

| | |
|------------------------|---|
| Issuer: | Minister of Economic Affairs and Infrastructure |
| Type: | regulation |
| In force from: | 09.03.2019 |
| In force until: | In force |
| Translation published: | 19.12.2019 |

Conditions and Rules for Using Aid Granted as Support for the Development of the Biomethane Market

Passed 13.09.2017 No. 50
RT I, 15.09.2017, 9
Entry into force 18.09.2017

Amended by the following acts

| Passed | Published | Entry into force |
|------------|----------------------|------------------|
| 05.02.2019 | RT I, 19.02.2019, 1 | 22.02.2019 |
| 01.03.2019 | RT I, 06.03.2019, 16 | 09.03.2019 |

This Regulation is enacted in accordance with subsection 3 of § 161 of the Atmospheric Air Protection Act.

Chapter 1 General Provisions

§ 1. Scope of application

(1) This Regulation establishes the conditions and rules for using the funds allocated to the measure ‘Promotion of Use of Alternative Fuels (Biogas) in Transport’ (hereinafter, ‘the measure’) defined in the national budget strategy.

(2) The aid granted to support the operation described in § 5 of this Regulation and to reimburse the eligible costs constitutes operating aid for small scale installations within the meaning of Article 43 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.06.2014, pp. 1–78) (hereinafter, ‘the General Block Exemption Regulation’) and is subject to the provisions of that Regulation and of § 34² of the Competition Act.

(3) Should the aid to be granted under this Regulation fail to comply with the conditions of the Regulation named in subsection 2 of this section, such aid may only be granted under the measure after the European Commission has made a permitting decision as specified in subsection 2¹ of § 30¹ of the Competition Act.

(4) This Regulation does not apply in the cases specified in paragraphs 2–5 of Article 1 of the General Block Exemption Regulation.

(5) This Regulation does not apply to installations which have become fully depreciated or which produce food-based biofuel.

(6) This Regulation shall not apply to biofuels which are subject to a supply or a blending obligation.

§ 2. Purpose of aid

The purpose of granting the aid is to facilitate the boosting of the consumption and production of biomethane and to support operations that contribute to the attainment of the goal that, by the year 2020, energy from renewable sources makes up 10 percent of the consumption of transport fuels.

§ 3. Implementing agencies

(1) The measure is implemented by the Ministry of Economic Affairs and Communications (hereinafter, 'the Ministry').

(2) In order to implement the measure, the Ministry may conclude cooperation agreements with a partially state-owned legal person (hereinafter, 'the system operator') in accordance with subsection 7 of § 161 of the Atmospheric Air Protection Act.

§ 4. Definitions

The terms used in this Regulation are defined as follows:

- 1) 'biomethane' means biomethane as defined in the Natural Gas Act;
- 2) 'average market price of natural gas for the current month' means the weighted average price of natural gas supplied during the production month of the biomethane under sale and purchase transactions that have taken place in the bidding zones of the Baltic countries during that month and that have been published during the same month by a joint natural gas exchange operator who has a bidding zone in each of the Baltic countries;
- 3) 'guarantee of origin' means the certificate described in section 10³ of the Natural Gas Act;
- 4) 'blending obligation' means a legally imposed obligation to include biomethane in the fuel before it is released for consumption;
- 5) 'system operator' means the system operator as defined in the Natural Gas Act;
- 6) 'supply of verified biomethane' means transfer to the end consumer of produced biomethane whose origin is verified by a guarantee of origin;
- 7) 'supply obligation' means a legally imposed obligation to sell biomethane.

Chapter 2

Eligible Operations, Eligibility of Costs and the Amount of Aid

§ 5. Eligible operation

The aid is granted to producers of biomethane for the supply of certified biomethane which meets the sustainability criteria established in regulations enacted under subsection 1 of § 120 of the Atmospheric Air Protection Act.

§ 6. Eligibility of costs

(1) The eligible costs are:

- 1) the production cost per megawatt-hour of the amount of certified biomethane supplied to the end consumer as transport fuel;
- 2) the production cost per megawatt-hour of the amount of certified biomethane supplied to the end consumer via the gas system defined in the Natural Gas Act;

(2) With regard to the operations listed in subsection 1 of this section, the eligible cost does not include the cost of the network services described in section 23 of the Natural Gas Act.

(3) Any earlier investment aid received for the production of biomethane must be deducted from the operating costs listed in subsection 1 of this section.

§ 7. Eligibility period of costs

The eligibility period runs from 1 January 2018 to 31 December 2023 or until the depletion of the budget funds allocated to support the activity. The ministry or the system operator notifies the public of depletion of the allocated budget funds on their webpage without delay.

[RT I, 06.03.2019, 16 – entry into force 09.03.2019]

§ 8. Amount of aid

(1) The aid granted to compensate for the eligible costs specified in clause 1 of subsection 1 of § 6 of this Regulation incurred in order to carry out the operation described in section 5 of this Regulation amounts to 100 euros per megawatt-hour less the average market price of natural gas for the current month.

(2) The aid granted to compensate for the eligible costs specified in clause 2 of subsection 1 of § 6 of this Regulation incurred in order to carry out the operation described in section 5 of this Regulation amounts to 93 euros per megawatt-hour less the average market price of natural gas for the current month.

(3) If the total monthly volume of the sale and purchase transactions that fall under clause 2 of subsection 1 of § 4 of this Regulation and that have taken place in the bidding zones of the Baltic countries does not exceed 500 megawatt-hours, the average market price of natural gas for the current month is 20 euros per megawatt-hour.

(4) The aid granted, per unit of energy, in order to carry out the operation described in section 5 of this Regulation may not exceed the difference between the levelized costs of the energy produced and the market price for the same energy type.

Chapter 3

Requirements for Applying and Applicants' Rights and Obligations

§ 9. Requirements for applicants

(1) The eligible applicant is a producer who produces biomethane that meets the sustainability criteria established in the regulations enacted under subsection 1 of § 120 of the Atmospheric Air Protection Act and whose installation's installed output capacity does not exceed 50,000 tons per year.

(2) In addition to Estonian legal persons, the aid may be applied for also by legal persons from a country within the European Economic Area or from the Swiss Confederation, provided the law of the relevant person's host country permits Estonian legal persons to participate in a similar aid scheme of that country.

(3) The applicant may not be a recipient of state aid or of *de minimis* aid who is at the time of applying subject to an outstanding recovery order following a previous decision of the European Commission declaring the aid illegal and incompatible with the internal market.

(4) At the time of applying, the applicant may not, under the applicable legislative or regulatory instruments, owe more than a total of 100 euros in national taxes, in local taxes at the applicant's residence or at the location of their registered office, in social insurance payments, or in unpaid interest on overdue tax payments.

§ 10. Registration of applicants as applicants for the aid

(1) After the opening of the application round and before submitting the application, the applicant must register themselves as an applicant for the aid at the website of the ministry or of the system operator. To be provided at registration are the applicant's name, their registration number in the commercial register, their e-mail address and a declaration that they are aware of the requirements of section 9 of this Regulation and meet those requirements. The applicant's registration is validated by the signature of a representative authorized to sign for the applicant.

(2) When considering the applicant's registration, the ministry or the system operator assesses their compliance with the requirements of this Regulation.

(3) Registrations are reviewed in the order in which they have been received. If the applicant does not meet the requirements of this Regulation, the ministry or the system operator refuses to validate their registration. The ministry or the system operator informs the applicant's representative of registering, or of refusing to register, the applicant by a digitally signed notice within five calendar days of making the corresponding decision, stating the reasons for the decision by which registration is refused.

§ 11. Requirements for the payment application

(1) The applicant must file their payment application using the application form approved by the ministry or the system operator, which is disseminated through the webpage of the ministry or of the system operator.

(2) The payment application is signed digitally by a representative authorized to sign for the applicant.

(3) The payment application must make clear the eligible costs as listed in subsection 1 of § 6 of this Regulation as well as conformity to the eligible operation.

(4) The payment application must set out, for the relevant calendar month, the amount of certified biomethane that has been produced.

(5) The payment application must, in addition to what has been provided in paragraph 2 of Article 6 of the General Block Exemption Regulation, set out the following information and include the following documents:

- 1) the applicant's registration number in the commercial register;
- 2) registration number of the cancelled guarantee of origin of certified biomethane;
- 3) the name of the consumer whose consumption the cancellation of the guarantee of origin serves to prove, the purpose of that consumption and the amount of biomethane whose consumption has been proved;
- 4) applicant's declaration of truth concerning the information provided;
- 5) if necessary, additional documents requested by the ministry or the system operator;

- 6) a certificate to the effect that the biomethane that has been supplied complies with the sustainability criteria established in the regulations enacted under subsection 1 of § 120 of the Atmospheric Air Protection Act;
- 7) a declaration that the installed output of the applicant's installation does not exceed 50,000 tons per year;
- 8) the applicant's declaration of awareness concerning the requirements set out in this Regulation.

§ 12. Obligations of applicants

The applicant is required to:

- 1) submit to the Ministry or to the system operator, on receiving the corresponding demand that states its reasons, additional information in the format and within the time limit as required;
- 2) permit the ministry or the system operator to verify the compliance of the application and the applicant with the requirements provided in this Regulation;
- 3) inform the ministry or the system operator without delay of any circumstances which may affect the ability of the recipient of the aid to fulfil the achievement of the goals set out in the application;
- 4) at the demand of the ministry or of the system operator, produce documents that prove the performance of the operations supported under the measure;
- 5) preserve the application and the documentation related to the aid and to the implementation of the project at least until 31 December 2028.

[RT I, 06.03.2019, 16 – entry into force 09.03.2019]

Chapter 4

Processing of Payment Applications

§ 13. Filing the payment application

(1) After the applicant's registration, their authorized representative files the payment application electronically on the website of the ministry or of the system operator.

(2) Payment applications may be filed until 31 December 2023 on a current basis or until depletion of the budget funds allocated to support the operation.

[RT I, 06.03.2019, 16 – entry into force 09.03.2019]

(3) The budget of the current application round and the time at which the filing of the applications starts are approved by the ministry.

(4) Information regarding the start of reception of the applications and the budget of the funding is published on the website of the ministry or of the system operator at least 30 days prior to the opening of the application round.

(5) The reception of applications ends when the monetary value of the applications that have been filed equals or exceeds the approved budget of the application round. The ministry or the system operator announces the ending of the reception of applications on its website without delay.

(6) The aid is applied for during the eligibility period, during the period of validity of the guarantee of origin either for one or for several calendar months.

§ 14. Processing of payment applications

The processing of payment applications consists of the following stages:

- 1) registration of the payment application;
- 2) consideration of the payment application;
- 3) verification of the applicant's and the payment application's compliance with the requirements;
- 4) assessment of the payment application;
- 5) granting, partially granting or denying the payment application.

§ 15. Consideration of payment applications

(1) When considering the application, the ministry or the system operator verifies the compliance of that application with the requirements provided in this Regulation. Payment applications are processed in the order in which they have been received.

(2) Should consideration of a payment application reveal any defects, the applicant is notified of this without delay and is given a time limit of up to 10 calendar days to cure the defects.

(3) The ministry or the system operator makes a decision to deny the payment application without assessing it if the applicant has not cured the defects within the time limit provided for in subsection 2 of this section.

§ 16. Conditions and rules for the granting, partial granting and denying of payment applications

(1) The payment application is granted if it has been filed following the rules established in this Regulation, if it complies with the requirements set out in § 11, and if the aid is applied for to support the eligible costs listed in § 6, during the period specified in § 7 and for the purposes described in § 2 as well as to support the operations described in § 5.

(2) The payment application is granted by the corresponding decision either partially or fully. With the consent of the applicant, the payment application may be granted partially if the monetary scope of that application exceeds the available balance of the budget of the measure. If the applicant disagrees with the aid amount being amended, the ministry or the system operator makes a decision, within 20 calendar days of receiving the payment application, by which it denies that application.

(3) The aid is paid to the producer of biomethane on the basis of the guarantees of origin that have been cancelled in the electronic database of guarantees of origin in order to prove consumption of the relevant amount of biomethane. Guarantees of origin may be cancelled by the producer or seller of biomethane who owns those, valid, guarantees.

(4) The decision granting the payment application states the following particulars:

- 1) the agency granting the aid;
- 2) the recipient of the aid;
- 3) the supported operation;
- 4) the rate of the aid and the amount of the aid;
- 5) the fact that the aid constitutes state aid and is granted under Article 43 of the General Block Exemption Regulation;
- 6) if necessary, the due time for disbursement of the aid in accordance with subsection 3 of § 18 of this Regulation.

(5) The payment application is refused if at least of the following circumstances are present:

- 1) the payment application does not comply with the requirements of this Regulation;
- 2) the applicant exerts unlawful influence on the processing of the application;
- 3) the applicant does not allow the application's compliance with the requirements to be verified;
- 4) depletion of the budget funds of the measure.

(6) The payment application may be refused if the application sets out incorrect or incomplete information.

(7) The decision granting or denying the payment application is communicated to the applicant by a digital notice within five calendar days of receiving that application.

§ 17. Amendment and revocation of the decision granting the payment application

(1) The decision granting the payment application is amended or revoked at the ministry's or the system operator's motion, which states its reasons, or on the basis of the corresponding application by the recipient of the aid.

(2) The ministry or the system operator decides on amendment of the decision granting the payment application within 30 calendar days of receiving the corresponding application.

(3) The ministry or the system operator may revoke the decision granting the payment application if at least one of the following circumstances are present:

- 1) the recipient of the aid files a declaration waiving the aid;
- 2) a circumstance becomes known which would have precluded the granting of the application;
- 3) incorrect or incomplete information has been set out in the payment application.

Chapter 5

Conditions and Rules for Disbursement and Recovery of Aid

§ 18. Conditions for disbursement of aid

(1) The aid is disbursed to the recipient following the conditions specified in the decision granting the payment application. The aid is disbursed as a single instalment, according to the order of reception and granting of the applications referred to in subsection 1 of § 15 of this Regulation.

(2) The ministry or the system operator makes the disbursement to the bank account of the aid recipient by the 21st day of the month immediately following the month of the payment application.

(3) Disbursement of the aid may be delayed by up to three months if the granting of the aid is dependent on funds which are estimated to be charged to the budget in the future.

§ 19. Conditions and rules for the recovery of aid

(1) The ministry or the system operator may stop disbursement of the aid and demand a partial or full repayment of the aid if at least one of the circumstances listed in subsection 3 of § 17 of this Regulation is present.

(2) The recipient of the aid repays the aid within 30 calendar days of the entry into force of the recovery decision. The recipient pays late interest of 0.5 percent on the outstanding amount for each day delayed beyond the time limit for repayment.

Chapter 6 Monitoring and Reporting of Aid Use

§ 20. Monitoring and reporting of aid use

(1) When supporting the operation described in § 5 of this Regulation, the ministry or the system operator is obligated:

- 1) to continually monitor the balance available under the budget for the operations;
- 2) with respect to the recipients of the aid, to transmit data to Statistics Estonia concerning their supply of certified biomethane in the sectors of end consumption;
- 3) to provide explanations to recipients of the aid regarding matters concerning the granting and use of the aid.

(2) The ministry and the system operator have the right, if necessary, to involve the Consumer Protection and Technical Regulatory Authority in the verification of the applicant's or the application's compliance with the requirements.

[RT I, 19.02.2019, 1 – entry into force 22.02.2019]