

# **LOW CARBON TENDER (LCT)**

## **FUNCTIONING RULES**

### **Cover note for the Public Consultation by Elia**

January 13th 2023

## COVER NOTE INTRODUCTION

As part of the long-term measures included in the Winter Plan introduced by the federal government on 15 July 2022, and as presented by the cabinet during the Working Group Adequacy of 25 August 2022, the Minister of energy has instructed Elia to prepare a targeted tender for demand response and storage as one of the measures to ensure security of supply in 2024-2025.

Elia has drafted the Low Carbon Tender (LCT) Functioning Rules after a public consultation of an LCT design note. The design note as well as the consultation report are available on the website of Elia<sup>1</sup>. These LCT Functioning Rules are integrated as a separate chapter (cf. chapter 18) of the Capacity Remuneration Mechanism (CRM) Functioning Rules.

As of January 13<sup>th</sup> 2023, a public consultation on the LCT Functioning Rules has been launched. This document serves to guide stakeholders through the most notable additions or modifications the LCT Functioning Rules provide to the CRM Functioning Rules. It is intended to be used alongside the published document, as a supportive compendium. Every following chapter addresses the amendments to the CRM rules in chapter 18 of the functioning Rules: "*Low Carbon Tender*", as well as the changes made to chapters 1 to 17. After the LCT Delivery Period, Chapter 18 will be phased out of the CRM Functioning Rules, where possible. In case no significant changes were made to a chapter, the word "null" is used.

Elia submits to CREG and to the Directorate General for Energy the proposed LCT Functioning Rules by March 1 2022. CREG will decide by May 15 2022 on a single version of the Functioning Rules including both the CRM and LCT. It should be noted that the LCT Functioning Rules have been built upon the CRM Functioning Rules which Elia has put up for public consultation between 25/11/2022 and 04/01/2023. Any change to the CRM Functioning Rules following the public consultation shall be merged with the LCT functioning Rules before submission to the CREG. Please note the validation of the CRM's Functioning Rules version 3 is an ongoing process at the time of writing, and as such, the feedback from its public consultation and CREG still needs to be incorporated. For changes between the CRM's Functioning rules version 2 and 3, we refer to its respective Cover Note<sup>2</sup>.

The table below summarizes the key milestones related to the Functioning Rules:

| <b>Date</b>             | <b>Topic</b>   |
|-------------------------|--|
| 25/11/2022 – 04/01/2023 | Public consultation on the CRM FR.                                     |
| 13/1/2023 – 10/02/2023  | Public consultation on the LCT FR.                                     |
| 01/02/2023              | Elia submission of CRM FR to the CREG.                                 |
| 01/03/2023              | Elia submission of CRM + LCT FR to the CREG.                           |
| 15/05/2023              | Publication of final version of the CRM + LCT FR by the CREG and Elia. |

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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)

<sup>2</sup> <https://www.elia.be/en/public-consultation/20221125-formal-public-consultation-on-the-crm-functioning-rules>

The changes listed in this document are selected based on perceived impact and are in no way an exhaustive overview. This document is by no means legally binding.

For an exhaustive overview of all changes made by adding the LCT Functioning Rules to the CRM Functioning Rules, please refer to the Track-Changes Version of the LCT Functioning Rules Rules<sup>3</sup>, published alongside this document on January 13<sup>th</sup> 2023.

## 1 INTRODUCTION

### Changes to CRM Chapter 1: Introduction

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### Amendments in Section 18.1.2: Introduction

The introduction provides an overview of how Chapter 18 is structured, as well as an overview of the legal framework applicable to the LCT.

Note that at the moment of writing the LCT Functioning Rules, no formal legal framework on the design and implementation of the LCT is in place. Therefore, at several places in the LCT Functioning Rules, where Elia deems relevant, a placeholder with a reference to an updated version of the Electricity Law is inserted. Elia assumes that the necessary regulatory changes will be adopted at the moment of publication of the final version of the CRM and LCT Functioning Rules (May 15 2023).

## 2 GENERAL PROVISIONS

### Changes to CRM Chapter 2: General Provisions

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### Amendments in Section 18.2: General Provisions

The LCT context's relationship to the CRM Functioning Rules is detailed. It explains that -potential- LCT participants preserve the same rights and obligations as CRM actors, and follow the same rules, unless stated otherwise.

## 3 DEFINITIONS

### Changes to CRM Chapter 3: Definitions

Several definitions were updated to allow for compatibility of the LCT and CRM frameworks (3.1). These include Auction, Calibrated Strike Price, Capacity Category, Capacity Contract, Global Auction Price Cap, Intermediate Price Cap and Last Published Derating Factor.

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<sup>3</sup> <https://rd.eliagroup.eu/PC-Functioning-rules-for-the-tender-EN>

New definitions (Existing DSM and Low Carbon Tender) used for LCT purposes were added (3.1), as well as the abbreviation 'LCT'.

#### **Amendments in Section 18.3 Definitions :**

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## **4 SERVICE TIME SCHEDULE**

#### **Amendments in Section 18.4: Service Time Schedule**

The section clarifies the timings that are specific to the LCT. Other than that, the CRM timings as summarized in Chapter 4: Service Time Schedule apply.

## **5 PREQUALIFICATION PROCESSES**

#### **Amendments in Section 18.5: Prequalification Processes**

As the LCT is focused on contracting low carbon capacities that are not considered to be contributing yet to adequacy during the Delivery Period of 2024-2025 (the LCT Delivery Period), several eligibility criteria and the volume determination methodology (to establish the Eligible Volume on CMU basis) applicable for the LCT are different than for CRM purposes. Section 18.5 addresses these changes in eligibility criteria and the specific volume determination methodology targeted. The main points are the following.

First, the Directorate General for Energy has determined a CO<sub>2</sub> threshold applicable to all technologies, including generation capacities, energy storage that directly connected to a generation unit and on site back-up generation linked to demand response to ensure that only low-carbon technologies participate to the LCT. Every CMU with CO<sub>2</sub> emissions that falls below this threshold is eligible for the LCT.

Next, given that only capacities that are not considered as contributing to adequacy yet can participate to the LCT, the following additional eligibility criteria are defined in function of the technology type.

For generation and energy storage units: Only capacities that are not "in service" yet at the moment of the Prequalification File submission deadline are eligible. Following feedback received during the public consultation on the design note, a detailed 'in service' definition is added, encompassing a definition for both TSO- and DSO-connected capacities.

This "in service" definition will be used to perform an additional eligibility check for participation of such capacities in the LCT. However, the definition "New Build" as defined in the CRM is still used for all aspects of the LCT that are not related to eligibility. The "in service" check takes place on unit level, while the "New Build" definition applies on CMU level.

For DSM Delivery Points, following feedback from the public consultation on the design note, the eligibility criteria for demand response have been broadened compared to Elia's initial proposal. A principle of "Partial Exclusion" is proposed, excluding Delivery Points from providing a specific portion of their capacity according to what has been identified to be already 'in the market' before the LCT. However, still allowing to bid in additional capacity on top of what has been identified as 'in the market'.

For this purpose, an additional term called "Existing DSM" is introduced, which is calculated during the Prequalification Process based on historical data using a baselining methodology. This methodology is based on the methodology to be used to determine the Nominal Reference Power of DSM Delivery Points in the CRM. This "Existing DSM" term maps the capacity for each Delivery Point that has already been seen in the market and can thus not be considered as "new". After selection in the LCT Auction, each

DSM Delivery Point must on top of their offered capacity, also provide this “Existing DSM”. The implications of being obligated to provide this capacity are mentioned in their respective sections (mainly pre-delivery, availability monitoring and secondary market).

Following the public consultation on the design note, Elia is also investigating to allow Capacity Providers to contest the value of this “Existing DSM” that has been determined based on the quantitative methodology, possibly by letting an independent third party perform a qualitative analysis. At this time the feasibility of such approach is not yet known.

The volume determination process is different for DSM Delivery Points to take into account the “Existing DSM”. The Nominal Reference Power for these Delivery Points is determined based on maximum offtake and a declared Unsheddable Margin. The Reference Power for the CMUs with DSM Delivery Points is calculated by additionally subtracting the “Existing DSM” from the Nominal Reference Power.

Other changes to the Prequalification Processes also include the fact that there is no need for a fast-track process nor an opt-out notification due to the fact that there is no obligation to submit a Prequalification File for the LCT. The specific Prequalification Process is available, but can only be used to prequalify VCMUs to develop low-voltage flexibility.

## 6 AUCTION PROCESS

### Changes to CRM Chapter 6: Auction Processes

#### Bid Submission

The Functioning Rules have been elaborated to describe the modalities with respect to the submission of Bids that relate to the same CMU in different Auctions that are organized in the same year, e.g. in the Y-4 and LCT Auction organized in 2023. Bids related to the same CMU in both Auctions are allowed, as long as the Bids are completely independent – i.e. the validity of a Bid in one Auction does not depend on the (non-)selection of a Bid in the other Auction, apply for a multi-year contract in only one of the two Auctions, and if the Bids do not have overlapping Transaction Periods.

#### Auction clearing

A different optimization methodology has been added to the CRM Functioning Rules that will apply to all Y-1 Auctions and to the LCT Auction. This optimization methodology seeks for a solution in which the combined volume of the Bids covers at least the Demand Curve (if applicable, after corrections), at minimal cost.

Note that if the optimization methodology would result in multiple equivalent solutions, the same tie-breaking rules will apply as already exist in the context of Y-4 Auctions.

### Amendments in Section 18.6: Auction Processes

Section 18.6 specifies mainly two elements.

First, in the LCT auction there is no obligation to bid in the entire (Remaining) Eligible Volume at least once. Compared to the CRM in which the (Remaining) Eligible Volume is to be lowered if needed by means of an Opt-out Volume, in the LCT the candidates can freely choose their Bid volume, although obviously still capped to the (Remaining) Eligible Volume.

Second, the CRM rules regarding the corrections and adaptations to the Demand Curve do not apply towards the LCT because there is no Opt-out Notification possibility and there cannot be any already contracted volumes for which the Derating Factor changes and hence may require a volume correction.

However, instead, the volume to be purchased in the LCT will be reduced in case capacities are put “in service” since the calibration of the LCT demand.

## 7 CAPACITY CONTRACT SIGNATURE

### Changes to CRM Chapter 7: Capacity Contract Signature

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### Amendments in Section 18.7: Capacity Contract Signature

Section 18.7 addresses the contractual modalities for the LCT. A separate LCT Capacity Contract template will be approved by CREG, following the same terms and conditions as for the CRM.

Moreover, in case of a multi-year Capacity Contract under the LCT, the LCT Capacity Contract is transferred into a CRM Capacity Contract as of the second Delivery Period.

The detailed impact of the LCT on the Capacity Contract template will be subject of a separate public consultation process on the LCT Capacity Contract template (to be launched in the beginning of February 2023).

## 8 PRE-DELIVERY CONTROL

### Changes to CRM Chapter 8: Pre-Delivery Control

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### Amendments in Section 18.8: Pre-Delivery Control

Section 18.8 states Additional and Virtual CMU’s no longer need to provide quarterly reports during pre-delivery. It addresses the changes in the determination of Pre-delivery Obligation, Pre-delivery Missing Volume, and any potential penalties in the case of Existing DSM.

## 9 AVAILABILITY OBLIGATION

### Changes to CRM Chapter 9: Availability Obligation

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### Amendments in Section 18.9: Availability Obligation

Section 18.9 explains how the Obligated Capacity in both Availability Monitoring and Availability Testing is adapted in the case of Existing DSM. The determination of any potential penalties in case of Missing Capacity is consequently adapted as well.

## 10 SECONDARY MARKET

## **Changes to CRM Chapter 10: Secondary Market**

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### **Amendments in Section 18.10: Secondary Market**

As opposed to the CRM, the Prequalification Process for participation in the LCT Secondary Market is not organized in a continuous way. Therefore, access to the Secondary Market for transactions covering the LCT Delivery Period is limited to CMUs that were successfully prequalified during the Prequalification Process preceding the Auction.

It should be noted that a multi-year contract in the LCT is transformed into a CRM Contract from the 2<sup>nd</sup> Delivery Period. Hence, the same framework and modalities will apply for the Secondary Market from that moment. Therefore, as of the 2<sup>nd</sup> Delivery Period, the Prequalification Process for participation to the Secondary Market is organized in a continuous way, in line with the CRM.

Section 18.10 also addresses how the determination of the Secondary Market Remaining Eligible Volume (SMREV) is adapted for an energy-constrained CMU with a DSM Delivery Point in the case of Existing DSM. Also, as there is no opt-out notification possible, Opt-out Volumes are always equal to zero in the SMREV calculation. Finally, it is specified that the Secondary Market will open at the start of the LCT Delivery Period, i.e. 1 November 2024.

## **11 FINANCIAL SECURITIES**

### **Changes to CRM Chapter 11: Financial Securities**

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### **Amendments in Section 18.11: Financial Securities**

As there is no opt-out notification possibility towards the LCT, but candidates at the same time do not have an obligation to bid in the entire (Remaining) Eligible Volume, there is a need to review the Secured Amount determination towards the LCT. In particular, instead of considering the (Remaining) Eligible Volume as a basis for the FS obligation, towards the LCT the maximum volume that can be selected from all Bids submitted related to a certain CMU will be used as a basis. The underlying principle remains the same though: the FS should cover the maximum expected contracted capacity.

## **12 PAYBACK OBLIGATION**

### **Changes to CRM Chapter 12: Payback Obligation**

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### **Amendments in Section 18.12: Payback Obligation**

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## **13 LIABILITY AND FORCE MAJEURE**

### **Changes to CRM Chapter 13: Liability and Force Majeure**

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**Amendments in Section 18.13: Liability and Force Majeure**

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## **14 DISPUTE RESOLUTION**

**Changes to CRM Chapter 14: Dispute Resolution**

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**Amendments in Section 18.14: Dispute Resolution**

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## **15 FALLBACK PROCEDURES**

**Changes to CRM Chapter 15: Fallback Procedures**

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**Amendments in Section 18.15: Fallback Procedures**

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## **16 TRANSPARENCY AND MOTIVATION**

**Changes to CRM Chapter 16: Transparency and Motivation**

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**Amendments in Section 18.16: Transparency and Motivation**

null

## **17 DIRECT AND INDIRECT FOREIGN CAPACITY PARTICIPATION**

**Changes to CRM Chapter 17: Direct and Indirect Foreign Capacity Participation**

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**Amendments in Section 18.17: Direct and Indirect Foreign Capacity Participation**

Explicit participation of foreign capacities to the LCT is excluded due to the fact that Cross Border Participation is still under development and will not be ready for the LCT. However, the contribution of foreign capacities to the Belgian adequacy is implicitly accounted for in the volume determination process.



## **18 (19) Annexes**

The annexes have shifted from chapter 18 to chapter 19, due to the insertion of the Low Carbon Tender chapter.