POSITION

Subject: FEBEG comments on ELIA's public consultation on the Low Carbon Tender functioning rules

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FEBEG thanks ELIA for having the opportunity to react to the formal public consultation on the Functioning Rules for the tender for low carbon capacities (LCT)[1]. The inputs and suggestions of FEBEG are not confidential.

General comments on the impact of the LCT on the CRM should be carefully assessed

In its reaction to the public consultation of the LCT design note, FEBEG has expressed its concerns about the organization of such tender, open to new low-carbon technology only and therefore not technology neutral. While FEBEG can only support Belgian Authorities in taking measures to ensure the security of supply in the future, the sector urges the authorities to carefully anticipate the needs in terms of (new) capacity in the future and to ensure a favourable investment climate for existing assets. In particular, FEBEG has often warned about the important volumes reserved for the Y-1 auctions, the (too) optimistic view on the contribution of neighbouring countries as well as the risks of excluding certain thermal capacity out of the CRM due to strict CO_2 emissions' limit.

With the LCT tender, FEBEG wants to point out that the authorities continue to take decisions, e.g. on energy mix, that are impacting existing business cases and are negatively impacting the investment climate as these decisions undermine investors' confidence. In addition, authorities should be aware that, by organizing ad-hoc tenders, the willingness of market parties to bid in T-4 auctions may be further reduced. FEBEG observes that, since the CRM was launched, the rules are evolving quite rapidly. While FEBEG supports the correction of design 'deficiencies' negatively impacting market parties (cfr. proposal to adapt the indexation formula of the strike price, review of the IPC derogation process), it also observes that the mechanism is not stable at all.

[1] https://www.elia.be/en/public-consultation/20230113_formal-public-consultation-on-the-functioning-rules-for-the-tender

On impact on future auctions

FEBEG is of the opinion that the capacities contracted for several years in the frame of the low carbon tender 2024-2025 should be reduced from the volume Y-1 reserved capacity for delivery year 2027-28, and not from the volume open in Y-4. FEBEG considers this practice would be coherent with the initial objective of the Y-1 auction, for which a volume is specifically "reserved", targeting capacities with shorter lead-time, such as batteries and DSR. Indeed, no doing so would imply that the room for additional capacities in the Y-4 2027-28 could potentially be significantly reduced while the gap in the T-1 for 2027-28 will remain huge (1,2 GW). This implies too much risks for the SoS and is not a good-father practice according to FEBEG.
Therefore, at the very minimum, FEBEG proposes to not change the volume to contract, according to the future Ministerial Decree, that will be determined by the Minister for the T-4 2027-28 and to reduce the volume contracted with multi-year contracts from the reserved volume for T-1 auction.

Regarding the use of LCT to attract new batteries' projects

As mentioned in the design note, FEBEG fears that the competition in the LCT auction, and actually also in other T-1 auctions, will be very limited, which may increase the costs of such auction and, hence, the cost for society. Indeed, potential CRM Candidates may face various issues which may prevent them to offer in the LCT:

- **Lead time of 12 months between auction results and start of the LCT is too short**: the current lead time is longer than one year for the construction, erection and commissioning of large scale BESS projects. Considering that the permit, the land lease, the grid connection and the supply of the equipment are secured through contract at the *"Notice to Proceed" (NTP)*, the current term between the Notice to Proceed (NTP) and the Commercial Operation Date (COD) is between 14 to 17 months. If the planning is not adapted, an investment decision with significant CAPEX spending will have to be made before the auctions' results which may strongly reduce the appetite of some market parties to participate in the auction.

- **The conditions to obtain a long term contract are not appropriate**: even if the market party would take the risk to spend significant CAPEX before the auction's results, the conditions to obtain a long-term contract are limiting the access to those contracts given that (i) CAPEX spent before the auction's results are not eligible and (ii) the notice to proceed of the investment needs to be given after the auction's results.

- **Permitting**: FEBEG considers that the rules regarding the obtention of the permit may also reduce the competition in the auction.

- **Connection to the grid of storage assets**: FEBEG also sees a risk of limited competition in the auction due to connection constraints on the grid. Timely obtaining a connection to the transmission grid can be complex for project developers due to congestion issues. Storage assets are considered as injecting in the worst grid configuration for injection and off taking in the worst grid configuration for offtake. This approach makes storage assets highly subject to grid congestion and completely neglects their positive impact on grid integration.

Detailed comments

FEBEG's feedback on the consultation on the CRM Functioning Rules v3 applies globally also on the CRM & LCT Functioning Rules. In particular the strike price indexation is also of an uttermost important matter for the LCT FR.

Pre-qualification

- §1045. The 'not in service' check for eligibility is mentioned only in this article: "…if the unit is considered as not "in service" at the moment of Prequalification File submission deadline". There should also be a check at the auction closing gate (or in coherence with §1083).

- §1054. The NRP determination for DSM units is based only on the difference between the maximum offtake and the Unsheddable Margin. As far as we understand it, Pre-delivery Measured Power is determined in the same way as the NRP. No real activation is therefore needed, it can be considered as purely declarative (based on the declaration of the Unsheddable Margin). In the normal CRM Functioning Rules, NRP and Pre-delivery Measured Power are determined on the basis of the difference between a baseline and the maximum between the measured power and the Unsheddable Margin. This is also the case to determine Existing DSM in the LCT Functioning Rules. This demonstrates at least the capability to reduce the offtake power. We do not see the reason not to check this capability for the LCT.

  It is of upmost importance for FEBEG that the volume of existing DSM is correctly computed in order to ensure that only <u>new</u>, proven DSM (not yet participating to any market) are eligible to the LCT. Else, it would be totally discriminatory for other existing capacities, low carbon or not, that cannot participate to this auction. Also, any additional qualitative assessment needs to be carefully considered: it can only be a neutral party chosen by ELIA and for which the costs are charged to the CRM Candidate. This is necessary to limit the conflicts of interest.

- §1083 – We understand that ELIA will correct the volume to be purchased with any new derated capacity 'put in service' between the publication of the grid operator report in the context of the LCT and the auction opening gate. We propose to make the end-date more explicit in this paragraph in line with comment made in §1045.

  Does ELIA, in its grid operator report in the context of the LCT, only take into account the batteries according to the same definition as "put in service" in the LCT Functioning Rules?

Auction

§250. We regret that it is not possible to submit exclusive bids for long term contracts in the LCT(or Y-1) and the Y-4 auctions organized in the same year: it should be possible that if a bid for a long term contract for a certain CMU is not retained in the LCT (or Y-1) auction, another bid for a long term contract for the same CMU is taken into account in the Y-4 auction.

Pre-delivery monitoring

Definition Permitting Milestone:

- Generally speaking, FEBEG asks ELIA to clarify the pieces that are to be communicated in order to prove that a capacity has reached the permitting milestone. However, FEBEG also asks ELIA to check with the relevant administration/authorities if those pieces can effectively be delivered (e.g. proof that no appeal has been introduced, …).
- Permits linked to infrastructure works, which are not under the control of the Capacity Provider, cannot be part of the documents to be requested to reach this milestone.

Process to change from additional CMU or virtual CMU to existing CMU

FEBEG points out to the modalities of the pre-delivery monitoring in the Functioning Rules. It is currently provided that on 31/10/2024, a pre-delivery $Tcontrol_2$ will be performed by ELIA where the contracted power will be measured. However, the Capacity Provider will have to start, in parallel, the process to become existing. FEBEG does not agree that the Capacity Provider needs to start the process to become existing by 15/06: as it was foreseen in the Functioning Rules V1 and V2, the Capacity Provider should be able to start the process anytime and ensure that ELIA is able to measure the contracted capacity in $Tcontrol_2$ to avoid pre-delivery penalties. ELIA should, in any case, facilitate the process to become existing to avoid any additional financial impact on the Capacity Providers.

Availability monitoring

For energy-limited capacities, FEBEG asks ELIA to ensure that the rules do not negatively impact the economic dispatch of the assets in the electricity market. E.g. for a CMU with daily schedule, the absence of production during any or each AMT Moment of a day should not be penalized as long as the CMU is available according to its daily schedule.

Payback obligation

FEBEG thanks ELIA for the progress made on the strike price indexation and refers to the comments provided in the consultation organized by ELIA on the CRM Functioning Rules. In particular, for storage assets, the revenues are mainly linked to the spread between peak and off-peak prices, and not to the average electricity price on the day-ahead market. Actually a better approach could have been to link the strike price to a maximum spread above which a payback obligation is due. FEBEG also recommends that the formula is tested for energy-constrained CMUs with daily-schedule as we fear that the formula could induce in some cases higher payback amounts per contracted MW than for non-energy constrained assets (the impact of the derating factor could be more important than the limitation of the payback obligation to SLA hours).

Cross-border participation

Implicit participation of cross-border capacity in the CRM can never become a rule and can only be an exception for the LCT given the circumstances (being the organization of an ad-hoc targeted auction at very short notice). In particular, implicit cross-border participation cannot become a rule for a future T-1 auction as in the initial design of the CRM and related regulatory framework, ELIA has to organize the possibility for capacity located in neighbouring countries to actually participate in the auctions and be contracted in the Belgian CRM.