



DRAFT - EFIEES' feedback to the Public Consultation on State Aids

27 November 2020

EFIEES represents energy service companies (ESCOs) and their national associations in 12 Member States. They represent over 130.000 professionals engaged in the design and implementation of energy-efficiency solutions in buildings and industry. In some countries, they also operate district heating & cooling (DHC) networks.

In coherence with the field of activity of our members, we are focusing our contribution on the part 1 of the questionnaire: State aid control, and more specifically on the question 3:

“3. If you consider that more State aid to support environmental objectives should be allowed, what are your ideas on how that should be done?

1. Should this take the form of allowing more aid (or aid on easier terms) for environmentally beneficial projects than for comparable projects which do not bring the same benefits (“green bonus”)? If so, how should this green bonus be defined?

The European Union is considering stepping up its ambition for CO2 emissions reduction in 2030 to a higher level, with a 55% target being currently under discussion.

In order to deliver on this enhanced ambition, stronger actions are needed both in the field of energy efficiency and of renewable energy deployment. State Aids, based on relevant rules, are one of the main policies to allow this shift towards climate neutrality, by improving the economic viability of projects. Such a condition is an absolute necessity for viable, profitable “green” projects to emerge, together with the alignment of State Aids rules with other climate related policies and regulations.

We therefore recommend revising State Aid principles to fully take into consideration:

- The “Energy efficiency First” principle. Simply because the best energy... is the one you do not need to produce nor use. And also because energy efficiency actions are often, if not always, a crucial prerequisite for actions to switch from fossil fuels to renewable energy, by reducing the energy demand and thus optimising the size of the investments allowing a greener energy mix.
- In this respect, the role of **energy services**, and more specifically of **performance-based contracts**, needs to be better recognised in the State Aid rules, as they are already in the Energy Efficiency Directive 2012/27.

Detailed provisions in the EED related to energy efficiency and district approach

- Article 2.11: energy management system means a set of interrelated or interacting elements of a plan which sets an energy efficiency objective and a strategy to achieve that objective;
- Article 2.27: energy performance contracting means a contractual arrangement between the beneficiary and the provider of an energy efficiency improvement measure, verified and monitored during the whole term of the contract, where investments (work, supply or service) in that measure are paid for in relation to a contractually agreed level of energy efficiency improvement or other agreed energy performance criterion, such as financial savings.
- Article 2.41 efficient district heating and cooling means a district heating or cooling system using at least 50 % renewable energy, 50 % waste heat, 75 % cogenerated heat or 50 % of a combination of such energy and heat
- Article 2.42 efficient heating and cooling means a heating and cooling option that, compared to a baseline scenario reflecting a business-as-usual situation, measurably reduces the input of primary energy needed to supply one unit of delivered energy within a relevant system boundary in a cost-effective way, as assessed in the cost-benefit analysis referred to in this

Directive, taking into account the energy required for extraction, conversion, transport and distribution

- Article 2.43 efficient individual heating and cooling means an individual heating and cooling supply option that, compared to efficient district heating and cooling, measurably reduces the input of non-renewable primary energy needed to supply one unit of delivered energy within a relevant system boundary or requires the same input of non-renewable primary energy but at a lower cost, taking into account the energy required for extraction, conversion, transport and distribution
- Article 18 Energy services: 1. Member States shall promote the energy services market and access for SMEs to this market by: (a) disseminating clear and easily accessible information on (i) available energy service contracts and clauses that should be included in such contracts to guarantee energy savings and final customers rights, (ii) financial instruments, incentives, grants and loans to support energy efficiency service projects.
- Article 14, on the promotion of efficiency in heating and cooling

The benefits of Energy Performance Contracts (EnPCs) are: contractually guaranteed results, actual and verified energy savings/performance, energy management over time, to maintain energy performance and savings.

- As a consequence, a bonus should be foreseen in the State Aid rules for the energy efficiency projects based on an energy guaranteed performance, such as the one provided by EnPCs. That would be consistent with EU regulatory provisions recognising the benefits of such contractual guarantee. As an example, the Directive 2018/844 on Energy Performance in Buildings exempts, in its article 14.2, from certain obligations the “technical building systems that are explicitly covered by an agreed energy performance criterion or a contractual arrangement specifying an agreed level of energy efficiency improvement, such as energy performance contracting, or that are

operated by a utility or network operator and therefore subject to performance monitoring measures on the system side”.

- This bonus could be under the form of an increased aid intensity. That would be fully in line with the Energy Efficiency First principle. The criterion to define this green bonus should be the certainty of the savings/performance, measured and verified, over time.

A second main request from EFIEES is to make sure that there will still be:

- A strong support for the **decarbonisation of heating and cooling**, taking into consideration that heating and cooling needs account for half of the energy consumption across EU, in a context of fossil fuels low prices, and of (still) low CO2 price signal that hamper the competitiveness of energy efficiency/RES-based projects.
- District Heating and Cooling networks (DHC) are key for decarbonising the heating and cooling sector. They allow to mobilise energy and carbon efficient solutions, in particular with regard to the recovery of waste heat, and locally available renewable energies. DHC networks are, from far, the first renewable energy vector for heating and cooling in urban areas. They also contribute to “energy sector integration” and can play a role in flexible energy solutions (e.g. thermal storage).
- Consequently, priority actions must continue to be taken for their creation, their extension, the increase of their density, their modernisation and the greening of their energy mix.
- State Aid rules should continue support projects aiming DHC networks to become efficient, under the EED definition, provided that there is a clear 5-year trajectory to implement the project’s commitment and foreseen final result.
- Consideration to the maximum intensity threshold should be given, to ensure projects will emerge even if fossil fuel suddenly decrease or fluctuate. Member States would have the flexibility to grant the required level of public support, based on the energies price context, whilst respecting the principle of avoiding market distortions.

4. How should we define positive environmental benefits?

a. Should it be by reference to the EU taxonomy and, if yes, should it be by reference to all sustainability criteria of the EU taxonomy? Or would any kind of environmental benefit be sufficient?

In coherence with the principles developed above, we believe that State Aid rules should be aligned with the EU policies. Thus, actions that contribute to the GHG reduction, whether through energy consumption reduction, or through the development of renewable energies, should generally benefit from the appropriate support. According to their specific situation, Member States design NECPs that reflect their strategies for reaching their climate objectives. The contribution to these NECP are a good basis for assessing the energy and environmental benefit.

Taxonomy is a tool that was primarily designed for financial sector to help the “green finance” actors, who are not environmental specialists, to take decisions about financing and investing in projects that are sustainable and non-harmful for the climate and the environment.

However, the professionals who work for institutions/services that analyse and allocate State aids are high level environment specialists. They already have the tools to verify/judge which projects are the most sustainable and not harmful for environment. Taxonomy identifies specific low or zero emission activities/environmentally sound activities and technologies.

Energy transition projects need also to be assessed on the basis of criteria related to the deployment and operational performance. Member State experts can factor the criteria proposed by the Taxonomy, when relevant to the project and the solution it offers, amongst other criteria in their assessment that should be done on a broader basis.