Synergrid’s Position to Support the Establishment of a new Network Code on Demand Response (NC DR)

1. Introduction

Synergrid, the federation of Belgian Transmission System Operator (TSO)[1] and Distribution System Operators (DSOs)[2], welcomes the European Commission’s efforts to establish a harmonised Network Code on Demand Response (NC DR). The integration of demand-side flexibility into Europe’s electricity markets is essential for achieving decarbonisation, strengthening security of supply, and making the energy transition more affordable for citizens and businesses. Synergrid members are fully committed to contributing to this process and have actively engaged in the European Commission's (EC) NC DR public consultation, both through ENTSO-E, the EU DSO Entity and via their own individual submissions. Synergrid has identified key priorities to ensure that the NC DR supports the efficient integration of flexibility, system security, and market development.

This note summarises Synergrid’s position and advocacy points with a view to informing the relevant Belgian authorities and regulators. In the upcoming discussions at the EC Comitology level, Synergrid will argue for seven essential priorities:

1. The **NC DR must cover rules for non-market-based procurement of local services** alongside market-based procurement in a consistent and transparent way. This is essential to ensure proper coordination between SOs when such procurement approach is allowed. Furthermore, the **currently foreseen derogation process should be clarified and standardised** to prevent legal uncertainty and inconsistent implementation across Member States.
2. **Implicit demand response** – a reaction to market price signals rather than system signals from an SO - **and its enablers must be recognised in the NC DR** alongside explicit mechanisms. **The significant potential of implicit flexibility is not sufficiently emphasised in the NC DR**.
3. **The rules established in the NC DR regarding the use of flexible connection agreements (FCAs) should not restrict their applicability.**
4. The **NC DR must allow for differentiation based on connecting voltage levels.** For example, solutions and timing at 380 kiloVolts (kV) can differ from those at levels below 1 kV.
5. The **operational tasks under System Operators’ (SOs) legal responsibility should not be delegated** to third parties by anyone other than the SOs themselves. To properly deliver on their legal mandate, the SOs should remain end-to-end responsible for their operational tasks. However, an SO may choose to delegate the implementation part of their tasks while keeping their responsibilities. By delegating itself, the SO is able to set the conditions guaranteeing that it can fulfil its responsibilities.

[1] Elia Transmission Belgium
[2] Fluvius, AIESH, Fluxys, Sibelga, ORES, AIEG, REW, and RESA.

6. Harmonisation should be pursued only where it clearly adds value and reduces barriers, while still **allowing Member States to preserve effective national practices. It is important to recognise that certain frameworks** - such as aggregation models already in place since 2017 - **must remain sufficiently adaptable to national contexts**.
7. The **governance structures and timelines set out in the code must be realistic and implementable**, avoiding excessive overlaps and complexity that could delay national progress. From a governance perspective, Synergrid sees no need to create new entities for DSO cooperation at the national level, but **it is necessary to clarify the rules regarding roles and responsibilities between TSOs, DSOs, and Regulatory Authorities, particularly where multiple Regulatory Authorities are competent.**

2. Key advocacy points

1. The current draft NC DR is incomplete because Non-Market-Based Procurement of Local Services is not covered

While Synergrid fully supports harmonisation for local services and market mechanisms in general, there are situations where non-market-based (non-MB) procurement is necessary and explicitly foreseen in and allowed by Regulation (EU) 2019/943 and Directive (EU) 2019/944. Clear EU-level guidelines are required to govern such cases of non-MB procurement. For example, on national harmonisation in order to reduce onboarding efforts for the participation to different services for different SOs, facilitation of the participation to different markets and/or services provided to different SOs (and, hence, avoidance of market fragmentation), and efficient SOs coordination in order to use the flexibility offered to different services for different SOs in the most optimal way.

Article 34 clearly aims to allow the participation of the same assets and Service Providers (SPs) in multiple markets—including via an intermediary SO—thus avoiding fragmentation. Synergrid regrets that similar provisions for non-MB local services are not foreseen. Units participating in non-MB local services should not be restricted from participating in day-ahead (DA), intraday (ID), or balancing markets, or from being available to several SOs. However, coordination remains necessary, even in non-MB local services, to prevent inconsistent activations or double remuneration.

The NC DR should clarify and streamline the derogation process for non-market-based services, ensuring consistency across Member States but also within Member States with non-MB and MB procurement applied non-consistently within the country. Furthermore, the 2-yearly derogation process for non-MB services lacks clarity and needs further standardization. In particular:

- If specified in the National Terms and Conditions, the NRA should have the power to extend the derogation period for up to 5 years.
- The alignment of the deadlines for derogation review and approval and the drafting period for Terms & Conditions (T&Cs) is insufficiently defined. If not all system operators responsible for T&Cs for Service Providers of Local Services intend to use market-based procurement, it should be

clarified who is responsible for drafting the joint national rules for the market-based procurement of local services pursuant to Article 32. There should be a process in place that enables system operators who do not currently apply, or do not intend to apply, the market-based procurement rules to request amendments to these rules before they become applicable due to the termination of a derogation.

- If a 2-year derogation is not approved, it is unclear how much time system operators have to adopt national T&Cs for market-based procurement and to transition to market-based procurement. Therefore, a transition period for this should be specified.

2. Flexibility & Demand Response

Synergrid emphasizes the importance of fully unlocking flexibility. While the draft NC DR gives considerable attention to explicit demand response, implicit forms of flexibility – facilitated by market mechanisms – are not sufficiently recognised or even addressed in the NC DR. This limits the potential to mobilise and valorise decentralised flexibility resources that can play an important role in balancing the system in all timeframes and reducing overall costs for the end-consumers.

The Internal Electricity Market Directive (Directive (EU) 2019/944) gives customers the right to have multiple suppliers, which NC DR should not restrict (e.g., Art. 12). NC DR should clarify and should not block the use of dedicated measurement devices (DMDs) for imbalance correction (Art 54(4)(a1-b1)) and multiple market participants behind a connection point.

3. The rules set in NC DR on the use of flexible connection agreements (FCA) should not limit the applicability of FCAs

The use of FCA requires further clarification. NC stipulates very strict limiting conditions for the use of FCA, limiting the applicability of FCAs. Specifically, Art. 31(3) and Art. 51 should be clarified to ensure that those provisions are not interpreted to suggest that FCA cannot be activated because it impacts the market positions.

4. Differentiation according to voltage levels

The NC DR appears to be drafted primarily from a high-voltage (HV) and transmission system perspective, without sufficient consideration of low-voltage (LV) and distribution networks. For instance, Article 18 defines a minimum threshold of 0.5 MW for triggering new product prequalification or verification, which is too high for products at the DSO level, especially for LV resources. The NC DR should permit differentiation according to voltage level in the national Terms & Conditions (T&Cs), including provisions for implementation and timing.

Due to the large number and low expertise level of grid users connected to low voltage networks (below 1 kV), the NC DR should allow differentiation in complexity of settlement (financial and volume) processes and implementation timing with respect to voltage level and energy volumes in the national Terms & Conditions, subject to approval of the competent regulatory authority.

For instance, the implementation of Article 15—which requires explicit customer consent for data sharing—presents a significant barrier to unlocking flexibility in the energy system because of the complexity of such an operational process. While the protection of customer data and their consent to use quarter-hourly metering data is essential, the process for obtaining this consent could be designed to be more pragmatic such as for example by asking suppliers and flexibility provider to obtain such consent. This approach would protect customer interests while facilitating a more streamlined and effective consent process, thus supporting the broader goals of flexibility and digitalisation in the energy market.

5. The operational tasks under System Operators' (SOs) legal responsibility

The Art. 8.4. of NC DR[3] states that "a Member State, or where applicable a relevant regulatory authority, may assign tasks or obligations entrusted to system operators under this Regulation to one or more assigned parties, including a TSO or a DSO". However, such delegation risks undermining system security and fragmenting operational accountability.

Synergrid firmly opposes the possibility of Regulatory Authorities (RAs) to delegate operational tasks under the responsibility of SOs – such as the operation of the local flexibility market - to third parties. To properly deliver their legal mandate, SOs should remain end-to-end responsible for their operational tasks. However, an SO may choose to delegate the implementation part of certain tasks to a third party, while keeping their responsibilities.

6. Further harmonisation

Harmonisation should only be pursued where it clearly brings added value and reduces barriers to entry—for example, in areas like data exchange formats. At the same time, it is crucial that Member States are able to preserve effective national practices and support local innovation.

The NC DR should explicitly recognise that certain frameworks, such as aggregation models that have been operating successfully in Belgium since 2017, need to remain sufficiently adaptable to national contexts.

7. Governance & Timelines

The governance structures and timelines set out in the code must be realistic and implementable, avoiding complexity that could delay national progress. Clear, workable timelines and procedures that reflect operational realities must be prioritised. Operational deadlines (e.g., for switching units or publishing service data) must be realistic to avoid implementation risks. For example, the deadline of one (1) business day (in Art. 22.3 of NC DR) for the decision of the procuring system operator on the need to pass a full or partial repetition of the product prequalification or product verification is infeasible. All deadlines, including the implementation timelines, should be relative to the approval of the national T&C.

[3] The Articles referred to in this Advocacy Note are referring to the NC DR Package version from 7 March 2025 ACER's proposal to the European Commission.

From a governance perspective, Synergrid sees no need to create new entities for DSO cooperation at national level. Existing Belgian coordination structures are already in place and are fit for purpose for alignment between all relevant DSOs and the TSO Elia (i.e., via Synergrid). However, there is a need to clarify rules on roles and responsibilities of TSOs, DSOs, and Regulatory Authorities, particularly regarding harmonisation principles where multiple Regulatory Authorities are competent. Similarly, the governance of the Flexibility Information System as currently proposed would introduce unnecessary duplication. Excessive administrative complexity (e.g., distributed governance of the Flexibility Information System) needs to be avoided.

3. Conclusion

Synergrid remains committed to supporting a robust, forward-looking NC DR that enables Europe and Belgium to unlock the full potential of demand response and flexibility. To realise this potential, it is essential that the code recognises both market-based and non-market-based procurement methods, gives appropriate consideration to implicit flexibility and avoid unnecessarily restricting the use of FCAs. The code should also allow differentiation based on connection voltage levels. Additionally, it is important that the code respects the operational roles of system operators and that the rules and timelines provided are clear, proportionate, and workable for all stakeholders.

By adopting these principles, the NC DR will not only strengthen security of supply and system stability but also accelerate the further integration of renewables, create a level playing field between all market participants, and deliver tangible benefits for European and Belgian consumers.