

State aid Registry - Directorate-General for Competition
European Commission 1049 Bruxelles, BELGIQUE
Ref.: "HT 359 - Consultation on Community Guidelines on State Aid for Environmental Protection"

Questions and proposed additions to the Commission draft on Environmental and energy guidelines for state aid 2014-2020

1.3 Definitions

(18)

(b)

The definition should be: “*energy-efficiency* means an amount of saved *primary* energy determined...” EU’s targets in the Energy Efficiency Directive are expressed in primary energy consumption, which should be reflected here.

5.1 General compatibility provisions

(104)

It is stated in the draft, that selection processes should be conducted in a non-discriminatory, transparent and open manner.

Will it only be possible to have aid schemes in applications rounds in the future, or will it still be possible to have aid schemes where it is more voluntary when applicants can apply for investment aid for projects?

If an aid scheme is notified according to the general block exemption regulation, but an individual project have to be notified according to these guidelines, should such a project go through these selection processes as well?

5.2. Aid to energy from renewable energy sources

Danish offshore wind farms are erected in accordance with EU legislation on public procurement. The Danish authorities assume, that tenders of offshore wind following the general EU legislation on public procurement, continues not to constitute state aid and is therefore not covered by these guidelines.

(118)

It is stated in the draft, that the Commission will not require that schemes are open to other EEA or Energy Community countries as long as Member States duly explain the reasons for the absence of a cooperation mechanism.

The Danish authorities support these cooperation mechanisms in the RES-Directive, as they can serve as a useful tool for Member States that may not have the same potential to meet their RES-obligations within their borders.

Operating aid for RES projects should not be mandatorily linked to the use of the RES-directive's cooperation mechanisms, as it would weaken the economic impact and political commitment in all

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Member States to obtain the necessary funding for the green transition, if funds are channeled to projects outside the country's borders.

The Danish authorities must therefore give high priority that operating aid for RES projects not being linked to the use of the RES-Directive's cooperation mechanisms and that the cooperation mechanisms remains a fully voluntary scheme which Member States may choose to make use of if appropriate.

On the multilateral meeting 10 February 2014, the Commission stated, that the Commission considered the cooperation mechanisms a fully voluntary instrument. The Danish authorities are proposing, that this will be more clearly reflected in the draft.

(119)

The draft is differentiating between aid for deployed and less deployed technologies. The criterion is depending on the technology share in electricity production reached, and it is suggested in the draft that a deployed technology should at least cover [1-3] % of the gross electricity production at EU level, before it is considered "deployed".

The Danish position is that this threshold should be as high as possible and at least 3 %, considering the concerns on technology neutral bidding processes.

(120)

The Danish authorities cannot support the approach of the draft, that aid for developed technologies shall be based on technology neutral bidding processes.

The requirements for technology neutrality for mature or immature technologies will set up severe barriers for Member States to implement strategic support schemes effectively as they cannot be targeted at certain technologies. It is therefore of crucial importance for the EU's transition towards green energy systems and a low carbon economy that Member States are allowed to pre-define the technologies that can be granted technology specific operating aid for mature RES technologies in a bidding process.

If aid for developed technologies however anyway is decided to be based on a technology neutral bidding process, only technologies covering the same energy products (electricity, heat, cooling) can be included in the same bidding process. E.g. renewable technologies generating only electricity and renewable technologies generating combined heat and electricity must be separated in different bidding processes. Further, bidding processes including renewable technologies, which are supplying a certain heat market, must secure that there will be established a CHP-plant or a heat plant, based on renewables, when there is a local need for replacement of an outdated existing plant.

It is stated in littera f, that any investment aid previously received must be deducted from the operating aid.

Does this refer to investment aid to the installation in general, meaning that it should not be possible to give operating aid to a plant, if it has previously received investment aid? Or does it only mean, that it should not be possible to support the same costs twice through investment aid as well as

operating costs? In this way an investment aid would not exclude applying for operating aid later on.

(121)

The Danish authorities are assuming that the criteria for achieving aid as “less deployed technology” will cover all technologies, which are using renewable sources to produce electricity, including technologies, which are producing electricity and heat.

It is a condition for aid for less deployed technologies, that production costs are updated regularly, at least every [6 months] or each [1 GW] of installed new capacity.

It would decrease investors trust if there would be a risk of adjusting the support every 6 months. Besides it will be a large administrative burden for the authorities to carry out such an update every 6 months. Thus the Danish authorities are proposing, that the updating will only be every 5 years or rare.

5.3 Energy efficiency measures, including cogeneration and district heating and district cooling

(139)

The definition in 139 seems to have as an implication that renovation of district heating network cannot be supported. The Danish District Heating Association has noticed in their letter to the Danish authorities that in particular in Eastern Europe support to renovation of network should be possible from an energy – and climate perspective as well as from a green growth perspective.

(150) – (152)

According to the draft, operating aid for new CHP may be granted on the basis of the conditions applying to operating aid for energy from deployed renewable technologies (151), and aid to support existing CHP may be granted on the basis of the conditions applying to operating aid to existing biomass plants (152).

If a new CHP plant is fulfilling the conditions for achieving aid as a less deployed renewable technology, operating aid for such a new CHP should be qualified to be granted aid on the basis of the conditions applying to operating aid for energy from less deployed renewable technologies (121). The Danish authorities would propose a clarification of this in the guidelines.

According to the conditions laid down on aid for deployed technologies in (120), litra (b), and for existing biomass plants in (125), litra (a), it is a condition, that the plant is producing electricity/energy from renewable sources. Therefore it seems as a condition for supporting CHP, that the plants are only producing energy from renewable sources.

The Danish authorities would like a confirmation on whether this is the right interpretation of the conditions for support to CHP?

(151)

The Danish authorities assume, that it will be possible to make site specific bidding processes corresponding to a given district heating market, if found feasible to do so. It is proposed, that the guidelines would clarify this.

5.7 Aid in the form of reductions in funding support for electricity from renewable sources

(180)

Will the Commission confirm, that the draft guidelines – provided that they stand – will cover all kinds of funding support for electricity from renewable sources, i.e. both PSO-costs, use of green certificates etc.? The Danish authorities propose a clarification of the text on this issue.

(184)

The paragraph introduces environmental considerations. In order to ensure that the aid has an environmental effect, the draft guidelines should introduce the opportunity to condition aid on the entering of agreements between the member state and the beneficiaries or associations of beneficiaries, along the same lines as those introduced in paragraph 179(b). On the multilateral meeting on 10 February 2014, the Commission confirmed this interpretation of the draft. The Danish authorities propose a clarification of the text on this issue.

(184)

The aid should be limited to electricity intensive sectors. However, the carbon leakage criteria is not a fitting criterion to apply when it comes to national regulations as opposed to European-wide regulations (eg. the ETS). Using the carbon leakage criteria means distorting competition between member states, as member states have chosen different paths to finance the expansion of RE. This means that the Commission's current draft gives de facto preferential treatment to electricity intensive enterprises in countries, where the expansion of RE is financed over the fiscal budget. Will the Commission elaborate on the logic behind this criterion?

(184)

How will the draft guidelines – provided that they stand – apply the carbon leakage requirements? On a very detailed (national?) enterprise-level or by applying the ETS? If a certain company fulfills the requirements, but the sector is not recognized as being in risk of carbon leakage by the EU, how will it be treated? Denmark believes, that – as funding support for electricity from renewable sources is a purely national field of responsibility - the carbon leakage requirements should be applied on a national level.

(186)

Regarding lump sum, Denmark finds that it is against the Danish Constitution to differentiate between different end users of electricity by using lump sum tax credits. The Danish authorities therefore urges the Commission to maintain the current wording and require aid to beneficiaries to be paid as a lump sum amount.

(186)

The aid intensities applied in 186(b) is in percent. In Denmark, the PSO can increase or decrease every quarter, which may create a situation, where Denmark is applying the decreasing percentages

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mentioned in 186(b), but is aiding companies with an increasing amount of money. How does the Commission intend to interpret and apply this paragraph?

6. Evaluation

If a Member state is having an aid scheme according to the general block exemption regulation, but an individual project is notified according to these guidelines, should such a project be subject to an evaluation as well?

(223)

The draft states, that there should be a time limitation on the support schemes of normally 4 years or less. It is the Danish position, that it should be possible with longer durations, i.e. at least 10 years, as investments in the green transition are often expensive and investors trust on the aid schemes are important.

7. Applicability of the Environmental and Energy Aid Guidelines

(230)

The understanding of the draft is that all schemes concerning operating aid for energy production from renewable energy sources will be able to stay in force until they expire according to the approval from the Commission. Besides beneficiaries *from all kind of schemes concerning operating aid*, will be granted aid under the entire period, if the beneficiary has received such a confirmation? On the multilateral meeting on 10 February 2014, the Commission confirmed this interpretation of the draft. The Danish authorities propose a clarification of the text on this issue.

Annex 1, Aid intensities

The level of aid intensities is lower in the draft compared to the maximum aid intensities in the current guidelines.

It is the Danish position that this level of maximum aid intensities should continue in the new guidelines.