EUROPEAN COMMISSION

MEMO

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Energy and Environmental State aid Guidelines – Frequently asked questions

See also IP/14/400

What is the purpose of the guidelines?

The Environmental and Energy State Aid Guidelines (EEAG) will replace the existing guidelines on aid for Environmental protection that entered into force in 2008.

The new guidelines aim at helping Member States to design state aid measures that contribute to reaching their 2020 climate targets and provide sustainable and secure energy, while ensuring that those measures are cost-effective for society and do not cause distortions of competition or a fragmentation of the Single Market. The guidelines will be in force until the end of 2020.

The guidelines follow the Commission guidance for public support to the energy sector through state interventions that do not necessarily involve State aid. (See IP/13/1021 and MEMO/13/948)

What are the main changes?

The guidelines extend the scope of the existing guidelines (guidelines on aid for Environmental protection) to the energy field, in particular to cover state aid to energy infrastructure projects, generation adequacy measures and energy intensive users. These new rules are based on case practice and policy developments of the recent years.

The new guidelines also simplify the assessment criteria of several state aid measures already covered by the previous 2008 guidelines, such as energy efficiency or cogeneration of heat and power.

The rules for supporting renewable energies are modernised to take account of their increasing share in the electricity market and the need to make support systems sustainable for society. In particular, to support the competitiveness of European industry, the guidelines allow Member States to relieve some EU energy intensive sectors particularly exposed to international competition from some of the burden of financing renewables.

In parallel, many existing measures have been included in the draft revised General Block Exemption Regulation, exempting these measures from prior scrutiny by the Commission. The Regulation will be adopted in May 2014 and enter into force on 1 July 2014 parallel to the guidelines.

What will the guidelines change for renewable energy support?

In recent years, renewable energy sources have been heavily supported with fixed tariffs. This has encouraged enormously the growth of renewables in the energy mix and has put Europe on track for meeting its 2020 renewables target. However, this type of support has also sheltered them from price signals and has led to market distortions. In particular, renewables installations have generated electricity irrespective of the actual demand and they have out-competed other electricity generation which has to rely solely on the market price to operate economically. As technologies mature and their production reaches a substantial share of the market, renewable energy production can and should react to market signals, and aid amounts should respond to falling production costs.

The new guidelines therefore aim to better integrate renewables into the internal electricity market in a gradual way, limiting support to what is truly necessary. Competition between different technologies is introduced in a cautious manner so as not to undermine the development of less mature technologies and investment in innovation.

Feed-in tariffs are progressively replaced by **competitive bidding processes** that will increase cost effectiveness and limit distortions of competition.

From 2016, generators need to sell their electricity in the market and be subject to balancing responsibilities (an obligation on producers to compensate for short-term deviations from their previous delivery commitments). As of then, Member States are also obliged to use as support instruments market premiums – a top-up on the market price – or certificates in order to promote the better integration of renewable energy into the market.

In 2015-2016, Member States will start implementing competitive bidding procedures for a small share of their new capacity from renewables. From 2017 on, Member States shall set up tenders to grant support to all new installations.

The system gives Member States flexibility to take account of national circumstances, and even allows them to depart from competitive processes when the outcome might not be optimal. To facilitate the better functioning of the internal electricity market, the guidelines also promote the use of co-operation mechanisms to facilitate cross-border support of renewable energy where possible and appropriate.

What can small producers of renewable energy expect from the new rules?

Small installations or technologies in an early stage of development can be exempted from participating in competitive bidding processes. The Guidelines define small installations as those producing less than 6 MW of wind power (or 6 generation units), or 1 MW of power from other renewable sources, such as solar or biomass.

In addition, small installations that are below 3MW or 3 Generation Units (for wind) or 500kW (for other sources) are considered to have less potential to participate in the wholesale market and can continue to benefit from any form of aid including feed-in tariffs.

Do the guidelines foresee any other exceptions to competitive bidding?

From 1 January 2017, operating aid to renewable energy will in principle be granted in a competitive bidding process. However, as with small producers, some exceptions from this general rule are possible. This is the case where Member States can demonstrate that a bidding process would lead to an unsatisfactory outcome - e.g. because only one or a very limited number of projects or sites would be eligible; or because a competitive bidding process would lead to higher support levels (for example due to strategic bidding) or would result in low project realisation rates.

Will owners of existing installations receive less state aid?

No, the guidelines will have no effect on aid paid to the owners of existing installations. These continue to receive aid based on existing approved state aid schemes, to maintain investors' legitimate expectations on the returns on their existing investments.

Aid which has not been notified to the Commission will however be assessed on the basis of the guidelines in force at the moment of granting the aid (i.e. where applicable, the Guidelines on aid for Environmental protection adopted in 2008), with one exception: the new guidelines will apply retroactively for the assessment of reductions in the financing of renewables for energy-intensive users. The possibility for such reductions was not foreseen in the previous guidelines.

What will be the guidelines' impact on energy prices? What are the provisions for energy intensive companies?

Charges levied to fund renewable energy support make up for an increasing proportion of the energy bill for households and industry. One of the main objectives of the guidelines is to make support to renewable energy more cost-effective, which should eventually reduce energy costs.

In addition, some support is allowed for energy intensive sectors, such as the manufacturing of chemicals, paper, ceramics or metals. These sectors support a very high burden from levies charged for renewables support because they are heavy intensive users of electricity. Moreover, the exposure of these sectors to global trade puts them at a disadvantage towards competitors from outside the EU where electricity prices are lower.

The guidelines mainly follow an approach based on sectors. However, to account for heterogeneous situations within some sectors, Member States also have the possibility to grant reductions to undertakings having a high electro-intensity (electricity costs accounting for at least 20% of gross value added) and active in a sector exposed to international trade (4% of trade intensity, calculated as the total trade of the sector with third countries, relative to the market size in the EU).

To preserve the competitiveness of these sectors and undertakings, the new guidelines allow granting them reductions on the charges levied to support renewable energies. To ensure that this does not go beyond what is strictly necessary, the aid is partial (companies will have to partially contribute to the funding of renewables).

The existence of an EU-wide framework for such reductions will ensure that Member States can tackle competitiveness problems of certain sectors while avoiding subsidy races between EU Member States.

The full list of eligible sectors is included in annex 3 of the guidelines, available here: http://ec.europa.eu/competition/sectors/energy/legislation_en.html.

Under what conditions is aid allowed to energy infrastructure?

A modern energy infrastructure is essential for Europe's internal energy market to function properly and to meet our climate and energy goals. However, it is an area where market operators may lack incentives to carry out investments. This is true in particular for infrastructure projects with a cross-border impact, where benefits accrue outside the country making the investment. A similar situation may exist for smart grids or when the investment would need to take place in a less developed area of the EU. In those cases, projects may need to be complemented with public aid.

An important element for aid to energy infrastructure to be approved is that projects are open to access by third parties and subject to tariff regulation, so that all users benefit from the infrastructure.

What are the rules for energy market capacity mechanisms?

First of all, Member States should analyse the causes for inadequate generation. Secondly, they should remove any distortions that may be preventing the market from delivering the right incentives for investment in generation capacity.

If it is found that there is indeed a risk of insufficient electricity generation capacity, Member States may implement a so-called 'capacity mechanism'. The guidelines establish certain principles how such a mechanism should be designed to avoid distortions of competition and a negative impact on the internal energy market. The mechanisms should for example be open to both existing (e.g. retrofitting plants) and new generation capacity and should include alternative measures to overcome the capacity shortage, such as better interconnection with other Member States, electricity storage and a more flexible or reduced electricity consumption. Moreover, the mechanisms should reward only the availability of capacity and not the sale of electricity and be open to generation from other Member States.

Do the guidelines include any provisions on aid to nuclear energy?

The guidelines do not include rules on aid to nuclear energy. This means that if Member States decide to fund projects in this area, they need to notify the aid to the Commission, who will assess it case-by-case under the general Treaty state aid provisions.

In which way do the new rules simplify the granting of state aid?

The new rules contribute to the modernisation of state aid control by providing a simpler and more consistent framework for assessing state aid measures. In particular:

- The method for determining the costs that are eligible for the calculation of the aid has been simplified.
- The aid thresholds above which individual aid projects need to be notified to the Commission for state aid scrutiny have been revised and increased. When projects are selected through a competitive bidding process, no notification is necessary.
- The principles on which the Commission assesses aid measures have been aligned and are now common throughout all state aid guidelines.
- Certain categories of environmental and energy aid have been moved to the upcoming revised General Block Exemption Regulation (GBER), including measures to promote renewable energies, to clean up contaminated sites, to promote district heating and to improve the energy efficiency in buildings. When expenditure in such projects complies with the criteria in the Regulation, those measures are automatically deemed to be compatible with the Single Market and do not need Commission approval before they can be implemented.

What happens next?

From 1 July 2014, the Commission will assess new and pending notified State aid measures according to the criteria set out in the new Guidelines. Member States have one year from the publication of the guidelines in the EU Official Journal to bring existing aid schemes in line with the new guidelines, except for schemes for operating aid for renewable sources and cogeneration, which only need to be brought in line if they are prolonged or adapted.

From 1 January 2016, support to new renewable energy installations should gradually start being based on market conditions.

The new General Block Exemption Regulation (GBER) will include specific provisions exempting environmental and energy aid measures fulfilling certain conditions from the obligation of prior notification to the Commission. The adoption of the Regulation is foreseen in May.

See the full text of the new guidelines on:

http://ec.europa.eu/competition/sectors/energy/legislation_en.html