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# Renewable energy, cogeneration and waste: remuneration parameters from January 1, 2020

Legal flash – Energy

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On February 28, 2020, [Order TED/171/2020](#) was published on the Official Gazette of the Spanish State, updating the remuneration parameters for standard facilities applicable to certain facilities for the generation of electricity from renewable energy sources, cogeneration and waste, to be applied in the regulatory period starting on January 1, 2020 (Order TED/171/2020).

This order establishes the remuneration parameters for the regulatory period between January 1, 2020 and December 31, 2025, without prejudice to the reviews foreseen in each regulatory half-period and the reviews of remuneration to operation every six months of standard facilities whose operating costs depend essentially on the price of fuel.

Although order TED/171/2020 came into force on February 29, 2020, the new parameters will apply from January 1, 2020.



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## Scope of application

- › Order TED 171/2020 will **apply to the standard facilities defined in the following regulations**: Order IET/1045/2014, of June 16; Order IET/1459/2014, of August 1; Order IET/1344/2015, of July 2; Order IET/2212/2015, of October 23; Order IET/2735/2015, of December 17; Order IET/1209/2016, of July 20; Order ETU/1046/2017, of October 27; Order ETU/315/2017, of April 6; Order ETU/615/2017, of June 27; Order ETU/360/2018, of April 6, and Order TEC/427/2019, of April 5. The review pertains to all the approved standard facilities, regardless of the order approving them, which makes it possible to have all their remuneration parameters in a single regulation.
- › However, **the following remuneration parameters are not updated**: (i) standard facilities whose allocated facilities have exceeded their regulatory useful life by January 1, 2020 and are not entitled to the specific remuneration system; and (ii) wind and photovoltaic standard facilities in the power grids of non-peninsular territories specified in appendix I to Order IET/1459/2014 of August 1, applicable to facilities whose specific remuneration system was assigned by the auction procedure established in that order.

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## Update of the remuneration parameters for standard facilities

- › Order TED/171/2020 establishes the **remuneration parameters for the second regulatory period** between January 1, 2020 and December 31, 2025, without prejudice to the reviews established in each regulatory half-period and the reviews of the remuneration for operation to be conducted every six months regarding the remuneration of standard facilities whose operating costs depend essentially on the price of fuel.
- › To this end, Order TED/171/2020 takes as its benchmark the returns established in Royal Decree-Law 17/2019 of November 22: a general return of 7.09%, and a higher return of 7.398% for those facilities which had been recognized a premium remuneration upon the entry into force of Royal Decree-Law 9/2013 and were not involved in court or arbitration proceedings, under the terms established in final provision three bis of Law 2/2013 on the Electricity Sector.
- › Considering the above, it updates the remuneration parameters for investment (Rinv) and operation (Ro) for the **2020-2022 period**, with the exception of standard facilities



whose operating costs depend essentially on the price of fuel, for which the value of the remuneration to operation is established for the first half of 2020.

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### Creation of new standard facilities for reassigning certain facilities

- › **A breakdown of the standard facilities of certain cogeneration and waste facilities is provided.** The reason for this is that, among other premises, to calculate the remuneration parameters, is the fact that cogeneration and waste processing plants operate in sectors or subsectors at risk of carbon leakage, as defined on the lists approved by the European Commission Decision in force at any given time. This implies that a higher volume of free emission rights is allocated to them in comparison to facilities that do not operate in those sectors, and which will, therefore, incur higher operating costs for the purchase of emission rights. To date, the remuneration parameters established for standard facilities already approved for these plants have been calculated on this basis, resulting in a remuneration of operation calculated on the assumption of a specific volume of free rights.
- › Nonetheless, the Order acknowledges that these generation technologies will not always operate in **a business sector at risk of carbon leakage**, so article 5 allows their owner to apply, in this case, for assignation to a new standard facility, with the same technical and financial characteristics, except for the criterion for allocation of free emission rights. To this end, the Order includes a number of new standard facilities whose remuneration parameters are calculated taking into account that they are not in a sector at risk of carbon leakage, which results in higher remuneration of operation to reflect the correct allocation of the costs associated with the purchase of emission rights. **June 30, 2020** is the deadline for interested parties to apply for this reallocation.

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### Facilities affected by final provision three bis of the Electricity Sector Act

- › Final provision three bis of the Electricity Sector Act establishes that, on an exceptional basis, when certain requirements are met, for facilities that had recognized premium remuneration on the entry into force of RDL 9/2013 of July 12, the value on which the reasonable return set for the first regulatory period will be based, may not be revised during the first two consecutive regulatory periods from January 1, 2020. These facilities may waive their rights to this exception prior to April 1, 2020, before the Directorate-General for Energy Policy and Mining. This measure will not apply to those facilities



whose premium system had been recognized prior to this regulation if (i) they initiated court or arbitration proceedings based on the amendment of the specific remuneration system after the entry into force of Royal Decree 661/2007, or (ii) they received compensation as a result of these proceedings, which will be adjusted to the 7.098% remuneration.

- › Order TED/171/2020 establishes the procedure for the owner of the facility to waive the right to the higher remuneration (7.398%) and maintain the ordinary 7.09% remuneration.
- › The assignment procedure for facilities that certify either their withdrawal from ongoing legal proceedings or their waiver of compensation, all prior to September 30, 2020, is also established.
- › These procedures for the assignment of standard facilities will be resolved and notified within six months from the registration of the application for assignment or the initiation of proceedings, as the case may be. The resolutions will be notified to the Spanish Markets and Competition Commission so that, in the liquidation immediately following them, it may proceed to the liquidation of the applicable payments or collection rights.

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## Other new developments

Order TED/171/2020 also introduces two points of interest, namely:

- › **Approval of the estimated market price for each year of the third regulatory semiperiod:** The market prices for the next three years are set for purposes of section 22 of Royal Decree 413/2014 (which will be, respectively, €54.42 /MW for 2020, €52.12/MW for 2021, and €48.82/MW for 2022),
- › **New operation thresholds:** New operation thresholds are established for hydraulic facilities (reduced) and biomass facilities (increased).

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## Entry into force

Although Order TED/171/2020 came into force on February 29, 2020, the **new parameters will apply from January 1, 2020**, so the Spanish Markets and Competition Commission must recalculate the liquidations.



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