

Commission Regulation (EU) 2016/1447 of 26 August 2016 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules (Text with EEA relevance)

TITLE VII

DEROGATIONS

Article 77

Power to grant derogations

1 [F1The regulatory authority] may, at the request of a HVDC system owner or DC-connected power park module owner, or their prospective owner, relevant system operator or relevant TSO, grant HVDC system owners or DC-connected power park module owners, or their prospective owner, relevant system operators or relevant TSOs derogations from one or more provisions of this Regulation for new and existing HVDC system and/or DC-connected power park modules in accordance with Articles 78 to 82.

F2

Textual Amendments

- F1 Words in Art. 77(1) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 27(2)**
- F2 Art. 77(2) omitted (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 27(3)**

Article 78

General provisions

[F31 Subject to paragraph 2, the regulatory authority's published criteria for granting derogations pursuant to Articles 79 to 81 which applied immediately before IP completion day continue to apply on and after IP completion day, and the regulatory authority must continue to publish those criteria (including any subsequent amendments) on its website.]

2 If the regulatory authority deems that it is necessary due to a change in circumstances relating to the evolution of system requirements, it may review and amend at most once every year the criteria for granting derogations [F4after consulting relevant system operators, power generating facility owners and other stakeholders who it considers may be affected by this Regulation]. Any changes to the criteria shall not apply to derogations for which a request has already been made.

3 The regulatory authority may decide that HVDC systems or DC-connected power park modules for which a request for a derogation has been filed pursuant to Articles 79 to 81 do not need to comply with the requirements of this Regulation from which a derogation has been sought from the day of filing the request until the regulatory authority's decision is issued.

Changes to legislation: This version of this Regulation was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on legislation.gov.uk. (See end of Document for details)

Textual Amendments

- F3** Art. 78(1) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 28(2)**
- F4** Words in Art. 78(2) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 28(3)**

Article 79

Request for derogations by an HVDC system owner or DC-connected power park module owner

- 1 HVDC system owners and DC-connected power park module owners, or their prospective owner, may request a derogation to one or several requirements of this Regulation.
- 2 A request for a derogation shall be filed with the relevant system operator and include:
 - a an identification of the HVDC system owner or DC-connected power park module owner, or their prospective owner, and a contact person for any communications;
 - b a description of the HVDC system or DC-connected power park module for which a derogation is requested;
 - c a reference to the provisions of this Regulation from which a derogation is requested and a detailed description of the requested derogation;
 - d detailed reasoning, with relevant supporting documents, and cost-benefit analysis pursuant to the requirements of Article 66;
 - e demonstration that the requested derogation would have no adverse effect on cross-border trade;
 - f in the case of a DC-connected power park module connected to one or more remote-end HVDC converter stations, evidence that the converter station will not be affected by the derogation or, alternatively, agreement from the converter station owner to the proposed derogation.
- 3 Within two weeks of receipt of a request for a derogation, the relevant system operator shall confirm to the HVDC system owner or DC-connected power park module owner, or their prospective owner, whether the request is complete. If the relevant system operator considers that the request is incomplete, the HVDC system owner or DC-connected power park module owner, or their prospective owner, shall submit the additional required information within one month from the receipt of the request for additional information. If the HVDC system owner or DC-connected power park module owner, or their prospective owner, does not supply the requested information within that time limit, the request for a derogation shall be deemed withdrawn.
- 4 The relevant system operator shall, in coordination with the relevant TSO and any affected adjacent DSO or DSOs, assess the request for a derogation and the provided cost-benefit analysis, taking into account the criteria determined by the regulatory authority pursuant to Article 78.
- 5 If a request for a derogation concerns a HVDC system or DC-connected power park module connected to a distribution system, including a closed distribution system, the relevant system operator's assessment must be accompanied by an assessment of the request for a

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derogation by the relevant TSO. The relevant TSO shall provide its assessment within two months of being requested to do so by the relevant system operator.

6 Within six months of receipt of a request for a derogation, the relevant system operator shall forward the request to the regulatory authority and submit the assessment(s) prepared in accordance with paragraphs 4 and 5. That period may be extended by one month where the relevant system operator seeks further information from the HVDC system owner or DC-connected power park module owner, or their prospective owner, and by two months where the relevant system operator requests the relevant TSO to submit an assessment of the request for a derogation.

7 The regulatory authority shall adopt a decision concerning any request for a derogation within six months from the day after it receives the request. That time limit may be extended by three months before its expiry where the regulatory authority requires further information from the HVDC system owner or DC-connected power park module owner, or their prospective owner, or from any other interested parties. The additional period shall begin when the complete information has been received.

8 The HVDC system owner or DC-connected power park module owner, or their prospective owner, shall submit any additional information requested by the regulatory authority within two months of such request. If the HVDC system owner or DC-connected power park module owner, or the prospective owner, does not supply the requested information within that time limit, the request for a derogation shall be deemed withdrawn unless, before its expiry:

- a the regulatory authority decides to provide an extension; or
- b the HVDC system owner or DC-connected power park module owner, or their prospective owner, informs the regulatory authority by means of a reasoned submission that the request for a derogation is complete.

9 The regulatory authority shall issue a reasoned decision concerning a request for a derogation. Where the regulatory authority grants a derogation, it shall specify its duration.

10 The regulatory authority shall notify its decision to the HVDC system owner or DC-connected power park module owner, or their prospective owner, the relevant system operator and the relevant TSO.

11 [^{F5}The regulatory authority] may revoke a decision granting a derogation if the circumstances and underlying reasons no longer apply ^{F6}....

Textual Amendments

- F5** Words in Art. 79(11) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), [Sch. 3 para. 29\(2\)\(a\)](#)
- F6** Words in Art. 79(11) omitted (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), [Sch. 3 para. 29\(2\)\(b\)](#)

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Article 80

Request for a derogation by a relevant system operator or relevant TSO

1 Relevant system operators or relevant TSOs may request a derogation for classes of HVDC systems or DC-connected power park modules connected or to be connected to their network.

2 Relevant system operators or relevant TSOs shall submit their requests for a derogation to the regulatory authority. Each request for a derogation shall include:

- a identification of the relevant system operator or relevant TSO, and a contact person for any communications;
- b a description of the HVDC systems or DC-connected power park modules for which a derogation is requested and the total installed capacity and number of HVDC systems or DC-connected power park modules;
- c the requirement or requirements of this Regulation for which a derogation is requested, with a detailed description of the requested derogation;
- d detailed reasoning, with all relevant supporting documents;
- e demonstration that the requested derogation would have no adverse effect on cross-border trade;
- f a cost-benefit analysis pursuant to the requirements of Article 66. If applicable, the cost-benefit analysis shall be carried out in coordination with the relevant TSO and any adjacent DSOs.

3 Where the request for a derogation is submitted by a relevant DSO or CDSO, the regulatory authority shall, within two weeks from the day after receipt of that request, ask the relevant TSO to assess the request for a derogation in the light of the criteria determined by the regulatory authority pursuant to Article 78.

4 Within two weeks from the day after the receipt of such request for assessment, the relevant TSO shall confirm to the relevant DSO or CDSO whether the request for a derogation is complete. If the relevant TSO considers that it is incomplete, the relevant DSO or CDSO shall submit the required additional information within one month from the receipt of the request for additional information.

5 Within six months of receipt of a request for a derogation, the relevant TSO shall submit to the regulatory authority its assessment, including any relevant documentation. The six-month time limit may be extended by one month where the relevant TSO seeks further information from the relevant DSO or from the relevant CDSO.

6 The regulatory authority shall adopt a decision concerning a request for a derogation within six months from the day after it receives the request. Where the request for a derogation is submitted by the relevant DSO or CDSO, the six-month time limit runs from the day following receipt of the relevant TSO's assessment pursuant to paragraph 5.

7 The six-month time limit referred to in paragraph 6 may, before its expiry, be extended by an additional three months where the regulatory authority requests further information from the relevant system operator requesting the derogation or from any other interested parties. That additional period shall run from the day following the date of receipt of the complete information.

The relevant system operator shall provide any additional information requested by the regulatory authority within two months from the date of the request. If the relevant

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system operator does not provide the requested additional information within that time limit, the request for a derogation shall be deemed withdrawn unless, before expiry of the time limit:

- a the regulatory authority decides to provide an extension; or
- b the relevant system operator informs the regulatory authority by means of a reasoned submission that the request for a derogation is complete.

8 The regulatory authority shall issue a reasoned decision concerning a request for a derogation. Where the regulatory authority grants a derogation, it shall specify its duration.

9 The regulatory authority shall notify its decision to the relevant system operator requesting the derogation, ^{F7}and] the relevant TSO ^{F8}....

10 ^{F9}The regulatory authority] may lay down further requirements concerning the preparation of requests for derogations by relevant system operators. In doing so, ^{F10}the regulatory authority] shall take into account the delineation between the transmission system and the distribution system ^{F11}... and shall consult with system operators, HVDC system owners, DC-connected power park module owners and stakeholders, including manufacturers.

11 ^{F12}The regulatory authority] may revoke a decision granting a derogation if the circumstances and underlying reasons no longer apply ^{F13}....

Textual Amendments

- F7** Word in Art. 80(9) inserted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(2)(a)**
- F8** Words in Art. 80(9) omitted (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(2)(b)**
- F9** Words in Art. 80(10) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(3)(a)**
- F10** Words in Art. 80(10) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(3)(b)**
- F11** Words in Art. 80(10) omitted (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(3)(c)**
- F12** Words in Art. 80(11) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(4)(a)**
- F13** Words in Art. 80(11) omitted (31.12.2020) by virtue of [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), **Sch. 3 para. 30(4)(b)**

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Article 81

Request for derogations from the provisions of Title III by a DC-connected power park module owner

1 A request for a derogation to the provisions of Article 40(1)(b) and (c), Article 40(2) (a) and (b), and Articles 41 to 45 shall not be subject to Article 79(2)(d) and (e) where it relates to a DC-connected power park module that has, or will have, a single connection to a single synchronous area.

2 The regulatory authority may attach any conditions to a decision concerning request for a derogation referred to in paragraph 1. This may include a condition that the development of the connection into a multi-terminal network, or that connection of a further power park module at the same point, will cause the derogation to be evaluated by the regulatory authority or to expire. The regulatory authority shall take into account the need to optimise the configuration between the DC-connected power park module and the remote-end HVDC converter station, as well as the legitimate expectations of the DC-connected power park module owner when adopting a decision concerning a request for a derogation.

Article 82

Register of derogations from the requirements of this Regulation

[^{F14}1 The regulatory authority must maintain a register of all derogations it has granted or refused.]

- 2 The register shall contain, in particular:
- a the requirement or requirements for which the derogation is granted or refused;
 - b the content of the derogation;
 - c the reasons for granting or refusing the derogation;
 - d the consequences resulting from granting the derogation.

Textual Amendments

F14 Art. 82(1) substituted (31.12.2020) by [The Electricity and Gas \(Internal Markets and Network Codes\) \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1006\)](#), reg. 1(2), [Sch. 3 para. 31](#)

Article 83

Monitoring of derogations

1 The Agency shall monitor the procedure of granting derogations with the cooperation of the regulatory authorities or relevant authorities of the Member State. Those authorities or relevant authorities of the Member State shall provide the Agency with all the information necessary for that purpose.

2 The Agency may issue a reasoned recommendation to a regulatory authority to revoke a derogation due to a lack of justification. The Commission may issue a reasoned recommendation to a regulatory authority or relevant authority of the Member State to revoke a derogation due to a lack of justification.

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3 The Commission may request the Agency to report on the application of paragraphs 1 and 2 and to provide reasons for requesting or not requesting derogations to be revoked.

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