



Mr Miguel Arias Cañete,
Mr Dominique Ristori,
European Commission
Rue de la Loi 200
1049 Brussels, Belgium

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Subject: the Italian electricity tariff reform and the regulation of closed transmission systems are not complying with the Directives 2012/27/EU, 2009/28/EC and 2010/31/EU

Dear Commissioners,
Dear Director-General for Energy,

On 18 June 2015 we wrote you asking to monitor the Italian reform process on electricity tariff. We would like to thank you for the engagement in monitoring the reform and taking appropriate actions you declared in your reply letter (29 July 2015).

As you are probably aware, the Italian Regulatory Authority for Electricity, Gas and Water (AEEGSI) has recently adopted the reform with the resolution nr. 582 of 2 December 2015.

The concerns we raised in the previous letter are now materialising. In fact, following the reform, the "fixed charges" (network costs and taxes) is now the predominant component of the Italian households' electricity bill. This means that consumers producing and self-consuming energy from renewable sources will end up paying the same network charges as the consumers supplied entirely by electricity from the grid. Before the reform, investment in energy efficiency and self-production and consumption of energy from renewables allowed to save on most of the bill components. With the changes brought by the reform, the savings will instead be found, almost exclusively, in the "energy" component, thus reducing the attractiveness of such investment.

These provisions clearly contravene the objectives set out by the directives 2012/27/EU, 2010/31/EU and 2009/28/EC.

The reform clashes also with:

1. The vision set out in the Energy Union Framework Strategy - *"(...)with citizens at its core, where citizens take ownership of the energy transition, benefit from new technologies to reduce their bills, participate actively in the market, and where vulnerable consumers are protected"*;
2. The recent Communication COM(2015) 339 *"Delivering a new deal for energy consumers"*, in which the European Commission includes the *"increasing proportion of network charges, taxes and particularly levies in the average final household electricity bill"* among the obstacles hindering consumers to fully benefit of the ongoing energy transition;
3. The staff working document SWD(2015) 141 on *"Best practices on renewables energies self-consumption"*, accompanying the previous communication mentioned above, which *"advocates that network tariffs should be designed in a cost-effective and fair manner"*

while supporting energy efficiency and the renewables energy objectives while being simple and transparent for consumers" (as you also mentioned in your reply of 29 July 2015).

Additionally to what we have outlined above, there are additional concerns related to another AEEGSI resolution (nr. 539 of 13 November 2015), regulating the closed electrical distribution service in non-residential buildings (SDC). In our opinion, this resolution may also contradict the European Directives 2009/28 and 2010/31 which require the use of renewable energy in new buildings. In fact, it is necessary to build an SDC for a plurality of users located in one building (for example, in a shopping mall) to be able to employ renewable energy produced, for instance, by a photovoltaic system located on the rooftop of same building. On the contrary, the resolution number 539 prevents to constitute an SDC, thus to distribute the renewable energy produced in non-residential buildings among a plurality of users located in the very same building.

We are confident that the Commission will examine carefully the newly adopted reform of the Italian electricity bill and the resolution on SDC and, if appropriate, will take immediate action.

We enclose to this letter an ANNEX detailing the above mentioned issues and the AEEGSI resolutions number 582 and 539 (with annex A).

We remain at your disposal for any further information you may need.

Sincerely yours,

Dario Tamburrano (Member of the European Parliament)

David Borrelli (Member of the European Parliament)

Gianni Girotto (Member of the Italian Senate)

Gianluca Castaldi (Member of the Italian Senate)

ANNEX I

Critical points of the AEEGSI resolution nr. 582 (2 December 2015) reforming the electricity tariff

- *Article 1*: in the course of the year 2016 the costs of transmission, distribution and metering of electricity will be incorporated into the fixed amount of household bills and will no longer be proportionate to the amount of electricity drawn from the grid;
- *Article 3*: in the course of the year 2017 the cost of the general charges of electricity system will be incorporated into the fixed amount of household bills, thus losing any proportionality with the amount of electricity drawn from the grid;
- The reform increases the fixed component of the electricity bill instead of the variable one, so as to neutralise (retroactively) the savings resulting from lower electricity consumption while consolidating tax revenue. As a result, those who purchase more efficient appliances or install solar panels will see their savings dramatically cut, as these will only refer to the energy component of the electricity bill.

We would like to recall that **Directive 2012/27/EU** lays down the following:

- i) “Member States should be able to take into account national circumstances affecting primary energy consumption such as remaining cost-effective energy-saving potential (...) development of all sources of renewable energies” (recital 13);
- ii) “Demand response can be based on final customers’ responses to price signals (...) Member States **should therefore ensure that national energy regulatory authorities are able to ensure that network tariffs and regulations incentivise improvements in energy efficiency and support dynamic pricing for demand response measures by final customers** (...) Member States should ensure that national energy regulatory authorities take an integrated approach encompassing potential savings in the energy supply and the end-use sectors” (recital 45).
- iii) Member States should foresee “a forward-looking perspective to guide investment decisions of individuals, the construction industry and financial institutions” (Article 4 letter d).
- iv) “Member States shall ensure the removal of those incentives in transmission and distribution tariffs that are detrimental to the overall efficiency (including energy efficiency)” (Article 15 paragraph 4).
- v) “Member States shall ensure that energy distributors, distribution system operators and retail energy sales companies refrain from any activities that may impede the demand for and delivery of energy services or other energy efficiency improvement measures” (Article 18 paragraph 3).
- vi) “Regulation and network charges do not prevent ... a) demand reduction through energy efficiency measures ...e) the connection of generation sources from sites closer to the places of consumption” (Annex XI paragraph 2).

Furthermore, the **Directive 2009/28/EC** lays down the following: “Member States **shall ensure that the charging of transmission and distribution tariffs does not discriminate against electricity from renewable energy sources**” (Article 16, paragraph 7).

Resolution 582 is clearly incompatible with the aforementioned principles, for the following reasons:

- i) The fixed component of the tariff is not in line with the variable one, that promotes energy efficiency and a shift in demand as required by the Directive;
- ii) Energy efficiency in the building sector is discouraged, because at least half of the electricity bill does not depend on real consumption;
- iii) Investments for self-consumption from renewable sources are deprived of the economic return they had before today (almost the totality of the costs relating to self-consumption were saved) and thus lose any economic attractiveness;
- iv) Energy efficiency aimed at consumption reduction is prevented, due to the limited economic returns granted by the system.

In addition, the reform foresees an equal level of network tariffs for both self-consumption from renewable sources and the energy taken from the network and derived from fossil fuels. This recommendation does not comply with the EU provisions, in particular:

- i) The principle established by **Directive 2009/28/EC** according to which “It is advisable that energy prices reflect external production and consumption costs, included, if appropriate, environmental, social and health costs”;
- ii) The objectives set by the **Directive 2010/31/EU**, establishing that “Measures are needed to increase the number of buildings which not only fulfil current minimum energy performance requirements, but are also more energy efficient, thereby reducing both energy consumption and carbon dioxide emissions. For this purpose Member States should draw up national plans for increasing the number of nearly zero-energy buildings” (namely buildings powered by energy produced from renewable sources at local level).

Critical points of the AEEGSI resolution nr. 539 (13 November 2015) regulating the closed electrical distribution service in non-residential buildings (SDC)

- The SDC are private electrical networks that distribute electricity within a geographically confined industrial, commercial or shared services site. SDC do not supply household customers.
- Only through an SDC a plurality of users located in the same building can self-consume renewable energy produced by a photovoltaic system located on the rooftop of the very same building.
- Article 1 and Annex A: the closed electrical distribution service in non-residential buildings (SDC) cannot be extended beyond the building territorial limits established by 15 August 2009. This means that new SDC cannot be created anymore.

This does not comply with the following EU provisions:

- i) Directive 2009/28: *"By 31 December 2014, Member States shall, in their building regulations and codes or by other means with equivalent effect, where appropriate, require the use of minimum levels of energy from renewable sources in new buildings and in existing buildings that are subject to major renovation"* (Article 13 paragraph 4).
- ii) Directive 2010/31:
 - (a) *"Member States shall ensure that:*
 - i. *by 31 December 2020, all new buildings are nearly zero- energy buildings; and*
 - ii. *after 31 December 2018, new buildings occupied and owned by public authorities are nearly zero-energy buildings.*
 - (b) *Member States shall draw up national plans for increasing the number of nearly zero-energy buildings"* (Article 9 paragraph 1). By Article 2, paragraph 2, a "nearly zero-energy building" means *"a building that has a very high energy performance, as determined in accordance with Annex I. **The nearly zero or very low amount of energy required should be covered to a very significant extent by energy from renewable sources, including energy from renewable sources produced on-site or nearby**".*