Position Paper: *System of certificates for green electricity in Flanders*
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Description

The green certificates' system is used in Flanders as one of the mechanisms to reach the renewable energy objective for Europe. Europe commits itself to produce by 2030 amongst other 32% of its total end use of energy out of renewable energy[1].

The legal basis for this Flemish certificates' system was fixed in the *Energiedecreet* of 8 May 2009[2] and the implementing rules were transposed in the *Energiebesluit* of 19 November 2010[3].

Producers of green electricity on the territory of the Flemish Region can receive green certificates (GC) from VEKA (*Vlaams Energie- en Klimaatagentschap*) for the production of green electricity. All suppliers of electricity in the Flemish Region are candidate buyers for these certificates. The access holders[4] (mostly the suppliers or the owner of the site himself) are indeed obliged to hand in to the VREG certificates for a certain percentage ("quota") of their supplied electricity. If, for a given year, they cannot hand in enough certificates, they have to pay a fine for each missing certificate. The certificates are freely negotiable, and their price is in principle determined by the market. However, there exists a guaranteed minimum price fixed by decree, depending on the technology used for producing the electricity, for certificates handed in to the grid operator[5], which fixes the minimum level for sales by the producers on the market, while the fine fixes de facto the maximum price. As there are no limits on the bid side, given the minimum guaranteed aid level, one can hardly speak of a market.

The past: from a system with fixed subsidy to a more flexible arrangement

The value of the GCs and the duration of their allocation is set in function of the date of commissioning and was subject to quite some evolution the last years.

The initial system granted certificates without taking into account the technology[6] or capacity, during the entire lifespan of the installation and independently to the real evolution of the electricity price. This contributed to over-subsidizing some applications. The decision by the government to give minimum guarantees to certain technologies above the level of the fine and not to take into account additional costs external to the certificates' system that are needed for intermittent technologies (grid costs, reserve capacity in conventional plants, …), led to an unjustifiably expensive green power mix. The costs for the system end up at the consumer by means of the electricity bill. On the one hand, the financing of the quota obligation is passed through by means of a levy on green electricity. The artificial certificates' market is an unnecessary and cost-increasing go-between in the passing through of the production imposed by the government at a price fixed by the government. Besides, the net costs of the buy-in obligation of grid operators (the minimum guarantee) are mostly passed through to the consumer. The minimum guarantee makes sure that the producers do not feel the reduction of the certificates' price on the market and thus gives no signal whatsoever to install less additional capacity. As more and more certificates are handed in to the grid operator as a consequence of a lack of automatic reduction of the aid in case of surpluses, the number of certificates held by the grid operator (and the net costs linked to it) increases.

Since **2012,** several reforms of the certificates' system have been carried out. A variable support mechanism was thus introduced where the number of green certificates to be granted no longer only depends on the quantity of the electricity produced, but is adjusted on the basis of the current electricity price and the technological evolution. Moreover, subsidies for installations without fuel costs are corrected on the basis of the current electricity price during

[1] Repower EU goes further and proposes to produce 45% of the total energy use by means of renewable energy by 2030.
[2] Decree of 8 May 2009 "2009 houdende algemene bepalingen betreffende het energiebeleid", Belgian Bulletin 7/07/2009.
[3] Act of the Flemish government of19 November 2010 *houdende algemene bepalingen over het energiebeleid*, Belgian Bulletin 8/12/2010.
[4] Access holder; physical person or corporate body who has signed a contract with a grid operator, transmission grid operator or transport grid operator concerning the access to his grid at a specific access point.
[5] This was initially only meant for green electricity on the distribution grid, but from 2013 onwards it was expanded to transmission level for certificates issued since 2013 for existing and new installations (green electricity and cogeneration) (decision Constitutional Court 30/10/2012).
[6] Until end 2012, each producer of green electricity received one certificate per MWh produced (except co-combustion).

their running period. The quantities of certificates are now set by dividing the minimum support[7] by the expected market value of the certificates (banding) and limited to the maximum authorized banding factor (Bfmax[8]). The Bfmax for new plants is yearly set by the energy minister where the aid period is taken into account (longer aid periods correspond with a lower Bfmax). The support for green electricity used to be limited to the depreciation period of a plant (10 or 15 years), in other words, for the period on which the minimum support is fixed. This means that the producer will no longer receive certificates as long as the plant is operational, but only during 10 to 15 years, depending on the depreciation period that was used[9]. These changes were made in view of tackling over-subsidies.

In addition, a new tariff for prosumers was introduced since July 1, 2015 with bidirectional meters[10]. This "prosumers tariff" does however not cover all costs that other electricity users have to pay for social and environmental objectives.

Moreover, a certain number of measures were introduced in the framework of surpluses of certificates. On the supply side, an increase of the quota was supposed to bring a solution. A quota increase indeed raises the number of certificates that must be handed in at a next 'round' and thus takes more certificates out of the market. It is evident that a higher obligation of quota leads to higher costs for the consumer, which jeopardises competitiveness of internationally operating companies. Because again, no automatic reduction of the number of certificates granted was introduced on the basis of the surpluses' volume, there is no real chance of a shortage for the upcoming years.

In **2015** new quota increases were carried out[11]. As from 31 March 2017, an increase of the exemptions for industry was introduced in order to mitigate the impact of the quota increase.

Furthermore, the so-called "supercap" was introduced, which offers the possibility to very electro-intensive companies (electricity intensity of at least 20%) to limit the costs caused by the financing of renewable energy to 0,5% of the gross added value of the company concerned. For other companies, this can be limited to 4% of the gross added value of the company concerned[12].

Finally, the VREG-levy was expanded to the *energieheffing*[13]. The *energieheffing*, which entered into force on 1 March 2016, occurs on the offtake point per offtake category. This levy was meant to further spice the energy fund and to solve a part of certificates surpluses. On 22 June 2017, however, the Constitutional Court judged that the *energieheffing* was unconstitutional, but that it could still be passed through for 2016 and 2017[14]. The levy was revised and since the year of taxation 2018, a flat-rated monthly *energieheffing*, differentiated by the voltage, per offtake point was fixed. This way, an additional way of financing is yet introduced, which can help to bring along a stable financing basis.

In the Summer of **2019** several adaptations of the *Energiebesluit* concerning green certificates were decided: on top of a maximum subsidy duration, a maximum subsidy volume is taken into account for biogas and biomass plants with starting date as from 1 January 2020[15] and a maximum production volume for wind projects[16]. Subsidies (GCs) are no longer attributed during periods with negative prices[17] and the handing in modalities of certificates for extension of biomass plants are adapted. Moreover, for new investments, operational support (GCs) are gradually replaced by investment subsidies. As from 2023, no green certifiates are allocated to new PV installations. Subsidy for plants with an inverter as from 25kVA is replaced by the *Call Groene Stroom*[18]. Plants below 10kVA can ask for a premium through

[7] The support needed to make a project just profitable (additional required revenues to render the net present value of an investment equal to zero).
[8] Bfmax is the maximum allowed banding factor applicable to that category of projects for that specific year
[9] Ministerial Decree of 18 December 2015 "houdende actualisatie van de huidige bandingfactoren en vastlegging van de bandingfactoren van groenestroomcertificaten en warmtekrachtcertificaten voor projecten met een startdatum vanaf 2016", Belgian Bulletin 30/12/2015.
[10] Each grid user of solar panels, wind mills and cogeneration plants, always smaller or equal to 10 kW and with bidirectional meter, should pay this grid tariff.
[11] Handing in cycle 2016: 19%; 2017: 23%; 2018: 20,5% and 2019: 21,5%.
[12] Art. 6.6.1 energiebesluit ingevoerd bij besluit Vlaamse regering van 23/02/2018, Belgian Bulletin 29/03/2018.
[13] Decision of 18 December 2015 "houdende bepalingen tot begeleiding van de begroting 2016", Belgian Bulletin 29/12/2015.
[14] According to the Court, the energieheffing could, through differentiation by offtake, not sufficiently be differentiated from the federal levy electricity, which taxes the same basis. For the sake of legal certainty, the energieheffing is however maintained for the years of taxation 2016-2017.
[15] Art. 6.1.3/1 *energiebesluit*
[16] Art. 6.1.3/3 *energiebesluit*
[17] Art. 6.1.3/2 *energiebesluit*
[18] Art. 7.11.1 *energiebesluit*; https://www.vlaanderen.be/call-groene-stroom

grid operator Fluvius[19]. Small and medium wind turbines with a capacity of more than 10kW up to 300kW included are also subject to the *Call groene stroom*. Larger wind turbines and green electricity from biogas remain submitted to the system of GCs.

Due to the above-mentioned measures, the *Vlaams Energie- en Klimaatagentschap* (VEKA) expects the number of granted GCs to decrease in the upcoming years. In order to allow the access holders to comply with their quota obligation, the Flemish government decided to lower the quota obligations for the upcoming years.

Furthermore, the *energiedecreet* was also aligned with the renewed European state aid rules CEEAG[20] as regards the supercap ruling[21]. The costs created by the financing subsidy for renewable energy and qualitative cogeneration are reduced to 0,5% of the gross added value when the company and/or site is part of a sector that has a considerable risk of delocalization, and to 1% when it is part of a sector that has a risk of delocalization.

To be complete it is also worth mentioning that within the Flemish government discussions are ongoing concerning the anticipated halt of the subsidy for PV plants with starting date before 1 January 2013 (except for household plants). Green certificates for these plants could lead to overcompensation and not be in line with recent European state aid rules (CEEAG).

Finally, the Flemish government also elaborated an additional compensation regulation aiming at lowering the pressure of the ecologic public service obligation on the electricity distribution grid tariffs[22]. Since 2016 a distribution grid operator can be compensated for the full cost of buying up if the certificate is canceled. With the additional compensation rule, the distribution grid operator can now also be compensated for the net costs (difference between the paid minimum subsidy for buying up the GCs and the value with which the certificate is resold on the market), without passing it through in the distribution tariffs. The proposed compensation is a step in the good direction. The compensation, however, is not recurrent[23]. Moreover, after this compensation a considerable part of costs remain for public service obligations in the current grid tariffs.

New structural reform required

Several modifications were already introduced in the Flemish certificates' systems for green electricity that try to compensate for the failing market model that is the basis of the Flemish certificates' systems.

This "market" model has in the meantime been dug out by regulation in such a way that there is no added value for the consumer. The minimum guarantee obstructs the production of green electricity to align itself to the predefined quota path. Moreover, liquidity on the certificates' market is very limited due to the limited number of actors: almost a quarter of the certificates is handed in to integrated suppliers/producers who are themselves obliged to hand in certificates and the major part of certificates ends up with the grid operators.

Moreover the costs of the current system remain very high due to historical commitments (e.g. over-subsidy of old PV) and limited cost reduction owing to technological evolution. This is why Febeliec pleads in favour of the controlled phasing out of the complete certificates' market (as long as the previously fulfilled engagements by the authorities in view of legal certainty are respected). It is time for renewable energy plants to stand on their own with the same responsibilities as other market players. Only then the sustainable growth potential of renewable energy will unfold at its maximum. The reduction of subsidies also offers the opportunity to encourage the essential innovations in the energy landscape by means of oriented investment or innovation support within a closed total budget. Ruling out several project categories renewable energy, as well as the more strict conditions for operational subsidy through GCs and the introduction of investment subsidies through the *Call groene stroom* are a first step in the good direction[24]. It will

[19] https://www.fluvius.be/nl/thema/premies/premies-voor-huishoudelijke-klanten/premie-zonnepanelen
[20] Communication from the Commission: Guidelines on State aid for climate, environmental protection and energy, 18.2.2022
[21] Art. 31 *Energiedecreet*
[22] Art. 5.3.6/*energiebesluit*
[23] The minister can fix yearly the total compensation for distribution grid operators on the basis of the means that are registered to this effect on the global expenditure budget for that year and the means from the Energy fund that are made available to this effect. Thus in 2022, 147 million € GCs were bought up through the Energy fund. For 2023 it was proposed to compensate with general means 148 million € ecologic public service obligations out of the electricity distribution grid tariff. (https://beslissingenvlaamseregering.vlaanderen.be/document-view/6336AACA5CD4B179BD8717A8)
[24] Art. 7.1.11. *Energiedecreet,* stipulates according to quota path: 2024: 18%, 2025: 17%, 2026: 16%, 2027: 15%, 2028 and after: 14%.

however be needed to think about how 'the end of the quota obligation' will be organized, given the fact that volatility in a shrinking market is strongly influenced by the artificially created question.

Moreover, we must aim at the most cost-efficient installations within a given technology and the acceptable connection costs must be kept to a reasonable level. One must be careful, not only for keeping the support system cost-efficient, but also for the total costs. In this view, security of supply must become a parameter to take into account when granting possible subsidies (on the basis of system costs caused by a technology). There is therefore a need of climate financing aside of the energy invoice. Partly financing the ecologic public service obligations through general means is a first step in the good direction.

Finally, placing digital meters is a positive evolution. Indeed, these meters give an incentive to align consumption and production, which will benefit to the stability of the grid (cf. what already exists in the industry). Besides that, a smart meter brings about a correct compensation for using the grid for off-take and injection.

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