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Forthcoming amendments to energy Codes to facilitate plural suppliers and program responsible parties per electricity connection

On 27 February 2017 the Dutch energy regulator ACM published a consultation paper on the amendment of the energy Codes to facilitate the appointment of more than one supplier and/or program responsible party per electricity connection.

This proposal aims to address the situation where there are several installations behind one connection, allowing the electricity required or produced by such installations to be procured from, respectively transferred to, different suppliers.

It is believed that the energy transition requires such functionality, in particular in the context of the development of large scale renewable energy production and electric transport. Notably, Directive 2014/94/EU obliges Member States to ensure that legislation facilitates that the electricity supply to charging stations can be procured from another party than the supplier to the household or to the premises on which the charging station is located.

This proposal is restricted to connections to the electricity grid, since connections to the national gas grid already allow for the appointment of more than 1 program responsible party per connection, whereas this functionality was recently abolished for connections to the regional gas grid, because it became apparent that it was not being used.

The current proposal aims to implement this functionality through the appointment of so-called allocation points on a connection, i.e. virtual additional transfer points with their own EAN code, which allocation points may for certain market processes be treated as individual connections.

This functionality will, however, not only have an impact on the energy Codes but may also impact the Environmental Taxes Act (Wet belastingen milieugrondslag) and therefore needs to be aligned with this Act. ACM had indicated that compliance with this Act is currently still under review. Moreover, it is feared that the introduction of this functionality may result in a lack of clarity as regards the interpretation of the term 'connection', which is to be avoided. Although this was taken into account when developing the current proposal, ACM acknowledges the existence of this risk. Consequently, apart from the amendment of the Codes, as envisaged by the current proposal and the response to consultation, further changes to the proposal may still follow.

Furthermore, although the current proposal applies to both large and small connections, this may be subject to change. The joint grid managers that have developed the proposal at the request of ACM through representative bodies Netbeheer Nederland and NEDU, have indicated that initially they prefer to restrict the application of the proposal to large connections and to expand the applicability to small connections at a later time, after evaluation and further consideration to issues specific to small connections. A final decision hereon has not yet been taken. ACM has indicated that such decision will, inter alia, be influenced by the outcome of the investigations on compliance with the Environmental Taxes Act and Directive 2014/94/EU. This will, therefore, require consultation with the Minister of Finance, the tax authorities and the Minister of Infrastructure and Environment.

Parties are invited to submit their views on the proposal by 11 April 2017 at the latest. A hearing will take place on 30 March at the office of ACM. Interested parties may register for this meeting with ACM (secretariaat.DE@acm.nl).

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