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## **Vinterpakken – «Clean Energy for all Europeans» - høring av regelverksforslag fra Europakommisjonen**

Vi viser til møtet i kontaktutvalget for energi (EU/EØS) den 12.12.2016 og til høringsmøtet om vinterpakken 18.01.2017.

Energi Norge er en interesse- og arbeidsgiverorganisasjon for norsk fornybar næring. Vi representerer ca. 280 bedrifter som produserer, frakter og selger strøm og varme. Medlemsbedriftene står for 99 prosent av kraftproduksjonen og dekker 90 prosent av nettkundene i Norge. Fornybar næringen jobber for bedre klima, sikker forsyning og grønn vekst.

Vi vil takke for muligheten til å komme med innspill. Elementene i vinterpakken vil være svært viktige for fornybar næringens rammevilkår i perioden 2020-2030.

Energi Norge vil prioritere nordiske innspill til vinterpakken gjennom Nordenergi i tillegg til arbeid gjennom Eurelectric. Våre fellesnordiske erfaringer med et integrert marked, åpen konkurranse og integrasjon av høye fornybarandeler gir oss muligheter til sammen å påvirke den endelige utformingen av det europeiske regelverket for 2020-2030. Vi ber OED vurdere om det er hensiktsmessig å tilrettelegge for tettere nordisk koordinering av innspill også på myndighetssiden, og å involvere næringslivet i dette.

Vi har følgende synspunkter (på engelsk av hensyn til videre bruk) som vi håper departementet vil kunne slutte seg til og bringe videre i dialogen med EU. Energi Norge ser frem til videre diskusjoner på området.

### *1. General views*

Energy Norway welcomes the general approach in the “Clean Energy Package” which aims at an improved internal energy market to enable the ongoing energy transition in Europe. We believe that the main challenge to cost-effectively reach the 2030 targets for climate, renewable energy, energy efficiency and interconnectors (as confirmed in the Energy Union-strategy), is the malfunctioning of the energy market and the lack of interconnectors. Today, no effective price signal based on scarcity pricing reaches the final customer due to a mix of market distortions such a fixed energy prices, fixed taxes and levies, static support systems and national market regulations. The energy market is increasingly becoming “uninvestible” due a lack of normal market-dynamics. The key question for us is whether the proposals enable real, long-term green growth based on cost-effective and fair deployment of large volumes of intermittent renewable energy in Europe from 2020 to 2030?

The new legislative proposals and initiatives cover retail and wholesale market functioning, renewable

energy, energy efficiency and European Union governance. They clearly underpin market integration and the removal of some regulatory interventions, which distort the functioning of the market. Energy Norway in particular supports the ambition to provide overarching legal coverage to further integrate all wholesale market timeframes through the electricity regulation, as well as proposals to ensure that energy prices truly reflect scarcity situations. Strengthened intraday markets and balancing markets are key to enable the transition. We also in particular support the Commission's proposal for all market participants to be responsible for their imbalances as well as the removal of priority of dispatch for all technologies. Relevant exemptions should be considered carefully. We support the Commission's proposal to harmonize network tariffs and to increase the European regulatory oversight on the calculation of cross-border capacities to ensure that these are not unduly restricted.

In this context, we also welcome the Commission's proposals to move towards a regional approach to system operation, renewables and security of supply. We believe that consistency should be ensured across the national, regional and European security of supply analysis to inform Member States' decisions in this regard.

Energy Norway supports the Commission's ambition to define EU design principles for capacity mechanisms, which, if needed as a last resort, should be market-based, technology neutral, and open to cross-border participation from producers and consumers. Since there is dedicated legislation and tools to ensure the achievement of climate and environmental targets, capacity mechanisms – if and when needed as a last resort - should not include additional criteria unrelated to the objective of achieving security of supply in a cost-efficient way.

The Package features important key legislative proposals to improve consumers' active participation through the phasing out of regulated prices, transparent price comparison tools and easy switching processes. Energy Norway would like to highlight the importance of the introduction of smart meters as a tool for the digitalization, innovation and empowering the customer in the retail market. The regulatory framework must allow different approaches to dynamic pricing and billing requirements that truly empower European consumers. Provisions on demand response aggregation should not hamper the level playing field. We support the development of competitive retail markets in the best interest of EU electricity consumers. Energy Norway regrets that the key issues of policy support costs (taxes and levies) weighing on consumers' electricity bills and evolving pricing structures are not tackled. We support participation of active consumers in the market through generation and storage behind the meter. However, a level playing fields needs to be ensured and we regret that the current preferential treatment of assets behind the meter is not being addressed.

While we agree with much of the substance of the proposed common principles for the design of support schemes for renewable energy, we believe that the proposed legislation in general does not reflect the political commitment to strengthen the ETS as the main instrument for decarbonisation of the energy sector. The state aid guidelines (EEAG) are a better tool to ensure phasing out of support to mature technologies and thereby avoid that the ETS-price is distorted.

Energy Norway notes the Commission's proposal for a binding EU-wide target of 30% for Energy Efficiency in 2030. Such an increase and making the target binding at EU-level should be better justified. Flexibility at national level will in any case be essential. We are concerned about the interactions between energy efficiency targets and measures and other related targets and measures. We have repeatedly called for careful consideration of the impact of the energy efficiency target on the EU Emissions Trading Scheme (EU ETS). We continue to call for a strong EU ETS as the cornerstone of the EU's energy and climate policy and support the EU ETS as a key driver for market-based investments in low-carbon electricity generation. At the same time, the necessary compensation mechanisms for exposed industries must be further developed in order to prevent carbon leakage. Energy efficiency targets and measures should focus on energy use with CO2-emissions in the non-ETS sectors.

Overall, therefore, the legislative package only partially fulfils its objective to deliver a well-functioning energy market. The ETS will be further weakened through the proposals. Too many and too large exemptions and loopholes will delaying the transition and market integration of renewable energy,

thereby increasing costs and making private investments difficult based on market signals. Thereby Europe as a competitive and attractive economic region could be unnecessarily weakened.

Below we have listed our more detailed positions regarding the concrete proposals.

## 2. *Market design legislation*

### a. Electricity-directive

#### i. Chapter III – billing and dynamic prices

The Package features important key legislative proposals to improve consumers' active participation through the phasing out of regulated prices, transparent price comparison tools and easy switching processes. Energy Norway would like to highlight the importance of the introduction of smart meters as a tool for the digitalization, innovation and empowering the customer in the retail market. To achieve this, a more flexible regulatory framework is needed to ensure that dynamic pricing and billing requirements truly empower European consumers. Provisions on demand response aggregation should not hamper the level playing field. In particular, the proposals would entail a preferential treatment of independent aggregators in the deployment of demand response above other solutions, like the direct response of consumers on (dynamic) retail prices. As for any other transaction in the market, it is important that the commercial terms between customer, supplier and aggregator should be freely negotiable. We support the development of competitive retail markets in the best interest of EU electricity consumers. Energy Norway regrets that the key issues of policy support costs (taxes and levies) weighing on consumers' electricity bills and evolving pricing structures are not tackled.

#### ii. Chapter IV – DSOs

### Article 32

The roles and responsibilities for DSOs are clarified in the directive, giving DSOs the responsibility for procurement of non-frequency ancillary services in order to improve efficiencies in the operation and development of the distribution system, including local congestion management. The regulatory frameworks shall enable distribution system operators to procure services from resources such as distributed generation, demand response or storage and consider energy efficiency measures, which may supplant the need to upgrade or replace electricity capacity and which support the efficient and secure operation of the distribution system. Distribution system operators shall define standardized market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, and aggregators. We support the proposed new roles and responsibilities for DSOs. However, these roles and responsibilities are not well defined in Norwegian legislation and will require alterations in existing regulations on system operation (forskrift om systemansvaret) and the definition of roles and responsibilities between DSOs and the system responsible party Statnett SF.

The requirement to develop a distribution system plan, including the use of demand response energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion, is a new requirement for DSOs in Norway, and will require a new system or a development of the existing planning system for high voltage distribution networks and transmission (Kraftsystemutredningsordningen).

### Article 33

Distribution system operators are only allowed to own, develop, manage or operate recharging points for electric vehicles if other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate recharging points for electric vehicles and after regulatory authority approval. In any regard, it is important that the DSOs are involved in the planning and also have the right to stop investments that are not compatible with the capacities of

the existing system.

iii. Chapter V – TSOs

Article 40

Each transmission system operator shall be responsible for several tasks ex. procuring ancillary services from market participants to ensure operational security. Energy Norway supports this. In Norway, the TSO has given rights in order to access ancillary services without payment and without justification. This is not aligned with the given requirements of the directive to procure services and needs to be amended in the national legislation.

iv. Chapter VI – Unbundling and aggregator role TSO

Article 54

Transmission system operators are not allowed to own, manage or operate energy storage facilities and shall not own directly or indirectly control assets that provide ancillary services. We support this as these facilities are competitive businesses and investment and operation should be left to market participants.

v. Chapter VII – Regulator

Member States shall guarantee the independence of the regulatory authority and shall ensure that it exercises its powers impartially and transparently. Energy Norway supports this. These are not new requirements, but are still not implemented in Norwegian legislation. The alterations suggested in the directive, both for the regulator function as such, but also regarding alterations concerning DSOs and TSOs are based on this independence of the regulator.

b. Electricity-regulation

i. Chapter II – trading timeframes, balancing and dispatch

Article 4 Balancing responsibility

The principle that all market participants are balancing responsible parties and have the possibility to delegate that responsibility if they choose is good. There are, however, challenges connected to the derogation Member States may provide according to point 2 and 3. Even small installations can cause considerable cost to the system if they are connected in clusters, and with modern technology, there is no reason to exempt new small installations from balancing responsibility. Regarding 2.c. which allows to completely exempt installations commissioned before a certain date it can also create considerable legacy cost if these existing installations are exempted for their technical lifetime. If the effect of including existing installations should be softened, there could be transition periods or thresholds that exclude only very small installations.

Article 9 and 10 on price restrictions and Value Of Lost Load

The intention of not capping the price stated in Article 9 is good, but the system for not capping it is connected to VOLL and the calculation methodology of VOLL, which is proposed in article 10 is not flexible enough. VOLL is in practice different per market party per time horizon per season, so setting one VOLL per bidding zone and adjusting it every 5 years is not taking into account possible changes and different preferences of market participants. In our view it would be enough to set a very high technical limit to market prices, that ensures that the price coupling algorithm is reaching a result, but that does not restrict bidding behavior of market participants. The VOLL article should become more flexible and allow member states to set a range of VOLL.

The crucial element is that the real-time price (or imbalance price) is uncapped and will be set at the VoLL in case of actual physical scarcity. Market participants will then be exposed to this imbalance price risk and should thus have an incentive to balance their position in the market (day- ahead or intraday), thereby helping to reduce intervention by the TSO.

### Article 11 Dispatching of generation and demand response

It is positive, that the Commissions suggests to abolish priority dispatch, but again the exemptions under point 2 - 4 go quite far, increasing cost for the system. Instead of allowing for priority dispatch, the Commission should abolish all exemptions and trust the market. In most markets RES with low variable cost and therefore low short run marginal cost will be dispatched first in any case. In addition, the Commission suggests that TSOs "shall give" priority – which could mean that even in countries where there is currently no priority dispatch, it would need to be reintroduced.

### Article 12 Redispatching and curtailment

The Commission states the curtailment or redispatching shall be organized in a market based manner and that non-market based curtailment can only be used in exceptional circumstances. They introduce however limits to the absolute amount of RES that can be curtailed and other forms of preferential treatment for RES and high-efficiency cogeneration regarding for example compensation in case of curtailment or redispatch. In our view, markets should be established for redispatch and countertrade and the cheapest resources should be used first and compensated in a market based manner, independent of whether it is conventional generation, RES or high efficiency cogeneration. Any form of preferential treatment of RES increases the cost of RES integration in the system and reduces their incentives to integrate into the market.

#### ii. Chapter III – bidding zones and tariffs

### Article 13 Definition of bidding zones

The Commission suggest that they have power to make decisions in bidding zone review processes. Previously the national regulators or TSOs made the decision. We think that it is positive, that there is a regional approach to creating bidding zones, with an agreed and coordinated methodology, and hearing the relevant stakeholders. We also think that it is positive, that contrary to previously, the Commission gets a role in the process, even though we are uncertain of how that would play out concerning decisions within Norway.

### Article 14 and 15 Cross-border and cross-zonal transmission capacity

Energy Norway fully supports that the TSOs are not allowed to limit cross-border capacity because of internal bottlenecks or loop flows. To ensure that allocation across different time frames is done optimally, including the treatment of intraday capacity, we propose to add that TSOs shall allocate available cross-zonal capacity across all timeframes without preferential treatment of any time frame.

### Article 16 charges for access to networks

The Article describes a future process and some principles ACER should use in assessing transmission and distribution tariffs. The intention to further harmonise network tariffs, especially transmission tariffs, is supported. The article mentions also the ITC mechanism. We oppose the ITC mechanism as it overcompensates centrally located states and gives a disincentive to trade for states located on the margin of the EU. Centrally located states get compensated for network use and already profit from trade through their networks through increased congestion rents on all their borders.

### Article 17 Congestion rents

While we agree, that congestion rents should be primarily used for making capacity available and for investment in the grid instead of reducing tariffs, the statement that congestion revenues must be used for grid investments is too rigid. In addition, the requirement of a separate bank account for congestion rent reduces the TSOs flexibility too much and could thereby harm incentives to invest in new grid/interconnections. We want to underline that congestion income i.e. benefits from the past do not have a connection with future/expected benefits of grid investment. Grid investment should always and only be based on positive results from a cost/benefit analysis and the expectation of increased socio-economic welfare. Past congestion rents are irrelevant for the decision of whether and where to invest in new interconnections.

### iii. Chapter IV – CRM

#### Article 21 and 23

The market design principles that the Commission describes for cross border participation in capacity mechanisms are good. We want to underline especially that foreign capacity should participate and not the interconnectors. We would like to add the two following principles: equal treatment of new and existing capacity and a provision stating that capacity prices must be formed by supply and demand without price intervention/price caps. In addition article 23 point 4 sets an emission threshold for capacity allowed to participate in capacity mechanisms. We think that this provision could weaken the ETS in case of market wide capacity mechanisms or make strategic reserves unnecessarily expensive, should they be chosen.

### iv. Chapter V – ENTSO-E and ROCS

We support new regulation that facilitates increased cooperation between TSOs for given regional cooperation areas. Mandatory establishment of ROCS will increase harmonization of planning, market development, system operation and procurement of system and ancillary services. We think ROCs should have a clear mandate. However, it is important to secure transparency and stakeholder involvement in the process, and the efficiency of the scheme, taking regard to that increased costs that are not balanced by increased benefits in the system are passed on to the grid users. Hence, there is a need for a clear mandate regulating ROCs roles and responsibilities.

### v. Chapter VI – European DSO-organisation

The establishment of an EU DSO entity giving DSOs a direct role in developing regulation concerning DSO activities and giving balance to the TSO role given through ENTSO-E, is important. We therefore support the establishment of a DSO organisation. However, each country in the common European energy market should be given representation in this new organization and regulations securing this should therefore be developed. The proposed solution so far creates more questions than answers to start with whether Norwegian DSOs would be allowed to participate and how. As far as we can see, there is no suggestion on governance rules that secure a balanced representation between member states, the role of national regulators and different companies in each country. This needs to be put in place. Furthermore, there are no comments on how countries like Norway that are not members of the European Union, but highly intertwined in the European electricity markets and under EU regulations based on the EAA-agreement should be involved. We are uncertain about the appropriate level of national and central regulation (subsidiarity).

#### c. ACER-regulation

The proposal to strengthen ACERs powers and position is a necessary step in order to harmonize and integrate rules and regulations and integrate European electricity markets. Energy Norway supports the proposals to strengthen ACER. Energy Norway emphasizes that also NVEs role needs to be changed to reflect and mirror ACERs increased role.

#### d. Risk-preparedness-regulation

The EU and the Commission is increasingly tying in risk preparedness plans and SoS in the regulation, hence giving new tools for further engagement in regulating national security affairs, which so far has been outside the scope of the electricity directive and regulations. This is in our view a sensitive issue that needs careful analysis.

### 3. Renewable Energy Directive

#### a. General approach

The proposed recast directive together with the governance regulation (see below) seems to reintroduce mandatory national renewables targets through the back door by introducing a baseline and a linear curve with statistical transfers and joint projects to be controlled and sanctioned through national energy and climate plans after 2020. As emphasized by Eurelectric before the 2030-targets were decided, the reintroduction of national targets will fragment the internal market and increase costs without contribution to climate, energy security and competitiveness targets. Energy Norway would argue that these elements should be deleted. The proposals fail to reflect the key role of the ETS by not introducing a process for adjusting the supply in the ETS accordingly when additional measures weaken the balance in the ETS.

We continue to call for a strong EU ETS as the cornerstone of the EU's energy and climate policy and support the EU ETS as a key driver for market-based investments in low-carbon electricity generation. At the same time, the necessary compensation mechanisms for exposed industries must be further developed in order to prevent carbon leakage.

#### b. Article 3 - Target

As agreed by European Council the EU objective for renewable energy share is 27% by 2030. No national targets have been agreed after 2020. Energy Norway supports this approach. This gives room for a flexible and cost-effective approach across the EU based on comparative advantages.

According to the proposed article 3 and the governance regulation (art 4 and 25), Member States shall set out its contribution to the EU-target with a linear trajectory for that contribution from 2021 and onwards. A linear trajectory does however not take into account national circumstances and the envisaged flexibility and cost-effectiveness from an EU-perspective. Energy Norway therefore believes it is better to allow Member States to plan for their individual contribution to the EU target through a more flexible governance process based on relevant measures and trajectories when taking national circumstances into account. For Norway, having almost 100% renewable power production and a 67,5 % RES share, electrification of transport and increased interconnector capacity to provide system services and facilitate high RES-penetration in neighbouring countries should be the main contribution.

As proposed in the governance regulation (art 27) insufficient progress towards the overall EU-target could be met by additional measures in the heating and cooling sector or in the transport sector or by making a financial contribution to an EU "financing -platform". Energy Norway believes that additional measures should be taken first in the non-ETS trading sectors to avoid undermining the ETS-price at no benefit to the climate. The establishment of a "financing platform" for mature renewable technologies is therefore unnecessary and potentially market distortive in a way that could lead to permanent support systems. Support to innovative, *non-mature* renewable energy through i.e. funds under the ETS (NER 300) and research and development programs should of course continue to be a priority. At the same time, state aid to fossil fuel energy without CCS should be terminated. Enclosed please find a paper from Thema consulting group explaining the unintended negative consequences of continued support to mature renewable energy in order to achieve national targets.

We also refer to our own proposal for an additional flexibility mechanism between ETS and non-ETS sectors without negative effects on the ETS (enclosed). This mechanism could respond to the national desire to increase action in ETS-sectors with a real climate effect, but no negative ETS or other energy market consequences.

c. Article 4 and 5 – support schemes including opening

Energy Norway thinks that support schemes for mature renewable energy should be phased out after 2020. Energy Norway appreciates the intention in the Commission proposal article 4 concerning a more stringent framework for financial support. However, we are sceptical to whether this may be interfering with state rules and procedures. We think that it is better and more urgent to proceed quickly with the new state aid guidelines (EEAG) in order to finalise them at the same time as the recast of the RES-directive. In the revised EEAG, it will be possible to formulate more concrete requirements concerning financial support and to be clearer about which kind of support schemes that are accepted, including phasing out of support to mature technologies and a presumption of technological neutrality. Legislation in this field through the RES directive reduces predictability instead of improving it.

The proposed details concerning the gradual opening up of support schemes in article 5 should also be developed within the state aid guidelines. The proposal from the Commission leaves too many questions open that are better dealt with in the EEAG. Energy Norway believes that opening up of support schemes in principle is the right way to go; if and when support schemes are deemed necessary and if sufficient interconnector capacity exists and is available. It could contribute to a better functioning of the internal market and a harmonisation of support levels and finally a phase out of support schemes. However, in the meantime, there is a risk for oversupply in certain regions, where bottlenecks in transmission occur. We propose that the requirement on opening up of schemes should be further elaborated in the state aid guidelines and that prerequisites for opening up should be the existence and availability of sufficient interconnection capacity. The preconditions for intergovernmental agreements should be clarified. Reciprocity should not be a requirement. Further, the degree of opening up should be more clearly related to capacity or energy produced, and it should not be a requirement for each year, but rather for a longer period. Therefore the concrete percentage might better not be as fixed as proposed, but rather depended on national circumstances and interconnection capacity.

d. Article 15 – Administrative procedures, regulations and codes

Energy Norway agrees that new rules for the period after 2020 should not lead to negative retroactive implications for existing investments, but we are uncertain about the formulation and role of the proposed new article 15.3. Not all negative effects are legally retroactive. This should be clarified. What is to be considered legally retroactive seems in any case to be a national legal question, not an EU legal issue and the provision might better be deleted completely to avoid uncertainty. Today questions regarding unlawful retroactivity are properly dealt with in the legal system.

e. Article 19 - Guarantees of origin

Energy Norway believes that the system with guarantees of origin (GoO) is a good system for disclosure of electricity, allowing consumers to play a central role in the energy transition in parallel with the ETS. We welcome the proposal to make the system mandatory for energy suppliers that market energy from renewable sources. We support the consolidation of the regulations of GOs in one article. This will ensure that disclosure through GoOs is streamlined.

Energy Norway believes that the proposal should go further to encourage disclosure of all types of energy sources. Disclosure should either be based on GoOs, on residual mix, or on a combination of both. We believe the recast directive should go further in harmonising the rules for calculating the residual mix at EU level to avoid double-counting.

The GoO system should not be mixed up with support schemes, as the Commission does by proposing restrictions on GoOs from production that receives financial support. The GOs do not involve economic support to renewable production, but it is a disclosure system. We therefore believe that all production should be allowed to participate, but with full disclosure of information regarding the characteristics of the concrete production that is offered to the market, including how it is financed.

Energy Norway supports further work to improve the market place for GoO to make it more transparent and predictable.

f. Article 20 - Priority dispatch

Energy Norway supports the removal of regulations concerning priority dispatch of renewable energy sources in this directive. We do, however find that too many loopholes are introduced in other legislation (see above under point 2b).

g. Article 21 – Prosumers

Energy Norway supports the approach in article 21 to arrange for market integration of prosumers. However, we are concerned about the potential effects if prosumers shall not be regarded as “energy suppliers” up to 500 MWh for legal persons according to national legislation. This will not give a level playing field. In general, the current problem of preferential treatment of behind the meter assets is not being addressed in the Commission's proposal. This might well lead to fewer actors to cover the increasing grid cost.

h. Article 22 - Renewable Energy Communities

Energy Norway supports the concept of renewable energy communities being integrated in the energy market and the energy system on a level playing field, including unbundling requirements and proportionate procedures and requirements. However, the current problem of preferential treatment of behind the meter assets is not being addressed. This might lead to increased cost for the distribution grid owner in their connection point and fewer actors to cover the increasing grid costs. In addition, based on the proposed wording, we have concerns about the effect of such communities on existing infrastructure, for instance distribution networks. Operation and expansion of networks should be viewed as important infrastructure that is publicly regulated, and if parallel distribution networks owned by energy communities will be allowed, rules for how these networks are funded, and how to deal with the costs they cause for the existing consumers and distribution network operators should be clarified.

i. Article 25 – Renewable targets in the transport sector

Energy Norway refers to the emission reduction targets to be set for non-ETS sectors, including transport, through the proposed Effort Sharing Regulation (ESR). We are in general sceptical to the setting of additional sub-targets based on a choice of specific technologies. This should be left to the market within the CO2-targets and corresponding measures in the ESR. The abolishment of the 10% renewables target for transport in the 2030-package does not seem to be reflected well in this proposal. We fear red tape and burdensome procedures for market participants.

If renewable targets are still set, we see it as important to have the same approach to the calculation of renewable share as in article 7, i.e. so that guarantees of origin (GoO) do not play a role. GoO are part of a disclosure system, not the calculation of renewable shares. Electrification of transport is a climate friendly strategy in a 2050-perspective due to the decreasing cap (Annual Linear Reduction Factor) in the ETS and this is irrespective of the cancellation of GoO in the disclosure system. The proposal seems to mix the production and consumption aspects of the energy system and the physical and financial aspects of the energy market. The last sentence of article 25 paragraph 3 subparagraph 1 should therefore be deleted.

#### 4. Energy Efficiency

##### a. Energy efficiency-directive

###### i. Article 1 and 3 – targets and flexibility

Energy Norway favors ambitious and cost effective targets for energy efficiency, but we do not support an absolute cap on energy consumption in 2030. In order to ensure economic growth while using energy more efficiently, it would be more reasonable to define the energy efficiency target as an energy intensity target.

As energy efficiency is an instrument to achieve the overall energy- and climate goals, security of supply and reduced carbon emissions, it is of great importance to assess how the energy efficiency legislations affects other policies, like the EU-ETS. Increasing the energy efficiency target from 27 % to 30 % is estimated to depress the ETS price by up to 30 % in 2030 (Eurelectric-study by ICIS). This will not be a constructive way to strengthen the most important instrument to reduce carbon emissions in the European Union. Energy Norway would argue that as a minimum, a process should be introduced to adjust the supply in the ETS accordingly when energy efficiency measures weaken the balance in the ETS.

Further, Energy Norway urges the commission to keep necessary flexibility for member states in setting national energy efficiency targets, as cost efficiency and access to renewable energy varies across member states.

Norwegian authorities should attempt high degree of flexibility for member states in this legislation as Norway differs from other European in energy generation, distribution and consumption.

###### ii. Article 7 – alternative measures and local production as energy efficiency

Energy Norway urges the Commission to focus on energy efficiency measures that also leads to direct reductions of carbon emissions, like electrification of transport and heating when addressing energy savings at the end user level.

Energy Norway strongly supports the possibility to implement alternative measures to saving obligations in article 7b.

In Norway, Enova has built great competence within energy efficiency and climate gas reduction over the past 15 years, and would be the most relevant actor to be in charge of achieving this energy saving target. The Norwegian Government set a national energy savings target for existing buildings of 10 TWh energy savings by 2030, this target should be a part of fulfilling the obligation under article 7. In addition to energy efficiency in buildings, conversion from fossil fuel to electricity in the transport sector will be of great importance in order to achieve this obligation.

The Directive suggests including renewable energy production in or on buildings on the list of measures that may count until 25 % of the total energy saving target in article 7. Energy Norway opposes to treat some renewable energy production as energy savings. New renewable energy production and energy savings will affect the energy system differently and at different times. Principally, if renewable energy production shall count as energy savings, one should not distinguish between renewable energy produced on buildings and renewable energy produced in a central generation unit.

###### iii. Article 9 and 10 – metering

Energy Norway supports the principle of giving consumers the opportunity to better control their energy consumption. Nevertheless, it is important to keep the exception related to cost efficiency individual meters in existing buildings.

#### iv. Annex IV – PEF

It is a positive improvement that the Commission has adjusted the Primary energy factor in order to better reflect the European energy mix. Nevertheless, the use of the primary energy factor remains the same: it promotes burning fossil fuels directly rather than using electricity covered by the ETS. Energy Norway is concerned that this primary energy factor is counterproductive in order to reach long-term central climate goals like decarbonisation through electrification.

The proposed primary energy factor of 2.0 disfavors electrification as cutting electricity consumption will be twice as productive in order to reach an energy efficiency target as saving direct fossil fuels like gas. It is of great importance that the energy efficiency goals do not make obstacles in order to reach the overall climate goals, but rather support the goals in pushing the consumer in the right direction and towards decarbonized energy system across sectors where there are no emissions at the end-user level. Electrification of transport and heating are examples of desired development that may be hindered or postponed due to the use of the primary energy factor 2.0.

If PEF-factor is still used, it is important to allow for national flexibility in defining a national PEF-factor.

##### b. Energy Performance of buildings-directive

Energy Norway finds it essential to keep national flexibility when defining ‘Nearly zero energy buildings’.

#### 5. Governance regulation

##### a. General approach

The proposed Regulation on Governance of the Energy Union has the potential to help national policies and measures converge closer and quicker around the adopted 2030 Climate and Energy targets and the shared Energy Union vision. However, the regional approach will only deliver if Member States implement their planning and cooperation obligations. Energy Norway thinks the proposed regulation will be administratively cumbersome and costly to implement and that it could be significantly shortened and focus more on a shared analysis of overlapping policies, in particular quantifying the impact on the ETS, rather than assessing detailed trajectories for non-binding national RES and EE percentages.

##### b. Chapter II - Regional approach and overlapping policies and regulations

Article 4 includes a linear trajectory for Member States contribution to the 27 % target for renewable energy in 2030. A linear trajectory does however not take into account national circumstances and the envisaged flexibility and cost-effectiveness from an EU-perspective. Energy Norway therefore believes it is better to allow Member States to plan for their individual contribution to the EU target through a more flexible governance process based on relevant measures and trajectories taking national circumstances into account. In general we believe that chapter II is far too detailed. Article 8 on analysis of interactions between policy measures should become more central and include an assessment of the impact of the different policy measures on the ETS balance in particular. It is important to introduce a process to adjust the supply in the ETS accordingly.

##### c. Chapter V - Measuring RES-share and contributions to a RES financing platform

Article 27 foresees strict control with progression on the RES share at national level. This seems to reintroduce mandatory national renewables targets through the back door by introducing a baseline and a linear curve with statistical transfers and joint projects to be controlled and sanctioned through national energy and climate plans after 2020. Insufficient progress towards the overall EU-target could be met by additional measures in the heating and cooling sector or in the transport sector or by making a financial

contribution to a proposed EU “financing -platform”.

As emphasized by Eurelectric before the 2030-targets were decided, the reintroduction of national targets will fragment the internal market and increase costs without contribution to climate, energy security and competitiveness targets.

Energy Norway believes that additional measures should be taken first in the non-ETS trading sectors since the power sector is already covered by the EU ETS and additional measures there undermine the ETS-price without leading to reduced emissions. The establishment of a “financing platform” is therefore unnecessary and potentially market distortive. Support to innovative, non-mature renewable energy through i.e. funds under the ETS (NER 300) and research and development programs should of course continue to be a priority. At the same time, state aid to fossil fuel energy without CCS should be terminated. Enclosed please find a paper from Thema consulting group explain the unintended negative consequences of continued support to achieve national targets.

Vennlig hilsen

Energi Norge



Oluf Ulseth  
Administrerende direktør

Kopi: NHO, KLD, NVE

Vedlegg: Thema-rapport om utfasing av støtte, forslag om fleksibilitetsmekanisme mellom ESR og ETS