

Design elements of renewable energy auctions: how to adapt them to enhance citizen participation

REScoop.eu's response to the call for evidence on the design elements of renewable energy auctions

Introduction

Europe's Green Deal aims to put citizens at the heart of the energy transition by ensuring fairness and inclusiveness. This follows the Clean Energy for All Europeans legislative package (CEP), which acknowledges 'active customers', 'renewables self-consumers', 'renewable energy communities' (RECs), and 'citizens energy communities' (CECs) as distinct market actors in the energy transition. The second generation EU legislation for energy communities, including the REPowerEU Package, the Fit for 55 Package and the revised Electricity Market Design recognize the important role energy communities can play in a lot of different activities in the market, including energy sharing and their contribution to larger projects, such as offshore wind projects.

In addition to the EU legislation promoting equality and a level playing field in the Internal Energy Market (IEM), competition and State aid policy also recognize the specific characteristics of RECs and introduce measures to make sure that they are able to compete with larger actors in renewable auctions.

Moreover, the recently introduced EU Wind Power Action Plan¹ highlights the contribution of wind energy projects into the achievement of the ambitious EU renewable targets and states the importance of non-price criteria in auction design. However, there is no reference to energy communities, their contribution to social acceptance of renewable projects and the need for the Member States to take the specificities of such initiatives into account when they design auctions for onshore and offshore wind projects. Such references should therefore be included in the relevant guidance document that the Commission is preparing, in line with the requirements of the Green Deal.

The EU has determined that RECs are indispensable for a successful energy transition

The Commission based its proposals for an EU framework for energy communities on the premise that acknowledgment and support for particular forms of citizen ownership and involvement in the market is necessary to successfully transition Europe to a clean, decarbonised energy system. In doing so, the Commission noted the significant potential of community ownership of renewables to contribute to a clean energy transition in Europe.² In its Impact Assessment, the Commission noted in particular that while citizens in a few Member States have had the opportunity to enjoy the benefits of community ownership of renewables, most citizens across Europe have not benefited from such opportunities.³

Directive 2018/2001 (Recast Renewable Energy Directive, or RED II) acknowledges that RECs add value in many different ways, including enhancing local acceptance of new renewables projects, increasing the amount of capital available for local investment, choice for consumers, and greater participation by citizens in the energy transition.⁴ The Directive also notes that RECs help address socio-economic issues such as energy poverty, and allow groups like vulnerable consumers and tenants to actively participate in the energy transition.⁵

The CEP explicitly acknowledges the unique characteristics of energy communities and the need to mitigate challenges they face operating in the market. Directive 2019/944

¹ Published by the Commission on 24 October 2023, available at: https://commission.europa.eu/news/eu-wind-power-action-plan-keep-wind-power-european-success-story-2023-10-24_en#:~:text=The%20European%20Commission%20has%20presented,be%20a%20European%20success%20story.

² CE Delft (2016). *The Potential of Energy Citizens in the European Union*. This study found that half of EU citizens – including local communities, schools and hospitals – could be producing their own renewable electricity by 2050, meeting 45% of their energy demand. Available at: https://ce.nl/wp-content/uploads/2021/03/CE_Delft_3J00_Potential_energy_citizens_EU_final_1479221398.pdf.

³ Commission (EU) (2016). Impact Assessment Accompanying Proposal for a Directive on the Promotion of the Use of Energy From Renewable Sources (Recast). SWD(2016) 418 final, Part 1/4, p 78.

⁴ Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (recast) OJ L328/82, 21.12.2018 (Recast Renewable Energy Directive), Recital 70.

⁵ Recast Renewable Energy Directive, Recital 67.

(The Electricity Directive) states that “*Citizens energy communities constitute a new type of entity due to their membership structure, governance requirements and purpose.*”⁶ Furthermore, the RED II notes that the specific characteristics of RECs, including size, ownership structure, and their number of projects “*can hamper their competition on an equal footing with large-scale players.*”⁷ It follows by highlighting that measures to offset disadvantages relating to specific characteristics of local RECs include enabling RECs to operate in the energy system and easing their market integration.⁸

Article 22 of the RED II requires Member States to create an enabling framework to promote the development of RECs. These enabling frameworks must include policies and measures on removal of unjustified regulatory and administrative barriers, tools to help RECs access finance and information, and capacity building for local authorities, among other things. Furthermore, Article 22(7) of the RED II guarantees a level playing field for RECs in national renewables support schemes. It requires Member States to “*take into account specificities of [RECs] when designing support schemes in order to allow them to compete for support on an equal footing with other market participants.*” First, this amounts to a procedural requirement for Member States to take into account specific challenges RECs might experience in competing for support when they are developing or amending their renewables support schemes. Second, there is a substantive requirement to take measures in order to correct for any distinct challenges RECs face.

The RED II does not prescribe how Member States must ensure equal footing for RECs, leaving it to their discretion. Nevertheless, the recitals provide some guidance:

*“Member States should be allowed to take measures, such as providing information, providing technical and financial support, reducing administrative requirements, including community focused bidding criteria, creating tailored bidding windows for renewable energy communities, or allowing renewable energy communities to be remunerated through direct support where they comply with requirements of small installations.”*⁹

Therefore, the unique characteristics of RECs, including their choice of business model, non-commercial purpose, size, professional and organisational structure, and way of financing projects, put them in a different legal and factual position compared to other undertakings. Under the EU legal principle of equality, the distinct characteristics of RECs and challenges they face participating in auctions and tenders justify different treatment. This is supported by the Court of Justice of the EU (CJEU).¹⁰ Increasingly, studies also

⁶ Directive (EU) 2019/944 on common rules for the internal market for electricity OJ L158/125, 14.6.2019, (Electricity Directive), Recital 46.

⁷ Recast Renewable Energy Directive, Recital 71.

⁸ Id.

⁹ Recast Renewable Energy Directive, Recital 26.

¹⁰ This is especially the case for cooperatives. See Court of Justice of the EU (CJEU, Joined Cases C-78/08 to C-80/08, *Paint Graphos Soc. coop. arl* [2011] C 311/06.

show the need to balance competitive bidding with other policy priorities, and the need to provide support for RECs and other small actors outside of tenders and auctions.¹¹

Taking it a step further, under the revised Renewables Directive (RED III), Member States are encouraged by EU legislation to include local participation through direct ownership into their tenders for development of offshore renewable energy production. Ownership can give citizens, local authorities, and small and medium enterprises (SMEs) a stronger say in the project. It will also guarantee that local actors can benefit from the direct supply of offshore production. In Belgium, the Federal Ministry recently drafted legislation incorporating RECs into bidding procedures for granting concessions to build wind projects within Belgium's territorial sea and exclusive economic area.¹² In joint offshore projects between Member States, the inclusion of citizens from all participating countries would allow for common local ownership, provide additional finance, ensure a more just distribution of benefits, and strengthen public support for such projects.

Acceleration of wind projects without leaving anyone behind

Energy Communities have a growing role to play in larger renewable projects, including big offshore wind projects. Pre-qualification and non-price award criteria in offshore tenders are, thus, important for more efficient offshore development, achieving more affordable and clean energy, economic growth, responsible production and consumption, while also contributing to climate action and safeguarding life below water.¹³ Affordable and stabilizing energy prices foster the energy transition via more confidence in transitioning to heat pumps and electric vehicles. Minimum citizen participation pre-qualification and award criteria provide a more even level playing field for energy communities to participate in such tenders. If such requirements are not in place, consortia are not inclined to include citizen participation. As already indicated above, the Belgian example is relevant in this regard, as the Belgian Government is setting a 1% minimal citizen participation of the capex amount and additional points if targets are met.

Energy communities are still facing several barriers with regard to their participation in onshore wind, but also offshore wind auctions. The introduction of renewable auctions in Germany has shown that without any regulatory measures and exceptions, energy

¹¹ See Amazo A, et al (2020). Auctions and renewable energy communities: measures to support RES communities in auctions – Country experiences and lessons learnt. D4.2 AURES II Project. Available at: <http://aures2project.eu/2020/02/17/auctions-and-renewable-energy-communities/>; IRENA (2019). Renewable energy auctions : Status and trends beyond price (IRENA: Abu Dhabi). Available at: <https://www.irena.org/publications/2019/Dec/Renewable-energy-auctions-Status-and-trends-beyond-price>; and European Committee of the Regions (2018). Models of Local Energy Ownership and the role of local energy communities in energy transition in Europe. Available at: <https://op.europa.eu/en/publication-detail/-/publication/667d5014-c2ce-11e8-9424-01aa75ed71a1/language-en#>.

¹² More information on the Belgian case can be found here: <https://www.rescoop.eu/news-and-events/stories/december-success-story-offshore-wind-power-to-the-people>

¹³ In line with the Sustainable Development Goals (SDGs) and especially SDGs 7, 8, 12, 13 and 14.

communities can hardly realize any projects. The German legislator later amended the relevant provisions on tendering and exempted citizen energy communities from mandatory participation in auctions up to specific thresholds - wind projects up to 18 MW and solar projects up to 6 MW, in line with the provisions of the state aid guidelines. This is a valuable lesson learned for future auction designs in the EU to make sure not to discriminate against energy communities.

More specifically on the barriers energy communities are facing, often there are no incentives for consortia to include citizens in the ownership of the consortium, while also the tendering processes are very complex and technical. In addition, there are barriers connected to financing and risks connected to long term offtake contracts for energy supply towards end users. Consumers can change their supplier, whereas corporate offtakers can give more guarantees to consortia. Cooperative suppliers risk very important losses in case of longer period low market tariffs. In addition, banks look differently to power purchase agreements (PPAs) when citizens conclude them, which possibly increases external financing. Energy communities only collect equity contributions from citizens when projects are certain. Equity is needed at financial close, and collecting equity takes more time than that.

Therefore, in developing the design elements of renewable auctions, it is imperative to take into account the benefits that energy communities bring forward, but also the specific barriers they face in competing with larger market actors. The Commission's guidance document should, thus, encompass the following elements, in line with the requirements of the RED II and RED III:

- The Commission should urge Member States to take into account the specificities of energy communities in the design process of renewables auctions, aligning with the requirements of the Green Deal and the state aid regulations. This could be achieved for instance by providing reserved capacities (as is the case in Germany) or by carrying out closed auctions for energy communities. The auctions can also include a premium for community energy projects (see the bonus system of France). We also recommend simplified administrative procedures and application support for the reserved capacities.
- Member States should include support for community ownership in the design of their legal frameworks for developing national offshore renewables production, as well as in cooperation with other Member States, particularly when designing concessions and tender schemes. They should consider of installing points on citizen participation that compensate the burden for consortia to include citizens as shareholders. These points should make a difference versus the points on pricing. With regard to the intensity of such ownership, auctions should include community participation and ownership as key criteria for entering the auction. Auctioneers should reward both participation criteria and intensity of the participation. Moreover, auctions should also include a component of community ownership in the exclusion criteria (see the case of Belgium).

- The integration of energy communities should be included at various stages of the auction process. Energy communities bring specific co-benefits that should be supported and enhanced through auctions, while also they face structural disadvantages in their participation to open auctions. We encourage Member States to use other types of procedures for the allocation of wind capacities.
- Communication and stakeholder engagement is crucial in the allocation to and participation of energy communities. The process of engagement should involve network stakeholders and targeted communication to energy communities. The focus on clear and simple rules, as well as the deployment of a unique contact point is crucial to ensure the success of the allocation.
- Emphasis should be given on social criteria in auctions, including democratic participation, inclusion of energy poor households, and other individuals facing structural disadvantages, while also the creation of regional value should be taken into account.
- Member States should carve out possibilities for long term PPAs for citizen initiatives, in line with the requirements of the Electricity Market Design revision, which includes provisions on facilitating access to PPAs for smaller actors. The participation of community actors could be de-risked through price capping mechanisms such as two-way contracts for difference (CfDs).
- Ensure the proper splits of the economic value of the project. For auctions with community components, we recommend ensuring that the value of the project is correctly spread between and with community partners. This can be done by requiring the valuation of community investment at a premium. This can be also done through reserved board seats in the SPV, or the allocation of veto rights to community actors. The contracting authority should be encouraged to perform contract management beyond the auction and carry out an ex post evaluation of the results of the auction on energy communities. The life cycle costing approach in the evaluation should also be added in the process of awarding the auction, in line with sustainable public procurement considerations.
- On the financing side, some of the measures should include financial bankability of long term offtake contracts with smart structuration of guarantees and termination options. Guarantees for energy community project financing will also support with securing external finance from banks.