



## State aid: Germany needs to recover illegal aid from certain large electricity users exempted from network charges in Germany in 2012-2013

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**The European Commission has concluded that the exemption for certain large electricity users in Germany from network charges in 2012-2013 was against EU State aid rules. There were no grounds to fully relieve those users from paying network charges. Germany now has to recover the illegal aid.**

Commissioner Margrethe **Vestager**, in charge of competition policy, said: "*All electricity users have to pay network operators for the services they use – fully exempting certain large users from these charges is an unfair advantage and increases the financial burden on other electricity users. That is why Germany must now recover the unpaid network charges from these users*".

Network charges are part of the usual electricity costs that any electricity user connected to the grid has to pay. These charges serve to remunerate the network operator for the network services they provide and to maintain the network in good shape. Large electricity users that have a stable electricity consumption can generate fewer network costs, notably due to the predictability of their demand.

Between 2011 and 2013, electricity users that had an annual consumption above 10 gigawatt hours and a particularly stable electricity consumption were fully exempted from paying network charges under German law (§19(2) of the German Network Charges Ordinance). In 2012, thanks to this provision, these users avoided paying an estimated €300 million in network charges. These costs were instead financed by a special levy imposed on final electricity consumers (the so-called §19-surcharge), which Germany introduced in 2012.

Following the receipt of a number of complaints from consumer associations, energy companies and citizens, the Commission in [March 2013](#) opened an in-depth investigation to determine whether this exemption amounts to State aid and if it can be justified under EU State aid rules.

The Commission's investigation found that:

- Revenues from the §19-surcharge are **State resources** because electricity consumers are obliged to pay the surcharge under German law and the German State has control over the funds.
- This means that the full exemption granted in 2012 and 2013 constituted **State aid to the exempted electricity users**, because the costs were financed by the §19-surcharge, i.e. from State resources. The exemption for 2011, on the other hand, did not qualify as State aid because the costs were borne by the network operators themselves, meaning the exemption was not financed from State resources.
- There is no **objective justification** under EU State aid rules for a **full** exemption from network charges for electricity users, even if they have a stable electricity consumption. Each user should pay for the costs it causes to the network. Large and stable electricity users also generate network costs and make use of network services and it is for them to bear these costs.
- At the same time, Germany demonstrated that large and stable electricity users generated fewer costs than other users in 2012 and 2013, thanks to their stable and predictable consumption. This justifies a **partial reduction of the network charges** for these two years for those users, due to the then prevailing market conditions.

It is now for Germany to determine the amount of network charges generated by each beneficiary of the exemption in 2012 and 2013, in line with the methodology set out under the Commission decision. Germany must then recover the illegal aid from each beneficiary.

### Background:

In 2014, Germany abolished the exemption (§19(2) of the German Network Charges Ordinance). Since then, users with a stable consumption can request their network charges to be calculated on the basis of the costs that they individually cause to the network. This new regime was not part of the

Commission's investigation.

The Commission has already taken decisions on State aid cases related to subsidies that reduced electricity-related costs for certain undertakings (preferential electricity tariffs granted to [Alcova](#) in Italy, [ThyssenKrupp, Cementir and Terni Nuova Industrie Chimiche](#) in Italy, [Aluminium](#) of Greece, and to [Portovesme, ILA and Eurallumina](#) in Italy). This is the first case concerning a full exemption from network charges.

The non-confidential version of the decision will be made available under the case number [SA.34045](#) in the [State Aid Register](#) on the [DG Competition](#) website once any confidentiality issues have been resolved. New publications of state aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).

IP/18/3966

Press contacts:

[Ricardo CARDOSO](#) (+32 2 298 01 00)

[Yizhou REN](#) (+32 2 299 48 89)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)