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# New economic regime for renewable energy

## Legal flash – Energy

November 2020

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On November 4, 2020, the Official Gazette of the Spanish State published Royal Decree 960/2020, of November 3, regulating the renewable energy economic regime for electric power plants (*RD 960/2020*), which comes into force on November 5, 2020.



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RD 960/2020 establishes a new framework for future renewable plants that will be implemented through auctions.

The new remuneration framework will be aimed at new renewable capacity and will allow hybridization between technologies, the expansion and modification of existing plants, and will be compatible with storage.

## Highlights

- The new remuneration framework will be implemented through auctions.
- The auctions will follow the sealed-bid method.
- Auctions may be distinguished based on production technologies according to their technical characteristics, management levels, geographical location criteria, technological maturity, size, and innovative component, among other factors.
- The procedure for registering awardee plants in the Electronic Registry of the Renewable Energy Economic Regime is regulated, as well as the financial guarantee they must provide.



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## The renewable energy economic regime (“REER”)

- > **REER:** RD 920/2020 establishes a new remuneration framework for the generation of electricity through renewable energy sources, called the renewable energy economic regime (“REER”), which will allow certain plants generating electricity from renewable energy sources –those included in category b) defined in article 2.1 of Royal Decree 413/2014, of June 6– to receive income through the sale of energy on the market.
- > **Plants eligible for the REER:** To be eligible for the REER, the plants must either be new (commissioned after the auction giving rise to the right to receive it) or an extension or modification of an existing plant, in which case they will receive the REER for the part corresponding to the new investment.
- > **System of incompatibility:** In general, the REER is not compatible with receiving the specific remuneration regime set out by Royal Decree 413/2014, of June 6, nor with any aid granted for the same purpose and related to the same investment.

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## Creation of the auction system

- > **Auction system:** The REER is granted by means of auctions, in which a distinction may be made between different generating technologies according to their technical characteristics, size, management levels, location criteria, technological maturity and others. An order of the Ministry for the Ecological Transition and the Demographic Challenge will regulate the mechanism of the auctions, which will be subsequently called by a resolution of the Secretariat of State for Energy.
- > **Product to be auctioned:** The product to be auctioned will be the installed capacity, the electricity or a combination of both, and the bidding variable will be the price per unit of electricity, expressed in euros/MWh. The product to be auctioned and its quota will be established in the order regulating the auction mechanism.
- > **Benchmark prices:** At each auction, a maximum price will be set, known as a reserve price, which may be confidential. A minimum price, known as risk price, may also be set. Bids with an economic value greater than the reserve price will be ruled out and, if a risk price exists, bids with a value lower than the risk price will be ruled out.



- > **Development of the auction procedure and awarding of the product:** The auction will follow the sealed-bid method. Bids under consideration will be arranged from the lowest to the highest value of the economic offer, and bids will be selected beginning with the bid of the lowest financial value until the product quota is reached. The volume of product offered must exceed by at least 20% the volume of product to be auctioned. If this ratio is not met, the volume of product will be reduced. The volume of product awarded to a single company or corporate group cannot exceed 50% of the total volume of the product.
- > **Managing and supervisory entities:** The entity managing the auction will be the designated electricity market operator (*Operador del Mercado Ibérico de Energía*, or OMIE) directly or through any of its subsidiaries. The Spanish Markets and Competition Commission will be the supervisory entity of the auction.

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## Remuneration of the energy awarded. Minimum and maximum production

- > **Price:** The price to be received by the plants subject to the REER for each unit of energy auctioned will be its award price, which may be corrected on the basis of certain symmetrical market participation incentives by means of the market adjustment percentage. The remuneration will be maintained for a maximum period between 10 and 15 years, which may be extended, on an exceptional basis, up to 20 years.
- > **Guarantees of origin:** The guarantees of origin related to the auctioned energy will be assigned to the electricity system.
- > **Participation in the market and settlement of auctioned energy:** The awardees must participate in the market and will obtain the relevant market price. The market operator will settle the difference, which may be negative or positive, between the daily and intraday market prices and the price to be received established for each plant.
- > **Minimum energy:** A minimum amount of energy will be set, which must be reached by each plant subject to the renewable energy economic regime before the date of expiration of the maximum supply period. In the case of auctions at which the product to be auctioned is installed capacity, the minimum energy auctioned of each plant will be calculated according to the minimum number of equivalent annual operating hours of each technology and the maximum supply period.



- > **Maximum energy:** A maximum amount of energy auctioned will also be set, which will be calculated according to the maximum number of annual operating hours of each technology and the maximum period. In the order regulating the auction mechanism, certain intermediate control milestones may be established, in which the auctioned energy considered up to the control milestone must be higher than the minimum energy.
- > **Penalties:** Automatic penalties may be imposed (i) for not reaching the equivalent minimum auctioned energy in the intermediate control milestones, and (ii) if the auctioned energy of a plant does not exceed the value of the minimum auctioned energy on the expiration date of maximum supply period.
- > **Physical bilateral contracts:** The owners of plants subject to the renewable energy economic regime cannot declare physical bilateral contracts with those plants.

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### Start of the supply of energy

- > **Start date:** The start date of the maximum supply period will be established in the resolution calling the auction. Mechanisms may be established to ensure the maturity of the projects, as well as any other requirement aimed at ensuring their viability, such as the establishment of milestones prior to the completion of construction.
- > **Calculation of auctioned energy:** The auctioned energy of the plant will be taken into account from the later date between (i) the start date of the maximum supply period and (ii) the date following the registration in the Electronic Registry of the Renewable Energy Economic Regime in operation status, up to the date of conclusion of the maximum supply period.

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### Waiver of the REER

- > Once the minimum volume of auctioned energy has been exceeded, the awardees may waive that regime and continue with their activity, freely participating in the production market.
- > They may also waive that regime without having exceeded the volume of minimum auctioned energy, subject to a financial penalty.



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## Guarantees

Guarantees will be established:

- > To participate in auctions.
- > For the awardees, for their registration in the Electronic Registry of the Renewable Energy Economic Regime as under pre-assignment status, to ensure they finish the plant before the end of the maximum period.

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