Avril **2022**

Réponse de l'UFE à la consultation de la Commission européenne relative au Permitting des projets EnR et aux PPA

Permits for renewable energy projects

6. What are the key barriers that have prevented your project(s) from materialising in the last 5 years, if any? (Please rank their importance, 1 being the most important)

	1	2	3	4	5	no opinion
Length of administrative procedures	◉	○	○	○	○	○
Complexity of the applicable requirements or procedures	○	◉	○	○	○	○
Lack of clarity on the applicable authority(-ies) with whom to coordinate each required permit	○	○	◉	○	○	○
Regulatory changes impacting the business case	○	◉	○	○	○	○
Lack of access to capital/finance due to uncertainty	○	◉	○	○	○	○
Target conflicts with environmental regulations	◉	○	○	○	○	○
Land or sea conflicts with aviation or defence-related activities	◉	○	○	○	○	○
Land or sea conflicts with other users (e.g. farmers, fishermen)	◉	○	○	○	○	○
Lack of public acceptance / conflict between public goods	○	○	◉	○	○	○
Court proceedings	◉	○	○	○	○	○
Lack of political support	○	◉	○	○	○	○
Grid connection issues linked to lack of available grid capacity	○	◉	○	○	○	○
Grid connection issues linked to reserved but unused capacities	○	◉	○	○	○	○
Other grid connection issues (e.g. cost, unclear rules, technical issues) – please specify	○	◉	○	○	○	○
Other	○	○	○	◉	○	○

Please specify (Grid Connection Issues) : Grid connection issues are a key barrier as regard

to the length of the administrative procedures. About 70% of the duration of a grid project is devoted to administrative procedures, which delays the deployment of RES.

Please specify (Other) : The gap between the development time of network infrastructures (in which about 70% is spent on permitting procedures) and the development time of projects, which can be shorter depending on technologies. If network operators could anticipate and start grid infrastructures work, based on a widely agreed RES local planning, and without waiting for projects to go through the whole permitting procedure, this gap would be reduced. Such solution requires to set RES objectives and identified potential.

In some fields, especially for hydropower, current environmental regulations should be challenged in the light of the evolution of scientific knowledge, innovation, or regarding the local context.

Other key barriers :

- Lack of RES long term regional planning from public authorities, in particular for offshore wind. Stakeholders' consultation and regional planning should help for social acceptance
- Insufficient human resources in national and local authorities in charge of issuing permits for new RES projects.
- Repercussions of legal claims and the fact that they are not considered in the maximum duration of permitting process, which lengthens the total process.
- Lack of digitalization in the permitting process
- Lack of monitoring and information on the status of permitting from local authorities
- Lack of explanation on the reasons why there is a refusal of a permitting request
- Environmental assessment not adapted to the specifics of the land (for example, different procedures for contaminated land)

8. What good practices (if any) have you encountered in the areas of simplified permit-related and administrative procedures? (can be EU/national or international)

- Improvement in the national procedure of appeal by reducing the number of levels of court jurisdiction examination. Instead of three levels before 2016, there is now only 2 levels of jurisdiction for onshore and recently, 1 level for Offshore (Conseil d'Etat).
- Introduction of the "envelope permit" notion which now allows the developer not to set the technical parameters of the project too far in advance and thus enable the use of the most recent technologies during the construction phase (in order to lower

the cost of electricity).

- "One-stop-shop" for the permitting process of onshore wind projects : there is one single point of entry and contact for the entire instruction phase of onshore wind projects by administration. Such One-stop-shop should be considered for PV projects too.

9. Has any of your renewable or electricity infrastructure projects been classified as being of "overriding public interest" as defined in Article 6(4) of the Habitats Directive?

⇨ YES

Please describe the reasons leading to such classification, the effects on the project development and compensatory measures taken by the Member State.

This jurisprudential construction is mostly recognized for offshore wind projects. Only one onshore wind project (72 MW) received it in 2021 and none for solar or small hydroelectricity. These projects are considered "too small" to justify such an issuance. Courts also consider that they can be built "elsewhere". However, the decentralized and scattered nature of the development of renewable energies means that these projects cannot be considered independently of each other. Furthermore, French administrative courts apply this notion in a strict way : they require the project to be indispensable and exceptional. Nevertheless, each of these projects contributes to the security of supply, independence and energy decarbonisation of the European Union despite their "small" contribution if they are considered independently.

RES projects should be classified as being of "overriding public interest" more often, if not by default, considering renewed energy policy objectives in Fit for 55.

10. Are you planning lifetime extension, repowering (as defined in Art 2(10) of the Renewable Energy Directive) or decommissioning of your installations in the next 5 years?

- [x] Lifetime extension
- [x] Repowering
- [ ] Decommissioning
- [ ] None of these

11. If applicable: what is the main driver behind your decision to repower? (select top 3)

- [ ] End of public support

- [x] Site/resource-related considerations
- [x] Lower cost/improved efficiency of technology
- [ ] Potential for projects involving e.g. renewable hydrogen production or storage
- [ ] End of building permit
- [ ] End or change in land/sea lease permit or ownership contract
- [ ] End of operation/maintenance contract
- [ ] End of lifetime of the asset
- [ ] Familiarity of the local community with the project
- [x] Simplified permit procedure taking into account only the additional elements of the repowered installation
- [ ] Lower cost than dismantling
- [ ] Other

12. What do you see as the main constraint or barrier to repowering? (select top 3)

- [x] Lack of a suitable regulatory framework to simplify permit for repowering
- [ ] Lack of a business case
- [ ] Restrictions related to grid capacity
- [ ] Lack of social acceptance / conflict between public goods
- [x] (Additional) construction or spatial planning procedures
- [x] (Additional) environmental assessment needs
- [x] Other
- [ ] No opinion

Please specify (Other) : Repowering should benefit from a simplified authorization process : the environmental impact assessment could be lightened compared to the first time by taking into account only the differences between the existing project and the repowering (e.g. the size of the turbines).

13. What bad practices (if any) have you encountered in the areas of permit application/granting and administrative procedures specifically for repowering?

- Spatial planning constraints that apply to repowering
- Going automatically for a full permitting procedure when a case-by-case evaluation could lead to an accelerated procedure
- One example in France regarding especially onshore wind. All repowering projects

should be submitted to new authorizations from military and civil aviation administrations. Spatial planning constraints – especially new regulated areas 70 km around radar (only 30 km before 2021) – have increased in the last years: it would not be possible to develop windfarms where they are currently and repowering projects with higher wind turbines cannot be allowed. There is a crucial need to preserve existing RES site locations and support repowering to increase the installed capacity – repowering sites have the best wind conditions and already a solid social acceptance.

14. What good practices have you encountered in the areas of permit application/granting and administrative procedures specifically for repowering, if any? (can be EU/national or international)

One example in France regarding onshore wind. Thresholds have been defined in a government instruction for repowering project and depending on the case, the need for a new environmental impact assessment (EIA) will not be the same. The number of wind turbines and the height of the turbines are key parameters to look at:

- Same number of wind turbine and height increase below 10%: 'non substantial modification meaning a modification of the original permit and a simplified EIA mostly about noise and biodiversity impact
- Higher number of wind turbines of height increase above 50% : 'substantial modification' meaning a new permit and a new EIA
- In between these two cases, the administration performs a case-by-case evaluation

In the current specific context (war in Ukraine), in order to accelerate RES development, the simplified procedure could be automatically decided below the 50% threshold.

15. What regulatory changes at EU or national level, if any, would be beneficial to create a more supportive framework for combined technology power plants (e.g. wind combined with solar), or renewable energy power plants combined with an electrolyser for renewable hydrogen production or a storage facility?

Hybrid renewable power plant combining RES and storage should be defined properly at EU level. As the level of storage that will be needed at EU level will clearly be linked to the volume of RES to be integrated into the grid and more specifically the solar installed capacity, it could be interesting to develop specific support scheme for hybrid renewable project. The regulatory framework should set rules to monitor the energy flows between

the storage device and the grid.

16. What bad practices (if any) have you encountered in the area of early public involvement and public participation (including financial participation) in renewable energy projects?

Lack of RES long term regional planning from public authorities is a bad practice. Local authorities should identify eligible areas for RES development. Stakeholders' consultation and regional planning should help for social acceptance.

17. What good practices, if any, have you encountered in the area of early public involvement and public participation (including financial participation) in renewable energy projects?

Local communities through crowdfunding contribute to renewable energy's social acceptability.

18. What bad practices of public authorities, if any, have you encountered in spatial planning, helping developers in identifying suitable sites?

Example of a bad practice (lack of harmonization) for Offshore in France. Spatial planning rules are very complex and different consultations overlapping on each other at multiple levels: consultation on multiannual energy programming (Programmation pluriannuelle de l'énergie), consultation on regional maritime sector planning (Documents stratégiques de façade), consultation on the specific area, before call for tenders.

19. What good practices of public authorities, if any, have you encountered in spatial planning, helping developers in identifying suitable sites?

Since 2013, France has set up a process to define regional grid connection schemes for renewables (S3REnR Schéma Régional de Raccordement au Réseau des Énergies Renouvelables). Such schemes are effective territory planning tools to ensure the integration of RES in the electrical network while maintaining safety and limiting costs. These regional schemes provide long-term visibility on RES capacity and ensure a fair distribution of network adaptation costs between all RES developers – and not all the costs to the first movers. . Nevertheless, it is necessary to improve anticipation in the design of this scheme, in order to accelerate RES integration (producers can increase and accelerate

investment, no risk in the current ramp up of RES, and for many years).

A good practice for offshore wind projects would be to have a seafront planning, with public participation and consultation for the whole seafront area.

In Spain, for PV : national mapping of land with areas favorable or not to the implementation of RES projects.

20. What good practices, if any, have you encountered in the area of multiple use of space for renewable energy projects?

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21. In the countries where you operate, has (maritime) spatial planning helped developers in identifying and securing suitable sites?

➔ NO

22. Do you/your company/your organisation have further comments on accelerating permitting of renewable energy projects?

Maritime planning is not yet deployed in a way that best facilitates and secures the concerted and successful implementation of offshore RES.

Facilitating Power Purchase Agreements

24. What is/was the main driver behind your willingness to engage in PPAs?

- ☐ Hedging electricity price over the mid to long term
- ☑ Secure power over the mid to long term
- ☑ Demonstrating the purchase of renewable energy for disclosure purposes
- ☐ Need to find new forms of revenue stabilisation as public support decreases
- ☑ Other

Please specify (Other) :

- Possibility to develop corporate PPA on lands which are not eligible under the national framework for tenders – for example private properties for large industrials
- Willingness to meet the demand of large industrial buyers to contract corporate PPA to secure a long-term supply of 100% RES

25. What is the main barrier you have encountered when entering into PPAs?

- [ ] Market prices volatility or market price uncertainty in general
- [ ] Lack of transparency and information on PPA prices
- [ ] Restrictions from publicly-funded support schemes preventing sellers from offering attractive PPAs terms
- [x] Length of preparing ad hoc documentation and contracts and lack of template / standard agreements
- [ ] Administrative or regulatory barriers specific to PPAs
- [ ] Lack of possibility to combine the PPA with a Guarantee of Origin or other certificates
- [ ] Lack of possibility to book capacity (physical or financial) across bidding zones
- [ ] Variable generation profile of renewable energy sources
- [ ] Lack of facilitative platforms supporting the matching of sellers with interested off-takers; lack of aggregation options
- [x] Difficulty finding off-take volumes beyond the largest corporates
- [ ] Low credit worthiness of off-takers
- [x] Duration of the PPA typically not matching the tenor of the debt required for project financing
- [ ] Other

26. Have you encountered any good practices in relation to solving the barriers listed in question [21] above?

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27. What regulatory changes (in current EU legislation or national-level legislation) , if any, would you consider most important to foster the deployment of corporate PPAs in Europe in the next few years?

- The deployment of CPPAs should be supported, and barriers to their development should be removed
- The status of the producer should be clarified, when it sells electricity to an end-user of electricity. The directive should clarify whether the producer is, thus, a supplier or not. In France, the supplier must invoice taxes, grid tariffs and has obligation under the rules of the capacity mechanism, or under the regulatory framework of Energy efficiency (Certificats d'Economie d'Energie...), and only a supplier is supposed to collect the right of regulated nuclear energy (ARENH).
- Authorization and permitting procedures should be the same for RES CPPAs and RES projects under national support schemes.

28. Which form of financial support (including debt or guarantee instruments) would you consider most effective in fostering the deployment of corporate PPAs in Europe in the next few years?

To overcome the counterparty risk for the project owner, some form of government-backed credit risk guarantee can be put in place as it is the case in some EU countries.

29. Do you/your company/your organisation have any further comments on facilitating Power Purchase Agreements?

- The market horizon doesn't always match between the timeline of RES projects and CPPAs. There is a need in particular for a framework that facilitates the conclusion of greenfield CPPAs, by considering the time between the conclusion of the greenfield CPPA and the realization of the RES project, and without impacting the financing of RES projects.
- Considering the ongoing revision of the Renewable Directive: in order to account for the market value of the guarantee of origin, and to ensure the liquidity of the GO market, the Directive should specify that the issuance of GOs for every MWh of RES produced, upon request from a producer, does not necessarily imply GOs to be delivered to the producer. This will ensure that efficient national GO systems, already allowing the issuance of GOs for supported assets, are not negatively impacted.