D5.5 – Guarantee stability of the model and equity between all the parts

This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 101033708

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Document information	
Project Acronym:	PEER
Grant Agreement ID:	101033708
Work package:	WP5
Dissemination level:	Public
Lead Partner:	TELLES
Version:	V1

This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 101033708

Document history			
Date:	**Author:**	**Partner:**	**Changes:**
15.11.2021	IR+MGIF+ RFA	TELLES	V0 – Draft Original version
23.11.2021	IR+ESA+CC	AdEPorto	Review
30.11.2021	IR+MGIF+ RFA	TELLES	V1 – Original version

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1. Introduction

1.1. About Porto Energy Hub

Under the GA[1], the aim of PEER[2] (hereafter referred to as "Porto Energy Hub" or PEH) is to provide the study and information support for a new renovation programme in the Porto Metropolitan Area in the North of Douro River (hereinafter, "AMP-ND"), aiming to fight energy poverty by promoting buildings energy efficiency, renewable self-consumption energy communities and mainstreaming new financial schemes. PEH will allow the development of integrated tools to overcome market barriers for social and low-income households' energy efficiency, while stimulating the creation of energy communities and their benefits.

All actions will be supported by capacity building, communication and dissemination activities targeted at the various stakeholders, namely low-income homeowners, public and private building owners, project developers, public and private organisations, and financial institutions.

It is expected that the PEH will cover approximately 3,000 homes in the region and lead to 71 GWh/year of primary energy savings and 17 GWh/year renewable energy production.

PEH will act as a One-Stop-Shop for owners of public and private buildings, promoting aggregation to develop a bold renovation programme for their buildings and combine it with alternative financial schemes and legal models.

1.2. Scope and objectives of WP5.5

The purpose of this deliverable is to report on the stability of the model described under WP5.1 and the equity between all involved parties.

[1] Grant Agreement number: 101033708 – PEER – H2020-LC-SC3-2018-2019-2020 / H2020-LC-SC3-EE-2020-2

[2] Porto

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2. Stability and equity

2.1. Project and Model Overview

The purpose of this project is to fight energy poverty by promoting energy efficiency in private and public buildings through the installation of renewable self-consumption energy communities, as well as by carrying out works to improve energy efficiency and thermal comfort in those buildings.

The Government of the Republic of Portugal has recognized in the National Energy and Climate Plan (*"Plano Nacional de Energia e Clima 2030"*)[3] and the public draft version of the National Long-Term Strategy for Fighting Energy Poverty (*"Estratégia Nacional de Longo Prazo para o Combate à Pobreza Energética"*) energy poverty as a key target for public policy in the 2020-2030 decade. Energy poverty affects annually 1,9 to 3 million[4] persons within Portugal, with social, economic, environmental and health implications which need to be specifically targeted and solved through support and incentive schemes, such as Porto Energy Hub.

Thus, it was necessary to develop a contractual framework sufficiently flexible to accommodate all the specificities of the buildings to be renovated. Particularly within Porto Energy Hub's scope, considering it must include privately - as well as publicly - owned buildings, it demands a contractual model that not only ensures technological neutrality, economic efficiency but also neutrality from an ownership perspective.

The proposed mechanism involves a simple concession (in the case of publicly-owned buildings) or granting of usage rights (in the case of privately owned buildings) of currently idle built areas to a private party, for the erection and operation of generation and / or storage capacity. In consideration, the concession holder commits to performance obligations regarding energy efficiency gains in the building,

[3] *"Plano Nacional de Energia e Clima 2030"*, avaliable (in Portuguese) at https://dre.pt/dre/detalhe/resolucao-conselho-ministros/53-2020-137618093

[4] *"Estratégia Nacional de Longo Prazo para o Combate à Pobreza Energética"*, draft version, april 2021, available at https://participa.pt/contents/consultationdocument/Estrate%CC%81gia%20Nacional%20de%20Longo%20Prazo%20para%20o%20Combate%20a%CC%80%20Pobreza%20Energe%CC%81tica_VConsultaPu%CC%81b_2852.pdf

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through active or passive measures, in a technologically- and technically-neutral way, opening room for innovative and efficient solutions to arise. Additionally, private parties commit to selling a certain amount of power at a discounted rate to the grantor.

The contractual model shall allow the replication of the project by private entities. Whenever applied to private entities, less stringent procurement legal obligations shall apply.

2.2. Model stability

The proposed model, as summarily described, makes use of stable and well-known legal instruments.

Concession for the use of publicly owned buildings is a common management act, as is the awarding through public tender. Concession contracts are long-term and grant tangible and stable rights to the concession holder. Concession contracts are also structured around the economic concept of economic and financial balance, therefore allowing for private partners to reimburse their costs with a profit premium.

The model, as designed, shall stimulate innovation and efficiency, since the private party's economic gains increase with the economic and financial efficiency of both the implemented measures to comply with performance obligations and the operation of power generation and / or storage capacity. Private parties are invited to design and implement energy efficiency measures and generation and / or storage capacity in a technically and technologically neutral fashion.

In private buildings and dwellings, whenever a condominium is in place, the Portuguese Civil Code has specific provisions applicable to innovative works, which are binding to all building owners. Such provisions are longstanding and constitute a stable legal framework for the development and deployment of these contracts.

As designed, the proposed model in most contracts will involve little to no investment from beneficiaries. Beneficiaries are effectively only exposed to counterparty risk, adding on to the model stability.

As such, no significant risks are identified in the design and performance of this model.

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2.3. Model equity

The proposed model should prove equitable for all parties involved.

Promoters (public or private entities who own or otherwise have a stake in buildings object of the contracts) are exposed to counterparty risk and, if applicable, limited financial risk. Expenditures are limited to preparation and conduction of public tenders (except where, for economic and financial balance to be achieved, a payment to the private party is determined to be needed).

Contracting private parties bear market risk. As their counterparty is merely expected to provide continued access for the operation and maintenance of the generation and / or storage capacity, counterparty risk is significantly reduced. Business and unsystematic risk is also severely reduced, as the object of the contract is one of the main bottlenecks for renewable power generation: land use rights.

3. Conclusion

The proposed mechanism makes use of a combination of tried and tested legal instruments and regimes in Portuguese Law, which are well known for private and public entities.

It transfers most financial and economic risk to the contracting private parties, who are better suited to mitigate such risks. Promoters are only subject to counterparty risk.

No significant legal risks are identified in the proposed mechanism. The proposed mechanism assigns risk in an equitable fashion.

The proposed mechanism should be deemed stable and equitable for all involved parties, which shall, in turn, mitigate any potential risk of litigation. In addition, it shall constitute a real advantage for vulnerable households, one of the project's stakeholders, as it will allow them to ultimately and directly benefit from all the energy efficiency gains in the buildings without any foreseeable additional costs to be borne.

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Porto Energy Hub

Energy Efficiency for all.

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