



The emergency measures must not jeopardise investments in renewables and Power Purchase Agreements

Brussels, 21st September 2022,

Dear Heads of State and Governments,

Dear Energy Ministers,

Dear President von der Leyen,

Dear Commissioner Simson,

We welcome the leadership of the European Commission in putting forward a common European approach to the crisis. We have a carefully designed European electricity market design, and the only solution is European.

We equally welcome the comprehensive package of measures put forward by the European Commission, including measures aiming at tackling the root cause of the crisis – the high prices of gas – as well as measures aiming at reducing the gas demand, both in the power and the gas sector. Such measures should be tackled as a priority.

The proposed measures to finance support schemes for energy consumers also show a proportionate approach. It is critical that all energy players realising extraordinary profits contribute. Any cap on revenues must therefore be implemented together with an ambitious solidarity contribution from fossil energy companies.

However, we would like to express our concerns on the proposal to allow member states to set lower caps specific to different technologies at national level. Having technology-specific and country-specific caps would jeopardise the integrity of the internal market and create significant uncertainty with investors in renewable energies.

We therefore call on you to delete paragraph 4 of article 6.



In addition, we welcome the political intention of the European Commission to adapt the cap on revenues to energy resources having hedged their revenues, such as through Power Purchase Agreements, and which do not benefit from the high electricity prices.

Yet the text currently leaves too much room for interpretation for member states, that could jeopardise existing Power Purchase Agreements if poorly implemented. As it currently stands, the cap could be implemented on revenues from the sale of electricity of a generator at the settlement of the energy (closure of the market), disregarding the presence of other contractual agreement on the sale of that energy (fixed price as part of a Power Purchase Agreements). In addition, Power Purchase Agreements require the sale and purchase of electricity on market to meet firmness requirement in contracts (electricity needs to be delivered to the consumer) as well as balancing responsibilities (the realised electricity generation must meet the declared generation schedule of a balance responsible party). In practice, the cap could jeopardise the business case of existing PPAs.

The proposal for a Regulation should therefore be further amended in order to avoid such interpretation risks. It should be clarified that:

- The cap applies **after** the settlement of the exchange of energy and on no less than a monthly basis, in order to take into account the revenues and expenses linked to the firmness or the balancing responsibility of the contract.
- The cap applies on the portfolio of generation. This is necessary for companies integrating generation and trading activities, and for which the market revenues linked to the sale of the generator's electricity through a PPA and to meeting requirements such as the firmness requirement of PPAs or balancing responsibilities, cannot be distinguished.

We therefore suggest to amend article 6, paragraph 3 as follows:

*“3. Member States shall decide to apply the cap on revenues **not lower than on a monthly basis, at after** the settlement of the exchange of energy ~~or thereafter~~, **following the market sequence from forward to real-time, and taking into account the net revenues that the producer actually receives for the electricity after accounting for bilateral contracts. It shall apply on a portfolio base (per producing group).**”*

We stand ready to provide you with any further information, and we wish you fruitful discussions.

Yours sincerely,

Walburga Hemetsberger
CEO, SolarPower Europe