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MR. DAN JØRGENSEN Commissioner Energy and Housing
The Directorate-General for Energy
European Commission

SUBJECT: JOINT POSITION BY THE LEADING REPRESENTATIVE RENEWABLE ENERGY ASSOCIATIONS IN BULGARIA CONCERNING THE CONTINUED ENFORCEMENT OF THE REVENUE CAP FOR ELECTRICITY PRODUCERS

DEAR MADAMS AND SIRS,

On behalf of the Bulgarian Photovoltaic Association, the Bulgarian Wind Energy Association, and the Hydroenergy Association, as the legitimate representatives of the renewable energy sector in Bulgaria, we express our serious concern regarding the revenue cap measure for electricity producers, which has now been in force for a third consecutive year in Bulgaria. We consider that this measure is inconsistent with the principles of the single European energy market and hinders the development of renewable energy technologies. For this reason, we turn to you as representatives of the European institutions responsible for ensuring the compliance of national measures with EU law.

The revenue cap was introduced into national legislation as part of the measures under Regulation (EU) 2022/1854 to address the high electricity prices in 2022. Currently, the mechanism is currently in force in Bulgaria pursuant to §2 of the Final Provisions of the *Act on Revenue Collection and Expenditure Execution for 2025, until the adoption of the State Budget Act of the Republic of Bulgaria for 2025, the Budget of the State Social Security for 2025, and the Budget of the National Health Insurance Fund for 2025.*

The revenue cap for each type of electricity generation is determined as a fixed threshold by a decree of the Council of Ministers. The legislation does not set a lower or upper limit for the determination of the cap's amount. Electricity producers with active premium compensation contracts with the Security of the Electricity System Fund are subject to a revenue cap equal to the forecast market price set by the Energy and Water Regulatory Commission (EWRC). Electricity producers with expired Contracts for Difference are subject to different treatment, specifically:

(a) For producers of electricity from renewable energy sources whose premium compensation contracts had expired as of 8 October 2022, the revenue cap is set at EUR 150/MWh until the end of 2025;

(b) For producers of electricity from renewable energy sources whose premium compensation contracts expired after 8 October 2022, the revenue cap until the end of 2025 is set at either the feed-in tariff or the forecast market price determined by the EWRC, effectively treating them in the same way as producers with active contracts.

The mandatory contributions from producers are transferred to the Security of the Electricity System Fund and are used to finance compensation for household and business electricity consumers under programmes adopted by the Council of Ministers, as set out in §2 of the Final Provisions of the "*Extension Act*".

The Act on Revenue Collection and Expenditure Execution for 2026, which will apply until the adoption of the State Budget Act of the Republic of Bulgaria for 2026, foresees the continuation of the revenue cap for producers and its identical application in 2026. This effectively constitutes an extension of a temporary non-market intervention. It is being carried out despite being economically unjustified, contrary to applicable European legislation, discriminatory between producers - including within the same technology - and having severe negative consequences for investment predictability and regulatory stability in the Bulgarian energy market. It also obstructs the development of the renewable energy sector in Bulgaria.

In support of our joint position, we hereby present key arguments which clearly underscore the need for this measure to be discontinued.

1. Absence of Legal Basis at European Level

The continued application of the revenue cap for electricity producers in Bulgaria lacks a legal basis at European level. As you are well aware, Regulation (EU) 2022/1854, which initially served as the justification for the introduction of the cap, was a temporary measure applicable until the end of 2023 and aimed at addressing exceptional circumstances in the electricity market. The restriction of producers' revenues was intended as a time-limited exception, adopted as an emergency intervention in response to high energy prices.

Following the expiry of the Regulation, the European Commission expressed the view that the measures implemented at EU level during 2023 had achieved their intended objectives and that there is no reason to introduce new measures of a similar nature going forward. The average annual base load price on the Independent Bulgarian Energy Exchange (IBEX) for 2025, as of early December 2025, is EUR 106/MWh, and Bulgarian-traded futures on the European Energy Exchange (EEX) are priced at levels close to EUR 100/MWh. This indicates that there are no current or anticipated market conditions that would justify such extraordinary measures. Furthermore, under Directive (EU) 2024/1711 (Articles 66-68), national intervention in market pricing, including the limitation of producer revenues, may only be permitted in the event of a formally declared energy crisis at EU or regional level, which must be recognised by a joint decision of the Council of the EU on a proposal from the European Commission. At present, no such crisis has been declared, making the application of the revenue cap a unilateral and unlawful action that contravenes the principles of legal certainty, equal treatment, and the rule of law within the Union.

Additionally, the continued application of the revenue cap is contrary to the objectives of the internal electricity market, as it infringes on freedom of contract and market mechanisms - both of which are fundamental principles of European legislation. Any extraordinary national measure not based on an EU-level decision constitutes a breach of the Directive and creates legal uncertainty, directly undermining the stability of the energy market.

2. Contradiction with the Principles of the Internal Energy Market and Competition

The ongoing enforcement of the revenue cap constitutes state intervention that undermines key principles of the European Union - namely, free pricing, competitiveness, and non-discriminatory treatment of market participants. The revenue cap measure applied in Bulgaria:

- renders long-term contracts ineffective and impracticable, despite their being a key tool for securing predictable revenues, reducing risk, and encouraging investment;
- creates regulatory uncertainty due to the possibility of its parameters being set unilaterally and non-transparently;
- increases investment risk;
- restricts contractual freedom between market participants and impairs market liquidity, placing Bulgaria at a disadvantage compared to other Member States.

All of the above is in direct contradiction with Directive (EU) 2024/1711, which emphasises market-based mechanisms, the promotion of power purchase agreements (PPAs), and investment predictability as the foundations of the revised model for the European electricity market.

Investors in Bulgaria's electricity sector are subject to less favourable market conditions compared to their counterparts in other EU Member States. This disparity stems from state intervention in the market, which limits contractual freedom and imposes restrictive rules on investors and producers.

3. Economic and Investment Impacts

The revenue cap leads to significant distortions of market mechanisms and undermines the price signals necessary for the efficient functioning of the electricity system. In practice, the measure effectively turns electricity producers into a source of financing for compensation schemes benefiting other market participants, which is fundamentally incompatible with the principles of a competitive and liberalised market.

Furthermore, we wish to draw attention to the fact that any amendment to the legislative framework that constitutes a material change to the overall market model—as is the case here—should be subject to transparent prior discussion and mandatory public consultations with relevant stakeholders. In practice, such an approach is systematically not applied in the context of regulatory amendments, which inevitably results in a lasting deterioration of the investment climate and, in some cases, the suspension of operations of certain generation capacities. The introduction of market restrictions without due regard to actual market dynamics poses long-term risks to security of supply for both households and industry and compromises the processes underpinning the energy transition.

Such extraordinary and unjustified interventions erode investor confidence, constrain financial activity, and create adverse conditions not only for the development of new projects but also for the uninterrupted operation of existing ones—projects that are particularly critical in the context of the objectives of energy independence and decarbonisation. It is therefore essential to properly assess the significant risk of investment withdrawal across the entire energy sector, as well as the risk of reduced electricity generation at a time when the European Union requires the full utilisation of installed capacity in order to ensure the advancement of renewable energy technologies and the Union's energy security.

Our assessment indicates that, over the past three years, as a result of the revenue cap applied to electricity producers in Bulgaria, more than EUR 3.3 billion has been extracted from the electricity sector and redirected to other sectors of the economy in the form of state aid for electricity price compensation. The continued application of the revenue cap will further undermine the viability of the Bulgarian electricity sector, reduce investments in new technologies, and, most significantly, act as a major factor in the deterioration of the financial performance of state-owned electricity producers.

4. Unequal Treatment of Renewable Energy Producers with expired premium compensation contracts, but in force as of 8 October 2022

The revenue cap in Bulgaria creates yet another serious issue . Pursuant to §2, paragraph 3 of the Final Provisions of *the Act on Revenue Collection and Expenditure Execution for 2025, until the adoption of the State Budget Act of the Republic of Bulgaria for 2025,* an exception is introduced for electricity producers from renewable sources with active premium compensation contracts in force as of 8 October 2022.

For this group of producers, the revenue cap is not set by a decision of the Council of Ministers (EUR 150/MWh), as applies to other market participants, but instead a significantly lower cap applies (for some wind power producers below EUR 70/MWh), reflecting either the regulator-defined forecast market price for the relevant period or the preferential price stipulated in the feed-in premium contract.

In practice, this approach results in serious distortions and unequal treatment. First, the measure does not take into account whether the premium compensation contracts are currently in force, but instead links the application of the exception to a historical reference date – 8 October 2022. As a result, the scope of the exception unjustifiably includes producers whose feed-in premium contracts have expired, and who currently sell their electricity entirely on market terms, without any form of state support. Nevertheless, these producers are not subject to the general revenue cap established by a decision of the Council of Ministers for the respective category of producers, but instead to a lower regulatory cap calculated on the basis of contractual parameters that are no longer applicable, placing them in a disadvantaged and unequal position compared to other market participants.

5. The Need for a Market-Oriented and Predictable Framework

The sustainable development of the renewable energy sector, energy independence, and the green transition require a stable, transparent, and predictable market framework. The continued enforcement of the revenue cap runs counter to the objectives of a liberalised energy market, limits the efficiency of renewable technologies, and reduces incentives for flexible consumption. This results in reduced investment, delays in the deployment of innovative technologies, and impedes the creation of sustainable business models in the sector.

We address you because we believe that, within your remit, you will take into account the present position and the arguments put forward herein. We consider that there are clear grounds for a further assessment of the compatibility of Bulgarian national legislation with European Union law, particularly in relation to the principles of proportionality, non-discrimination, and legal certainty. In this regard, we expect and hope for concrete action that will have an immediate effect in resolving the challenges faced by investors in electricity generation facilities from renewable sources.

The systemic disadvantage faced by the renewable energy sector threatens not only the investment environment and economic stability but also the achievement of national and European objectives related to energy independence, decarbonisation, and the green transition. A functioning and competitive electricity market is a key enabler in achieving these goals and in strengthening the sustainable development of the economy as a whole. We believe that the removal of the revenue cap would restore the proper functioning of market mechanisms, encourage investment in flexible and sustainable solutions, and support supply security and the competitiveness of the European Union's economy. We rely on the timely support of the European Commission in upholding the principles of the single energy market and ensuring the effective development of renewable energy technologies.

Sincerely,

Meglena Nikolova Rusenova

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