

French Energy Ministry consultation on a green certificates scheme for the promotion of biomethane



EFET response – 2 March 2021

The European Federation of Energy Traders (EFET*) welcomes the opportunity to provide comments on the DGEC consultation on financial support for biomethane production. You will find below our views on the initial sketch of a framework provided by the Ministry. As many aspects of it remain to be confirmed, we look forward to a continued interaction between the authorities and market participants going forward.

Q1: Do you share the assessment of a need for financial support for the development of biomethane production to be fed into the natural gas grid? What is your view on the evolution of production costs for biomethane to be fed into the natural gas grid?

In our recent submission to the European Commission consultation on the review of State Aid rules¹, EFET laid out the key principles we believe should be observed if and when financial support schemes are deemed necessary to support the uptake of technologies and energy carriers facilitating the decarbonisation of the energy system.

We think these schemes must take into account the CO₂ abatement and sustainability characteristics of the technologies and be:

- Strictly market-based, technology-neutral, non-distortive, tradable and open across EU borders, and harmonised as early as possible;
- Cost-effective from a system management perspective;
- Taken into account in the framework of the EU ETS for their carbon abatement effect to ensure that the integrity of the EU ETS is preserved and strengthened.

¹ EFET response to the European Commission consultation on the review of EEAG, dated 7 January 2021 and available at: https://www.efet.org/Files/Documents/Downloads/EFET_consult%20EC%20EEAG_07012021.pdf.

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Further, in cases where temporary support schemes are introduced for specific technologies, it is vital to take lessons from the past and ensure sunset clauses are in place. This would ensure that the respective support schemes end once investment expenditures are recovered. For all technologies, aid should only be considered at early stages of development and where there is a realistic prospect of that technology becoming economically competitive on a standalone basis.

Finally, rationalisation of financial support through a strengthened EUA price, development of Guarantees of Origin (GoOs), and channelling any financial support through market-led decarbonisation incentives, such as an EU- wide, market-based quota and certificates system would help achieving cost-effective and technologically efficient fulfilment of the European decarbonisation targets.

We acknowledge the assessment made by the French authorities on the necessity to amend the existing support mechanism of feed-in tariff to support the further uptake of biomethane production. Indeed, the current regime does not fulfil any of the recommendations highlighted above. We discuss in our response to question 2 whether the green certificates scheme proposed by the Ministry would be appropriate.

Q2: Do you support these proposals (on green certificates)?

As discussed in our response to the Commission consultation on the second renewable energy directive (RED II) revision², we foresee a future with a policy framework that recognises the environmental benefit of a wide range of available renewable and low carbon technologies – based on their carbon content and sustainability characteristics – and rewards carbon abatement at least cost in a market based, technology neutral way. A comprehensive EU-wide certification system covering all renewable and low carbon energy carriers is instrumental for achieving that. We therefore believe that the design of any new certification systems introduced at national level would benefit from alignment across Member States with the main principles for the functioning of such a comprehensive EU-wide system, as laid out in our consultation response.³

Turning to the DGEC proposal, green certificates, as a decentralised mode of financial support for biomethane that also pushes biomethane producers to value their production on the wholesale natural gas market (and the retail market via GoOs) could potentially represent a more market-based way to promote and support biomethane production. Compared to the existing feed-in tariff scheme, green certificates indeed have the following advantages:

- market-based system between biomethane producers (issuing green certificates) and obligated parties (obliged to purchase green certificates)
- market-based setting of the price of the certificates
- financial support level that adapts better to scarcity or surplus production signals

² See answers to Q 1.2 and 2.7 in the EFET response to the Commission consultation on RED II revision, dated 9 February 2021 and available at https://efet.org/Files/Documents/Emissions%20and%20RES/RES-E/2021/EFET%20response%20to%20EC%20questionnaire%20on%20RED%20II%20revision_1.pdf.

³ Ibid. See our answer to Q2.7 in particular.

However, any new mechanism introduced in French legislation should be designed in a way that respects the following conditions:

- is technology neutral, in order to provide commonality of instruments designed to financially support all technologies contributing to decarbonisation – with a view to extend it to renewable electricity, renewable and low-carbon hydrogen, and possibly any other low-carbon energy carriers;
- is scalable at European level, i.e. replicable abroad or at least compatible with existing support schemes in other Member States;
- does not have any distortive effect on the French gas market in term of competition and liquidity; and
- provides regulatory incentives to decrease the costs of biogas production (and other types of renewable and low-carbon energy carriers) in order to limit the financial impact on the French market.

As the DGEC proposal stands, we can already assess that the first two conditions are not met: the scheme is not technology neutral (limited to biomethane) and has limited scalability potential (intended to take account of biomethane production in France only; not designed to be replicated abroad or to recognise the certificates issued in another Member State).

We also have concerns about the third condition, as the DGEC proposal does not look into the effects that the obligation placed on gas suppliers to procure green certificates from biomethane producers could potentially have on competition amongst gas suppliers (depending on their size, existing positions etc.), both in terms of access to supply of biomethane and related green certificates and in terms of ability to pass through costs deriving from the obligation to final customers. If adverse effects materialise, this could affect, by extension, wholesale market liquidity and could represent a barrier to market entry.

For these reasons, we believe that an in-depth assessment of the DGEC proposal should be performed. In particular, the Ministry should further study the effects of the mechanism they propose and inquire whether other mechanisms could be less distortive to technological neutrality, European scalability and market liquidity and competition. Such schemes could include:

- a centralised contract for difference (CfD) schemes, or
- the extension of the current French market premium via competitive tenders (*complément de rémunération*) – which, coupled with GoOs, can offer great potential for the uptake of gas purchase agreements (GPAs), or
- a green certificate scheme where the obligated parties would be Distribution System Operators (DSOs).

Notwithstanding the above, if DGEC pushes ahead with the implementation of its current proposal of a green certificate scheme with an obligation placed on suppliers, a number of elements should be clarified:

- **Scope of the obligation:** the obligation should only apply to gas volumes that are not delivered at TRF. Should the obligated parties remain the suppliers, this means that the definition of suppliers in the context of this scheme would be different from that of article L.443-1 of the Energy Code and apply only to volumes delivered by suppliers to end-consumers. The framework should also make it clear that industrial customers purchasing biomethane at the TRF for their consumption would be direct obligated parties but only for an amount equivalent to their actual consumption. As mentioned above, we also invite DGEC to assess the benefits and drawbacks of placing this obligation on DSOs.

- **Definition of the feedstock:** it is necessary to clarify the feedstock that can be linked to green certificates production, making it as broad as possible.
- **Level of complexity of the scheme:** the proposed green certificates scheme should avoid introducing too high a level of complexity and administrative burden on obligated parties and should be designed so as to avoid any negative effects on the liquidity of the market or creating market entry barriers, which would be detrimental to competition at wholesale and retail levels.
- **Roadmap for implementation:** a clear roadmap for implementation is key to provide a timeline for stakeholders and to deliver the right signals for investments for both the production side and obligated parties and enable them to appropriately forecast the ambit of their obligation.

Finally, we agree that the green certificates model, if designed taking into consideration our four conditions listed above, should not be available for producers already receiving support from the existing feed-in tariff for biomethane. We also suggest that the Ministry goes further than the current proposal and progressively introduces green certificates system as soon as feed-in contracts currently applied to small scale biomethane generation units expire.

Q3: Do you support a restriction of the emission of green certificates to biomethane production installations located in France?

The formulation of the Ministry's question is misleading: the future French legislation concerning the emission of green certificates will of course only apply to installations located on the French territory. However, we believe that green certificates issued by installations located abroad should also be eligible for the fulfilment of their obligation by the obligated parties.

Indeed, the objectives put forward by the Ministry (protection of the environment and fight against climate change) are global. At the very least, we don't believe that the French system can discriminate against green certificates issued by installations located in other EU Member States. We refer to European Commission decisions on the subject of capacity remuneration mechanisms (CRMs) and the ensuing enactment in the recast Electricity Regulation (2019/943) of the need to open CRMs to cross-border participation. We advise the Ministry against any decision that would go against the principles of the EU Treaties and not allow obligated parties to purchase green certificates from similar production installation located outside of the French territory.

Q4: Do you support a modulation of the emission of green certificates depending on the production costs of the installations?

Though we do not contest the probable validity according to EU law of a system of modulation of the emission of green certificates depending on the production costs of the installations – as shown by the European Commission's approval of such a scheme for RES-E certificates in the Flemish region – we question the Ministry about the necessity of such a mechanism.

Indeed, one of the key properties of a well-designed market-based mechanism like green certificates is that the market price of the certificates will adapt to the evolution of production technologies and their cost. Adding a layer of regulation via an assessment of production costs would likely be cumbersome and inefficient – will the Ministry look at each and every installation? how often would the cost be reviewed? Relying on the market allows alleviating

these complexities, as the market price will automatically adjust to lower offers by producers with decreasing costs.

If the idea of the modulation is nonetheless maintained, clarification on the criteria and the practical implementation of this modulation will be needed.

Q5: Do you support an obligation of green certificates purchases with increasing commitments?

We do not oppose gradually increasing commitment on obligated parties regarding their green certificates purchase obligation, as this will serve to meet the objectives for biomethane consumption set at national and EU level. A clear roadmap with a well-defined trajectory should be developed to ensure that both producers and obligated parties can adapt investment and procurement plans accordingly.

Q6: Do you support the definition of the green certificates obligation based on an annual compliance period? Do you have a preference for the starting date of this annual period?

An annual compliance period seems appropriate. We have a preference for the compliance period to span from 1 January to 31 December.

Q7: Is a forward-looking period of 5 years for the level of the obligation to purchase green certificates appropriate?

A forward-looking period of 5 years for the definition of the obligation seems appropriate. As mentioned before, a clear roadmap with a well-defined trajectory should be developed sufficiently in advance to ensure that both producers and obligated parties can adapt investment and procurement plans accordingly.

Q9: Do you support linking a biogas GoO to each green certificate?

We welcome the fact that the Ministry does not exclude the possibility to issue GoOs for the biomethane produced. As mentioned in our response to question 1, we attach a high importance to the ability of renewable and low-carbon energy producers to be able to value the sustainability characteristics of their energy production via GoOs – including through GPAs – and see it as a way to reduce the necessity for financial support schemes.

In the context of the DGEC proposal, we encourage the Ministry to allow the green certificate and the GoO to be used alternatively, in order for market participants to be able to value the biomethane as effectively as possible – including abroad – either via the certificate or via the GoO. The system should therefore be designed in a way that does not lead to the possibility of double counting biomethane production by issuing GoOs and green certificates in respect of the same MWh. This should also allow addressing the concerns of the Ministry around over-compensation of biomethane production.

Q10: Do you support a 5-year validity period for the green certificates?

We agree with the 5-year validity period for the green certificates.

Q11: Do you support the option for natural gas suppliers to join forces in purchase consortia in order to fulfil their obligation to purchase green certificates?

Please see our remarks in response to question 2 on the impacts that the proposal, as currently described, might have on the French gas market. In general, we welcome the possibility for obligated parties to join forces in purchase consortia in order to fulfil their obligation to purchase green certificates. Further clarification would be needed as to the exact framework of such consortia.

Q12: Do you support imposing transparent and non-discriminatory procedures to these purchase consortia in order for the conclusion of long-term purchase contracts for green certificates?

Transparent and non-discriminatory procedures entail a level of information disclosure that contradicts the principle of confidentiality of contractual arrangements. Disclosing information can be sensitive from a competitive perspective. Therefore, while we don't oppose all transparency measures that the Ministry may want to introduce, we suggest them to proceed with caution, and to ensure that the measures they wish to take are proportionate to the aim pursued. In particular, if the transparency measures would be imposed to avoid excessive market power in the market for green certificates, the size of the contract – rather than the fact that a contract is concluded by a consortium – may be a more relevant trigger for enhanced information disclosure.

Q12-bis: Do you support these proposals (national register for green certificates)?

We support the proposal of the Ministry. However, we attract the attention of the Ministry to the necessity to make sure that the existence of a national registry for the green certificates does not make the trading (in particular the secondary trading) of green certificates burdensome. The Ministry should learn from the experience of market participants with the national registry for capacity certificates run by RTE in the context of the CRM: excessively complex notification procedures for the transfer of capacity certificates has led to significant difficulties for the secondary trading of these certificates.

Q13: According to you, what is the appropriate level of sanction in case of non-compliance by a natural gas supplier of their obligation to produce green certificates?

Instead of administrative penalties for non-compliance by obligated parties, we suggest the Ministry establishes a system of imbalance settlement based on the price of certificates. This will make sure that an incentive to comply is always in place but also that the penalty does not become excessive once biomethane production becomes more efficient.

Q14: According to you, is the green certificates system appropriate for the support of biomethane production?

As mentioned above, we believe that the proposal needs to be further developed and detailed by taking into consideration the conditions highlighted in our responses to questions 1 and 2.