

ACER consultation on PPA voluntary contract standardisation

A Eurelectric response paper

July 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/2024/12.105/19

Markets & Investments Committee
Customers & Retail Services Committee
WG Wholesale Market Design & Investments
Frameworks
WG Retail Market Design
WG RES & Storage

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Public consultation on the introduction of voluntary templates for Power Purchase Agreement contracts in the EU energy market.

Fields marked with * are mandatory.

Introduction

[The EU Regulation to improve the Union's Electricity Market Design \(EMD\)](#), which has been adopted by the Council of the EU on 21 May 2024, contains a new article on power purchase agreements (PPAs) on removing barriers for PPAs in pursuit of the EU's decarbonisation goals.

The Regulation mandates ACER with new tasks on Power Purchase Agreements (PPAs), namely:

1.A - Assessment on the need to have voluntary templates for PPA contracts;

Art 19b (2): *"By ... [three months from the date of entry into force of this amending Regulation], ACER shall assess, in close coordination with the relevant institutions and stakeholders, the need to develop and issue voluntary templates for PPAs, adapted to the needs of the different categories of counterparties."*

1.B - Development of voluntary templates for PPAs, if needed;

Art 19b (2): *"Where the assessment concludes that there is a need to develop and issue such voluntary templates for PPAs, ACER, together with the NEMOs, and after consulting the relevant stakeholders, shall develop such templates, taking into account the following:*

- I. the use of those contract templates shall be voluntary for the contracting parties;*
- II. the contract templates shall, inter alia;*
 - a) offer a variety of contract durations;*
 - b) provide a variety of price formulas;*
 - c) consider the offtaker's load profile and the generator's generation profile."*

2 - Annual assessment on the PPA market: how PPAs impact barriers to market integration

Art 19b(1): *"ACER shall publish an annual assessment on the PPA market at Union and Member State level as part of its annual report published pursuant to Article 15(2) of Regulation (EU) 2019/942."*

Objective

As ACER's assessment of the need to have voluntary templates for PPA contracts must reflect the needs of the different parties involved, it is key that this is done in close coordination with relevant institutions and stakeholders.

ACER therefore runs this public consultation to gather input from interested stakeholders and ensure an informed and inclusive decision-making process.

As a follow up, ACER will evaluate the feedback received in the consultation and the conclusions reached by the consultative expert group established in May 2024.

If the assessment (expected in Autumn 2024) highlights the need to develop templates for PPA contracts, ACER, together with all Nominated Electricity Market Operators (NEMOs), after consulting the relevant stakeholders, will start the process in Winter 2024.

Target group

This consultation is addressed to all interested stakeholders, including but not limited to: developers, offtakers, utility companies, sector associations, NEMOs, TSOs, business and legal advisors, academics, etc.

Contact and deadline

The contact point for this consultation is: PPA.assessment@acer.europa.eu.

All interested stakeholders are invited to submit their comments by **18 July 2024, 17:00 (CET)**.

Data protection

ACER will process personal data of the respondents in accordance with [Regulation \(EU\) 2018/1725](#), taking into account that this processing is necessary for performing ACER's consultation tasks.

More information on data protection is available in ACER's [data protection notice](#) and on [ACER's website](#).

ACER will not publish personal data.

☒ Please confirm that you have read [the Data Protection Notice](#)

Confidentiality

Following this consultation, ACER will make public:

- the number of responses received;

- company names, unless they should be considered as confidential;
- all non-confidential responses; and
- ACER's evaluation of responses. In the evaluation, ACER may link responses to specific respondents or groups of respondents.

You may request that the name of your company or any information provided in your response is treated as confidential. To this aim, you need to explicitly indicate whether your response contains confidential information.

You will be asked this question at the end of the survey.

☒ I have read the information provided in this section.

How to navigate through the survey

When providing your input to the questionnaire, please consider the following guidance:

Stakeholder Identification

At the next step, you will be asked to identify the type of stakeholder you represent, categorized as follows:

Group 1: Market Participants (e.g. offtaker/corporate energy buyer, developer, utility company, etc.)

Group 2: Entities Supporting Market Participants (e.g. advisory, trade association, legal service, etc.)

Group 3: Other Relevant Stakeholders (e.g. NEMO, TSO, DSO, academia, think tank, etc.)

Based on your role in the market, you will be asked tailored questions.

Definitions and Clarifications

For the purpose of this public consultation, ACER is using the definition of Power Purchase Agreements (PPAs) included in the Electricity Market Design Reform, which states that:

“Power Purchase Agreement” or “PPA” means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis.”

Throughout the survey, “**existing voluntary template PPA contracts**” hereafter referred to as ‘existing voluntary templates’ refer to the industry associations PPA contract templates (e.g., EFET, ISDA), and national ones. Such contract templates are freely available to interested parties willing to enter a PPA agreement. “**In-house templates**” refers to those templates created and developed internally by companies and not available to the public.

Providing Comprehensive Feedback

Please support your responses with arguments. ACER's final assessment will be based on the provided reasoning, helping us to better understand the current market needs.

Need Assistance?

We appreciate your participation and effort in this consultation. If you have any questions or require assistance, please contact our team.

Your detailed and well-reasoned feedback is crucial for us to accurately assess the market's needs. Thank you for your valuable contribution.

Respondent's data

* Country

Belgium

* Company's name

50 character(s) maximum

Eurelectric

* Email address

This information will not be published.

cgruber@eurelectric.org

* Area of business

- ☐ Developer
- ☐ Utility Company
- ☐ Trader
- ☐ Off-taker
- ☐ Legal Service
- ☐ Advisory
- ☐ Transmission
- ☐ Distribution
- ☐ NEMO
- ☐ Portfolio Manager
- ☐ Academia
- ☐ Think tank
- ☒ Other

* In which of the following categories would you identify your area of business?

- ☐ **Group 1: Market participants** (e.g. offtaker/corporate energy buyer, developer, utility company, etc.)
- ☒ **Group 2: Entities supporting market participants for PPA business-related topics** (e.g. advisory, legal services, trade association, bank, etc.)

☐ **Group 3: Other relevant stakeholders** (e.g. NEMO, TSO, DSO, academia, think tank, etc.)

Have you ever signed a PPA or are you currently in the process of negotiating a PPA?

- ☐ Yes.
☐ No.

Consultation questions - Module B

You are kindly invited to state your position on the following statements:

	Strongly disagree	Disagree	Neutral	Agree	Strongly agree
If there were more availability of, or adaptations of existing voluntary template PPA contracts, it would be easier for market participants to sign a PPA contract.	☐	☒	☐	☐	☐
Existing voluntary template PPA contracts reduce market participants' costs for signing PPA contracts (e.g. legal-wise, commercial-wise, business-wise, etc.).	☐	☐	☐	☒	☐
Existing voluntary template PPA contracts suit all market participants willing to sign a PPA contract.	☐	☐	☒	☐	☐
It is possible to develop a single template contract which suits the needs of all potential parties of a PPA.	☒	☐	☐	☐	☐
Existing voluntary template PPA contracts are sufficiently kept up-to-date to represent the evolution of electricity markets.	☐	☐	☐	☒	☐

Based on your experience with the existing voluntary template(s), what do you believe is the most critical issue/difficulty and what mitigation strategy would you suggest to address it?

- ☒ Select this option to provide your written input.
☐ Skip - If you had no experience with voluntary templates, please skip this question.

Please provide your written input

750 character(s) maximum

Existing voluntary PPA templates provide a foundation for negotiations between the interested parties. However, they often require complex modifications, leading to lengthy negotiations. To address this, Eurelectric believes that voluntary templates must be industry-led and easily adaptable to accommodate modifications, project-specific needs, and local regulations. Eurelectric believes that if done well, voluntary contractual standardisation for PPAs, can streamline processes without compromising the bespoke nature of PPAs or the development of tailored products that meet specific requirements.

Consultation questions - Module C

Is it possible to put in place a template contract which would enable easier trade of PPAs – in pursuit of better electricity market functioning and a smooth and rapid energy transition?

- ☐ Yes, market platforms already trade PPAs where possible.
- ☐ Yes, it is possible to create a template contract for an off-the-shelf PPA product.
- ☒ Yes, but this should always be voluntary because bespoke negotiated PPAs must always be an option for market participants.
- ☐ No, PPAs are very difficult to standardise.

Is the lack of suitable current voluntary template PPA contracts on the market today a major barrier for further unlocking the PPA market?

- ☐ Yes.
- ☒ No.

Since you believe that the status of existing voluntary templates does not constitute a barrier for further unlocking the PPA market, would you find it beneficial to have other actions, such as:

- ☒ Periodic workshops for knowledge sharing purposes, jointly organized with key-stakeholders (e.g. EFET).
- ☐ Regular updates of existing templates to fit the evolving market's needs.
- ☐ Other template(s)-related suggestions, please specify.

General comment

You are kindly invited to share your views on the topic.

1250 character(s) maximum

Current industry-led voluntary contractual standardisation initiatives, offer several benefits including in some cases lowering transaction costs when negotiating PPAs and facilitating references for cross-border PPAs. However, we must emphasise the importance of tailoring PPA contracts to individual needs, which makes contractual standardisation challenging.

To complement industry-led voluntary contractual standardisation initiatives, the ACER and NRAs shall promote and develop informational initiatives and issue guidance to assess best practices, streamline approval procedures and reduce administrative burdens. While voluntary contractual standardisation may reduce complexity, particularly for smaller offtakers, several more pressing barriers need to be addressed.

To facilitate the uptake of PPAs, Eurelectric recommends the following solutions:

- Address credit & counterparty risk by implementing guarantee schemes for offtakers in a non-discriminatory manner across different sectors
- Provide a stable regulatory environment (minimising market interventions)
- Provide guidance to shorten administrative procedures
- Ensure timely grid connections

Confidentiality question

* Does your response contain confidential information?

☐ Yes.

☒ No.

Contact

ppa.assessment@acer.europa.eu

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



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