In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus […]

Subject: State aid No. SA.41933 (2015/N) – Italy
       Prolongation of the scheme for compensation of interruptible services in Sardinia and Sicily (SA.35119 2012/N).

Sir,

I am pleased to inform you that the European Commission has assessed the above measure and has decided not to raise any objections to it on the ground that the measure does not constitute State aid within the meaning of Article 107(1) of the TFEU.

1. PROCEDURE

(1) On 20 May 2015 the Italian authorities notified the Commission the prolongation of the above measure for reasons of legal certainty.

(2) The Commission requested additional information on 6 July 2015 and 18 September 2015, which was provided by Italy by letters of 20 July 2015 and 7 October 2015. The Italian authorities provided additional information during the meeting of 21 October 2015 and by email on 23 December 2015 and 5 February 2016.

Paolo Gentiloni
Ministero degli Affari Esteri
e della Cooperazione Internazionale
Piazzale della Farnesina, 1
00135 Roma
The notified measure prolongs the scheme which was the object of Commission Decision C(2012) D 6779 final of 3.10.2012 (case SA.35119; 2012/N) and Commission Decision C(2010) 3222 final of 26.5.2010 (case NN 24/2010), in which the Commission decided not to raise any objections to it on the ground that the measure did not constitute State aid within the meaning of Article 107(1) of the TFEU. The finding of no aid was limited to three years ending on 31 December 2015, since any extension of the measure beyond that date would need to be assessed in the light of the circumstances prevailing at the time.

2. DESCRIPTION

2.1. Legal basis

The legal basis for the measure is the Decree-Law n. 210 of 2015 amending Decree-Law n. 177 of 2005 and Law n. 41 of 22 March 2010 which was also the legal basis of the measure examined in the Decision C(2012) D 6779 final.

2.2. Detailed description of the measure

The scheme consists of a system of compensations for undertakings located in Sardinia and Sicily entering into contracts with the transmission system operator (hereinafter: "TSO") to provide balancing services consisting in instant shedding of electrical load. The Italian TSO, Terna S.p.A, is a private body entrusted with public service obligations.

Instant load shedding is a service rendered by final users of electricity. Italy defined potential participants to the measure as consumers with a minimum interruptible consumption threshold set at 1 MW i.e., typically industrial undertakings. Users agreeing to provide the service accept the nearly instantaneous interruption of electricity supply whenever the TSO requires it to reduce consumption to balance the transmission network. According to the Italian authorities, this allows the TSO to prevent generalised blackouts for medium- and low-voltage clients.

The threshold for participating in the scheme in the previous years was of 1 MW per site. The Italian authorities may lower the threshold to 0.5 MW in order to increase the number of participants.

The scheme applies only to Sardinia and Sicily. According to the Italian authorities, the electric systems on the islands are still characterised by poor interconnection with mainland Italy; insufficient local transmission infrastructure and lack of primary regulation capacity leading to higher risk of power outages.

As highlighted in the annual monitoring reports on the implementation of the scheme submitted pursuant to Decision C(2012) D 6779 final, despite noticeable improvement, the transmission grids in each of the islands still presents

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1 Decision C(2012) D6779 final; recitals 32 and 33.

2 Power electronic equipment is installed on the beneficiaries' premises allowing the TSO to shed load with a 200 millisecond delay.

3 Primary frequency regulation is an ancillary service typically rendered by power plants to prevent unwanted perturbations in the power line frequency.
significant problems in terms of capacity and tension regulation, especially in peak load periods. The planned investments both in terms of local grids and interconnection with mainland Italy are being delayed.

(10) The 1000 MW High Voltage Direct Current interconnector between Sardinia and mainland Italy (SAPEI) entered in operation in 2011 improving the frequency regulation capabilities of the grid. However, commissioning of the Sorgente-Rizziconi interconnector between Sicily and Calabria has been delayed. At the moment, only one interconnector operates between Sicily and mainland Italy.

(11) The Italian authorities also explained that the availability of thermoelectric plants, which could provide for primary reserve and black-start resources\(^4\) keep on diminishing, due to ageing/obsolescence of the existing plants, tightening of environmental constraints and planned decommissioning.

(12) Moreover, both islands experienced an important increase of variable renewable power generation in 2010 and 2015. According to the Italian authorities, this increased the need for load balancing services.

(13) In the latest monitoring report submitted to the Commission (covering 2014), the Italian authorities claim that the value of the ancillary service is substantially higher than the remuneration to be paid to the service providers. According to estimates, the cost of a significant disruption to power network would significantly exceed the cost of the measure. For this reason, Italy proposes to extend the measure.

(14) The TSO estimates ensuring security of electricity supply still requires interruptible load for a total of 400 MW in Sardinia and 200 MW in Sicily. The target volume for the previous scheme was of 500 MW in each island. Italy explained that the improvements which occurred in recent years allowed reducing the amount of interruptible load required by 20 % and 60 % in Sardinia and Sicily respectively.

(15) In past years, service providers were selected on the basis of a tender procedure. The tender offers were capped to a maximum price of 300 000 EUR/(MW year), which corresponds to the maximum fixed price which the TSO is allowed to pay for the service\(^5\).

(16) The number of sites offering the service constantly increased in recent years. In 2015 the number of industrial sites amounted to 37 and 18 in Sicily and Sardinia respectively. For the same year, interruptible power contracted under the mechanism amounted to 163 MW in Sardinia and 156 MW in Sicily falling significantly short of the desired target.

(17) Since the tender was undersubscribed, all participants received the maximum remuneration of 300 000 EUR/(MW year) for the service. Italy notes that also future tenders on the islands are likely to be undersubscribed and that in these

\(^4\) i.e. plant that could restart the electric system in case of generalised blackouts.

\(^5\) The TSO operates pursuant to the provisions laid down by the national regulators (Delibera ARG/elt 15/10 implementing Article 1 of Decree-Law 3/2010). The text is available at the following link: [http://www.autorita.energia.it/it/docs/10/015-10arg.htm](http://www.autorita.energia.it/it/docs/10/015-10arg.htm).
conditions tenders on the islands will not result in any competitive pressure on price. Therefore, Italy proposes to establish the price using benchmarking with the equivalent service on mainland Italy. The TSO recently ran a successful tender for interruptible services on the Italian mainland. The price paid for the service in this tender was approximately 90 000 EUR/(MW year) plus a fixed remuneration of 3 000 EUR per shedding event.

(18) The Italian authorities note that, due to grid condition described above, undertakings offering interruptible services on the islands will be likely to face longer and more frequent interruptions. In these conditions a rational investor will require a higher payment for providing the service.

(19) For these reasons, Italy proposes a flat payment for the interruptible services on the islands benchmarked to the price paid on the mainland taking into account the local grid conditions, i.e. the average frequency and duration of the expected load-shedding events.

(20) According to the data provided by Italy; taking into account the number of participants in the scheme in 2015, the average number of sheds per year over the 2010 – 2015 period and the average duration of the shedding events\(^6\) over the same period, it is possible to estimate at 3 812 seconds the average cumulative interruption duration per site per year. This figure represents the average amount of time a site providing the service can be expected to be interrupted each year and it is therefore an estimate of the risk of providing the service.

(21) According to information provided by the Italian authorities, an equivalent estimate on the mainland gives an average of 2 088 seconds per site per year. In order to obtain an upper limit for the market value of the service on the islands, Italy proposes to increase the maximum remuneration obtained on the mainland in the same proportion as the risk (i.e. as the average cumulative interruption duration per site per year). This methodology would estimate a maximum remuneration of approximately 165 000 EUR/(MW year) for the interruptible service on the islands (that is: \(90 \times \frac{EUR}{MW \text{ year}} \times \frac{3 812}{2 088} \approx 165 \times \frac{EUR}{MW \text{ year}}\)).

(22) The scheme operating on the mainland includes also a payment of 3 000 EUR/MW per load-shedding event. This extra remuneration per event is not foreseen by the scheme operating on the Islands. However, on average, a service provider can expect between 1 and 2 interruptions per year\(^7\). In order to mirror the remuneration in the two schemes, the proposed maximum remuneration on the islands is increased to 170 000 EUR/(MW year).

(23) The grid situation on the island is evolving rapidly. In particular a new power line connecting Sicily and the mainland (the Sorgente-Rizziconi interconnector) will enter into operation in 2016. Moreover, other market measures (e.g. a capacity mechanism) might be implemented in the coming years to promote

\(^6\) This average is calculated excluding the longest load-shedding event which occurred over the 2010 – 2015 period. Lasting more than 23 hours, this event is a statistical outlier and almost 50% longer than the second longest event. Including this unique event in the calculation would misrepresent the grid situation on the islands.

\(^7\) This average is calculated taking into account the number of participants in the scheme in 2015 and the average number of sheds per year over the 2010 – 2015 period.
investments. In order to monitor the situation, Italy proposes to limit the duration of the scheme to 2 years, that is, for 2016 and 2017.

(24) In the first half of 2017 Italy will evaluate the results of the scheme, review the situation of the power network and submit a monitoring report to the European Commission.

(25) The cost incurred by the TSO is considered a general system charge and is associated to the other costs of dispatching services. It is eventually passed on to final users by means of a specific charge on their bills (dispatching charge - corrispettivo di dispacciamento)\(^8\).

3. ASSESSMENT OF THE AID

3.1. State aid within the meaning of Article 107(1) of the TFEU

(26) By virtue of article 107(1) Treaty on the Functioning of the European Union (“TFEU”), “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the internal market.”

3.1.1. State resources and imputability, selectivity, impact on competition and trade

(27) The Commission considers that, in the absence of any amendment to Law 221/2012 but for the prolongation of the validity, the conclusions as to state resources, imputability, selectivity and impact on competition and trade set out in Decision C(2012) D 6779 final and Decision C(2010) 3222 final (recitals 13 to 20) remain valid. Therefore, the measure at hand is to be regarded as paid for through State resources and imputable to the State, selective and liable to affect competition and intra-EU trade.

3.1.2. Presence of an economic advantage

(28) In order to constitute aid in the sense of Article 107(1) of the TFEU, the notified measure should confer on its recipients an economic advantage which they could not have obtained under normal market conditions.

(29) In the case at hand and in line with the criteria set out in Decision C(2012) D 6779 final and Decision C(2010) 3222 final, the Commission considers that the measure does not constitute aid if the mechanism addresses a genuine need of the electricity systems and the remuneration for providers of interruptible services is in line with what a prudent market operator would pay for an equivalent service.

\(^8\) Dispatching services consist in the management of the transmission network so as to ensure the continuous balance between electricity demand and supply. The related costs (e.g., due to the need to secure the availability of essential and reserve capacity) are factored in in the dispatching charge, according to Delibera ARG/elt 156/07.
In this respect, the Commission examined whether under the current conditions of the electric systems in Sardinia and Sicily:

(a) there is still a genuine need for interruptible load,

(b) the volume of interruptible load Italy intends to procure is technically justified and

(c) the service is procured at the least cost to the system.

The Commission notes that an equivalent scheme to procure interruptible loads operates on Italy's mainland. Measures providing frequency regulation shedding electrical loads in real time are not uncommon and operate in several Member States.

Based on the submitted information, the Commission further notes that the generation capacity available in Sardinia and Sicily consists, to a large extent, of old thermoelectric plants, which might be subject to frequent outages, or non-schedulable renewable plants, which might increase the need for load balancing services. It is to be noted that the interconnections with the mainland still present structural weaknesses; in particular the new Sorgente-Rizziconi cable connecting Sicily to the mainland has been delayed. At the moment, Sicily is interconnected with a single cable and remains isolated in case of maintenance or technical problems of the latter.

Based on the monitoring reports supplied following Decision C(2012) D 6779 final, it appears that the frequency of interruption has been decreasing in recent years. However, unusually long load shedding events still occur, especially in Sicily where in 2014 a site was disconnected from the grid for more than [3 – 24] hours (12 sites were disconnected in Sardinia in the same year).

Taking into account the recent and expected developments affecting the transmission grid on the islands, the Italian TSO estimates that it is still necessary to procure interruptible load services in order to guarantee security of electricity supply (see recital (13) above). However, as explained in recital (14) above, the size of the scheme can be significantly reduced.

On the basis of these data, the Commission cannot exclude that, in the absence of interruptible load, security of electricity supply on the islands might be compromised. The Commission therefore concludes that there is still a genuine need for the measure. Furthermore, taking into account the reduction in size of the revised scheme, the Commission concludes that the volume of interruptible load Italy intends to procure is technically justified.

The Commission notes that, taking into account the volumes required, the number of providers subscribing to the scheme in previous year and the results of past tenders, it is likely that future tenders will be undersubscribed. In these conditions, it will be difficult to have genuine competitive pressure in a tender and the price resulting from the tender cannot be viewed as a market price.

The Commission notes that Italy may decrease the threshold for electrical loads participating in the scheme from 1 MW to 0.5 MW in order to attract new providers and increase participation in the scheme. While this might indeed increase participation in the scheme and help it to reach the targeted volume of
interruptible load that the TSO considers needed to reach the desired level of security to the grid, experience based on past extension of the scheme to smaller interruptible loads shows that it is unlikely that the scheme will attract sufficient smaller load providers to exceed the capacity tendered out. In the absence of competitive pressure in the tender, bidders will continue to all be selected if they fulfil the technical requirements and will continue to all obtain the maximum remuneration. In fact in the absence of any competitive pressure, the tender could be replaced by an administrative procedure in which it is merely verified that service providers fulfil all technical requirements.

(38) The maximum price established for previous tenders had been calculated taking into account the network conditions prevailing in 2010 and 2012 and the still high number of interruptions. However, as explained under recitals 32-33, while not ideal, network conditions have to some extent improved and the number of interruptions has decreased noticeably in the period 2013-2015. This required a review of the maximum remuneration of the service, in particular since it constitutes the remuneration that all participants will realistically obtain. Italy has undertaken such review and used as a starting point the price paid for the equivalent service on mainland Italy but adapted to higher risk of shedding and higher duration of shedding on the islands.

(39) On the basis of the data supplied by Italy, the Commission is of the opinion that comparing the frequency and duration of the load shedding events on the islands and on the mainland is an appropriate methodology to estimate the risk, and ultimately the economic cost, of providing the service. Therefore, the Commission concludes that a payment of 170 000 EUR/(MW year) is a sound estimate of the maximum remuneration for providing the service on the islands.

(40) In light of the above, the Commission concludes that the reference price does not provide for overcompensation of the services rendered.

(41) Finally, the scheme will be approved only for two years. Any eventual prolongation of the scheme will be evaluated on the basis of the monitoring report submitted by Italy (as described in recital (24) above) and in light of the energy market design in Italy.

3.2. Conclusion on the presence of aid

(42) The Commission therefore concludes that the Italian TSO, acting on instructions from the State and in pursuance of public service obligations,procures on the market the ancillary services necessary in order to ensure a high level of security and continuity of supply in Sardinia and Sicily. The remuneration granted by the TSO can be considered to be the market price for the services provided. Under these circumstances, the remuneration paid by the TSO does not confer an undue economic advantage to the service providers, but rather compensates the undertakings for the costs incurred. Therefore, the measure does not constitute State aid within the meaning of Article 107(1) TFEU.

(43) The Commission reminds the Italian authorities that this finding is limited to the two additional years until 2017 as it results from an analysis of the current situation of the electricity system on the islands concerned, which is rapidly evolving.
In this regard, the Commission also notes that any further prolongation of the measure at hand beyond 2017 would need to be assessed in the light of the circumstances prevailing at that time (including other measures affecting the electricity market such as the adoption of a capacity remuneration mechanism). Similarly, modifications of the scheme before 2017 may constitute State aid and would necessitate a specific assessment.

The Commission also notes that the Italian authorities will continue monitoring the application of this scheme. In this respect, the Italian authorities committed to provide the monitoring report containing relevant information regarding the application of the measure. These data will enable the Commission to verify the effects of the scheme and guide the Commission's analysis if the Italian authorities notify any further extension or modification of the scheme.

4. CONCLUSION

The Commission has accordingly decided that the measure does not constitute aid.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:


Your request should be sent by registered letter or fax to:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission