

› POSITION PAPER

regarding the European Commission's proposal amending Directive 2003/87/EC, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757 from 14/07/2021

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The German Association of Local Public Utilities „Verband kommunaler Unternehmen“ (VKU) represents around 1,500 local public utilities in Germany, operating in the sectors of energy, water/waste water, waste management and telecommunication. In 2019, VKU's members, which have more than 283,000 employees, generated a turnover of around 123 billion euro of which more than 13 billion euro were reinvested. In the end-customer segment, VKU's member companies have a market share of 62 percent in the electricity market, 67 percent in the natural gas market, 91 percent in the drinking water sector, 79 percent in heating supply market and 45 percent in waste-water disposal. Every day, they dispose of 31,500 tons of municipal waste through separate collection and take a vital role in ensuring recycling rates of 67 percent, which rate the highest within the EU. Additionally, more and more local public utilities are committed to the deployment of broadband infrastructure. 203 members invest more than 700 million euro every year. When deploying broadband infrastructure, 92 percent of local public utilities rely at least on fibre to the building.

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VKU agrees to a publication of the position statement.

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VKU's key positions

VKU supports the goal of EU climate neutrality. The emissions trading system of the European Union (EU-ETS) has an important function in this as an overarching, environmentally effective and cost-effective climate instrument. VKU welcomes the adjustment of the EU-ETS to the new EU climate goals in the context of the European Green Deal. The main assessments of VKU regarding the proposal of the European Commission amending the EU-ETS are summarised below, with recommendations for adjustment.

In the opinion of VKU, the proposition to adjust the linear reduction factor (LRF) in the existing emissions trade and the creation of a separate (to start with) emissions trade for the building and road transport sectors is sensible and to be welcomed. A European emissions trade system must fully replace the national systems for the affected sectors. In this regard, existing national management structures should continue to be usable with the smallest possible administrative cost. The long-term goal should be to regroup the parallel CO₂ pricing systems and to create a cross-sector and internationally compatible market for CO₂ emissions. In this regard, the particular role of district heating and cogeneration must be taken into account as an important building block for the transformation of the energy system. The allocation of free allowances in the EU-ETS must be maintained in order to ensure electricity and water supply security as well to secure the continued existence of district heating. District heating is urgently needed to decarbonise the heat supply for existing buildings.

Free allocations for cogeneration plants must also be ensured in the new emissions trade for buildings and road transport, in order to avoid unfair competition and an economic disadvantage for “small” cogeneration plants compared to large systems in the EU-ETS and simple heat generators, for example gas-fired boilers. “Small” cogeneration plants form the backbone of local heating networks in medium and small towns and of many integrated building energy supply concepts, for example in apartment buildings, schools and hospitals.

VKU welcomes also the proposition that **as of 2026, free allocations for stationary systems** should be subject to **the conditions of climate protection investments**, increased energy efficiency and the reduction of greenhouse gas emissions, in order to avoid “windfall profits” without any climate effect. To this end, energy audits as well as energy management systems should be put to use.

Furthermore, VKU welcomes the fact that the European Commission intends to **act more restrictively with surplus emission rights in the future regarding the market stability reserve** and to take air and maritime transport allowances into account when calculating the reserve.

- › **The promotion of highly efficient cogeneration** in the EU-ETS through the allocation of free allowances should be maintained as an important building block of the energy transition.
- › **Small cogeneration and district heating plants must not be disadvantaged** in the new ETS for buildings and road transport. **A free allocation of allowances in the new, separate emissions trade should therefore not be excluded.**
- › In the interest of reinforcing price stability, terminating **emissions allowances** for electricity generation capacities closed down **due to national measures** should become binding, in order to avoid a so-called waterbed effect.
- › When introducing ETS for buildings and road transport at European level, existing national management structures should continue to be applicable. This would ensure that the separate ETS is introduced with the smallest possible administrative cost and without increasing the complexity and administrative cost for the obligated companies.
- › The revenues of the Member States from the auction proceeds of the new emissions trade system for buildings and road transport should be re-invested to support building renovations for lower-income households. The decarbonisation of industry must therefore not be financed with means from the Innovation Fund that are necessary for the decarbonisation of the building sector. Fundamentally, the use of the revenue to promote decarbonisation should not be particularly concentrated on the Carbon Border Adjustment Mechanism (CBAM) sectors; instead it should also cover the buildings sector. In this context, climate protection contracts outside of industry must not be refused.

VKU's positions in detail

Recital 35 – No refusal of contracts for difference outside of industry

Recommendation:

Climate protection contracts (“Carbon Contracts for Difference”) that promote decarbonisation should not be limited solely to industry.

Justification:

Market incentives from the CO₂ price signal and promotional measures may also be necessary for the successful implementation and for the acceleration of the market diffusion of climate-neutral technologies. This is where climate protection contracts based on Contracts for Difference (CfD) instruments could contribute to. CfDs enable long-term planning and a sound economic base for future climate-neutral projects. They provide continuously and appropriate support for the operation of climate-neutral projects, for example local hydrogen projects.

The EU-Commission's approach of only opening this instrument for certain sectors (in this case the raw materials industry) to be supported through the Innovation Fund is too strict. Potentials also exist at the level of local companies, particularly in adapting district heating as a climate-friendly sources of energy.

It should hereby always be kept in mind that additional support instruments (for example CCfD) can disrupt the functioning and pricing of the emissions trade. In any case, the interactions should be thoroughly analysed and assessed.

Recital 49 – Ensuring the particularity of highly efficient cogeneration in the new emissions trade for heating and transport through the free allocation of allowances

Recommendation:

The financing of highly efficient cogeneration through the free allocation of emissions allowances must be guaranteed in the new emissions trade for heating and transport.

Justification:

Cogeneration plays an important role in the energy transition. Cogeneration plants generate both electricity and heat simultaneously. They thereby use the applied fuel with an efficiency rate of up to 90 percent. When electricity and heat are generated in separate plants, the average efficiency amounts to approximately 55 percent. The combined generation of electricity and heat thus reduces the use of scarce resources and avoids considerable amounts of CO₂ emissions. It also contributes significantly to maintaining supply security. The use of this technology should therefore also be facilitated in the new emissions trade system for heating and transport with the allocation of free allowances.

Recital 54 – Limiting use of funds to the burdened sectors

Recommendation:

In order to support decarbonisation in the heating and transport sectors, the income from the new emissions trade system must be reserved solely for these sectors.

Justification:

In the interest of a fair and transparent sharing of limited financial resources for the decarbonisation of entire sectors, it should be ensured that means from the Innovation Fund flow entirely back to the sectors from which they came. This would increase acceptance for the new emissions trade system in these sectors and reduce social hardships in sensitive areas such as accommodation and mobility.

Article 10a – Enabling switching to energy management systems, ensuring the free allocation of allowances for highly efficient cogeneration in the EU-ETS and not concentrating the use of income to support decarbonisation solely on CBAM sectors

Recommendation:

1.) As of 2026, free allocations for stationary plants should not be solely subject to the condition of conducting energy audits, but instead extended to the implementation of energy management systems.

2.) In order to maintain cogeneration as an indispensable enabler for the transformation of the energy system, and to maintain electricity and heating supply security in particular, funding through the allocation of free allowances in the EU-ETS must continue.

3.) In order to tackle the large challenges of the heating and transport transition, support for decarbonisation should not be solely concentrated on the CBAM sectors.

Justification:

1.) VKU welcomes that as of 2026, free allocations for stationary plants should be subject to the condition of climate protection investments to improve energy efficiency and reduce GHG emissions. This could prevent “windfall profits” without any climate effect. Limiting this to the conduction of energy audits, according to article 8 paragraph 4 of the EU Energy Efficiency Directive, is however not possible in practice. In energy management systems such as the DIN ISO EN 50.0001 for example, not only are the energy requirements included, but ideas for improvement are also developed and goal achievement is measured through performance indicators. Implementing energy management systems can thus be classified as significant for increasing companies’ energy efficiency. These systems should therefore also be permitted, alternatively to energy efficiency audits, as an efficiency measure in order to maintain free allowances.

2.) In the medium term the proposed cancellation of the free allocations until 2030 for highly efficient cogeneration plants would have negative effects for the security of supply and for the contribution of district heating to the decarbonisation of the heating supply for existing buildings. A complete cancellation of the free allocations must be avoided, including for the second part of the trade period as of 2026.

The proposition to delete article 10a (4) also seems inconsistent since article 10b (4) is not supposed to remain. This article concerns free allocations for district heating, which is mainly produced in association with cogeneration. Furthermore, recital 12, in conjunction with the removal of paragraph 3, even explicitly points out that the use of cogeneration should be encouraged, and all district heating plants treated equally. Deleting article 10a (4) neither encourages or incentives efficient cogeneration nor is treated equally in comparison to district heating plants.

3.) The energy transition can only succeed if all sectors contribute to this goal. Decarbonisation must therefore include all economic areas, and must not be focused on individual sectors. Large decarbonisation potentials are not present solely in the CBAM sectors, but also in the buildings sector. The chosen approach of opening “Contracts for Difference”, i.e. climate protection contracts, as support from the Innovation Fund solely for projects from the CBAM sector is too strict. There are potentials at the level of local public utilities, particularly through switching to climate-friendly energy sources as supply for district heating .

Article 12 – Cancelling surplus allowances due to national measures

Recommendation:

Allowances that are not being used and are not need must be removed. This way national climate protection measures can achieve their desired effect in the European emissions trade.

Justification:

The cancellation of emissions allowances due to the decommissioning of emissions-intensive plants that are obligated under the EU-ETS, initiated at national level, should not be voluntary, but obligatory. If there is no cancellation, this could lead to a waterbed effect for increased emissions of other plants in the emissions trade, meaning that the intended climate effects of these measures would be null. The cancellation of emissions allowances should always take into account the emissions of the replacement technology.

Article 30a – Considering compatibility of existing national regulations

Recommendation:

In order to limit red tape, avoid gaps in the national regulations and increase acceptance and simplify implementation, the compatibility with national regulations should be kept in mind.

Justification:

The introduction of the new emissions trade at European level should generate the lowest possible complexity and administrative cost for the obligated companies. Tried and tested structures in the national emissions trade systems, such as the Fuel Emissions Trade Act (BEHG) in Germany, should therefore be converted whenever possible. This would avoid gaps in the national regulations, increase acceptance and simplify implementation.

Article 30X and 30d – Treating small CHP plants equal and providing funds only to sectors concerned

Recommendation:

1.) In order to ensure that highly efficient CHP plants are not treated less favourably than plants in the EU ETS and heat-only generators in the new emissions trading system, it makes sense to allocate free certificates. VKU therefore proposes the inclusion of a new Article 30X, which regulates the free allocation of allowances for fuel used in high-efficiency CHP plants.

2.) In order to support decarbonisation in the heating and road transport sectors, the income from the new emissions trade system should be exclusively reserved to these sectors.

Justification:

1.) Firstly, without free allocations from the new emissions trade, “small” CHP plants (firing output under 20 MW) would be economically disadvantaged compared to large cogeneration plants in the existing EU-ETS. Both large and small cogeneration plants make an important contribution to the decarbonisation of the energy supply and to maintaining supply security despite increasing numbers of volatile renewable suppliers. Unequal treatment is therefore not appropriate. Accordingly, free allocations in the new emissions trade system should also be allowed for small plants. This would at least minimise unfair competition that could arise due to different CO₂ prices in the EU-ETS and in the new ETS.

Free allocations would also minimise the disadvantaging of small CHP plants compared to gas-based property heating. The disadvantage is caused by the proposed design of the

new EU-ETS, which follows the BEHG system and prices the fuel. As cogeneration plants – as opposed to simple heat producers – also produce electricity with the same fuel, this is burdened with CO₂ costs. As passing on the CO₂ costs associated with the electricity production via the electricity exchange is not possible (no pricing), the district heating price would have to be increased in order to completely transfer the CO₂ costs to the end customers. Cogeneration-based district heating would therefore be less attractive than simple heat producers, for example individual gas boilers.

Consequently, there is a real risk of heating from small cogeneration plants being increasingly displaced by gas boiler heating and of investments in small cogeneration plants becoming barely economically viable, to the detriment of climate protection. This unilateral disadvantaging of the competitiveness of small cogeneration plants must be avoided in the design of the new ETS for buildings and transport.

For the reasons listed above, a new article stipulating free allocations for small cogeneration plants should be added.

2.) In the interest of a fair and transparent sharing of limited financial resources for the decarbonisation of entire sectors, it should be ensured that means from the Innovation Fund flow entirely back to the sectors from which they came. This would increase acceptance for the new emissions trade system in these sectors and reduce social hardships in sensitive areas such as accommodation and mobility.

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