Extended inframarginal revenue caps on electricity markets continue to harm investments in the energy transition

To the attention of: Members of the European Parliament, Ambassadors of Member States to the European Union, Energy Commissioner Ms. Kadri Simson,

Brussels, 7 December 2023

Dear Members of the European Parliament,

Dear Ambassadors,

Dear Commissioner,

Just over a year after the publication of the emergency measures on wholesale electricity market interventions, inframarginal revenue caps continue to harm investments in clean energy sources.

In response to the energy crisis, the first inframarginal revenue cap was enacted in September 2021 in Spain. Since then, similar measures have been taken in a vast majority of EU Member States, and "legalised" for 7 months via Emergency Regulation 2022/1854. The implementation of inframarginal revenue caps in EU Member States is uneven with a patchwork of national rules, cap levels and cap duration, creating high uncertainty and unclarity for investors. This slows down investment and increases the costs of financing due to the perception of risk, as has been recognised in ACER's 2023 Market Monitoring Report.

The REPowerEU Plan has clearly set the objective to massively deploy renewables to reduce dependency on Russian fuel imports: according to Bruegel, additional deployment of solar, wind and heat pumps since the beginning of the crisis will save 57 TWh of gas this winter in Europe. On the other hand, the European Union wants to reach carbon neutrality by 2050 by massively electrifying its energy system and has recently significantly raised its renewables targets for 2030. Achieving this will require massive investments in clean energy sources. We should not forget that we are competing with other global regions to attract these investments. European clean tech industries cannot continue living with such uncertainty.

While the European Commission did not recommend extending emergency measures beyond June 2023, inframarginal revenue caps still remain and the poor investment environment continues. With this letter we bring to your attention the issues caused by the persistence and prolongation of inframarginal revenue caps.

- In many countries, **the cap was implemented for a duration out of the scope defined by the original Council Regulation 2022/1854 based on Art. 122 TFEU**, leading to some markets being locked into devastative emergency measures far beyond the period of actual emergency.
    - Seven Member States applied the cap retroactively and twelve Member States are still applying caps until the end of 2023 (AT, BG, CY, CZ, EL, ES, FI, FR, HU, PL, RO, SK).
    - In **Bulgaria**, the cap has been prolonged until the end of the year, and the Council of Ministers has the powers to unilaterally extend and change the cap level.
    - In **France**, **Slovakia** and **Hungary**, the caps will last until the end of 2024.
    - In **Romania**, the market revenue cap, that had severe effects on market liquidity and competition, will be prolonged until the end of 2025.

- Implementation of the measures has been difficult, conflicting with national tax authorities and applicable regulations.

- The current EU legislative framework leaves too much room for national governments to act unilaterally, compromising consistency within the EU market and slowing the deployment of clean energy sources in the countries where the cap is still present.
    - **Spain** is the country with the lowest cap in Europe, at 67€/MWh and affecting renewables projects functioning without subsidies. Extremely far from the 180€/MWh suggested by the European Council and emergency measures.
    - **Poland** extended the cap to guarantees of origin, thereby diminishing the effectiveness of this important incentive for industrial offtakers to sign PPAs. This created an increased risk for market participants and lower liquidity.
    - In **Greece**, an emerging market for PPAs, no PPAs were signed in 2022.

The Electricity Market Design (EMD) revision rightly includes measures protecting consumers from volatile energy prices through, among other measures, the promotion of long-term agreements, such as renewable power purchase agreements. Similarly, in the implementation of the Renewable Energy Directive, the EU seeks to accelerate the build-out of wind and solar, ultimately moving to an energy system where customers benefit from renewables. The current EU mandate is therefore to support consumers but extending the revenue caps will hamper the energy transition and therefore the effect of the positive measures aimed to support and promote long-term agreements.

We strongly urge for the European Commission to take action and enforce the deadline outlined in Emergency Regulation 2022/1854, and for the Energy Ministers and the Members of the European Parliament not to prolong the measures at national level or in the reform of the Electricity Market Design.

The decision to cap inframarginal revenue caps as a reaction to the 2022 energy crisis is irrelevant in current market conditions because the measure is an obstacle to investments in clean energy sources - as correctly identified by the Commission, ACER, corporate energy buyers and suppliers. It is not too late to fix it.

Yours sincerely,

<u>List of Signatories:</u>

WindEurope – The association for the European wind industry

Eurelectric – Federation of the European electricity industry

EFET – European Federation of Energy Traders

RE-Source Platform – European platform for corporate renewable energy sourcing

SolarPower Europe – The association for the European solar sector