

Additional information on the state aid “Subsidised Electricity Tax, Support for Renewable Energy Sources and Cogeneration in Latvia” (SA.37970 (2013/PN))

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Purpose of Aid

The primary purpose of the notified measure refers to the promotion of environmental protection, which is related to the purpose included in the package of the European Union (hereinafter – the EU) regulatory enactments in the field of environment and energy to decrease the carbon emissions, and Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (hereinafter – Directive 2009/28/EC) with the purpose to achieve that in 2020 20% of the gross final energy use corresponds to the produced energy with the renewable energy sources (hereinafter – the RES). Pursuant to Part A of Annex I to Directive 2009/28/EC, the general objective of Latvia, which is envisaged also in the action plan of Latvia, is to increase the share of energy produced by using RES from 32,6% in 2005 up to 40% in 2020 in gross energy final use.

According to the Directive 2009/28/EC, in order to achieve the purpose of the corresponding country pursuant to what has been mentioned in the Guidelines of the Community on aid to environmental protection¹ (OJ C082, 01.04.2008) (hereinafter – the Guidelines), regular State aid mechanisms are necessary to promote the use of energy produced by using RES. In this context the aid instrument is related to positive individual incentives to decrease pollution and other negative impact on the environment.

Based on the aforementioned, the purpose of the aid is to promote energy production by using RES in Latvia, as well as energy production in effective cogeneration.

The aid instrument is related to positive individual incentives in order to reduce pollution and other negative impact on the environment. The purpose of the aid is to promote energy production by using RES in Latvia, as well as energy production in effective cogeneration. The aid is provided in two ways:

- payments for the sold electricity within the framework of mandatory procurement (hereinafter – the MP) corresponding to the amount of the sold electricity;
- fixed payments for electric power installed in the station.

In the existing and planned normative framework, a situation when the station receives both types of aid is not allowed.

In the Section 3.1.6 (101) of the Guidelines it has been mentioned that “Environmental investment and operating aid for the promotion of energy from renewable sources will be

¹ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008XC0401\(03\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008XC0401(03)&from=EN)

considered compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty, if the conditions in points 102 to 111 are fulfilled”.

The aid policy of electricity production is systematic and it is a process based on the determined goals, and the implementation thereof has *ad hoc* characteristics. By following the EU common interest goals, which provide for the reduction of greenhouse gas emissions by 20% by 2020, increase in the share of RES EU energy final use up to 20% and EU energy efficiency indicators improved by 20%, Latvia has approved several policy planning documents that determine common goals for the development of the energy sector and priorities for the use of renewable energy sources.

Particular national objectives are compatible with hierarchically higher power national development plans and achievement of international goals in environmental sector the implementation of which has been laid down in the EU directives, international conventions ratified by the Republic of Latvia (UN Kyoto Protocol) and strategic documents approved by the Government.

The Energy Development Guidelines for 2007-2016, being the main document of the field of energy puts forward the following goals:

1. To achieve the level of self-sufficiency with electricity level in 2012 — 80%, but in 2016 — 100%, which requires to introduce new power of at least 700 MW in Latvia;
2. By 2016 the cogeneration potential shall be acquired in the largest cities (including Riga) with the common heating load of about 300 MWth. In other cities of Latvia cogeneration potential with the common heating load around 100 MWth shall be acquired.
3. By 2016 the average efficiency level of thermal energy plants shall be increased from 68% up to 80% - 90%.
4. The use of local primary energy resources in 2016 shall increase from 65 PJ up to 82 PJ, which in the primary energy structure must form at least the level of 36% - 37%; and
5. The common supply of state electricity use shall be ensured by renewable resources in the amount of 49,3%.

Programme for Reduction of Climate Changes for 2005-2010 refers to the UN General Convention on Climate Change and the implementation of related Kyoto Protocol in Latvia, which envisaged a smaller goal of emission reduction than the European Union Strategy 2020. The primary goal of this programme was to ensure that starting from 2008 the common greenhouse gas emissions would not exceed 92% from the level of 1990. In the achievement

of the goal it was planned to implement several operational directions of reducing climate changes, including increase of effective and rational use of energy resources, by providing the aid in construction of combined heat and power plants (hereinafter – CHPP) and projects for increasing energy efficiency.

The National Reform Programme of Latvia for the Implementation of the “Europe 2020” strategy (approved by Cabinet of Ministers on 26 April 2011) included the goal of reducing greenhouse gas emissions, taking into account international obligations of Latvia:

— fulfilment of the obligations determined in the Kyoto Protocol of UN General Convention on Climate Change: to reduce greenhouse gas emissions in 2008-2012 by 8% in opposition to 1990;

— common obligations determined in climate and energy legislation: for 2013-2020 increase of greenhouse gas emissions in field not related to the emission trade system (ETS) in 2020 shall not exceed +17% in comparison with 2005; field included in ETS have no individual state plan, determined common EU goal — 21% in 2005.

The goal of Latvia is to limit the total; greenhouse gas emissions so that in 2020 it would not exceed 12,19 Mt CO₂. This goal includes fulfilment of all international obligations mentioned above.

Guidelines for the Use of Renewable Energy Sources (2006-2013) is a narrower RES-related binding document, which at the same time is subordinated to the goals of the Energy Development Guidelines for 2007-2016. Guidelines of RES put forward the following measures as policy goals which:

- increase the proportion of renewable energy sources in the common energy balance of Latvia;
- promote security of energy supply of Latvia; and
- in long-term will ensure contribution of renewable energy sources in reduction of greenhouse gas emissions.

National Development Plan for 2007-2013 prescribes that special attention should be paid to the economic use of energy resources and the reduction of negative influence of production processes on the environment. The use of renewable energy sources shall contribute to the implementation of the Government policy in the field of electricity.

By continuing document settings of the previous policy, also those policy planning documents which are aimed at determining a medium-level policy continues the previously determined development course of the field of energy.

The National Development Plan for 2014-2020, which is the main document of medium-term development planning, sets the goal to ensure long-term use of energy resources

necessary for economics, reduction of energy and emission intensity and increase in the proportion of local renewable energy sources in the amount of total use, by focusing on competitive energy prices.

Latvian Energy Long-term Strategy 2030 is established in order to offer a new scenario of the energy policy, which aims not only at the development of the energy sector, but also views it in the context with climate policy. The energy strategy 2030 sets the promotion of competitive economic development as the primary goal which is based on long-term energy policy. It is planned to be achieved by promoting effective technologies of RES use, taking measures to improve energy efficiency and to strive for the achievement of EU sustainability goals.

Legal Justification

In the *PreussenElektra v. Schleswag*, State aid case Case C-379/98² the European Court of Justice held that “[a]n obligation imposed on private electricity suppliers to purchase electricity produced from renewable energy sources at fixed minimum prices did not involve any direct or indirect transfer of State resources to undertakings which produced this type of electricity[...].”

Taking into account that Court Case, the Ministry of Economics of the Republic of Latvia considered the existing *feed-in system* (MP and capacity payments) in the Republic of Latvia did not constitute State aid within the meaning of the legislation of the European Union State aid regulation, taking into account the facts explained below.

A producer of electricity can be remunerated, if technical criteria are met, according to one of the two mutually exclusive mechanisms — MP and capacity payments. Evaluating principle of proportionality support system was made into two parts: 1) support for the production of electricity from renewable energy sources and; 2) support for the production of electricity in high efficiency cogeneration.

In view of the practice of the Commission and EU Courts, where mechanisms are financed by final customers through the intermediary of system operators and public trader, state resources are not involved. The practice of the EU Courts confirms that public ownership of system operators alone does not confirm imputability to the state.

In addition the Danish State aid case *Statsstøtte N 618/2003 — Danmark Forlængelse af N 1037/1995 for visse kombinerede kraftvarmeverker*³ — when Commission considered

² *PreussenElektra v. Schleswag*, Case C-379/98, [2011 E.C.R.]

³ Accessible: (http://ec.europa.eu/eu_law/state_aids/comp-2003/n618-03.pdf).

that a scheme designed to support combined production of electricity and heat, did not qualify as State aid, grounded the Latvian confidence about feed-in tariff as not to be State aid. In Danish circumstances, the Commission concluded that “[t]here is therefore no loss of State funds” and that “the supplement which the power supply companies must pay above the market price of electricity [...], which is then passed on to final customers, does not constitute State aid within the meaning of Article 87(1) [EC]”.

The Supreme Court of the Republic of Latvia concluded in judgement⁴ that the provided support in the Republic of Latvia in accordance with the existing feed-in system (MP and capacity payments) does not constitute as State aid within the meaning of the legislation of the European Union.

After Dutch State aid case C-206/06 — Essent Netwerk Noord and Others⁵ — European Union started to change the way to think and decide about State aid support for renewable energy.

Taking into account the fact, that the state aid for the promotion of energy production by using RES within the framework of MP or fixed payment for electric power installed in the station is no longer granted since September 10, 2012 when the Cabinet of Minister took the decision and agreed on the changes in the relavite legal act that there is no possibility to receive the new right to sell produced energy by using RES or in high efficient cogeneration (see Annex II and section *Historical Aid* and *Valid Aid Scheme*). Thereby Latvia considers that the existing state aid should be notified based on the Guidelines of the Community on aid to environmental protection (OJ C082, 01.04.2008).

Possible Influence

The offered aid mechanism:

- a) is based on the historically approved support schemes assuming that their operation will be terminated until 30 June 2016 by providing the protection of investor's rights;
- b) after 30 June 2016 it will be implemented pursuant to the Guidelines on State aid for environmental protection and energy 2014 – 2020 (OJ C200/1, 28.6.2014.).

Until 30 June 2016, competent authorities of Latvia must conduct a profound aid evaluation measure for each RES-type power station or CHPP, taking into account historical MP events and their impact on the present situation. Such date has been set so that the

⁴ The Republic of the Latvia Supreme Court, Case No. A42906709 (SKA — 419/2010), Judgement of 10 June 2010.

⁵ Accessible: (<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-206/06#>).

required measures would be performed until the end date of the transition period determined by the Guidelines on State aid for environmental protection and energy 2014 – 2020 (OJ C200/1, 28.6.2014.).

The offered aid mechanism:

- increases a broader use of such energy in Latvia, which is produced by using RES, as it is envisaged by laws and regulations of the EU;
- promotes energy production in highly effective cogeneration;
- ensures effective use of energy resources;
- enhances effective development of the central heat supply system;
- ensures secure investment climate for development of power stations;
- promotes society awareness on production of electricity from RES.

Beneficiaries

Aid beneficiaries are such merchants that produce electricity from RES, as well as in high efficient cogeneration by using biomass or biogas, or fossil energy resources (natural gas) and meet the qualification requirements for receiving the right to sell the produced electricity within the aid mechanism, receiving the fixed remuneration per kWh or for power stations above 4 MW — fixed amount of payment for capacity.

Though at the time being new rights to sell electricity within the scope of MP are not issued due to Cabinet Regulation No. 604 of 28 August 2012, “Amendments to Cabinet Regulation No.221 of 10 March 2009, “Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration”” and Cabinet Regulation No. 606 of 28 August 2012, “Amendments to Cabinet Regulation No.262 of 16 March 2010 “Regulations Regarding the Production of Electricity Using Renewable Energy Sources and the Procedures for the Determination of the Price””, transfer of those power stations which have received the right to sell electricity within the scope of MP, continues and will be completed in 2017.

In the period from 1 January 2013 to 1 January 2014, 33 merchants have commenced to sell the produced electricity within the framework of MP for a public trader or to receive the guaranteed payment for the electric capacity installed in a cogeneration unit, which will reduce the harmful effect of energy production on the environment, but at the same time will influence the total support amount to MP and respectively will create the increase in the MP components (hereinafter – the MPC) from 1 April 2014. Along with the start of the operation of the new power stations, the electric capacity for CHPP installed in 2013 with the electric

power up to 4 MW, selling electricity within the framework of MP, has increased by 18% from 82 MW up to 97 MW, for biogas stations — by 28% from 43 MW up to 55 MW and for biomass stations by 139% from 23 MW up to 55 MW.

According to latest data at the disposal of the Ministry of Economics (hereinafter – the MoE), as at 1 January 2015 the number of the previous beneficiaries of the aid mechanism or power stations from which the electricity is purchased within the framework of the MP or which receives the guaranteed payment for the installed electric capacity, is 389⁶. Table 1 summarises the information on the number of the previous beneficiaries of the aid mechanism in 2012, 2013, 2014. The data in columns regarding 2013 and 2014 show the additional stations which started to receive the aid in the mentioned year.

Table 1

Information on the number of previous beneficiaries of aid mechanism in 2012, 2013, 2014

Type of the station	Stations which have received aid in 2012	Stations which started to receive aid in 2013	Stations which started to receive aid in 2014
Gas CHPPs the electric power of which does not exceed 4 MW.	77	12	6
Gas CHPPs the electric power of which does exceed 4 MW.	4	*	0
Biogas CHPPs	38	15**	3
Biomass CHPPs	17	8	8
Wind power plants	53	0	0
Hydroelectric power plants	146	0	2

* Two of the existing stations had installed additional capacity of 202.3 MW.

** Two of stations were put into operation at the end of 2012, but actually the production started and MP recieved in 2013.

On 1 January, 2015 490 merchants and their power stations have valid rights to sell the produced electricity within the framework of the MP or rights to receive the guaranteed payment for the installed electric capacity that have been obtained since the Electricity Market Law (hereinafter – the EML) came into force on 8 June 2005.

⁶ In 2013 and 2014 there were MoE decision regarding the suspension of the obtained right to sell electricity produced from RES or in high efficient cogeneration within MP due different reasons.

Historical Aid

Starting Point of State aid

Pursuant to provisions determined in Section 30 and Section 33 of the EML⁷, in MP electricity from the producers is bought by the public trader for a specific price. The rights to sell the produced electricity within the framework of the MP or to receive the guaranteed payment for the installed electric capacity are granted by the MoE by making an administrative decision in line with the Administrative Procedure Law. The EML obligates the public trader to calculate the amount of the purchased electricity of the MP and costs for electricity⁸, which is produced from RES.

Whereas according to Section 28, Paragraph five and Section 30, Paragraph three of the EML, additional expenses caused by the MP in comparison with the electricity procurement with the same amount in the electricity market are covered by all final electricity customers of the Republic of Latvia in proportion to their use of electricity.

Based on the delegation given to the Cabinet of Ministers by Section 28 of the EML, on 6 November 2006 new regulations No. 921 "Regulations on Production of Electricity in Cogeneration"⁹ were issued, which entered into force on 11 November 2006.

Based on the delegation given to the Cabinet of Ministers by Section 28 of the EML, on 24 July 2007 regulations No. 503 "Regulations on Production of Electricity Using Renewable Resources"¹⁰ were issued, which entered into force on 22 August 2007.

⁷ Enters into force 8 June 2005.

⁸ Taking into account that electricity in the particular moment of production has its own market value, it is compensated or the difference is subsidised between the mandatory price of the produced procurement of the electricity and market price of the electricity. This guarantees a specific price for electricity producer regardless of the market price. The amount of the mandatory procurement components is related directly to the stock exchange price of the electricity, the higher is the electricity price in the stock exchange, the lower the amount of procurement components for the corresponding period.

⁹ Paragraph 1 of Cabinet Regulation No. 921 of 6 November 2006.

1 Regulations prescribe:

- 1.1. the criteria by which cogeneration units shall be qualified to obtain the right to sell electricity produced within the framework of mandatory procurement;
- 1.2. the mandatory procurement of electricity produced in a cogeneration unit and the procedures for the supervision thereof;
- 1.3. the procedures for the specification of the price for electricity produced in a cogeneration unit depending on the electrical capacity of the cogeneration unit and the fuel used;
- 1.4. the procedures by which a merchant may refuse to sell electricity produced within the framework of mandatory procurement; and
- 1.5. the procedures by which a merchant, who has obtained the right to sell electricity produced within the framework of mandatory procurement, may receive a guarantee of origin, http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_921_-_Electricity_Production_in_Cogeneration.doc

¹⁰ Paragraph 1 of Cabinet Regulation No. 503 of 24 July 2007.

1.1. the conditions for the production of electricity from renewable energy resources;

ECJ judgment in the Pearl case ¹¹ provides that if the support is funded for parafiscal payments, these funds can be recognised as public funding, if the payment is introduced and the payment commitment is obliged by the state, revenue from the payments is received, administrated and further transferred by the state or a private legal entity, which is created and designated by the state and which uses revenue in order to provide advantages for the particular companies.

It is concluded that these conditions are cumulative, wherewith it is essential to qualify the start of MPC introduction.

The commitment of MPC is included the EML and regulations on the trade and use of electricity, determining that this payment is made by any electricity consumer together with all components comprising the price.

MPC, which obtain the content of parafiscal payments according to its formation and content structure, were formed and obtained legal force on 1 April 2008 when the regulator on the basis of the expenses for the period from 1 July 2007 to 31 December 2007 and price calculating methods for calculations approved MPC values.

Taking into account the conclusions of the ECJ and the creation of MPC judicature as a parafiscal payment, it shall be concluded that starting to apply MPC from 1 April 2008, which was based on the performed expenses from 1 July 2007, the status of public funding can be allocated to funds received from users, thus meeting all four cumulative conditions of Section 107(1) of the Agreement.

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- 1.2. the criteria according to which a producer that produces electricity from renewable energy resources may acquire the right to sell the produced electricity as the volume of electricity to be mandatorily procured;
 - 1.3. the procedures for the determination of the volume of electricity, which is produced from renewable energy resources, to be mandatorily procured;
 - 1.4. a part for every type of renewable energy resources which, from the total consumption of all the electricity end users in Latvia, shall be mandatorily covered by the electricity, which is produced from renewable energy resources;
 - 1.5. the procedures for the determination of the price for electricity, which is produced from renewable energy resources, depending on the type of energy resources;
 - 1.6. the procedures for the determination, implementation and supervision of the mandatory procurement volume;
 - 1.7. the procedures for refusing the right to sell the produced electricity within the scope of the mandatory procurement;
 - 1.8. the procedures for receipt of a guarantee of origin of the electricity produced from renewable energy resources;
 - 1.9. the measures for promotion of electricity production from biomass; and
 - 1.10. the authorised institution that shall issue the guarantee of origin of the electricity produced from renewable energy sources.; http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_503_-_Electricity_Production_from_Renewable_Energy_Resources.doc

¹¹Pearle and Others, Case C-345/02,
<http://curia.europa.eu/juris/showPdf.jsf?jsessionid=9ea7d0f130de72a6556af2434994899586b6c355fd98.e34KaxiLc3eQc40LaxqMbN4OaNuOe0?text=&docid=49410&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=491227>

Furthermore, Latvia actually started the process of opening the electricity market **from 1 July 2007**, when amendments to the EML entered into force, by adopting the Second Package of Energy Directive, which enabled electricity consumers to change the electricity trader, namely, the electricity market opened physically, as well as the level of the market price appeared, which is used as a reference point for assessing the electricity support mechanism of the MP. **Thus, 1 July 2007 is considered to be the starting point for the assessment, while the beneficiaries has had a legitimate expectation that the measure does not constitute as a state aid based on the case No SKA-419/2010 of the Supreme Court of Republic of Latvia “State support for the electricity produced from renewable energy sources in mandatory procurement and the merchant’s right to object to the granting of competitors benefits”¹².**

Renewable Energy Sources

Historically, the first aid mechanisms for the production of electricity and thermal energy by using RES and within the framework of high efficiency cogeneration were granted to merchants already in 1995¹³, envisaging the development of power stations not belonging to the state joint stock company (hereinafter – JSC) “Latvenergo” and determined that the purchase price for electricity produced in those decentralised mass capacity (up to 2 MW) in the hydroelectric power stations, which operate or the operation of which shall be renewed up to 2000, conform with the average calculation tariff of the double electricity implementation of the state JSC “Latvenergo” and is valid eight years from the beginning of the particular power station exploitation, but the purchase price for electricity produced in other decentralised power stations confirms with the average calculation tariff of electricity implementation of the state JSC “Latvenergo”. In the same year wind power stations were equated to the criteria¹⁴ referred to in Cabinet Regulation No. 54.

On 6 October 1998, the Energy Law came into force; Section 40, Paragraph one of the referred to law (in force until 15 April 2005) envisaged that the licensed electricity distribution company in its licence operation zone purchases from small hydroelectric power stations which capacity does not exceed 2 MW, as well as wind power plants which capacity

¹² <http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/senata-administrativo-lietu-departaments/klasifikators-pec-lietu-kategorijam-ar-tezem/9/>

¹³ Cabinet Regulation No. 54 of 14 March 1995, “On Purchase Prices of Electricity Produced in the Republic of Latvia” provided for the development of power stations not belonging to the state joint stock company “Latvenergo”, and determined that the purchase price for electricity produced in those decentralised mass capacity (up to 2 MW) in the hydroelectric power stations, which operate or the operation of which shall be renewed up to 2000, conform with the average calculation tariff of the double electricity implementation of the state JSC “Latvenergo”.

¹⁴ Pursuant to Cabinet Regulation No. 239 of 1 August 1995, “Regulations Regarding Purchase Prices of Electricity Produced at Wind Power Stations”.

does not exceed 2 MW and solar power plants, if exploitation of these stations and plants started until 1 January 2005, the residue of electricity produced by them, which has remained after use for their own needs and conform with the electricity parameters determined in the state, eight years from the start of exploitation of the corresponding power station for the starting price, which conforms with the double average electricity implementation tariff. After the end of the eight-year period the purchase price conforms to the average implementation tariff of the electricity.

On 8 June 2005, the EML entered into force¹⁵, determining that the producer which produces electricity by using RES can obtain the right to sell the produced electricity within the framework of the MP for the price of the MP. Within the framework of the MP prices depend on the type of the used energy resources, installed capacity, hours worked in the station, as well as the price of the natural gas trade.

Pursuant to Section 27 of the EML, the price of electricity is determined by producers, traders and consumers by a mutual agreement, except cases provided in the EML. Whereas in Section 29, Paragraph two of the EML, the producer has determined that particular part from the total electricity use of all Latvian final customers is obligatory covered by the electricity produced by using RES.

Sections 29 and 29.¹¹⁶ determine that producers which use RES electricity production can obtain the right to sell the produced electricity within the framework of the MP or the

¹⁵ Available in English:

(http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Electricity_Market_Law.doc).

¹⁶ Electricity Market Law.

Section 29. Production of Electricity by Using Renewable Energy Sources

(1) A producer who produces electricity by using renewable energy resources may acquire the right to sell the produced electricity as the volume of electricity to be mandatorily procured.

(2) A definite part of the total consumption of the electricity final customers in Latvia shall be mandatorily covered by the electricity, which is produced by using renewable energy resources. The Cabinet shall determine such part for each type of the renewable energy sources for a time period of five years, beginning with 1 January 2006, so that by 31 December 2010 the percentage proportion of such part in relation to the total electricity consumption reaches not less than 49.3 per cent.

(3) A public trader shall calculate the volume of the electricity to be mandatorily procured and the electricity produced by using renewable energy sources for each year in accordance with the part determined by the Cabinet in the total customer consumption and publish it on the Internet home page thereof and in the newspaper "*Latvijas Vēstnesis*" [the official Gazette of the Government of Latvia].

(4) The Cabinet shall specify the conditions for the production of electricity by using renewable energy sources, as well as the criteria for the qualification of producers for the receipt of the right specified in Paragraph one of this Section and the procedures for waiving thereof, the procedures for the determination of the electricity price depending on the type of the renewable energy sources, the procedures for the determination, implementation and supervision of the mandatory procurement amount, the procedures for covering the expenses of the mandatory procurement amount, as well as the measures for promotion of electricity production from the biomass.

(5) Producers who use renewable energy sources for the production of electricity may receive a guarantee of origin of the produced electricity in accordance with the procedures specified by the Cabinet. An institution authorised by the Cabinet shall issue the proof of origin.

right to receive the guaranteed payment for electric capacity installed in the power station. Procedure is determined by the Cabinet of Ministers.

Section 29, Paragraph two of the EML determines that the total use of all Latvian final customers is obligatory covered by electricity which is produced by using RES and the percentage proportion in relation to the total electricity use would not be lower than 49,3%.

Such aid mechanism for promoting RES was established by taking into consideration the requirements of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market.

Chronological depiction of the legal regulation of the MP is available in Annex II.

Cogeneration

Upon viewing the development of the legal regulation of support cogeneration process, the first legal regulation of this area in the form of Cabinet regulations that determines support for the produced electricity residue procurement in CHPPs were issued at

(6) A producer who utilises the right specified in Paragraph one of this Section, including the producer referred to in Section 30, Paragraph one of this Law, may waive the utilisation thereof at any time, informing the Regulator and a public trader three months in advance.

(7) The provisions of Paragraph ones and four of this Section, as well as of Section 30 shall not apply to hydroelectric power stations the capacity of which is more than five megawatts.

Section 29.1 Electricity Production in the Power Plants with Installed Electric Capacity Above One Megawatt Using Biomass or Biogas

(1) A producer who produces electricity in power plants with the installed electric capacity above one megawatt using biomass or biogas may acquire the right to receive a guaranteed fee for the electric capacity installed in a co-power plant.

(2) The Cabinet shall determine the conditions for the production of electricity using biomass or biogas, as well as the criteria for the qualification of producers for acquiring the right specified in Paragraph one of this Section, the procedures for the determination of fee for the installed electric capacity depending on the production technology and the fuel used, the electric capacity of installed in a power plant, and the procedures for making of such fee, as well as the procedures for refusing the right to receive guaranteed fee for the electric capacity installed in a power plant.

(3) If a producer wishes to utilise the right specified in Paragraph one of this Section and the power plant thereof conforms to the criteria specified by the Cabinet, a guaranteed fee for electric capacity installed in a power plant shall be paid by a transmission system operator in accordance with the procedures specified in Paragraph two of this Section.

(4) A public trader shall calculate separately the volumes of payments performed in accordance with Paragraph three of this Section. The expenses made by payments for the installed electric capacity shall be covered by all electricity final customers of Latvia in proportion to their electricity consumption by compensating the expenses of the procurement to the public trader. The amount of the state budget subsidy for reduction of the mandatory procurement component set up in the law on the state budget for the current year should be taken into account in the calculation of the eligible expenses. The methodology of the expense extension calculation shall be determined by the Regulator. The public trader recognizes the eligible costs and corresponding difference in revenue of the public trader in the accounting year in his assets or liabilities.

(5) Producers which use biomass or biogas for the production of electricity may receive a guarantee of origin of the produced electricity in accordance with the procedures specified by the Cabinet. An institution authorised by the Cabinet shall issue the proof of origin.

the beginning of 1998 for separate stations, namely "Edon Latvia"¹⁷ and "Vangažu namsaimnieks"¹⁸.

The first general legal regulation was determined by Cabinet Regulation No. 425 of 31 October 1998, "On Purchase Procedure of Electricity Residues Produced in CHPPs", based on what the tariff of electricity residue was determined by using such criteria as the type of fuel used in the technological production process and the average value of the consumed electricity tariff. Whereas electricity residue from CHPPs with the electric capacity above 4 MW was purchased according to the principle of economic gradualness.

The principle of gradualness determined that electricity transmission or distribution system operator upon managing the intersystem electricity flows must observe the principle of economic gradualness which requires to arrange the used resources successively according to reasonable economic criteria (such as price of the offered energy, continuity and stability of the power supply, renewal of basic funds of the system, distance of energy transportation), if these conditions are equal, electricity producers located in the state territory, which use RES, waste or cogeneration regime in the technological process of production have advantages to use the electricity transmission or distribution system.¹⁹

Cabinet Regulation No. 9 "Requirements for CHPPs and Procedure of Determination Purchase Price of the Produced Electricity Residue" was adopted on 8 January 2002. CHPPs with capacity higher than 4 MW electricity residue price is determined by the Public Utility Commission (hereinafter – Regulator), if it is required by the corresponding CHPP. Inter alia, it was envisaged for cost optimisation of the system that the system operator in the periods of residue can reach an agreement with CHPPs regarding the reduction of their work on mutually favourable conditions.

Sections 28 and 28¹ ²⁰ determine that producers which produce electricity in effective cogeneration can obtain the right to sell the produced electricity within the framework of the

¹⁷ Cabinet Regulation No. 170 of 5 May 1998 „On Purchase Price of Electricity Residues Produced in Cogeneration Plants of the Limited Liability Company "Edon Latvia"", "Latvijas Vēstnesis" No. 127 of 7 May 1998

¹⁸ Cabinet Regulation No. 171 of 5 May 1998 „On Purchase Price of Electricity Residues Produced in Cogeneration Plant of the Vangažu Municipal Company "Vangažu namsaimnieks"" "Latvijas Vēstnesis" No. 127 of 7 May 1998

¹⁹ Energy Law. Law of the Republic of Latvia. Official Gazette, 1998. 22 September No. 273/275.

²⁰ Electricity Market Law.

Section 28. Electricity Production in the Co-generation Plants With Installed Electric Capacity Not Exceeding Four Megawatts

(1) A producer who produces electricity in the co-generation may acquire the right to sell the produced electricity within the framework of the mandatory procurement.

(2) The Cabinet shall prescribe the criteria for the qualification of co-generation power plants for acquiring the right specified in Paragraph one of this Section, the procedures for the mandatory procurement and the supervision thereof, the procedures for the determination of electricity price depending on the electric capacity of

a co-generation plant and the fuel used, the procedures for covering the mandatory procurement expenses and the procedures for refusing the right to sell the produced electricity within the framework of the mandatory procurement.

(3) If a producer wishes to utilise the right specified in Paragraph one of this Section and the co-generation power plant thereof conforms to the criteria specified by the Cabinet, all surplus of the produced electricity, which is left after using the electricity for co-generation power plant needs, shall be procured by a public trader for a price determined in accordance with the procedures specified in Paragraph two of this Section.

(4) Producers whose co-generation power plants have started the production of electricity prior to the coming into force of this Law and which have not utilised the right specified in Paragraph three of this Section shall sell the electricity to a public trader in accordance with such conditions regarding the operation mode, support terms and price, which were applicable to such power plants at the moment of the coming into force of this Law.

(5) A public trader shall calculate separately the volume and expenses of the electricity procured in accordance with the procedures specified in Paragraphs three and four of this Section. The expenses of such procurement shall be covered by all electricity final customers in Latvia in proportion to their electricity consumption by compensating the expenses of the procurement to the public trader. The amount of the state budget subsidy for reduction of the mandatory procurement component set up in the law on the state budget for the current year should be taken into account in the calculation of the eligible expenses. The methodology of the expense extension calculation shall be determined by the Regulator. The public trader recognizes the eligible costs and corresponding difference in revenue of the public trader in the accounting year in his assets or liabilities.

(6) A producer who utilises the right specified in Paragraphs one and four of this Section may waive the utilisation thereof at any time, informing the public trader three months in advance.

(7) Co-generation power plants which conform to the criteria determined in accordance with the procedures specified in Paragraph two of this Section may receive a guarantee of origin of the produced electricity in accordance with the procedures specified by the Cabinet.

Section 28.1 Electricity Production in the Co-generation Power Plants with Installed Electric Capacity Exceeding 4 Megawatts

(1) A producer who produces electricity in the co-generation power plant the installed electric capacity of which exceeds 4 megawatts may acquire the right to receive a guaranteed fee for the electric capacity installed in a co-generation power plant.

(2) The Cabinet shall determine the criteria for the qualification of co-generation power plants for acquiring the right specified in Paragraph one of this Section, the procedures for the determination of fee for the installed electric capacity depending on the production technology and the fuel used, the installed electric capacity of co-generation power plant, and the procedures for making of such fee, as well as the procedures for refusing the right to receive a guaranteed fee for the electric capacity installed in a co-generation power plant.

(2.1) A producer who produces electricity in the co-generation power plant the installed electric capacity of which exceeds 4 megawatts and who till December 31, 2013 has used rights to sell the produced electricity within the framework of the mandatory procurement obtained under procedures specified in Section 28 of this Law, from January 1, 2014 receive a guaranteed fee for the co-generation power plant installed electric capacity in accordance with such conditions regarding the operation mode, support terms and calculation of the the capacity component, which were applicable to such power plants till December 31, 2013.

(2.2) A producer who till December 31, 2013 has received rights to sell the electricity produced in the co-generation power plant with installed electric capacity exceeding 4 megawatts within the framework of the mandatory procurement, but has not started selling electricity to the public trader, has rights to receive a guaranteed fee for the co-generation power plant installed electric capacity in accordance with such conditions regarding the operation mode, support terms and calculation of the the capacity component, which were applicable to such power plants till December 31, 2013.

(3) If a producer wishes to utilise the right specified in Paragraph one of this Section and the co-generation power plant thereof conforms to the criteria specified by Cabinet, a guaranteed fee for electric capacity installed in a co-generation power plant shall be paid by the public trader in accordance with the procedures specified in Paragraph two of this Section.

(4) The public trader shall calculate separately the volumes of payments performed in accordance with Paragraph three of this Section. The expenses made by payments for the installed electric capacity shall be covered by all electricity final customers of Latvia in proportion to their electricity consumption by compensating the expenses of the procurement to the public trader. The amount of the state budget subsidy for reduction of the mandatory procurement component set up in the law on the state budget for the current year should be taken into account in the calculation of the eligible expenses. The methodology of the expense extension calculation shall be determined by the Regulator. The public trader recognizes the eligible costs and corresponding difference in revenue of the public trader in the accounting year in his assets or liabilities.

(5) Co-generation power plants which conform to the criteria determined in accordance with the procedures specified in Paragraph two of this Section may receive a proof of origin of the produced electricity in accordance

MP or the right to receive the guaranteed payment for electric capacity installed in the power station. The procedure is determined by the Cabinet of Ministers.

No quantitative purposes or restrictions were determined for high efficiency cogeneration support of the EML, when aid would not be granted any longer. The support would be restricted by the maximum of the actual necessary heating load which is necessary for thermal energy use.

Such aid mechanism for promoting the use of RES was established by taking into consideration the requirements of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (hereinafter -Directive 2004/8/EC) of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market.

Aid Volume and Paid Sums

Within the framework of the previous aid mechanism, aid to electricity producer is a definite payment for the electricity produced by the producer and sold within the scope of the MP or it is a definite payment for the electric power installed at the power station that is paid to the producer by the public trader of electricity or transmission system operator (until 01.01.2014). Within the framework of the MP, electricity is purchased for the price that is higher than the price on the electricity market at the given moment, whereas expenses, which incur to the public trader as the difference between electricity market price and the price for the purchased electricity within the framework of the MP, is compensated by all electricity customers in proportion to electricity use. Information on the paid sums within the framework of the MP and the sold electricity amounts dating back from 1 July 2007 is available in Annex III to this document.

Conditions for electricity production and price determination are regulated by the EML and Cabinet Regulation No.221 of 10 March 2009, "Regulations Regarding Electricity Production and Price Determination upon Production Electricity in Cogeneration"²¹ (hereinafter – Cabinet Regulation No.221) and Cabinet Regulation No.262 of 16 March 2010, "Regulations Regarding the Production of Electricity Using Renewable Energy Sources and the Procedures for the Determination of the Price"²² (hereinafter – Cabinet Regulation

with the procedures specified by the Cabinet. An institution authorised by the Cabinet shall issue the proof of origin.

²¹ Available: (http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_221_-_Electricity_Production_and_Price_Determination.doc).

²² Available: (<http://likumi.lv/doc.php?id=207458>).

No.262). Taking into consideration that electricity at the particular moment of production has its own market value, the difference between the market price of the produced electricity of the MP and the market price is compensated by electricity users. It ensures a specific purchase price for the electricity producer regardless of the market price. The amount of the MPC is related directly to the stock exchange price of electricity — the higher is the price of electricity on the stock exchange, the lower the amount of MPC for the corresponding period.

With the help of MPC, which is one of electricity tariff components for users, end users cover additional expenses of the electricity purchased within the framework of the MP which emerged to the public trader. Every year a public trader submits to the Regulator a calculation for additional expenses that have incurred in relation to the electricity purchased within the framework of the MP. The calculation is made on the basis of methods (actual methods — “Methods for the Calculation of Purchase Components” approved by the Council Decision No. 1/5 of 26 February 2014) developed by the Regulator. The Regulator approves the components which compensate additional expenses that have incurred to the public trader within the framework of the produced electricity purchase in comparison to the purchase of electricity with the same amount in the electricity market.

Every year the amount paid within the framework of the support mechanism, which is covered above the market price, differs for electricity producers, taking into account that changes in the MPC are affected by several factors mentioned below:

- **Retail sale for electricity.** The higher the electricity price, the lower the MPC payments, though at the same moment the total electricity price due to these factors does not change significantly. Formation of the total electricity price depends on the retail price of electricity and the amount of the MPC in different proportions;
- **Price of natural gas.** It is calculated according to the previous nine-month quotation of mazout and diesel. Tariffs of natural gas for industrial clients are determined every month according to trade price of natural gas. Tariff of natural gas has gradually increased in the recent two years, but starting from February 2013, a slight decline is observed.
- **Amount of electricity purchased in the MP.** Amount of MPC depends on the expanses of the electricity purchased within the framework of MPC in the previous calendar year.
- **The total electricity demand.** According to the annual assessment report by the administrative system operator (27 September 2012), the annual use in 2012 was

planned in the amount of 7496 GWh, in 2013 — 7672 GWh, in 2014 — 7805 GWh, so increase in electricity use was anticipated.

The provided aid in total above the market price in 2011 was EUR 114,0 million, in 2012 it reached EUR 189,1 million, in 2013 - EUR 209,9 million and EUR 1,3 million as capacity payment for 1 large biomass CHP plant, in 2014 - EUR 132,8 million and EUR 112,9 million capacity payments for 5 large CHP plants.

Support paid to the producers and the amount of electricity produced within the framework of MP is given in the table below.

Table 2

Provided aid according to the types of activity (million EUR)

	2011			2012			2013			2014		
	Produced amount of electricity, MWh	Amount paid to producers, milj. EUR	Support paid to producers (above the electricity market price), milj. EUR	Produced amount of electricity, MWh	Amount paid to producers, milj. EUR	Support paid to producers (above the electricity market price), milj. EUR	Produced amount of electricity, MWh	Amount paid to producers, milj. EUR	Support paid to producers (above the electricity market price), milj. EUR	Produced amount of electricity, MWh	Amount paid to producers, milj. EUR	Support paid to producers (above the electricity market price), milj. EUR
RES	243 059	38,48	26,79	450 897	77,25	56,21	613 558	104,29	73,98	685 257	116,73	83,07
Biogas	100 976	18,48	13,63	101 336	41,73	31,73	281 855	53,35	39,25	335 539	62,39	45,64
Biomass	9 458	1,57	1,12	57 551	10,68	7,99	163 088	28,56	20,42	195 292	32,92	23,24
Wind (on shore)	69 877	7,04	3,69	101 336	10,79	6,07	109 570	11,71	6,46	87 786	9,42	5,36
Small-scale hydro-power (till 5 MW)	62 877	11,38	8,36	77 675	14,05	10,42	59 044	10,67	7,85	66 641	12,00	8,83
CHP (fossil energy sources)	2 600 580	212,27	87,20	1 811 799	217,41	132,85	1 996 127	236,99	135,92	598 329	79,23	49,72
Capacity payment (RES)	-	0		-	0		-	1,29		-	5,16	
Capacity payment (CHP fossil energy sources)		0			0			0			107,78	
Total	2 843 639	250,75	113,99	2 262 696	294,67	189,06	2 609 685	342,58	211,19	1 283 586	308,90	245,74

Valid Aid Scheme

Intensity of Aid Mechanism

For power stations where the installed electric capacity is up to 4 MW and which have received the right to sell electricity within the framework of the MP, energy component, whose available intensity within the previous aid mechanism differed depending on the type of used resources, is applied — each type has a different formula of calculating the price to be

paid, but in all cases the aid sum depends on the difference between the price determined by the formula and the price of the electricity market. The aid mechanism has been formed so that production costs would be covered within the scope thereof. Depending on various factors, both the aid price determined in the formula and the market price change.

Within the framework of the MP, no energy component or payment above the market value is adopted for CHPPs with the installed electric capacity above 4 MW. Instead a new component or a fixed guaranteed payment for one installed unit of electricity capacity is adopted. The higher the installed electric capacity, the lower the amount of the MP capacity component, taking into account increase in efficiency to higher installed capacity. Within the framework of the previous aid mechanism, the capacity component for CHPPs with installed electric power above 4 MW was as follows (without Subsidised Electricity Tax):

- a. if the installed electric capacity is from 4 MW (including) to 20 MW, the capacity component is LVL 107 900 or EUR 153 528 per 1 installed MW a year;
- b. if the installed electric capacity is from 20 MW (including) to 100 MW, the capacity component is LVL 83 800 or EUR 119 237 per 1 installed MW a year;
- c. if the installed electric capacity is from 100 MW (including) to 20 MW, the capacity component is LVL 71 900 or EUR 102 304 per 1 installed MW a year.

It was determined by Cabinet Regulation No. 466 of 30 July 2013, "Amendments to Cabinet Regulation No.221 "Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration"" (hereinafter – Cabinet Regulation No. 466) that energy component for CHPPs with the installed capacity above 4 MW is equal to the corresponding electricity stock exchange price, thus practically refusing from the energy component. Whereas the capacity component is differentiated depending on the installed electric capacity. The annual support in the former mechanism is paid within 15 years for large natural gas CHPPs where electric capacity is above 4 MW.

Researches and monographs on capital and maintenance costs of power stations by different countries were used when determining the necessary support for the CHPP where the installed capacity is higher than 100 MW.

- Klimstra J., Hotakainen M. Smart Power Generation, 3rd improved edition, Avain Publisher, Helsinki, 2011, p. 194;
- U.S. Energy Information Agency, Updated Capital Cost Estimates for Utility Scale Electricity Generating Plants, 12 April 2013, p. 201.

Based on the results of the referred to research, the expenses of CHPPs, where the installed power is higher than 100 MW, for one installed electric megawatt per year is ranging from EUR 97 000 to EUR 101 000 in order to refund the investment within 15 years and to

cover exploitation costs. Accordingly such principle was included in Cabinet Regulation No. 466 when determining the amount of the capacity component from the installed electric capacity. In this case refund of investments is considered as payment for energy safety of the energy sector, namely, support only for refund of investments with the remaining balance value which is refunded within 15 days and maintenance costs in the reserve regime are also covered additionally.

According to Cabinet Regulation No.262, merchants that have obtained the right to sell the produced electricity by using RES within the framework of the MP pursuant to the procedure determined in these regulations, the selling price for electricity amount, which is entitled for them to be sold within the framework of the MP, is calculated by using formulae listed above where the following designations are used:

P — price without the Value Added Tax for which the public trader purchases electricity (EUR/MWh) produced by using RES from the power station;

Te — the end tariff of natural gas approved by the Regulator without the Value Added Tax, which is determined for use of natural gas from 126 thousand n.m³ to 1260 thousand n.m³ per year (EUR/thousand n.m³), with the actual heating capacity;

c — price differentiation coefficient, which is determined in Annex 8 to Cabinet Regulation No.262 (see Table 3).

Table 3

Values of the coefficient c depending on the electric capacity installed in the power station

No.	Electric capacity installed in the power station	Value of coefficient c
1.	Does not exceed 0,08 MW	1,240
2.	Higher than 0,08 MW, but does not exceed 0,15 MW	1,231
3.	Higher than 0,15 MW, but does not exceed 0,20 MW	1,202
4.	Higher than 0,20 MW, but does not exceed 0,40 MW	1,131
5.	Higher than 0,40 MW, but does not exceed 0,60 MW	1,086
6.	Higher than 0,60 MW, but does not exceed 0,80 MW	1,072
7.	Higher than 0,80 MW, but does not exceed 1,00 MW	1,055
8.	Higher than 1,00 MW, but does not exceed 1,50 MW	1,035
9.	Higher than 1,50 MW, but does not exceed 2,00 MW	1,008
10.	Higher than 2,00 MW, but does not exceed 2,50 MW	0,992
11.	Higher than 2,50 MW, but does not exceed 3,00 MW	0,982
12.	Higher than 3,00 MW, but does not exceed 3,50 MW	0,974
13.	Higher than 3,50 MW, but does not exceed 10,00 MW	0,965
14.	Higher than 10,00 MW, but does not exceed 20,00 MW	0,950

15.	Higher than 20,00 MW, but does not exceed 40,00 MW	0,920
16.	Higher than 40,00 MW, but does not exceed 60,00 MW	0,890
17.	Higher than 60,00 MW, but does not exceed 80,00 MW	0,860
18.	Higher than 80,00 MW, but does not exceed 100,00 MW	0,830
19.	Higher than 100,00 MW	0,800

MP selling prices to all types of electricity producers that can apply for such support in Latvia according to Cabinet Regulation No.262:

- For wind power stations — 10 years from the day the station starts to work according to Sub-paragraph 3.4 of Cabinet Regulation No.262:

$$P = 147 \times c;$$

- For wind power stations complying with the conditions of Sup-paragraph 3.4 of Cabinet Regulation No.262 — from the 11th-20th year after the day the station starts to work:

$$P = 147 \times c \times 0.6;$$

- For wind power stations — 10 years from the day of starting exploitation according to the Sub-Paragraph 3.5. of the Cabinet Regulations No.262:

$$P = 120 \times c;$$

- For wind power stations complying with the conditions of Sup-paragraph 3.5 of Cabinet Regulation No.262 — from the 11th-20th year after the day of power station exploitation start:

$$P = 120 \times c \times 0.6;$$

- for biomass power stations with the installed electric power up to 4 MW and biogas power stations with the installed electric power of 2 MW or higher — 10 years from handing over into exploitation and the start of work of the power plant :

$$P = \frac{Te \times c}{9.3} \times 4.5;$$

- for biomass power stations with the installed electric power up to 4 MW and biogas power stations with the installed electric power of 2 MW or higher — the 11th-20th year after the day of handing the station over into exploitation:

$$P = \frac{Te \times c}{9.3} \times 3.4;$$

- for biomass power stations with the installed electric power higher than 4 MW — 10 years after the day of handing over the power station into exploitation:

$$P = \frac{Te \times c}{9.3} \times 3.6;$$

- for biomass power stations with the installed electric power higher than 4 MW — the 11th-20th year after the day of handing over the power station into exploitation:

$$P = \frac{Te \times c}{9.3} \times 3;$$

- for biogas power stations with the installed electric power lower than 2 MW — 10 years after the day of handing over the power station into exploitation:

$$P = 188 \times c;$$

- for biogas power stations with the installed electric power lower than 2 MW — 11th-20th year after the day of handing over the power station into exploitation :

$$P = 188 \times c \times 0.8;$$

- hydro power plant with the installed electric power up to 5 MW — 10 years from the day of taking the decision by which the right to sell the produced electricity within the framework of the MP is obtained:

$$P = 159 \times c;$$

- hydro power plant with the installed electric power up to 5 MW — from 11th-20th year from the day of taking the decision by which the right to sell the produced electricity within the framework of the MP is obtained:

$$P = 159 \times c \times 0.8;$$

- for solar power plants — 20 years after the day of handing over the station for exploitation:

$$P = 427;$$

- for biomass power stations with the installed electric power up to 4 MW and biogas power stations with the installed electric power of 2 MW or higher — 10 years from the day of handing over the station for exploitation if the information provided in the annual report of the merchant after the receipt of a warning repeatedly does not comply with the application of the merchant regarding the acquisition of the right to sell electricity produced in a biomass or biogas power station within the framework of the MP pursuant to the obtained results in quality evaluation according to quality assessment criteria:

$$P = \frac{Te \times c}{9.3} \times 3.6;$$

- for biomass power stations with the installed electric power up to 4 MW and biogas power stations with the installed electric power of 2 MW or higher — the 11th-20th year from the day of handing over the station for exploitation if the information provided in the annual report of the merchant after the receipt of a warning repeatedly

does not comply with the application of the merchant regarding the acquisition of the right to sell electricity produced in a biomass or biogas power station within the framework of the MP pursuant to the obtained results in quality evaluation according to quality assessment criteria:

$$P = \frac{Te \times c}{9.3} \times 2.72;$$

- for biogas power stations with the installed electric power lower than 2 MW — 10 years from the day of handing over the station for exploitation if the information provided in the annual report of the merchant after the receipt of a warning repeatedly does not comply with the application of the merchant regarding the acquisition of the right to sell electricity produced in a biogas power station within the framework of the MP pursuant to the obtained results in quality evaluation according to quality assessment criteria:

$$P = 188 \times c \times 0.8;$$

- for biogas power stations with the installed electric power lower than 2 MW — 11th-20th year from the day of handing over the station for exploitation if the information provided in the annual report of the merchant after the receipt of a warning repeatedly does not comply with the application of the merchant regarding the acquisition of the right to sell electricity produced in a biogas power station within the framework of the MP pursuant to the obtained results in quality evaluation according to quality assessment criteria:

$$P = 188 \times c \times 0.64;$$

- for biomass power stations with the installed electric power higher than 4 MW — 10 years from the day of handing over the station for exploitation if the information provided in the annual report of the merchant after the receipt of a warning repeatedly does not comply with the application of the merchant regarding the acquisition of the right to sell electricity produced in a biomass power station within the framework of the MP pursuant to the obtained results in quality evaluation according to quality assessment criteria:

$$P = \frac{Te \times c}{9.3} \times 2.88;$$

- for biomass power stations with the installed electric power higher than 4 MW — 11th-20th year from the day of handing over the station for exploitation if the information provided in the annual report of the merchant after the receipt of a warning repeatedly

does not comply with the application of the merchant regarding the acquisition of the right to sell electricity produced in a biomass power station within the framework of the MP pursuant to the obtained results in quality evaluation according to quality assessment criteria:

$$P = \frac{Te \times c}{9.3} \times 2.4; \text{ where}$$

Cabinet Regulation No.262 was adopted on 22 April 2014 and amendments to Cabinet Regulation No.262 came into force on 1 May 2014, providing that costs of the MP are not increased as a result of an unpredictable increase in the trade price of natural gas, restricting the components included in formulas of determining MP prices, namely, fluctuation of the end tariff of trade price of natural gas, the maximum threshold of this component (EUR 369.93/thousand n.m³) by fixing prices of natural gas in March 2014 (EUR 277.46/thousand n.m³) in the level of trade prices, which is also further recommended for use instead of the variable coefficient.

Feed-in tariff can be calculated using formula from the Cabinet Regulation No. 262 and Cabinet Regulation No. 221. Annual *feed-in tariffs* (€ct/kWh) for electricity produced from each type of renewable energy source are shown in the table below.

Table 4

Annual feed-in tariffs for each tipe of energy from RES (€ct/kWh)

Renewable energy source		Wind (on shore)	Solar	Biomass	Biogas	Small-scale hydropower (till 5 MW)
Feed-in tariff (€ct/kWh)	2008 (December)	10,0-19,8	-	15,0-25,5	15,0-25,5	16,7-21,5
	2009 (March)	12,9-21,3		13,8-23,5	11,4-33,8	17,1-23,8
	2009 (June)	5,8-18,2		7,3-17,1	8,3-23,3	12,3-19,7
	2010 (April)	5,8-18,2		9,0-20,9	10,2-23,3	12,3-19,7
	2011 (April)	5,8-18,2		7,9-18,4	8,9-23,3	12,3-19,7
	2012 (November)	5,8-18,2		10,8-25,2	12,3-23,3	12,3-19,7
	2013 (November)	5,8-18,2		9,9-24,8	11,2-23,3	12,3-19,7
	2014 (December)	6,1-12,6		13,8-24,3	13,0-21,5	16,4-19,7

Detailed analysis of electricity generating power plants that produces electricity from renewable energy sources or in high efficiency cogeneration, average total costs and revenue resulting from the production of energy

The calculation of the MPC is made on the basis of methodology (the current methodology — “Methodology for calculation of mandatory procurement components”²³ approved on 26 February 2014 by Decision No. 1/5 of the Board of the Public Utilities Commission developed by the Public Utilities Commission (hereinafter – Regulator), which is independent authority in Latvia.

The methodology determines the order how the public trader shall calculate the components to compensate for the public trader the additional cost of the compulsory purchase within the framework of the produced electricity purchase compared to the same amount purchasing power in the electricity market, and the costs of making payments for the installed electric capacity in CHP plants and power plants, which use biomass or biogas. The calculation shall be approved by the Regulator. Within the methodology there are the formulas for the calculations of each part of the compensation. As well as the exact timeframe, when the public trader should submit the necessary information and in which format.

Historically there also were three other methods (see the Board of the Public Utilities Commission Decision No. 1/9²⁴ of 28 August 2013; the Board of the Public Utilities Commission Decision No. 1/2²⁵ of 19 August 2009; the Board of the Public Utilities Commission Decision No. 519²⁶ of 14 November 2007).

Support level for the production of electricity from renewable energy sources and high efficient cogeneration depends on the type of used energy source, the installed capacity of the plant, number of working hours as well as natural gas sales price.

The Latvian authorities in the light of a study “The electricity produced from renewable energy sources and cogeneration, evaluation of support and proposals for the improvement of support schemes”²⁷ from 2013, has been prepared the information of electricity generating power plants that produces electricity from renewable energy sources or in high efficiency cogeneration, average total costs and revenue resulting from the production of energy.

²³

<http://www.sprk.gov.lv/uploads/doc/GrozjumiSabiedriskopakalpojumueregulanaskomisijas26022014ImumNr15Obligatiepirkumakomponenuaprinanasm Metodika1607.pdf> (in Latvian)

²⁴ <http://www.sprk.gov.lv/uploads/doc/ProjektsOIKMetodika.pdf> (in Latvian)

²⁵ <http://likumi.lv/ta/id/196347-obligata-iepirkuma-komponensu-aprekinasanas-metodika> (in Latvian)

²⁶ <http://likumi.lv/ta/id/166696-par-obligata-iepirkuma-komponensu-aprekinasanas-metodiku> (in Latvian)

²⁷ Accessible at the Ministry of Economics website:

(http://www.em.gov.lv/images/modules/items/SIA_Ekodoma_ataskaite.pdf)

The analysis carried out by the MoE revealed that volume of the MP of electricity will continue to grow without changes in the support scheme.

The calculation tables (see Annex IV) for each type of renewable energy sources (biomass, biogas, wind and hydro) in different years provided three indicators of financial performance (excluding provided MP support) depending on the power output. The capacity is chosen taking into account the number of merchants in each power group.

The calculations in 2007 were not made against the business plan over the lifetime, because at that time in Latvia was not average project in the electricity production from RES or in high efficient cogeneration. Mainly calculations were made against the business projects of other Member States. In addition it was taken into account the national circumstances on the availability of technologies.

The pricing formulas to determine MP price were amended in 2009, by means of Cabinet Regulation No. 486 of 26 May 2009. By means of Cabinet Regulation No.486 of 26 May 2009 “Amendments to the Cabinet Regulation No.198 “Regulations on Electricity Production by using Renewable Energy Sources and Procedure of Price Determination”” changes were made to the RES pricing formulas by simplifying them and the result was the reduced purchase prices for all types of RES. The part from renewable sources in fact has no market price, or it is not dependent on fossil energy market processes (for example sun, wind, hydro energy) and the determination of the price has unbundled from the natural gas price. The factor „e” in the price determination formulas provides that the manufacturer is less exposed to the risks of currency fluctuations because the main cost items form from the imported resources – technology costs and the cost of funding. Taking into account the previous explanation our assumption is, that these changes were not substantial, because it did not increase the amount of the aid, which was paid for the electricity producers.

With the entry into force the Cabinet Regulation No.921 and the Cabinet Regulation No.221 it is already provided that the aid can be granted only to the high-efficiency cogeneration, meaning that the cogeneration should fulfilled the criteria of Annex III to Directive 2004/8/EC and satisfying the harmonised efficiency reference values established by Commission Decision 2007/74/EC of 21 December 2006 establishing harmonised efficiency reference values for separate production of electricity and heat in application of Directive 2004/8/EC of the European Parliament and of the Council (see paragraphs 5., 6., 7. and Annexes 1 and 2 of Cabinet Regulation No.221 of 10 March 2009).

Latvia informs that the amendments in the Cabinet Regulation No. 486 of 26 May 2009 were made only to Cabinet Regulation No. 198 of 24 February 2009 “Regulations Regarding the Production of Electricity Using Renewable Energy Sources and the Procedures

for the Determination of the Price” regarding to electricity production from RES via the MP scheme.

The tables (see Annex IV) shows that the total cost incurred by business equipment depreciation, in all cases can be higher than the market price of energy. It means that additional support is not possible to produce cost-effective electricity from renewable energy sources or to generate electricity in high-efficiency cogeneration.

Costs and other given details are based on the study “The electricity produced from renewable energy sources and cogeneration, evaluation of support and proposals for the improvement of support schemes” (2013). The selected base year is 2014 (nevertheless some costs are based on the data from previous year). The identified cost of study are in lats, so they are converted to EUR at the rate of EUR 1 = LVL 0,702804.

The market price of electricity in all cases is adapted to average of Nord Pool Spot wholesale electricity price in Latvian area during the period from July 2013 till December 2013.

To our understanding, the aid for CHPPs and power stations with the installed power up to 4 MW corresponds to the Guidelines, because taking into account the aforementioned, state aid is aimed at solving such situations that can be significantly improved by the aid and that cannot be ensure by market. Namely, aid in the form of the produced electricity procurement and guaranteed payment for the installed power provided initial funds for introducing electricity production and cogeneration equipment by promoting the use of RES and the use of high efficiency cogeneration by increasing the level of environmental protection in comparison with the level which could be achieved without the support.

Feed-in Tariff

In Latvia the feed-in tariff system is used as an aid mechanism to promote electricity produced by using RES²⁸.

Pursuant to Section 29, Paragraph two; Section 29, Paragraph four; and Section 29.¹, Paragraph two of the EML, Cabinet Regulation No.262, which includes conditions in respect of electricity producers for the acquisition of the right to sell electricity produced by using

²⁸ Administratively granted rights for supported producers to sell the produced electricity within the framework of mandatory procurement at a higher tariff, which is purchased by the trader, whereas costs emerging from purchase of electricity are compensated by all users of electricity in proportion to electricity use.

RES within the framework of the MP.²⁹ According to Cabinet Regulation No.262, the allocation of the right for biomass, biogas, solar plants and wind farms is organised in a tender procedure by assessing compliance of the submitted applications with the administrative and qualitative assessment criteria, whereas price formulae are adopted in the price determination of the MP. The tender shall be organised every year from 1 October until 31 October. The granted aid term from the moment of exploitation is determined for a 10-year period and afterwards a reduced amount of aid is allocated to the next 10 years.

Public trader purchase electricity from merchants, which have been granted the right to sell electricity produced from renewable energy sources within scope of MP for electricity process which have been determined in accordance with the price formulas in Cabinet Regulation No.262 and Cabinet Regulation No.221.

Cabinet Regulation No.262 prescribes conditions for acquiring rights to sell electricity generated from renewable energy sources (biomass, biogas, wind, hydro) within the framework of MP. According to Article 100 of Cabinet Regulation No.262 until January 1, 2016 the MoE shall not organize tenders for the acquisition of the right to sell electricity produced in biomass, biogas, solar or wind power plants within the framework of MP, and producer may not qualify for selling electricity within the scope of MP for acquisition of the right to receive a guaranteed payment for the installed electric capacity.

Pursuant to Section 28, Paragraph two; Section 28, Paragraph seven; Section 28.¹, Paragraph two; and Section 28.¹, Paragraph five of the EML, Cabinet Regulation No.221 was adopted, regulating the MP of electricity produced in cogeneration process for a fixed price, as well as the right to receive the guaranteed payment for electric power installed in CHPPs.³⁰

Cabinet Regulation No.221 prescribes the criteria for qualification of cogeneration units for them to acquire the right to sell the produced electricity within the framework of the MP or to receive guaranteed payment for the electric capacity installed in a cogeneration unit. According to Article 70 of Cabinet Regulation No.221 until January 1, 2016, the merchant is not entitled to qualify for the acquisition of the right to sell the electricity produced in the cogeneration process within the framework of the MP and for the acquisition of the right to receive a guaranteed payment and for installed electric capacity at cogeneration power stations.

²⁹ Cabinet Regulation No.262 replaces Cabinet Regulation No.198 of 24 February 2009, "Regulations Regarding the Production of Electricity Using Renewable Energy Sources and the Procedures for the Determination of the Price", which respectively replaced Cabinet Regulation No. 503 of 24 July 2007.

³⁰ Cabinet Regulation No.221 replaces Cabinet Regulation No.921 of 6 November 2006, "Regulations Regarding Electricity Production in Cogeneration".

MP according to Cabinet Regulation No.262 and Cabinet Regulation No.221 is being implemented on the basis of the contract, which is concluded by the public trader and merchant or its authorised person on the basis of the administrative act on obtaining MP rights issued by the MoE.

All costs of public traders arising from the purchase of electricity from producers, which have received the right to sell electricity within the framework of the MP, are covered by end users of electricity in proportion to electricity use.

According to Cabinet Regulation No.221 and Cabinet Regulation No.262, a merchant can also obtain the right to receive the guaranteed payment for electric power installed in the power station. The guaranteed payment is an annual payment which is paid to the power station or a separate CHPP of this power station by the public trader for each megawatt of the installed electric power.

Every year the owner of CHPP has responsibility to submit an annual report to the MoE about operation of his CHPP. The data provided in the annual report shall be attested by the responsible official of the system operator of the electricity grid to which the CHPP is connected.

On the basis of the data from the annual report the MoE evaluated the compliance of the CHPP with the efficiency criteria (the required minimum of primary energy saving to be considered as high-efficiency CHPP specified in Cabinet Regulation No 921 of 6 November 2006 "Regulation on Electricity Production in Cogeneration" as it was set in Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC. If a CHPP did not comply with the specified efficiency criteria, the MoE sends the merchant a warning regarding non-compliance of the CHPP and the possibility to lose the right to sell the electricity produced in cogeneration within the scope of the mandatory MP.

Within nine months after receiving the warning, a merchant who had obtained the right to sell the electricity produced in cogeneration within the scope of the MP, should renew the compliance of the CHPP according to the efficiency criteria and should submit a report to the MoE regarding to the referred period of time. If data of the report approved that the CHPP still does not comply with the efficiency criteria, the MoE will take a decision to deprive the merchant of the right to sell the electricity produced in cogeneration within the scope of the MP.




















Justification of Current Tariffs of the Mandatory Procurement (*Feed-in*)

At the end of 2013 there were 364 power stations in Latvia, selling electricity within the framework of the MP.

In 2013, the MoE upon a request of SIA “EKODOMA” carried out a study The electricity produced by using renewable energy sources and cogeneration, evaluation of support and proposals for the improvement of support schemes” on the compliance of current support system with technology costs³¹. As a result of the study experts came to the following conclusions:

Table 5

Results of the study

Type of stations/technologies	Oversubsidisation risk according to the study	Influence on the MPC
Hydro power plants (hereinafter – HPP)	  	4% 
Wind Farm		3% 
Biomass		10% 
Biogas		18%  
Low power CHP		23%  
High power CHP		42%    



— Oversubsidisation risk is not encountered according to the research.



— Oversubsidisation risk is encountered according to the research.



· Influence on the MPC.

Assessing from the point of view of oversubsidisation risk, an analysis on the historical allocation of aid for low-power HPP is carried out separately (since 1 July 2007). Oversubsidisation risk exists to the identified RES type use group, but in order to determine it, a detailed analysis of all companies is required by reviewing each company separately. At

³¹ Accessible at the Ministry of Economics website:
(http://www.em.gov.lv/images/modules/items/SIA_Ekodoma_ataskaite.pdf)

the same time the oversubsidisation risk to separate RES type use power station or CHPP groups is not encountered.

Calculation Model for Normalised Costs of Small HPP (up to 5 MW)

In order to determine whether the current aid for small HPP exceeds the required support, a typical (standard) model of HPP has been created, containing the following parameters (information is taken from the study of SIA "EKODOMA").

Table 6

Typical (standard) HPP model

Capacity, MW	0,2
Operating hours per year, h	3000
CAPEX, EUR/kW	1970
OPEX per year as % of investment costs, %	5%
Fuel costs, EUR/MWh	0
Sales of heat, EUR/MWh	0
Electricity market price, EUR/MWh	50
Electricity price EUR/MWh	191
Feed-in price (after 10 years), EUR/MWh	153

By creating *Cash-flow* model and adopting a discount rate of 9%, the standard model of costs gives a significant positive result of the net current value (hereinafter - NCV) allowing to conclude that the repayment period of a typical small HPP is shorter than the granted 20 years. The model allows to assess that such repayment module could be seven years or 21,000 hours of full power use.

Such conclusions allow to assess all small HPP by applying the following criteria:

- whether the average purchase price of electricity since 1 July 2007 has exceeded EUR 191 per MWh included in the module.
- whether the amount of electricity sold since 1 July 2007 has exceeded 21,000 hours.

The synergy of both these criteria allows to find those particular projects that potentially have considerable support, exceeding the support necessary for a typical small HPP.

Table 7

Samples of HPP

No.	Station	Power, MW	The actual purchase price/price of costs module	Number of worked hours since 1 July 2007	Subsidy of 2013, EUR
1	AGES DZIRNAVAS, ZS, Aģe mill HPP	0,03	0,96	23 046	15 759,90
2	BRASLAS HES, SIA, Brasla HPP	0,4	0,90	25 808	219 493,09
3	BRASLAS HES, SIA, Dobeļe HPP	0,13	0,99	21 525	67 776,5

4	EZERSPĪĶI, ZS, Saldus raj., Gravas HPP	0,145	0,98	24 355	77 320,21
5	Labdeves, SIA, Sendzīrnavas HPP	0,03	0,96	24 253	21 852,98
6	MEŽROZĪTE HPP, SIA, Brasla HPP	0,395	0,89	26 009	190 933,06
7	MHK ABULS, AS, Brenguļi HPP	0,12	0,94	24 125	66 133,36
8	NERETAS DZIRNAVAS, SIA, Nereta HPP	0,145	0,95	22 044	56 140,46
9	Rubīns GG, SIA, Dzelzāmur HPP	0,05	0,98	25 793	26 795,75
10	SANKAĻI, SIA, Sankaļ HPP	0,09	0,94	22 945	32 922,03
11	SPRIDZĒNU HPP, SIA, Brasla HPP	1,2	0,80	29 128	549 286,67
12	SUDA, SIA, Mālpils water mill HPP	0,08	0,96	23 411	32 229,54
13	VECPĪEBALGA MILL, Cēsu raj. I. Šķerberga IC, Ineši HPP	0,022 5	1,04	28 721	15 704,61
				Total	1 372 348,32

In total, 13 small HPP were identified for which the total amount of subsidies of the past year (2013) is relatively unsubstantial EUR 1,4 million.

Guaranteed Payment for the Installed Electric Power

On 15 May 2008, the EML was supplemented with a norm, which prescribed that a producer, which produces electricity in a CHPP with installed electric power starting from 20 megawatts, can obtain the right to receive a guaranteed payment for electric power installed in the CHPP. The particular norm prescribed that criteria according to which CHPPs are qualified for the acquisition of the right to receive the guaranteed payment; the procedure according to which the price for installed electric power depending on the production technology and the used fuel; electric power installed in the CHPP; the procedure by which this payment is made; and the procedure by which one can refuse from the right to receive the guaranteed payment for electric power installed in CHPP are determined by the Cabinet of Ministers. It was prescribed in the EML that the guaranteed payment for installed electric power is included in the transmission tariffs. Costs emerging from payments for installed electric power are covered by all electricity end users of Latvia, whereas the calculation methods of adopting these costs are prescribed by the Regulator.

In addition the aim of the guaranteed fee is to ensure that the stations with potential support mechanism, taking into account that these stations would also impact the security of energy supply and the electricity production of these stations is stable, predictable and long

term unlike wind and solar stations whose electricity production is not as stable. The aim is also to promote decentralized electricity production outside cities to reduce electricity transmission distance and respectively transmission costs too.

The referred to amendments were included in the EML with the purpose to move forward to the provision of electricity supply security, taking into account the report by the Transmission System Operator of Latvia for the year 2006, in which it is concluded that electric power of Latvian power stations is not sufficient to cover the power request at any moment, because the working regime of large Latvian hydro power plants depends on water flow in the River Daugava. The state electric supply basically depends on Latvian and neighbouring power stations working in the base regime. There is an explicit power deficit of electricity base in the energy system of Latvia.³² Similar conclusions are drawn by the system operator in its reports also for years 2007-2008³³³⁴.

Taking into consideration the delegation provided for in the EML, on 10 March 2009 the Cabinet of Ministers adopted Cabinet Regulation No.221, which entered into force on 18 March 2009. The following procedures have been prescribed by the referred to Cabinet Regulation No.221: the procedure by which merchants can qualify for the acquisition of the right for a guaranteed payment for electric power installed in the CHPP, as well as the procedure by which the payment for electric power station installed in CHPPs depending on the production technology, used fuel and electric power installed in CHPPs are determined, as well as the procedure by which this payment is made.

Firstly the capacity payments for CHPPs with installed electric capacity of more than 4 MW as a capacity component of price at which the public trader purchases electricity from these CHPPs within the scope of MP was introduced by Cabinet Regulation No.1621 of 22 December 2009 “Amendments to Cabinet Regulation No.221 of 10 March 2009 “Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration””³⁵ which entered into force on 31 December 2009.

Till 31 December 2009 a price at which the public trader purchased the electricity from CHPs with installed electric capacity of more than 4 MW was determined by the Regulator in accordance with the methodology specified by the Regulator.

³² Report for the year 2006 of the Transmission System Operator of Latvia. Accessible at the Ministry of Economics website: http://www.em.gov.lv/images/modules/items/psa_zinojums_2006_3.pdf

³³ Report for the year 2007 of the Transmission System Operator of Latvia. Accessible at the Ministry of Economics website: http://www.em.gov.lv/images/modules/items/PSO_zinojums_2007.pdf

³⁴ Report for the year 2008 of Transmission System Operator of Latvia. Accessible at the Ministry of Economics website: http://www.em.gov.lv/images/modules/items/PSO_zinojums_2008.pdf

³⁵ <http://likumi.lv/ta/id/202920-grozijumi-ministru-kabineta-2009-gada-10-marta-noteikumos-nr-221-noteikumi-par-elektroenerijas-razosanu-un-cenu-noteiksanu> (in Latvian)

The number of hours for the use of installed electric power at CHPPs or separate cogeneration equipment installed in this power station exceeds 3000 hours, as well as compliance of cogeneration equipment with efficiency criteria determined in Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004 on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC, thus, economy of primary resources of the CHPP or separate cogeneration equipment of this station is not below 10% were set as two preconditions for receiving the guaranteed payment for electric power installed in power stations. Payment for electric power installed in CHPPs is made by the transmission system operator once per month.

The Transmission System Operator stops paying for the electric power installed in CHPPs if the CHPP or equipment of this station is not able to operate more than six months without interruption.

Until 31 December 2013 the guaranteed payment for the electric power installed in the CHPP was received only by one merchant — SIA “Fortum Jelgava”, whose biomass CHPP with the installed electric power of 23 MW was launched on 24 September 2013 and within the framework of the guaranteed payments for the electric power installed in the power station it received EUR 1 290 633,63.

At the same time on 15 May 2008 the EML was supplemented by the norm, which prescribed that the producer, which produced electricity with the installed electric power above one megawatt by using biomass or biogas, can obtain the right to receive the guaranteed payment for electric power installed in the power station.

The particular norm prescribed that the conditions for the production of electricity by using biomass or biogas; the criteria in respect of the qualification of producers for the acquisition of the right to receive the guaranteed payment for electric power installed in the power station; the procedure by which the payment for the installed electric power, depending on the production technology and the used fuel, shall be determined; electric power installed in the power station; the procedure by which this payment shall be settled; as well as the procedure by which one may refuse from the right to receive a guaranteed payment for the electric power installed in the power station are already determined by the Cabinet of Ministers. It was prescribed in the EML that the guaranteed payment for installed electric power is included in the transmission tariffs. Costs arising from payments for installed electric power are covered by all electricity end users of Latvia, whereas the calculation methods of application these costs are prescribed by the Regulator.

The referred to amendments to the EML were included with the purpose to increase the proportion of dissipated generation power and to move forward the establishment of a decentralised system using energy production, which in long term can reduce dependence on the import of energy resources. The main ways of providing supply security are diversity, which includes difference in the types of resources, several suppliers and alternative supplies.³⁶

Taking into account the delegation envisaged in the EML, on 24 February 2009 the Cabinet of Ministers adopted Regulation No. 198, "Regulations on Electricity Production by using Renewable Energy Sources and Procedure of Price Determination" (hereinafter - Cabinet Regulation No.198), which entered into force on 1 April 2009. With the referred to Cabinet Regulation No.198 criteria pursuant to which producer which produced electricity in power stations with the installed electric power above 1 MW by using biomass or biogas can obtain the right to receive the guaranteed payment for electric power installed in the power station, as well the procedure pursuant to which the guaranteed payment for electric power installed in power plants is determined, as well as the procedure of its monitoring and payment. As a precondition for the guaranteed payment for electric power installed in the power station it was determined that the number of the used hours of installed electric power is higher than 8000 hours per year. The Transmission System Operator settles the payment to a merchant for electric power installed in the power station once in month. The Transmission System Operator stops paying for electric power installed in the power station if the power station was not able to operate more than six months.

Cabinet Regulation No.262, which entered into force on 1 April 2010 and replaced the referred to Cabinet Regulation No. 198, at the same time retaining all criteria mentioned above pursuant to which the producer which produces electricity in power stations with the installed power above 1 MW by using biomass or biogas can obtain the right to receive the guaranteed payment for electric power installed in power station, as well as the procedure pursuant to which the guaranteed payment is determined, as well as the procedure of its monitoring and payment procedure, was adopted on 16 March 2010.

On 1 January 2014 amendments to the EML entered into force, prescribing that CHPPs with installed electric power higher than 4 MW cannot obtain the right to sell electricity within the framework of the MP, but it is possible to obtain the right only for the guaranteed payment for electric power installed in the CHPP, whereas those CHPPs, which by 31 December 2013 used the right to sell electricity produced within the scope of the MP,

³⁶ Paragraph 129 of Energy Development Guidelines for years 2007 - 2016. Available: <http://polsis.mk.gov.lv/LoadAtt/file27303.doc>

starting from 1 January 2014 receive the guaranteed payment for electric power installed in the CHPP according to the same conditions on work regime, terms and calculation of power components, which by 1 January 2014 refer to electric power installed in CHPPs. Wherewith aid for CHPPs with installed electric power higher than 4 MW in the future was retained only in the form of the power component included in Cabinet Regulation No.221, at the same time putting forward a condition that the installed power is used at least 1200 hours per year and that in the previous year the power installed in the CHPP was available (in working order) for at least 4500 hours.

Such amendments to the EML were made with the purpose to achieve MPC reductions, because two CHPPs of JSC “Latvenergo” — Riga TEC-1 and TEC-2, AS “Rīgas Siltums” CHPP “Imanta”, as well as SIA “Juglas jauda” CHPP in 2012 in total constituted 66% from cogeneration components of MPC. In 2012 the aid above electricity market price for these stations was EUR 87,9 million, i.e. 46% from all aid is above the market price. Changes in the EML were made in order to balance the interests of the owners of stations and electricity users — owners of stations could regain at least part from the fixed costs for electricity production in unfavourable market circumstances, but in favourable circumstances the burden for electricity users emerging from electricity production would decrease. The conclusion made in the report drawn up by the Transmission System Operator of Latvia for the year 2011 that irrespective of the increasing power balance, the capacity of the Latvian power station is still insufficient still serves as a justification for the preservation of electric power installed in the power station. Due to the fact that it is necessary in power stations to maintain new power reserves, the available power at power stations is insufficient for covering the Latvian load, particularly in winter periods.³⁷

In order to ensure effective administration of revenue and costs for the MP by decreasing the number of parties involved in the process, amendments to the EML were made, which prescribed that starting from 1 January 2014, guaranteed payments for electric power installed in CHPPs are made by a public trader, not by the Transmission System Operator.

Unlike the MP, the type of aid — power payment does not provide for a mandatory electricity procurement; in contrary — the producer is committed to sell the produced electricity in a general market procedure — for agreement prices of any market participant or in the price zone of electricity stock exchange Nord Pool Spot in Latvia, whereas the aid is provided as a previously fixed payment for each MW installed in the electricity/CHPP.

³⁷ Report for the year 2011 of the Transmission System Operator of Latvia. Accessible at the Ministry of Economics website: http://www.em.gov.lv/images/modules/items/PSO_zinojums_2011%281%29.pdf

The type of the aid envisages (it has been determined in such amount) that the payment for power covers only fixed costs of the power station (including return on capital), but it does not cover variable costs of production (fuel, CO₂) that producers should be able to retrieve in the electricity market. In such way the aid does not interfere (does not create an additional economic incentive) in normal market operation principle, namely, the right to produce in the market are obtained by those producers that are able to cover the demand by the lowest variable (fuel, CO₂) costs. A power limit — 4 MW — has been selected particularly for such considerations to CHPPs, which have access only to power payments, because stations with a higher power potentially can influence the market activity individually or overall if they would receive also aid for production. Such type of aid in point of fact fixes the annual amount of aid by compensating part of fixed production costs (part shall be covered from the sale of thermal energy); however, along with increase in the market prices, there is an option in the market to cover not only variable production costs, but also part of fixed production costs, therefore, the aid scheme prescribes operative reduction of the aid if after the particular number of hours per year the market price (Nord Pool Spot stock exchange price zone spot hourly price for Latvia) exceeds the standard variable costs of the CHPP. In this case the power payment is automatically operatively reduced by corresponding calculated part of producer's income. Meanwhile the amount of long-term aid is reviewed by altering the corresponding Cabinet regulations. Wherewith the maximum ceiling of the aid amount is previously known and it is prescribed in such amount to cover the fixed costs of the station, but additional income from selling electricity in the market only reduce the amount of power payments, whereas if market prices do not cover variable production prices, such additional costs are compensated and are covered on producer's expenses.

Support level for guaranteed payment depends on the type of used energy sources and the installed capacity of the plant. Guaranteed payment were possible to get for those CHP plants which are using biomass, biogas or fossil fuel and which are high efficient CHPPs. Under cabinet regulation No.262 no plant received guaranteed fee.

Annual guaranteed fee level with cabinet regulation No.221 52.paragraph for CHP plants with electric capacity:

- from 4 till 20 MW: 153 527 EUR/MW year;
- from 20 till 100 MW: 119 237 EUR/MW year;
- over 100 MW: 102 304 EUR/MW year.

Annual guaranteed fee level with Cabinet regulation No.221 55.paragraph:

- for CHP in which solid fuel is used: 224 459 EUR/MW year;
- for CHP in which natural gas or liquid fuel is used: 136 186 459 EUR/MW year.

- Following CHP plants with capacity above 4 MW were in operation at the beginning of 2010:

Table 8

Name	Fuel	Electrical capacity in cogeneration, MW
“Juglas Jauda” Ltd.	Natural gas	11.8
JSC “Rīgas siltums”, Imanta SC	Natural gas	47.7
JSC “Latvenergo”, TEC-1	Natural gas	144.0
JSC “Latvenergo”, TEC-2	Natural gas	633.3

At the moment of the introduction of the capacity payment (on 31 December 2009) all the above mentioned power plants were supervised by the Regulator, i.e. electricity and heat production tariffs were determined on the basis of economically substantiated costs (including the return on capital), according to the Law On Regulators of Public Utilities.

According to Article 20 of this Law the tariffs should be set at such levels in order to the tariff payments made by the users and would cover economically substantiated costs of public services and ensure profitability of the public services. In addition the provision of the Law states that if the factors that influence changes of tariffs, for example, profitability, the Regulator may propose a review of tariffs. Thus, the Law delegates to the Regulator to ensure that established tariffs comply with the economically substantiated costs and at the same time gives the instrument to take corrective actions if at any time period the tariffs do not comply with economically substantiated costs.

At that time “Methodology for calculation of electricity and heat production tariffs in the cogeneration plants with capacity over 4 MW” (hereinafter – the Methodology) approved on 21 December 2005 by Decision No. 311³⁸ of the Board of the Public Utilities Commission was in force from 30 December 2005 till 18 June 2010.

The Methodology prescribed:

- To divide the total cost of the cogeneration plant into the variable costs (fuel, natural resources tax, electricity self-consumption, water and chemicals) and the fixed costs (directly and indirectly dependent on capital investments);
- To divide the variable costs between heat and electricity according to actual efficiency factor and heat/electricity production factor;
- To divide the fixed costs between heat and electricity in proportion to the share of the specific capital investment in the total capital investment and the share of produced heat/electricity;

³⁸ <http://likumi.lv/ta/id/124745-par-kogeneracijas-stacija-sarazotas-siltumenergijas-un-kogeneracijas-stacija-ar-jaudu-virs-cetriem-megavatiem-sarazotas> (in Latvian)

- d) The heat tariffs were calculated by dividing all costs referred to heat by the amount of sold heat. Heat tariff should not exceed the heat benchmark. The next step of the Methodology prescribed the differentiation of the heat tariff into two components – the energy component and the capacity component;
- e) The differentiated heat tariffs were calculated as follows: the energy component of the heat tariff was determined by dividing the variable costs of heat by the amount of the produced heat; the capacity component of the heat tariff was determined by dividing the fixed costs related to heat by the required thermal capacity;
- f) All costs related to electricity were divided by the amount of the electricity sold within the scope of MP, thus determining electricity tariff that should not exceed the electricity benchmark. The next step of the Methodology prescribed the differentiation of the electricity tariff into two components – the energy component and the capacity component;
- g) The differentiated electricity tariffs were calculated as follows: the energy component of the electricity tariff was determined by dividing the variable costs of electricity by the amount of the produced electricity; the capacity component of the electricity tariff was determined by dividing the fixed costs related to electricity by the installed electrical capacity;
- h) The electricity and heat tariffs were calculated for certain periods – 10 years for new plants and 3 years for plants operating more than 10 years;
- i) The Methodology prescribed limitations for heat and electricity tariffs – benchmarks that represent the costs of an effective boiler house and an effective condensation power plant, respectively.

Therefore the Methodology prescribed the calculation of the tariffs that cover economically substantiated costs and at the same time to distribute the costs between heat and electricity.

The following tariffs of electricity production set by the Regulator were in force at the beginning of 2010:

Table 9

		“Juglas Jauda” Ltd.” ³⁹	JSC “Rīgas siltums”, Imanta SC	JSC “Latvenergo”, TEC-1-1	JSC “Latvenergo”, TEC-2
The average	EUR/MWh	58.20	38.12	38.46	39.45

³⁹ The tariff set by the Public Utilities Commission was in force until 1 February, 2010. The formulas laid down in Cabinet Regulation were applied afterwards.

energy component⁴⁰					
The capacity component	‘000 EUR/MW	n/a	119.24	150.27	89.06
The average production tariff⁴¹	EUR/MWh	58.20	80.74	71.79	76.72
The average electricity market price⁴²	EUR/MWh	42.26	42.26	42.26	42.26

The analysis of the tariffs set by the Regulator leads to the conclusion that the electricity production costs of the CHP plants (distributed by the Methodology developed by the Regulator) considerably exceed the potential income of electricity market price, as a result the CHP plants without the aid (in the form of capacity payments) could not cover their expenses from operation in the energy market. The development of capacity component set in the Cabinet Regulation was based on these considerations.

The decisions on the tariffs for CHP plants issued by the Regulator for particular CHP can be found:

Juglas Jauda (<http://likumi.lv/doc.php?id=190271>)

Imanta SC (<http://m.likumi.lv/doc.php?id=189848>)

TEC-1 (<http://m.likumi.lv/doc.php?id=189845>)

TEC-2 (<http://likumi.lv/doc.php?id=198735>).

Transition period of the aid scheme by 30 June 2016

Taking into account long-term plans regarding the development of environment and energetics sector determined by the Republic of Latvia and without putting obstacles to successful implementation thereof, we envisage to retain the valid aid scheme as a transition period until the new state aid scheme will be designed. It is essential that by such action predictable investment climate is provided, thus avoiding legal and financial risks for the state.

Latvia undertakes to notify the new State aid scheme individually to the European Commission (see the section — Proposals for Future State Aid). The transition period is important in order to create the framework of the legal regulation and so that subjects to

⁴⁰ As the energy component depends on the natural gas price, the average price of the year is used.

⁴¹ The average production tariff taking into account the energy and capacity components in 2010.

⁴² According to the public trader data

which these changes would apply would be able to adapt to before the actual change of the state scheme. The framework of the legal regulation not only includes the development and approval of the normative regulation, but it will also include an obligation to establish an administrator of the aid scheme separate from JSC “Latvenergo”, which will perform only the function of administering additional payments, contrary to the currently existing situation when the public trader purchases energy and settles power payments.

Change of the support scheme envisages to establish a system of additional payments, which means that electricity producers shall sell produced electricity in the market (through stock exchange or bilateral deals). Taking into account such planned changes, it is essential that merchants are given the transition period by improving their necessary capacities (both systematic and knowledge capacities). The absolute producers’ involvement in the market and selling of the produced energy therein will promote more rapid development of the electricity market.

Duration of the transition period is also related to the working period of the Subsidised Electricity Tax (hereinafter -the SET) (the tax is applied until 31 December 2017), taking into account that with this tax important aid mechanisms for state established electricity users are funded: for the reduction of the MPC amount and for the aid of indigent electricity users. State budgeted funds, which will be transferred to the public trader, are attracted to the MPC calculation for the already paid sums — in 2013; wherewith it shall be emphasised as the aid to electricity users, not to producers. Similarly, by determining the amount of state budget payments, the state keeps the right to assess all previously made payments and take into consideration the amounts thereof by specifying the aid until 2018, thus the implementation of budget co-payments cannot cause essential and irreversible consequences for the notification of the aid scheme.

Pursuant to the Law “On the State Budget for 2014”, the payment to the public trader for reducing the MPC costs will be made after the relevant agreement with the European Commission.

Detailed compatibility of the allocation of the state budget funds to the public trader with the State aid principles of the EU (Article 107 (1) of the Treaty on the Functioning of the European Union) are included in the Section *Role of the Public Trader in Functioning of the Aid Scheme* on page 68.

Coherence of the Aid Mechanism with Aid to Investments in Energy Production Plants

Pursuant to the existing planning documents of energy politics, in Latvia there is an essential focus on the promotion of energy production from RES by increasing the use of RES

in energy production and on the development of high-efficiency CHPPs by promoting the development of a centralised heating system in Latvia. The promotion of energy production by using RES is included in both laws regulating the energy industry — both in the Energy Law⁴³ and EML⁴⁴.

Within the framework of the aid scheme for the period from 24 July 2007 until 14 March 2009, Cabinet Regulation No.503 “Regulations Regarding Electricity Production by Using Renewable energy sources” (hereinafter -Cabinet Regulation No.503)⁴⁵ issued pursuant to Section 29, Paragraph two; Section 29, Paragraph four; and Section 29, Paragraph five of the EML was in force, envisaging a possibility for merchants, which have received the right to sell electricity within the framework of the MP to promote production of electricity from biomass, to apply for the receipt of co-financing for projects which aim at producing electricity from biomass.

So far aid in the electricity production for investment and operational support for electricity production by using RES or high-efficiency cogeneration has not been sufficiently assessed in total. It shall be taken into account that both the MP and the right to receive the feed-in tariff determined within the framework of, as well as power payments for installed power are made by taking into account operational aid principles, being previously determined in the Community Guidelines of 1 April 2008 on State aid for environmental protection⁴⁶.

Aid mechanisms, which envisaged the co-financing for energy production in plants for additional operational aid promoted investments in the energy sector, provided successful implementation of the project, as well as promoted Latvia's progress to the determined mandatory purpose in the Directive 2009/28/EC to achieve the renewable energy proportion of 20% in total end use of gross end use. Taking into account a great number of merchants, which lost their rights to sell electricity within the framework of the MP or the right to receive the guaranteed payment, including due to the lack of investment, merchants, which

⁴³ Energy Law. Law of the Republic of Latvia. Official Gazette, 1998. 22 September No.273/275. Section 3, Article 6:

3. The purpose of this Law is:

(..)

6) to facilitate the use of local, renewable and secondary energy resources;

(..)"

⁴⁴ Electricity Market Law Section 2, Article 4:

„2. The purpose of this Law is

(..)

4. to facilitate electricity production from renewable energy sources;

(..)"

⁴⁵ http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_503_-_Electricity_Production_from_Renewable_Energy_Resources.doc

⁴⁶ Community Guidelines of 1 April 2008 on State aid for environmental protection [Official Journal C 82 of 1.4.2008]

implemented projects received co-financing from other financial instruments for investments in production plants, can receive the MP rights or they have not lost the right for guaranteed payment and they implement projects successfully.

It is essential to assess whether the aid for all **64 projects**, which have received both co-financing for investments in energy production plants and operational aid within the framework of the MP mechanism with the right to adopt the feed-in tariff or in some cases the right to receive the guaranteed payment for the installed power in the power station, does not exceed the limits for investment and operational support determined in the Guidelines and they comply with the Guidelines.

As determined in Clause 190 of the Guidelines, summing up of aid is permissible if the total sum of the aid does not exceed the aid limits determined in the referred to Guidelines, without exceeding the limits prescribed by the corresponding EU regulations pursuant to which the EU funding was provided.

In the period from 2007 till 2013 the investment aid for energy production from RES was provided by the EU Cohesion Fund, EU European Agricultural Fund for Rural Development (hereinafter – EAFRD) and the Climate Change Financial Instrument (hereinafter – CCFI). Until 2012 it was possible to receive the investment aid and the aid within the scope of the MP or capacity payments altogether. There were no specific rules to ensure that the cumulation of different forms of support did not lead to overcompensation. In some cases we assume, that some energy producers can be overcompensated through the possibility to get both supports.

The result of support cumulation is given in Annex V.

Since 2012 it was ensured the supervision in order to prevent possibility for a merchant receiving state support for produced electricity in the form of MP to receive any other support. For example, in amendments of Cabinet Regulation No.559 “Regulations of the Open Tender “Complex Solutions for Reduction of Greenhouse Gas Emissions” for Projects Financed by the Climate Change Financial Instrument” of 14 august 2012 entered into force on 14 June 2013 it was determined that funds of CCFI cannot be claimed if the merchant has received the rights to sell produced electricity within the scope of MP or to receive guaranteed payment for the electric capacity installed in a CHP.

Aid for Development of Effective Heat Supply System

On 27 June 2006, the Cabinet of Ministers of the Republic of Latvia approved the policy planning document developed by the MoE entitled Energy Development Guidelines for 2007-2016, which prescribe the basic principles of the Latvian energy policy, purposes

and operation directions for further years and map out the long-term development directions. One of the purposes of the Latvian national energy policy defined in the Energy Development Guidelines for 2007-2016, taking into account the direction towards the development of high-efficiency cogeneration included in Directive 2004/8/EC, is increase of energy production in cogeneration process.

In Latvia energy production cogeneration is regulated by the Energy Law, ETL and Cabinet Regulation No.221 ⁴⁷ issued pursuant to it, as well as the Law “On Regulators of Public Utilities” and Cabinet Regulations issued according to it, as well as other general legislation regulating the business activity and deals, for example, the Commercial Law, Civil Law, Labour Law, as well as legislation regulating environmental protection and construction.

Since 2000 there is a rapid spread of effective cogeneration in the Latvian energy. In total **175** CHPPs with the total installed electric power of **1265,3 MW** producing 3004,8 GWh operated in 2014, constituting 39,7% from the gross national electricity consumption in Latvia. The proportion of cogeneration in the gross national electricity consumption in the period from 2000 until 2015 in Latvia has increased by **17,5 percentage points** (cogeneration proportion in 2000 — 22,2%; in 2014 — 39,7%).

In 2014 CHPPs produced 5189,6 GWh of district heat for sale, which constituted 72,6% from the total supply of district heat energy. The proportion of cogeneration in district heat supply in the period from 2000 until 2014 in Latvia has increased by **34,8 percentage points** (cogeneration proportion in 2000 — 37,8%; in 2014 — 72,6%).

The existing plants of heat energy production, mainly those operating in centralised heat supply system are gradually substituted with plants using local energy resources and effective cogeneration. Substitution of them to effective use of energy resources has a significant contribution also in reducing emission of greenhouse gases (see preamble and Article 1 of the Directive 2004/8/EC). Latvia and Europe are moving to a highly efficient energy system according to Directive 2012/27/EU of European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (hereinafter - Directive 2012/27/EU) where efficient use of energy by cogeneration can also contribute positively to the security of energy supply. Also the support system for RES and high efficient cogeneration was developed to fulfil requirements set by the Directive 2004/8/EC.

In the planning period of EU funds for 2007-2013, the purpose of Activity 3.5.2.2 “Development of Cogeneration Power Plants Utilising Renewable Energy Sources” of

⁴⁷ Cabinet Regulations No.221 substitute the Cabinet Regulations No.921 of 6 November "Regulations Regarding Electricity Production in Cogeneration".

Supplement to the Operational Programme “Infrastructure and Services”^{48, 49} (hereinafter Activity 3.5.2.2.) was to significantly increase the amount of electricity and heat energy from RES, thus reducing dependence of Latvia from the import of primary energy resources. Within the framework of the activity, aid in respect of compensation for public utilities to companies which have been entrusted with the duty to provide services with general meaning of national economy. Mentioned scheme was part of the Latvia's Operational Programme 1 “Infrastructure and Services”, priority 3.5 “Promotion of Environmental Infrastructure and Environmentally Friendly Energy”, measure 3.5.2. “Energy”.

The Law “On Regulators of Public Utilities” prescribes that the State regulates the provision of public utilities as business in the field of energy, as well as that the Cabinet of Ministers prescribes the types of those public utilities the provision of which is necessary to be regulated⁵⁰. On the basis of the Section 2, Paragraph four of the Law “On Regulators of Public Utilities”, Cabinet Regulation No.1227 of 27 October 2009, “Regulations Regarding Regulated Types of the Public Utilities” (hereinafter - Cabinet Regulation No.1227) was issued, prescribing the types of the public utilities in the field of energy which are necessary to be regulated. In relation to heat supply in thermal energy pursuant to Cabinet Regulation No. 1227⁵¹, it is necessary to regulate the production of heat energy in plants with the total installed heat power, which is higher than one megawatt if the transferred amount of thermal energy does not exceed 5000 MWh in year. Pursuant to Section 4, Paragraph one of the Law “On Regulators of Public Utilities”, the provider of public utilities is a merchant which provides public utilities in the regulated sectors in a particular territory and whose activities in the provision of public utilities are regulated in accordance with this Law. Wherewith all merchants, which within the framework of the Activity 3.5.2.2 of the EU Cohesion Fund received the aid for investments, are providers of public utilities whose activities are regulated in accordance with the Law “On Regulators of Public Utilities”.

Pursuant to the Law “On Regulators of Public Utilities”, the Regulator, which is an independent institution and is not subordinated to the State or local government institutions determines the methods for tariff calculation and issues a licence for public utilities. Whereas the licence determines the obligation of the provider of public utilities to provide such users

⁴⁸ Cabinet Regulation No. 165 of 17 February 2009, “Regulations Regarding Activity 3.5.2.2 “Development of Cogeneration Power Plants Utilising Renewable Energy Sources” of Supplement to the Operational Programme “Infrastructure and Services””

⁴⁹ Case No. N428/2008 “Development of Cogeneration Power Plants Utilising Renewable Energy Sources” (SA 1346); Case No.N150/2010 “Modification of scheme N 428/2008 Development of Cogeneration Power Plants Utilising Renewable Energy Sources”; Case No.N426/2008 “Scheme regarding the increase of efficiency of centralised heat supply systems”(SA.26453)

⁵⁰ Law “On Regulators of Public Utilities”, <http://likumi.lv/doc.php?id=12483>

⁵¹ Cabinet Regulation No. 1227 of 27 October 2009, “Regulations Regarding Types of Regulating Public Utilities”, <http://m.likumi.lv/doc.php?id=199830>

with public utilities of a specified quality and quantity for the determined tariffs.⁵² Pursuant to the Law “On Regulators of Public Utilities”, the providers of public utilities calculate the tariffs for public utilities in the regulated fields according to the calculation methods of the determined tariff, and they are determined in such amounts that tariff payments made by users would cover economically justified costs of public utilities and provide profitability of public utilities.⁵³

Operation of merchants is regulated on the basis of decision of the Public Utilities Commission No. 1/12 of 14 July 2010 “Regulations Regarding Justification of Tariff Costs”⁵⁴ adopted pursuant to Section 25, Paragraph one of the Law “On Regulators of Public Utilities”, determining documents which are submitted to the Regulator for the justification of tariff costs at the same time with the project of tariffs which is calculated according to the determined methods for tariff calculation for merchants.

⁵² Law On Regulators of Public Utilities

Section 9. Functions of the Regulator

(1) The Regulator shall perform the following functions:

- 1) protect the interests of users and promote the development of providers of public utilities;
- 2) determine the methodology for calculation of tariffs;
- 3) determine the tariffs if special laws concerning the sectors do not provide for another procedure for determining the tariffs;
- 4) license the provision of public utilities;
- (..)

Section 11. Independence of the Regulator

- (1) The Regulator shall be independent in the performance of the functions determined by law.
- (2) The Regulator shall not, when performing its functions, be subordinated to the State or local government institutions.
- (..)

Section 16. Licence for Public Utilities

- (1) A licence for public utilities (hereinafter – licence) gives a provider of public utilities the right to assume simultaneously similar obligations with respect to a number of users in the territory determined in the licence (hereinafter – territorial area of a licence) and determines the obligation of the provider of public utilities to provide such users with public utilities of a specified quality and quantity for the tariffs determined.
- (..)

⁵³ Law On Regulators of Public Utilities

Section 19. Procedure for Setting of Tariffs

(1) Providers of public utilities shall calculate tariffs for public utilities in the regulated sectors in accordance with the methodology determined for tariff calculation and, upon his or her initiative or request of the Regulator, submit to the Regulator drafts of the calculated tariffs together with a substantiation of the costs making up the tariffs referred to in the draft tariff calculation.

(..)

(7) The Regulator shall approve or reject the evaluated draft tariffs within 30 days from their examination.

(..)

Section 20. Tariff Levels

Tariffs shall be determined at such levels in order the tariff payments made by users would cover economically substantiated costs of public utilities and ensure profitability of the public utilities, unless special laws of a sector provide for other tariff determination principles. If factors that influence tariffs change, for example, profitability, the Regulator may propose a review of tariffs and request that a provider of public utilities submits calculated draft tariffs together with a substantiation of the costs making up the tariffs within a determined time period.

(..)

⁵⁴ Decision No. 1/12 of 14 July 2010 “Regulations Regarding Justification of Tariff Costs” by Public Utilities Commission, <http://m.likumi.lv/doc.php?id=213807>

Similarly, the operation of merchants is regulated by the decision No. 1/10 of 17 June 2010 “Methods of Calculation Cogeneration Tariff”⁵⁵ adopted on the basis of Section 25, Paragraph one, Clause 2; and Section 25, Paragraph one of the Law “On Regulators of Public Utilities”, prescribing the calculation procedure for thermal energy for cogeneration produced in a CHPP for thermal power above one megawatt the installed gross electric power of which is higher than four megawatts, because the merchant of energy supply has obtained the right to sell produced electricity within the framework of the MP.

In addition, operation of merchants is regulated by decision No. 1/7 of 14 April “Methods of Calculation Tariffs of Thermal Energy Supply”⁵⁶ adopted on the basis of the Section 9, Paragraph one, Clause 2; and Section 25, Paragraph one of the Law “On Regulators of Public Utilities”, prescribing the procedure by which a merchant calculates the tariff for such services regulating heat supply: production of thermal energy (except the production of thermal energy in CHPPs with the total installed power above one megawatt), thermal energy transmission and trade of thermal energy.

Under the competence determined within the framework of the legislation, decisions made by the Regulator are binding also relating to regulating the merchants of energy supply, which produce energy in highly effective cogeneration. Pursuant to Section 85, Paragraph three of the Energy Law, the Regulator within the scope of its competence determines the standards regulating energy supply and provides an explanation, as well as provides information for state and municipal authorities and institutions in line with Section 13, Paragraph two of the Law “On Regulators of Public Utilities” in order to ensure transparency of its activity, explain conduct of public utilities’ providers and find out the public attitude towards it.

10 projects of CHPPs of merchants, which are providers of heat supply, have received the aid within the scope of the Activity 3.5.2.2 of the EU Cohesion Fund administrated by the Investment and Development Agency of Latvia.

Co-financing of EU Cohesion Fund was allocated for the development of power stations using RES, including for purchase and installation of construction and technology plants. Within the scope of the projects development of such CHPPs, which use RES and the produced thermal energy of which is transferred to the central heat supply system was planned by substituting stations in the central heat supply system, which use fossil fuel, thus providing users with thermal energy.

⁵⁵ Decision No. 1/10 of 17 June 2010 “Methods of Calculation Cogeneration Tariff” by Public Utilities Commission, <http://m.likumi.lv/doc.php?id=211966>

⁵⁶ Decision No. 1/7 of 14 April 2010 “Methods of Calculation Tariff of Thermal Energy Supply Services” by Public Utilities Commission.

The investment aid for all 10 projects was approved in 2009/2010. The total installed electrical capacity of projects is **36,551 MW_{el}**, the total allocated funding of the EU Cohesion Fund is **EUR 28,779 million**, whereas the total funding of the project — **EUR 115,10 million**.

Nine merchants from the projects which have received the aid of the EU Cohesion Fund have received a decision issued by the MoE — an administrative deed with the rights to sell electricity within the framework of the MP, whereas one merchant received the right to the guaranteed payment for installed power to the power station.

To our mind, the aid for high-efficiency CHPPs, which receive aid by means of MP corresponds to Clause 151, Sub-clause a) of the Guidelines, because CHPPs, which have received the aid, mainly belong to companies producing electricity and heat for the society. Namely, the produced thermal energy is put into the central heat supply system, thus respectively ensuring thermal energy for city population and companies, to which the particular CHPP refers to. Whereas produced electricity is put accordingly in transmission or distribution system, thus respectively ensuring electricity and stable energy supply in particular price for Latvian people and companies, thus promoting the development of the economy of Latvia.

It shall be taken into account that all stations mentioned in Table 10, which received the aid of the EU Cohesion Funds, meet the criteria of high-efficiency cogeneration, prescribed in Directive 2012/27/EU corresponding to the decision by the European Commission of 19 December 2011 on coordinated determination of account efficiency for individual production of electricity and heat by adapting Directive 2004/8/EC of the European Parliament and Council, for which the MoE ascertains receiving and assessing annual reports submitted by merchants.

Table 10

**Information on Investment Aid and Activity Aid for Merchants Operating in the
Central Heat Supply System and Receiving Aid Under MP**

	Merchant	Heat power referred to the investment aid, MW	Electric power, MW	Funding of CF (EUR)	Type of operation aid		Year of launching	Term of operation aid
					MP	GM		
1	Liepājas Enerģija (9.615 MW _h /2.294 MW _{el})	9,79	1,80	3 165 791,81	221		2012	2022

2.	OŠUKALNS	6,71	1,40	3 200 808,67	198		2011	2031
3.	JE enerģija	1,24	1	1 869 123,72	221			
4.	Fortum Jelgava	45	23	5 689 592,43		221	2013	2028
5.	RĪGAS SILTUMS (22 MW _h /4 MW _{el})	21,4	3,97	4 876 706,84	221		2013	2023
6.	Sātiņi Energo LM (2.6 MW _h /0.6 MW _{el})	2,6	0,59	1 510 796,11	221		2011	2021
7.	Kuldīgas siltumtīkli (3.06 MW _h /0.727 MW _{el})	3,06	0,70	1 700 240,81	221		2012	2022
8	Bioeninvest (2 MW _h /0.999 MW _{el})	4,49	0,99	2 044 144,06	198		2012	2032
9.	Enefit Power & Heat Valka (2 MW _h /2.999 MW _{el})	9	2	3 464 190,22	198		2012	2032
10.	Remars – Rīga (2.65 MW _h /0.715 MW _{el})	2,6	0,6	1 253 491,33	221		2013	2023
Total:		105,89	36,55	28 774 886,00				

Aid for Production of Energy from Biomass with Agricultural and Forestry Origin

In the EU funds planning period for 2007-2013 the agricultural aid programmes of the EAFRD administrated by the Rural Support Service (hereinafter -the RSS) for 2007-2013 within the framework of the sub-measure “Energy Production from Biomass with Agricultural and Forestry Origin”⁵⁷ investment aid for merchants ensuring energy production from biomass with agricultural and forestry origin was provided, envisaging to sell electricity produced in biogas cogeneration.

Pursuant to Cabinet Regulation No. 268 of 16 March 2010 “Procedure for the Allocation of State aid” to the Sub-measure “Energy Production from Biomass with Agricultural and Forestry Origin” of the measure “Aid for Company Establishment and Development” (including diversification of activities not related to agriculture) (hereinafter - Cabinet Regulation No. 268)⁵⁸, which was issued on the basis of Section 5, Paragraph four of the Law “On Agriculture and Rural Development”, the amount of costs is determined by assuming that investments per electricity of one kilowatt does not exceed over EUR 4268 for power up to 500 kW.

According to the Cabinet Regulation No. 268 (previous to the Cabinet Regulation No. 696), aid within the framework of the EAFRD administered by RSS is allocated to **41** biogas

⁵⁷ Case No N351/2008 “Energy production from agricultural and forestry biomass” (duration from 12.02.2009 till 30.12.2013)

⁵⁸ Cabinet Regulation No. 268 replaces Cabinet Regulation No. 696 of 25 August 2008 “On Rules Concerning the Procedure for the Allocation of State And European Union Aid under the Sub-measure “Energy Generation from Biomass and Agricultural and Forestry Origin” of the Measure “Aid for the Creation and Development of Enterprises (Including the Diversification of Activities not Related to Agriculture)”.

station projects with total heat power of **33,582 MW** (the total aid amount is **EUR 46 409 468,00**). Out of all projects having received the aid of EAFRD, 12 projects receive the aid also according to the procedure prescribed in Cabinet Regulation No.221, 29 projects receive the aid according to the procedure prescribed in Cabinet Regulation No.262. As at 19 June 2014, 40 biogas stations out of 41 projects have started electricity production, wherewith they sell electricity for a public merchant, receiving the feed-in tariff for it. One project still will be implemented.

Table 11
Information on Investment Aid and for Biogas Power Stations Receiving Aid Under MP

	Merchant	Planned heat power, MW	Heat power referred to the investment aid, MW	Funding EUR)	Regulation of operational aid (MP)	Year of launching	Term of operation aid
1	SIA ZEMTURI ZS	0,43	0,7	614 375	198	2010	2030
2	SIA Conatus BIOenergy	2,06	1	1 480 000	198	2010	2030
3	SIA Bioenerģija- 08	2,,06	1	1 359 554	198	2010	2030
4	AS Viļāni Agricultural and Selection Station	0,989	0,95	1 511 528	198	2011	2031
5	SIA NOPA LTD	0,17	0,18	291 973	262	2010	2030
6	SIA MC bio	0,8	0,825	981 898	198	2010	2030
7	ZS Vintera Jelgavas rajona zemnieku saimniecība "LĪGO"	0,5	0,5	853 723	198	2010	2030
8	SIA RZS ENERGO	0,95	0,54	702 399	198/26 2	2011	2031
9	SIA EKORIMA	0,95	0,95	1 266 612	221	2012	2022
10	SIA BIODEGVIELA		2,1	3 315 029	198	2010	2030
11	SIA PAMPĀĻI	0,99	1	1 491 188	198	2012	2032
12	SIA Bioenerģija- 3	0,92	0,5	853 723	198/26 2	2012	2032
13	SIA Agro Lestene	0,685	0,5	853 723	198/26 2	2011	2031
14	ZS Limbažu rajona Zaigas Treimanis zemnieka saimniecība "JAUNDZELVES"	0,65	0,526	803 012	198	2011	2031
15	SIA Zemgaļi JR	0,6	0,5	853 468	198	2011	2031
16	SIA BIOPLUS	0,6	0,5	721 147	221	2012	2022
17	SIA BIO FUTURE	0,572	1	1 254 471	198	2011	2031
18	SIA BIO ZIEDI		1,998	2 529 541	503	2011	2031

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19	SIA GAS STREAM	0,572	1	1 265 870	198	2011	2031
20	SIA BIO Auri		0,6	752 004	198	2011	2031
21	SIA Grow Energy	2,06	1,996	2 276 595	221	2012	2022
22	SIA DAILE AGRO	1,03	1	1 348 000	262	2012	2032
23	SIA AD Biogāzes stacija	1,6	1,96	2 275 922	262	2011	2031
24	SIA BP Energy	0,291	0,245	418 324	198	2012	2032
25	SIA Agro Iecava	2	1,95	2 276 453	198	2011	2031
26	SIA Zaļā Mārupe	1,053	1	1 421 941	262	2012	2032
27	SIA Sidgunda Bio	0,81	0,6	853 723	262	2012	2032
28	SIA Lielmežotne	1,088	1	1 421 449	221	2012	2022
29	SIA Bērzi Bio	0,6	0,5	785 591	262	2012	2032
30	SIA LB Energy	0,244	0,21	358 564	262	2013	2033
31	SIA BIOPAB	0,67	0,6	852 535	221	2012	2022
32	SIA Agro Lestene	0,5	0,5	384 175	198/262	2011	2031
33	SIA Zaļās Zemes Enerģija	0,577	1	1 411 631	262	2013	2033
34	SIA IMPORTEX GROUP	0,94	0,9	1 153 551	221	2013	2023
35	SIA SPRŪŽEVA M	0,523	0,5	852 016	221	2013	2023
36	SIA DRUVAS UNGURI	0,48	0,5	853 723	221	2013	2023
37	AS AGROFIRMA TĒRVETE	0,5	0,5	853 720	221	2013	2023
38	ZS Aizkraukles rajona Bebru pagasta zemnieku saimniecība "VECSILJĀNI	0,5	0,5	853 723	221	2013	2023
39	SIA Ulbroka	0,218	0,252	324 415	221	2013	2023
40	SIA International Investments	0,308	0,5	824 457	262	2013	2033
41	ZS Bebru pagasta U,Krievāra zemnieku saimniecība "PILSLEJAS"	0,5	0,5	853 723	221		
Total:		30,99	33,582	46 409 468			

Aid within the Climate Change Financial Instrument

In accordance with the law "On Participation of the Republic of Latvia in the Flexible Mechanisms of the Kyoto Protocol", the CCFI financing is acquired in the framework of the International Emission Trading as specified in Article 17 of the Kyoto Protocol, i.e. by selling the assigned amount units owned by the Republic of Latvia. The CCFI financing is allocated for the climate change mitigation measures pursuant to the principles and priorities specified in the law "On Participation of the Republic of Latvia in the Flexible Mechanisms of the

Kyoto Protocol” and International Agreements. Aim of CCFI is to prevent global climate change, adaptation to the effects of climate change and contribute the reduction of greenhouse gas emissions. Within the CCFI⁵⁹ 16 projects implemented by project beneficiaries have received the aid within the framework of which project beneficiaries planned to produce electricity by using RES (wind energy, biomass and hydro energy). The total installed capacity of the projects are about **13,8 MW**, whereas the total amount of aid is about **EUR 9,3 milj.** Some projects have no receive support within the framework of the MP. Six projects out of all projects having received the CCFI aid receive or will receive the aid also in the procedure prescribed in Cabinet Regulation No.221, whereas seven projects receive the aid in the procedure prescribed in Cabinet Regulation No.262. The total installed power of projects was 13,8 MW.

All projects have started electricity production, therefore they sold electricity within the framework of the MP by receiving the feed-in tariff for it according to the legislation regulating the mandatory electricity procurement.

It is essential that in relation to the projects supported by the CCFI, the MP rights obtained by merchants were taken into account by prohibiting such merchants from applying for the receipt of the CCFI financing for the implementation of the project.

Table 12

Information on on Investment Aid from CCFI for Power Stations which Use RES in Electricity Production and Receiving Aid Under MP

	Beneficiary and it's power capacity	Heat power referred to the investment aid, MW	Electric power referred to the investment aid, MW	CCFI financing (EUR)	Regulation of operational aid (MP)	Year of launching	Term of operational aid
1.	SIA “AG 21” (0.165 MW)		0,185	102 698,12	198	2002	2027
2	SIA “Gaujas Hidroelektrostacija” (0.225 MW)		0,195	255 725,63	503	2000	2028
3	(SIA “IU CEĻŠ”		0,11	160 001,93	503	1993	2028

⁵⁹ In CCFI project tender rules was taken into account state aid rules in accordance with the Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General Block Exemption Regulation). The Ministry of Environmental Protection and Regional Development of the Republic of Latvia representatives completed a notification at SANI system regarding to activities under CCFI (Case No. X271/2010, duration from 28.05.2010 to 01.12.2011).

	0.09 MW)						
4.	Dobeles rajona Bērzes pagasta ZS "DZIRNAVAS" (0.06 MW)		0,12	95 261,27	262	2002	2033
5	SIA "EGLĪTIS UN BIEDRI" (0.33 MW)		0,355	166 476,00	198	1997	2027
6.	SIA "Ērberģes investīcijas" (0.174 MW)		0,13	127 664,00	262	1998	2029
7.	SIA "Rekonstrukcija un investīcijas"	2,05	0,82	67 663,12	221	2014	2034
8.	SIA "ENERCOM PLUS" (2.7 MW+2.7 MW)		7,5	1 680 767,33	198	2011	2031
9.	SIA "Tukums DH"	3	0,725	1 146 087,67	221	2013	2023
10.	SIA "Zemgales Enerģijas parks" (1.2 MW _{el} /1.216 M Wh)	1	1	653 098,16	221	2013	2023
11.	SIA "SM Energo" 1.3 MW _{el} /4 MW _h)	3	0,95	1 501 770,00	221	2013	2023
12.	SIA "Brocēnu enerģija" 1.25 MW _{el} /4 MW _h)	3	0,95	1 501 770,00	221	2013	2023
13.	SIA "Seces koks"	3	1,15	1 810 102,46	221	2013	2023
Total:		15,05	14,19	8 615 987,53			

Observance of Cumulative Requirements

Taking into account the risks for increase of electricity prices and the necessity to put the aid system in order in general, the MoE, which within the framework of the previous aid mechanism has issued a great number of administrative deeds to merchants, providing merchants with the right to sell electricity within the scope of the MP, or administrative deeds (in a smaller amount), providing merchants with the right to receive payment for electric power installed at the power station, by carefully following that financing within the scope of aid measures administered by other institutions would not be provided in the aid system evaluation period to merchants, which possess the referred to administrative deeds.

For instance, Sub-paragraph 13.12 of Cabinet Regulation No.599 of 14 August 2012, "Regulation of the Open Competition "Complex Solutions for the Reduction of Greenhouse Gas Emissions" of Projects Financed by Climate Change Financial Instrument" determines that one may not qualify for the receipt of financing for the implementation of the project if the Ministry of Economics has adopted a decision regarding the allocation of rights to a

merchant to sell the produced electricity in the form of mandatory purchasable electricity volume or for the allocation of the right to receive a guaranteed payment for the electric power installed at the power station.

In the first half of 2015 it is also intended to adopt amendments to Cabinet Regulation No.221 and Cabinet Regulation No.262 by establishing that a merchant, which has obtained the right to sell the produced electricity in the form of mandatory purchasable electricity or the right to receive the guaranteed payment for the electric power installed at the power station, cannot apply for investment support in other programmes.

Overall biogas electric power stations with the total electric power of 55,42 MW, biomass electric power stations with the total electric power of 32,082 MW, wind power stations with the total electric power of 61,815 MW and hydro power plants with the total electric power of 27,438 MW were operating in 2013, constituting **176,755 MW** of electric power. Before the adoption of investment aid, for example, in 2010, the total installed power in biogas, biomass, wind power stations and hydro power plants was **72 MW**. Whereas new electric powers of **94,549 MW** are installed by the investment aid. **Wherewith approximately 90% of all new electric powers installed in the state after 2010, which produce electricity from RES and have received the right to sell electricity within the framework of the aid mechanism of the MP, are implemented by additional investment aid allocated to thermal energy production plants in centralised heat supply or to electricity production plants, which use RES outside the centralised heat supply.**

Five HPP that sell electricity under MP have received additional investment aid within the framework of the CCFI. The installed electrical capacity of these plants is from 0,06 MW till 0,33 MW. Total installed capacity of these HPP is 0,87 MW. These projects had provided the modernization of existing HPP to increase amount of produced electricity and to ensure the environmentally friendly operation of HPP. The aid intensity was 65% of the total eligible costs of the project. Total amount of investment aid for these HPP is 772 557 euro. See calculations of electricity generation costs for these projects in Annex V.

One wind power plant that sell electricity under MP has received the additional investment aid within the framework of the CCFI. The installed electrical capacity of this plant is 11 MW. Received investment aid was for 8,25 MW. The total costs of the project according to the information from application were 11 264 577 euro, from which 4 802 192 euro were eligible costs. The amount of the investment support received by this project was 1 680 767 euro. This merchant has received MP rights for 8955 MWh/year (8000 MWh/year – rights are in force; 955 MW – ongoing proceedings). The electricity produced

over this amount can be sold in free market according to the market price. See calculations of electricity generation costs for this projects in Annex V.

Two biogas CHPP that sell electricity under MP have received the additional investment aid within the framework of the CCFI. The installed electrical capacity of these plants is 0,82 MW and 1,2 MW. The total amount of investment aid for these plants is 698 781 euro.

41 biogas CHPP that sell electricity under MP have received additional investment aid from the EAFRD. The installed electrical capacity of these plants is from 0,18 MW till 2,1 MW. The total installed capacity of supported biogas plants is 33,582 MW and the total investment aid amount is 46 409 468 euro. The average aid intensity was 40% of the total eligible costs of the project. See calculations of electricity generation costs for these projects in Annex V.

Four biomass CHPP that sell electricity under MP have received additional investment aid within the framework of the CCFI. The installed electrical capacity of these plants is from 0,725 MW till 1 MW. Total installed capacity is 3,925 MW. Total amount of investment aid for these plants is 5 950 437 euro. Aid intensity was 55% of the total eligible costs of the project.

Ten biomass CHPP that sell electricity under MP have received additional investment aid within the scope of the EU Cohesion Fund. The installed electrical capacity of these plants is from 0,59 MW till 23 MW. Total installed capacity of supported biogas plants is 36,11 MW and the total investment aid amount is 29 589 666 euro. Aid intensity was from 5% till 49%. The average aid intensity for biomass CHPP was 40% of the total eligible costs of the project. See calculations of electricity generation costs for these projects in Annex V.

In Latvia more extensive use of RES for heat production is important, which respectively has an important position in achieving the goals of Latvia until 2020. At the same time centralised heat supply is the most energy effective type of heat supply, which is broadly used in heating public and residential buildings. Currently, important proportion from the fuel used in the centralized heat supply is imported — in 2011 62.9% of boiler-houses used natural gas, which indicates the large field dependence on the imported fossil fuel. Wherewith priority for the next planning period will be given to those projects, which plan to transfer from fossil fuel to RES, thus contributing to achieving of the goal of Latvia in terms of RES and reducing dependence on imported energy resources.

Within the time period 2014 - 2020, reconstruction and construction projects for heat resources are planned with the total heat power of about 143 MW, from which 70 MW of the power will be achieved by the aid of EU Funds, whereas the remaining 73 MW — by

investing in private funding of companies. The largest necessity for such powers of heat resources is in Liepāja, Valmiera, Bauska, Kuldīga, Talsi, Ludza, and Ventspils. New heat resources with power up to 10 MW are planned also in Salaspils, Smiltene, Madona, Mālpils, Limbaži, Rūjiena, Vangaži, Olaine, Grobiņa, Pļaviņas, and Daugavpils.

In order to assess whether the allocated investment aid for various types of stations has caused an oversubsidisation risk, all projects of those stations, which have received investment aid and operational aid by means of the MP have been summarised. Oversubsidisation risk does not exist for such stations out of all stations where thermal energy productions tariffs are determined by the Regulator.

The MoE currently follows whether funding within the framework of aid measures administrated by other institutions in relation to obtaining new rights would be available in line with the cumulative requirements. Inspections are carried out and will be carried out, firstly, by following the changes in conditions of aid allocated by other institutions or establishment of new instruments, secondly, by assessing the criteria of the granted aid and ensuring resolution in relation to the observance of cumulative requirements for those candidates, which receive aid for electricity production within the scope of the MP and within the framework of power payments.

Subsidised Electricity Tax

In order to retain the aid in production of electricity by using RES or high-efficiency cogeneration plants at the same time not allowing important increase in MPC, retaining it at the level of 2013 (2,69 EURcents/kWh), SET has been introduced where the public trader that conducts electricity purchase within the MP has to receive grant from the State budget. The Law on Subsidised Electricity Tax, which was adopted by the *Saeima* (Parliament) of the Republic of Latvia on 6 November 2013 and has entered into force on 1 January 2014 prescribes SET objects, SET payers, SET rate, procedure for establishing and maintaining the register⁶⁰ of producers of subsidised electricity, procedure for SET calculation, payment and administration, as well as liability of violating this Law.

The Law on Subsidised Electricity Tax prescribes to adopt SET from 1 January 2014 until 31 December 2017. This tax has three different rates:

- a. 15% for natural gas for CHPPs;
- b. 10% for stations using RES; and
- c. 5% for stations which correspond to conditions mentioned below:

⁶⁰ Available: <http://www.em.gov.lv/em/2nd/em/2nd/?cat=30981>

- ii. high efficiency natural gas CHPPs with electric power up to 4 MW or stations, which use RES without limits providing centralised heat supply systems with thermal energy;
- iii. high efficiency CHPPs with electric power up to 4 MW, which ensure at least 30% of electricity production with by-products of animal origin or its derivatives and which ensures at least 70% of raw materials by itself or buys from the producer, which owns more than 50% of the share capital of the tax payer, moreover, produced thermal energy is used in production of own thermal energy;
- iv. high efficiency firewood CHPPs with electric power up to 4 MW and at least 70% of thermal energy obtained in the cogeneration process is used to produce own production;
- v. high efficiency natural gas CHPPs with electric power up to 4 MW or without limits of installed electric power in RES CHPPs, which use at least 70% of produced thermal energy to provide vegetation process in weather protected areas with the total area not least than 5000m²;

A basic rate in the amount of 15% and a reduced rate in the amount of 10% and 5% has been determined for SET for a particular range of segments to provide the aspect that proportionality is ensured and tax burden is not disproportionate.

Namely, SET rate is determined by taking into account the type of energy resources used in the station. The aid received by energy producers, which use fossil energy resources for production and cause harmful effect on the environment, is imposed with SET in the amount of 15%, whereas the aid of those energy producers, which use RES for energy production is imposed with SET in the amount of 10%, thus promoting the use of renewable energy sources.

Whereas in order not to cause a significant impact on the increase of the end tariff of thermal energy supplied in centralised heat supply, SET in the amount of 5% is imposed on high-efficiency CHPPs, which are possessed by merchants selling energy to heat supply transmission or distribution merchant licensed by PUC, or selling energy as heat transmission or distribution merchant licensed by PUC.

Similarly, SET in the amount of 5% is imposed on the aid of the local businessmen, namely, agriculture and production companies, which use the produced thermal energy in the production of their own products, and by-products of animal origin or derivative products are used in the production; companies, which produce electricity from timber biomass; companies that use not less than 70% of the thermal energy obtained in cogeneration process, which

remains after the use of energy producing or transforming main equipment, to ensure the plant vegetation process in a covered area the total area of which is not less than 5000 square kilometres.

Administration of the previous aid mechanism (including the issue of the previous aid mechanism, deducting SET depending on the type of station) is performed by the new subsidiary company of the current public trader state JSC "Latvenergo" (JSC "Enerģijas publiskais tirgotājs") ensuring that funding envisaged for electricity aid is not used for other working directions of JSC "Enerģijas publiskais tirgotājs". JSC "Enerģijas publiskais tirgotājs" financial means arising from imposing SET are transferred to the national budget.

Introduction of SET was necessary in order to prevent increase in costs both for electricity users and the national budget, which can endanger environment-friendly electricity production in the existing amount. Hereto, it shall be taken into account that the costs for electricity production from RES decrease in the long run, by increasing the spread of it, whereas the amount of payable aid in the current aid mechanism increases, because the amount of it is attached to the tariff of natural gas.

It is estimated that to prevent increase of the MPC for electricity users in the period from 1 April 2014 until 31 March 2017 the necessary aid from the national budget in 2014-2016 will be approximately EUR 130 million (EUR 29,2 million in 2014; EUR 20,3 million in 2015 and EUR 80 million in 2016). Income for this purpose will be obtained from the activity of the SET.

According to the information provided by the State Revenue Service, income from SET in 2014 was EUR 24,98 million. Planned income from SET is EUR 35,4 million in 2015 (in the first seven months of 2015 it was EUR 19,04 million, EUR 38,8 million in 2016 and EUR 42,3 million in 2017).

According to the economic development assessment carried out by the MoE, the current MPC level (2,679 EURcents/kWh) must not increase to retain development opportunities for all economic industries. Prognosis of the MoE about the necessary State aid and its distribution are given in Table 13.

Table 13

Prognosis of the MoE on the necessary resources from the State budget and its distribution

	2014	2015	2016
Consumed electricity, GWh	6717	7089	7100
MPC for users, EUR cents/kWh	2,679	2,679	2,679

MPC payments of users, million EUR	179,9	189,9	190,2
Budget grant, million EUR	29,3	20,3	80,0
Budget grant, EUR cents/kWh	0,43	0,29	1,13
Eligible costs of the public trader, million EUR	209,2	210,2	270,2
<u>Proportion of Users' MPC in the common aid, %</u>	<u>86</u>	<u>90</u>	<u>70</u>

Role of the Public Trader in the Aid Scheme Functioning

Having regard that the decision of the mechanism compliance with the internal market of the European Community was not received by 31 December 2014, in order to prevent adverse situation what could occur to electricity end-users and to a public trader Latvia taking into account the Article 56 of the State budget law for 2014 that in 2014 planned expenditure to public trader from the State budget shall be carried out in 2015 following the receipt of the decision of the mechanism compliance from the European Commission.

Latvia has developed its electricity market through gradually moving towards the opening in accordance with the Baltic States development document “Baltic Energy Market Interconnection Plan” (hereinafter - BEMIP). The Latvian bidding area of NordPoolSpot was successfully opened on 3rd of June 2013. It has also served as a turning point of integration of the Baltic States electricity networks with the rest of the European electricity networks, moreover, it furthers establishment of a common market based on the principles of Scandinavian electricity market. The next step after opening of the Latvian electricity bidding area and establishment of the day-ahead electricity market ELSPOT was establishing the intra-day market ELBAS, which has been successfully opened on 10th of December 2013. The existence of both markets provides the market participants with a reliable and transparent electricity price.

The wholesale electricity price can be divided into short-term and long-term prices. *Short-term prices* are forward prices of electricity, which are used for deals on the exchange. They allow to forecast enough credible and stable electricity price for a particular time period (week, month, quarter, year) ahead. For example, in the price area of Finland, by using the existing Finland-Estonia interconnection Estlink 1 (350 MW), currently also Latvia is buying electricity; electricity prices in the perspective of five years pursuant to the prognosis available in the homepage of the stock exchange NASDAQ will remain stable with a moderate increase in the amount of 7%.

If energy systems of Scandinavia and Central Europe are completely integrated, electricity prices in the stock exchange NordPoolSpot more than likely will increase by squaring with the price of EPEX Spot. Whereas, if the complete integrity of electricity systems will be not implemented, electricity prices in the region of Nord Pool Spot could reduce, because there are many production powers in the region after which there will be no demand. Electricity price shall range from EUR 45-55 per MWh.

Unlike short-term prices, long-term prices of electricity which are affected by the availability of water resources, coal prices and CO₂ prices will be formed by important processes of the European electricity market integration.

At the same time the electricity price in the Baltic States could increase more rapidly than in Sweden and Finland, taking into account the production of electricity and use structure of the region. Wherewith integration of the Baltic and Northern State markets could reduce the rise of the Latvian electricity market prices in short and long term — respectively, it will be limited to the planned moderate increase of market prices in Sweden and Finland.

As the electricity exchange operates in Latvia only since 2013, historically there were no reasons to develop the aid system as a premium system (rights for renewable energy producer to receive the premium for electricity produced and sold on the electricity market) in the conditions of the absence of an effective electricity market. Therefore aid system was designed as the rights to the energy producer to sell the produced electricity for the „feed-in” tariffs at the same time providing the obligation for one participant electricity market to purchase the produced electricity.

Since the „feed-in” tariff system prescribes both the MP of electricity and a further sale of this electricity on the electricity exchange the provider of the MP – the electricity public trader should have corresponding practical skills of the trader and the legal framework as well as in the decision-making process the public trader must be independent from other companies. In accordance with the provisions of the Electricity Market Law only electricity trader may trade electricity therefore, currently it is not possible to entrust this function to the body that is unrelated to the electricity market. Particularly in respect with the fact that the purchase volume under the MP is relatively large (at least 100-150 MW hourly).

Since 1 July 2007 a partly free electricity market existed. Wherewith the aid system is formed as producers' rights to sell the produced electricity to feed-in tariffs, at the same time anticipating an obligation for one market participant to purchase the produced electricity.

Therefore, in accordance with the EML the function of the MP till April 1, 2014 was managed by JSC “Latvenergo”, Ssince April 1, 2014 the JSC “Enerģijas publiskais tirgotājs” that is new established subsidiary company of JSC „Latvenergo” has taken over the

administration of the MP . In order to ensure the transparency of the administration of the MP system the public trader has been established as a separate company with the relevant company management which allows JSC “Enerģijas publiskais tirgotājs” to take decisions independently from the parent company. The takeover of the functions of the public trader has been done in non-discriminatory way assuming all existing commitments of the JSC „Latvenergo” to the producers who is eligible to receive the support as the rights to sell electricity in MP or the rights to receive the guaranteed payment for the installed electric capacity.

JSC “Enerģijas publiskais tirgotājs” has an obligation to purchase electricity from the producers who have rights to sell the produced electricity within the framework of the MP and an obligation to pay guaranteed payment for the installed electric capacity established according to the Cabinet Regulation No.221 and Cabinet Regulation No.262.

The JSC “Enerģijas publiskais tirgotājs” sells all electricity purchased within the framework of the MP on the Latvian electricity bidding area of the JSC “Nord Pool Spot” electricity exchange at hourly electricity price. Thus it is ensured that this electricity does not enter into any electricity market participant's trading portfolio and all members of the electricity exchange can buy this electricity. In addition it gives possibility to identify precisely the additional costs of the electricity purchased in the MP above the market price. Those costs are included in the parafiscal charge which is covered by all final consumers of the electricity in Latvia proportionally to their electricity consumption.

In order to ensure the proper functioning of the public trader it is subjected to the supervision of the Public Utilities Commission. Public Utilities Commission has issued a methodology (the current methodology — “Methodology for calculation of mandatory procurement components” approved on 26 February 2014 by Decision No. 1/5 of the Board of the Public Utilities Commission) that determines the procedure of the calculation of the set value of the parafiscal charge that are paid by all final consumers of the electricity and covers all the costs of the public trader related to the MP of electricity and the guaranteed payment for the installed electrical capacity.

The methodology prescribes:

1. The public trader summarizes the costs of the MP and the guaranteed payment for the installed electric capacity of the previous year;
2. The public trader summarizes all costs related with the administration of the public trader functions (costs of the electricity balancing services; administrative costs of the operation in the electricity exchange, financing costs, etc.);

3. The public trader takes into account the correction factor adjusting the imbalance of income and expenditure of the previous period;
4. The public trader takes into account the amount of subsidy from the budget to reduce the amount of the parafiscal charge;
5. The public trader calculates and the Public Utilities Commission confirms the amount of the parafiscal charge that is calculated in proportion to the amount of the electricity final consumption and is paid by by all final consumers of the electricity in Latvia.

Thus the payment system is developed as follows:

1. The public trader pays the invoices issued by the energy producers for the electricity sold under the MP and the guaranteed capacity payments for the previous month (an outgoing cash flow).
2. At the same time the public trader receives an income from the sale of the electricity produced by supported electricity producers in the electricity exchange (incoming cash flow);
3. The public trader settles with the balance provider (the transmission system operator) for the balancing service (mainly outgoing cash flow);
4. After full calendar year all of the payments mentioned above are summarized and the lacking amount and the administrative costs of the public trader are included in the calculation of the parafiscal charge that entrys into force at least 15 months after the first payments (for example payments for the electricity purchased under MP in the January this year will be compensated from the April next year);
5. The funding from the budget allows to cover partially the costs made previously therefore such kind of funding could not be considered as a support to electricity producers, but it should be considered as a support for all final consumer of the electricity. It is proved by the following – the methodology of the Public Utilities Commission prescribes that whether the budget does not provide any funding, the electricity producers who have rights to sell electricity under the MP or rights to receive the guaranteed payment for the installed electric capacity will receive the same aid amount, but the final consumers of the electricity will pay higher parafiscal charge to compensate the costs of the public trader.

The legal framework mentioned above-ensures transparency and neutrality of the operation of the public trader as the legal framework allows the JSC “Enerģijas publiskais tirgotājs” to perform this function independent from the leading company of the group – JSC „Latvenergo”.

Although the legal framework allows to ensure the operation of the public trader without the subsidy from the budget, however this subsidy helps to achieve the objectives of the relevant national interests — to reduce parafiscal charge burden on all final consumers of electricity in Latvia and thereby to reduce the risk of the energy poverty for households and not to impair the international competitiveness of enterprises. Paid amount of the subsidy for the public trader from the state budget for 2014 was 29,3 million EUR but the relevant amount of eligible costs of the public trader was 200,3 million EUR. Thereby the planned subsidy from the budget in 2014 did not exceed 15% of the eligible costs.

The subsidy from the state budget for reduction of the amount of the parafiscal charge is undoubtedly related with the presence of the public funding, though to qualify it as a state aid under Art.107 paragraph 1 TFEU four cumulative conditions must be met :

1. Intervention by the State or through state resources;
2. The intervention gives the recipient an advantage on a selective basis;
3. Selective advantage for its beneficiary;
4. Competition has been or may be distorted and the intervention is likely to affect trade between Member States.

However in our perspective in this case the support doesn't meet at least two conditions from four conditions to consider the budget subsidy as state aid described above. In particular, the budget subsidy is used to reduce the amount of parafiscal charge for all final consumers of electricity in Latvia proportionally to their electricity consumption. As a result, the selectivity of the aid beneficiaries is not met (the final consumer of electricity receives the aid independently from the origin of the consumed electricity – there is no difference from which Member State the electricity supplier who sold electricity to the final consumer comes from).

Also, it can not be considered as a distorting the competition firstly as the public trader does not operate in a competitive environment – the sole aim and an exclusive obligation of the public trader is to implement state aid policy and there could not be any threat of the distortion of the competition between Member States, and secondly, as there is no distortion of the competition between the final consumers of the electricity in Latvia because this subsidy from the budget reaches all of them at the same level – proportionally to the amount of the consumed electricity.

In the period from **1 April 2014** until the end of 2017, the income of the public trader will be composed of payments for electricity by its users for MPC 2.69 EURcents/kWh and the grant of the national budget in the amount of EUR 202.16 million. Accordingly, part of the expenses will be composed by payments to electricity producers, which sell electricity

within the framework of the MP. At the beginning of each year, when the amount of the MP is precisely known, it is necessary to specify the necessary funding for the fund, because the amount of the necessary financing is influenced by such important factors as electricity wholesale price, price of natural gas, producing power of installed electric power and total initial electricity use in the state. Initially the projected balance of JSC “Energijas publiskais tirgotājs” income and expenditure balance of the funding is shown in Table 13.

Pursuant to the previous table, the financing necessary for the work of the public trader from the national budget will be used in the execution of the direct duties of the public trader — for covering the deficit of the MP payment. Taking into account that the public trader will have a JSC separated from the JSC “Latvenergo” with clearly specified working purposes, actually there is no risk that the received national budget financing will be used in the aid of renewable energy production inadequately to the purposes.

In order to make it possible to ensure long-term activity of the public trader, it is necessary to assess settlement opportunities in the same year with the producers and users — until now, for example, MP costs, which raised in 2012 are compensated in 2013. Taking into account that revision of intensity of the previous aid mechanism is not included in the calculations, which can influence the amount of MPC, these sums are necessary to be specified each year.

During the course of developing the national budget in November 2013 the budget grant for the public activity of the trader for the next three years is similar to the prognosis included above: EUR 29,26 million in 2014, EUR 47,75 million in 2015, and EUR 56,14 million in 2016, in total envisaging EUR 133,15 million.

The Electricity Tax

According to the Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of Energy productions and electricity (hereinafter - Directive 2003/96/EC) the Member States should to apply the minimum rates for electricity tax - 0,5 euro per megawatt hour from 2004 for electricity used for business necessity and 1 euro per megawatt hour for electricity used for non-business necessity.

Before Latvia's accession to the European Union a tax on electricity was not extended, while, together with the accession to the European Union Latvia got a transition period for the Directive 2003/96/EC requirement establishment. The transition period for Latvia was included in Council Directive 2004/74/EC of 29 April 2004 amending Directive 2003/96/EC as regards the possibility for certain Member States to apply, in respect of energy products

and electricity, temporary exemptions or reductions in the levels of taxation (hereinafter - Directive 2004/74/EC).

According to the Directive 2004/74/EC the transition period was established until January 1, 2007. Latvia took this opportunity and from January 1, 2007 till January 1, 2010 the rate of the electricity tax was at the half of the minimal rate level according to the Directive 2003/ 96/EC. However, from January 1, 2010 Latvia provided the full compliance of the rate of the electricity tax with the requirements of the Directive 2003/ 96/ EC and set the minimum level - 1 euro per MWh.

Table 14

The Electricity Tax Rates, EUR

Year	2007	2008	2009	2010	2011	2012	2013	2014
Electricity tax rate EUR/MWh	0,50	0,64	0,78	1,01 (EU min)	1,01	1,01	1,01	1,01

The requirements of the Directive 2003/96/EC and the Directive 2004/74/EC were introduced in Latvia through the Electricity Tax Law. Latvia used the derogation possibility included in the Directive 2003/96/EC and the Directive 2004/74/EC. The Article 6 of the Electricity Tax Law prescribes electricity tax exemptions and reliefs. The exemptions and reliefs provided in the Electricity tax law are set in Directive 2003/96/EC. Electricity obtained from the following resources shall be exempt from tax:

- 1) from renewable energy resources;
- 2) in hydroelectric power stations;
- 3) in cogeneration electric stations complying with the efficiency criteria specified in the regulatory enactments regarding the generation of electricity through the process of cogeneration.

Electricity used for the following purposes shall be exempt from tax:

- 1) electricity generation;
- 2) the generation of heat energy and electricity in cogeneration;
- 3) the carriage of goods and public carriage of passengers, including on rail transport and in public carriage of passengers in towns;
- 4) household users.

The electricity tax for electricity supplied to persons for the provision of street lighting services shall be calculated according to rate 0 EUR per megawatt hour.

Electricity tax payers are persons defined in the first paragraph of the Article 32 of the Electricity market law , who supply electricity to final consumers (including electricity

producers, distribution system operators, electricity traders), autonomous electricity producers (except the producers, who generate and consume electricity for their own needs, complying with the following conditions: the total generation capacity does not exceed two megawatts; and energy products taxable with excise duty, coal taxable with the nature resource tax or electricity taxable with the electricity tax is used for the generation of the electricity) and the final consumers of electricity, if the contract or other agreement about electricity exchange in market has been concluded.

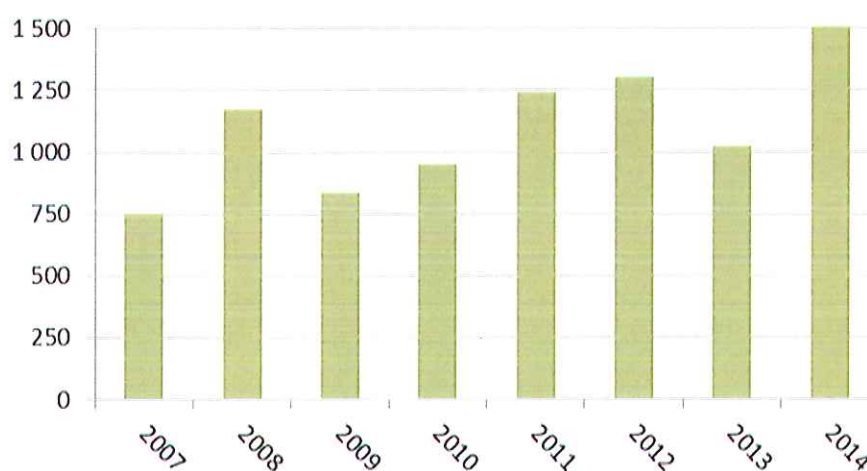
According to the information of the State Revenue Service electricity supply to the final consumers in Latvia is provided and payment of the electricity tax to the State budget are made by ten operators, biggest of them is JSC “Latvenergo”.

According to the Article 7 of the Electricity Tax Law the taxation period of the electricity tax is one calendar month. A taxpayer shall pay the tax for electricity calculated in the taxation period, which has been supplied to end users in such period, into the State budget within a time period of 25 days after the end of the taxation period.

Revenues of the State budget from the electricity tax compared with the rest of the tax revenue are very low (in 2007 – 752 000 EUR; in 2008 – 1 169 600 EUR; in 2009 – 834 000 EUR; in 2010 – 949 400 EUR; in 2011 – 1 238 000 EUR; in 2012 – 1 302 000 EUR; in 2013 – 1 022 000 and in 2014 – 1 738 800 EUR. (see picture No 1).

Picture No 1

Revenues from the electricity tax in 2007-2012, thousands EUR



Electricity tax exemptions and reliefs practically does not affect energy production costs for those energy users, who are electricity producers and performs in the framework of the MP or receive guaranteed payment for installed electric capacity.

The Natural Resources Tax for the Small HPP

According to the Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (hereinafter – Directive 2000/60/EC) the Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs, having regard to the economic analysis and in accordance in particular with the polluter pays principle. In addition the Member States shall ensure that the water-pricing policy provides the adequate incentives for end-users to use the water resources efficiently. And one of the tools is the tax policy.

According to the Article 9 of Directive 2000/60/EC the Member States had possibility not to apply the provision regarding the recovery of the cost of water services if this does not compromise the purpose and achievements of the objectives of Directive – the promotion of sustainable water use based on the long-term protection of available water resources. Responsible Latvian authority of environmental protection – Ministry of Regional Development and Environmental Protection – had decided, that the HPP with installed capacity till 2 MW could not be the exemption from the natural resources tax paying, because of that 2013 was prepared the amendments in Natural Resources Tax Law.

According to Article 3 of Natural Resources Tax Law the taxpayer is a person who has received a permit, a licence or a C category polluting activity certificate and who in the territory of the Republic of Latvia, continental shelf or exclusive economic zone uses water resources for production of electricity in a hydroelectric power plant, the total capacity of the hydroelectric station installed of which is less than 2 MW. Since 1 January, 2014 Natural Resources Tax Law provides that the tax rate for the use of water resources for electricity generation in HPP with total installed capacity of less than 2 MW, is 0.00853 euro per 100 cubic meters of the hydro-technical constructions flow-through water.

The Cabinet Regulation No.27 of 14 January, 2014 “Amendments to the Cabinet Regulation Nr.404 of 19 June 19, 2007 “Natural resource tax calculation and payment arrangements and procedures for issuing permission for the use of natural resources”” laid down the exact calculation formula for the HPP with installed capacity till 2 MW.

With the introduction of natural resource tax for HPP with installed capacity till 2 MW was resolved the market disturbance as well. It should be taken into account that since 2010 the legislation already exists for those HPP with installed capacity above 2 MW. According to the Cabinet Regulation No.1060 of 16 November 2010 “Operating funding arrangements on the coast reinforcement of Daugava hydro power plants reservoirs and Riga hydroelectric

engineering structures” (hereinafter – Cabinet Regulation No.1060) JSC “Latvenergo” should finance the strengthening works of Daugava HPP reservoirs coast and the operating costs of Riga HPP reservoir engineering structures from its own resources. According to the Cabinet Regulation No.1060 JSC “Latvenergo” should pay approximately 1,02 million euro for the environmental protection and preserving of Daugava river.

Suggestion to remedy the potential overcompensation

Taking into account analyses mentioned in this document Latvia’s authorities assessed that biogas compensation more or less coincided with biogas production costs, while SET further decreased this compensation. We can assume that biomass MP compensation was below production costs for installation below 0,4MW_{el}, whereas there is a risk of overcompensation for larger installations, where SET may have alleviated the risk for installations of 1MW_{el}, but not entirely for those of 2MW_{el}. The same conclusion should be referred to the natural gas cogeneration installations. We can agree that winds production installations potentially received a reasonable compensation, which will be decreased further by SET, on the other hand hydro power plants were significantly overcompensated, to such extent that even after introduction of SET and natural resources tax significant overcompensation remains, Latvia’s authorities are going to introduce measures to curb potential overcompensation.

1. First of all MoE once more confirms, that there will be no possibility to receive the rights for MP or for guaranteed payment for installed capacity under the existing support mechanism. The needed changes in the relevant legal acts are under interinstitutional reconciliation discussion and will be in force from January 1, 2016. This information has been presented to the government (Cabinet of Ministers) on August 31, 2015⁶¹.
2. Taking into account the potential overcompensation for some technologies, Latvia will need to introduce additional measures for avoiding the overcompensation:
 - a) the first option would be to introduce the multiplier indicator, which could be different for different technologies and would reflect the potential overcompensation for particular technologies, in order to reduce the aid for particular technology;
 - b) the second option would be to increase subsidized electricity tax or to prolong the period of application. This option may be considered more easy to

⁶¹ <http://tap.mk.gov.lv/lv/mk/tap/?pid=40367203&mode=mk&date=2015-08-31>

implement, however, the essence of the tax (reapproved during the court procedures in the Constitutional Court of Latvia⁶²) is not directly linked to the possible extensive subsidies and option a) seems more likely to be introduced;

- c) in both cases a) and b) the overcompensation avoidance mechanism will be built on the principle that the projects should be treated on individual basis. Since the potential “risk projects” are defined on the basis of technology applied, Latvia intends to introduce changes in the Regulations of the Cabinet of Ministers, which would establish legal requirement for the subsidy receivers to submit full financial information on the undertaking to the Ministry of Economy for the individual assessment of the subsidy received and the real need for such subsidy. Analysis would be performed on the basis of agreed methodology (part of the regulations or outsourced consultancy). Based on the analysis performed the multiplier indicator could be introduced, reducing amount of the annual subsidy or limiting the period of time for which the subsidy is available. This mechanism would reflect fair treatment of both state aid regulation and the rights of the investors. In case option b) is selected the amount of tax payable would reflect the overcompensation detected for the whole period of support scheme.

Taking into account the potential effect from both options for the overcompensated plants it is vital to have in-depth analyses and the comparison of potential impact from economical and legal point of view, especially on multiplier indicator and increased tax rates for particular technologies. In addition the mechanism should be as simple as possible to remedy the overcompensation due to the possibility of court cases.

⁶² <http://www.satv.tiesa.gov.lv/upload/spriedums-2014-12-01.pdf>