

Capacity Auction Rules

Article 1. Basic provisions

1. The Capacity Auction Rule (hereinafter - “the Rule”) determines the terms and conditions for the announcement of the Capacity Auction.
2. Other rules of the Capacity Auction, which are not provided by this Order, are determined by the Resolution #556 of the Government of Georgia of December 7, 2022 “On Approval of the Support Scheme for the Production and Use of Energy from Renewable Sources and the Development of Auction Rules” (hereinafter – “the resolution”).
3. The terms used in the Rule have the meanings defined by the Law of Georgia “On Promotion of Production and Use of Energy from Renewable Sources”, the Law of Georgia on “Public and Private Partnership” and the “Law of Georgia on Energy and Water Supply”.

Article 2. The Purpose

1. The purpose of the announcement of the Capacity Auction is to distribute the capacity with electricity potential in the country among the interested persons announced as winners in the Auction and create an opportunity for these persons to benefit from the state support scheme in order to provide more financing opportunities of energy projects by international and local financial organizations.
2. The Capacity Auction is announced by the Ministry on its official website: www.economy.ge by posting the information at least once every year, in accordance with the development plan and requirements of the existing energy projects in the country, within the competence.

Article 3. The scope

1. Participation in the Capacity Auction is allowed for:

- a) Existing projects in energy sector, which in accordance with the Law on “Public and Private Partnership” represent public and private partnership projects and those projects that do not represent public private partnerships;
 - b) Projects at the stage of feasibility studies development for the construction of the Power Plants.
2. The effect of this Order does not apply to the projects being in the construction phase prior to enactment of the given resolution.

Article 4. The rule for the submission and evaluation of the application

1. The Capacity Auction Commission evaluates the application(s) for participation in the Capacity Auction. The application shall be submitted to the mentioned Commission in Georgian language, in a sealed envelope, with the following marking:
 - a) Interested person: /name and identification data/;
 - b) Addressee: "Capacity Auction Commission of the Ministry of Economy and Sustainable Development of Georgia";
 - c) Caption: Capacity Auction.
2. The application shall be signed:
 - a) In the event of a natural person - by the interested party or his/her representative;
 - b) In the event of a legal person - by an authorized person to be in charge
3. In the case of an application submitted by a person authorized for representation, the application shall be accompanied by a notarized document, and in the case of documents issued in a foreign country, they shall be certified by apostille and/or legalized. In addition, a duly certified translation of the documentation into Georgian shall be provided.
4. The application shall be submitted to the address specified in the information on the announcement of the auction by the Ministry and within the deadline set for receiving the proposal.
5. In the event that an interested person participates in the Capacity Auction, the right to participate in the support scheme provided for by the Resolution #403 of the Government of Georgia of July 2, 2020 “On the Approval of the Support Scheme for the production and use of Energy from Renewable Sources” is suspended until the results of the Capacity Auction are finalized. Moreover, in case of being announced as the winner in the capacity auction, such a person will be deprived of the right to participate in the support scheme envisaged in this paragraph.
6. Acceptance and registration of the application (by indicating the acceptance date and time) is carried out by the Secretary of the Capacity Auction Commission.

7. Consideration of the Capacity Auction application (including correction of the inaccuracy) shall be carried out within a reasonable period of time, but not more than 3 months after the submission of the application.
8. The application submitted by the interested person shall contain the documentation provided for in Article 8 of the Resolution.
9. The Capacity Auction Commission will not consider the application if the interested party does not correct the inaccuracy detected by the Capacity Auction Commission within a reasonable time and/or if the application does not meet the requirements established by this Order and the legislation of Georgia.

Article 5. Repeated Capacity Auction

1. In the case of two or more alternative applications in the same project area, priority will be given to the application with the lower proposed tariff. If the tariffs are identical, in such a case, priority will be given to the application with the higher expected output proposed by the energy model. In the event that two or more alternative applications in the same project area, the proposed tariffs and expected output proposed by the energy model are identical, the Ministry will schedule and repeat the auction, in accordance with the Capacity Auction Rules. In the repeated Capacity Auction, priority will be given to the application with the lowest proposed tariff.
2. The re-auction will be held within 30 (thirty) working days after the end of the first auction or its termination, and interested persons will be able to submit a repeated proposal within 5 (five) working days.
3. The auction will be repeated until the best proposed tariff is identified, or the Capacity Auction Commission, on its own initiative, stops considering applications.

Article 6. Capacity Auction Commission

1. Selection of the best application(s) in the Capacity Auction announced by the Ministry and submission to the Ministry is ensured by the Capacity Auction Commission.
2. Capacity Auction Commission consists of :
 - a) Ministry with 2 candidates;
 - b) Ministry of Finance of Georgia;
 - c) LEPL “Public Private Partnership Agency”;
 - d) JSC” Georgian State Electorsystem”.

3. During the evaluation of the application, it is possible to invite expert(s)/specialist(s) of specific knowledge as members of the Capacity Auction Commission, with or without the right to vote in the Capacity Auction Commission.
4. The Minister appoints the Chairman and Secretary of the Capacity Auction Commission.
5. The Capacity Auction Commission will select the best application(s) by a simple majority of the votes present. In the event that the votes of the members of the Capacity Auction Commission are equally distributed on any issue of the Capacity Auction, the vote of the Chairman shall be decisive.

Article 7. Decision-making

1. The Capacity Auction Commission reviews submitted applications and makes decisions in accordance with the resolution.
2. Submitted applications will be considered by the Capacity Auction Commission according to the median tariff principle. In particular, the Capacity Auction Commission will determine the middle tariff selected from the set of proposed tariffs (In case even number of tariffs are offered, the arithmetic average of the middle two proposed tariffs) and the capacity will be distributed to the interested persons whose proposed tariffs will be lower than the median tariff. The distribution of capacity will be made from the lowest proposed tariff according to the growth principle. In the event that the capacity was distributed to all the interested persons that had proposed the median or lower tariff, according to the decision of the Capacity Auction Commission, the remaining capacity will be proposed to those interested persons who had offered tariff higher than the median tariff. The capacity distribution will be made according to the proposed tariff in line with the growth principle until the available capacity is depleted. The interested persons with tariffs higher than the median tariff will participate in the support scheme only according to the median tariff. After the completion of the Capacity Auction, the Capacity Auction Commission will select the best application(s) submitted by the interested parties and signs the appropriate proposal, which will be submitted to the Ministry.
3. The Ministry, within 60 (sixty) days from the announcement of the winner in the auction, will submit the prepared proposal to the Government of Georgia together with the attached documentation.
4. The Government of Georgia will make a decision based on the submitted proposal. In case of approval of the submitted proposal, a relevant legal act will be issued, based on which a Power Plant Feasibility Study Agreement determined by the resolution will be concluded between the interested person(s) and the Government of Georgia.
5. In the event that the interested party has not signed the power plant Feasibility Study Agreement within 3 (three) months after the issuance of the relevant

act of the Government of Georgia, the Government is entitled to fully demand the bank guarantee for the application.

Article 8. The deviations between the applications submitted to the auction and the feasibility study

1. If the negative deviation between the average annual output submitted in the pre-feasibility study by interested person with the auction application and the average annual output in the full feasibility study is more than 10% but less than 15%, the tariff offered to the interested person in case of signing construction phase contract, will be reduced by 10%.
2. If the negative deviation between the average annual output submitted in the pre-feasibility study by interested person with the auction application and the average annual output in the full feasibility study is more than 15%, but less than 30%, the tariff offered to the interested person in case of signing the power plant construction, ownership and operation contract, will be reduced by 30%.
3. In the event that the negative deviation between the average annual output submitted in the pre-feasibility study by interested person with the auction application and the average annual output in the full feasibility study is more than 30%, the agreed tariff will be reduced by 100% to the interested person.
4. If the positive deviation between the average annual output submitted in the pre-feasibility study by interested person with the auction application and the average annual output in the full feasibility study is more than 10% but less than 15%, the tariff on positive difference offered to the interested person in case of signing construction phase contract, will be reduced by 10%.
5. If the positive deviation between the average annual output submitted in the pre-feasibility study by interested person with the auction application and the average annual output in the full feasibility study is more than 15%, but less than 30%, the tariff on positive difference offered to the interested person in case of signing the power plant construction, ownership and operation contract, will be reduced by 30%.
6. In the event that the positive deviation between the average annual output submitted in the pre-feasibility study by interested person with the auction application and the average annual output in the full feasibility study is more than 30%, the agreed tariff will be reduced by 100% on the positive difference to the interested person”.

