
**PECULIARITIES OF LEGAL REGULATION IN THE FIELD
OF ELECTRIC POWER INDUSTRY**

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Original Article

**OPERATIONAL PROCESS MANAGEMENT AND OPERATIONAL
DISPATCHING MANAGEMENT IN ELECTRICAL ENERGY INDUSTRY:
PRACTICAL ISSUES OF THE CORRELATION OF CONCEPTS**

*(abstracts of the report at the International Scientific and Practical Conference within the framework of
the Musin Readings Moscow Legal Forum, 2022,
Energy Law Challenges [1])*

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Abstract. The similarity of the terms “operational process management” and “operational dispatching management in the electrical energy industry” in practice often leads to an inaccurate definition of the contents of these concepts. This, in turn, creates a risk of imbalance in the distribution of areas of responsibility between the electrical energy industry entities as a result of improper application of the legal structures established by law. The essence of **dispatching (ODM)**, in general, is the management of the process conditions of the **energy** system operation by determining and controlling the process conditions of individual facilities most significant for the energy system. The significance of electrical energy industry facilities for the energy system regime is determined by the System Operator independently and is formalized by including such facilities in the list of dispatching facilities. Meanwhile, **OPM** are measures taken by the electrical energy industry facility **owner**, expressed in planning and managing the process conditions of operation of the electrical energy industry **facilities owned by it**, changing their operational state, and preparing for the repair work. Legislative norms should not allow conflicting interpretations in order to avoid situations where law enforcement authorities make decisions that affect not the area of law, but the area of technological processes, which, of course, is both unjustified and highly risky.

Keywords: energy law, operational dispatching management in electrical energy industry, operational process management in electrical energy industry.

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The similarity of the terms “operational process management” and “operational dispatching management in the electrical energy industry”, as well as the corresponding definitions given in Federal Law No. 35-FZ dated of March 26, 2003 “On the Electrical Energy Industry” (the “Electrical Energy Industry Law”), in practice often leads to an inaccurate definition of the contents of these concepts. This, in turn, creates a risk of imbalance in the distribution of areas of responsibility between the electrical energy industry entities as a result of improper application of the legal structures established by law.

An example of the confusion of the concepts under consideration is the situation that developed during

the proceedings in one of the cases in the Commercial Court of the Chuvash Republic (A79–12408/2020) [2].

The case summary is as follows. The branch of the System Operator, in the course of exercising its functions of operational dispatching management in the electrical energy industry, excluded a number of electric grid facilities owned by the Joint-Stock Company from the System Operator’s dispatching facilities. By virtue of Article 12(1)(2) of the Electrical Energy Industry Law a System Operator is a designated company that solely exercises centralized operational dispatching management within the Unified Energy System of Russia (when a technologically isolated territorial electrical energy system is connected to the Unified Energy

System of Russia in the cases established by the Russian Government and during the transition period determined by the Russian Government also within the corresponding technologically isolated territorial electrical energy system) and authorized to issue operational dispatching commands and orders that are mandatory for electrical energy industry entities and consumers of electrical energy that affect the electrical energy mode of operation of the electrical energy system.

It is worth recalling that the inclusion of electrical energy industry facilities in the list of dispatching facilities of the System Operator is regulated by Clause 9 of the Rules for Operational Dispatching Management in the Electrical Energy Industry, approved by Russian Government Decree No. 854 dated December 27, 2004 (the "ODM Rules"), whereby each dispatch center of the system operator determines the transmission lines and equipment of electrical grids with a 35kV Voltage Class and above, equipment of electrical energy stations, relay protection and automation devices, communication channels, other equipment located at the specifies electrical energy facilities (including electrical energy facilities owned by consumers of electrical energy), *the process conditions of operation and the operational condition of which affect or may affect the electrical energy mode of the energy system* in the operating area of the respective dispatch center and in relation to which it exercises dispatch management or dispatch maintenance, and *includes them to the dispatch center's list of dispatching facilities*.

The inclusion of electrical energy industry facility in the dispatch center's list of dispatching facilities allows the System Operator to take into account the mode of its operation when calculating and planning the operating modes of the energy system as a whole and limits the powers of the owners to freely change the process conditions of the facility operation and its operational state. Such a change occurs only on the dispatch command of the dispatch center or in agreement with it (Article 14(1) (6) to (8) of the Electrical Energy Industry Law, Clauses 10, 21 of the ODM Rules, Clause 41 of the Process Operation Rules for Electric Energy Systems, approved by Russian Government Decree No. 937 dated August 13, 2018, hereinafter the "POR").

Since the System Operator manages the process conditions of operation of electrical energy facilities in order to ensure the reliable functioning of the energy system as a whole, it does not manage the modes of operation of facilities that do not affect the electrical energy regime of the energy system.

At the same time, the influence of the process conditions of the facility operation or its operational state on the electrical energy mode of the energy system is not constant and may change due to changes taking place in the energy system, the commissioning of new electrical

energy facilities and power receivers or their decommissioning, growth or reduction in electrical energy consumption, etc. Therefore, the dispatch center's list of dispatching facilities is reviewed in view of the changed conditions.

The liquidation manager of the Joint Stock Company considered that the exclusion of electric grid facilities from the list of dispatching facilities and the subsequent termination of the provision on the relationship between the Joint Stock Company and the System Operator violated the rights of the Joint Stock Company, as it imposes on it the obligation to carry out operational process management and bear, as a consequence, unreasonable expenses, and filed an application with the commercial court to recognize the System Operator's actions as illegal and to grant an interlocutory injunction in the form of imposing the obligation on the System Operator to include the Claimant's electric grid facilities in the System Operator's list of dispatching facilities. The injunction motion was satisfied by the court.

Thus, a situation has arisen when the court, by its act, has prejudged an issue that requires special knowledge in technological processes, namely, whether or not the operating mode of specific electrical energy facilities affects the energy system operating mode. At the same time, this issue, by virtue of the direct instructions of the legislator, can only be resolved by one specially established entity, the System Operator.

Such a "non-standard" situation has developed, first of all, as a result of a misinterpretation of the content of the concepts under consideration, "operational dispatching management in the electrical energy industry" (ODM) and operational process management (OPM).

The reason for this misinterpretation largely lies in the unsuccessful legal technique of the definitions given in Article 3 of the Electrical Energy Industry Law, which states that

Operational Dispatching Management in the electrical energy industry is a set of measures for **centralized management** of the process conditions of operation of electric power facilities and power receivers of consumers of electrical energy, *if these facilities and receivers affect the electrical energy mode of operation of the energy system* and are included by the relevant operational dispatching management entity of the electrical energy industry in the list of facilities subject to such management;

And an Operational Process Management is a set of measures for managing the process conditions of operation of electrical energy industry facilities and power receivers of consumers of electrical energy, **if these facilities and receivers are not included by the operational dispatching management entity of the electrical energy industry in the list**

of facilities in respect of which the issuance of operational dispatching commands and orders is performed;

An inexperienced reader, to which the commercial court and the liquidation manager certainly belong, interpreting the proposed norms based on the literal meaning of the words and expressions contained therein, will most likely conclude that ODM and OPM are activities that mutually exclude each other. For example, that OPM is carried out only with respect to those facilities that are not assigned to the System Operator's dispatching facilities. However, this conclusion is fundamentally wrong.

The essence of **dispatching (ODM)**, in general, is the management of the process conditions of the **energy** system operation by determining and controlling the process conditions of individual facilities most significant for the energy system. The significance of electrical energy industry facilities for the energy system regime is determined by the System Operator independently and is formalized by including such facilities in the list of dispatching facilities.

Meanwhile, **OPM** are measures taken by the electrical energy industry facility **owner**, expressed in planning and managing the process conditions of operation of the electrical energy industry **facilities owned by it**, changing their operational state, and preparing for the repair work.

The obligation of the electrical energy facility owner to implement OPM arises from the moment of creation of such a facility and its inclusion in the work as part of the energy system. According to Clause 27 of the POR, in order to ensure the operation of electrical energy facilities as part of the energy system, their **owners**, regardless of the voltage class and capacity of electrical energy facilities, shall provide for the operation, repair and maintenance of their transmission lines, equipment and devices of electrical energy facilities, **the organization and implementation of continuous OPM in relation thereto**.

Each electrical energy facility owner, regardless of the voltage class and capacity of the electrical energy facilities owned by it, **is obliged to organize operational process management in relation to the facilities owned by it and ensure its implementation during the entire period of operation of electrical energy facilities** in accordance with the POR (Clause 36 of the POR).

Thus, the owner's obligation to plan and manage the process conditions of operation and operational condition of electrical energy facilities owned by it, to implement other measures within the framework of operational process management is established as legally binding by regulations both for cases when such facilities **are not dispatching facilities** of the System Operator's

dispatching center, and for cases when they are **included in the list** of dispatching facilities. At the same time, the assignment of the System Operator to the dispatching facilities not only does not exclude the need for the owners of the relevant facilities to carry out operational process management, but also imposes on them additional responsibilities for interacting with the dispatch center.

From these standpoints, it is necessary to consider the norm of Clause 33 of the POR, whereby each dispatching facility can be in the dispatching **management** of one dispatch center or the process **management** of one grid management center or the process **management** of the operating personnel of one electrical energy industry facility.

The essence of the above norm is not that either an ODM or an OPM can be carried out in relation to a facility, but that the distribution of functions within those types of activities is interrelated. So, if an electric grid facility is a dispatching facility and is assigned by the dispatch center to dispatching management, within the framework of the implementation of the OPM, it can only be attributed to process maintenance, but not to process management. Consequently, when a facility is under the management of one interested entity (the facility owner or the System Operator), another interested entity cannot retain management (i.e., the right to initiate actions to change the process conditions of the facility operation).

In view of the foregoing, the most accurate and reflective of the essence of OPM activities is the following definition given in the national standard (Clause 3.63 of GOST R57114-2016 [3]):

Operational Process Management (OPM) is a set of measures for managing the process conditions of operation of electrical energy industry facilities and/or power receivers of consumers of electrical energy, **carried out by the owners or other legal owners of such facilities and/or receivers in accordance with the requirements of the operational dispatching management entity** of the electrical energy industry in relation to dispatching facilities and independently in relation to transmission lines, equipment and receivers that are not related to dispatching facilities.

This definition provides the conclusion about the inconsistency of the arguments of the receiver regarding the emergence of the obligation for the Joint Stock Company to implement the OPM after the exclusion of the relevant facilities from the list of dispatching facilities. Such an obligation is imposed on the energy facility owner, regardless of the fact of its dispatching by the System Operator.

Despite the fact that the ruling to impose injunctive relief was subsequently independently annulled by the court, the isolated case under consideration highlights the complexity of the perception of special energy laws by persons who are not immersed in the specifics of technological processes. But it is obvious that the legislative norms should not allow conflicting interpretations in order to avoid situations where law enforcement authorities make decisions that affect not the area of law, but the area of technological processes, which, of course, is both unjustified and highly risky. It is important to note that by the time these theses were published, the legislator had already removed a number of concerns expressed by the author and, in particular, by Federal Law No. 174-FZ dated June 11, 2022 [4] as a set of measures to manage the process conditions of operation of electrical energy facilities and/or power receivers of electrical energy consumers, carried out by the owners or other legal owners of those facilities and/or receivers *in accordance with dispatch commands and orders of the operational dispatching management entity* in the electrical energy industry and/or in agreement with such an entity in relation to transmission lines, equipment and receivers of electrical energy facilities and/or power receivers, the process conditions of operation and operational condition of which affect the electrical energy mode of operation of the electrical energy system, *either solely* or in coordination with other electrical energy industry entities and consumers of

electrical energy in relation to other transmission lines, equipment and installations of electrical energy facilities and/or power receivers.

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