Spanish decarbonised electricity tax proposal

Eurelectric Statement

July 2021

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

WG Climate Change & Decarbonisation

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Spain proposes to tax competitive wind, hydropower and nuclear electricity production

Eurelectric, representing the European power sector, is a firm supporter of the European Union (EU) climate targets for both 2030 and 2050. Our sector aims to deliver sufficient decarbonised electricity to meet these targets.

In this context, the European power sector has serious concerns about the Spanish draft law for new regulation of the Spanish electricity market. Such a proposal, should it become law, will hamper Europe's ability to reach its climate commitments by weakening investor confidence. The proposal will apply to hydropower, wind, and nuclear power plants that were connected to the grid before 2005 and no longer benefit from any support scheme. Today, these power plants get their revenues exclusively from the wholesale power market, which reflects carbon costs under the principle of the "polluter pays". This principle is the foundation of a market that delivers on the Green Deal climate goals.

- "The proposal would introduce regulatory instability and distort proper market incentives to invest, not only in future renewables but also to operate existing non-emitting assets. This is worrying" - Secretary General of Eurelectric, Kristian Ruby

Eurelectric calls upon the European Commission to ensure Member States do not hinder either the functioning of the electricity market or the EU ETS.

Our key concerns are:

1. **The proposed measure will strongly disincentivise investments in renewables,**
2. **It undermines the functioning of the EU ETS and the EU's Internal Electricity Market will also be severely distorted,**
3. **The draft law further increases the tax burden on electricity – disincentivising electrification,**
4. **There are better alternatives to achieve the aims of this measure.**

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1. The proposed measure will strongly disincentivise investments in renewables

The proposed measure could significantly jeopardise the ability of the EU to reach its decarbonisation objectives by weakening renewable investment signals. Investments in wind, solar and hydropower over the next decades will require billions of euros from the private sector. These investments will only take place if companies believe that they can make a fair return on their investments. Any 'claw back' mechanism fundamentally hinders this investment incentive. This hurts the investors and, ultimately, the possibility for electricity consumers to get clean electricity at a competitive price.

2. It undermines the functioning of the EU ETS and the EU's Internal Electricity Market will also be severely distorted

The draft law undermines the framework of the EU ETS and is not in accordance with the internal electricity market regulation[1]. One key provision (Article 3(g)) of this electricity regulation, requires Member States to ensure that "market rules shall deliver appropriate investment incentives for generation, in particular for long-term investments in a decarbonised and sustainable electricity system, energy storage, energy efficiency and demand response to meet market needs, and shall facilitate fair competition thus ensuring security of supply".

The European Court of Justice (ECJ) stated in 2013 that measures of this kind cannot undermine the objectives of the EU ETS legislation.[2] The current proposal from the Spanish authorities does not comply with this obligation as it introduces a pricing mechanism that changes the merit order to one based on 'recouping' EU ETS prices for certain generation assets.
Furthermore, the law proposal risks putting domestic generators at a disadvantage compared to European competitors.

3. The draft law further increases the tax/levy burden on electricity – disincentivising electrification

Europe's primary task to reduce emissions in Europe is to switch energy use to decarbonised electricity. One of the key obstacles to achieving this is the uneven tax/levy burden vs fossil fuels. A level playing field is needed.

4. There are better alternatives to achieve the aim of the measure

Electrifying our economy is a tremendous opportunity to decarbonise the EU, but we will not be able to get there without the active support and involvement of citizens. It is key to keep in mind that a fundamental behavioural change is needed to electrify households.
Undistorted price signals will be the key driver to incentivise customers to become more active in electricity markets through demand response or to insolate their homes and switch towards more energy efficient appliances.

Our solution to lower prices for consumers is to reduce electricity taxes and levies or link the special price mechanism to forward pricing. In practice, Spain links a special price mechanism for households, the regulated tariff 'PVPC', to the spot price, which creates volatility for customers.

[1] Regulation (EU) 943/2019 on the internal market for electricity
[2] Judgment of the Court of 17 October 2013 in Joined cases C-566/11, C-567-11, C-580/11, C-620/11 and C-640/11. See, in particular, paras 42 and 44.

Other measures could also be considered, such as phasing out regulated electricity tariffs. Market actors could then compete on equal footing with various offers, including by making consumers more active and benefiting from their changes in consumption behaviour (demand response when prices are high because of CO_2 component).

Second, volatility of household prices could be lowered, for example, through a link between retail electricity prices and forward prices, or another indexation by electricity suppliers, as is the case in some Member States or adopting other additional specific measures to protect vulnerable customers.

We stand for cost-effective decarbonisation based on clear market signals, long term investor confidence, and a well-functioning EU Emissions Trading System (ETS). Safeguarding these principles is essential to achieving carbon neutrality in Europe.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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EU Transparency Register number: 4271427696-87