking into account the current situation and existing obligations in the Member States, based on which companies have already made long-term plans. It must be ensured that sufficient capacity is available for the roll-out at system-relevant installations and that the obligation to equip small consumers – who are in the majority in absolute terms – does not delay the roll-out of smart meters for more relevant installations. This applies in particular to generators. Furthermore, final customers, particularly those with very low consumption, should not be required to have smart meters installed where neither the consumer has a specific need for or requests such metering nor do network operators require the information.

3 Network charges

Capacity charges and time-varying tariff components

Article 18(2)(g) of the Commission's proposal merely provides for the introduction of capacity elements to reduce peak loads. The amendment to the Regulation should include a clear recommendation that capacity-based network charges are permitted and intended as the primary financing instrument for network costs. Otherwise, there is a risk that time-varying network charge components (Article 18(2)(h)) will be regarded as a more significant criterion, and that capacity-based approaches, such as those currently being developed in Germany, will not be allowed anymore.

The Commission's proposal places greater emphasis on time-varying tariff components without adequately addressing the fact that such signals do not automatically resolve the structural bottlenecks relevant to grid planning or the problem of scarce connection capacity. The decision as to whether and to what extent time-varying tariff components are introduced should remain with the national regulatory authorities. The structural differences across EU Member States are simply too great for a mandatory and uniform requirement to be justified and equally effective. For the transmission grid, time-variable electricity prices are generally not appropriate, as congestion does not follow clear patterns there. The mandatory introduction of time-variable tariff components should therefore be avoided at least for the transmission grid.

The network charges system should also create incentives for co-location projects and the hybridisation of grid connection usage, e.g. for RES and storage. Capacity payments based on the contractually agreed connection capacity are suitable for this purpose. Furthermore, the aim should be for network charges to be billed at the level of the grid connection (rather than individual assets) in order to better reflect the network costs incurred by the (hybrid) installation.

- › **BDEW recommends:** Article 18(2) should be amended as follows “*[Tariff methodologies shall] ensure that network costs can be recovered primarily through capacity-based tariff components;*”. Article 18(2)(h) should be complemented as follows: “*[Tariff methodologies shall] contain time-of-use elements at the distribution level to reflect the use of the network*”.

Special network charges

Article 18(3) of the Commission’s proposal allows for special network charges only under strict requirements of cost-reflectivity, which are important. In the case of cost reflectivity, it must be ensured that special network charges are linked to clear physical network benefits rather than to wholesale electricity price signals. Any discounts on network charges based on SPOT market prices do not adequately reflect physical congestion situations in the grid and may have counterproductive effects at regional level.

However, a strict cost-reflectivity principle restricts special solutions at national or regional level, such as industrial electrification, urban load management or specific connection configurations. Nonetheless, it is precisely such differentiated solutions that may be necessary for the success of the energy transition. This applies, for example, to large-scale heat pumps, power-to-heat systems, thermal storage, hybrid heating systems and high-efficiency combined heat and power (CHP) systems. If designed to support the system, they can provide flexibility and, above all, predictable (‘secure’) bi-directional power.

Considering grid-enhancing characteristics must not be economically undermined by additional requirements concerning metering, communication, control and verification. At the same time, it must be ensured that compliance with the conditions for any special network charges can be verified. Verification of grid-enhancing operations should primarily be possible on the basis of existing meter readings, schedule data and operational information. Additional or disproportionate requirements on metering concepts, metering equipment, data transmission and billing processes should be avoided as far as possible when taking into account and billing special network charges.

- › **BDEW recommends:** Article 18(3) should be amended as follows: „*Special tariff regimes may apply to specific categories of system users, such as energy-intensive industries or data centres, ~~and~~ energy communities and grid-supportive system constellations comprising district heating and cooling undertakings, high-efficiency cogeneration, large-scale heat pumps, and power-to-heat facilities, provided that the regulatory authorities can demonstrate that the consumption or production profile of the users in question has a proportionally lower or higher impact on the overall cost of the transmission or distribution network and that the principle of cost-reflectivity is respected.*”

Link between the network tariff methodologies and National Energy and Climate Plans

In its current version, Article 18(2)(f) of the Electricity Market Regulation stipulates that network tariff methodologies must contribute to the achievement of the targets set out in the National Energy and Climate Plans (NECPs), reduce environmental impacts and promote public acceptance. BDEW is deeply concerned that the Commission’s proposal does not intend to maintain this requirement. This would remove an important legal basis for national regulatory authorities to set specific network charges to contribute to these objectives.

Electrification, hydrogen and sector coupling are essential prerequisites for the decarbonisation of industry, transport and the heating sector, whilst also enabling the efficient integration of growing shares of RES. National regulatory authorities should continue to have the option of taking broader system benefits and strategic energy policy objectives into account when designing network tariff methodologies.

This important link between network tariff methodologies and NECPs makes it possible not only to take sector-specific costs into account, but also to incorporate the achievement of cross-sectoral climate targets across different infrastructure sectors. The removal of this link risks undermining an important legal basis for targeted network charges which support electrification, hydrogen, flexibility and the integration of RES. This concerns, for example, planned regulation for electrolyzers in the ongoing process of restructuring the network charges methodology in Germany.

As Europe is currently seeking to accelerate electrification as well as to ramp-up hydrogen and industrial decarbonisation, deleting Article 18(2)(f) would send the wrong signal. It would increase regulatory uncertainty for investors and could significantly jeopardise investment in technologies required to achieve the objectives of the Clean Industrial Deal, AccelerateEU and the broader European decarbonisation agenda.

- › **BDEW recommends:** The provision in Article 18(2)(f) of the Electricity Market Regulation, stipulating that network tariff methodologies must contribute to achieving the targets set out in the National Energy and Climate Plans (NECPs), must be retained under all circumstances.

Feed-in tariffs/ network charges for generators

From BDEW's perspective, the approach outlined in the draft Regulation, which would require generators to contribute to grid costs through their systematic inclusion in the network charges system, would not deliver an effective outcome for the system as a whole (see Article 18(2)(d): "[Network charges shall] reflect the costs created by system users who withdraw electricity from and inject electricity into the transmission or distribution networks").

Feed-in tariffs contribute to greater cost reflectiveness and a fairer allocation of network charges based on cost causation, as generation facilities feeding electricity into the grid also contribute to the costs incurred by the network. However, the overriding objective must be to improve overall system efficiency and, in turn, reduce electricity bills. Feed-in tariffs must not result in a mere redistribution of costs.

In the view of BDEW, the introduction of feed-in tariffs does not contribute to greater cost efficiency in the energy system. Their introduction would increase project costs, weaken investment signals and thus increase uncertainty for investors. This is particularly significant for capital-intensive installations with long investment horizons, including renewable energy installations and flexible, low-carbon generation capacities.

Extending network charges to generators, particularly at this stage, would interfere with established market and investment conditions, adversely affect the functioning of existing market mechanisms, and ultimately run counter to the objective of reducing electricity costs. The effects on wholesale electricity prices – which would vary depending on the specific design – would also have implications for the internal electricity market.

Moreover, the expected benefits for consumers are uncertain. Network charges for generators would likely be factored into bids on the wholesale markets and thus passed on, at least partially, to electricity prices. Any potential reduction in network costs for consumers could therefore be offset by higher wholesale electricity prices.

- › **BDEW recommends:** Mandatory cost-sharing of network charges for generators must be avoided at all costs.

ITC Regulation Annex B

Differences in the design of network charges for generators across Member States could distort competition between generation facilities operating in neighbouring markets and undermine the efficiency of cross-border electricity trade. BDEW therefore views the Commission’s plans to repeal Annex B to the ITC Regulation (Regulation (EU) No 838/2010) on financial compensation between European transmission system operators (“Inter-Transmission System Operator Compensation”) with great concern, particularly as they are being pursued in parallel with the legislative proposal addressed in this position paper on future-proof electricity bills (COM(2026) 600).

The existing ITC framework makes an important contribution to a functioning European internal electricity market by capping average network charges for generators at 0.5 €/MWh in most Member States. This creates a framework for a level playing field and ensures an important contribution to investment predictability and security.

Repealing this important regulation on network charges for generators would run counter to the Commission’s objective of greater harmonisation by increasing the risk of regulatory fragmentation across Europe and further divergence between national schemes on network charges. This could create uncertainty for existing and future investments, hamper the energy transition, and undermine the efficiency of the cross-border electricity market.

- › **BDEW recommends:** Annex B to Regulation (EU) No 838/2010 must be retained under all circumstances until an appropriate alternative is available.

Grandfathering

BDEW points out that the principles set out in Article 18(2) make no explicit reference to the protection of legitimate expectations, legal certainty, or existing investments. Given the potentially far-reaching implications of changes to the network charges methodologies, the Regulation should explicitly recognise that such changes may require appropriate transitional and grandfathering provisions for existing installations. It is therefore important that the Regulation includes clear provisions on transitional arrangements and grandfathering in order to safeguard investments made under different regulatory conditions.

From BDEW’s perspective, safeguarding legitimate expectations and legal certainty are essential to maintaining regulatory credibility and investor confidence in the energy transition. A stable and predictable regulatory framework is crucial to ensuring that investments in grids, generation, flexibility measures, and new applications remain financeable.

- › **BDEW recommends:** Article 18 should explicitly recognise that adjustments to network charges require appropriate transitional and grandfathering provisions for existing installations.

Prohibition of negative discrimination

The prohibition of discriminatory treatment of storage, aggregation, energy communities and self-generation, etc. through network charges, as set out in Article 18(2)(j) of the Commission's proposal, is broadly appropriate. At the same time, storage facilities, prosumers, and energy communities also incur network costs due to the need for capacity provision, irrespective of how they operate. The prohibition of negative discrimination should therefore not, as a matter of principle, preclude a cost-reflective contribution to grid costs. All other matters should continue to be left to national regulatory authorities.

- › **BDEW recommends:** Article 18(2)(j) must make clear that the prohibition of discriminatory treatment does not imply an unconditional exemption from cost-reflective network charges. It is therefore essential to include wording such as "*without prejudice to cost-reflective contributions to network financing*".

Explicit vs. implicit flexibility

The wording of Article 18(2)(n) of the Commission's proposal blurs the distinction between explicit and implicit flexibility. Explicit flexibility is actively offered by market participants and specifically activated when needed, whereas implicit flexibility results from price signals that incentivise changes in consumption or generation. The remuneration of services provided by storage facilities to the grid through network charges (i.e. implicit flexibility), as envisaged here, requires further clarification. It must be ensured that storage facilities do not receive additional remuneration through the network charges where the services they provide have already been remunerated through the market (i.e. explicit flexibility). Such market-based interaction between decentralised flexibility resources, such as storage facilities, and system operators is the standard approach envisaged under the Network Code on Demand Response (NC DR).

Differentiation of network charges across shared voltage levels

Article 18(2)(i) stipulates that no distinction may be made between customers connected to the distribution grid and those connected to the transmission grid. However, this should not preclude differentiated network charges where network levels are shared, for example in the transformation from extra-high to high voltage. A proportionate contribution by grid users to the costs of the voltage levels to which they are connected is both appropriate and cost reflective.

State subsidies

BDEW supports the possibility for Member States, in accordance with Article 18(4), to use public funds to reduce network charges for industry and households. However, the restriction in Article 18(4)(c) limiting state support to the *temporary* financing of *additional* costs arising from decarbonisation, the electrification of production processes, and market integration is overly restrictive.

In the interests of planning certainty, commitments to provide such support should be permitted for a longer period. Moreover, the methodology for determining the additional costs remains unclear. In Germany, the federal subsidy towards transmission system charges has so far been provided as a lump-sum payment. The proposed rules could prevent such subsidies from continuing to be granted in this form. Demonstrating that the support covers only additional costs would be extremely difficult and would entail a substantial administrative burden.

Furthermore, to ensure legal certainty, funds approved by Member States prior to the entry into force of the amended rules should remain unaffected by the new provisions.

- › **BDEW recommends:** Article 18(4)(c) should be amended as follows: *"the State funds ~~are temporary, and~~ cover ~~only the additional~~ costs resulting from measures to ~~accelerate support~~ decarbonisation, electrification ~~of production processes~~ and market integration".* The following subparagraph (e) should be added: *"State funds approved by the Member States before the entry into force of this Regulation shall be exempt from the above provisions."*

4 Benchmarks and data requirements

Benchmarks for efficiency comparisons

Article 18(7) of the Commission’s proposal provides for two structurally distinct efficiency comparisons, which must be assessed separately in terms of both legal framework and substance: a mandatory cross-border comparison of transmission system operators by ACER, and a mandatory national comparison of distribution system operators by the relevant national regulatory authority.

For both types of benchmarking, the added value of EU level regulation remains unclear, while the associated risks are significant. What is clear, however, is the considerable administrative burden this would place on grid operators, national regulatory authorities, and ACER. A thorough impact assessment should therefore be carried out before the proposed amendment enters into force.

Benchmarking of transmission system operators

Like distribution grids, transmission grids differ significantly in their characteristics as well as the geographical, regulatory, and market contexts in which they operate. Meaningful cross-border comparisons are therefore inherently challenging. Regulatory authorities should seek to strike an appropriate balance between short-term efficiency gains and medium- to long-term efficiency and effectiveness. Instead of introducing EU-wide efficiency benchmarking, the amendment to the Regulation should require national regulators to engage with TSOs on new and alternative approaches to improving efficiency.

If reporting obligations are retained as part of the efficiency benchmarking, they should serve solely to enhance transparency. They must not be used to assess the performance of grid operators or be linked to any revenue-related consequences for transmission system operators.

The proposed four-year reporting cycle should also be reconsidered. As the underlying data from Member States is likely to be collected at different points in time during this period, the ACER report would compare benchmarking results based on data from a variable timeframe, with data from some Member States being significantly more outdated than data from others. This would considerably limit the report’s usefulness for transparency, monitoring, and the exchange of best practices.

- › **BDEW recommends:** The introduction of mandatory EU-wide efficiency benchmarking for transmission system operators should be avoided. If such benchmarking is nevertheless retained, the resulting reports should serve solely to enhance

transparency and must not be used as a basis for assessments or have any impact on grid operators’ revenues. Furthermore, the reporting cycle should be designed to ensure that outdated data from some Member States is not published alongside more recent data from others, as this would undermine the comparability and usefulness of the results.

Benchmarking of distribution system operators

EU-wide regulations on mandatory benchmarking amongst distribution system operators must be firmly rejected. Article 18(7) provides that national regulatory authorities shall carry out a benchmarking exercise amongst distribution system operators within their respective territories, provided there is more than one distribution system operator. However, no *de minimis* threshold, minimum size criterion or simplified procedure for smaller distribution system operators is provided for. The additional reference to the need to take national particularities into account is too vague to reliably derive from it the right to continue existing national distinctions.

This is particularly problematic for Germany: At the distribution level, there are currently 862 electricity grid operators and 683 gas grid operators. Of these, only around 194 electricity grid operators (i.e. 22,5 per cent; as of 2024) and around 195 gas grid operators (28,5 per cent; as of January 2026) are currently subject to direct, individual efficiency benchmarking under the incentive regulation scheme. For reasons of proportionality and to avoid unnecessary administrative burdens, all other, smaller distribution system operators are assigned a standardised efficiency value. Despite the relatively limited number of distribution system operators subject to direct efficiency benchmarking, the system achieves market coverage of around 90% in the electricity sector and 84% in the gas sector, measured against the revenue cap.

This established and proportionate approach would be jeopardised if the Commission’s proposal were retained, as the proposal would effectively require all distribution system operators to undergo individual efficiency benchmarking.

- › **BDEW recommends:** The proposal introducing mandatory national efficiency benchmarking for distribution system operators must be firmly rejected. Should it nevertheless be retained, the Regulation must explicitly clarify that established and proven national differentiation mechanisms – in particular, simplified procedures using standardised efficiency values for smaller distribution system operators – may continue to be applied and that mandatory individual benchmarking of all distribution system operators is not required.

In this case, several safeguards should also be put in place. For instance, to ensure robust results, efficiency values should be determined using several recognised methods, with grid operators required to be able to achieve an efficiency score of 100 per cent under each method. Furthermore, the highest efficiency score resulting from the recognised methods should always be decisive for the grid operator (the “best-of” principle).

Performance indicators in the benchmarking for transmission and distribution system operators

Whether and how performance indicators, including the smart grid indicators pursuant to Article 18a, are incorporated into efficiency benchmarking should be left to the competent national regulatory authorities and not be prescribed at EU level. At its core, efficiency benchmarking is a cost comparison. The decision on whether output-oriented criteria, such as the roll-out of smart grids or grid reliability, should also be taken into account must therefore remain with the respective national regulatory authority. A uniform EU-wide requirement would limit the methodological autonomy of national regulators, which is essential to take into account different national circumstances, such as the number and structure of grid operators.

Furthermore, uniform European requirements would jeopardise established and proven national regulatory systems, such as Germany’s incentive-based and quality-based regulation. Blurring the distinction between the two approaches could undermine both instruments: the cost comparison, because its results could be distorted, and the performance indicators, because they would lose their intended function as measures of progress.

- › **BDEW recommends:** The decision on whether and how performance indicators are considered in the benchmarking of transmission and distribution system operators must remain with the national regulatory authorities and must not be prescribed at EU level.

Smart grid indicators and data exchange

In accordance with Article 18a, incentives are to be provided for smart solutions to optimise the grid. To this end, ACER is to recommend smart grid indicators to national regulatory authorities, which the Commission may subsequently make binding by means of an implementing act. Given the heterogeneous nature of European distribution grids, smart grid indicators should not be developed at EU level. For distribution grids, this should instead be done at national level, taking into account national technological circumstances, as is already

the case in Germany with the further development of quality regulation.² There is a risk that the surveys and indicators recommended by ACER will not correspond to those established under German regulation, resulting in duplicated efforts for all parties concerned.

The smart grid indicators under Article 18a should not be used as a basis for the efficiency benchmarking provided for in Article 18(7), nor should they give rise to any other assessments or additional reporting or compliance obligations for grid operators. Their purpose should be limited to measuring progress in the roll-out of smart grids.

The term “grid data” is not defined in a legally binding manner in the proposed Regulation. Article 18a and the associated recitals merely list possible data categories, without providing an exhaustive, binding definition. This lack of clarity makes it more difficult for grid operators to estimate the compliance efforts. Priority should therefore be given to using existing data, formats, and transmission channels. Grid operators should not be required to establish new interfaces or data platforms, or to provide real-time data transmissions, merely because it may be technically feasible.

Article 18a(4) requires all transmission and distribution system operators to manage and exchange grid data for the operation of smart grids. This obligation should be distinguished from the voluntary framework agreement on secure data exchange for research and innovation purposes under Article 18a(5). While participation in the framework agreement itself remains voluntary, any party must fully comply with the technical, operational, cybersecurity, and transparency requirements laid down by the Commission pursuant to Article 61(5b). Both sets of requirements would significantly increase the financial and administrative burden for grid operators, in particular with regard to interfaces, liability, cybersecurity, and lifecycle management. The proposed provisions leave the financing and organisational implementation of these measures unresolved. In light of the need to continuously reduce administrative burdens, such additional requirements should be reconsidered.

² German national regulatory authority/ Bundesnetzagentur, “Weiterentwicklung der Qualitätsregulierung“, https://www.bundesnetzagentur.de/DE/Beschlusskammern/GBK/Ebene2_Methoden/Qualitaetselement/start.html.

- › **BDEW recommends:** EU-wide harmonised smart grid indicators established by means of an implementing act should not be retained. The design and implementation of such indicators should be left to the national regulatory authorities. At the same time, EU-wide smart grid indicators should not be used for the efficiency benchmarking of grid operators pursuant to Article 18(7) or for any other regulatory assessments. The Regulation should provide a clear and legally binding definition of “grid data” and the associated data-sharing obligations. Instead of uniform requirements, data sharing should be voluntary and based on specific needs, and any additional mandatory data collection should be avoided.

5 Delegated and implementing acts

The new paragraphs 5a and 5b of Article 61 would significantly expand the Commission’s powers. To date, guidelines primarily concerned the operational coordination of transmission system operators and the technical and organisational principles governing network operation. Under the Commission’s proposal, the scope of EU level regulation would be significantly broadened to include network charges methodologies, consultation requirements, smart grid indicators, and rules on data use, which could be specified through delegated and implementing acts.

The legal basis for the delegation of powers under Article 61(5a) raises significant concerns. The powers envisaged would confer considerable discretion on the Commission, without their scope and necessity being sufficiently and specifically justified. In particular, references to overarching objectives such as “harmonisation”, the “public interest”, the support and optimisation of the electricity system, or the availability of data must not result in a far-reaching transfer of regulatory powers to the EU level at the expense of the technical expertise and methodological autonomy of national regulatory authorities.

Such a shift would mean that key aspects of the network charges and data regimes could subsequently be standardised through delegated and implementing acts. This would shift part of the core policy debate from national legislative and regulatory processes to the European level. For long-term network planning, connection commitments, IT processes, and communication on network charges, stable and predictable rules that are known well in advance and have been subject to comprehensive stakeholder consultation are particularly important. Detailed requirements introduced at a later stage could significantly undermine the resulting planning horizon. A European impetus for change must not create regulatory uncertainty or disrupt existing business models through retrospective amendments to, or extensions of, the regulatory framework. The planning certainty of market participants must be safeguarded.

- › **BDEW recommends:** The legal basis for delegated acts under Article 61(5a) must be removed entirely. Furthermore, implementing acts should be limited to clearly defined technical matters. A comprehensive transfer of key regulatory powers regarding network charges to Commission cannot be supported.

6 Energy taxation

BDEW strongly supports the Commission's objective of promoting electrification through an appropriate tax framework and ensuring that electricity is not subject to a higher tax burden than natural gas. However, clarification is needed regarding the implementation period for Member States to adjust the taxation of electricity and gas. A specific deadline should be established. As with the provisions on network charges, the new requirements are expected to apply from the date on which the amendment enters into force. It remains unclear, however, by when Member States must implement the new EU tax requirements at national level.

Further uncertainty arises from Article 18c(2), which allows Member States to postpone implementation of the new requirements on the basis of specific national circumstances, albeit subject to the Commission's approval. The conditions governing such postponements, including the criteria to be met and the point in time at which the relevant circumstances are deemed to have ceased to apply, are defined only in very general terms and need further clarification. Otherwise, it gives Member States considerable discretion over the implementation timeframe and creates additional legal and financial uncertainty for consumers.

This runs counter to the Commission's objectives of providing rapid relief for consumers – particularly industry and households – from high electricity costs, as well as the swift electrification of various industrial sectors.

- › **BDEW recommends:** A specific implementation deadline for Member States to adjust the taxation of electricity and gas should be established. Member States should not be permitted to postpone implementation on the grounds of specific national circumstances, given the resulting legal and financial uncertainty and the Commission's objective of providing rapid relief on electricity prices for consumers.

7 Grid connections in the event of limited grid capacity

Building on the European [guidelines](#) on grid connections published in 2025, new Article 18d(1) clarifies that, in addition to the “first come, first served” principle, which has been widely applied to date, other prioritisation procedures may also be used.

It is important, however, that this option should not be limited to areas where shortages in grid connection capacity have already occurred. Such procedures should also be available for preventive action, i.e. where grid capacity constraints are to be expected. Rising demand can often be anticipated well in advance. If grid expansion cannot be completed in time, it shall be possible to reserve part of the available, but limited grid capacity for the anticipated demand of the aforementioned users, even if no specific grid connection request has been submitted yet. Furthermore, the list of customers that may qualify for priority treatment should be clarified through additional examples and instead of being non-exhaustive.

Such prioritisation should, in particular, take into account national and local transformation and decarbonisation plans. The framework should therefore allow prioritisation to be based not solely on the type of grid user, but also on clearly defined, objective criteria that justify priority treatment. Such criteria may include:

- the security and reliability of the electricity system;
- existing targets for the expansion of generation and storage facilities as well as loads;
- the assumptions derived from approved network planning scenarios of the transmission system operators;
- the requirements of operators of adjacent or downstream electricity networks;
- the efficient use of grid interconnectors, in particular through multiple connections, e.g. in the case of co-location,
- the designation of areas in the planning of land-use, and
- the site-specific nature of grid connection requests.

This would also include grid connection requests subject to decarbonisation plans, such as in the transport and heating sector. This also applies to large heat pumps, electric boilers, flexible combined heat and power (CHP) plants and electrolyzers. Against this background, these installations should, where appropriate, also be explicitly included in the illustrative list or the relevant recitals. Alternatively, they could be considered installations to be prioritised in accordance with the objectives set out in the legislation.

The examples provided in the Commission’s list suggest that the provision is primarily intended to address grid connection requests from consumers, rather than a) generators more generally, and b) renewable energy installations in particular. However, given that the

rules governing the connection of renewable energy generation and consumption installations are, in some cases, addressed jointly in the proposed amendments to the Renewable Energy Directive and the Electricity Market Directive, it should be clarified whether the provision is also intended to cover generators.

If generators are covered, it should be made clear that the prioritisation mechanism must not result in consumption facilities being systematically prioritised over generation facilities. The provision should also clarify that grid operators remain subject to their existing legal obligations to expand the grid according to demand and to provide sufficient grid connection capacity. The possibility of prioritising certain connection requests should not be interpreted as limiting, suspending or otherwise altering these obligations.

BDEW assumes that the references to “public sector” and “social services” are intended to cover “Services of General Interest” (SGI) and “Services of General Economic Interest” (SGEI) within the meaning of Article 14 Treaty on the Functioning of the European Union (TFEU) and Protocol No. 26 to the TFEU, encompassing both economic and non-economic activities. This should be explicitly reflected in the list or the recitals.

BDEW also notes that regulating these aspects of grid connection procedures in the Electricity Market Regulation does not appear appropriate from a legal and systemic perspective. In principle, these provisions should be included in the Electricity Market Directive to allow Member States greater flexibility in implementing them.

- › **BDEW recommends:** The provision should clarify that preferential treatment may be granted not only to specific user groups, but also on the basis of clearly defined and objective grounds, such as the efficient use of grid connection capacity, compliance with legal requirements for the transformation of specific industry sectors, and the need to ensure the security and stability of the energy system or the grid. It should further make clear that this provision applies exclusively to consumption and does not affect the general obligation to expand the grid. Prioritisation should also be possible where a capacity shortage is already clearly foreseeable but cannot be addressed in time through grid expansion measures.