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European Renewable Energies Federation

EREF is a federation of national renewable energy associations from EU Member States, such as wind, solar, small hydro, bio-energy, tidal, wave, and geothermal sources. EREF is striving to defend the interests of independent power, fuel and heat production from renewable sources and to promote non discriminatory access to the energy market.

23 October 2012

Günther Oettinger
European Commissioner for Energy
1049 Brussels,
Belgium

RE: Retroactive and discriminatory grid access fees for RES in Bulgaria

Dear Commissioner Oettinger

We are writing to you to draw your attention to another retroactive and unfavourable change of framework conditions for renewable energy in Europe. In September, the Bulgarian regulator (SEWRC) adopted a decision imposing new grid access fees on RES producers. These fees, applicable as of September 18, are provisional. However, the regulator seems to be working on the introduction of permanent fees with this design.

With this letter, we would like to ask the European Commission to engage with the Bulgarian authorities to convince them to take back the regulation imposing the preliminary fees and to prevent them from establishing such fees on a permanent basis.

We have at least three concerns with the decision of the SEWRC:

- First of all, the decision applies retroactively. Currently, RES producers benefit from a fixed Feed-in-Tariff (FIT) that was set at the time of signing their contract. The new grid access fees will reduce their overall income and change the level of the existing support. This has a direct negative impact on the return on investment already made and investors might be unable to pay back their loans. Such retroactive changes should be condemned and have been condemned in the past by the Commission and particularly by you personally. They are definitely harmful for investors' confidence and are not in line with legal principles.
- This decision discriminates RES producers against conventional electricity producers as these fees only apply to RES. It therefore violates Directive 2009/72, which in recitals 32 and 36 sets out that grid access tariffs shall be transparent and non-discriminatory, as well as the Regulation 714/2009/EC, Article 14, similarly demanding transparency and non-discriminatory application.
- The fees have been adopted in a non-transparent process, without any stakeholder participation and do not reflect the actual costs of grid connection for RES. The fees seem

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to be calculated based on a percentage of the FIT. Yet, according law, the actual costs of purchasing renewable energy should be shared among all network users.

As a consequence, this policy reduces incentives to further invest in RES in Bulgaria and thereby endangers the achievement of the Bulgarian and 2020 RES targets. The decision also has a European dimension as it already has a “spill over” effect in the region and shakes up investors’ confidence. Concrete repercussions are already seen in other Member States such as Austria where projects with all necessary permissions and licences may not be implemented as they now struggle to find investors. Therefore the Bulgarian decision is causing a loss of confidence in the renewable energy regulatory framework at national and European level.

EREF is very much concerned about these developments and would therefore be very grateful for the Commission to engage in this case. In the current European context where support schemes for renewable energy are under threat of moratoria or inadequate incentives in several Member States, the renewable industry is suffering from this legal uncertainty. This is contrary to the European Commission green growth agenda and endangering the achievement of the 2020 renewables and decarbonisation targets. Therefore, EREF is calling on the European Commission to take action with the Bulgarian authorities in order to correct this discriminatory measure.

Thank you for your efforts to ensure that Member States do not implement discriminatory and retroactive measures and to preserve investment security for renewable energy in Europe.

Sincere regards,



Rainer Hinrichs-Rahlwes, EREF President

CC: Commissioner Connie Hedegaard, European Commissioner for Climate Action
Commissioner Joaquin Almunia, European Commissioner for Competition