



Eurogas response to European Commission Consultation on Draft Guidelines on environmental and energy State aid for 2014-2020

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Introduction

State aid provided in Member States can lead to inefficiencies because measures are not always taken in the countries or regions where they are most effective or cross-border trade may be hampered.

The introduction of renewable energies via state aid that creates distortions to the market, has proven to be damaging to others in the market place. For example, gas-fired power plants are facing a difficult competitive situation because of resultant market distortions. Moreover, Member States in which the introduction of subsidised renewable energy sources in power generation is particularly high and the above-mentioned market distortions occur, are facing the challenge of securing electricity supply because thermal power plants used for peak loads are becoming uneconomic.

The state aid rules framework in Europe is articulated in a variety of instruments, the most relevant for the energy sector being the proposed Environmental and Energy Aid Guidelines (EEAG), the General Block Exemption Regulation (GBER) and the State Aid Framework for Research, Development and Innovation (RDI).

For Eurogas, it is crucial that all these instruments together, provide a robust, coherent and consistent set of rules for State aid, to ensure the achievement of the ambitious EU 20 20 20 policy objectives, without endangering on the other hand the completion of the internal energy market and the objective of a competitive and secure energy system in Europe. However, all promising emerging greenhouse gas reducing technologies should be able to benefit. For gas, this means that non-mature gas and hybrid technologies, greater efficiency of flexible gas-fired power stations, CCS, production of biogas and synthetic methane (power-to-gas) etc. will be able to enjoy the same support as other technologies.

As the scope of the proposed Environmental and Energy Aid Guidelines (EEAG) has been extended to energy infrastructure, tradable permit schemes, aid to carbon capture and storage and generation adequacy, in our response to this consultation we focus our comments on five specific areas:

- Aid to renewable energy sources;
- Aid to carbon capture and storage;
- Aid to energy infrastructure;
- Aid for generation adequacy;
- Applicability of the environmental and energy aid guidelines.

Section 5.2 Aid to Energy from Renewable Energy Sources

In principle, Eurogas' position is that renewable energy sources that are mature should compete on a level playing field amongst themselves and with other greenhouse gas reducing options in the EU internal market and under the EU ETS, meaning existing support schemes should be phased out for all mature technologies, but without retroactive effect to respect the principle of regulatory certainty. Nevertheless, below we provide some specific comments on the Commission's proposals.

P. 111 It is strongly suggested that the inhibiting effect of state aid for renewable energy on the ETS is recognised and taken into account in the Guidelines.

P. 111/2 We would also ask the Commission to redraft these two paragraphs to ensure consistency in the circumstances when aid is allowed and when it is not allowed. In this respect, we think that the Commission should provide clear limits beyond which offering of aid for renewable would cease even if a residual market failure remains. What is meant by "unless it has evidence to the contrary" – how might the provision and assessment of such evidence work in practice?

P. 114 We welcome the overall approach of integrating renewables into the market, as this is fundamental to ensure the proper implementation of the internal energy market. We have no preference for operating or investment aid, but in both cases the schemes should be designed in such a way that their impact (i.e. competition distortions) on the market is minimised. The same principles should be applied in assessing investment aid under section 5.1.

There is further value in seeking coordination amongst schemes in order to avoid having incompatible schemes in each member state. However, this need not be a one size fits all approach.

In all cases the design of the scheme chosen should ensure that renewable generators are subject to a signal for short term dispatch (i.e. an incentive is provided to generate or not depending on market prices).

P. 119 Renewables should be integrated into the market. We recommend that the paragraph 119 is edited to make this clear. Whilst this appears to be the objective of the paragraph, the wording used does seem to offer discretion on this.

With regards to the concept of assessing a technology based on deployment, we welcome that renewables technologies will be expected to compete against each other, helping to minimise the overall level of aid. Nevertheless Eurogas identified specific issues where further clarity is needed:

- What is the period for assessing whether the electricity production of a technology has reached the required level (1-3%) to be considered deployed, as the draft guidelines do not state this and information from Eurostat is only available with a 2 year lag time?
- Can a precise basis for the calculation of the 1-3% be provided?
- In view of determining the share of a technology in electricity production, we propose to define "technology" as a technology category, such as, but not

limited to, onshore wind, offshore wind, solar PV, Concentrated Solar Power, geothermal, biomass, hydro, and ocean energy. This approach is to ensure there are not too many very specific definitions / sub-categories, whereby almost all RES technologies would be considered less deployed.

P. 120a The proposal that aid is granted via a genuinely competitive bidding process helps to ensure that the level of the support is minimised to no more than necessary. However, it needs to be ensured that a functioning auctioning model is in place.

p.120b The term 'renewable energy sources' should be clarified given its importance to the purpose of the proposal in this paragraph. A wide interpretation of paragraph 18e could lead to many different outcomes.

P. 120c Eurogas supports the proposal that if aid is granted, it is done so via a feed-in premium. There is potential to expand this point to specify that the design of such a feed-in premium should ensure renewables are incentivised to respond to price signals delivered by the market.

With regard to the remaining text "*or equivalent measures involving the direct marketing of the electricity produced*", it is not clear that this requires price exposure. For instance a generator may face volume risk through direct marketing but no price risk which seems in contradiction with the concept behind a feed-in premium. In the absence of further clarity we would recommend its removal.

P. 120d We welcome the statement that the beneficiaries are subject to standard balancing responsibilities. However, this should not be limited to circumstances where competitive intra-day markets exist, for two reasons:

- Firstly, by not obliging all parties to participate in a balancing market, it reduces the likelihood of a competitive balancing market emerging. On the other hand requiring all generators to balance their production will kick-start those markets that require greater liquidity.
- Secondly the risk faced by renewable generators of having no intra-day market is the same as the risk faced by other forms of generation.

P. 121a For less deployed technologies we note that aid need not be granted via a genuinely competitive process. Eurogas recommends that a new paragraph is added to state that except where it is not possible to do so, it should be granted via a competitive process.

We welcome that aid is limited to the costs incurred but there does not appear to be any limitation of what these costs might be above market prices. We recommend that the costs are capped in this case.

P. 121b View as per comment on Paragraph 120c.

P. 121c View as per comment on Paragraph 120d.

P. 123 Eurogas supports that feed-in-tariffs should only be granted to first commercial scale installations. However, to avoid any potential abuse, these projects should be clearly defined as projects aimed at creating a new industrial field at a stage of

demonstration, after a pilot project and under real operating conditions, with a capacity below a defined level of MW per project. A clear monitoring process should be implemented to control proposed technologies and ensure that feed-in-tariffs payments stop when prices become negative.

P. 123 According to the Commission's proposal, plants with an installed capacity smaller than 1 MW should have the possibility to use feed-in-tariffs. However, the success of the energy transition depends on renewable energies assuming system responsibility. This assumption initially refers to a technical system responsibility, which makes it necessary for renewable energy power generation plants to have the possibility, in competition with other market participants, to provide system services of equivalent technical quality. This includes an obligation to equip RES plants with technical components for, amongst other things, output regulation and remote control as well as for the production of reactive power and short-circuit current.

With the proposed rule there is the risk that as a consequence a lot of plants will fall below the suggested de minimis regulation and therefore do not have to assume any system responsibility. We would therefore recommend limiting the rule to less deployed technologies and removing the threshold of 1MW or at least reducing it to no more than 100KW.

P. 124 Eurogas is concerned that this paragraph on the granting of aid to biomass plants is very open in the circumstances for allowing aid to biomass plants. It states that in both the case of costs being above market reward and where fossil fuels are being used instead of biomass, aid may be granted "to preserve the use of biomass". Eurogas does not agree that biomass should be provided favourable treatment, when being assessed for state aid.

P. 127 Whilst Eurogas is not explicitly opposed to the use of green certificates, we would urge that further caution is sought for their use, as several examples could be given of their use, which have resulted in market failure of different sorts.

Section 5.5 Aid to Carbon Capture and Storage

Eurogas welcomes the inclusion of Carbon Capture and Storage as being eligible for state aid upon meeting required criteria. CCS will remain an important option to reduce carbon dioxide emissions, particularly in the medium and long term. In terms of climate policy, current ambitious EU climate goals necessitate CCS for gas as part of the fuel mix, as a reliable base-load low-carbon fuel next to variable renewable energy sources. Unless CCS for gas technology is sufficiently tried and tested now, EU climate goals will prove elusive.

P. 161 We would not concur with the approach taken in this paragraph that appears to suggest CCS is a medium term solution which will be replaced entirely by renewables in the long term. Both approaches should be acceptable equally. Specifically we refer to the statement "While there is no alternative to reducing greenhouse gas emissions, CCS can complement reduction efforts" and "in the transition to a fully low-carbon economy". We believe CCS can form a part of a low-carbon economy. Moreover the current wording would clearly discourage investment in CCS infrastructure, which requires a longer term horizon.

P. 163 We would reiterate the point above for this paragraph, where the granting of CCS aid is limited to the “time being”, and propose that this is replaced by “as long as CO2 prices do not incentivise CCS investments”.

Section 5.8 Aid to Energy Infrastructure

Offering aid to an infrastructure project can have a detrimental impact on competing projects, either already in existence or in development. For example, a project that is completely market based and viable on its own merits would be undermined if a neighbouring competing project receives aid and therefore § 5.8.1 to 5.8.6 of the current Guidelines need to protect market based projects. An assessment of this should be added in the guidelines.

With regard to aid for PCI projects, the guidelines should respect the order of aid for infrastructure that is provided within the Infrastructure Regulation, namely:

- Firstly, the project should seek to utilise the market for support;
- Secondly, utilising the regulatory tools available under the Infrastructure Regulation;
- Thirdly, EU aid foreseen under the Regulation;
- Finally and only when the above three options have been exhausted shall aid be considered.

P. 199 We do not concur with the Commissions opinion that in view of existing requirements under the internal market regulation, it can automatically be assumed that aid for energy infrastructure subject to internal market regulation does not have undue distortive effects.

Section 5.9 Aid for generation adequacy

Eurogas welcomes the inclusion in the revised state aid guidelines of elements giving guidance for the future design of the measures to ensure generation adequacy at the European level. Eurogas welcomes the basic requirements as set out in the Commission’s proposal, but wishes to express certain concerns regarding some points developed in the draft guidelines as explained below.

Eurogas would welcome a statement clarifying that measures to ensure generation adequacy may involve state aid, as not all the schemes can be a priori qualified as such. If a measure to ensure generation is designed in a competitive and non-discriminatory way it should not be subject to state aid.

Measures to ensure generation adequacy should be designed in a competitive, efficient and non-discriminatory way and one of the key requirements should be that the approach is

technology neutral provided that different technologies offer the same level of firm and reliable capacity. The choice of the most suitable technology should be left to the market.

Measures to ensure generation adequacy should address the sole objective of electricity supply security, to ensure that enough firm capacity, regardless of production, to meet electricity demand at all times will be available in the foreseeable future. The objective of a capacity remuneration mechanism should be to address regional security of supply. Although the three objectives of EU energy policy (security of supply, fight against climate change and competitiveness) are equally important and supported by Eurogas, trying to reach too many different objectives through one instrument could hamper the efficiency of the measure and produce unwanted side effects. Therefore low-carbon electricity should be addressed through an ambitious greenhouse gas emissions target, an effective Emissions Trading System and other climate-related and technology-neutral measures.

Concerning flexibility, this should be adequately rewarded by the spot and balancing market, but if this is not the case, the design for measures to ensure generation adequacy should also consider the flexibility needs of the system.

Eurogas notes that the problem of reduced operating hours related to the increasing share of variable renewable energy sources may not only affect gas-fired power plants. It could also cause congestion and could have an impact on the attractiveness of other gas infrastructure (particularly underground storage facilities), which are necessary for the delivery of fuel to these power plants at peak times. Therefore, an impact assessment of the introduction of capacity remuneration mechanisms should concentrate on the electricity market but should also pay due attention to the gas market.

In addition we provide below specific comments on the Commission's proposals:

- P. 18(kk) Proposed redraft: “Capacity mechanism means a mechanism which remunerates operators for keeping capacity available so that demand can be covered at any time.~~aimed at ensuring that certain generation adequacy levels are met at the national level.~~”
- P. 19(b)vii Eurogas would appreciate further information on how the 7.5 million Euro threshold has been calculated/identified.
- P. 60/P. 213 It is not clear if paragraph 60 contradicts paragraph 213 where existing capacities will be able to benefit from state aid. Therefore P. 60 should be amended to ensure there is no inconsistency.
- P. 86 It is not clear how the Commission will ensure that the different treatments of projects based on their funding will not lead to an uneven playing field and market distortions.
- P. 104 While keeping distortions of competition and trade at minimum, measures to ensure generation adequacy should address the sole objective of electricity supply security. Low-carbon electricity should be addressed through measures addressing environmental objectives such as an ambitious greenhouse gas emissions reduction target, an effective ETS and other climate-related measures.

- P. 203 Eurogas would welcome a statement clarifying that measures to ensure generation adequacy *may* involve state aid, as not all the schemes can be *a priori* qualified as such. If a measure to ensure generation is designed in a competitive and non-discriminatory way it should not be subject to state aid.

Ideally the commodity price of energy, whether it is electricity, including its carbon footprint, natural gas or any other fuel, should be the driver for competition, determine investment choices and guarantee security of supply (energy-only market).

During the transition to full integration of a higher share of renewable energy sources, which is fully supported by Eurogas and can be facilitated substantially by the complementary use of natural gas, an energy-only market might no longer work in the power sector. Growing penetration of renewable energy in electricity generation has reduced the operating hours of conventional plants and the spread between base and peak load prices. In some Member States, there is overcapacity or market distortion. Many gas-fired power stations have therefore become uneconomic, and investment plans for new plants are being abandoned.

Where gas-fired power plants remain necessary to back up electricity supply from intermittent renewable energy sources since other backup options are not available, less flexible or generally less economically efficient, the lack of sufficient revenue and, as a result, the potential mothballing or decommissioning of plants or abandonment of investment plans has caused considerable concern. According to the European Commission's Energy Roadmap 2050, the share of renewable energy in the European energy mix will increase further in all possible scenarios. There is thus evidence that the issues of concern may have a structural character.

This situation has led some national governments to consider alternative remuneration mechanisms. Capacity remuneration mechanisms for power plants are expected to provide a more assured route for recovering the value of capacity than relying on capturing peak energy prices.

- P. 204 It should be differentiated that not every mechanism to ensure generation adequacy constitutes automatically state aid. Mechanisms at which the prices are determined in a competitive way (e.g. by auctions or continuous trading) should not be subject to state aid.

Regarding the reference to different objectives, while care needs to be taken that measures to ensure generation adequacy do not decrease the effectiveness of environmental instruments, the sole objective should be the security of electricity supply.

For operating aid, Eurogas believes that measures to ensure generation adequacy should only remunerate the availability of firm capacity regardless of production.

Regarding the reference to flexibility, capacity remuneration mechanisms should ensure the provision of required firm capacity. Flexibility should be adequately

rewarded by the spot and balancing market, but if this is not the case, the design for a capacity remuneration mechanism should also consider the flexibility needs of the system. For example, this is not the case if price signals, such as price spikes and price volatility, are not accepted and prices are capped or if other interventions, such as restrictions or unnecessary regulatory requirements on plant operations, endanger the ability of the market to deliver those flexible resources.

- P. 206 Propose add “for electricity” after European Network of Transmission System Operators.
- P. 207 This paragraph only seems to refer to flexibility and not to the provision of required firm capacity.
- P. 209 Eurogas notes that the problem of reduced operating hours may not only affect gas-fired power plants. It could also cause congestion, and have an impact on the attractiveness, of other gas infrastructure (particularly underground storage facilities), which are necessary for the delivery of fuel to these power plants at peak times. Therefore, an impact assessment of the introduction of capacity remuneration mechanisms should concentrate on the electricity market but should also pay due attention to the gas market.
- P. 210 View as per comment on paragraph 204.
- P. 211 It can be appropriate to have different lead times but it should be open to all technologies available and should not be discriminatory.
- P. 212 While the design of the measures to ensure generation adequacy should allow the participation of different technologies provided that they can offer the provision of firm and reliable capacity to cover system needs, the choice of the most suitable technology should be left to the market. Low-carbon electricity should be achieved through measures implementing environmental objectives, i.e. an ambitious greenhouse gas emissions reduction target, an effective emissions trading system and other climate-related measures. Paragraph 212 should therefore be deleted.
- P. 214 Eurogas considers that a capacity mechanism design should be market based. In any market, there is no “calculation” needed to understand the price. It is the outcome of the market. Sufficient monitoring and transparency are the right tools to verify whether the market outcome is appropriate.
- P. 217 Capacity mechanisms if designed in a non-discriminatory and competitive way, do not represent a subsidy, rather lead to a different allocation of revenue streams. As a consequence, paragraph (217) should be deleted.
- P. 218a The approach should be technology neutral provided that different technologies can offer the provision of firm and reliable capacity to cover system needs. The choice of the most suitable technology should be left to the market. Flexibility should be adequately rewarded by the spot and balancing market, but if this is not the case, a capacity remuneration mechanism design should also consider the flexibility needs of the system.

P. 218c The reference to a “sufficient number of generators” should be further defined.

The design of a measure to ensure generation adequacy should not encourage market concentration. The market should define the right number of operators.

P. 219 As explained in paragraphs 104 and 204, Eurogas is of the opinion that measures to ensure generation adequacy should have the sole objective of security of electricity supply.

Section 7 Applicability of the environmental and energy aid guidelines

P. 230 As proposed by DG COMP, Eurogas favours a specific transitional period (230). Developing renewable energy projects is a long process, and regulatory uncertainty is often a cause of investment being delayed. However, Eurogas believes that the transitional measures put forward in the draft guidelines lack clarity and fail to provide either legal certainty or convergence (particularly due to different implementation delays in Member States for support scheme revision). As a result, Eurogas is convinced that new rules for operating aid granted to renewables in the framework of support schemes should not apply to projects that have been authorised by the competent authority before 1 July 2016.

After this date, all new projects should be granted state aid only under schemes which comply with the revised guidelines.

Such a timeline will both enhance legal certainty, as it defines the transition time very clearly, and encourage convergence of national support schemes at European level, as all Member States will follow the same time plan.

To sum up: After July 2016, all support schemes should be compliant with the new guidelines (notified and approved by the Commission). When a beneficiary has received confirmation from a competent authority that it will benefit from renewable support schemes for a predetermined period, such aid shall be granted under the entire period under the conditions laid down in the scheme at the time of the confirmation. In the case of a tender process, the confirmation consists in the award decision for a beneficiary from the Member State.