

## Terms of Reference for DSO Unbundling Task Force

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*(Compliance Officers Network Group of the ECDSO-E coordination group)*

### 1. Background

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Following the conclusions of the 10th ECDSO-E meeting on 17 April 2018 and 49th PHLG on 26 March 2018, the network of compliance officers will be established.

Compliance officers were invited to attend the ECDSO-E meeting in June 2018 back to back with Athens forum, in a separate session, in order to identify their priorities, logistics requirements and operation mode and present them to the ECDSO-E. DSOs, where this function has not been established yet, are also encouraged to assign an expert to stay informed about the topics.

At the 11th ECDSO-E meeting it was decided to form a task force group for DSO Unbundling (Compliance officers network group), and the convener was also appointed. The first Task Force meeting was held on 6 June 2018 in Athens, when the starting points for further work were agreed.

### 2. Objectives

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The objective is to improve the knowledge and to build capacities for implementing the unbundling obligations. Within this, the main topics to be considered are the following:

#### • Unbundling of DSO and supplier

- Principles of separation (legal, functional, financial, organizational)
- Minimum functions, assets and staff that DSO must have
- Processes and timeframes
- Mechanism of IT and billing services separation
- Billing system transparency and correctness.
- Common services and Service Level Agreement between VIU and DSO
- Rebranding of DSO
- Pre-unbundling preparation of assets, functions and staff.
- Analyzing DSO risk factors separately (cash deficiency, increased interest expenses, lower flexibility, increased Power cost for Losses (only balancing power will be purchased, need for recalculation of tariff, previous year consolidated tariff “corrections” should be split into DSO & Supplier, lower funding possibilities (factoring)
- Market liberalization stages and recommended timeframes.

#### • Independence of DSO

- Founding Acts of the DSO and VIU
- DSO and VIU management bodies and organizational structure
- Relationship between VIU and DSO (management, assets, finance, decisions)
- Influence of VIU on DSO
- Who oversees independence of the DSO and how to preserve it
- Transfer of employees between DSO and VIU
- Controlling tools of independence
- What does independence mean / main criteria
- Risks of dependence and related negative outcomes

#### • Compliance program

- Mandatory elements
- Methods of development, adoption and changing

- Necessary elements of the annual report
- Obligation to remove the remarks highlighted in the annual report
- **Compliance Officer**
  - Actual practice of appointment conditions and procedure
  - Status at DSO and conditions for independence
  - Frame for relations with the DSO management, regulator, VIU and other stakeholders
  - Impact on the correction of non-compliance behavior (VIU, DSO management, employees)
- **Work on the implementation and monitoring of the Compliance Program**
  - Development of internal regulations and instructions
  - Management and staff training (regular and extraordinary)
  - Audits (scheduled and unannounced)
  - Reporting (management, employees, regulators, stakeholders)
- **Future activities to improve the Compliance Program and its implementation**
  - Application of the ISO 19600 Compliance Management System standard
  - Application of regulations related to the protection of competition, consumers and data
  - Future roles of DSO and adjustment of compliance programs according to them

In addition to the above topics, those that are proposed during the work of the Task Force will be processed.

### **3. Issues**

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The main issues to be addressed by the working group are the process of unbundling of DSOs, writing, adoption and implementation of the compliance program. Guidelines for successful solutions in this area are contained in the following documents:

- DIRECTIVE 2009/72/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC
- COMMISSION STAFF WORKING PAPER – INTERPRETATIVE NOTE ON DIRECTIVE 2009/72/EC CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN ELECTRICITY AND DIRECTIVE 2009/73/EC CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN NATURAL GAS – THE UNBUNDLING REGIME
- Unbundling of Distribution System Operators – Guide and Requirements for Practical Implementation

Starting from them, it will be analyzed in which way their provisions are applied in individual DSOs of the contracting parties. Adopted compliance programs, as well as those that are in the process of drafting, in the DSOs of the contracting parties, will also be considered by the Task Force. Also, reports of compliance officers will be discussed.

### **4. Methodology**

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The basic way of cooperation and exchange of experience should be through the ECDSO-E web-platform (<http://ecdsoe.org>). It's very important that all members of the Task Force are active on the web-platform, because only in this way desired results can be achieved.

Topics for discussion can be delegated by each member of the Task Force. The convener and moderators of the EnC Secretariat should formulate the results of the discussion in some form of a conclusion of the Task Force on a given issue.

In addition to the cooperation through the web-platform, periodic meetings of the Task Force are very important. It is recommended that the meetings of the Task Force should be organized at least once a year, chaired by the appointed convener with the support of the EnC Secretariat. Initially, it is best to organize meetings at the headquarters of the EnC Secretariat during the spring. Later, meetings can be organized on the territory of the

contracting parties. In addition to these "regular" meetings, it is recommended that the Task Force meetings should be organized as part of other gatherings organized by the EnC Secretariat.

## 5. Expertise

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The core of the Task Force comprises the unbundling and compliance experts from electricity DSOs from the EnC, nominated by respective DSOs and designated expert(s) from the Energy Community Secretariat. Also, experts from other fields of work of the DSOs are welcome, especially from the domain of law, economy, customer relationship and investments.

In order to enhance the content and the quality of the Task Force's work, it is necessary to include external experts in its work.

## 6. Reporting

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At the end of each month, starting from November, the Task Force convener will make a report on the work of the Task Force, which will be published on the ECDSO-E web-platform. For reporting purposes to the EnC Secretariat and the Governance Structure of ECDSO-E, the Task Force convener will make periodic activity reports for a specific period.

## 7. Work plan

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The main elements of the Task Force's work schedule and deadlines for their completion are listed below:

- Preparation of the draft Terms of Reference (ToR) and the working plan of the TFG; **(starting from November 2018)**
- Publishing documents on the ECDSO-E web portal that can be interesting and useful to the members of the Task force; **(every month)**
- Thematic discussions on the ECDSO-E web portal (Compliance officers network TF) on the proposal of the TF members; **(every month starting from November)**
- Clarification and common understanding on points given in the *Unbundling of Distribution System Operators – Guide and Requirements for Practical Implementation* and its' Annex 1: *Checklist for Functional Unbundling*; **(end of December 2018)**
- Preparation of presentations by each company's participants about the status of DSO and supplier unbundling, **(end of January 2019)**
- Analysis of the implementation of provisions of the EU's third energy package directives into national legislation of the contracting parties regarding the unbundling and independence of the DSO **(end of January 2019)**
- Preparation of presentations by each company's participants about the status of Compliance program implementation (or preparation), **(end of February 2019)**
- Benchmarking on managerial independence regarding decisions on investment policy and/or plan of the Distribution System Operator; **(end of March 2019)**
- Benchmarking on DSO's organizational structure with the focus on identifying Common Services that can be performed under Service Level Agreements (SLA) by other legal entities from the vertically integrated undertaking (VIU) and/or third-party undertakings – cost efficiency and its adjustment in the process of setting tariffs by the NRB; **(end of April 2019)**