

**Spanish Energy Reform:
approval of the Ministerial Order IET/1045/2014
of 16 June, the last piece of legislation that confirms
the new remuneration scheme applicable to electricity
generation facilities based on renewable energy,
cogeneration and waste**

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This document gives a brief overview of Ministerial Order IET/1045/2014 of 16 June, which completes the regulatory implementation of the new legal and financial regime applicable to electricity generation facilities based on renewable energy, cogeneration and waste.

The Official Journal of Spain has published Ministerial Order IET/1045/2014 of 16 June, approving the remuneration parameters for standard facilities, applicable to certain electricity production facilities based on renewable energy, cogeneration and waste ("**MO IET/1045/2014**"). After a delay of almost one year, MO IET/1045/2014 reveals the remuneration scheme applicable to all those facilities that on 14 July 2013 were entitled to participate in the special economic scheme as well as to those that meet the requirements set out in the fourth additional provision of Royal Decree 413/2014 of 6 June and the fourteenth additional provision of the Electricity Industry Act 24/2013 of 26 December.

This is perhaps the regulation's most striking characteristic: although MO IET/1045/2014 formally provides for its entry into force on the day following its publication, the provisions included therein are actually effective as of 14 July 2013, the date of entry into force of Royal Decree Act 9/2013, of 12 July, adopting urgent measures to ensure financial stability in the electricity industry ("**RDA 9/2013**"). Upon its entry into force, RDA 9/2013 repealed the remuneration applicable to special scheme facilities and certain ordinary facilities that used similar technology to the former, providing for the transitional partial application of the repealed regulation until the new regulation for facilities concerned was approved. As a result of such provision of RDA 9/2013,

remuneration received from 14 July 2013 to 21 June 2014 was in the form of payments on account, which in principle must be regularised in the first nine assessments carried out pursuant to the new remuneration scheme.

MO IET/1045/2014, which has a total of 1,761 pages, is quite possibly the longest regulation ever published in Spain. The first 15 pages contain the Explanatory Notes, 8 articles, four additional provisions, 3 transitory provisions, a repealing provision and three final provisions; the remaining 1,746 pages contain the 8 schedules to the regulation.

It is well-known that the new remuneration scheme applicable to facilities based on renewable energy, cogeneration and waste is based on revenue earned from participating in the market, with additional remuneration to cover, as necessary, the investment costs that an efficient and well-managed facility cannot recover on the market. During their regulatory lifespan, these facilities may receive, in addition to the price obtained for the sale of electricity at market rates, a so-called "specific remuneration" to cover the investment costs for each standard facility which cannot be recovered with the sale of electricity on the market (the so-called "remuneration to investment") and a limit covering the difference between operating costs and revenues obtained by a standard facility from participating in the

electricity market (the “remuneration to the operation”). The calculation of the remuneration to investment and the remuneration to the operation shall be based on the standard revenue earned by a standard facility from the sale of electricity at market rates, the standard operating costs necessary to carry out its activity and the standard value of the initial investment, all for an efficient and well-managed company during its regulatory lifespan.

Therefore, MO IET/1045/2014 includes equivalences between different generation facilities and standard facilities (a total of 1,517, divided, among other parameters, according to technology, fuel and date of commissioning), defining the initial investment, revenue and standard operating costs as well as the regulatory

lifespan applicable to such generation facilities, to be determined by those for the standard facility to which they are likened.

Given that the new remuneration schemes breaks completely with the previous system and given the high number of cases set out in the regulation (as indicated above, there is a total of 1,517 standard facilities), it is not possible to give a general opinion of how the remuneration of different technologies will be affected by this regulation because, although it will in general lead to a reduction in revenues, some newly commissioned facilities may benefit from this new scheme. In any case, what is absolutely certain is that this new regulation will be challenged by a large part of the industry, leading to an increase in the already high level of litigation in the Spanish electricity generating landscape.

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