CONSULTATION OF THE EUROPEAN COMMISSION ON STATE AID FOR ENERGY AND ENVIRONMENT 2014-2020

Response from the UFE (Union Française de l'Electricité)

14th February 2014

Union Française de l'Électricité

About the UFE

The UFE (Union Française de l'Électricité) is the professional association of the French electricity sector. It represents the employers in the electricity and gas industry sector, as well as the interests of its members, producers, suppliers, and transmission and distribution system operators, in matters economic, industrial or social.

The UFE is a member of MEDEF (the French employers' association) and of EURELECTRIC, the European association of the electricity industry. The UFE brings together, directly or indirectly, over 500 companies, gathering in France about 150,000 people, and generating over €40 billion of benefits per year.

The following are members of the UFE: BKW, CNR, Direct Energie, EDF, ENEL France, E.ON, ERDF, France Hydro-Electricité, GDF SUEZ, RTE, SHEM-GDFSUEZ, Syndicate for Renewable energies (SER), UNELEG.

The UFE is a not-for-profit association under French law. We adhere to the code of conduct defined by the European Transparency Register, with the ID number: 30146663069-53.

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SUMMARY

UFE welcomes the initiative of the European Commission, to launch a public consultation on State Aids for energy and environment for the period 2014-2020. UFE also acknowledges the effort made to simplify and clarify the document published on the 18th of December, compared to the versions previously submitted for consultation.

The current review, at the European level, of State Aid control is an opportunity to strengthen the European electricity market. It is indeed crucial to establish a European framework for State Aids, to preserve the competitiveness of European industries, and guarantee the development of low carbon energy sources, while ensuring security of supply for the member States.

For UFE, the new regulation should promote the development of efficient tools to implement energy and environment policies, and in the frame of a low carbon strategy, rolled out through a single CO2 target.

Energy infrastructures

It is crucial to optimize the investments in energy infrastructures in accordance with the long-term needs of the electricity system, and the constraints in terms of security of supply.

This is why policies improving the coordination between the network development, and the evolution of the structure and location of the electricity generation mix, has to be promoted.

System stability and capacity adequacy

European energy policies must integrate a strategy to guarantee the long-term stability and sustainability of the European electricity markets.

However, doubts are progressively rising regarding the ability of « energy only » markets, to deliver a sufficient level of security of supply compatible with the expectancies of public authorities, which led many member States to consider, or announce the implementation of capacity mechanisms.

Firstly, UFE underlines that these mechanisms should not be automatically defined as State Aid. **In particular, the UFE considers that the mechanism of capacity obligations implemented in France, doesn't constitute State Aid as set out by article 107(1) of TFUE. It is indeed an obligation mechanism, supported by electricity suppliers, and which doesn't imply any direct public financing, nor any transfer of public resources.**

The assessment of the necessity of such mechanisms has to be made on the basis of the physical needs of the system, consistently with national and European evaluations.

Support schemes for renewable energies :

UFE welcomes the distinction of energy technologies according to their level of deployment, but the notion of "technology" should be specified in more detail. In particular, offshore and onshore wind technologies should be distinguished.

UFE supports the approach of the European Commission, in favor of a « market price + premium » mechanism, leading to a progressive valorization of the RES production on the market**.**

UFE also recommends a transitory support mechanism, in the form of a premium for power (€/MW). The call for tender procedure could provide for the possibility to pay the premium in a degressive way, in order to compensate partially the actor's needs for financings, and ensure a smooth transition towards the market, at the end of the contract.

UFE also supports the proposal of the Commission, to submit the selection of eligible projects for support schemes to a bidding process, transparent, competitive, and non-discriminatory, which is already in place for several technologies in France. It facilitates the control of installed capacities, as well as the global cost of public support.

For technologies of first commercial scale, or pre-commercial scale, UFE recommends a support specifically focused on R&D and innovation.

Finally, for reasons related to the critical size of the installations, UFE is in favor of specific support modalities for small installations, while encouraging the producers to evolve towards a better market integration, by joining the "market price + premium" regime.
UFE recommends a differentiated approach, based on the power thresholds of the projects (less than 100 kWc for the photovoltaic, and less than 5 MW for other technologies).

For legal certainty matters, UFE underlines that contractual conditions set out for existing installations should be maintained. UFE proposes that concerned member States have to notify their action plan to the EC by the end of 2016, and fully comply with the guidances by 2020 at the latest.

Competitiveness of electro-intensive industries

Is it crucial to preserve the consistency of European energy and climate policies. **Therefore, if such adjustments were to be considered, they should be harmonized at a European level, and concern essentially industries exposed to international competition.**

Nevertheless, for UFE, the electricity sector shouldn't support the financing of these adjustments: the support of European industries against international competition should be addressed by the European industrial policy, instead of its energy policy.

Finally, the charge related to the financing of these adjustments should be distributed through a case-by-case approach, in due proportion to the share of these industries in the productive structure of the member States.

Union Française de l'Électricité

CONSULTATION ON DRAFT GUIDELINES ON ENVIRONMENTAL AND ENERGY STATE AID FOR 2014-2020

ISSUES RELATED TO THE REVISION OF GUIDELINES ON ENVIRONMENTAL AND ENERGY AIDS FOR 2014-2020

The implementation at a European level, of a transparent framework for State Aids, and easy to implement, is a key element to guarantee a stable and predictable regulatory framework for investors, within the energy sector.

This is why UFE welcomes the initiative of the European Commission to harmonize and simplify the existing rules. In this regard, UFE also acknowledges the effort made to simplify and clarify the document published on the 18th of December, compared to the versions previously submitted for consultation.

State Aid control, in the fields of Energy and Environment, is a central tool to guarantee the efficiency of European energy policies and their suitability to the evolution of the power system.

Today, the electricity sector is facing a difficult situation, threatening the competitiveness of its industries, as well as - ultimately - the security of electricity supply in the European Union. Indeed, Europe is simultaneously facing a situation of abundance and overcapacity in energy, without any guarantee that there will be enough power capacity to secure the electricity supply of its member States.

The lack of convergence between climate and energy policies contributed to create a twofold breakdown in the energy market in general, and the electricity market in particular.

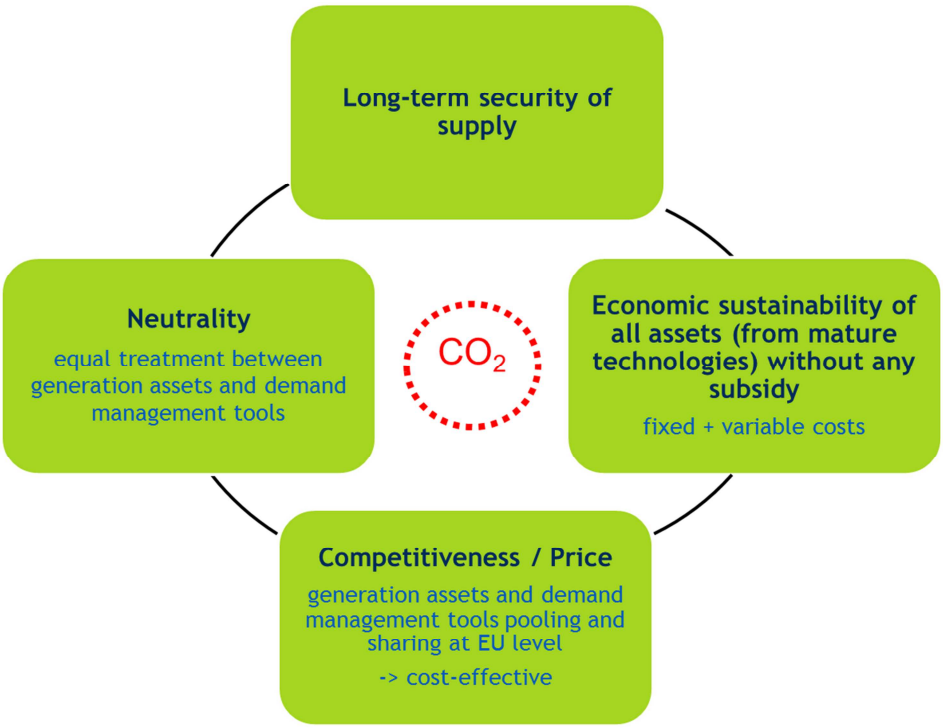
- On the carbon market: a drop in CO2 emissions due to the economic crisis and the slowdown of demand; surplus of quotas on the carbon market; drop in the CO2 price
- On the energy market: annual energy overcapacity compared to the energy demand in some Member States; drop in the wholesale electricity prices: upheaval of the merit order of existing power stations and their functioning; lack of signals to secure the long-term supply-demand adequacy.

It is also necessary to underline the incompleteness of the electricity market architecture: the wholesale energy market optimizes efficiently, in the short term, the supply and demand balancing, and reveals the right value of energy, but it fails to reveal the value of the power supply.

Ultimately, the situation is clearly difficult for the electricity sector as a whole:

- **The economic viability of certain assets is threatened**
- **The security of electricity supply is not guaranteed**
- **The cost of the decarbonisation of the economy is high and non-optimized.**

The framework for State Aid for Energy and Environment as prepared by the European Commission is a key element to improve this situation. The tools developed in order to achieve the energy and climate objectives set by the European Union for 2020 and 2030, must serve a consistent low-carbon strategy, developed through a single objective: CO2.



In this regard, UFE welcomes the European Commission Communication of 22 February 2014 for a climate and energy policy 2030, which promotes in particular an action implemented through a binding CO2 objective at European level. However, UFE regrets the introduction of an RES objective binding at the European level, which could create overlapping situations with other objectives. The French electricity sector favors the technology neutral approach of a single CO2 target.

It is now crucial to ensure that the tools developed in the framework of the EU energy policy are designed and implemented through this long-term objective.

ENERGY NETWORK INFRASTRUCTURES

UFE is satisfied with the general position of the European Commission, regarding the energy network infrastructures.

The prospects for the development of renewable energy sources, and the reinforcement of exchanges between Member States, presuppose significant investments. These investments must be optimized in accordance with the needs of the electricity system, and the constraints in terms of security of supply.

In general, the evolution of demand combined with the European policies to promote the development of renewable energies, led to significant new needs for transmission and distribution network infrastructures. The corresponding investments are economically relevant to optimize the functioning of the electricity system, and strengthen the security of supply, by benefiting from the pooling of generation resources between member States.

In this context, policies improving the coordination between the network development and the evolution of the structure and location of the electricity generation mix, has to be promoted.

SYSTEM STABILITY AND GENERATION ADEQUACY

European energy policies must integrate a long-term strategy, promoting the stability and sustainability of European electricity markets. However, “energy only” markets encounter difficulties in integrating the value associated with security of supply, even more in a market characterized by a rising penetration of subsidized intermittent production. Thus, some concerns are rising regarding the ability of « energy only » markets to deliver a level of security of supply compatible with public authorities’ expectancies. **In this context, many member States consider or have announced the**

implementation of capacity mechanisms (Spain, Italy, Sweden, Finland) without triggering any intervention from the European Commission.

Regarding the qualification of policies implemented to ensure generation adequacy, UFE underlines that these mechanisms should not be automatically defined as State Aid. **In particular, UFE considers that the mechanism of capacity obligations implemented in France, doesn't constitute State Aid as set out by article 107(1) of TFUE.** It is on the contrary, an obligation mechanism, supported by electricity suppliers, and developed in a market frame, that allows the suppliers to fulfill their obligations at the best cost. This mechanism doesn't imply any direct public financing, nor any transfer of public resources. It ensures a neutral treatment of all technologies, without any systematic or selective advantage.

Generally, UFE considers that the « necessity » of implementing capacity mechanism should be assessed on the basis of the physical needs of the system. As the European Commission, we call for an assessment consistent with other European and national assessments, and taking into account all the components of the supply and demand adequacy.

UFE considers that capacity mechanisms should comply with several requirements, most of which are mentioned in the Communication of the European Commission published in November 2013, or in the present consultation paper:

- The contribution of any capacity, new or existing, should be equally taken into account "et caeteris paribus » : the value of capacities should depend on their effective contribution to the security of supply ;
- The mechanism should be capacity-wide, and not a limited set of capacities defined depending on stranded costs or profitability issues ;
- generation, cross-border exchanges and demand-response all contribute to the security of supply and should therefore be eligible to participate in capacity mechanism regimes;
- The capacity signal must be market-based, to prevent any subsidy unrelated to the physical need to ensure security of supply ;
- The mechanism should be implemented several years upstream, to favor the emergence of a long-term signal (*forward-looking*), consistent with the time needed to realize new investments ;

UFE also underlines that capacity mechanisms should be technology neutral.

Finally, the Consultation paper published by the European Commission considers that the explicit participation of foreign capacities should be allowed by capacity mechanisms. **As it is mentioned in the Communication from the European Commission published in November 2013, UFE considers that the integration of implicit capacities within capacity mechanism constitutes, as a first step, an alternative option technically available. The French electricity sector however commits, as a second step, to contribute to the ongoing study on how to integrate foreign capacities to capacity mechanisms at a European level, considering their effective contribution to the security of supply.**

SUPPORT SCHEMES FOR RENEWABLE ENERGIES

General considerations:

It is imperative that support schemes for certain technologies, allow the steering of their development according to the long-term needs of the electricity system while respecting market equilibriums.

For UFE, the objective of a support scheme should be to promote the development of technologies which have not yet reached a sufficient level of deployment.

Therefore, ultimately, the fully-deployed technologies should no longer benefit from support schemes. Investments will therefore be triggered by the various price signals revealed by the energy market, which is driven by the carbon (CO2), and capacity prices.

In order to avoid legal uncertainty that could harm or discourage investments, UFE recalls that the contractual conditions set out for existing installations should be maintained as such.

Introduction of the notion of « deployed technology »

UFE supports the approach of DG COMP, on the need to distinguish energy technologies according to their level of deployment.

However, UFE would like the notion of "technology" to be specified in more detail. In particular, offshore and onshore wind technologies should be distinguished.

Selection process for support schemes:

In order to enable the steering of RES developed volumes, UFE recommends a selection of eligible projects through a bidding process. It allows the control of installed power capacity, and reveals the real cost of projects. By selecting the most competitive projects, and ensuring the steering of unitary costs, the support schemes granted through the bidding process would guarantee a better control of the global cost of public support.

Therefore, UFE supports the proposals of the Commission, to submit the selection of eligible projects for support schemes to a bidding process, which is already in place for several sectors in France.

Design of support schemes :

1. **Feed-in premium or equivalent for deployed and non-deployed technologies :**

UFE supports the approach of the European Commission, in favor of a « market price + premium » mechanism, leading to a progressive valorization of the RES production on the market**.**
UFE also recommends a transitory support mechanism, in the form of a power premium (€/MW).

Indeed, support through a guaranteed feed-in tariff expressed in €/MWh, encourages the producers to maximize their production and to operate regardless of the system's needs. The production is therefore sold on the market "at any price", which leads to inefficiencies and can contribute to the apparition of negative prices.

This « market + premium » mechanism allows for:

- A better predictability for the public Authorities and the generator, on the amount of the subsidy ;
- A better functioning of the installations, taking into account the real needs of the system (considering that the producer is encouraged to produce when the market price exceeds its variable costs);
- A partial coverage of fixed costs, through a fixed remuneration regardless of the effective production.

The call for tender procedure could provide for the possibility to pay the premium in a degressive way over the contracting period, in order to compensate partially the project promoter's needs for financings, and ensure a smooth transition towards the market, at the end of the contract.

This investment premium completes the remuneration that the producer gets through the sale of its energy on the market. This system therefore ensures on the one hand, the exposition of the producer to market signals and short term supply-demand balancing, and on the other hand, it ensures a responsibilization of the producer on the impact of its production on the whole electricity system.

2. **Projects of first commercial or pre-commercial scale :**

UFE recommends for these technologies – as long as it contributes to the creation of new industrial sectors - a support specifically focused on R&D and innovation programs, to improve their efficiency and remove the remaining technological and commercial barriers.

3. **Specific support for small installations: Feed-in-tariffs and progressive incentive to integrate the market.**

For reasons related to the critical size of the installations, **UFE is in favor of the definition of specific support modalities for small installations.**

In the consultation paper, the Commission leaves the opportunity for members States to maintain the Feed-in-tariff system for installations of less than 1MW, and 5MW for wind technologies. The UFE welcomes this proposal, but recommends a more differentiated approach, based on the power thresholds segmenting usually the size of the projects (SME, SMI, Big industrials)

- Less than 100 KWc for photovoltaic
- Less than 5 MW for the other technologies (onshore wind, hydroelectricity, etc.)

Ultimately, UFE would favor an approach encouraging small installations, to integrate progressively the market, and electricity system, by being submitted to the "market price + premium" system.

Finally, UFE asks the Commission to give some time to members States, to reform their support schemes in compliance with the DG COMP guidelines. It is also desirable, to ensure the efficiency and equity of the schemes, to introduce a deadline for the compliance of member States with the guidelines. **UFE therefore recommends that concerned member States notify their action plan to the EC before the 31st December 2016, for a full compliance with the guidelines by 2020 at the latest.**

COMPETITIVENESS OF ELECTRO-INTENSIVE INDUSTRIES

The proposals introduced in the consultation paper, provides for partial or total exemption mechanisms, regarding certain costs linked in particular to the financing of renewable energies for electro-intensive industries.

For the UFE, it is important to underline the following elements:

1) **It is essential to ensure the consistency of climate and energy policies at the European level. Therefore, if such adjustments were to be considered, they should be harmonized at a European level, and addressed specifically to industries facing international competition.**

2) **Furthermore, financing costs of these adjustments should be spread on a case-by-case basis, in due proportion to the share of these industries in the productive structure of the Member States.**

3) **Lastly, in the opinion of UFE, it would be more relevant to implement these adjustments within a European industrial policy than within the frame of its energy policy. As such, the electricity sector should not support the cost of these measures, which are support policies dedicated to the European industries, facing international competition.**