

EREF

European Renewable Energies Federation



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Planned reform measures in Spain's electricity sector, including new retroactive steps against renewable energy producers and an increase of windfall profits for conventional and nuclear power plants

Dear Commissioner,

EREF, the European Renewable Energies Federation, together with the Spanish Renewable Energy Association, APPA, as the umbrella of the renewable energy associations in Spain and representing the vast majority of the national renewable sector, would hereby like to call upon you and the European Commission and request your support in the matter of the alarming development regarding the steps currently being taken by the Spanish government to deal with its electricity tariff deficit putting the domestic renewable energy sector under a serious threat to become the victim to the Spanish economic situation. In fact, the government not only plans retroactive changes in the framework of renewable energy support in Spain and thereby threatens to destroy the business plans of several thousand existing projects, but would also create new and strong windfall profits for the big electricity utilities, creating more distortions in the market and moving farther away from a level playing field in which all technologies could compete.

In this regard, despite the fact that APPA with its 25 year history is well recognized and well reputed as representative of the Spanish renewables industry, the Association has not been given the opportunity by the Spanish government either to share views and discuss the proposed measures, nor to provide the experience and vision of the industry it represents to address the serious problems of the energy sector. It is also due to this unusual form of disregarding stakeholder's expertise that APPA decided – through EREF - to turn to you and the European Commission, hoping to get support in convincing the Spanish government not to take the actions it currently seems to be planning, but enter into a dialogue with the industry and find a more appropriate solution.

The much publicly discussed tariff deficit, the government now seeks to reduce, in fact is the consequence of decisions of various subsequent Spanish governments to fix the electricity tariffs at a level below what was/is needed to sufficiently cover the costs of the overall electricity system. Those notably include also several cost components not inherent to electricity production, like for example costs for the nuclear moratorium or for the electricity systems of the Spanish Islands and exclaves. The fixed price for electricity was intended to control inflation and to improve the competitiveness of the domestic companies as the price of electricity was considered a decisive factor in that context. However, in effect, it totally undermined the principle of tariff sufficiency and free competition. Consequently, and most dramatically, it created – over the years – the infamous tariff deficit which the Spanish energy system is now doomed to deal with and which lately reached the total amount of more than 24 billion € - constituting more than 2% of the Spanish GDP per annum.

While the Spanish renewables industry agrees that this structural problem needs to be solved as soon as possible, both the measures already adopted, e.g. the so-called moratorium for new renewable installations put in place in the end of January 2012, as well as the planned ones described below clearly discriminate against renewable electricity producers and would have a drastic negative long-term impact on the sector. And it is very likely that these measures might prevent Spain from reaching the 2020-targets. Thereby the Spanish government seems to further ignore and frustrate all the warnings and statements the European Commission has already clearly expressed concerning the Spanish reforms.

First, as regards the stop of any support for new renewable installations for an undefined period since end of January 2012, the European Commission, in its assessment of the 2012 national reform program and stability program for Spain (SWD(2012) 310 final), **already clearly criticized this moratorium** by stating that *“suspending support for renewables would discourage investment in the sector and would make it hard to achieve Spain's national target under the Europe 2020 energy and climate goals. Moreover, with less renewable energy in the mix, Spain's dependence on imported energy would further increase from the current 79 % (which is already much higher than the EU average of 54%).”* While we highly welcomed and commended this position of the European Commission, the government has not taken any action to end the moratorium.

This also applies to the retroactive changes in support mechanisms, which were established by the Spanish government in late 2010 and for which there are numerous legal claims both at national and international level. In this regard, we were thankful for and appreciated your help in form of the letter the European Commission send to the Spanish authorities on 22 February 2011, wherein the negative consequences of retroactive changes were highlighted and the Spanish authorities were asked *“to make every effort to maintain a stable and predictable policy framework with regards to the support schemes for renewables”*. We also commend that you lately underlined that same point in the Commission's recently published Renewables Strategy (COM(2012) 271 final) where it is mentioned that *“fear of retroactive changes to support schemes, increase project risk [...] result in a very high cost of capital, raising the cost of renewable energy projects and undermining their competitiveness.”* However, the Spanish government did not react so far, and even worse – as will be explained below – they intend do the same thing again.

The lack of competitiveness in the Spanish electricity sector was also clearly denounced and disapproved of within the above mentioned assessment of Spain's 2012 national reform program, where the European Commission correctly stated that this lack of competition *“has contributed, at least partly, to building the tariff deficit by favouring overcompensation to certain utilities, such as nuclear and large hydro power generators which have already been paid for, or by sustaining inefficient and environmentally harmful energy subsidies to coal mines. These measures have not been translated into lower prices, and they thus hinder economic growth.”*

All these major shortcomings - meaning the abrupt suspension of support to renewable energy, retroactive measures and the missing competition in the Spanish power market - already heavily criticized by the European Commission, are now only to be worsened, when the Spanish government gets to implement its latest plans for Spain's electricity system reform :

The main steps announced are the imposition of a tax on gross revenues from power generation with different tax levels according to generation technology: *Whereas electricity generation from conventional sources would only be hit by a 4% tax, most power production by renewable energies would be imposed to a much higher tax level.* So-called manageable renewable sources with an electricity tax reaching from 3% in the case of small hydro installations (thereby being the only renewable with a lower tax level as conventional plants), 4% in the case of co-generation units, 4.5% for biomass plants, and 13% for electricity generation from concentrated solar power plants. The so-called non-manageable renewable energies would be hit even harder as wind power generation would be taxed by 11% and photovoltaic generation by as much as 19%.

The effect of this tax would be comparable to those of a retroactive change in the feed-in tariffs/premiums that were introduced – and criticized - in the past, as it would fundamentally change the conditions determining whether a renewable power installation is economically viable anymore or not. While each project had its well-calculated business plan, in which the tax was not foreseen – as it was not foreseeable – all those plans are now under threat.

Further, the application of such a tax would also be highly discriminatory for renewable power producers remunerated under the support scheme compared to conventional power generation: The costs in the case of conventional sources can be directly passed on to the electricity prices to be paid in the end by the final costumers and not by the owner of the conventional plans. This however is not possible in the case of renewable power production, as it is remunerated by fixed feed-in tariffs respectively premiums, which currently do not and will not take into account the new tax.

Besides, should the Spanish authorities implement this tax it would send a very negative signal to other Member States which are experiencing challenging economic circumstances and may be tempted to introduce similar discriminating policies.

Another planned measure is a **tax of the windfall profits/overcompensations which have already been paid to nuclear and large hydro power generators. The tax would amount to 10 €/MWh in the case of nuclear power generation and 15 €/MWh in the case of big hydro power generation.** At first glance this planned measure seems a step in the right direction and towards a level playing field in a more and more competitive power market. **However, this tax comes with a “compensation” : while the tax may cause a financial burden, in return, the Spanish industry minister announced that he would grant a prolongation of the permits to those power plants. For the Spanish nuclear power plants the prolongation would be by a further 10 years, for large hydro by another 20 years. Thereby, the existing overcompensation for long amortized power plants and therewith the lack of competition in the Spanish power market would only be extended and even be aggravated.** The tax is by far not stringent enough to balance against the assurance of cheap production schemes for written-off nuclear and big hydro but it secures extended operation and thus creates disincentives for new production from renewable energies. In economic terms, this prolongation scheme would mean an additional income for the big electric utilities of more than 60 billion € including new windfall profits for both technologies of up to 29,550 billion € - plus the continuing - though reduced - already existing windfall profits of 18,600 million € in the case of the Spanish nuclear power plants and 1,700 million € annually in the case of large hydro installations.¹

¹ For the calculation of the new windfall profits, please see the following analysis (in Spanish): “Las apariencias engañan. Una nueva contrarreforma en el Sector Eléctrico”, <http://economistasfrentealacrisis.wordpress.com/2012/07/12/las-apariencias-enganan-una-nueva-contrarreforma-en-el-sector-electrico/>

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For those reasons we would urge you and the European Commission to intervene against these problematic developments and to point out again to the Spanish government the importance of regulatory stability and of avoiding retroactive changes or any other action that would irreversibly affect the renewable energy development and economic stability in Spain

We invite you to take the necessary actions to convince the Spanish government to refrain from any such counterproductive measure and rather to continue supporting the future oriented and sustainable renewable energy sector in Spain as a way out of the economic crisis as a vehicle for creating green jobs, cutting greenhouse gas emissions, reducing Spain's very high energy import dependency and necessary to increase the competitiveness of the Spanish power sector.

Yours sincerely,



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