

To: Ms. Brigitta Renner-Loquenz
Head of Unit State aids – Energy and Environment
DG COMP, European Commission

Copy: Ms. Inge Bernaerts
Head of Unit Internal Market II: Wholesale markets; electricity & gas
DG ENER, European Commission

Brussels, 31 March 2014

Dear Ms. Renner-Loquenz,

Thank you for your Email from 24 March 2014. We are taking you up on your suggestion that we make a new written submission.

The European Federation of Energy Traders (EFET)¹ has already welcomed the review of the draft Guidelines on environmental and energy aid (EEAG). The rapid increase in national renewable energy (RES) support schemes has led to significant market distortions, provoking inefficiencies in the wholesale electricity market and jeopardizing both competition and liquidity. An unfortunate side consequence is that irrational pricing patterns deter investment in plant capable of serving peak loads. As part of a cost-efficient energy transition in Europe, undistorted price signals are essential for rewarding (but not over-compensating) economically rational electricity sector investments already undertaken and for triggering appropriate new investments.

We are concerned that in the most recent process of consultation and amendment, the draft revised EEAG have suffered a dilution, which will limit their impact and detract from their potential to help address urgently the harmful effects of distortive RES financial support. We therefore bring to your attention our concerns on the following aspects of the draft Guidelines. We kindly ask you to take our arguments into consideration when the Commission decides on their final content.

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information, visit our website at www.efet.org.

The EU internal market for energy needs cross-border RES exchange²

There is a pressing need for adaptation of all national support schemes to EU rules guaranteeing the free movement of goods, consistent with Article 34 of the Treaty and to be recognized in the EEAG. Consequently, no national support scheme should in future discriminate against sellers of imported RES sourced electricity, nor against an exporting generator/ trader; conversely every national scheme must cater for the objective, transparent and non-discriminatory recognition of the RES attributes of imported electricity for the purpose of evaluating eligibility for financial support.

The EEAG should stipulate expressly the shortcomings of feed-in premium support schemes, compared with quota and certificate schemes, when it comes to compliance with the foregoing EU rule against internal trade discrimination. In particular the Guidelines should recognize the difficulty of ensuring that any priority dispatch or priority access provisions included in a national scheme be applicable in full to the acceptance onto the national HV grid of relevant RES sourced imports at the electrical borders of the relevant importing MS. A similar difficulty is apparent with respect to the need to ensure that the RES generator assumes full balancing responsibility.

Threshold for balancing responsibility³

Renewable electricity generators should assume responsibility for balancing, i.e. they should be obliged to provide to TSOs a forecast, to schedule their power onto the grid and to ensure they are in balance (according to the schedule provided) in every market period (hour, half hour or quarter hour.) They should be expected to operate in these respects on an equal footing with other generation methods. Small non-domestic installations should not be exempted from such responsibility, as they in total represent a significant amount of generation. Applying arbitrary thresholds will lead to a non-level playing field.

We believe that there should be no differences in the balancing requirements for less deployed technologies with regard to the individual support scheme. The inclusion of all power generation not only supports liquidity of intra-day and balancing markets, it also helps renewable generation to develop further by offering flexibility to the overall system. Put another way, we advocate adequately pricing flexibility into overall operation of the market, rather than by excluding just RES electricity elements of flexibility from the market by outsourcing their management to Transmission System Operators.

There is no hindrance to market integration in terms of available capabilities. Supply companies and aggregators offer services to aid scheduling and carry out the tasks related to balancing on behalf of small scale producers. These services exist already in many markets, for example in Germany, Spain and

² Reference to paragraph 113 of the Paper of the Services of DG Competition containing draft Guidelines on environmental and energy aid for 2014/2020

³ Reference to paragraph 117 and 120 of the Paper of the Services of DG Competition containing draft Guidelines on environmental and energy aid for 2014/2020

Belgium. They are offered to small RES generators irrespective of technology used e.g. wind onshore/ offshore, PV and biomass.

In addition, all renewable producers should be obliged to sell their electricity in the market, rather than have it automatically purchased by a TSO or an agency. In this manner RES generators will become accustomed to receive and interpret market signals. In times of over-supply this should lead to a reduction of renewable electricity put onto the market, as long as negative prices are allowed, and hence a mitigation of extreme negative signals. Conversely in time of under-supply and heavy demand RES generators will find they are better rewarded by the market.

Exemption from auctioning

Several possibilities of exemptions from a requirement, that support levels be subject to auctions, are foreseen in the latest draft of the EEAG. We are highly concerned that this will make the framework unclear and uncertain.

Harmonized, market-based capacity remuneration mechanisms (CRM)⁴

We believe that any CRM planned by a Member State should be fully market-based, taking account of generation adequacy and power plant availability on a cross-border basis, and providing for full market-wide competition between all capacity providers. A competitive and non-discriminatory CRM need not be the subject of state aid. It could be part of a new market design and that could set sufficient investment signals for capacity providers. Fair competition implies equal treatment of new and existing capacity as well as of demand side response.

Furthermore, there should be no covert price regulation through a CRM. Price caps should be avoided, as well as automatic price setting mechanisms, to ensure a price of zero in case of sufficient capacity (as mentioned in paragraph 215). Moreover, we recognize the need to further elaborate on how interconnected capacity could be part of CRMs and at the same time allow compliance with internal electricity market legislation. Contingent forward reservation of transmission capacity is to be avoided.

Different timescale for compliance⁵

Imposing compliance for existing schemes only upon prolongation, re-notification or change of existing schemes would lead to different implementation by Member States and lack of visibility for the industry. For clarification and harmonization purposes, we suggest setting a clear date for all support schemes to comply with the new rules. This approach will facilitate the transition towards a tighter and more cost efficient management of CO2 reductions, through increased competition between the various available instruments (RES support, energy efficiency initiatives, demand side response, storage of RES electricity injections etc.)

⁴ Reference to paragraph 216 and 217 of the Paper of the Services of DG Competition containing draft Guidelines on environmental and energy aid for 2014/2020

⁵ Reference to paragraph 228 of the Paper of the Services of DG Competition containing draft Guidelines on environmental and energy aid for 2014/2020

Certainly, the transition from the current, nationally dominated systems to a truly EU internal market is a huge step. Yet it is necessary and urgent, not only to prevent wholesale market distortions accumulating, but also to keep real subsidy costs imposed on consumers at the lowest possible level. The success of renewable generation in the past years and the tremendous growth story have made RES producers a cornerstone of power supply in many parts of Europe already now. Hence it is high time that renewable generators also take their share of responsibility for sustainability of the whole power system.

We understand the pressure on you at this time, but would still welcome the opportunity of meeting and discussing the points raised in the present letter in the near future.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping strokes that form a stylized, somewhat abstract shape.

Jan van Aken
EFET Secretary General