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Procedure for allocating offtake capacities from grid levels above low voltage

Top 7 things you need to know about the German Federal Network Agency's Consultation

18 December 2024

Content

Introduction

As the digital economy expands, the demand for data centres, driven by the increasing relevance of AI, Machine Learning, and cloud services, is experiencing unprecedented growth. The International Data Corporation forecasts that by 2027, the annual volume of data transported will surge to up to 284 zettabytes. This burgeoning data volume necessitates the development of new, larger, and more powerful data centres to keep pace.

Germany, with its strategic importance in the European market, is at the forefront of this expansion. Cities like Frankfurt, Berlin, Munich, and Hamburg are pivotal data centre hubs, with the Rhineland Region emerging as a significant new player. Frankfurt, in particular, stands as Europe's second most crucial location for data centres, showcasing robust growth and investment.

However, this growth comes with its challenges, particularly in terms of energy consumption and sustainability. Data centres in Germany are estimated to consume 17.9 billion kilowatt-hours annually, a figure that is expected to rise. This consumption level, coupled with the limited availability of land and power, has prompted regulatory changes aimed at ensuring energy efficiency and the integration of renewable energy sources.

The German Federal Network Agency (*Bundesnetzagentur*) is currently undertaking a consultation process to address these challenges. The focus of the consultation is on ensuring increasing scarcity of network connection capacity.

This client alert aims to provide you with an overview of the consultation initiated by the German Federal Network Agency and its potential implications on the market and the different stakeholders. It is crucial for stakeholders in the data centre industry to stay informed about these developments, as they will have significant implications for future operations and strategic planning.

We will continue to monitor the situation closely and provide updates on the consultation process and any regulatory changes that may affect your interests. Should you have any questions or require further analysis on how these developments might impact your business, please do not hesitate to contact us.

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Top 7 things to know

01

Background of the consultation

The German Federal Network Agency has initiated a consultation on a "Procedure for allocating offtake capacities from grid levels above low voltage".

The driver for this consultation is the increasing scarcity of network connection capacity at voltage levels above low voltage. This scarcity is driven by rising demand from large consumers such as data centres, large heat pumps, large battery storage systems, or electrolysers, fuelled by political objectives and societal developments like digitalisation and the electrification of mobility and heating.

The rapid increase in demand, coupled with the pace of network expansion unable to keep up in some regions, necessitates a re-evaluation of current distribution mechanisms for network connection capacities.

02

Key elements of the consultation

The consultation proposes a new allocation mechanism to ensure transparent and non-discriminatory participation in times of limited network connection capacity. The German Federal Network Agency is considering various known mechanisms and favours a so-called *pro rata* model, aiming to consult with the market on a suitable distribution mechanism.

Top 7 things to know

03

Status of the consultation and next steps

The consultation is currently ongoing, with the German Federal Network Agency seeking feedback from the industry by 31 December 2024. Following the consultation and revision of the proposal, the agency plans to publish a position paper as a recommendation for action.

04

Scope of the planned allocation procedure

The procedure targets all companies requiring network connection capacity at voltage levels above low voltage. This includes new connections and increased capacity requests from existing connections, particularly affecting large consumers.

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05

Key requirements of the planned allocation procedure

The proposed allocation mechanism emphasises the need for projects to demonstrate a high likelihood of realisation to qualify for network connection capacity. This includes evidence of property rights or long-term contractual claims for the required land and complete applications for necessary permits.

06

Recommended actions for players in the market

Companies should review their current and future needs for network connection capacity and assess the potential impact of the proposed allocation mechanism on their ongoing or future projects. They should consider participating in the consultation process to voice their needs and concerns.

Top 7 things to know

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How Simmons & Simmons can support our clients

Simmons & Simmons can assist clients in understanding the implications of the proposed allocation mechanism, preparing and submitting responses to the consultation, and strategising to meet the new requirements. Our expertise in energy, natural resources, and infrastructure law positions us well to advise on navigating these regulatory changes effectively.

This client alert provides an overview of the ongoing consultation by the German Federal Network Agency on the allocation of network connection capacities and will be updated on a regular basis. We recommend clients to actively engage in the consultation process and prepare for the potential regulatory changes. Simmons & Simmons is here to support you in these efforts.

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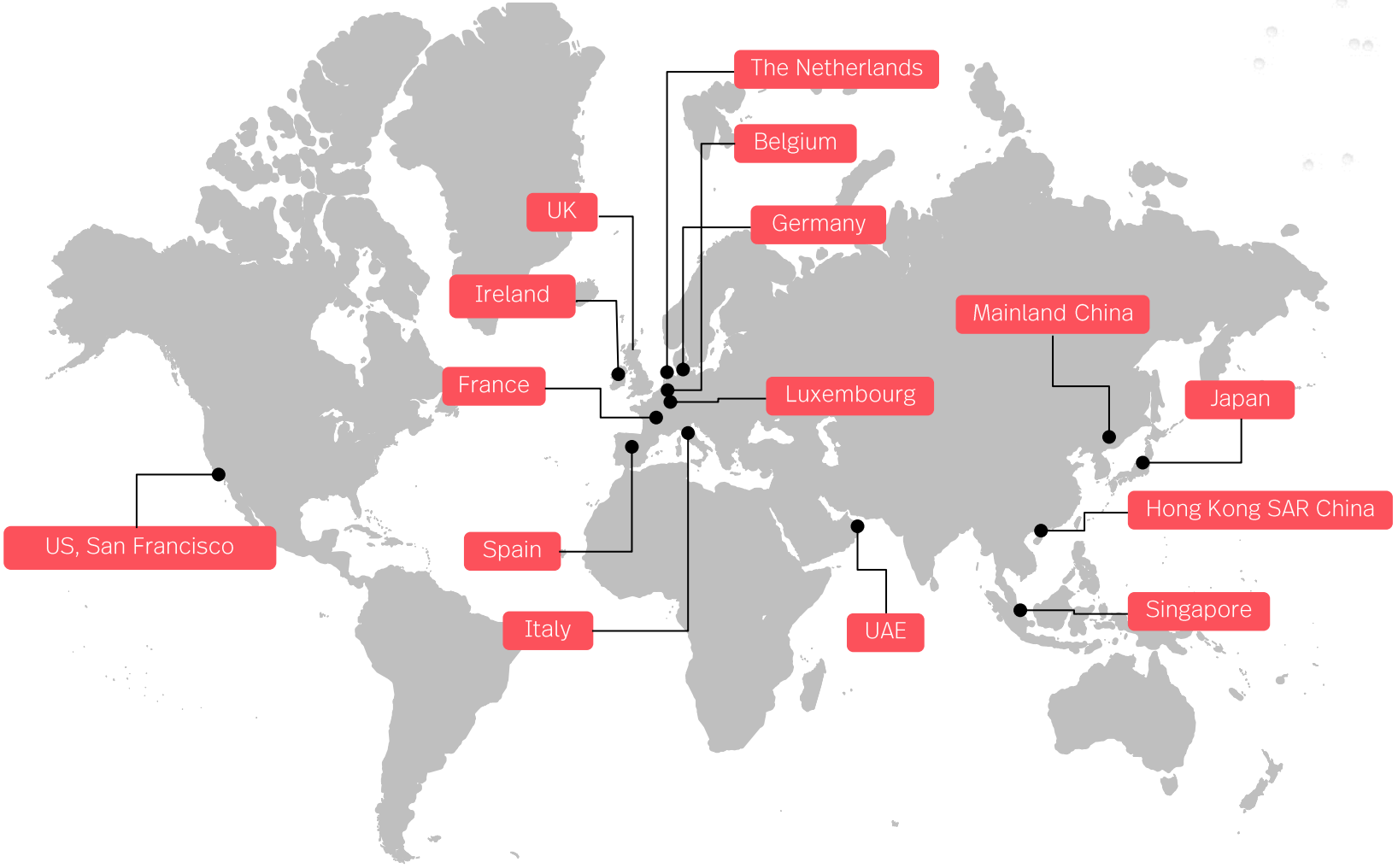

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Our firm's breadth and depth of experience allows us to anticipate issues, create innovative solutions and identify opportunities to help our clients achieve their business objectives.

We provide the full range of services in relation to Energy, Renewables & Infrastructure (ENRI) projects. Our services include M&A, project finance, project construction, grants and incentives, contractual arrangements and regulatory matters. We advise project developers, investors, financial institutions and corporates in the field of renewable energy.

We work with you as your business partner, applying our expertise to your legal issues and developing solutions. Clients instruct us because we combine a commercial approach with in-depth knowledge of the renewables industry.

If you are interested in further details of our wider ENRI team and offering in the sector, for example in respect of regulation or in respect of our wider European, Middle East and Asia relevant credentials, we would be more than happy to share these.

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"The Simmons team are very responsive in providing clear, commercial and pragmatic advice. They are always accessible, approachable even situations where complex issues have to be resolved within tight deadlines."

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"The firm is very professional and very committed to client representation." Clients describe Simmons & Simmons as *"a very strong, talented team,"* and explain that they are *"incredibly responsive" and "very impressive."*

Chambers & Partners, 2022

Tier 3 in Projects & Energy: International

Chambers & Partners Europe, 2021

"They do a very good job of working to tight deadlines and they offer exceptional value for money"

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