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# EFET proposed amendments to draft instruments within the Clean Energy Package

## RES INTEGRATION AND MARKET-BASED REDISPATCH

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A true Europe-wide wholesale market free of distortive national interventions and national variations in market design is not yet a reality. Increasing volumes of renewable electricity output, the generators of which enjoy national financial support, are dispatched without regard to market price signals, except in times of extreme negative prices, and irrespective of the incidence of cross-border congestion in too many EU Member States, still. Additionally, in respect of cross-border trade in those power volumes not enjoying priority access and dispatch, market participants continue to experience disruptions in the form of export bans, export related transmission fees, and opaque restrictions on the availability of cross-border transmission capacity imposed by TSOs.

The Clean Energy Package provides a first step forward when it comes to both integrating renewable energy sources in the market, and making the market fit for renewables. In combination with the reform of the Renewable Energy Directive (RED II) which foresees the partial opening of RES financial support schemes to cross-border participation, the draft recast Electricity Regulation establishes the principles of universal balancing responsibility, and the phase-out of priority dispatch for new installations. These rules combined will help speed up the integration of renewable energy sources into the market, while the reform of, inter alia, balancing markets launched with the Electricity Balancing Guideline will ensure that the market also accommodates all forms of power generation, demand response and storage. However, the Clean Energy Package still opens the possibility for exemptions of balancing responsibility and standard dispatch rules for certain types of installations, and fails to address the question of priority access.

Closely connected to this theme is the question of redispatch: we generally support the key principle of using market-based mechanisms to determine the incidence of and payment for curtailment or redispatch. We also recognise that due to the local necessity to adjust the generation schedule affecting specific facilities, the establishment of actual markets for redispatch may be complex, and in some cases neither possible nor desirable. In that case however, that asset owners that are subject to curtailment or redispatch measures must be compensated in such a way that they are left financially indifferent, taking account of opportunity costs as well as actually incurred costs.

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| Article | Draft CEP Proposal | Proposed EFET Amendments | Reasoning |
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| **Art. 4 Electricity Regulation** | 1. All market participants shall aim for system balance and shall be financially responsible for imbalances they cause in the system. They shall either be balance responsible parties or delegate their responsibility to a balance responsible party of their choice.<br><br>2. Member States may provide for derogation from balance responsibility in respect of:<br><br>(a) demonstration projects;<br><br>(b) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW;<br><br>(c) installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107 to 109 TFEU, and commissioned prior to [OP: entry into force]. Member States may, subject to Union state aid rules, incentivize market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility against appropriate compensation.<br><br>3. From 1 January 2026, point (b) of paragraph 2 shall apply only to generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW. | 1. All market participants shall aim for system balance and shall be financially responsible for imbalances they cause in the system. They shall either be balance responsible parties or delegate their responsibility to a balance responsible party of their choice.<br><br>2. Member States may provide for derogation from balance responsibility in respect of:<br><br>(a) demonstration projects;<br><br>~~(b) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW;~~<br><br>(~~c~~b) installations benefitting from support approved by the Commission under Union State aid rules pursuant to Articles 107 to 109 TFEU, and commissioned prior to [OP: entry into force]. Member States may, subject to Union state aid rules, incentivize market participants which are fully or partly exempted from balancing responsibility to accept full balancing responsibility against appropriate compensation.<br><br>~~3. From 1 January 2026, point (b) of paragraph 2 shall apply only to generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW.~~ | Article 4 of the draft recast Regulation still open the possibility for exemptions of balancing responsibility for installations of less than 500 kW. We believe that the legislation should go further and phase out network-related privileges for all renewables installations, or at the very least set a much lower threshold or limit the exemption to pilot projects in new renewable technologies. The current wording of the recast Regulation would de facto exclude the vast majority of solar power installations from common market rules. It is also a counter-incentive to the aggregation of power generation from renewable energy sources, which the European Commission appears to promote to facilitate the integration of renewables in the market and asserts “could help consumers save significant amounts of money”. |
| **Art. 11.2 Electricity Regulation** | When dispatching electricity generating installations, transmission system operators shall give priority to generating installations using renewable energy sources or high- efficiency cogeneration from small generating | When dispatching electricity generating installations, transmission system operators shall give priority to generating installations using renewable energy sources or high- efficiency cogeneration from ~~small generating installations or~~ | Priority of dispatch, linked with feed-in tariffs, leads to important market distortions and hence should be abolished as laid out in Article 11.1 of the draft recast Electricity Regulation. Article 11.2 of the draft recast Regulation still opens the possibility for exemptions of standard dispatch rules for installations |

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| | installations or generating installations using emerging technologies to the following extent:<br><br>(a) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW; or<br><br>(b) demonstration projects for innovative technologies | generating installations ~~using emerging technologies to the following extent:~~<br><br>~~(a) generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 500 kW; or~~<br><br>~~(b)~~ used as demonstration projects for innovative technologies | of less than 500 kW. We believe that the legislation should go further and phase out network-related privileges for all renewables installations, or at the very least set a much lower threshold, and limit the exemption to pilot projects in new renewable technologies.<br><br>The current wording of the recast Regulation would de facto exclude the vast majority of solar power installations from common market rules. It is also a counter-incentive to the aggregation of power generation from renewable energy sources, which the European Commission appears to promote to facilitate the integration of renewables in the market and asserts "could help consumers save significant amounts of money". |
| **Art- 11.3 Electricity Regulation** | Where the total capacity of generating installations subject to priority dispatch under paragraph 2 is higher than 15 % of the total installed generating capacity in a Member State, point (a) of paragraph 2 shall apply only to additional generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW. From 1 January 2026, point (a) of paragraph 2 shall apply only to generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW or, if the threshold under the first sentence of this paragraph has been reached, of less than 125 kW. | [Delete article 11.4:]<br><br>~~Where the total capacity of generating installations subject to priority dispatch under paragraph 2 is higher than 15 % of the total installed generating capacity in a Member State, point (a) of paragraph 2 shall apply only to additional generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW. From 1 January 2026, point (a) of paragraph 2 shall apply only to generating installations using renewable energy sources or high-efficiency cogeneration with an installed electricity capacity of less than 250 kW or, if the threshold under the first sentence of this paragraph has been reached, of less than 125 kW~~. | Priority of dispatch, linked with feed-in tariffs, leads to important market distortions and hence should be abolished as laid out in Article 11.1 of the draft recast Electricity Regulation. In coherence with our amendment proposal on Article 11.2 of the draft recast Electricity Regulation (see above), we recommend maintaining the exemption from standard dispatch rules only for demonstration projects. Hence, Article 11.3 becomes irrelevant. |
| **Art. 11.4 Electricity Regulation** | Generating installations using renewable energy sources or high-efficiency cogeneration which have been commissioned prior to [OP: entry into force] and have, when commissioned, been subject to priority dispatch under Article 15 (5) of Directive 2012/27/EU of the | [Delete article 11.4 or amend as follows:]<br><br>Generating installations using renewable energy sources or high-efficiency cogeneration which have been commissioned prior to [OP: entry into force] and have, when commissioned, been subject to priority dispatch under Article 15 (5) of Directive 2012/27/EU of the | Article 11.4 of draft recast Regulation enshrines in European legislation the continuation of priority dispatch for RES generation units commissioned prior to the entry into force of the new Regulation. We believe the obligatory grandfathering of nationally created rights through EU legislation is unnecessarily generous and may not be entirely consistent with the current State |

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| | European Parliament and of the Council or Article 16 (2) Directive 2009/28/EC of the European Parliament and of the Council39 shall remain subject to priority dispatch. 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. | European Parliament and of the Council or Article 16 (2) Directive 2009/28/EC of the European Parliament and of the Council39 shall remain subject to priority dispatch. Priority dispatch shall no longer be applicable ~~from~~ at the earliest of either:<br><br>(a) 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; or<br><br>(b) the date where the agreement on financial support granted to the generating facility according to the rules of Directive 2009/28/EC expires or is renegotiated. | Aid Guidelines for energy and environment. The indefinite continuation of a right to priority dispatch mandated by EU law, barring a need for renegotiation of the relevant units' connection agreement, also jars with the clear cessation of immunity from balance responsibility provided for in Article 4 of the draft recast Regulation. |
| **Art. 12.5 Electricity Regulation** | Where non-market-based downward redispatching or curtailment is used, the following principles shall apply:<br><br>(a) generating installations using renewable energy sources shall only be subject to downward redispatching or curtailment if no other alternative exists or if other solutions would result in disproportionate costs or risks to network security;<br><br>(b) generating installations using high-efficiency cogeneration shall only be subject to downward redispatching or curtailment if, other than curtailment or downward redispatching of generating installations using renewable energy sources, no other alternative exists or if other solutions would result in disproportionate costs or risks to network security;<br><br>(c) self-generated electricity from generating installations using renewable energies or high-efficiency cogeneration which is not fed into the transmission or distribution network shall not be curtailed | [Delete article 12.5]<br><br>~~Where non-market-based downward redispatching or curtailment is used, the following principles shall apply:~~<br><br>~~(a) generating installations using renewable energy sources shall only be subject to downward redispatching or curtailment if no other alternative exists or if other solutions would result in disproportionate costs or risks to network security;~~<br><br>~~(b) generating installations using high-efficiency cogeneration shall only be subject to downward redispatching or curtailment if, other than curtailment or downward redispatching of generating installations using renewable energy sources, no other alternative exists or if other solutions would result in disproportionate costs or risks to network security;~~<br><br>~~(c) self-generated electricity from generating installations using renewable energies or high-efficiency cogeneration which is not fed into the transmission or distribution network shall not be curtailed unless no other solution would resolve network security~~ | Article 12.5 of the draft recast Regulation enshrines in EU legislation priority access for RES generators (and CHP operators): in case of non-market based redispatch, RES and CHP units would be the last ones to be curtailed or redispatched. We believe non-market based curtailment and redispatching should be a last resort option for TSOs (who should always use market measures first), and in this case system security should prevail as the main criterion for curtailment or redispatch decisions. Therefore, we recommend the deletion of the subarticle. |

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| | unless no other solution would resolve network security issues;<br><br>(d) downward redispatching or curtailment under letters a to c shall be duly and transparently justified. The justification shall be included in the report under paragraph 3. | ~~issues;~~<br><br>~~(d) downward redispatching or curtailment under letters a to c shall be duly and transparently justified. The justification shall be included in the report under paragraph 3.~~ | |
| **Art. 12.6 Electricity Regulation** | Where non-market based curtailment or redispatching is used, it shall be subject to financial compensation by the system operator requesting the curtailment or redispatching to the owner of the curtailed or redispatched generation or demand facility. Financial compensation shall at least be equal to the highest of the following elements<br><br>(a) additional operating cost caused by the curtailment or redispatching, such as additional fuel costs in case of upward redispatching, or backup heat provision in case of downward redispatching or curtailment of generating installations using high-efficiency cogeneration;<br><br>(b) 90 % of the net revenues from the sale of electricity on the day-ahead market that the generating or demand facility would have generated without the curtailment or redispatching request. Where financial support is granted to generating or demand facilities based on the electricity volume generated or consumed, lost financial support shall be deemed part of the net revenues. | Where non-market based curtailment or redispatching is used, it shall be subject to financial compensation by the system operator requesting the curtailment or redispatching to the owner of the curtailed or redispatched generation or demand facility. The total impact of the curtailment or redispatching and any financial compensation shall leave the owner of the facility financially indifferent, taking into account at least operating costs, opportunity loss, and the possible loss of financial support for installations benefiting from financial support. ~~Financial compensation shall at least be equal to the highest of the following elements~~<br><br>~~(a) additional operating cost caused by the curtailment or redispatching, such as additional fuel costs in case of upward redispatching, or backup heat provision in case of downward redispatching or curtailment of generating installations using high-efficiency cogeneration;.~~<br><br>~~(b) 90 % of the net revenues from the sale of electricity on the day-ahead market that the generating or demand facility would have generated without the curtailment or redispatching request. Where financial support is granted to generating or demand facilities based on the electricity volume generated or consumed, lost financial support shall be deemed part of the net revenues.~~ | We are concerned by the provisions of Article 12 of the draft recast Regulation on redispatching and curtailment. We generally support the key principle of using market-based mechanisms to determine the incidence of and payment for curtailment or redispatch. We however also recognise that due to the local necessity to adjust the generation schedule affecting specific facilities, the establishment of actual markets for redispatch may be complex, and in some cases neither possible nor desirable.<br><br>For this purpose, sub-article Article 12.2 also foresees the possibility of regulated compensation for redispatch. However, one needs to ensure that the circumstances allowing the regulated compensation for redispatch instead of market-based mechanisms are not too broadly described and defined.<br><br>In particular, we are concerned that the proposed wording of sub-article Article 12.6 envisages compensation which may end up under-valuing the loss of output: Article 12.6(b) of the draft recast Regulation foresees as an option that non-market based curtailment or redispatch could be compensated taking 90% of the net revenues from the sale of electricity in the day-ahead market that the generation of demand facility would have earned without curtailment or redispatch. We consider this proposal not acceptable as it constitutes an arbitrary measure, with no explanation of the European Commission where the 90% figure stems from. In fact this would certainly result in compensation below the actual costs incurred by the owner or operator of the asset as a result of the redispatch measure. Such an arbitrarily set formulae cannot reflect the complexity of redisptach measures and |

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| | | | their related costs.<br><br>We therefore urge that draft recast Regulation should only determine the general principle for the design of redispatch compensation rules, i.e. that asset owners that are subject to curtailment or redispatch measures must be compensated in such a way that they are left financially indifferent, taking account of opportunity costs as well as actually incurred costs. This principle ensures the equal treatment of all market participants and avoids that individual market participants are discriminated as a result of local congestions. |