

The Electricity Industry bill begins its passage through parliament

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In its meeting of 20 September, the Cabinet has approved laying before the lower House, within the framework of the National Reform Programme, the Electricity Industry Bill, which repeals the currently in force Act 54/1997 almost in its entirety and comprehensively reforms the industry in the quest for economic and financial stability.

Pending publication of the text finally approved by the Cabinet, this paper only intends to communicate the submission to Parliament of the Electricity Industry Bill (hereinafter, EIB) and briefly describe its content in view of the scarce press releases disseminated by the Ministry of Industry, Energy and Tourism. The text has been previously reported by the National Energy Commission (NEC Report 16/2013 on the Electricity Industry Bill, approved by the Cabinet in its meeting of 31 July 2013) and the National Competition Commission (IPN 103/13, Electricity Industry Bill, 9 September 2013).

1. Economic and financial sustainability as focus of the reform

The legislation, which aims to "provide the industry with a uniform, transparent and stable regulatory framework", is presented as the Act which will give stability to the electricity system and prevent the generation of tariff deficits, the main scourge of the industry.

Along with the objectives already expressed by the Electricity Industry Act 54/1997, of 27 November, that is, the guarantee of

quality electricity supply at the lowest cost possible, a new principle is now proclaimed, the guarantee of the system's economic and financial sustainability. To fulfil this objective, the electricity system is presented with a new revenue and expenditure regime guaranteeing the correction of imbalances and with a financial stability rule preventing the emergence of new imbalances. As already laid down by Royal Decree-Act 9/2013, the introduction of additional costs in the electricity system is subject to an equivalent increase in revenue and those extra costs generated by regional or local regulation must be borne by these.

2. Comprehensive reform of the electricity industry

The EIB repeals Act 54/1997 almost in its entirety and, in an attempt to achieve the economic and financial sustainability of the system, adopts measures in the field of production, transmission and distribution of electric power, power supply, the authorisation, expropriation and easements regime and the infringement, penalty and inspection regime. In the words of the NEC,

“we are, [...], in the face of a comprehensive reform of the electricity industry” (IPN 103/13).

The EIB is completed with seven Royal Decrees and five ministerial orders that are currently being passed through. In particular,

- (i) the Draft Royal Decree (hereinafter, DRD) by establishing the methodology for calculating the remuneration for electricity transmission;
- (ii) the DRD establishing the methodology for calculating the remuneration for electricity distribution;
- (iii) the DRD regulating electricity production from renewable energy sources, cogeneration and waste;
- (iv) the DRD establishing the regulation of the administrative, economic and technical conditions of the supply and production of electricity with self-consumption;
- (v) the DRD regulating the capacity and hibernation mechanism and amending certain aspects of the electricity production market;
- (vi) the DRD regulating electricity production and the clearance process in the electricity systems of non-peninsular territories; and
- (vii) the DRD regulating commercialisation and the terms and conditions of power supply contracts. All of them have already been reported by the NEC over

September (http://www.cne.es/cne/Publicaciones?accion=2&id_nodo=32).

3. Remuneration of regulated activities: “reasonable return”, subject to review after six years

In order to reduce system costs and preserve its financial sustainability, the EIB sets the parameters that ensure a “reasonable return” for business projects based on the risk of the activity. This concept needs to be defined under implementing rules.

The regulation of the remuneration system will be reviewed after a period of six years to avoid regulatory uncertainty, one of the main problems affecting the industry in recent years, and ensure sufficient flexibility to adjust remuneration to the cyclical situation of the economy and the needs of the system.

4. Greater protection for consumers and new price control instruments

According to the Ministry pushing forward the EIB, the new legislation increases the protection of citizens and increases competition by providing measures which foster greater consumer choice, expedite the process of changing supplier and simplify the electricity bill.

It keeps the “social energy tariff” for vulnerable consumers according to certain social, consumption and purchasing power characteristics and creates the Voluntary Price for the Small Consumer (PVPC), which will be the maximum reference price at which most domestic consumers can contract, although companies may apply discounts.

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