

Draft Royal Decree on electricity generation by means of renewable energy, cogeneration and waste

Energy Area

Royal Decree-law 9/2013, of July 12, whereby certain urgent measures are approved to ensure the financial stability of Spain's electrical system, has derogated the legal and financial regime applicable to renewable energy and cogeneration facilities, mandating the Government to produce new regulation regarding said legal and financial regime and which shall replace the compensation system of the facilities in operation.

On July 16, 2013, a draft royal decree on electricity generation by means of renewable energy, cogeneration and waste has been submitted to the National Energy Commission for the issuance of the relevant report by the regulatory body.

The draft regulation modifies several aspects of the regime currently applicable to renewable and cogeneration. The main modifications included in the draft royal decree are the following:

- The regime established by the royal decree shall apply to any renewable facility or cogeneration, despite its installed capacity (the previous regime was only applicable to facilities under 50 MW).
- A new administrative registry is created: the "Specific Compensation Regime Registry", where registration will consist of two stages: preallocation status and operational status.

The preallocation registration shall require the deposit of a guarantee (except if the facility is fully completed at the time of requesting the registration). The amount of the guarantee will be established by Order of the Ministry of Industry, Energy and Tourism. The preallocation

registration is a condition precedent for the operational registration, and the operational status registration is a requirement for receiving the retribution. A facility may only be registered as operational when it is fully completed.

The operational registration shall grant the titleholder of the facility the right to receive the compensation established by the royal decree, provided that all the requirements established by the regulation are met. The Specific Compensation Regime Registry shall include all the information required for the calculation of the compensation corresponding to a facility.

The facilities already registered with the Administrative Registry of Facilities Included in the Special Regime will be automatically registered with the Specific Compensation Regime Registry.

- The procedure for the determination of the specific compensation regime shall be established by means of an Order of the Ministry of Industry, Energy and Tourism.
- The feed in tariff is replaced by a so-called "specific retribution system" in addition to electricity market price. The specific retribution system will be the sum of the retribution of a standard investment plus the retribution corresponding to standard operation costs of the plant.

The retribution of the investment shall only apply if the facility has generated certain energy volume (volume to be also determined by means of an Order of the Ministry of Industry, Energy and Tourism).

The retribution of the operation costs shall only apply if the standard operation costs of a technology are higher than the forecasted average market price (excluding capacity payments), and may be limited to a maximum number of operation hours per year.

The specific retribution system shall be determined so that the plants obtain a reasonable profitability, based on standard plants/costs/revenues. Such reasonable profitability shall be equal to the yield of the Spanish Ten Year Government Bond plus 300 basis points.

- Since the specific retribution is determined on the basis of an average market price, a cap and a floor will be established (by means of an Order of the Ministry of Energy, Industry and Tourism) so that if the actual market price exceeds such limits on an annual basis a credit right or a payment obligation, as the case may be, will arise for the plant.

For the first time (with regard to this type of power plants) the concept of "reasonable profitability"

has been legally determined, linking it to the yield of the Spanish Government's Bonds over a ten-year period. In any case, it is established that the parameters for the remunerative system may be reviewed every six years.

- In addition to the general specific retribution model, the facilities that reduce the electricity generation costs of the electricity systems of the Canary and Balearic Islands, Ceuta and Melilla shall be entitled to receive an additional incentive to the investment based on such reduction of the generation costs.
- The regulation entitles the Council of Ministers to enact incentives for the decommissioning of renewable generation facilities and cogeneration, provided that some requirements are met.

Please note that as previously stated the text analyzed is only an initial draft, and therefore the royal decree finally enacted may differ from this version. We will update the information contained in this note as soon as any new details become available.

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