State aid: Commission approves the British Capacity Market scheme

Brussels, 24 October 2019

Following an in-depth investigation, the European Commission has approved under EU State aid rules the British Capacity Market scheme introduced in 2014 to safeguard security of electricity supply. In July 2014, the Commission found the British Capacity Market scheme to be compatible with EU State aid rules.

In November 2018, following an appeal of the Commission’s 2014 decision by a company operating in the market, the General Court annulled the Commission’s decision on procedural grounds (Case T-793/14). While the General Court did not rule on the compatibility of the British Capacity Market scheme with EU State aid rules, it considered that the Commission should have opened an in-depth investigation to gather more information on certain elements of the scheme. These elements related in particular to the participation of energy consumers offering to reduce their electricity consumption in times of supply disequilibrium (so-called “demand response operators”) to the scheme.

The Commission appealed the General Court’s judgment (Case C-57/19 P), but this appeal did not suspend the effects of the ruling. In order to give effect to the judgment and since the UK expressed its intention to maintain the Capacity Market scheme, the Commission, in February 2019, opened an in-depth investigation to reassess the compatibility of the scheme with EU State aid rules.

The Commission’s investigation

In the context of the formal investigation, the Commission received and analysed feedback and comments submitted by 35 interested parties (including energy producers, interconnector operators, demand response operators, trade associations, non-governmental organisations and network operators).

The Commission’s investigation confirmed that the British Capacity Market scheme covering the period 2014-2024 complies with EU State aid rules, in particular with the 2014 Guidelines on State Aid for Environmental Protection and Energy. In particular, the investigation confirmed that the scheme is necessary to guarantee security of electricity supply in Great Britain, is in line with EU energy policy objectives, and does not distort competition in the Single Market.

Notably, the Commission did not find any evidence that the scheme would put demand response operators or any other capacity providers at a disadvantage with respect to their participation in the scheme.

In addition, considering recent market and regulatory developments (including the entry into force of the new Electricity regulation), and other issues identified during the UK’s recent five-year review of the capacity market, the UK has committed to implementing certain improvements to the scheme for the future. In particular, these improvements concern: (i) the lowering of the minimum capacity threshold for participating in the auctions; (ii) the direct participation of foreign capacity; (iii) the participation rules for new types of capacity; (iv) the access to long-term contracts; (v) the volume in the year-ahead auction and (vi) the compliance with the new Electricity Regulation.

Background

The British Capacity Market scheme aims to ensure security of electricity supplies in view of the projected increases in electricity demand and the upcoming closure of a significant share of generation capacity. In return for a steady payment for the duration of the capacity agreement (ranging between 1 and 15 years), successful bidders in the auctions are required to provide capacity at times of stress events on the electricity system or face financial penalties.

The non-confidential version of the decision will be made available under the case number SA.35980 in the State aid register on the Commission’s competition website once any confidentiality issues have been resolved. New publications of State aid decisions on the internet and in the Official Journal are listed in the State Aid Weekly e-News.
Lucia CAUDET (+32 2 295 61 82)
Giulia ASTUTI (+32 2 295 53 44)

General public inquiries: Europe Direct by phone 00 800 67 89 10 11 or by email