



To: Ambassadors at Permanent Representations to the European Union

cc: Energy Attachés

Setting the foundation for a robust electricity market design fostering flexible generation, while protecting existing investments in high efficiency cogeneration and renewable energy

Brussels, 27 November

Dear Ambassador,

In view of the upcoming COREPER meeting and ahead of the 5 December trilogue on the Electricity Market Design, Bioenergy Europe, CEDEC and COGEN Europe would like to raise concerns regarding the unclear definition of “significant modifications” linked to the revocation of priority dispatch for existing renewable and high efficiency cogeneration installations in Article 11.4 in the Electricity Regulation.

Without any changes to the text, **Member States would be obliged to revoke priority dispatch to existing efficient and renewable installations if any capacity is added, even 1%**. Such a provision can cause retroactive changes in investment conditions and goes against investment stability for plant owners and operators. Moreover, it will prevent any planned investment in upgrading high efficiency and renewable energy plants, investments which would not normally qualify as significant modifications under other energy regulations.

The signatory organisations call for Article 11.4 of the Electricity Regulation to be amended, in order to ensure legal certainty for existing efficient and renewable installations and ensure security of investment:

- The Electricity Regulation must **properly define “significant modifications” to existing plants in the context of priority dispatch: include a threshold of 20%¹ for the additional significant capacity.**
- The grandfathering clause should also allow that **priority dispatch is withdrawn only from the significant additional capacity increase and not from the overall initial capacity.** This will ensure legal certainty and investor security, allowing for much needed efficiency and environmental upgrades to be undertaken without a risk of losing priority dispatch on the entire initial capacity.

The Regulation should not automatically stop the application of priority dispatch when any (minor or major) change in the wording of the connection agreement - even unrelated to the topic - is introduced.

¹ This proposed threshold is based on existing legal precedents in EU ETS Directive 2003/87 & Commission Decision 278/2011 and EU network codes implementation at national level.



Please find the concrete text amendment below (and enclosed in annex):

“Art 11.4. (...) Priority dispatch shall no longer be applicable from the date where the generating installation is subject to significant modifications, which shall be the case *at least* where ~~a new connection agreement is required or~~ the generation capacity is increased *by at least 20 %*. *In this case, priority dispatch continues to apply to the initially installed generation capacity.*”

Yours faithfully,

Jean-Marc Jossart, Secretary General - Bioenergy Europe

Gert De Block, Secretary General - CEDEC (European Federation of Local Energy Companies)

Hans Korteweg, Managing Director - COGEN Europe (The European Association for the Promotion of Cogeneration)

About Bioenergy Europe

Bioenergy Europe (formerly known as AEBIOM) is the voice of European bioenergy. It aims to develop a sustainable bioenergy market based on fair business conditions. Founded in 1990, Bioenergy Europe is a non-profit, Brussels-based international organisation bringing together more than 40 associations and 90 companies, as well as academia and research institutes from across Europe.

<https://bioenergyeurope.org>

About CEDEC

CEDEC, the European Federation of Local Energy Companies, represents the interests of more than 1500 local and regional energy companies serving 85 million electricity and natural gas customers & connections, with an annual turnover of 120 billion €. The wide range of services provided by local utility companies is reliable, sustainable and close to the customer. Through their investments and the creation of local jobs, they make a significant contribution to local and regional economic development.

<http://www.cedec.com>

About COGEN Europe

COGEN Europe, the European Association for the Promotion of Cogeneration, is the cross-sectoral voice of the cogeneration industry. Its mission is to work with EU institutions and stakeholders to shape better policies and eliminate administrative, regulatory and market barriers to the wider use of cogeneration in Europe.

<https://www.cogeneurope.eu>

Annex: Concrete Text Recommendations & Justification

Proposal for a regulation

Article 11 – paragraph 4

Text proposed by the Commission

4.
[...]

Priority dispatch shall no longer be applicable from the date where the generating installation is subject to significant modifications, **which shall be the case at least where a new connection agreement is required or the generation capacity is increased**

Proposed amendment

4.
[...]

Priority dispatch shall no longer be applicable from the date where the generating installation is subject to significant modifications, ***which shall be the case at least where a new connection agreement is required or the generation capacity is increased by at least 20 %.***
In this case, priority dispatch continues to apply to the initially installed generation capacity.

Justification

The definition of “significant modifications” is too broad and not precise enough. The generation capacity of a high efficiency cogeneration or a renewable energy plant can already slightly change simply when components of the system are changed as part of regular maintenance. This should not trigger an automatic revocation of priority dispatch.

Neither should this be the case when any non-significant change in the wording of the connection agreement is introduced or requested by one of the signatories of the agreement. Even when a significant modification in the connection agreement is required, following for example the implementation of a network code on any related topic, this should not be a ground for stopping automatically the application of priority dispatch for all generating installations concerned.

In addition, the removal of priority dispatch should only apply to the capacity extension (i.e. additional capacity), rather than to the full capacity after modification. This is based on precedents established by other key legislation (e.g. the definition of “new entrant” in the EU ETS Directive 2003/87 & Commission Decision 278/2011, the implementation of the network codes at national level specifying thresholds of 20% in Spain and 50% in Germany for significant modifications).