

UPCOMING IMPLEMENTING ACT ON NON-PRICE CRITERIA IN RES AUCTIONS

EURELECTRIC PRELIMINARY REMARKS, 12 JULY 2024

Within the framework of the [Net-Zero Industry Act \(NZIA\)](#), the European Commission will adopt an implementing act specifying the application of the pre-qualification and award criteria in Article 26. This paper shares Eurelectric's preliminary remarks on the upcoming binding Implementing Act (IA) and builds upon [our previous recommendations](#) for the Commission's [Guidance](#) on Renewable Energy Source (RES) Auction Design.

NO-REGRET CONSIDERATIONS ACROSS CRITERIA

When designing any type of non-price criteria (NPC), there are five foundational considerations Member States shall take into account:

1. **Pragmatic design:** It is crucial to balance the trade-off of more resilience and sustainability requirements versus the resulting cost impact and the risk of a slowing down the deployment of renewable energies. Hence, best practice design will be key for the implementation of non-price criteria, such as:
 - a. Ensuring simplicity and adaptability while avoiding undersubscription: Badly designed non-price criteria unduly increase the complexity of auctions and projects. Bad design includes (i) strict NPCs that are not reflective of the market realities and result in project bottlenecks or significant costs increases¹ and (ii) numerous NPCs trying to address too many objectives beyond RES deployment. In this sense a good design should avoid unfeasible criteria by consulting market players in advance of the auction and employ as few and as effective NPCs as possible within the framework of Article 26 of the NZIA.
 - b. Choice between award and prequalification: Ultimately, the impact of the criteria, including its workability, will depend on the threshold and simplicity of each criterion:
 - i. Prequalification: poor eligibility criteria design acts as a barrier to participation in auctions, leading to undersubscribed auctions with less competition and suboptimal outcome. On the positive side, it allows for cost predictability and avoids long evaluation processes.
 - ii. Award criteria: awarding criteria risk having extended evaluation periods and disproportionate administrative burden, particularly for auctions with a significant number of bidders like onshore wind and PV. Also, it does not limit costs for developers. On the bright side, they are already used today in the offshore wind sector allowing for a differentiation of bidders and testing the market appetite for a particular NPC without restricting participation in auctions.
 - c. Avoid delays in auction schedules: The IA should ensure the auctions' schedules remain in line with the targets and the auction resolution timelines are not impacted. NZIA auction rules should not delayed them.
 - d. Maximise the use of NPC where it has more benefits: A key benefit of NPC is that it can avoid the need for uncapped negative bidding.
 - e. Update the bid caps: Bid caps, if applied, should be calibrated carefully, frequently updated in dialogue with market players, and adapted to be reflective of the higher costs associated with NPCs. This is to avoid further raising supply chain costs and delay RES delivery.

¹ See impacts of Taiwan's strict local content criteria for offshore wind [here](#).

2. **Technology specificities:** NPCs need to be approached differently depending on the technology, to avoid a disproportionate impact and adverse effect on delivery. Different technologies are at different maturity stages, including their related supply chains. While this may seem evident as technology-specific tenders are allowed in Article 4 of the Renewable Energy Directive (RED), technology neutral tenders are the norm in many Member States with solar and onshore wind competing on equal terms. Thus, the need for technology-specific criteria. Not only for solar, but also offshore and onshore wind should be treated differently and even floating wind where covered.
3. **Strive for quantitative indicators:** While some Member States have trialled the use of NPC, some are also realising the complexity of its implementation, such as the level of subjectivity in assessment, and reverting back to more quantitative indicators measuring the NPC as being decisive (e.g., in the Netherlands the change from *Hollandse Kust West* to *Imjuiden Ver*). A careful design and implementation of NPC may help overcoming several complexities.
4. **Ex-ante assessment and consultation with industry:** The IA should require Member States to conduct an impact assessment explaining the economic rationale of their design choices (e.g., applying award or prequalification criteria), outlining expected impacts in terms of costs and delivery risk. The impact assessment should also explain any deviations from the NZIA requirements due to disproportionate cost.
5. **Harmonisation:** the current diverse approaches to implementing these criteria risk creating a fragmented market landscape, potentially hindering cross-border competition and investment. To address this, we propose the European Commission to:
 - a. Provide a framework, establishing a standardised set of well-defined, measurable template criteria in line with the NZIA requirements and providing clear guidelines for criteria assessment and scoring methodologies to ensure objectivity and comparability across Member States. At the same time, it remains the discretion of the Member State to choose which criteria they will pursue. In this way, flexibility for Member States to tailor auctions to their unique circumstances and priorities will be maintained while reducing administrative burden for project developers.
 - b. Create an NCP harmonisation expert group that monitors the implementation, gathers knowledge and provides support for a consistent application across Member States. The expert group could regularly publish a review with lessons learned and best practices. The group should include representatives from Member States and the private sector.

SPECIFIC COMMENTS PER NON-PRICE CRITERION

1. Resilience

Regarding the contribution to resilient value-chains, Article 26 of the NZIA mandates Member States to include resilience considerations in auction design by “taking into account the proportion of the net-zero technology or its main specific components that originates from a third country accounting for more than 50 % of the supply of that specific net-zero technology or its main specific components within the Union” (Art. 26 par. 2).

Diversification, not protectionism: this should be interpreted as primarily favouring diversification of suppliers. Eurelectric advocates for an open strategic autonomy; one where diversification reduces single-source risk, inside and outside Europe. We should aim to reshore parts of manufacturing value chains in the medium term. However, In the short term, an overly

protectionist policy will undermine our frontloading of renewables buildout and electrification needs.

Tier 1 Suppliers: In any case, for reasons of practicability the assessment of the content should refer only to the direct suppliers of the final product – i.e., Tier 1.

For wind: Resilience should be assessed on basis of total financial value of the sum of the components making up a net zero technology, i.e., technology should be considered resilient if 50% in financial value of the agreed list does not come from third countries.

Importantly, compliance with resilience should be required only at contract execution time and providing high level commitment at the time of the bid. Failing to do so, it will be impossible to comply with this criterion, given the uncertainty of the supply chain until later in the project cycle.

For solar: based on previous experiences and existing dependencies on suppliers outside Europe, we consider it will be very challenging to apply resilience without negatively impacting project and auctions schedules.

In principle, a stepwise approach for solar with an increasing ambition level is best suited to ensure a reliable supply chain build-out while limiting the risk of bottlenecks and excessive cost. Some Member States are actively considering resilience schemes:

- France has recently created a scheme called [Induscore](#) where prequalification could be combined with award criteria via bonus. This scheme is not yet applied, but it is expected to be in place by the end of the year. Induscore aims to visualise the number of industrial stages within the European Economic Area (EEA). An industrial step in the framework of solar can be: refining, crystallisation, cell manufacturing or module assembly. These stages are still being defined and discussed within the French sector. It will be based on independent certification, allowing panels to be distinguished into five categories from A (4 steps in the EEA) to E (0 steps). This criterion is set to be used as NPC initially in French auctions. However, the impacts of introducing such scheme still need to be proven as it has not been put in practise yet.
- In Germany, a similar approach was discussed earlier this year as part of the German solar package but was ultimately rejected due to the underlying cost increases for solar deployment. The main idea was to introduce a resilience bonus within the Renewable Energy Act (EEG), whereby developers would receive an additional bonus depending on the number of value chain stages for the solar equipment used in the project that are located in Europe. An additional proposal was to introduce a specific sub-segment – resilience auctions with a pre-defined number of value chain stages to be located in Europe – as a prequalification criterion.

Considering this, given the special solar situation, we recommend avoiding a very strict interpretation of the 50% threshold. Instead, we propose to issue pilot auctions on a more limited volume to learn from experience without delaying solar deployment.

Definition of ‘third country’: The ‘third country’ definition could be aligned with Article 25 i.e., GPA-based. However, possible side-effects should first be assessed: such a proposal should not indirectly disadvantage valuable non-GPA sources of diversification or create new dependencies. In addition, a factory owned by a non-EU company but producing in Europe should be considered 100% manufactured in Europe.

Wider support for manufacturing: Outside of the resilience contribution, it needs to be ensured that the costs of ramping up European supply chains do not become disproportionate. Hence, manufacturers will need more structural support (e.g., tax incentives for suppliers to build new

factories and/or facilitated access to dedicated EU funds) to ensure that clean-tech supply chains develop and remain in the EU.

2. Sustainability

Contributions to environmental sustainability should refer to either supply chain sustainability (e.g., carbon footprint, the use of green steel or the rate of reuse of recycled materials) or to a defined additional contribution to improve biodiversity base (e.g. conservation of marine habitats for offshore).

For biodiversity protection, the descriptions of the factors should not be too specific so to allow developers to select the most effective and innovative solution. Instead, the specific measures would likely be identified during the Environmental Impact Assessment.

3. System Integration

Overall, as already included in the definition of system integration, the main aspects to be considered in these criteria would be to deliver flexible, reliable and resource-efficient energy services. Also, relevant tools to improve system integration are to develop flexibility markets and to make the necessary investments in the grids.

Overall, as a general consideration, NPCs alone will not lead to the desired effect as it would lack a top-down approach to tackle system integration shortcomings. They should be part of a more holistic policy, including the implementation of relevant provisions in the recent electricity market design package.

However, if it is to be included as NPC, then they should not duplicate existing requirements nor be too prescriptive (e.g., to build an electrolyser, and rather let the developer decide what solution is best to solve the problem).

Examples could include:

- Maximising synergetic use of grid connections (e.g. by co-location of onshore wind and PV systems and storage);
- Reward projects being able to participate in ancillary/balancing services;
- Reward projects with PPAs, thus boosting social acceptance as well as system integration.

For offshore in particular, incentivising large-scale system integration solutions on a project basis is likely to be inefficient and should better be driven by general energy market incentives

4. Innovation

Innovation would be better suited as part of dedicated auctions. In this case, they should ensure that the specifications of the auctions are flexible enough to allow innovative solutions to participate effectively.

5. Other criteria: business conduct and cybersecurity

We encourage the use of standards, certificates and data bases that facilitate compliance. If not available, they should be developed in advance, to allow the bidders to verify, whether vendors and sub-contractors fulfil all necessary criteria.