EGEC POSITION ON THE REVISION OF THE EU STATE AID GUIDELINES ON ENERGY AND THE ENVIRONMENT

Introduction

The State Aid Guidelines on Energy and the Environment have notably the objective to translate the European Competition policy for state aid in the energy sector for National policy makers. It serves to help them understand what is possible to bring as financial public support for the deployment of renewable energy. The objective of the guidelines should be to guarantee a respect of the European Union treaties – in particular articles 107 and 108 TFEU which set the state aid principles in terms of internal market and fair competition and article 194 that enunciates that EU policy on energy shall aim to “(a) ensure the functioning of the energy market; (b) ensure security of energy supply in the Union; (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and (d) promote the interconnection of energy networks”. The guidelines however should not contradict the principle and the letter of the European energy legislative framework, rather the EEAG should faithfully reflect the provisions listed in such texts as the Renewable Energy Directive. The Renewable Energy Directive Article 4, 5 and 6 in particular set the rules for support schemes for renewable energy sources, which the EEAG must reflect. The Article 4 notable states the possibility for Member States to establish technology specific tenders, and specific support schemes for demonstration projects of innovative renewable energy technologies. Article 6 of the RED provides that “the support granted to renewable energy projects are not revised in a way that negatively affects the rights conferred thereunder and undermines the economic viability of projects that already benefit from support.”

In general, the guiding principles of the EEAG should be:

- Correct market imbalances leading to closed market and a stop to the energy market openness. That gives a dominant position to fossil fuels in the European energy market: phase out of fossil fuel subsidies, allowing renewable technologies to reach market maturity...
- Allow competition in the European energy market through technology specific tenders, that are crucial for the emergence of different renewable energy technologies, for a resilient, competitive European energy market that guarantees security of supply.
- Going beyond a competition based on simple metrics such as the levelised cost of electricity towards a greater inclusion of the positive and negative externalities in the design of auction;
- The heating and cooling market is by nature a local market: as such notification thresholds should only apply to the very largest projects.
- Capacity Remuneration mechanisms must incentivise the development of flexibility resources in line with the EU’s energy priorities, for instance flexible renewables, not constitute a lifeline to existing fossil or nuclear assets.

The State Aid Guidelines must reflect the recently adopted Clean Energy for All European Package

The Clean Energy for All European Package was entirely adopted in 2019. It sets the EU legislative framework for the energy sector from 2020 to 2030. The Clean Energy Package was proposed as a bundle of legislative proposals in order to maximise consistency in the European energy policy framework. To that end, the EEAG must strictly reflect the provisions set in the Clean Energy Package.
In particular the EEAG cannot deem non-compliant with the State Aid principle a provision that is explicitly listed by a European Directive as being possible.

Moreover, the State Aid Guidelines on Energy and the Environment should also be aligned with the objectives and the principles of the legislative proposals of the Clean Energy Package. In particular, the guidelines should not prevent the EU economy to attain its renewable energy and energy efficiency targets.

Support mechanisms need to be differentiated according to the technical characteristics of each technology (e.g. cost, size, risk profile, project lead time, ability to provide system services). This would ensure the most cost effective deployment of a sufficiently broad portfolio of renewable energies to meet the EU’s renewables targets for 2020 and 2030 and drive the long-term decarbonisation objective of the EU economy.

In the absence of national binding targets, sufficient flexibility should be granted to Member States beyond 2020 to design appropriate support mechanisms according to technology characteristics and national market considerations. Thus far, the aid granted focused on the cheap deployment of renewables as opposed to transforming the energy system (incentivising scattered independent producers and auto-consumption/generation, investing in smart grid infrastructure, etc.). Perhaps this was due to attempts by the Member States to reach their renewable targets for 2020.

However, with the recent finalisation of the Clean Energy Package and the flexibility given to the Member States through the EU-wide renewables target, a revision of the EEAG must guide the Member States in designing support schemes which support projects with holistic benefits for the energy system.

**Technology specific tenders are important for maintaining competition in the energy market**

A key provision listed in the article 4 of the Renewable Energy Directive adopted in December 2018, as a cornerstone in maintaining a competitive European internal energy market is the possibility of Member States to propose technology specific tenders specifically in order to foster the following priorities: (a) the long-term potential of a particular technology; (b) the need to achieve diversification; (c) grid integration costs; (d) network constraints and grid stability.

In addition, “Member States may also consider establishing mechanisms to ensure the regional diversification in the deployment of renewable electricity, in particular to ensure cost-efficient system integration.”

Technology specific tenders are particularly important as they prevent renewable energy technologies that have different characteristics to compete according to a unique measure. Typically, comparing variable renewable capacity to flexible, dispatchable combined heat and power projects on a single measure of a cost/MWe clearly discriminates the latter which brings a different value to the energy system. LCOE is one of the criteria most used to compare the competitiveness of different energy sources, notably in policy making. It is a very partial indicator, however, as there is no consideration of system costs such as the cost of transmission, or other network costs such as impact on system balancing, impact on state/system energy security, and the costs of external factors such as government-funded research, residual insurance responsibilities borne by the government, external costs of pollution damage or external benefits (e.g. the value of knowledge for future generations). Current market models are unable to remunerate energy sources with low operational costs, hence there is a need for ‘out-of-market’ remuneration (feed-in tariffs, contracts for difference, premiums, capacity remunerations). Technology specific tenders for renewable energy support schemes are an important instrument to allow the consolidation of a given renewable energy industry for different technologies, that – once they all reach market maturity – can guarantee the resilience of the European energy market to supply disruptions.

**Capacity Remuneration mechanisms must incentivise the development of flexibility resources in line with the EU’s energy priorities.**

Capacity Remuneration mechanisms and other such schemes are fast emerging in Europe as a solution to cope with the increased penetration of variable electricity generation sources. However, although
such schemes may be a valuable market feature to guarantee the profitability of projects supplying flexibility and security of supply to the electricity system, they are often designed in a way that yield results in direct contradiction with the EU's energy objective of decarbonisation and the general state aid principles.

Capacity Remuneration Mechanisms cannot constitute a lifeline to existing fossil or nuclear assets, by providing unwarranted subsidies. Instead, the schemes should incentivize the development of flexibility resources in line with the EU's priorities, for instance flexible and dispatchable renewable electricity technologies such as geothermal electricity production. The EEAG and their application should reflect this principle.

The EEAG must not prevent innovation: demonstration project should be exempted from notification

Demonstration projects are essential to allow new and improved renewable energy technologies to reach the market. They allow large cost reductions, significant performance improvements and generate learnings for future deployments.

Demonstration projects are very small – generally a few MW – and so they do not unduly impact the wider market.

Demonstration projects are capital intensive and risky. They typically cannot generate a sufficient return for investors in isolation and cannot attract sufficient private financing. Public funding is therefore a necessity.

Existing provisions for demonstration projects have worked well and should be maintained. Demonstration projects should in future be exempted from the requirement to notify, where aid is below certain levels. Requiring State Aid notification for smaller demonstration projects adds additional risk and complexity to these projects, which is not justified by any threat of distortion to competition.

The heating and cooling market is by nature a local market: as such notification thresholds should only apply to the largest projects.

In the heating and cooling sector, the state aid guidelines have not allowed a level playing field where renewable heating and cooling technologies can fairly compete with incumbent fossil technologies - especially when a large traditional fossil fuel actor exercises market power to prevent market changes. The EEAG should ensure that in district heating, only the most cost-efficient projects are realised provided they are aligned with the EU's RES and GHG objectives to 2030 and on the long-term. It should also enable the market uptake of new renewable technologies in district heating, as in the electricity sector. The EEAG and GBER should notably not hinder the attaining of the objective set in Article 23 of the Renewable Energy Directive, notably regarding the possibilities given to the Member States to decide how they aim to comply with their objective of increasing the share of renewables in the heating and cooling sector.

The EEAG and GBER must allow incentive schemes for the renewable heating sector to be exempted from mandatory notification, based on the fact that heating is a local market and incentives would be unlikely to have any impact on the internal market. It should also allow for the possibility of Member States or local authorities to support the development of renewables H&C technologies in order to meet the EU's climate and energy objectives, considering the fact that the heating and cooling market is not a fair and competitive market as a result of the historical dominance of certain technologies and actors – due in part to large subsidies to establish a given infrastructure and help consumer acquire equipment – and considering the local nature of the heating and cooling sector where there is no competition at the European level, as heating and cooling is produced and consumed locally.

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