

EFTA Surveillance Authority
Avenue des Arts 19 H
1000 Brussels Brussels
BELGIUM

Your ref
Case No. 96359

Our ref
26/2012

Date
October 16th, 2026

RESPONSE FROM THE MINISTRY OF ENERGY TO THE STATE AID COMPLAINT FROM THE NORWEGIAN HEAT PUMP ASSOCIATION CONCERNING NORWAY PRICE FOR DISTRICT HEATING

1. Introduction and summary

1.1. Introduction

The Norwegian authorities refer to previous correspondence with the EFTA Surveillance Authority ("**ESA**") in relation to the state aid complaint concerning the Norway Price scheme (in Norwegian "Norgespris"). The Norwegian Heat Pump Association ("**NOVAP**") supplemented its complaint through an additional submission on 14 July 2026. The additional submission concerns the arrangements applicable to district heating under the Norway Price and electricity support schemes. This letter sets out the Norwegian authorities' views on NOVAP's latest submission.

NOVAP submits that the arrangements applicable to district heating from 1 October 2025 constitute State aid to district heating undertakings ("**DHUs**") within the meaning of Article 61(1) EEA. In essence, the complainants argue that, prior to that date, DHUs themselves bore the financial consequences of the applicable price regulation, whereas the State has since assumed that burden through the State-financed Norway Price and electricity support arrangements. On that basis, NOVAP considers that DHUs receive a selective economic advantage financed through State resources, contrary to Article 61(1) EEA.

The Ministry considers that this assessment does not accurately reflect the relevant regulatory framework or how the arrangements at issue operate in practice. In particular, the complaint does not sufficiently distinguish between the ordinary price regulation under

Section 5-5 of the Energy Act (Act No. 50 June 29 1990), the temporary additional price restriction introduced during the electricity-price crisis, and the separate State-financed support arrangements introduced for household district heating customers from 1 October 2025. Those distinctions are central to the assessment under Article 61(1) EEA.

Against that background, this response first sets out the relevant regulatory framework and its development over time (Section 2). It then identifies the measures relevant for the purposes of the State aid assessment and explains why those measures must be assessed separately (Section 3). Finally, it examines the conditions laid down in Article 61(1) EEA (Section 4). As set out below, the alleged economic advantage to DHUs and the use of State resources do not arise from the same measure. Accordingly, the arrangements at issue do not constitute State aid to DHUs within the meaning of Article 61(1) EEA.

1.2. Summary of the Ministry's position

The Ministry's position may be summarised as follows:

The complaint is based on an incorrect characterisation of the regulatory framework applicable to DHUs. The price ceiling under Section 5-5 of the Energy Act forms part of the ordinary regulatory framework applicable to DHUs. By contrast, the additional price restriction introduced during the electricity-price crisis was temporary and was never intended to be permanent. Its repeal with effect from 15 September 2025 therefore restored the ordinary price regime applicable to DHUs.

The complaint conflates two distinct measures: (i) the repeal of the temporary additional price restriction applicable to DHUs and (ii) the introduction of the State-financed Norway Price and electricity support arrangements for household district heating customers. The two measures are functionally independent and there is no necessary link between them. Each could have been adopted and could operate irrespective of the other. They also pursue different objectives. Accordingly, they must be identified and assessed separately for the purposes of Article 61(1) EEA.

The repeal of the temporary additional price restriction does not constitute State aid within the meaning of Article 61(1) EEA for three separate reasons. First, the repeal does not involve State resources. The DHUs themselves bore the cost of the temporary restriction, and its repeal simply brought that financial burden to an end. Second, the repeal did not confer an economic advantage on DHUs. It only removed a temporary additional burden and restored the ordinary price regime under Section 5-5 of the Energy Act. Third, even if the repeal were considered to confer an advantage, that advantage would not be selective.

The State-financed Norway Price and electricity support arrangements likewise do not constitute State aid to DHUs. The support is granted to household district heating customers, not to the DHUs. The DHUs only administer the arrangements and pass the relevant amounts between Enova and the customers. The payments are not linked to the DHUs' costs, profitability or loss of revenue. They therefore do not confer an economic advantage on the DHUs.

Accordingly, the complaint seeks to combine an alleged advantage arising from one measure with State resources involved in another. However, the conditions laid down in Article 61(1) EEA are cumulative and must be satisfied in respect of the same measure. The existence of State aid cannot therefore be established by combining elements of two separate measures. The Ministry therefore respectfully submits that the conditions laid down in Article 61(1) EEA are not fulfilled in respect of either measure.

2. Relevant regulatory framework

2.1. The ordinary framework: Section 5-5 of the Energy Act

District Heating Plant Concessions

Under Section 5-1 of the Energy Act, district heating facilities may not be constructed, owned, or operated without a concession (license). The same requirement applies to the reconstruction or expansion of district heating facilities. The concession requirement is further regulated in Section 5-1 of the Energy Act Regulations (FOR-1990-12-07-959), which stipulates that district heating facilities with a capacity exceeding 10 MW are subject to concession requirements.

Facilities with a capacity below 10 MW may also be granted a concession, in cases where the owner so requests, since this is necessary to enable mandatory connection under Section 27-5 of the Planning and Building Act (Act No. 71 June 27 2008).

Mandatory Connection to District Heating

Section 27-5 of the Planning and Building Act provides that where a building is constructed within a district heating concession area, and municipal plan has established mandatory connection, the building must be connected to the district heating system. The municipality decides whether mandatory connection shall be included in municipal plans. Full or partial exemptions from the mandatory connection may be granted by the municipality.

Price Regulation

The starting point for understanding the regulatory framework applicable to DHUs is Section 5-5 of the Energy Act.¹ That provision establishes the ordinary statutory price ceiling applicable to district heating supplied from installations subject to a concession under Section 5-1 of that act. Pursuant to Section 5-5, the price charged for district heating may not exceed the price of electrical heating in the relevant supply area. Thus, Section 5-5 limits the price that DHUs may charge their customers. The wording of Section 5-5 reads as follows (in the unofficial translation by the Ministry):

¹ A proposal to amend the price regulation of district heating was submitted for public consultation at 8 October 2026. The overall design of the regulation, including the principle of a price cap based on the cost of electric heating, is proposed to be continued. The proposal clarifies several matters, including who is covered by the regulation and how the maximum permitted district heating price is to be calculated. The proposal is published here: [Foreslår endringer i prisreguleringa av fjernvarme - regjeringen.no](https://www.regjeringen.no/en/foraendringer-i-prisregulering-av-fjernvarme). There is no English translation of the proposal, but the Ministry will be happy to provide further information if necessary.

“Section 5-5. (Prices)²

The charge for district heating can be calculated in the form of a connection fee, a fixed yearly charge and a price for the heat that is used. The price for district heating shall not exceed the price for electrical heating in the same supply area.

Installations for which a concession is required shall notify the licensing authority about prices and other terms of delivery and any changes that may occur in them.

Anyone who is ordered to connect to a district heating plant pursuant to section 27-5 of the Planning and Building Act, has a right to appeal prices and other terms of delivery to the licensing authority. The licensing authority may issue orders regarding changes in the price or other terms of delivery.

When a mandatory connection to a district heating plant is ordered pursuant to section 27-5 of the Planning and Building Act, the customer shall pay a connection fee and a fixed yearly charge regardless of whether or not the district heating is used.”

The price regulation of district heating was introduced in 1987. District heating is considered a natural monopoly, with customers being tied to their suppliers to varying degrees. The purpose of the price regulation is to protect customers from DHUs exploiting their monopoly position by charging unreasonably high prices. The regulation establishes an upper limit on the price that a licensed DHU may charge its customers, i.e. a price cap or a maximum price regulation. DHUs may choose to charge a price below the price cap.

Section 5-5 (1) of the Energy Act specifies which elements may be included when calculating district heating prices. The first sentence of Section 5-5 (1) provides that the charge for district heating may consist of a connection fee, a fixed annual charge, and a price for heat consumption. Accordingly, the charge may include both fixed and variable components.

The second sentence of Section 5-5 (1) states that the charge of district heating must not exceed the price for electrical heating in the same supply area. The total amount invoiced to the customer, including fixed and usage-based costs charges, may not exceed the price of electric heating. The price of electric heating consists of the electricity price, grid tariffs, and taxes. Administrative practice has clarified that connection fees are not subject to the price cap, provided these costs are listed separately on the invoice.

² In Norwegian:

§ 5-5 (Pris)

Vederlag for fjernvarme kan beregnes i form av tilknytningsavgift, fast årlig avgift og pris for bruk av varme. Prisen for fjernvarme skal ikke overstige prisen for elektrisk oppvarming i vedkommende forsyningsområde. Det skal gis melding til konsesjonsmyndigheten om priser og andre leveringsvilkår og endringer i disse fra konsesjonspliktige anlegg.

Enhver som er pålagt å tilknytte seg fjernvarmeanlegg etter plan- og bygningsloven § 27-5, har rett til å klage til konsesjonsmyndigheten over priser og andre leveringsvilkår. Konsesjonsmyndigheten kan gi pålegg om endringer av prisen eller leveringsvilkårene for øvrig.

Når tilknytningsplikt til fjernvarmeanlegg er pålagt i medhold av plan- og bygningsloven § 27-5, skal abonnenten betale tilknytningsavgift og fast årlig avgift uavhengig av om fjernvarme nyttes eller ikke.

The price cap applies to all customers of licensed district heating systems. This includes residential properties and commercial buildings, as well as customers both with and without an obligation to be connected to the district heating system.

Pursuant to Section 5-5 (3) of the Energy Act, anyone subject to mandatory connection, that is, anyone required to connect to district heating under Section 27-5 of the Planning and Building Act, has the right to appeal prices and other delivery conditions to the concession authority. The concession authority may order changes to prices or delivery conditions for customers both with and without mandatory connection obligations.

2.2. The temporary crisis regime from December 2021 until September 2025

The household electricity support scheme was introduced in December 2021. The Electricity Support Act (repealed on 15 September 2025) included a provision on district heating price regulation in Section 10. Under that provision, when calculating the maximum price for district heating under Section 5-5 of the Energy Act, an amount corresponding to the electricity support received by households had to be deducted (“the electricity support deduction”). The purpose was to ensure that households did not pay more for district heating than they would have paid for electric heating.

The electricity support deduction imposed an additional limitation on the DHUs’ allowed revenue from their household customers, and it is likely that the scheme reduced the overall revenues of the DHUs. It should be noted that the DHUs may choose to set prices below the maximum price permitted, for example to attract and retain customers. Consequently, a reduction in allowed revenue does not necessarily lead to the same reduction in actual revenue.

The Ministry of Energy did receive objections and concerns from DHUs on the electricity support deduction. The DHUs argued that the electricity support deduction had a negative economic impact on them and that, when compared with the arrangement introduced for electricity customers, the resulting burden on DHUs was not reasonable. While some stakeholders questioned the legality of the scheme's design, no legal action or comparable formal challenge was brought against it.

The impact on DHUs was for example raised in connection with stakeholder submissions to the Electricity Price Committee’s report “*Balansekunst*”. The industry association Norsk Fjernvarme stated in its submission to the Ministry dated 15 December 2023 (in the unofficial translation by the Ministry)³:

“The district heating industry has had to compensate its own residential customers while electricity customers have been compensated by the state. We would therefore like to use this consultation to point out how the electricity support scheme has favoured the use of electricity for building heating, while undermining the profitability of alternative solutions. (...)”

³ The submission from Norsk Fjernvarme is available in Norwegian here: [Høring av Strømprisutvalgets rapport - regjeringen.no](https://horing.regjeringen.no/Horing-av-Stromprisutvalgets-rapport-2023)

The compensation scheme has resulted in a loss of potential revenue for the district heating industry. This represents one of the most far-reaching forms of price regulation imposed on a market in the post-war period.”

The DHU Hafslund Oslo Celsio also addressed the issue in its submission to the Ministry dated 15 December 2023 (English translation)⁴:

“When the electricity support scheme was introduced, district heating companies and their customers were also included as part of the scheme. At the outset, this appeared to be a fair approach towards both electricity and district heating customers.

However, when the electricity support scheme was implemented, district heating companies were required to compensate their own residential customers while electricity customers were compensated by the state. This constitutes direct discrimination against the district heating industry. Consequently, the electricity support scheme has favoured the use of electricity for building heating, while harming the profitability of district heating and other renewable energy alternatives.”

The issue was also raised in other written submissions and in meetings with the Ministry.⁵

Section 10 of the Electricity Support Act, which required district heating price regulation to take account of electricity support, was repealed on 15. September 2025.

Comments to the complainant's argument

NOVAP states in its 14 July submission to ESA that the repeal of the temporary additional price regulation introduced during the electricity price crisis (which is described in section 2.2 below), meant that the State *“assumed a burden that previously formed part of the normal operating conditions of district heating undertakings”* (page 3 of the letter). The Norwegian authorities submit that this is a fundamentally misleading characteristic of that additional price regulation.

As outlined above, Norwegian DHUs have been subject to a price regulation since 1987 which is set out in the Energy Act; the act which contains the general regulation of district heating in Norway. This price regulation represents the normal operating conditions for DHUs. For a relatively short period between December 2021 and September 2025, the DHUs were subject to an additional price restriction. This was a temporary crisis measure founded in a temporary act on electricity support. It was temporary by design and in its legal basis. The repeal of this additional restriction did not mean that the State assumed a burden

⁴ The submission from Hafslund Oslo Celsio is available in Norwegian here: [Høring av Strømprisutvalgets rapport - regjeringen.no](https://www.regjeringen.no)

⁵ For example the DHUs Hafslund Oslo Celsio, Statkraft Varme and Eidsiva met with State Secretaries from the Ministry of Energy and the Ministry of Climate and Environment at march 4th, 2024 and raised the issue that the DHUs were being hit hard by the electricity support scheme, and described that several DHUs reported losses in 2023.

which previously formed part of the normal operating conditions for DHUs, on the contrary it represented a return to the normal operating conditions of DHUs.

2.3. The framework applicable from 1 October 2025

2.3.1 Background

The district heating price is closely linked to the electricity price, both as a result of the competition between electricity and district heating, and as a result of the price regulation of district heating, which is tied to the price of electrical heating, as explained in 2.1 above. The Ministry's assessment, as stated in the legislative proposal concerning the Norway Price scheme submitted to the Parliament (Stortinget), is that without equal treatment of district heating customers and electricity customers, the district heating customers would have incentives to switch to a heating solution based on electricity.⁶ This would be unfortunate for the sake of the district heating customers, the power grid, and the DHUs. The Ministry therefore proposed that district heating customers were given access to a scheme that as far as possible corresponded to the Norway Price for electricity customers. In parallel, the Ministry proposed that households using district heating, on an equal footing with households using electricity, shall be entitled to a government subsidy corresponding to the electricity support, if they do not choose the optional Norway Price for district heating customers.

2.3.2 Overview of Norway Price and electricity support for district heating customers

The Norway Price scheme for district heating customers, and the electricity support scheme for district heating customers are implemented in Norwegian law through Act No. 44 June 20 2025 on Norway Price and electricity support for households ("the Norway Price Act"). Complementing provisions are given in the regulation concerning Norway Price and electricity support for households using district heating FOR-2025-09-08-1792 ("the Regulation").

The purpose of the schemes is to ensure financial support for district heating customers with household consumption and predictable district heating prices for district heating customers with household and holiday home consumption.

Households using district heating are entitled either to electricity support for district heating or, as an alternative, to participate in the Norway Price for district heating scheme. The schemes for district heating apply to district heating consumption from 1 October 2025 until 31 December 2029. The right to receive financial support from either Norway Price or electricity support for district heating is limited to district heating customers who use heat for household purposes (e.g. heating up rooms, hot water). This includes heat used for common areas and residential units within housing associations. The customers are typically housing cooperatives or condominium associations with several apartments but can also be single-family apartments or houses. District heating customers with jointly metered district heating

⁶ «Prop. 148 L (2024–2025), Lov om Norgespris og strømtønad til husholdninger». Recommendation from the Ministry of Energy of 23 May 2025.

consumption shall ensure that any electricity support amount or any amount payable to or by the customer under the Norway price scheme is allocated among the individual residential units with household consumption or holiday home consumption.

The DHUs were from 1 October 2025 given the responsibility for administering the schemes, including calculation, invoicing, payment and reporting. The State, through a designated administrator (Enova SF), finances the schemes and settles the resulting amounts with the DHUs. The Norwegian Water Resource and Energy Directorate (NVE) is assigned supervisory responsibility for the schemes.

The schemes are directed towards household customers of DHUs with a concession (license) pursuant to the Energy Act section 5-1. DHUs without a concession may facilitate for their household customers to take part in the Norway Price scheme or the electricity support scheme for district heating if the undertaking registers with NVE. By registering with NVE, the DHU becomes subject to a set of requirements set out in the Regulation.

2.3.3 *Electricity support for district heating customers*

Electricity support is available to all district heating customers with household consumption who do not choose Norway Price for district heating. The customer is not required to apply for electricity support. Rather, the DHU has a legal obligation to ensure that the support is credited to the customer.

The support is calculated on the basis of the monthly district heating consumption and the monthly average spot electricity price in the relevant electricity price area. Support is only available in months where the average electricity price exceeds a threshold value. The support amount is calculated as 90 per cent (support rate) of the difference between the monthly average spot electricity price and the threshold value. The threshold value and the support rate are the same as in the support scheme for electricity customers. For the period of October to December 2025, the threshold value was 0.75 NOK per kWh excluding VAT, and since 1 January 2026 the threshold value has been 0.77 NOK per kWh excluding VAT. Each household customer may only receive electricity support for district heating consumption up to a monthly limit of 4500 kWh. For housing associations (as defined in the regulations), this limit is set at 4500 kWh per individual building unit.

2.3.4 *Norway Price for district heating customers*

Norway Price is a voluntary price predictability scheme for households that customers may choose instead of electricity support. A household customer that chooses Norway Price loses the right to electricity support for the period the customer participates in the Norway Price scheme.

The customer either receives a payment or is required to make a payment (price-hedging amount) depending on the difference between the monthly average electricity spot price and the fixed reference price. For the first pricing period, covering 1 October 2025 to 31 December 2026, the reference price is 0.40 NOK per kWh, excluding VAT.

The Norway price scheme covers consumption up to a monthly limit of 4 500 kWh, in the same way as electricity support for district heating customer's scheme. The Norway price scheme also covers district heating consumption in holiday homes up to a monthly limit of 1 000 kWh.

2.3.5 *Settlement between the customer, the DHU and the State*

The first working day of each month, NVE publishes the average price of electricity, the Norway Price rate and the electricity support for district heating rate.

The DHUs invoice their customers based on their measured heat consumption and their price for district heating each month. In addition to the price for district heating, the invoice shall specify the amount payable to or by the customer pursuant to either Norway Price or electricity support for district heating (based on the customer's choice). To calculate this, the DHUs use the Norway Price rate and electricity support for district heating rate published by NVE each month and the customer's monthly heat consumption.⁷ When there is a payout from the support mechanisms, the customer's invoice is reduced.⁸ Hence, the DHU initially advances the payment to the customer before settlement with Enova.

After the customers have been invoiced, the DHU reports data to Enova. This includes data on each customer on their monthly consumption and the amount payable to or by the customer under the Norway Price scheme, or the amount of electricity support for district heating which the customer has received. Enova's system validates that the correct rates have been applied. After this, Enova generates an invoice for the total amount advanced by the DHUs and submits it to NVE.

NVE controls the invoices and the underlying data for each DHU. NVE then transfers the funds to Enova.

Depending on the net result for each DHU, Enova will either pay each DHU or receive funds. The latter will only happen in cases where the price of electricity is lower than the reference price.

2.3.6 *Requirements for separate accounts and audit requirements*

The DHUs forward funds from the state to the customers, and according to the Regulation the DHUs shall not retain any amounts. To ensure monitoring of the correct use of funds, all funds transferred from Enova to the DHUs are to be placed in dedicated banking accounts. Funds are separated with one account dedicated for electricity support for district heating and one account for Norway Price. All transfers between the DHUs and Enova must be made using these accounts. Such accounts are prerequisites for being able to register on

⁷ Cf. Norway Price Act § 15.

⁸ In cases where the electricity price is below the reference price for the Norway Price scheme, the customers pay a higher sum on their monthly invoice. The scheme is set up as a Contract for Difference (CfD).

Enovas platform. The accounts are verified by Enova to ensure that the funds are distributed to the correct entity.

In addition, the DHUs are required to ensure separate project accounts in their accounting⁹ for the administration of Norway Price and electricity support for district heating payments.¹⁰ The DHUs shall annually provide a statement from an authorized auditor that they have correctly applied separate bank accounts and booking accounts. This is verified in the annual revision from NVE.

The DHUs must each month send an overview to Enova of all amounts paid under the electricity support for district heating and all amounts payable to or by customers under the Norway Price scheme.¹¹ Enova has a digital platform where information on payments to or by each customer is uploaded. The platform contains logical and automatic checks to verify that correct electricity prices and rates are applied.

Enova and NVE conduct monthly controls, and a yearly in-depth economic audit, to ensure that amounts payable under the Norway Price scheme and the electricity support scheme for district heating are correctly settled and transferred from/ to the household customers in full. The controls include reviews of total amounts, number of customers, rates applied and changes in heat consumption at a DHU level. In cases where anomalies are detected these are subject to data control where more detailed data down to single customers can be reviewed, and/or documents are requested from the DHU.

For the sake of completeness, it should also be noted that the Norway Price and electricity support arrangements apply to household electricity consumption, including electricity used to operate heat pumps.

2.4. Chronological overview of the regulatory framework

The development of the regulatory framework can be summarised as follows: The table distinguishes between the ordinary price regulation under Section 5-5 of the Energy Act, the temporary additional price restriction introduced during the electricity-price crisis, and the State-financed household-support arrangements applicable from 1 October 2025.

⁹ «Regnskapskonto»

¹⁰ Cf. Norway Price Act § 21.

¹¹ Cf. the Regulation § 30.

Period	Price regulation applicable to DHUs	Household price protection	Financing / economic effect
1 January 1987 – 22 December 2021	The ordinary price ceiling under Section 5-5 of the Energy Act applied. The price of district heating could not exceed the price of electrical heating.	Household district heating customers benefited from the ordinary statutory price protection under Section 5-5. No additional price protection applied.	The economic effect of the ordinary price ceiling was borne by DHUs as part of the ordinary regulatory framework. No additional financial burden was imposed on DHUs.
22 December 2021 – 30 September 2025	The ordinary price ceiling under Section 5-5 continued to apply. In addition, under the temporary crisis regime, an amount corresponding to electricity support was deducted when calculating the maximum price that DHUs could charge household customers.	Household district heating customers benefited both from the ordinary protection under Section 5-5 and from the electricity support deduction.	DHUs bore both the ordinary regulatory burden under Section 5-5 and the additional financial effect of the temporary electricity support deduction. They received no corresponding payment from the State.
From 15 September 2025	The temporary additional price restriction introduced 22 December 2021 was repealed. The ordinary price ceiling under Section 5-5 continues to apply and therefore remains part of the ordinary regulatory burden borne by DHUs (in essence, reverting to the ordinary legislative framework for prices charged by DHUs)	Household district heating customers continued to benefit from the ordinary protection under Section 5-5. In addition, the customers became entitled to State-financed Norway Price or electricity support.	The ordinary regulatory burden under Section 5-5 remained with DHUs. The additional household support was financed by the State, while DHUs merely administered the arrangements and passed the relevant amounts on to customers.

3. The measures must be correctly identified

3.1. The measure as alleged by the complainant

Before assessing the conditions laid down in Article 61(1) EEA, it is necessary to identify the measure which, according to the complainant, constitutes state aid.

The complainant identifies the relevant measure as the State's decision, with effect from 1 October 2025, to assume that financial burden (Complaint, p. 3). More specifically, NOVAP considers that the Norway Price Scheme now finances, through public resources, an economic burden which was borne by DHUs between 22 December 2021 and 30 September 2025.

Accordingly, the measure alleged by NOVAP to constitute State aid is the State's assumption of the financial burden borne by DHUs during that period.

3.2 The correct identification of the two distinct measures

According to settled case-law, separate State interventions may be interpreted as constituting a single aid measure where, having regard in particular to their chronology, purpose and the circumstances in which they were adopted, they are "so closely linked that they are inseparable".¹²

In the Ministry's view, the complainant's characterisation conflates two distinct measures which are clearly separable and must therefore be identified and assessed separately for the purposes of Article 61(1) EEA. The first is the repeal, with effect from 1 October 2025, of the temporary additional price restriction applicable to DHUs. The second is the introduction, from the same date, of the State-financed Norway Price Scheme and electricity support for household district heating customers.

Although the two changes took effect at the same time and formed part of the same broader reform, their respective purposes are nevertheless different. The purpose of the first measure is to restore the ordinary price regime under Section 5-5 of the Energy Act by repealing the temporary additional price restriction applicable to *DHUs*. The purpose of the second measure is to provide *household district heating customers* with State-financed protection against high energy prices.

In addition, the two measures are functionally independent. The repeal of the temporary additional price restriction produces its legal effects irrespective of whether the Norway Price Scheme had been introduced. The temporary additional price restriction could therefore have been repealed without introducing the Norway Price Scheme.

¹² See judgment in Case C-15/14 P, *European Commission v MOL Magyar Olaj- és Gázipari Nyrt*, [EU:C:2015:362](#), paragraph 92 and the case-law cited.

That functional independence is also reflected in the design of the Norway Price Scheme. In particular, the amount of support is determined by reference to the household customer's consumption and the applicable electricity-price parameters, and not by reference to the financial burden previously borne by DHUs.

Accordingly, the two interventions cannot be regarded as being "so closely linked to each other that they are inseparable from one another". Indeed, they are clearly separable and must therefore be identified and assessed separately for the purposes of Article 61(1) EEA.

3.3 The conditions under Article 61(1) cannot be established by combining the two measures

It follows from the foregoing that the conditions laid down in Article 61(1) EEA must be assessed in relation to each of the two measures separately. In that regard it should be recalled that the conditions laid down in Article 61(1) EEA are cumulative.

In particular, an economic advantage falls within the scope of Article 61(1) EEA only where that advantage is granted directly or indirectly through State resources. Accordingly, there must be a "sufficiently direct link between, on the one hand, the advantage given to the beneficiary and, on the other, a reduction of the State budget or a sufficiently concrete economic risk of burdens on that budget".¹³

In the present case, however, the complainant relies on two different measures to establish those conditions. The alleged advantage to DHUs is said to result from the repeal of the temporary additional price restriction (Complaint, part IV, section 2). By contrast, the State resources relied upon by the complainants are those used to finance the separate Norway Price Scheme and electricity support arrangements (Complaint, part IV, section 1).

That reasoning does not establish the required link between the alleged advantage and State resources. Indeed, it combines an alleged advantage arising from one measure with the State resources involved in another measure. The conditions laid down in Article 61(1) EEA cannot be established on that basis.

4. Assessment under Article 61(1) EEA

4.1 The applicable legal test

The Ministry recalls that for a measure to constitute State aid within the meaning of Article 61(1) EEA, the following cumulative conditions must be fulfilled: (i) the measure must be imputable to the State and involve State resources; (ii) it must confer an economic advantage; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between EEA states.¹⁴

¹³ See judgment in case Joined Cases C-399/10 P and C-401/10 P, *Bouygues SA and Others v European Commission and Others*, [EU:C:2013:175](#), paragraph 109 and the case-law cited.

¹⁴ Judgment in Case C-280/00, *Altmark Trans and Regierungspräsidium Magdeburg*, [EU:C:2003:415](#), paragraphs 74 and 75 and; judgement in C-242/24 P, *Commission v Germany*, [EU:C:2026:562](#), paragraph 64.

The two measures identified in Section 3.2 above will be assessed against those conditions below.

4.2 The termination of the temporary additional price restriction does not constitute State aid

4.2.1 The measure does not involve State resources

A fundamental condition for a measure to constitute State aid is that the alleged advantage is granted directly or indirectly through State resources.¹⁵ It is therefore necessary to determine whether the advantage alleged by the complainant can be regarded as having been granted through State resources. Even assuming that the repeal of the temporary additional price restriction conferred an economic advantage on DHUs, the Ministry considers that such advantage was clearly not granted through State resources.

In that regard, the Ministry recalls that the mere fact that a State measure improves the economic position of an undertaking is not sufficient. Where the financial consequences of a regulatory measure are borne by private parties themselves, rather than by the State, the State resources condition is not fulfilled: the alleged advantage must constitute an additional burden for the State.¹⁶

This principle is well established in the context of price regulation. Case-law from the CJEU distinguishes between measures which merely require private undertakings to buy or sell at a regulated price using their own financial resources, and measures whereby the State finances or compensates the burden resulting from such regulation. Measures falling within the former category do not involve State resources.¹⁷

Thus, in *PreussenElektra*, private electricity suppliers were required to purchase electricity from renewable energy producers at fixed minimum prices. The CJEU found that this did not constitute State aid to the renewable electricity producers, since the resulting financial burden was borne by the private electricity suppliers and not by the State.¹⁸ That approach was recently confirmed by the CJEU in *Commission v Germany*, concerning support for combined heat and power generation in the electricity sector. The Court held that a statutory obligation on network operators to make payments to electricity producers did not establish the involvement of State resources, where the payments were made from the operators' own financial resources.¹⁹

¹⁵ ESA Guidelines on the notion of State aid as referred to in Article 61(1) of the EEA Agreement ("NoA"), paragraph 47.

¹⁶ See judgement in Joined Cases C-72/91 and C-73/91, *Sloman Neptun*, [EU:C:1993:97](#), paragraphs 20–22.

¹⁷ See judgment in Case C-379/98, *PreussenElektra*, [EU:C:2001:160](#), paragraphs 58–60; judgment in Case C-405/16 P, *Germany v Commission*, [EU:C:2019:268](#), paragraphs 59–60; judgment in Case C-242/24 P, *Commission v Germany*, [EU:C:2026:562](#), paragraphs 64 and 80–86; and judgment in Case T-57/15, *Trajektina Iuka Split*, EU:T:2016:470, paragraph 23.

¹⁸ See *PreussenElektra*, paragraphs 54–67.

¹⁹ See *Commission v. Germany*, paragraphs 61– 66.

Similarly, in *Trajektna luka Split*, a public authority had set a maximum fee which a private port operator could charge ferry companies for using the port terminal. The lower fee allegedly benefited the ferry companies, since they paid less for the terminal services, while the resulting loss of revenue was borne by the private port operator. The General Court found that no State resources were involved, as the financial consequences of the measure arose solely between private parties.²⁰

The present case concerns a price restriction whose financial consequences were borne by the DHUs themselves. Under the temporary additional price restriction, DHUs were required to reduce the maximum price charged to household customers by an amount corresponding to the electricity support. The State did not finance or compensate the resulting reduction in revenue. The repeal of the temporary additional price restriction merely brought that regulatory burden to an end. It did not involve any payment of State resources to DHUs, nor did it reduce any revenue of the State. Any improvement in the economic position of DHUs therefore resulted solely from the change in the price regulation applicable to them.

This conclusion is not affected by the introduction, from the same date, of the State-financed Norway Price Scheme and electricity support arrangements. As explained in Section 3.2 above, those arrangements constitute a separate measure. Thus, there is no *sufficiently direct link* between the alleged advantage resulting from the repeal of the temporary additional price restriction and the State resources used to finance the Norway Price Scheme, as explained in Section 3.3.²¹ Accordingly, even assuming that the repeal conferred an economic advantage on DHUs, which the Norwegian authorities refute, that advantage was not granted through State resources. Thus, the repeal does not constitute State aid within the meaning of Article 61(1) EEA.

4.2.2 *In any event, the measure does not confer an economic advantage*

Without prejudice to the conclusion above on State resources, the Ministry considers that the repeal of the temporary additional price restriction did not confer an advantage on DHUs within the meaning of Article 61(1) EEA.

The Ministry recalls that the concept of advantage is broad and covers not only positive economic benefits, but also relief from economic burdens. However, where the alleged advantage consists in relief from a cost, that cost must be one *normally borne by the undertaking as part of its economic activity* in order to constitute an advantage within the meaning of Article 61(1) EEA.²²

In that regard, the CJEU has recognised that a measure does not confer an advantage where it merely neutralises the effects of a system which derogates from the general regime

²⁰ See *Trajektna luka Split*, paragraphs 26–28.

²¹ See judgement in Case C-405/16 P, *Germany v. the Commission*, [EU:C:2019:268](#), paragraph 60.

²² NoA paragraph 68 and judgement in Case C-238/20, '*Sātiņi-S*' SIA, [EU:C:2022:57](#), paragraph 50.

and thereby prevents an undertaking from bearing a charge which, under normal conditions, would not have existed.²³

In the present case, Section 5-5 of the Energy Act constituted the ordinary price regime applicable to DHUs. The temporary additional price restriction derogated from that regime by requiring DHUs, for a limited period, to reduce the price charged to household customers by an amount corresponding to the electricity support and to bear the resulting reduction in revenue themselves. By contrast, the corresponding support granted to household electricity customers was financed by the State and was not borne by electricity suppliers. That additional burden applied only under the temporary crisis arrangement. It did not apply before that arrangement was introduced (December 2021) and ceased to apply when the arrangement was repealed (September 2025).

Accordingly, the repeal did not relieve DHUs of a cost normally borne as part of their economic activity. It merely brought the temporary derogation to an end and restored the ordinary price regime under Section 5-5 of the Energy Act. The repeal therefore did not confer an advantage on DHUs within the meaning of Article 61(1) EEA.

4.2.3 *In any event, any advantage would not be selective*

In any event, even if the repeal of the temporary additional price restriction were considered to confer an economic advantage on DHUs, the Ministry considers that such advantage would not be selective within the meaning of Article 61(1) EEA.

The selectivity assessment requires the relevant reference framework to be identified and an assessment of whether the measure differentiates between undertakings which, in the light of the objective pursued by that framework, are in a comparable factual and legal situation.²⁴ The reference framework must be identified on the basis of an objective examination of the content, structure and effects of the applicable rules.²⁵

In the Ministry's view, the complainants propose an artificially broad reference framework by referring generally to "undertakings active in the Norwegian energy and heating sectors" (Complaint, section 3). DHUs are subject to the specific price regulation framework and price regulation described in section 2 above, whereas suppliers of heat pumps and other heating technologies are not. The temporary additional price restriction formed part of that specific regulatory framework applicable to DHUs during the electricity-price crisis.

Against that background, the relevant comparison cannot simply be drawn between DHUs and all other undertakings active in the heating sector. Suppliers of heat pumps and other heating technologies were neither subject to Section 5-5 nor to the temporary additional price

²³ Judgement in case C-237/04, *Enirisorse*, [EU:C:2006:197](#), paragraphs 40–50 and; C-211/15 P, *Orange v European Commission*, [EU:C:2016:798](#), paragraphs 27–30.

²⁴ Judgement in Case C-70/16 P, *Comunidad Autónoma de Galicia and Retegal v Commission*, [EU:C:2017:1002](#), paragraph 61; and judgment in Case C-524/14 P, *Commission v Hansestadt Lübeck*, [EU:C:2016:971](#), paragraphs 52–55.

²⁵ See, *inter alia*, judgment in Joined Cases C-885/19 P and C-898/19 P, *Fiat Chrysler Finance Europe v Commission*, [EU:C:2022:859](#), paragraph 72.

restriction. They were therefore not in a comparable factual and legal situation in relation to the repeal of that restriction. The fact that they may compete with DHUs for the same customers does not, in itself, alter that conclusion.²⁶

Moreover, the repeal applied to all DHUs subject to the temporary restriction and restored the ordinary price regime under Section 5-5. It therefore did not differentiate between undertakings in a comparable factual and legal situation. Accordingly, any advantage resulting from the repeal would not be selective within the meaning of Article 61(1) EEA.

4.3 The State-financed household-support arrangements do not confer an economic advantage on district heating undertakings

As explained in Section 3.3, the two measures identified in Section 3.2 must be assessed separately under Article 61(1) EEA. The present section concerns the second measure, namely the State-financed Norway Price and electricity support arrangements for household district heating customers.

As a preliminary point, the Ministry notes that the complainants do not appear to identify any economic benefit received by DHUs under the household-support arrangements. For the sake of completeness, the Ministry nevertheless sets out below why those arrangements do not confer any economic advantage on DHUs.

The beneficiaries of the arrangements are the household district heating customers. This follows directly from the statutory framework. Under Section 4 of Act No. 44 June 20 2025 on Norway price and electricity support for households, the DHU is required to calculate and pay the relevant support or price-hedging amount but must ensure that the amount is passed on to the district heating customer through the customer's invoice. The wording of Section 4 of the Act reads as follow (in the unofficial translation by the Ministry):

Section 4. Administration of the schemes – district heating²⁷

²⁶ See also judgment in Case C-518/13, *Eventech*, [EU:C:2015:9](#), paragraphs 55 and 59–61, where the Court, in the comparability assessment, did not confine its assessment to the market in which the operators concerned were in direct competition, but also considered their respective factual and legal situations.

²⁷ In Norwegian:

§ 4. Forvaltning av ordningene – fjernvarme

Norges vassdrags- og energidirektorat skal beregne og offentliggjøre stønadssatser og føre tilsyn med ordningene for fjernvarme.

Departementet kan utpeke en aktør som skal forestå overføring av stønad og prissikringsbeløp til og fra fjernvarmeselskapet.

Fjernvarmeselskapet skal beregne stønadsbeløp og betale ut stønad til fjernvarmekunder med rett til stønad etter at stønadssatsene er fastsatt av Norges vassdrags- og energidirektorat.

Fjernvarmeselskapet skal beregne prissikringsbeløp for fjernvarmekunder som deltar i ordning for sikring av fjernvarmepris, og kreve inn eller betale ut prissikringsbeløp. Med prissikringsbeløp for fjernvarme menes differansen mellom månedlig gjennomsnitts elspotpris i budområdet og referanseprisen, multiplisert med fjernvarmekundens avregnede forbruk.

Fjernvarmeselskapet skal sikre at stønadsbeløp eller prissikringsbeløp tilfaller fjernvarmekunden ved fakturering.

Departementet kan i forskrift gi nærmere bestemmelser om forvaltning av ordningene for fjernvarme, herunder om behandling av personopplysninger

The Norwegian Water Resources and Energy Directorate shall calculate and publish the support rates and supervise the district heating schemes.

The Ministry may designate an entity responsible for transferring support and price-hedging amounts to and from the DHU.

The DHU shall calculate the support amounts and pay support to district heating customers entitled to such support once the support rates have been determined by the Norwegian Water Resources and Energy Directorate.

The DHU shall calculate the price-hedging amounts for district heating customers participating in the district heating price-hedging scheme and shall collect or pay out such amounts. For district heating, the price-hedging amount means the difference between the monthly average electricity spot price in the bidding zone and the reference price, multiplied by the district heating customer's settled consumption.

The DHU shall ensure that the support amount or price-hedging amount is credited to the district heating customer through the invoicing process.

The Ministry may issue regulations laying down further provisions on the administration of the district heating schemes, including the processing of personal data.

The DHUs therefore perform an administrative function. Under the Norway Price Scheme, the price-hedging amount is added to or deducted from the customer's invoice, while under the electricity support scheme the support amount is deducted from the invoice. Amounts paid to the customer are reimbursed by Enova, while amounts owed by the customer are transferred to Enova. Thus, the DHU only passes payments between Enova and the customer and does not receive the support for its own benefit.

The statutory safeguards further ensure that the payments are not used for the DHUs' own economic activities. Section 21 of the Act requires DHUs to keep separate project accounts and separate bank accounts for the administration of both arrangements. The DHUs must also provide annual confirmation from an auditor that these requirements have been complied with. These requirements are intended to ensure that the State-financed funds are not used in the DHUs' competitive activities and to prevent any liquidity advantage.²⁸ Furthermore, the State-financed amounts are not calculated by reference to the DHU's costs, profitability or loss of revenue. They are calculated on the basis of the customer's consumption and the relevant electricity price. The payments therefore do not compensate the DHU for any cost or loss or relieve it of any financial obligation.

Accordingly, the DHU acts only as an intermediary between Enova and the customer. The household-support arrangements therefore do not confer any economic advantage on DHUs within the meaning of Article 61(1) EEA.

²⁸ Prop. 148 L (2024–2025) page 54.

As explained above, the State-financed amounts are granted to household customers, not to DHUs. The DHUs receive no compensation at all for administering the arrangements. Under the assumption that the Altmark criteria were relevant, the measures would clearly not constitute state aid.

4.4 In any event, the alleged competitive effects are not attributable to the State-funded arrangement

In light of the considerations set out above, the Ministry does not consider it necessary to address the alleged effects on competition referred to in the Complaint. Should ESA consider that issue relevant to its assessment, the Ministry will provide further observations at a later stage.

5. Conclusion

The Norwegian authorities respectfully submit that the temporary additional price restriction introduced during the electricity-price crisis, and the separate State-financed support arrangements introduced for household district heating customers from 1 October 2025, do not constitute state aid in favour of DHUs. The Norwegian authorities remain available to discuss the case with ESA if ESA wishes.

Yours sincerely

Kaja Moe Winther
Deputy Director General

Hege Smith Heiberg
Chief Specialist

This document is signed electronically and has therefore no handwritten signature