

## Flexibility and Power Markets – The next stage of flexibility integration and enhanced security of supply

### EPEX SPOT considerations for further improving the new European Network Code on Demand Response

*The new Network Code on Demand Response (NC DR) will be the future European regulatory framework for local flexibility markets for congestion management. This document provides a summary of the EPEX SPOT response of 12 September 2025 to the consultation of the European Commission to support the establishment of the new Network Code on Demand Response.*

*The regulation is of high importance to unlock the full potential of demand response to deal with the huge increase of renewables and to ensure a safe, affordable, and clean electricity supply. Based on our strong experiences in developing and operating energy markets, we identified four key areas for improvement to ensure that the Network Code on Demand Response becomes a successful hour of birth for local flexibility markets in Europe.*

#### Key Recommendations for further improving the Network Code on Demand Response:

1. **Keep strong promotion of market-based flexibility procurement by System operators (SOs) over cost-based approaches. Further limit exemptions from market-based flexibility procurement.**
2. **Ensure multi-market access for flexibility service providers across wholesale, flexibility and balancing markets while avoiding combined markets with forwarding of bids.**
3. **Reintroduce requirements for local market operation, including neutrality and transparency, proven expertise and resources, and highest market surveillance standards.**
4. **Additional topics**

1. **Keep strong promotion of market-based flexibility procurement by SOs over cost-based approaches. Further limit exemptions from market-based flexibility procurement (Art. 29, Art. 30<sup>1</sup>)**

EPEX SPOT strongly welcomes the introduction of an assessment prior to granting derogations from market-based procurement and the expiration date for derogations (Art. 29 and Art. 30). Moreover, we welcome the definition of market-based procurement referring to a bidding process (Art. 2.7).

To ensure that already existing derogations from market-based procurement in member states are compliant with the provisions of Art. 29 and Art. 30 of the Network Code Demand Response, the NRA shall review existing derogations at least six months after entry into force of the Network Code. In case the circumstances and underlying reasons according to Art. 29 and Art. 30 of the Network Code no longer apply, the NRA should revoke the exemptions. Those conditions should be reassessed every two years.

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<sup>1</sup> All quoted articles in this document refer to the ACER proposal for a Network Code on Demand Response of 7<sup>th</sup> March 2025.

In addition, the costs for market-based flexibility procurement shall be fully recognised and covered (TOTEX approach).

**2. Ensure multi-market access for flexibility service providers across wholesale, flexibility and balancing markets while avoiding combined markets with forwarding of bids. (Art. 32, Art. 33, Art. 34)**

We agree that market coordination is needed to boost liquidity of local flexibility markets and avoid negative impact on the very well-functioning European Day-ahead and Intraday markets. However, market coordination shall not be achieved through bid forwarding which remains a blurry concept raising many practical implementation concerns. For example, there are no locational tags in Single Day-Ahead and Single Intraday Coupling (SDAC & SIDC). Yet these tags would be needed for a bid to be forwarded from spot markets to local flex markets.

EPEX SPOT insists that an efficient market coordination and multi-market access for flexibility service providers across wholesale, flexibility and balancing markets can be best achieved through standardisation of processes, product compatibility, technical standards, an efficient TSO-DSO coordination, and strict Balance Responsible Party rules ensuring that market participants are balanced until delivery.

Therefore, a certain product standardisation shall be stipulated by the Network Code on Demand Response to ensure simple access for flexibility service providers to sell flexibility and for system operators to procure flexibility. We recommend defining three standard products: flexibility reservation, flexibility activation, and a combination of both. Still, too much standardisation needs to be avoided to leave sufficient room for future innovation and to adjust the market design to the specific needs of the system operators. We propose leaving configurable several parameters e.g. the gate opening and gate closure time, and the number of auctions.

**3. Reintroduce requirements for local market operation (LMO), including neutrality and transparency, proven expertise and resources, highest market surveillance standards. (Art. 8, Art. 32)**

We agree with the proposal that system operators or NRAs can delegate/ assign the LMO task to a neutral third party. Nonetheless, the Network Code shall specify that the delegation/ assignment has to be based on a transparent and non-discriminatory process. The selection of a LMO significantly impacts the efficiency of local flexibility markets, thus affecting the development and activation of flexibility resources. Neutral third parties, such as power exchanges, are the experts of operating markets in a safe and transparent way. Third party LMOs can offer technical expertise for the market development, the design of products which are tailored to market participants' needs and the secure operation of these platforms in line with local requirements. They also have appropriate market surveillance arrangements in place.

Therefore, the Network Code shall stipulate a list of minimum requirements for any third party LMO to ensure the well-functioning and integrity of local flexibility markets: a) neutrality and transparency, b) proven operational expertise and resources, and c) appropriate market surveillance arrangements in compliance with Art.15 of REMIT.

Furthermore, local market operators shall notify breaches of Art.3, Art. 4 and Art. 5 of REMIT to ACER and the relevant NRA without further delay, in line with the new definition of wholesale energy products in REMIT.

#### 4. Additional topics

**TSO-DSO and DSO-DSO coordination (Art. 45 – Art. 52):** We welcome that the important topic of coordination between system operators is addressed in a dedicated chapter of the Network Code (Title VII), including more detailed provisions to be developed in the national terms and conditions or methodologies (TCM) (Art. 45). The coordination between TSOs and DSOs is important in order to optimise the limited pool of flexibility sources for the different needs at the various voltage levels. Therefore, the EPEX Localflex Trading Platform offers already today a TSO-DSO coordination mechanism, e.g. to avoid double or conflicting flexibility activation. The optimised activation is ensured by identifying conflicting flexibility bids on the TSO and DSO side, and by applying coordination rules in the clearing engine.

**Development of TCMs on market-based procurement (Art. 32):** When developing the EU TCMs on market-based procurement three years after entry into force of the Network Code Demand Response, a return of experiences from the national TCMs for local service providers (which includes the rules for market-based procurement) shall be taken into account. A good and efficient coordination between the national TCMs and EU TCM on market-based procurement needs to be ensured. In addition, a timely and swift development of the TCMs is crucial.

**Rules for market-based procurement of local services (Art. 32):** System operators shall not develop unilaterally without formal involvement of NEMOs provisions on the coordination between local market operators and operators of SDAC and SIDC. This would lead to 27 different provisions for each member state that NEMOs would have to consider and creates unnecessary complexity. Art. 32.3(b) shall be deleted, and the target of market-coordination achieved by well-proven solutions, i.e. product compatibility, sound BRP rules, like it is already the case in the existing wholesale markets.

**Flexibility information system (Art. 24):** We generally support the idea to standardise criteria for the participation in local flexibility markets. However, the necessity and the role of flexibility information systems, which are to be established according to Art. 24, remain unclear to us. What shall definitely be avoided are redundancies and overlaps between new flexibility information systems and local flexibility market platforms which offer already today parts of the intended functionalities of flexibility information system. There is no need to reinvent the wheel. Such redundancies would lead to inefficiencies and delay the development of local flexibility markets.

**Flexible connection agreements (Art. 31):** FCAs should not have a lock-in effect for flexibilities that consists in preventing market participants from commercialising their flexibility on local flexibility markets.

**Requirements for the definition of local products (Art. 39.1):** It can be suitable in some cases to use existing day-ahead and intraday products. Though, the product development process shall remain sufficiently open also to new innovative products according to SOs' needs.

**National rules of procedure to develop common proposals (Art. 4):** The 12-months period to set up the national process for the development of national TCMs seems too long. We recommend assessing a shortened period of 6 to 9 months, in particular for member states with only a few system operators. A swift and timely development of the national and European TCMs is important for the implementation of the Network Code Demand Response and should not be further delayed. The flexibilization of the European energy system is urgently needed.