

July 19th, 2019

UFE answer to EC consultation on SAGL

Question 1: Based on your experience, to what extent have the EEAG and the corresponding GBER provisions (e.g. tendering, technological neutrality, market integration) been effective in [...]

Renewables: In UFE's view, the EEAG had a positive impact to evolve towards efficient and competitive renewable support schemes, notably thanks to tendering.

However, UFE underlines that calls for tenders covering several technologies (or "technology neutral") are actually not efficient: as shown by all past experiments (including in France) they indeed usually favor the technology showing the lowest cost of production (in €/MWh), but without necessarily reflecting the actual *value* of the energy produced, which depends on the time of production and the synergies with the rest of the electricity mix at any given time. An efficient framework should thus continue to allow technology-specific calls for tenders, which should be planned so as to reflect the synergies between renewable technologies.

Furthermore, UFE stresses that cross-border renewable support schemes covering more than one country should remain optional. Indeed, national specificities such as administrative costs or the regulatory framework have a very significant impact on the cost of a given project. As project promoters are not competing on equal footing, cross-border calls for tenders are therefore not allowing a fair competition, as evidenced by past examples, such as the common call for tenders between Germany and Denmark.

Capacity mechanisms: UFE underlines that all types of capacity mechanisms focusing on security of supply should be subject to the same standards in terms of compatibility with the internal market, notably in terms of cross-border participation. From that perspective, UFE invites the European Commission to conduct an in-depth assessment of the functioning of strategic reserves.

In addition, the Commission should investigate situations where contracted capacities (including demand response) can compete against non-regulated assets after their reserve contracts terminate. Indeed, opening this possibility would mean that strategic reserves might constitute a temporary explicit remuneration of systematic capacity withholding.

Question 16: Based on your experience, have the EEAG and GBER adequately addressed recent market developments or technological changes such as [...]

When they are used, UFE is in favour of efficient and competitive support schemes for renewables and demand-side response. UFE however notes that the SAGL are less detailed regarding the latter compared to the former: UFE would support making more explicit that support for demand-side response should be granted following a competitive process, as a premium to the market price (be it the energy or the capacity/reserve price), i.e. as a contract for difference. In UFE's view it should not be possible to grant support in other ways. In particular, aggregators (or participating final customers) should be required to pay the balance responsible parties for the related demand response activations, as mandated by Art. 17.4 of the newly adopted Electricity Directive. UFE would thus invite the EC to consider as a state aid, and assess accordingly, the potential reductions or exemptions of such payments granted by Member States to aggregators (or participating final customers).

Question 18: Based on your experience, to what extent are the EEAG and the related GBER provisions coherent with relevant EU policies and legislation such as [...]

UFE notes that many congestion management schemes in Europe introduce de facto a national preference, likely to penalize the economic efficiency of transmission system operation (and possibly the functioning of the internal electricity market), and could be considered as a state aid. For the time being, it seems that these schemes are not assessed uniformly: UFE has witnessed the assessment and approval by DG Comp of some congestion management schemes under the SAGL, such as the Landvisiau case in France or the so-called « network reserves » in Germany, while other schemes, such as the call for tender (TED 2018/S 123-280659) on June 29, 2018 for 1.2 GW of new capacities in South Germany has not been subject to an assessment under SAGL.

Furthermore, the German Network Reserve scheme approved by DG Comp under the SAGL (case# SA.42955) introduces significant distortions in the functioning of the internal electricity markets, as contracted assets (only in Germany until 2021, cross-border participation only if resources at national level are insufficient – which is not consistent with requirements for cross-border participation in capacity mechanisms for instance) are regularly used, whereas market-based and less

distortive alternative solutions such as countertrading or redispatching are available (and actually used daily at the DK-DE border).

UFE therefore invites DG Comp to clarify in the SAGL the framework for the assessment of capacity mechanisms on the one hand, and congestion management schemes on the other hand. UFE underlines that a de facto capacity mechanism should not be disguised as a congestion management scheme, and that the criteria to assess the compatibility with the internal market should be applied consistently across cases.