Public consultation the draft new State aid Framework to support the Clean Industrial Deal (CISAF)

CONTRIBUTION, THÜGA Aktiengesellschaft | 29.04.2025
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General comments

Please provide any comments you may wish to bring to the Commission's attention in relation to the draft proposal for a new Clean Industrial Deal State aid Framework.

Thüga commits to the goals set out in the Paris Accord and the respective European and German climate goal and aims to contribute to achieving these goals. Thüga is the largest cooperative network of municipal energy and water service providers in Germany. More than 100 municipal utilities with around 27,200 employees make up the Thüga Group with sales of € 48 billion (2024) and investments in infrastructure of € 3.7 billion (2024). This makes the Thüga group the third largest energy supplier in Germany. Together, the companies of the Thüga Group drive the energy transition locally and develop intelligent solutions for the livable city of the future.

To do so to the best of our ability, a clear and most of all simple state aid framework is needed. The CISAF – as the TCTF before – can play an important role. In general, we would however welcome, if it were not limited to the use of renewable energies (Article 2 point(1) of Directive (EU) 2018/2001 – RED III) but also and foremost to infrastructure for district heating and cooling, high-efficient cogeneration as well as electricity and heat from waste incineration.

Thüga also recommends adapting the definition of SMEs (Article 3 (4) of Commission Recommendation 2003/361/EC) with the planned omnibus proposal on small mid-caps to also include municipal utilities in these definitions and apply them to CISAF (point 43(c)). We also recommend to provide for "easier to comply" provisions throughout CISAF for the – yet to be defined – small mid-caps.

Aid to accelerate the rollout of renewable energy

Please provide any comments specific to section 4.1 of the draft framework ("Aid schemes to accelerate the rollout of renewable energy").

Thüga welcomes that all forms of Renewable Energy according to RED III (including geothermal, biomass, biogas and sewage treatment plant gas) shall be subject to easier state aid rules until 2030. To accelerate the uptake of renewable gases even further we recommend that in point (32b) the words "a directly connected" and "production facility" should be deleted in order to also allow for off- or near-site-storage of RFNBOs or other renewable gases.

Even considering the improvements in planning and permitting due to the energy emergency measures Regulation (EU) 2022/2577 followed by RED III, which is not yet transposed in many Member States, permitting processes can often be lengthy. Delays are in many cases beyond the direct control of the project developer, i.e. supply chain problems, for which the effects of the Net-Zero-Industry-Act by providing for social, environmental or resilience policy objectives – be it for better or worse – cannot yet be foreseen. Therefore point (37) which provides for penalties should be amended with the possibility to waive such penalties, if and when the developer can prove that the delay was beyond their direct control.

Thüga furthermore strongly urges for the inclusion of other forms of aids to accelerate not only the rollout of renewable energies, but to the rollout of energies supporting other Green- and Clean Industrial Deal objectives. We therefore suggest amending point (32) with the following:

"c) investments in infrastructure for district heating and cooling (Articles 20(3) and 24 RED III in conjunction with Article 26 of Directive (EU) 2023/1791 - EED), high-efficient cogeneration (Article 2 point (40) and 26 of EED) as well as electricity and heat from waste incineration (Articles 15a, 22a and recital 70 of RED III)."

If you consider the proposed completion deadlines or exemptions therefrom (see point (37)) are not appropriate, please provide concrete justification for any alternative timeline or other exemptions you would consider more appropriate.

[Thüga does not comment on this question]

Please provide any comments specific to section 4.2 of the draft framework ("Aid for non-fossil flexibility support schemes").

In general, Thüga welcomes, that the aid for non-fossil flexibility must be compatible with a capacity market, should one be introduced.

The revised Electricity Market Design Regulation and Directive foresees a rather lengthy timeline for non-fossil flexibilities by first developing a common EU methodology for member states to assess their respective flexibility needs. They will then need to enact these assessments, and objectives for flexibility, energy storage and demand response. This will realistically not be set in place until 2027. Even considering the possibilities for limited derogations in Footnote 38, the detailed provisions in section 4.2. seem too detailed that we fear that no support scheme and, in the end non-fossil flexibility measures at all will be able to benefit from the "fast track" CISAF-rules. The provisions in the section should therefore – in general – be less detailed and more pragmatic.

Specifically, Thüga is critical towards the requirements in point (62), that bids in the tendering procedure are to be classified and approved solely on the basis of their price. Especially when it comes to flexibilities, we propose that a requirement of system suitability needs to be taken into account as well. Therefore, we suggest that in point (62) the word "only" should be deleted and the sentence furthermore amended: "(…) as well as their contribution to a grid-friendly behavior and the avoidance of curtailment, due to an assessment by the NRO in line with point (64)."

Furthermore, point (66) is understandable and in theory a provision worth supporting. However, in practice the provision is too detailed and bureaucratic. It remains unclear whether the costs of a demand for flexibility in a certain period should be charged to a group (and if so, which) of consumers who directly demand flexibility in a certain period, or directly to each consumer respectively – this being nearly impossible when a nationwide smart meter rollout has not yet been achieved. Thüga thinks, this should be decided by each Member States. We therefore propose in point (66) to replace "(…) consumers that contribute to creating the flexibility need should participate to the costs of the measure (…) " with "(…) Member States can provide for measures with which consumers that contribute to creating the flexibility need should participate to the costs of the measure (…)"

Please provide any comments specific to section 4.3 and Annex I of the draft framework ("Aid for capacity mechanisms following a target model").

Thüga generally welcomes that the approval of capacity mechanisms under state aid will be simplified and accelerated in the near future. The energy system of the future will need more flexibility, both on the demand as well as on the generation side. The criteria for market-wide capacity mechanism in Annex I seems to explicitly promote a central capacity mechanism that could be used to quickly and specifically incentivize natural gas fired power plants. However, a purely central capacity mechanism is only able to leverage potential for load reduction and flexibilization of consumption to a limited extent. Thüga therefore strongly advocates in favor of a capacity mechanism with a pronounced decentralized element so that flexibility options are adequately taken into account. This can be achieved by a fast-track state aid approval of high-efficient cogeneration (Article 2 point (40) and 26 of EED).

Central capacity mechanism entail the risk of oversizing secured capacity and thus permanently weaken the investment incentives for alternative decentralized flexibility options. Decentralized approaches however offer the opportunity to make optimal use of knowledge about local (decentralized) conditions (i.e congestion needs on a DSO level), to tap flexibility potential in an unbureaucratic manner and to integrate it into the overall system. This, we believe, reduces costs for all consumers.

We believe that in the end combining the best of both worlds – central and decentral capacity mechanism – makes sense. The combined capacity market discussed in Germany in 2024 already came very close to this objective. Such an approach represents an explicit design and opening of a capacity mechanism for the participation of non-fossil flexibilities such as load control and storage and is in line with point (57) of the CISAF. In order to ensure that such a combination is possible under CISAF, most of all the lower limit of the requirement in Annex I (No 10) for the main tendering procedure ([75%]-[90%] of the quantities for delivery windows in a tender [4]-[6] years before) should be reduced to 50%.

Aid to deploy industrial decarbonisation

[Thüga does not comment on this chapter]

Aid to ensure sufficient manufacturing capacity in clean technologies

[Thüga does not comment on this chapter]

Aid to reduce risks of private investments

Please provide any comments specific to section 7 of the draft framework ("Aid to reduce risks of private investments in renewable energy, industrial decarbonisation, clean technology manufacturing and energy infrastructure").

Thüga underlines that the need for investments in energy infrastructure is huge, which has been pointed out in several reports by the European Commission, ACER or DSO-Entity as well as studies done by several associations and academia. Be it in reinforcing old and buildig new electricity grids both on the distribution- and on the transmission-level (which in the end leads to lower congestions costs and will therefore also benefit the consumers). Be it for the repurposing of gas / hydrogen infrastructure or district heating and cooling.

In ideal circumstances, grid operators should find the regulatory framework which by itself allows them to stem such investments. However, given the large sums and the short time to realize these massive investments (i.e. in order to achieve the 2030 targets or the yet to be determined, but probably very ambitious climate goal 2040), a mix of private investment and state aid should be made possible by state aid rules. With respect to the Action Plan on Affordable Energy (especially Pillar I, Action 1 a), we worry that the measures described by the Commission will – with respect to the aid made possible by this Chapter of CISAF – take measures, which will hinder such investments on the other side, with a view to reduce energy system costs.

With this in mind and given the large sums necessary, we believe both the duration as well as the limit for each project should be extended from EUR 100 million to EUR 300 million and from 10 to 15 years (points 149 and 150). Especially when it comes to the implementation of heating and cooling plans (Article 25(6) and 26 EED) the definition of a project (i.e. heating and cooling of one or more city quarters) can be very large due to logistics, synergy and efficiency reasons. Also, at Thüga, where about 100 municipal utilities combine their respective resources, it should be possible to allow for "overarching projects" encompassing several utility companies. We furthermore welcome that state aid can be cumulated with other aid for the same project to provide for unbureaucratic processes.

Do you agree that the inclusion of aid to investors in energy infrastructure projects as foreseen in point (146) is necessary?

☒ Yes

☐ No

☐ I don't know

If no, please explain why and provide justification for any alternative scope.

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