II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL RECOMMENDATION
of 8 November 1988
to promote cooperation between public utilities and auto-producers of electricity

(88/611/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, in its resolution of 16 September 1986 concerning new Community energy policy objectives for 1995 and the convergence of the policies of the Member States (4), the Council adopted as sectoral objectives improved energy efficiency in all sectors and a greater contribution from new and renewable sources of energy;

Whereas, in accordance with the resolution of 26 November 1986 on a Community orientation to develop new and renewable energy sources (5), the Council adopted, on 9 June 1988, recommendation 88/349/EEC on developing the exploitation of renewable energy sources in the Community (6);

Whereas on 25 October 1977 the Council adopted recommendation 77/714/EEC on the creation in the Member States of advisory bodies or committees to promote combined heat and power production and the exploitation of residual heat (7);

Whereas combined heat and power generation (CHP) and waste energy (combustion of waste and use of residual heat in industry), with their potential for oil substitution and savings of exhaustible primary energy sources, could make an important contribution to the achievement of the Community's 1995 energy policy objectives;

Whereas the generation of electricity is a common field of application not only for renewable sources of energy but also for waste energy and for CHP (in total hereafter called RWC) and is therefore of crucial importance to the development of this energy supply potential;

Whereas these power generation processes are mainly suited, because of inherent factors, to auto-production outside the public supply system;

Whereas the profitability of RWC auto-production will also depend on the conditions of cooperation with the public utilities (8) as regards sales of surplus electricity, purchases of additional electricity, and the provision of reserve capacity;

Whereas certain existing laws and administrative provisions can constitute an obstacle to the development of RWC auto-production;

(1) OJ No C 172, 1. 7. 1988, p. 9.
(2) OJ No C 235, 12. 9. 1988, p. 174.
(3) OJ No C 309, 5. 12. 1988.
(4) OJ No C 241, 25. 9. 1986, p. 1.
(5) OJ No C 316, 9. 12. 1986, p. 1.
(6) OJ No L 160, 28. 6. 1988, p. 46.
(7) OJ No L 295, 18. 11. 1977, p. 5.
(8) For the purposes of this recommendation, 'public utility' shall mean an undertaking whose principal objective is the generation, transmission and/or distribution of electricity for supply to third parties. Public utilities may have different corporate structures.

Whereas the price for the auto-producer's electricity sales to the public network should be geared as closely as possible to the costs that can be avoided in the public supply system in order to guarantee appropriate revenues for the auto-producer;

Whereas a framework of appropriate measures should govern cooperation on electricity between auto-producers and public utilities by establishing common principles and hence creating better conditions for the further development of RWC auto-production of electricity in the Community,

HEREBY RECOMMENDS TO THE MEMBER STATES:

1. that, in order to promote auto-production of electricity, based on renewable energy sources, waste energy and combined heat and power (RWC), they should provide a framework for cooperation between public utilities and all RWC auto-producers, under which the conditions concerning the quantity and price of electricity exchanges are agreed in accordance with common principles;

2. that they should facilitate the creation of this framework by the introduction of standard contract criteria:

   — either by voluntary arrangements between the parties concerned, or

   — if necessary, through specific legal or administrative provisions,

   and that existing legal or administrative provisions at variance with such criteria should be adapted accordingly. The need for defining specific procedures for resolving disputes about contract conditions should also be examined;

3. that they should ensure within such arrangements or provisions:

   (a) that the public utilities should be obliged to offer to purchase those quantities of electricity which arise out of RWC auto-production, always provided that the smooth economic operation of existing public generating plants is not thereby jeopardized;

   (b) that, with regard to quantities, RWC auto-production of electricity is authorized in principle as long as a public interest is not thereby infringed, and that it is impeded neither by legal and administrative provisions nor by conditions imposed by the public utilities;

   (c) that with regard to prices

   — reimbursement for electricity sales to the public supply network from RWC auto-production should:

   — be based primarily on the long-term average costs avoidable by the public utilities in their area of supply,

   — correspond at least to the variable costs avoidable by the public utilities, i.e. mainly the savings made in fuel costs,

   — guarantee the auto-producer additional reimbursement to the extent that he enables the public supply network to make savings in investment costs in the generation or purchase of electricity. The size of this reimbursement should depend on how regularly the auto-producer's electricity production capacity is available, especially at peak periods,

   — reimbursement for the purchase of electricity from the public supply network is determined in such a way that auto-producers are treated in the same way as comparable purchasers who have no means of auto-production,

   — the rules regarding this reimbursement are framed so as to be as transparent as possible;

4. that they report to the Commission after three years on the progress on cooperation between public utilities and auto-producers of electricity.

Done at Brussels, 8 November 1988.

For the Council

The President

A. PEPONIS