

Commission Decision (EU) 2018/860 of 7 February 2018 on the Aid Scheme SA.45852 — 2017/C (ex 2017/N) which Germany is planning to implement for Capacity Reserve (notified under document C(2018) 612) (Only the German text is authentic) (Text with EEA relevance)

- Article 1 The aid scheme which Germany is planning to implement in...  
Article 2 This Decision is addressed to the Federal Republic of Germany...  
Signature

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*Changes to legislation:* This version of this Decision was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on [legislation.gov.uk](http://legislation.gov.uk). (See end of Document for details)

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- (1) [OJ C 159, 19.5.2017, p. 6.](#)
- (2) Commission Decision of 7 April 2017 on state aid SA.45852 (2017/N) – Germany – Capacity Reserve – Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union ([OJ C 159, 19.5.2017, p. 6.](#)).
- (3) *Verordnung zur Regelung des Verfahrens der Beschaffung, des Einsatzes und der Abrechnung einer Kapazitätsreserve (Kapazitätsreserveverordnung – KapResV).*
- (4) However, this excludes markets in which a price per kilowatt is paid, that is to say, in practice the interruptibility scheme laid down in the Ordinance on the Contracting of Interruptible Loads (*‘Verordnung über Vereinbarungen zu abschaltbaren Lasten’*, hereafter, ‘ABLAV’) and the balancing capacity market.
- (5) Note that this is one year later than the originally envisaged starting date of October 2018 for the first delivery period.
- (6) Judgment of the Court of Justice of 24 July 2003, *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH, and Oberbundesanwalt beim Bundesverwaltungsgericht*, C-280/00, ECLI:EU:C:2003:415.
- (7) Judgment of the Court of Justice of 19 December 2013, *Association Vent De Colère! Fédération nationale and Others v Ministre de l’Écologie, du Développement durable, des Transports et du Logement and Ministre de l’Économie, des Finances et de l’Industrie*, C-262/12, ECLI:EU:C:2013:851.
- (8) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC ([OJ L 211, 14.8.2009, p. 55.](#)).
- (9) [OJ C 200, 28.6.2014, p. 1.](#)
- (10) Note that the following rules apply per installation and not per operator, in line with the general rule applicable also to generators as set out in recital 12. As such, an operator with different installations behind its connection to the grid can participate with different installations in different markets.
- (11) In case DSR auto-generate part of their consumption, this obligation only applies to the portion of power that DSR consume from the grid and not to the portion that is auto-generated. In any event, they can only participate in the Capacity Reserve with capacity that reflects their stable electricity consumption from the grid.
- (12) *Gesetz zur Weiterentwicklung des Strommarktes (Strommarktgesetz)* of 26 July 2016. The *Strommarktgesetz* was published in the German Official Gazette on 29 July 2016 (BGBl. I 2016 No 37, p. 1786).
- (13) More specific details for measures ensuring generation adequacy are contained in Sections 3.9.1 to 3.9.6 EEAG.
- (14) The European Commission points to the fact that a proposal for a new Regulation on the internal market on electricity (COM(2016) 861 final of 30 November 2016) is currently being negotiated; however, the present measure remains uninfluenced by the future rules on the design of the electricity market.
- (15) See Section 3.2.2.3(a) of the Opening Decision for a complete discussion on the absence of an end date for the Capacity Reserve.

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