

Subject: FEBEG comments on ELIA's public consultation on the Low Carbon Tender design note

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FEBEG thanks ELIA for having the opportunity to react to ELIA's Public consultation on the Low Carbon Tender design note<sup>1</sup>. The inputs and suggestions of FEBEG are not confidential.

## Executive summary

FEBEG has always pleaded for a strong base of capacities located in Belgium to ensure the security of supply in the long run. In this respect, FEBEG also has and continues to plead for sufficient "local" margin allowing the country to face events limiting the import capabilities such as unavailability of capacities abroad, minRAM not reached, change in foreign policies, .... Indeed, when it comes to power generation capacity, there are not so many short-term solutions bringing significant MW's to palliate complex problems. The recent stop of a large part of the French nuclear fleet and the consequences of the war in Ukraine demonstrate that having sufficient national capacity was actually beneficial for the country.

Therefore, **FEBEG also shares the concern of Belgian authorities for the winter 2024–2025**. The lack of capacity was actually identified already in 2021 in the last ELIA adequacy and flexibility study and may even be exacerbated by the recent events on the electricity market. FEBEG can understand the willingness of authorities to secure sufficient local capacity in order to ensure the security of supply of the country but deplores the very late political consideration of this problem.

However, **FEBEG deplores the way the problem has and is being treated and cannot support as such the proposed "quick fix" solution being the Low-Carbon Tender (LCT)**. Security of supply is a serious matter and implies the implementation of robust and fair solution for market parties. FEBEG is wondering if, with the LCT, authorities are not trying to solve actually two issues: (i) the missing capacity in 2024–2025 but also (ii) the significant volume reserved for the Y-1 auction for delivery years 2025–2026.

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<sup>1</sup> [https://www.elia.be/en/public-consultation/20221014\\_public-consultation-on-the-low-carbon-tender-design-note](https://www.elia.be/en/public-consultation/20221014_public-consultation-on-the-low-carbon-tender-design-note)

Authorities should also be aware that, by **organizing a ‘last-minute’ targeted auction, they are breaching the justified expectations created at market parties and investors, which heavily undermines the investment climate and increase the perceived regulatory risks in Belgium.** The targeted auction will not only impact the business case of capacities already contracted in the CRM but also changes the competitive landscape of future auctions. These side effects are not acceptable for FEBEG and cannot become a precedent.

For these reasons, FEBEG cannot support the proposed modalities of the targeted low-carbon auction:

- **On the need:** the LCT is already being designed and developed without the need for a LCT being clearly demonstrated and clarified also in light of the challenge to find the remaining volumes in the Y-1 auction for delivery year 2025–2026;
- **On the technology neutrality:** there is no reason to deviate from the current CO2 emission limits and to limit the LCT to new capacity;
- **On the impact on existing business cases:** the new capacities introduced by the targeted tender will impact the business case of existing capacities and capacities already contracted in the CRM for delivery years 2025–2026 and onwards;
- **On the impact on future auctions:** the auction for DY 24–25 cannot impact future auctions, and especially not the T-4 2027–28;
- **On the risk of limited competition in the LCT:** FEBEG fears that the modalities of the LCT auction will reduce the competition in this auction.

**On the contrary, FEBEG pleads for a solution that is (i) proportionate, (ii) not discriminatory in terms of technology and types of capacities (new and existing), (iii) not market distortive, (iv) interfering the least possible with future CRM auctions and (v) ensures sufficient competition in the auctions.**

For the future, FEBEG calls authorities to further anticipate capacity needs by (i) reviewing the volume split between the T-4 and T-1 auction, allowing to secure more new capacity in the T-4 and avoid taking ad-hoc remedial actions and (ii) reviewing the hypothesis in terms of contribution of foreign capacity to secure sufficient margin on the Belgium territory.

## The impact of the LCT on the CRM should be carefully assessed

### On the need for a LCT

FEBEG is very surprised to see that the LCT is already being designed and developed without the need for a LCT being clearly demonstrated and clarified, also in light of the challenge to find the remaining volumes in the Y-1 auction for delivery year 2025–2026.

Indeed, the lack of capacity was actually identified already in 2021 in the last ELIA adequacy and flexibility study and might be exacerbated by the recent events on the electricity market. It should nevertheless be pointed out that **at the moment of the identification of the missing volume for 2024–2025 no action has been undertaken.**

As mentioned in its reaction to the public consultation on the techno-economic study of the bids and the results of the first CRM auction, FEBEG has strong doubts that, given the high participation of batteries and DSM in the 2021 Y-4 auction, sufficient volume of (cheap) DSM or batteries will still be found in the Y-1 auction. Indeed, a significant part of the potential of DSM and batteries, as identified by ELIA in its last adequacy and flexibility study, has already participated in the Y-4 auction.

For the abovementioned reasons, **FEBEG is wondering if, with the LCT, authorities are not trying to solve actually two issues: (i) the missing capacity in 2024–2025 but also (ii) the significant volume reserved for the Y-1 auction for delivery years 2025–2026.** As this cannot be the objective, it should be clearly demonstrated and clarified that the LCT for 2024–2025 is a proportionate measure for the issue to be solved for 2024–2025.

### On technology neutrality

One of the basic principles of the design of a capacity remuneration mechanism is its technology neutrality. **The LCT excludes existing capacities from participation which will not only increase the cost for society – as only new capacities are eligible for participation – but which is also clearly a discrimination.** At this moment, there's not any clarification or justification that such a discrimination would be proportionate to the objectives to be reached.

On top of that, the evolution of the proposed CO<sub>2</sub> emission limits for participation to the CRM is unacceptable **The CO<sub>2</sub> emission limits that are applied up till now seem to be at random, discriminatory and are difficult to explain:**

- **delivery year 2024–2025:** specific emission limit of 29 g CO<sub>2</sub>/kWh;
- **delivery year 2025–2026:** specific emission limit of 550 g CO<sub>2</sub>/kWh or annual budget of 350 kgCO<sub>2</sub>/kWe for the Y-4 auction but not longer for the Y-1 auction for the same delivery year;
- **delivery year 2026–2027:** specific emission limit of 550 g CO<sub>2</sub>/kWh.

The lack of clear trajectories for the evolution of CO<sub>2</sub> emission limits by delivery period – applicable for both the Y-4 and Y-1 auction for a delivery period – is clearly undermining the investment climate.

FEBEG also notices that references to specific technologies, like batteries and Demand Side Response (DSR), are made in relation to the low carbon tender while the design note mentions that for the LCT, the specific emission limit is set at 29 g CO<sub>2</sub>/kWh.

### On the impact on existing business cases

FEBEG considers it important 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. This is also true for the LCT.

As mentioned previously, the additional capacities that should materialize following the low carbon tender are expected to mainly be DSR and batteries. **These additional capacities will inevitably negatively impact the business cases of existing capacities and the capacities already contracted in the CRM.** In particular, with the increased volume of batteries, the revenues from the ancillary services market will be lower than expected. This impact must also duly be considered when calculating the relevant CRM parameters for the upcoming auctions but also the revenues in the framework of the IPC derogation.

In addition, **the LCT may further reduce the willingness of market parties to bid in T-4 auctions:** FEBEG observes that, since the CRM was launched, many new rules have been added or are now proposed to be changed. While FEBEG supports the correction of design 'deficiencies' negatively impacting market parties (cfr. ongoing discussions on the payback obligation), it also observes that the mechanism is not stable at all.

For instance, authorities are proposing to reduce CO<sub>2</sub> limits to participate in the CRM limiting the possibility for existing thermal plants to count on CRM for investments over the longer run, new functioning rules are, by default, applied retroactively (with some limited exceptions applied), ad-hoc targeted auctions could as from now be integrated 'en-cours de route', impacting the business case of the market parties that have bid. In this context, **how can market parties still have confidence on the legal and regulatory framework to make their business case? Will those specific recurrent auctions not become more frequent? Will the legal and regulatory framework continue to (retroactively) change?**

### On impact on future auctions

Considering that the Y-1 auction, for which a volume is specifically “reserved”, is targeting capacities with shorter lead-time, such as small batteries and DSR, or that prefer not to commit in the Y-4, FEBEG believes that the capacities contracted in the frame of the low carbon tender 2024-2025 should be reduced, in function of their contract duration, from the Y-1 capacity for the upcoming CRM auctions. Indeed, no doing so would risk to have an important volume reserved for Y-1 auctions while an important part of the targeted capacities would already be captured by the low carbon auction.

Therefore, at the very minimum, FEBEG proposes to not change the volume that was computed for the T-4 and to reduce the volume contracted with multi-year contracts from the reserved volume for T-1 auction.

### On the risk of limited competition in the LCT

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, candidate capacity providers may face various issues:

- **Obtention of a long term contract:** with the current context of tension on the market and availability of raw material, realizing a storage project in less than 12 months between the notice to proceed and the commissioning is extremely challenging for the LCT or for any T-1 auction actually.
- **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. FEBEG invites Elia and the authorities to reflect on alternative mechanisms to foster the development of storage and solve congestions issues.

## Detailed comments

- Page 5: ELIA’s design of the LCT is inspired by the CRM design and only the design choices deviating from the CRM rules are discussed. FEBEG assumes, hence, that no other deviations from the CRM rules are foreseen. Anyhow, if there would still be other deviations, the current consultation would not be complete.
- Page 9: While the emission threshold is clear, FEBEG is wondering – taking into account the technology neutrality – what technologies would not be ‘within the set of eligible technologies’.
- Page 9: The definition of ‘new build’ in the LCT is different than the one in the Functioning Rules. As no deviation is foreseen, the new build capacities also need to sign the waivers. So, it is possible that a project that is under construction still loses its connection?
- Page 9: The concept ‘in service’ is not explained. Is the criterion metering? Does it mean that a capacity can be additional at the moment of the prequalification but existing at the moment of the auction? How will this work – also in the perspective of the definition of non-discrimination – as several concepts are linked to this status: bank guarantee, contract duration, pre-delivery control, etc?
- Page 9–10: FEBEG regrets the exclusion of existing capacities. In this context, FEBEG would like to avoid that another discrimination would be added, i.e. capacity already existing because active in the market would be able to prequalify as new. Therefore, FEBEG supports the criteria for the identification of ‘new capacities’.
- Page 12: Capacities contracted under the CRM can participate in the LCT. Although FEBEG doesn’t object this principle, it leads to a discrimination between technologies as, for example, the CO<sub>2</sub>-emission limits are different. Speeding up a contracted battery project allows participation in the LCT, but speeding up a gas turbine project does not.
- Page 14: FEBEG proposes to not change the volume that was computed for the T-4 and reduce the volume contracted with multi-year contracts from the reserved volume for the T-1 auction (see main comments).
- Page 17: How will it work when a holder of additional capacity wants to participate in both the LCT as the Y-4 auction in 2023 with the same capacity? The capacity can be elected twice (which is explained in 9.1), but the eligibility criteria are different. He needs to submit two prequalification files and two investment files?
- Page 18: As stated by ELIA the prequalification requirements need to be aligned with the legal framework... What modifications is ELIA expecting to do? Will there be significant modifications? Will market parties be informed upfront?
- Page 19: ELIA states that the same rules for the financial guarantee applies... How will it work for a CMU changing status from ‘not in service’ to ‘in service’?

- Page 19: ELIA states that there's no bidding obligation and, hence, not an obligation for an opt-out. So, also, no opt-out for a longer term contract. How will the volume that is *de facto* opt-out taken into account for future volume calculations?
- Page 20: As regards the auction clearing, ELIA doesn't explain how the grid constraints are taken into account (see also previous comment on waivers). If necessary, non-selected capacity holders will lose their connection capacity?
- Page 20: Will the same tie break rules apply?
- Page 21: What does the status 'not in service' or 'in service' mean for the pre-delivery control? How will it work for an already contracted capacity that is, for example, in a predelivery control period up to the first delivery period 2025-2026. Will this party have the double control? Which of the two will be applied? How to avoid discrimination?
- Page 26: The concepts 'not in service' and 'in service' are not defined. It is not clear to what extent they will be different from 'new' and 'existing'.