

Design elements of renewable energy auctions

Eurelectric response to DG Energy public consultation

March 2024

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

Dépôt légal: D/2024/12.105/8

Design elements of renewable energy auctions

Eurelectric response to DG Energy public consultation

EXECUTIVE SUMMARY

Within the framework of the Wind Power Action Plan, the EU Commission will provide guidance for Member States to maximise the execution rate of renewable energy projects and include objective, measurable and non-discriminatory non price criteria in renewable energy auctions.

Eurelectric, representing more than 3500 European utilities active in power generation, distribution and supply would like to raise the following key considerations:

1. **Careful implementation of non-price criteria (NPCs) to avoid delays, cost increases or even the non application of the criteria**
 - i. **A harmonised and predictable application that allows to learn from experience** → i.e., implementing act and pilot auctions.
 - ii. **Technology specific application** → for solar, onshore, offshore wind and even floating offshore wind, hydropower or geothermal. In general, well-designed NCPs will provide greater value in those tenders that allocate a scarce resource, such as seabed leasing, avoiding uncapped negative bidding.
 - iii. **Simple and focused criteria to avoid over-complexity for developers and for national authorities during the assessment process** → one auction, one major objective; resilience where there is production capacity and when the bidder has visibility on the suppliers; use internationally agreed methodologies and develop methodologies for those metrics not standardised yet.
 - iv. **Legal certainty** → the criteria need to be objective, measurable and non-discriminatory to avoid legal challenges and subsequent delays. It shall be ensured that the bidders hold up against their pledges and commitments as long as these are in their control and do not reduce competition.
 - v. **Harmonisation** → a catalogue of measures, methodologies from the Commission with some degree of flexibility to adapt to local markets. On the offshore wind side, seabed lease and auctions should abide by the same rules (art 20) and not be treated differently.
2. **Avoiding uncapped negative bidding is good for the transition, the supply chain and the customers.** Member States should explore alternatives, such as capping payment concessions and considering non-price factors like track record, deliverability, financial robustness, and other credentials to determine concession winners.
3. **Incentivising project completion – indexation and penalties.** Price indexation at least during construction is crucial, covering risks that would otherwise be factored into bids, leading to cost savings for electricity consumers. Reasonable penalties may also deter non-completion, with exemptions for force majeure and third-party events. But the negative implications should be factored in and alternatives such as a bonus for delivering the project earlier could also be considered.
4. **Bid ceilings to be assessed and updated regularly:** consulted upfront with market experts, indexed, aligned with the costs of technology and reflecting the sustainability and resilience non-price criteria (if applied) and communicated well in advance to avoid undersubscription.

Design elements of renewable energy auctions

Eurelectric response to DG Energy public consultation

1. Careful design and implementation of non-price criteria (NPC) in tender process: essential to avoid delays, major costs increases or a setback in the application of non price criteria

On the positive side, non-price criteria have the potential to promote innovation, biodiversity-integration, or resilient domestic value chains. Rewarding developers and projects which can deliver long term most cost-efficient value to society and the environment avoids a cost-driven race to the bottom. This enables companies to apply their engineering and project execution powers to shape an energy transition that solves multiple challenges, from energy security over economic slowdown to the climate and biodiversity crisis. In particular, the use of NPC is particularly relevant to mitigate the negative effects of uncapped concession payments, like seabed lease auctions.

On the other hand, the application of non-price criteria during the award process is a complex, burdensome task and often launching separate tendering segments with specific prequalification criteria may be more efficient for accelerating scalability of such projects. NPC that are poorly designed, implemented, assessed, and non-monitored, risk simply making auctions overcomplicated, untransparent, at risk of legal challenge, and lead to bidders making commitments which they cannot or will not deliver on. For instance, the Spanish first Fair Transition Contest¹, fully based on a qualitative model, took several months to resolve, due to the complexity of the multiple evaluation criteria.

The use of NPC carries the risk of imposing costly additional requirements on bidders. While certain criteria may mitigate risks and consequently reduce costs included in the bids, others would impose additional obligations on suppliers. The latter would limit options to more expensive components, resulting in higher overall costs for the project and diverting attention away from the primary goal of delivering renewable energy to meet increasingly ambitious targets, precisely when acceleration is most crucial. Additionally, renewables still face competition from fossil fuels and must remain as competitive as possible to avoid cost increases.

While some Member States have trialled the use of non-price criteria, some are also realising the complexity of its implementation, such as the level of subjectivity in assessment, and reverting back to quantitative criteria as being decisive (e.g. in the Netherlands the change from Hollandse Kust West to Imjuiden Ver where now the financial cap is much higher). This is a regretful trend which should be prevented. EU-wide principles for a careful design and implementation of non price criteria may help overcoming several complexities.

Also, the pre-qualification criteria necessarily reduce the participation of the number of bidders, since some projects would not be able to participate. It is therefore important that pre-qualification criteria do not exclude bidders in a discriminatory manner.

i. A coordinated application that allows to learn from experience

Swift non-binding guidance is helpful but falls short on providing certainty for developers.

¹ Spanish first Fair Transition Contest tender terms are available [here](#).

As we delve deeper, more potential issues emerge. If done wrongly, the integration of PQC and NPC could result in significant delays. We expect the transition period affords regulators the time to formulate meticulous secondary binding legislation prior to the imposition of any mandatory NPC or PQC to ensure an efficient implementation of the NZIA provisions.

Pilot auctions would make sense to learn from experience and further improve the qualitative criteria. This is particularly important since in most markets non price criteria are a novel practice.

ii. Technology specific criteria: different set of criteria for solar, offshore and onshore wind.

PQC and NPC 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 stage, including the related supply chain. While this may seem evident as technology-specific tenders are allowed in article 4 of the Renewable Energy Directive, technology neutral tenders are the norm where solar and wind compete 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, hydropower or geothermal where covered.

For offshore wind projects, award criteria could make more sense. The number of projects tends to be limited and larger. The smaller number of projects allows for a more thorough evaluation by an expert committee, while the larger size can have higher impact on environment and people, therefore NPC incentivise bidders to deliver broader value-based projects. considering bidding elements which are less comparable.

But for onshore wind or PV, projects often attract a larger number of bids (more than 70 in many cases) given their relative accessibility and lower upfront costs compared to offshore wind. Such a large volume of bids makes it very challenging to rely on an external committee for assessing bidding criteria without risking significant delays.

Also, the recommendations should consider that for certain criteria like resilience, wind and solar have different manufacturing starting points. Even within offshore wind, there are big differences between the maturity level of floating and bottom-fixed offshore wind that would require different, technology specific tenders.

iii. Legal certainty: waterproofed criteria and accountability for the pledges

Non price criteria need to be waterproofed (measurable, not discretionary). Otherwise, non-winning bidders will challenge the process and the project will not delivered on time.

In addition, it is important to make sure that the bidders hold up against their non price criteria pledges and commitments as long as these are in their control and it does not significantly reduce competition.

iv. Keep criteria and auctions as simple and pragmatic as possible to avoid risks

Focused qualitative criteria: One tender, one major objective

Having multiple objectives in the same basket risks overcomplicating things. Although Member States can add further criteria to the five criteria mandated by NZIA², Member States

² Once formally adopted, article 20 of the NZIA would mandate Responsible Business Conduct, cyber and data security, ability to deliver, sustainability and resilience criteria.

should limit these additional, voluntary, criteria to zero or one per auction, as to avoid over-complexity for bidders and for national authorities and evaluation bodies during the assessment process. If award criteria is applied, it is advisable to focus most of the awarding weight on one of them.

Cybersecurity

Cyber-security requirements should consider existing regulatory framework and internationally recognised standards. Operation within the ISO/NIST framework and compliance with the Network and Information Security Directive (NIS 2) presents a viable prequalification criterion.

Responsible Business Conduct

We recommend using the existing schemes and international standards, avoiding doubling reporting requirements. There is some relevant national legislation and even upcoming EU legislation. In parallel, voluntary schemes are being developed and or tested.³ However, their scalability is still to be assessed.

Ability to deliver the project fully and timely

This could be based on the financial stability and technical capability of the bidders, as they are common requirements across tenders and Member States. These should be defined in a way that guarantees level-playing field while avoiding to artificially restrict competition. More concretely regarding the track record to demonstrate the ability to deliver fully and timely, attention should be placed on avoiding limiting its the geographical scope as it may reduce the number candidates entitled to access the competition. For example, in Belgium's new offshore tender zone, UK was initially removed from the list of countries for demonstration of track record. Yet, at the end, the initial proposal was not retained in the final design otherwise it would have excluded some market parties.

Resilience

Eurelectric believes in the benefit of promoting and securing a healthy European supply chain for renewables. However, the starting points of solar and wind are very different and this shall be factored in.

- Europe's solar manufacturing industry cannot deliver on all the volumes needed to reach the 2030 targets. Thus, any application of the resilience criterion for solar should be weighed against the unintended consequences on the solar deployment and should in any case be proportional to the actual capacity available. Also, it shall not be a substitute for more efficient measures such as direct support.
- In contrast, Europe's wind manufacturing base face different challenges related to heterogeneous and uncertain demand. In this case, resilience awarding criteria has the potential to create more planning security for manufacturers in combination with direct support measures. However, it can also be challenging to implement since developers may not have full visibility of the information regarding how Tier 1 suppliers procure all components and final decisions on suppliers would not be often made at time of a bid. The Commission should provide guidelines to ensure this criterion is

³ For example, OECD Guidelines on Due Diligence and Responsible Business Conduct and the Netherlands Responsible Business Conduct programme (see [here](#)).

implemented pragmatically and consistently, to avoid bottlenecks in supply and delays in delivery.

- The Commission should clearly identify which third country technology and component is considered having more than 50% of the EU market share, to ensure certainty for providers. This list should be guaranteed for a reasonable period of time to avoid disruption in the generators/suppliers contractual relationship.
- A European approach should be kept: member states should avoid to favour national suppliers over European ones.

System integration

On system integration, if the products have very different cost structures, we consider it may be more optimal to have separate tenders. Comparing and assessing the value of bundled products in a transparent and thorough manner is a very complex task.

Sustainability

On sustainability, our sector is broadly positive to have simple pre-qualification criteria for sustainability at this stage. Unless there are internationally accepted methodologies, awarding criteria, while leaving room for innovation, could be more subjective, making point scoring more challenging for onshore tenders. Europe shall strive for developing these methodologies together with the electricity sector and relevant stakeholders.

Other criteria

Finally, the social sustainability criterion, if it were to be applied, could also take into account the promotion of the investments or those bidders that operate in the territories indicated in the Territorial Just Transition Plans within the meaning of Regulation (EU) 2021/1056, in particular in the territories most affected by negative effects of transformation and designated as assisted areas for the purposes of Art. 107 section 3 letter a) and c) TFEU.

v. Harmonisation of methodologies across Member States

It is essential to harmonise as much as possible the type of criteria that can be applied to the national markets as well as to provide common methodologies to assess them. Where they exist, well established methodologies should be used. Otherwise, the European Commission should develop one. A degree of national flexibility would be also needed, to adapt to the individual market needs.

NZIA does not have a definition for either pre-qualification nor award criteria. But, we assume PQC is binary: either you qualify, or you don't. This makes them easier and transparent to apply.

By contrast, award criteria are used to rank bids. They represent a score (eg. 23 out of 100) and can be compared to one another (57 is better than 54). However, scoring non-price criteria is a complex exercise. The only model currently available to do so are expert committees. This is generally less transparent and takes longer. Still, auctions allocating scarce resources may benefit from non-price factors to avoid a race to the bottom.

In the medium to long term, we should strive to develop comparable non-price award criteria. To do so, we need harmonised methodologies. But, as long as we don't have these, we cannot rank bids based on non-price criteria. And using expert committees for 30% of the auctioned volume could delay renewables buildout.

Therefore, we suggest a staged approach for gradually developing methodologies for sustainability:

- **Stage 1:** In the first stage Member States should focus non-price on PQC. In parallel, a few large-scale auctions could make use of expert committees for award criteria.
- **Stage 2:** Once the methodologies on comparing non-price criteria develop, these methodologies should be legislated. For example, an implementing act could have a catalogue with methodologies that auctioning bodies can apply in order to measure non-price criteria.
- **Stage 3:** Once these methodologies are officially approved and auctioning bodies are familiar with how to use them, it will be possible to use non-price award criteria in a transparent and efficient manner. We can simply use the methodology to rank bids.

On the offshore wind side, seabed leases and auctions should abide by the same rules and not be treated differently i.e., it is advisable to recommend Member States to follow article 20 rather than article 19 in this case.

2. Avoiding uncapped negative bidding is good for the transition, the supply chain and the customers

Firstly, we acknowledge that negative bidding is a market mechanism that tests the market appetite for a scarce resource to develop renewables. For example, seabed territories for develop offshore wind farms or connection points for onshore technologies. Developers do not expect to be given the rights to access such a scarce resource for free. But scarcity should be addressed in advance, or we risk undermining the energy transition and development.

Readily available offshore wind sites are a scarce resource globally and there are a lot of new entrants into the sector, therefore developers are increasingly required to bid higher concession fees in the hope that a viable investment case will emerge later. For example, Germany's recent auctions⁴ raised € 12 bn for 7 GW, limits competition to the players with biggest pockets that lean more towards risk-taking. This escalating trend suggests that uncapped negative bidding is not sustainable in the long run.

Whilst hurdle rates will differ between developers, any rationale bidder will need to recover the concession fees they pay from the revenues made from the project. This implies a higher LCOE from an offshore wind project. Eurelectric's members analysis of uncapped negative bidding auctions in the U.S., Germany and England indicates that the LCOE impact from seabed lease costs ranges between €11/MWh and €46/MWh.

These additional costs need to be transferred either to the supply chain or to customers through higher prices (e.g. in PPAs). If it cannot be translated, it will be a risk for the project. This is not good for the manufacturers as it may lead to the project's non-realization as the project becomes unviable. It's bad for the transition as projects get abandoned which hurts

⁴ Link to the German tender to be provided

consumers. Renewables are still competing against fossil fuels and they need to be as competitive as possible.

For all these reasons, Eurelectric believes that the financial element should not be the decisive factor in assigning seabed concessions and the financial bidding should be capped. Non-price factors such as track record, deliverability, financial robustness, and other credentials, can then be the decisive factors in determining who wins the concession. At the same time, we shall avoid that the costs of non price factors turn into a form of negative bidding.

A constructive approach to be replicated is the Scotwind⁵ auction. It was awarded on the basis of qualitative and quantitative structure with a fee cap based on an impact assessment, paid once at award of lease and bidders were required to show: technical capability, financial standing, site credibility and development plan and preparedness. Twenty projects were awarded totalling 27.6GW.

Finally, high upfront lease costs (if required) should be avoided. Instead, once the project is operational, developers can pay a rent based on the number of megawatt hours of energy produced by the wind farms that are eventually built. For example, in Scotland this is 2% of annual turnover from the project.

3. Incentivising project completion through appropriate indexation during the construction phase and sensible penalties that do not deter from participation in tenders

The best way to incentivise timely project completion is to make it attractive to build RES. Next to accelerating permitting, this means addressing financial uncertainties companies are currently facing.

Before the COVID crisis and the Ukraine war, utilities could make investment decisions years ahead due to predictable trends in CAPEX and costs of capital. This is particularly important for offshore with long lead times between the award and the execution of the project. This period currently varies between 5 and 13 years.

However, the current landscape, marked by rising costs and less predictable commodity prices, makes it challenging for developers to secure multi-billion euro investments with confidence.

Part or full indexation of CfDs (or equivalent) to CPI throughout the contractual period is now commonplace across Europe. But it is the CAPEX and costs of financing risks that are the highest and the ones that have suffered higher volatility. Thus, it is crucial to also use indices relevant to key commodity costs impacting capex during the construction phase i.e. from award until COD (which is when the CAPEX is secured). In absence of such indexation, we have seen project cancellation in the UK and U.S. (particularly offshore wind where capex risk is higher). During the operation phase the CPI is a main driver of volatility and should continue to be accepted and applied.

One should also be cautious about the way indexation is applied and avoid time-lag effects (where indexation is not appropriately applied at the right time) that still create significant

⁵ See background on Scotwind auction [here](#).

financial risks for developers. We refer here to an on case in France where a K coefficient has been put in place which is supposed to reflect the evolution of the market, but it seems to be not adequate and even counterproductive in some cases.

This indexation works both ways so that if key commodity prices go down then CfD prices can be adjusted downwards, thereby protecting against consumers overpaying.

Industry is already hedging, but there are a lot of unforeseeable external factors (COVID, war) as well as non-hedgeable components because of lack of liquid indices. An example of good practice can be found in Italy, where the regulator conducted a consultation to stakeholders including on the elements of the auction design and indexation⁶.

In the end, the regulator shall strive for ensuring RES buildout at the lowest cost for society. In this sense, the indexation allows to cover a risk that otherwise would be priced in the bid and therefore contributes to increase savings for the electricity consumers. It should note that indexation works both ways, therefore if the inflation decreases, price can be adjusted also downwards.

Penalties can also be a way to avoid non-completion, provided there is some room for flexibility and optimisation, and exemption for third party events outside the control of the developer (e.g. Grid connection being available, supply chain issues, legal challenges). Nevertheless, stringent penalties increase the perceived financial risk of potential investors and developers resulting in a diminished competition, higher bids or potential undersubscription.

Alternatives such as a bonus for speeding up the project could also be considered.

4. Bid ceilings to be assessed and updated regularly: indexed, aligned with the costs of technology and cost- reflective of the sustainability and resilience non-price criteria (if applied)

Bid ceilings are a useful tool to keep prices of support schemes in check. However, they must be designed in a way to allow for a business case for project developers who are participating in auctions. If a bid cap is set too low, it leads to undersubscription. For example, the recent Spanish auction was totally undersubscribed because of the low ceiling. Out of the 3300MW available, only 50 MW were awarded.

They have to be published in advance and updated regularly. They need to integrate capex costs evolutions, market condition and, reflect the sustainability and resilience non-price criteria (if applied).

The proper way to design them is to have an updated LCOE calculations for each of the technology that participate, included an error margin. Each technology has different costs, so there's a need to define different baskets per technology so that they do not compete between them. So that we have an energy mix that is balanced and captures the technologies. There are several publications that regulators may access to define this.⁷

⁶ DM FER X consultation (Aug–Sept 2023) available [here](#). Indexation is proposed in page 17.

⁷ For PV panels, the reference used by the industry is PV Infolink, they publish every week spot prices for polysilicon, wafers, cells, modules, etc. [here](#).

An interesting example can be found in Germany. In December 2022, the Federal Network Agency decided to increase the bid ceiling by 25%, reacting to increased raw materials costs as well as high interest rates and subsequent undersubscription of auctions. However, it was the result of an ad hoc adjustment, while this adjustment has to be more reactive to the reality of the current costs of technology.

Best practice could also be to share the methodology Member States are using to calculate the bid cap, rather than just being a black box.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency
- Environmental Leadership
- Commitment, innovation, pro-activeness
- Social Responsibility
- Transparency, ethics, accountability



Union of the Electricity Industry – Eurelectric aisbl
Boulevard de l'Impératrice, 66 – bte 2 – 1000 Brussels, Belgium
Tel: + 32 2 515 10 00 – VAT: BE 0462 679 112 • www.eurelectric.org
EU Transparency Register number: [4271427696-87](#)