

# Letter on the Intended Revision of the EU Public Procurement Rules

February 3, 2026

We, the undersigned partially or wholly publicly owned energy utilities, operating across the European Union, write to set out our collective request that the Commission's upcoming review of the EU public procurement framework recognizes the specific circumstances of the energy sector: **we urge the Commission to exempt energy sector activities needed to achieve EU decarbonization goals from the public procurement framework.**

Our request is based on the aim **to ensure a level playing field between publicly and privately owned market participants**, to reduce unnecessary administrative burdens that undermine operational efficiency and investment and the proper use of public resources.

## Reasoning

- The context for public procurement in the energy sector has changed significantly since the last review. Over the past two decades the European energy market has been progressively liberalised so that many energy activities now take place in open markets with private participants operating on equal commercial terms. Where publicly owned utilities compete alongside private companies in the same markets, the continued application of asymmetric public procurement obligations places public undertakings at a competitive disadvantage. Competition, state aid and sector-specific regulation already discipline market behaviour and protect market integrity. A sectoral exemption would therefore remove procedural distortions without eroding the existing substantive safeguards that preserve fair competition.
- A harmonised EU-level exemption would provide legal clarity for cross-border operations, investment planning and the implementation of EU energy and climate objectives, creating a full energy union.
- Public procurement obligations create disproportionate administrative burdens and hamper investment. The formality, timelines and documentation required under the current public procurement regime can significantly increase transaction costs and delay operational decisions. For publicly owned energy companies this can hinder urgently needed investment in decarbonisation, grid modernisation, storage and other strategic infrastructure. Streamlining or exempting public procurement obligations for public energy companies would free managerial capacity and capital for operational investments that advance the Union's energy security, decarbonization and competitiveness objectives.
- A sectoral exemption supports the EU's policy objectives, as removing asymmetric and disproportionate public procurement obligations for public energy utilities would help accelerate the delivery of the EU priorities: strengthening energy sovereignty and security, decarbonization, and competitiveness. 98 percent of oil consumed in the Union is imported<sup>1</sup>. By contrast, electricity is generated domestically, and therefore a key pillar of

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<sup>1</sup> EU Action Plan for Affordable Energy (2025)

a resilient energy system. In addition, the power sector is comparatively well-advanced in its decarbonization journey and critical to reaching economy-wide carbon neutrality<sup>2</sup>. Finally, a comparatively high cost of energy – a consequence of the EU’s miniscule hydrocarbon resource endowment – is a barrier to Europe’s industrial competitiveness.<sup>3</sup>By creating a level-playing field and reducing unnecessary costs and delays, the exemption would foster more rapid deployment of strategic investments across the EU.

- The introduction of non-price criteria could be an opportunity to contribute wider EU targets. But every opportunity comes with a risk. Excessive non-price criteria could delay or raise the cost of critical investments and slow the energy transition. European content rules must not come at the expense of energy transition which is essential to our long-term sovereignty.
- Enhancing Europe’s industrial resilience calls for a competitiveness strategy centered on market-driven incentives to improve performance and safeguard energy security, instead of inflexible and cost-raising public procurement requirements that would significantly constrain the competitive environment in the energy sector.

In summary, Europe’s energy security, decarbonization and competitiveness objectives will be best served by a public procurement framework that prioritises **simplicity, speed, and fairness**. The reform should empower the energy sector to **accelerate investments in renewables and low-carbon generation as well as networks**, rather than introducing new hurdles. We urge policymakers to focus on **enabling the energy transition** by ensuring public procurement rules **support – and do not impede** – the rapid build-out of clean energy infrastructure that Europe and its industry need urgently.



<sup>2</sup> Impact assessment on a 2040 Climate Target Communication (2024)

<sup>3</sup> The Draghi report: A competitiveness strategy for Europe (Part A) (2024)