

Szczecin, 10 March 2020

Response to the ETS State Aid Guidelines Consultation

Polish Wind Energy Association (PWEA) represents 100 leading wind energy companies active on the Polish market: investors, developers, turbine and component manufacturers, service providers. PWEA groups key industry players from abroad, as well as Polish entrepreneurs across the entire onshore and offshore wind supply chain.

PWEA welcomes the public consultation on the *Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012* (ETS State Aid Guidelines) launched by the European Commission as part of the thorough fitness check and revision process of the Guidelines related to energy and environment.

Enterprises in Poland consume 60 TWh of energy per year, which corresponds to one-third of the annual domestic energy consumption. Energy Intensive Users (EIUs) are responsible for the half of the whole yearly industrial energy consumption i.e. 30 TWh. Today the lion's share of this is covered by the production of coal-or gas-fired conventional power plants, many of them being EIUs onsite autoproduction installations.

PWEA observes the increase in the industry's awareness of the growing consumers' pressure for the sustainable production, and EIUs willingness to build competitiveness on the basis of renewable energy sourcing. EIUs in Poland, grouped within Electricity and Gas Consumers Forum, declare in public, that they want to take advantage of renewable energy sourcing, and by entering into corporate renewable cPPAs and/or by developing their own renewable installations, actively participate in the energy transition in Poland. According to their estimates, within the next few years renewables could add up to 20 % of their onsite autoproduction facilities – in total: 1,2 GW of onshore wind and 1,9 GW of PV. This share of renewables could be balanced within their internal industrial grids, without posing additional burden to the National Power System. Yearly production of these renewable installations would correspond to 6,8 TWh of clean energy, and would significantly contribute to the decarbonisation of the Polish power system as this energy would no longer had to be bought from Polish heavily carbonised energy sector.

This huge opportunity arising both for the renewables sector and in terms of decarbonisation of the state economy has to be taken into account when considering the ETS State Guidelines.

Regulating indirect cost compensation for EIUs, the ETS State Aid Guidelines have an impact on their choices regarding the sourcing of electricity - including bilateral contracts such as corporate renewable Power Purchase Agreements (cPPAs). The new proposed Guidelines are bringing important and positive changes in this domain, listing these contracts as part of the conditionality requirements for companies to retrieve the indirect costs deriving from the ETS (reference to Par. 54 (b) of the draft text). PWEA strongly supports these developments. Corporate renewable PPAs significantly contribute to driving down indirect industrial emissions and should therefore be considered a useful instrument companies may choose to reduce their carbon footprint alongside the afore-mentioned onsite autoproduction facilities.

PPAs are increasingly becoming a key driver for investments in new renewable installations in Europe. They enable large energy consumers in the chemical, copper, cement, fertilizer, glass, technical gases and other industries to secure a supply of clean electricity at a competitive price. PPAs also provide financial certainty for renewable energy providers and are therefore increasingly relevant as renewables become exposed to market dynamics. These two benefits combined make corporate

renewable PPAs an essential tool to drive a cost-effective energy transition, restoring the competitiveness of European industries.

As opposed to the Guidelines currently in place, the new draft Guidelines are also clearing important ambiguities deriving from Par. 11 of the former. This Paragraph, preventing indirect cost compensation for those 'electricity supply contracts that do not include any CO₂ costs', has been interpreted in the Polish law¹ in a way that it creates significant barriers to the deployment of PPAs.

Similarly as in Germany, the interpretation of the ETS State Aid Guidelines² allows those energy intensives sourcing electricity from conventional power generation to get compensation for the indirect EU ETS costs. On the contrary, those companies sourcing renewable electricity are not entitled to any compensation³. This problem (however referring only to the German case) is reported also by the study on the "Competitiveness of corporate sourcing of renewable energy in Europe" released by the Directorate-General for Energy on 28 June 2019.

These interpretations might have derived from the incorrect assumption that the price of corporate renewable PPAs is independent from the CO₂ price levels, whereas in reality the price formation mechanism of these PPAs depends on the wholesale electricity price levels - whose formation is closely linked to factors such as the carbon prices⁴.

As a consequence, **companies in Poland eligible to compensations are currently discouraged from sourcing renewable electricity as this electricity would cost "substantially more" than the conventional one** and are effectively deprived from a cost-effective solution to decarbonize their electricity supply.

This is distorting competition by restricting market options for sellers and buyers. It is problematic from an internal market perspective as the rules are not implemented in a consistent way across the EU whereas consistency would enhance the integrity of the Internal Market. Perhaps even more worrying is the discrepancy when looking at the energy and climate goals of the EU and, hence, it is most welcome by PWEA that the draft Guidelines clarify this issue in coherence with the New European Green Deal.

Corporate Renewable PPAs should be seen as an important instrument for the energy transition whose uptake should be facilitated by Member States, following the direction of the 2018 Renewable Energy Directive and Governance Regulation. Adding renewable PPAs to the conditionality to receive state aid as well as clarifying that indirect cost compensation is compatible with signing Corporate Renewable PPAs the new Guidelines are setting steps in the right direction.

Industry in Poland is heavily dependent on fossil fuels, which makes the challenge of energy transition that the Polish economy is facing complex and capital intensive. The reform of the ETS State Aid Guidelines should therefore be an enabler for the energy transition. Taking this into account PWEA recommends that the list of eligible EIUs in the period 2021-2030 includes all sectors eligible under the current Guidelines. This would significantly enhance the dynamics of the energy transition of the industry in Poland, by providing EIUs with greater incentive to invest in renewable assets and by doing so build their competitiveness on the global markets, where they compete with players who are not

¹ Act of 19 July 2019 on the compensation system for energy-intensive sectors and sub-sectors, available at <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20190001532> [accessed in February 2020].

² Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (SWD (2012) 130 final) (SWD (2012) 131 final), OJ C 158, 5.6.2012, p. 4-22.

³ See page 21 of the above-mentioned study.

⁴ See page 32 of the above-mentioned study.

burdened with the EU ETS indirect costs. Moreover, by keeping EIUs eligible for compensation under current list the risk of carbon leakage would be reduced.

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