

Electricity Distribution at Industrial Sites: Customer Installations, Direct Lines and Network Operators

Industrial companies, project developers, energy suppliers and energy service providers, but also other companies that build PV generation or charging infrastructure together with third parties at their site, face the question of whether this creates a network and turns the site company into a network operator.

On 17 September 2026, the Court of Justice of the European Union (CJEU) ruled on the conditions under which a line between a generator and a customer is a direct line, that is, a line through which a generator or supplier supplies its customers without thereby becoming a network operator (Elektro bizness judgment, joined cases C-722/24 and C-756/24). Since then, the judgment has been discussed as new room for manoeuvre for decentralised electricity supply, mostly with a view to tenant electricity (Mieterstrom), districts and energy sharing. At the same time, the European legislator is working on exempting decentralised supply structures in part from network regulation again.

For industrial sites and other decentralised electricity supply models, the customer installation (Kundenanlage), that is, the German exemption for lines behind the grid connection, was the solution for years. It allowed the site company to pass electricity on through its own lines to subsidiaries, to service providers or to divested business units that have remained on the premises, without that distribution counting as regulated network operation. Since the CJEU's ENGIE judgment of 28 November 2024 (C-293/23), it is no longer a reliable basis for lines through which electricity is sold. The grandfathering under Section 118(7) EnWG, introduced as a first reaction, ends on 31 December 2028. The Council, Parliament and Commission are currently negotiating the successor rule in the trilogue, that is, the final negotiation on the definitive text.

1 When does an industrial company become a network operator?

Anyone who passes electricity on through their own lines for sale to other companies operates a distribution system under European law. The CJEU established this for the German customer installation in the ENGIE judgment. The operator of a distribution system needs a permit for network operation from the authority competent under state law (Section 4 EnWG). It must grant third-party suppliers access to its lines and set network charges in accordance with the regulatory requirements. It must also take part in market communication, that is, the standardised data exchange between network operators, suppliers and metering point operators. For a company whose business is production or processing, this means considerable additional organisational, staffing and financial effort without any added value.

The customer installation removed site lines in Germany from the definition of a network altogether. The ENGIE judgment closed this route for lines through which electricity is sold, because the Electricity Market Directive (Directive (EU) 2019/944) does not permit national exemptions. The customer installation is still in the statute (Section 3 nos. 65 and 66 EnWG), but it has little

remaining scope of application. Existing installations enjoy grandfathering until 31 December 2028.

The direct line likewise removes a line from the definition of a network, but on a European legal basis. A generator or supplier may supply its customers through its own line without thereby becoming a network operator (Article 2(41) and Article 7 of Directive (EU) 2019/944, Section 3 no. 27 EnWG).

In addition, European law recognises the closed distribution system (Article 38 of Directive (EU) 2019/944, in Germany Section 110 EnWG). It is the only way to be relieved at least partially of the network operator obligations, and it requires classification by the regulatory authority. The lines remain a network, the operator needs the permit under Section 4 EnWG, must grant third parties access and must take part in market communication. In return, incentive regulation, that is, the revenue cap set by the authority, the approval of network charges and the general connection obligation do not apply (Section 110(1) EnWG).

2 What did the CJEU decide in 2024 and 2026?

2.1 ENGIE judgment 2024 (CJEU, C-293/23)

A distribution system is any system of lines that transports electricity at high, medium or low voltage for sale to customers. The only decisive factors are the voltage level and the group of customers. The size of the system of lines, the consumption and the number of connections are irrelevant, as is the fact that the electricity is generated in a combined heat and power plant at the site or that the lines are open to every supplier free of charge. Member States may not remove any system of lines from the definition of a network on the basis of their own criteria (CJEU, C-293/23, paras. 52 to 62).

Anyone operating such a network is subject to the obligations of a distribution system operator unless an exemption provided for in the Directive itself applies (para. 79). The German Federal Court of Justice (BGH) subsequently held

- that only an installation that is not a distribution system can be a customer installation, and
- that an installation remains a customer installation where only electricity that is not intended for sale is passed on, for instance in the case of self-supply (BGH, order of 13 May 2025, EnVR 83/20, headnote and para. 29).

2.2 Elektro bizness judgment 2026 (CJEU, C-722/24 and C-756/24)

A line through which a generator or a supplier supplies its own premises, subsidiaries and customers without the interposition of the distribution system is a direct line. Several customers on the same line do no harm. In the Elektro bizness case, a combined heat and power plant supplied six industrial customers, and a seventh was to be connected (CJEU, C-722/24 and C-756/24, paras. 39 to 49 and operative part).

The customer may keep its grid connection as a back-up. That was the subject of the second joined case, Jelgavas autobusu parks. There, a company wanted to be supplied from a biomass power plant through a 6.5 kilometre line while remaining connected to the grid (paras. 23, 24, 50 to 52). Whether the generator, the supplier or the customer is already connected to the distribution system is irrelevant to the classification (paras. 49 to 52).

The CJEU also clarified that the direct line is not confined to exceptional circumstances, such as the connecting network operator being unable to supply the customer (paras. 53 to 55 and operative part).

3 Can electricity still be passed on to third parties on the premises?

The two judgments cannot simply be reconciled. The Elektro bizness judgment does not mention the ENGIE judgment and does not expressly delimit the direct line from the distribution system. The Elektro bizness line, too, transports electricity for sale to customers. Conversely, ENGIE had generated electricity in its own combined heat and power plants and sold it to the tenants through its own lines outside the distribution system, and the direct line was not examined there. What is certain at present is therefore only that supplying one's own customers solely with electricity from a generation plant, through a line outside the network, is a direct line. As soon as grid electricity, that is, electricity from the distribution system, also flows to the customers through the same line, or the customer itself distributes the electricity onwards, the classification is open.

Apart from that, only self-consumption is currently entirely unproblematic. Anyone who generates and consumes electricity at the site itself, including for instance as the lessee of a generation plant, does not sell, and without a sale there is no distribution system (BGH, EnVR 83/20, para. 29). As soon as a second company draws electricity through the site lines, even a subsidiary, the question arises whether a network exists.

The following table sets out my assessment as at 23 October 2026. “Network” means that the network operator obligations apply. “EU outlook” refers to the status of the proposals by the Council and Parliament.

CONFIGURATION	CLASSIFICATION	EU OUTLOOK
Decentralised generation at the site		
1 On-site contracting. A contractor operates a generation plant at the site and supplies a single company with electricity, which may keep its grid connection alongside	Direct line	Not required
2 As 1, but the generation plant also feeds surplus electricity into the grid	Direct line	Clarification welcome

CONFIGURATION	CLASSIFICATION	EU OUTLOOK
3 A generator supplies several companies through its own line with its own electricity only	Direct line (upper limit on the number of customers open)	Clarification welcome
4 Generation at the site, several companies, and grid electricity is also distributed through the same lines to other companies	Open	Solution likely. As row 5 or 6, depending on the share and type of offtakers
No generation at the site		
5 Grid electricity goes almost exclusively to affiliated companies	Network Grandfathering until 31 December 2028	Solution likely
6 A substantial share of grid electricity goes to non-affiliated companies	Network Grandfathering until 31 December 2028	Open in the trilogue
7 Provision free of charge. The site company provides a service provider with electricity free of charge for a service that the provider renders to the site company	Open Customer installation arguable	No solution envisaged

On row 1: This corresponds to the Jelgavas autobusu parks case. Since the ENGIE judgment, on-site contracting had been uncertain even in this case, because the contractor sells the electricity to its customer. The CJEU has removed this uncertainty (operative part, second indent).

On row 2: In my view, the fact that electricity is also fed into the grid from the direct line does not turn it into a network. Elektro bizness also fed electricity into the distribution system through the same line (CJEU, C-722/24 and C-756/24, paras. 15, 48). Nothing different applies to an on-site PV plant that feeds in through the grid connection of the company it supplies. No other customer is supplied through that company's lines; the surplus flows only as far as the grid connection point.

On row 3: This is the Elektro bizness case with six industrial customers and a seventh to be connected (CJEU, C-722/24 and C-756/24, paras. 15, 16, 48). Whether a specific line meets the conditions is for the national court to examine in the event of a dispute (para. 46). Where the boundary lies to a system of lines that supplies hundreds of households has not been decided. With a few industrial offtakers and no other electricity distribution through the same lines, however, it should now be a direct line.

On row 4: This is the standard case at an industrial site. A power plant, a PV plant or a CHP plant covers part of the demand, the remainder comes through the site's grid connection and flows through the same lines to all offtakers. The CJEU has not decided this case.

In favour of a direct line is the fact that the grid connection of the parties involved is irrelevant and that a back-up connection remains permissible (CJEU, C-722/24 and C-756/24, paras. 49 to 52). Against it is the fact that the direct line is meant to make the customer independent of the distribution system (paras. 44 to 46, 49), that the new Elektro bizness customer was to be decoupled from the distribution system (para. 16), and that under the ENGIE judgment, generation at the site does not alter the classification as a distribution system (CJEU, C-293/23, para. 55).

On rows 5 and 6: Without generation at the site, a direct line is out of the question. The direct line is defined in two variants (Article 2(41) of Directive (EU) 2019/944, Section 3 no. 27 EnWG). The first variant requires a line between an isolated production site and an isolated customer. The second variant requires supply without the interposition of the distribution system. Here, however, the electricity comes precisely from the distribution system.

The grandfathering under Section 118(7) EnWG applies to customer installations that were connected to an energy supply network by 23 December 2025. For these, the requirements for network operators apply only from 1 January 2029. To qualify, the system of lines must meet the statutory criteria of a customer installation. The customer installation must therefore be insignificant for competition or serve almost exclusively the company itself and affiliated companies, and it must be open to every supplier free of charge. The statute refers to the connection of the system of lines, not to the individual offtaker. In my view, adding a new service provider after the cut-off date therefore leaves the grandfathering unaffected, as long as the system of lines continues to meet the criteria of a customer installation.

On row 7: Where a service provider renders its service to the site company and the site company provides it with the electricity for that purpose free of charge, without selling it, there is no sale to a customer. Under the BGH's standard, there is then still room for the customer installation. Whether provision free of charge is truly not a sale within the meaning of the Directive has not yet been decided, however. As a rule, electricity is not provided entirely without consideration.

4 What the Council and Parliament are planning

The successor rule for the customer installation is being negotiated in the Permitting Directive of the European Grids Package (procedure 2025/0400 (COD), Commission proposal COM(2025) 1007 of 10 December 2025). This amending directive is intended, among other things, to amend Directive (EU) 2019/944. The Council and Parliament both want to add a paragraph 5 to Article 38 there, but they start from different points. The Council builds on the closed distribution system, that is, on Section 110 EnWG. Parliament starts from the definition of a network, as the customer installation once did.

Council (general approach of 26 June 2026, document ST 11218/26). Member States may exempt the operator of a small closed distribution system from the status of distribution system operator. The conditions are that more than 90 percent of the electricity goes to the operator and affiliated companies, that is, at most 10 percent to non-affiliated companies, and that fewer than 20 customers are supplied. The network remains a closed distribution system under Article 38(1), with classification by the regulatory authority and supervision. Above all, free choice of

supplier (Article 4 of Directive (EU) 2019/944) and third-party access to the line infrastructure (Article 6) remain in place. Because supplier switching has to be processed, the market communication processes also remain with the operator or with a service provider it engages.

Parliament (Industry Committee report A10-0195/2026 of 3 July 2026, confirmed by the plenary on 8 July 2026). Member States may remove systems of lines that are confined to a specific industrial, commercial, service or residential area (“confined distribution systems”) from the definition of a network. There are two variants.

- Either the electricity goes mainly to the operator and affiliated companies and only a minor share to other customers.
- Or only a limited amount of energy is distributed annually to a limited number of customers.

Parliament does not want to set fixed thresholds. The legal consequence, “not a distribution system”, corresponds to the old customer installation. Classification as a closed distribution system would not be necessary. The offtakers must, however, be free to choose their supplier (Article 4 of Directive (EU) 2019/944), and the system of lines must be open to all customers without discrimination and free of charge. Household customers may be connected. “Free of charge” refers to the system of lines, not to the electricity.

For a group site with subsidiaries and a few non-affiliated offtakers of smaller electricity volumes, both proposals would be a relief, even though under the Council's proposal classification by the regulatory authority and some of the network operator obligations would remain. A solution is likely there. If, however, a substantial share of the electricity goes to non-affiliated offtakers, the Council's proposal fails on the hard thresholds. Under Parliament's proposal, everything then turns on the terms “minor” and “limited”.

From the perspective of industrial companies, energy service providers and providers of contracting and build-own-operate models, Parliament's proposal is preferable, because it does without rigid thresholds and does not let sensible configurations fail on a limit value. Since the Commission wants to avoid gaps in regulation as far as possible, however, a compromise is likely that will not replace the German customer installation one to one. In any event, it would be helpful if companies that render services at the site for the site company were placed on an equal footing with affiliated companies.

The second political negotiating round in the trilogue took place on 6 October 2026, and the next is scheduled for 17 November 2026. Agreement is being sought by the end of 2026.

5 What can be done now?

For customer installations that were connected by 23 December 2025, the network operator obligations apply only from 1 January 2029. Anyone connecting a new service provider to the site lines, selling or spinning off a business unit that remains on the premises, or otherwise creating new distribution structures behind the grid connection needs to examine the position.

Direct line from a generation plant. Where electricity is generated at the site or nearby, the generator may supply its customers through its own line. The offtakers may keep their grid connection as a back-up. For project developers, this is the most important practical statement in the judgment. A wind or PV plant can supply an industrial customer through a direct line, and the model is possible even if the customer remains connected to the grid. The line need not be located on the premises. In the Jelgavas autobusu parks case, it was to be 6.5 kilometres long (CJEU, C-722/24 and C-756/24, para. 23). This applies, however, only as long as grid electricity is not also distributed through the same lines to more than one offtaker.

Provision free of charge. Site companies may provide their on-site service providers and producers with electricity free of charge instead of selling it. There is then no sale to a customer. The question has not been expressly decided, but the argument has a good anchor in the BGH's statements (BGH, EnVR 83/20, para. 29).

Lease and operating model. The site company leases the service provider's installation, whether a generation plant or a consumption installation, and becomes the operator itself. The service provider or a third party takes over operational management. The electricity remains self-consumption; there is no longer a third party drawing electricity. In return, the site company bears the permitting and operator obligations for the installation and needs a set of contracts that reflects operator status, rights of instruction and the allocation of risk accordingly.

Closed distribution system under Section 110 EnWG. For most site companies, the closed distribution system is the most burdensome solution. Classification requires that the activities or production processes of the connected users are linked for technical or safety reasons, or that the electricity goes primarily to the operator and affiliated companies. Household customers may be supplied only in small numbers and only where they have a connection to the operator. The operator takes part in the supplier switching and balancing processes, keeps separate accounts for network operation and prepares separate activity accounts for it (Section 6b(3) EnWG). In return, it may charge the connected companies network charges without these having to be approved.

In the European legal debate, as described above, its exemption builds on the closed distribution system, and classification would likewise be necessary under that solution. Sites where a substantial share of the electricity goes to non-affiliated companies, and any site that newly connects a further company to its lines after 23 December 2025 and therefore has no grandfathering, should start preparing now. Planning does not mean applying immediately, because once classified, the network operator obligations apply immediately and the grandfathering would be given up. In my estimation, setting up market communication through a service provider and the permitting procedure need a good year's lead time.

Separate grid connection for the third party. This removes the question entirely, but it costs a connection and line construction and worsens the economics of on-site projects.

Where decentralised generation and supply projects are planned and the connecting network operator raises the customer installation, the first thing worth examining is whether the site was

already connected as a customer installation before 23 December 2025. If so, it falls under the grandfathering until the end of 2028, including with the new project. By then, there is likely to be a solution at European level that in many cases is simpler and cheaper for the site company than classification as a network operator or a closed distribution system.

I am continuing to follow the trilogue and its implementation in Germany, and I am happy to answer questions on regulatory classification and contractual structuring options.

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