



Appendix 6

§18 Low Pressure Connection Ordinance (NDAV = Niederdruckanschlussverordnung)

§18 Liability in the event of interruption to connection usage

(1) As far as the network operator is liable for damages incurred by the connection user as a result of an interruption or other irregularity in the connection usage and liability is confirmed by contractual stipulations, connection usage relationship or due to unauthorised actions and the fault for such damage can be assumed to be attributed to the company or its performing agents or employees, it shall be refutably presumed that

1. financial loss was caused deliberately or through gross negligence and
2. property damage was caused with wrongful intent or negligence.

As regards financial loss as per sentence 1, no. 1, any other form of negligence shall be excluded.

(2) Insofar as property damages were not caused by the network operator through wrongful intent or gross negligence, the liability of the network operator shall be limited to Euro 5,000. The liability for property damages that were not caused through wrongful intent shall be – according to the occurrence of damage – limited to:

1. 2.5 million euros if up to 25,000 connection users are connected to the own grid;
2. 10 million euros if 25,001 to 100,000 connection users are connected to the own grid;
3. 20 million euros if 100,001 to 200,000 connection users are connected to the own grid;
4. 30 million euros if 200,001 to one million connection users are connected to the own grid;
5. 40 million euros if the connection users connected to the own grid exceed a number of one million.

Damages incurred by connection users of medium and high pressure shall also be included in those upper limits, as far as in their individual cases the liability is limited towards them as per sentence 1.

(3) Sentences 1 and 2 shall also apply to connection users who make claim to compensations for damages suffered through third party network operators as per §3 sentence 27 EWG (Energy Industry Act) due to wrongful event. The liability of third party network operators as per §3 sentence 27 EWG (Energy Industry Act) shall – according to the occurrence of damage – be limited to a total of three times as much as the maximum amount for which they are – in accordance with paragraph 2 sentence 2 – liable to their own connection users. As far as the third party network operator as per §3 sentence 27 EWG (Energy Industry Act) does not have own connection users in accordance with this ordinance, their liability shall be limited to a maximum of 200 million euros. Property damages suffered by customers who are not affected by this ordinance shall also be included in the maximum amount as per clauses 2 and 3 who make claims to compensations for damages suffered through third parties for wrongful intent, if their individual claims are limited as per paragraph 2 sentence 1. The network operator shall be obliged to notify their connection users upon demand of the causes of damage through the third party network operator as per §3 sentence 27 EWG (Energy Industry Act) insofar as they are aware of those causes or as can be clarified in reasonably acceptable manner and as far as this knowledge thereof is necessary for the assertion of a claim.

(4) With regard to property damages caused through gross negligence, the liability of the network operator whose grid the connection user is attached to, or of a third party network operator against whom the connection user asserts claim, shall be limited towards their connection users to 5,000 euros as well as – in accordance with the occurrence of damage – to a maximum of 20 per cent of those maximum amounts stipulated in paragraph 2 sentence 2 as well as paragraph 3 sentence 2. Paragraph 2 sentence 3 and paragraph 3 sentence 1 shall apply accordingly.

(5) In the event that individual damages exceed the sum of the maximum amount, the compensation for damages suffered shall be reduced in a proportion that corresponds to the sum of all damage claims to the maximum limit. If, in accordance with paragraph 2 sentence 3 or paragraph 3, sentence 4, in conjunction with paragraph 4, damages have been included in the maximum limit for customers who do not correspond to this ordinance, they shall also be included in the reduction as per sentence 1. With regard to claims as per paragraph 3, the quota for damage claim may not exceed the quota of the customers of a third party network operator.

(6) The duty to compensate is dispensed if damages are below 30 euros and have neither been caused by deliberate or gross negligence.

(7) The connection user shall notify the network operator or – respectively - the company that is liable to pay compensation, as far as this is known, immediately of the damage suffered.

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