

---

# **ENTSO-E Response to the European Commission Consultation on the Draft Guidelines on Environmental and Energy Aid for 2014-2020**

---

To the attention of the European Commission

13 February 2014

---

## Introduction

On 18 December 2013, the European Commission published its proposals for a review of the ‘Community Guidelines on State Aid for Environmental Protection<sup>1</sup>’ for a two month public consultation period. ENTSO-E supports the Commission’s initiative to broaden the scope of the Guidelines in order to include energy related issues and considers that these new rules will lead to increased legal certainty and therefore contribute to the quality of public spending in the environment and energy areas.

ENTSO-E welcomes the proposed Guidelines on Environmental and Energy Aid for 2014-2020 (hereafter referred to as ‘Guidelines’) as they further clarify the framework for public support to be compatible with the internal energy market and to facilitate the achievement of European energy policy objectives. This clarification will also provide guidance for Member States in order to avoid unjustified state aid and related financial return instructions, which might lead to very significant administrative burden on TSOs.

TSOs are playing a key-role in the completion of the internal energy market, the achievement of the climate objectives of the Union and in ensuring the security of supply at European level. None of the main European energy policy goals can be met without an integrated, secure and reliable power system. The design and implementation of energy state aid may have a relevant impact on the work of ENTSO-E and its members. ENTSO-E thus takes the opportunity to respond with this document to the Commission’s public consultation.

## Energy infrastructure

*The following paragraphs refer to section 5.8 on ‘Aid to energy infrastructure’.*

ENTSO-E supports the Commission’s views on the importance of investments in grid development and their role for the completion of the European energy market, security of supply and the transition to a low-carbon energy mix.

The Commission considers investments in energy infrastructure to be a no-regret option and has estimated total investment needs in energy infrastructure of European importance up to 2020 at about EUR 200 billion. The TYNDP 2012 accordingly identified over 100 transmission projects of pan-European significance (notwithstanding projects of national relevance).

Ideally, adequate regulatory regimes, allowing for the necessary investments to take place, should be implemented across Europe. Unless this becomes reality, state aid support might be necessary to overcome market failure and co-ordination problems.

ENTSO-E welcomes the introduction of a clear framework for providing state aid to energy infrastructure. However, ENTSO-E would like to emphasise that these Guidelines should only provide clarification on the legal requirements set out by the Treaty (TFEU Art. 107), while not introducing additional restrictions for state aid for energy infrastructure.

In this context, ENTSO-E supports the proposed approach in favour of Projects of Common Interest. However, apart from the selected Projects of Common Interest, many other investments in grid development (e.g. TYNDP projects or projects of national relevance) contribute to the achievement of the Union’s climate and energy goals. Therefore, ENTSO-E believes that such investments may also be subject to market failure and should also fall under the scope of these Guidelines.

ENTSO-E underlines that the scope of the Guidelines should cover all kinds of transmission infrastructure as long as they respect the principles laid down in the Guidelines. We therefore suggest that the definition of energy infrastructure should not introduce voltage thresholds regarding transmission assets.

---

<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:082:0001:0033:EN:PDF>

## Adequacy measures

*The following paragraphs refer to section 5.9 on ‘Aid for generation adequacy’.*

ENTSO-E welcomes the Commission’s reference to the Scenario Outlook and Adequacy Forecast regarding the assessment of the necessity for state aid to ensure adequacy. ENTSO-E supports the Commission when acknowledging that TSOs’ expertise is necessary to determine risks on adequacy and the associated impacts on security of supply. ENTSO-E is currently developing the methodology and the tools needed to address challenges, especially due to the integration of significant variable renewable generation, and to provide for a reliable cross-border approach.

When assessing the compatibility of those mechanisms considered as state aid, it will also be necessary to take into account national adequacy assessments required by the Electricity Security of Supply Directive (2005/89/EC) in order to respect Member States’ responsibilities regarding security of supply and adequacy and to address specific issues of power systems, as recently recalled by the Electricity Coordination Group.

As the Commission, ENTSO-E considers that the decision to implement adequacy measures should be preceded by a careful assessment of the physical needs of the system. To that extent, ENTSO-E underlines that, from an adequacy point of view, increasing production or exchanges of energy and reducing consumption all contribute to security of supply and should be encompassed without any discrimination in adequacy assessments.

Such adequacy assessments will allow designing capacity mechanisms that efficiently address the needs of the system and bring an effective contribution to the security of supply without only aiming at providing additional revenues to a category of stakeholders.

When assessing the proportionality of those mechanisms considered as state aid, ENTSO-E shares the views of the Commission that capacity mechanism designs need to respect some key principles. They should be market-based, non-discriminatory, forward looking and transparent. Moreover, generation, cross-border exchanges and demand-response all contribute to the security of supply and should therefore all be eligible to participate in capacity mechanism regimes, taking into account their technical specificities and limitations. Lastly, capacity mechanisms need to be cost-effective in the interest of consumers.

## Renewable Energy Sources (RES)

*The following paragraphs refer to section 5.2 on ‘Aid to energy from renewable energy sources’. The same principles should also apply to the section 5.3 on ‘Energy efficiency measures’, regarding high energy efficient CHP.*

TSOs are responsible for ensuring the stability and functioning of the electricity system. While recognising that RES support schemes are appropriate tools to address the EU’s energy and climate challenges, ENTSO-E also emphasises the risks that some form of support for mature technologies could represent.

In particular, we think that State support should not be designed equally for ‘deployed’ and ‘less-deployed’ technologies. ENTSO-E therefore welcomes the proposal from the Commission to distinguish between ‘deployed’ and ‘less-deployed’ technologies and would generally tend to support a deployment threshold closer to the proposed 1% rather than 3% calculated at European level. This would ensure that RES technologies which can have an impact on the market, such as PV and wind, will be considered as deployed technologies. On the other hand, the European Commission should bear in mind that in some specific cases (like for instance geothermal power) the deployment ratio may not necessarily be the only relevant criterion to identify a mature RES technology where specific support would not be justified.

ENTSO-E also stresses that RES should be integrated into the market and be balance-responsible, where still not the case. Indeed, having RES exempted from balancing and scheduling obligations increases

operational complexity for TSOs and can represent a threat for the security of the electricity system in extreme circumstances. To that extent, ENTSO-E strongly supports the Commission's proposition to consider balancing responsibilities for RES as a condition to assess the compatibility of state aid for both deployed technologies and less-deployed technologies.

Applying balancing responsibility to RES technologies, especially in a European context where RES capacities will soon become predominant in the generation mix, would minimise the volume of imbalances within Europe and reduce the associated costs to end consumers. It would also provide very strong incentives to invest in technologies (e.g. better forecasting tools) to minimise imbalance risk.

To that extent, ENTSO-E believes that the definition of 'competitive intra-day balancing market' may be subject to different interpretations and used as an excuse to keep such special arrangements for RES. Therefore, ENTSO-E suggests that the extension of balancing responsibility to all generation technologies should not be limited to situations where a 'competitive intra-day balancing market' exists, or at a minimum the word 'competitive' should be deleted.

With regard to specific RES support schemes, ENTSO-E believes all mature technologies should be exposed to wholesale market price signals. As such, certificates or premiums should be privileged as they minimise market distortions and operational complexity for TSOs. In addition and to facilitate an efficient transition towards market integration of RES, the Guidelines should enable an appropriate phase out of state aid, which takes into account local circumstances and market conditions at Member State level.

ENTSO-E would like to emphasise that some types of support to RES, which may not be considered as state aid, are very problematic for the security of the system when provided to deployed technologies. In particular, priority dispatch at high levels of RES and CHP can lead to increased security issues and inefficiencies in the internal market. To that extent, ENTSO-E considers that all sorts of supports must be designed with due consideration of issues related to system security, and provide the means for the TSO to intervene in case of risk for the system security.

## Definitions

*The following paragraphs refer to section 1.3 on 'Definitions provisions'.*

ENTSO-E supports the effort of the Commission to provide for more clarity via a set of defined terms. ENTSO-E welcomes the fact that some definitions have already taken into account existing terms in EU legislative acts (such as: Third Package legislation, Directives 28/2009, 35/2004, 75/2010, 27/2012, etc.) or definitions being used in the draft network codes as developed by ENTSO-E.

However, ENTSO-E feels that certain inconsistencies or deviations from existing EU rules or network codes still remain (e.g.: the definition of 'Union standards' vs. 'European Standards' in the Energy Efficiency Directive, definition of 'Renewable Energy Source' which is broader than the one in the RES Directive, need for reference to the Directive 35/2004 in the context of the 'polluter pays principle', definition of 'imbalances' which deviates from the one in the NC Electricity Balancing etc.). Therefore, ENTSO-E draws attention to those differences and proposes to rely on existing defined terms, if relevant, in order to create a better and common understanding of the rules.

As a consequence, ENTSO-E would like to suggest the following changes to the balancing definitions as stipulated in the draft guidelines:

- i) 'Balancing responsibilities' and 'standard balancing responsibilities': ENTSO-E believes that these definitions have no added value and would therefore suggest deleting them.
- ii) 'Balance Responsible Party' (BRP): ENTSO-E recommends aligning this definition with the corresponding definition in the Network Code on Electricity Balancing.

- iii) ‘Imbalances’, ‘Imbalance Settlement’ and ‘Imbalance Settlement Period’: ENTSO-E recommends aligning this definition with the corresponding definition in the Network Code on Electricity Balancing.