

UFE's reply to the [public consultation on the revised Climate, Energy and Environmental Aid Guidelines \(CEEAG\)](#)

UFE thanks the Commission for the opportunity to provide feedback on the proposed Guidelines on State aid for climate, environmental protection and energy 2022. You will find below UFE's recommendations:

1. General remarks

Scope of the CEEAG:

- **UFE supports the restructuring of the guidelines around key policy objectives**, especially the introduction of the category relating to the reduction and removal of GHG emissions at large. This new framework better reflects the key priorities of the EU to achieve at least 55% of GHG emissions reduction by 2030.

Use of the EU Taxonomy:

The Commission suggests paying particular attention to the 'do no significant harm principle' laid down in the Taxonomy Regulation to assess the positive effect of a given aid. For decarbonisation measures, the Commission will also take into consideration the contribution to climate change mitigation.

- While the EU taxonomy can be used as an assessment tool for projects, **compliance with the delegated act on climate change mitigation cannot become a requirement to benefit from aid**. State aid should be assessed on a case-by-case basis, considering the targeted objective of common interest.

Operating expenditures:

Paragraph 30 (c) limits the possibility of granting operational aid to existing assets, provided that aid creates 'an incentive effect' resulting in a more environmentally friendly production.

- **UFE recommends also allowing aid for operating expenditures for new projects – especially storage and hydrogen projects – where it allows to compensate for an economic disadvantage**. This will help the EU deliver on the Green Deal's objectives.

For example, renewable and low carbon hydrogen produced through water electrolysis has high operational costs. In an early phase of market development, a supportive framework which includes financial support during operation phase is necessary.

Treatment of hydrogen:

Electrification is key to achieve carbon neutrality. In hard-to-abate sectors (some industrial processes and heavy transport segments), hydrogen can be used as a means for decarbonisation complementing direct electrification, but **this will require a high number of renewable and low carbon hydrogen projects to be completed in the coming years¹**. For this purpose:

- The Commission should **clarify that part 4.1 dedicated to GHG emissions reduction and support for renewable energy, covers hydrogen production systems**.
- **The CEEAG should refer to 'renewable and low carbon hydrogen'** with 'low carbon hydrogen' being defined as hydrogen production complying with a thoroughly defined GHG emissions threshold.

¹ As the delegated act on RFNBO to be published by the European Commission will be a key pillar of the future European hydrogen market, it will be closely monitored by UFE. We will pay particular attention to the potential principle of additionality and rules for temporal and geographical correlation.

- **UFE calls for a support scheme dedicated to the deployment of renewable and low carbon hydrogen production projects.**
- Given the hydrogen market is nascent and because costs are very different depending on the scale of the project and the uses considered, **the guidelines should explicitly mention the possibility for hydrogen projects to benefit from *ad hoc* bidding processes, and the possibility to exempt the least mature projects from competitive bidding procedures.**

Selection criteria in the competitive bidding process:

Paragraph (49) offers the possibility of including non-price selection criteria in the competitive bidding process. UFE welcomes this new possibility, as it will allow to assess the environmental and social aspects of projects considered. However, limiting their share to 25 % of the weighting of all the selection criteria is too restrictive. The CEEAG should provide more flexibility, especially to reflect the needs of not-yet-mature technologies. Based on the French case, it seems that 30 % would be more suitable.

- **Therefore, this share should be increased from 25 % to 30 % of the weighting of all the selection criteria.**

Applicability of the CEEAG:

To preserve legal and investment certainty for the development of renewable projects, UFE proposes to modify paragraph 414(a):

- **UFE calls on the Commission to maintain the existing exemption for already notified renewable support schemes**, in accordance with paragraph (250) of the 2014-2020 EEAG.

Regardless of the former guidelines, the Commission does not propose an end date to the CEEAG. Nevertheless, a rule on the revision is included (paragraph 415), thereby leaving the discretion of the time of revision to the Commission only, which might undermine the need for revision indicated by changing market circumstances.

- **UFE calls on the Commission to propose an end date to the CEEAG.**

2. Aid for the reduction and removal of GHG emissions including through support for renewable energy (section 4.1)

Bidding procedure:

UFE takes note of the Commission's will to promote technology neutrality in the design of support schemes, and of the possibility to elaborate schemes dedicated to sectoral- or technology-based target established in Union law, such as the development of renewable energy sources (RES).

Nevertheless, UFE recalls that **technology-neutral calls for tender have proven inefficient to develop RES capacities in the past**, as they tend to systematically favour the technology showing the lowest levelised cost of electricity (LCOE), irrespective of the actual *value* of the energy produced and of the industrial benefits of each renewable technology. **This can significantly hinder the development of less mature (hence more expensive at this stage), yet promising technologies which could usefully contribute to the power system and to the decarbonisation objective.**

- Therefore, **the possibility to organise technology-specific calls for tender under paragraph (90) is welcome, and must be preserved.** The above-mentioned case of renewable technologies development should be stated more clearly.

Bid caps:

The Commission suggests the introduction of bid caps in technology-neutral calls for tender to address the risk of overcompensation of cheaper technologies. From our perspective, bid caps would aim to tackle the same issues as technology-specific calls for tender, in a more complex – thus less efficient – way.

- Therefore, **UFE strongly recommends using technology-specific calls for tender, which are existing and well-functioning tools, rather than introducing new bid caps for selected technologies, which would be complex to implement.**

Exceptions from the requirement to allocate aid through a competitive bidding process:

For electricity generation or storage projects, the Commission makes a reference to the threshold laid down in Article 5 of Regulation (EU) 2019/943 to define small projects as facilities using renewable energy sources with an installed electricity capacity of less than 400 kW.

- As a first general comment, **we do not understand the reference to Article 5 of the Electricity Regulation**, which deals with the unrelated topic of balance responsibility. Furthermore, the Commission should **clarify whether an even decreased threshold of 200 kW would apply for exemptions as of 1 January 2026**, as mentioned in Article 5(4) of this Regulation.

Although **UFE recognises the benefits of a competitive bidding process to minimise distortions of competition**, it considers that it is not an appropriate system for small projects. Indeed, participation in a call for tender implies heavy administrative procedures for applicants, with a risk of not being selected. Lowering the existing threshold of 1 MW would have a deterrent effect on small actors, who do not have sufficient means and resources to get involved in a tender procedure.

- As the detrimental effects on RES development of a lower threshold would exceed the potential benefits brought by the bidding process in terms of distortion of competition, **UFE strongly recommends maintaining the existing thresholds, i.e. an exemption for an installed electricity capacity of less than 1 MW** as a general rule and up to 6 MW or 6 generation units for wind energy.

Feed-in tariffs vs feed-in premiums:

Similarly, the Commission considers that only renewable installations with an installed electricity capacity of less than 400 kW should benefit from feed-in tariffs. Although feed-in premiums are an essential tool of support for the development of renewable and low-carbon assets, they are not suited for small projects which generally bear higher fixed costs. This is illustrated in France, where the eligibility threshold for solar photovoltaic projects was decreased to 100 kW in 2016. The government has announced its decision to raise it to 500 kW by the end of 2021, due to the unsatisfying results observed with feed-in premiums.

- **To ensure an efficient development of RES capacities, UFE strongly recommends the Commission to maintain the current threshold and allow renewable installations with an installed capacity of less than 500 kW to have access to feed-in tariffs.**

Cross-border opening of support schemes:

- UFE believes that cross-border cooperation can be a fruitful instrument (to jointly develop offshore wind parks, or joint hydrogen projects for example). However, it must not become mandatory and we **welcome that cross-border opening of support schemes remains optional.**

Storage projects:

Storage devices are a flexibility instrument which can support and facilitate the deployment of renewable energy. They enable the production of renewable energies to be maximised and avoid curtailment of renewable production at times of oversupply of electricity on the system.

- Therefore, **storage should be more explicitly mentioned and its characteristics better recognised in the framework of section 4.1.**
- **The CEEAG should consider equally all storage facilities, whether they are integrated into hybrid projects together with a renewable energy generation facility, or whether they stand alone.**

Estimation of the subsidy per tCO₂e emissions avoided:

- UFE shares the Commission's views that **this parameter should only have an informative purpose and should not be used as a basis for selecting the projects to be aided.**

Efficient power production:

Subsidy schemes to generation units shall not incentivise inefficient power production.

- **UFE welcomes the further improvement regarding the prevention of distortion of the efficient operation of electricity assets, and supports the wording of paragraph (104),** which stresses that producers should “not be incentivised to offer their output below their marginal cost” and should not receive aid “in any periods in which the market value of that production is negative”.

Public consultation:

The Commission's proposal requires Member States to organise a **public consultation prior to the notification of aid** for the reduction and removal of GHG emissions. This public consultation can help increase transparency and enhance stakeholders' involvement in the design of support measures.

- UFE welcomes this new obligation, to the extent that it does not delay the procedure by introducing **burdensome requirements.**

3. Aid for the security of electricity supply (section 4.8)

Scope of the measures:

UFE believes that **all types of capacity mechanisms aiming at ensuring security of supply should be subject to the same principles** in terms of compatibility with the internal market, in particular with regard to cross-border participation.

- Therefore, **UFE welcomes the evolution from the former “generation adequacy” section to a broader one relating to aid for the security of electricity supply.**
- UFE recalls that when aiming at **guaranteeing security of supply, a technology-neutral stance** should prevail.
- **UFE supports the introduction of paragraphs (305) and (321) as they set out the Commission's expectations** regarding (i) the activation of strategic reserves, (ii) price settlement during periods of imbalance and, (iii) participation of cross-border capacity.
- Regarding paragraph (324), **the transfer of the cost of the security of supply measure to end users should reflect the extent of the need for the measure for these end users.**

Public consultation:

The Commission's proposal requires Member States to organise a **public consultation prior to the notification of aid** for the security of electricity supply.

- **This does not seem to be necessary based on the provisions of the Clean Energy Package.** Moreover, a public consultation would be unnecessary where public bidding processes are already organised. Therefore, UFE does not support such an obligation in a systematic way.

Identification of a generation adequacy problem:

Paragraphs 292 and 293 of the proposed CEEAG are confusing with regard to the study which should be used to identify a generation adequacy problem. According to Regulation (EU) 2019/943 on the internal market for electricity, both the European resource adequacy assessment and national resource adequacy assessments can be used by Member States, to the extent that the chosen approach is duly justified.

- To avoid creating legal uncertainty, **paragraph 292 should be amended as follow, and paragraph 293 should be deleted:**

292. Where applicable, the identification of a security of electricity supply problem should be consistent with the ~~latest available analysis carried out by ENTSO-E for electricity~~ **carried out** in accordance with the **provisions of the** internal energy market legislation, notably **Regulation (EU) 2019/943**:

~~(a) for measures targeting resource adequacy, the European resource adequacy assessments referred to in Article 23 of Regulation (EU) 2019/943;~~

~~(b) The same requirements should apply to~~ for measures targeting structural congestion, the reports on structural congestions and other major physical congestions between and within bidding zones, mentioned in Article 14, point (2), of Regulation (EU) 2019/943.

Competitive certificates/supplier obligation schemes:

Paragraph 314 is unclear and seems to go beyond the provisions set out in Regulation (EU) 2019/943.

- Although UFE understands the reference to the value of lost load, **we do not support the requirement reading that demand in the scheme must be set below potential supply.**
- UFE calls on the Commission to **clarify what the “competitive” system mentioned in paragraph 314 refers to.**

4. Aid for energy infrastructure (section 4.9)

Some energy storage projects, when satisfying all the requirements, may facilitate the integration of the energy market and the achievement of the climate objectives, while ensuring security of supply in the EU. The TEN-E Regulation (Regulation 347/2013) already recognises the beneficial impact of energy storage projects.

- **Section 4.9 should be amended to include energy storage installations**, to be listed among the supported activities alongside the category of “energy infrastructure”.

5. Aid for the improvement of the energy and environmental performance of buildings (section 4.2)

The inclusion of a category of measures aimed at improving the energy and environmental performance of buildings in the CEEAG is welcome. However, UFE considers the aid should not be conditioned to a reduction in primary energy demand only (20% for renovation and 10% for new construction).

- **UFE recommends setting a clear reference to both final energy and primary energy in paragraph (118)**, since final energy reflects the actual performance of the building envelope and the solutions and technologies installed inside. It is also consistent with the consumption measured by energy meters (and included in energy bills).