

## Energy Newsletter | New energy tender for wind power and photovoltaic technologies



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A public tender call for the designation of the specific compensation system regulated by Royal Decree 413/2014 of 6<sup>th</sup> of June for a total volume of up to 3.000MW aimed at new renewable energy plants on the peninsular territory took place on May 17<sup>th</sup>. The public call carried out by Royal Decree 359/2017 of March 31<sup>st</sup> was a complete success: the applications exceeded more than three times the offered power and the bidders offered the maximum reduction permitted regarding the standard value of the initial investment of each reference-type of plant. This indicates that, at least during the current regulatory period, the bidders will not receive more compensation than that which they obtain through the sale of the energy produced in the pool.

Order ETU/315/2017 of 6<sup>th</sup> April defined the compensation parameters for each type of plant used as a base for the May 17<sup>th</sup> tender, amid extensive controversy after the establishment of a greater number of equivalent hours for the wind power technology allowed the foreseeing of this technology as the one to receive the greatest proportion of allocations. In fact, this is exactly what happened: of the total volume of 3,000 MW, more than 2,979MW were allocated to wind plants. The Ministry must have taken the resulting wave of protest from pv associations and installers into account, as a few days after the tender took place, it announced its intention to organize a new tender limited to photovoltaic and wind technologies, considering these were the most competitive in the May 17<sup>th</sup> tender.

Thus, on June 16<sup>th</sup> the Council of Ministers adopted Royal Decree 650/2017, *establishing a total installed capacity quota of 3,000 MW for new plants which produce electric energy from renewable energy sources within the peninsular electric system, to which the specific compensation system can be granted.*

In this *Newsletter* we will summarize the essential features of the new tender. In this respect, it must be considered that the Royal Decree calling the tender, the Order approving the procedure to assign the compensation system and the corresponding parameters, as well as the Resolution regulating the tender, are still pending approval. Presently, only a proposal of the mentioned Order and a draft of the referred Resolution exist. Possible relevant changes introduced in the final regulations once they are published will be the subject of a new *newsletter*.

## 1. Calendar

The date for the tender will be fixed by Resolution from the State Secretariat of Energy. According to the draft sent to the National Commission for the Markets and the Competence ("CNMC"), the tender will take place on July 18<sup>th</sup>, 2017.

## 2. Subject of the tender

According to article 1 of Royal Decree 650/2017, the total installed capacity quota to be auctioned will be fixed at a maximum of **3,000MW**<sup>1</sup>. However, it is stated that the mentioned **quota will be increased to more than 3,000MW** in order to permit the inclusion of the bids that have the same extra-cost for the system as the last bid awarded, as long as this extra-cost will be null for the system and will not exceed the value that will be fixed in a confidential term of the Resolution that publicizes the tender call. The specific way in which this mechanism will work will be developed through modifications inserted eventually in Order ETU/315/2017 and will permit the inclusion of a greater number of photovoltaic projects, avoiding their exclusion in the case of a tie with wind power projects on the grounds of the latter's greater number of equivalent operating hours.

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<sup>1</sup> Unless article 3.1. of Order ETU/315/2017 is modified for the new tender (unforeseen in the amending proposal published by the Ministry), the concept of "installed capacity" refers to the one included in article 3 of Royal Decree 413/2014 of June 6<sup>th</sup>, which regarding the photovoltaic plants means **peak power**.

As in the previous tender, the plants must be new; that is to say, their main installations must not have been used previously and they must not have been authorized for definitive operation nor have been definitively registered in the Administrative Register of Electrical Energy Production Plants ("AREEPP")<sup>2</sup>.

According to article 2.1 of Royal Decree 650/2017, the new tender will be reserved for photovoltaic and wind plants (subgroups b1.1. and group b.2 of the article 2 of the Royal Decree 413/2014)), situated in the peninsular electric system.

### **3. Compensation parameters for the reference-type plants. Procedure and tender rules**

The Ministry of Energy, Tourism and Digital Agenda will issue an order stating the compensation scheme for the reference-type plants. According to the proposal published by this Ministry, the new Order will only amend Order ETU/315/2017 with regards to the percentage caps for reducing the standard value of the initial investment. In light of the outcome of the May auction, this percentage will most likely be increased (according to the draft Resolution sent to the CNMC, it will increase from 63.43% to 81.91% for wind plants, and from 51.22% to 65.80% for photovoltaic plants).

In terms of the auction and awarding procedure, and registration with the Specific Compensation Regime Registry, in theory, these will be governed by Order ETU/315/2017 and the Resolution of 10 April 2017 issued by the State Energy Secretariat. However, the possibility of extending the quota to include offers that have the same extra-cost for the system as the last awarded offer will require a partial change in the award system.

As stated in the draft Resolution sent to the CNMC, the pre-selection deadline ends on July 13<sup>th</sup>, with those bidders already pre-selected for the May 17<sup>th</sup> auction being

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<sup>2</sup> Henceforth, bids may also be submitted by plants which were granted with a tariff by Royal Decrees 661/2007 or 1578/2008 but did not obtain the aforementioned authorization or inscription.

automatically pre-selected for this new one. In terms of registration, except for unforeseen developments, it will be governed by the Order and Resolution mentioned above. Two aspects are worth remembering:

a) Procedure for registration with the Specific Compensation Regime Registry:

- Within the 45 working days following the publication of the auction award by Official State Bulletin: Application for registration —with pre-selected status— of an installed-capacity figure (that may be lower than the capacity awarded) for a reference-type plant.
- Within the six months following the Official State Bulletin publication of the resolution regarding the registration of the awarded offers with pre-selected status: Identification of specific plants (the installed capacities of which may add up to 150% of the awarded capacity).
- Within a year of the Official State Bulletin publication of the resolution regarding registration of the awarded offers with pre-selected status: Final application for registration with commercial exploitation status.

b) Guarantee:

For all bidders, €60 for each kW of maximum volume of installed capacity offered (100kW minimum). For awarded bidders who request registration with pre-selected status, €60 per each kW for which registration is applied. In theory, the milestones for the recovery and enforcement of guarantees will be the same that in the former auction. In terms of the initial guarantee, it will be enforced in accordance with the number of kW authorized, the registration for which misses the deadline for such registration with the Specific Compensation Regime Registry. Unsuccessful auction participants may recover the initial guarantee when the Official State Bulletin publishes the resolution regarding registration with pre-selected status of the awarded bids. The final guarantee, lodged by successful bidders together with the registration application —with pre-selected status— will be cancelled or partially enforced depending on whether milestone

deadlines are timely complied with in terms of (i) identification of the plants within the six-month term referred to in letter a) above; (ii) obtaining the construction authorization within the term of one year mentioned in letter a) above; and (iii) fulfilling the requirements laid down in article 46 of Royal Decree 413/2014 no later than 31<sup>st</sup> December 2019.

#### **4. Deadline**

Successful plants in the new auction that are registered with the Specific Compensation Regime Registry must be completed and comply with the requirements set out in article 46 of Royal Decree 413/2017 no later than 31<sup>st</sup> December 2019, the same that applied to successful plants of the May auction.

It should be noted that Additional Provision 1 of Royal Decree 413/2014 established the 31 December 2019 as the final day of the first regulatory period. In one of our previous newsletters regarding the previous auction, we mentioned that it was paradoxical to be required to submit offers according to some parameters that would no longer be in place after 2019 for calculating the compensation to be applied to the new projects.

This paradox not only remains visible in the upcoming auction, but it has also been recently highlighted after the Ministry of Industry, Energy and Digital Agenda revealed the uncertainty surrounding the value of crucial parameters to be applied in the next regulatory period, such as “reasonable profitability”, both due to the reduction of profitability of the 10-year bond, and to the lack of Government commitment to keep the current spread of 300 base points.

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The Newsletter contains a summary of some of the points of the regulation in question, drawn from the personal selection and interpretation of its author. The Newsletter does not aim to offer a complete and exhaustive overview of the content of the regulation discussed, or seek to be an action guide for anybody. The reading of the Newsletter does not replace the reading of the regulation in full, which is strongly recommended to anyone who is interested in its subject matter.



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