

FURTHER CHANGES TO THE REMUNERATION OF RENEWABLES AND THE 67€/MWH LIMIT, IN RD-LAW 6/2022

WHAT IS THE AIM

The declared aim of these measures is to reduce the charges of the electric system and to supposedly thereby lower the final price of the energy. The series of measures adopted can be classed into two groups: those relating to the remuneration regime for renewable energy sources, on the one hand, and those relating to the windfall profits clawback mechanism in the electricity market, on the other.

THE NEW 2020-2022 REGULATORY SEMI-PERIOD

Spanish Royal Decree-Law 6/2022 introduces an extraordinary review of the remuneration parameters, whereby the regulatory semi-period from 1 January 2020 to 31 December 2022 is further divided into two (the first semi-period ending on 31 December 2021 and the second corresponding to 2022). These new parameters will be approved within the next two months (by 30 May 2022).

These parameters will be updated according to the methodology already in force, which up to now has been every 6-year regulatory period and every 3-year regulatory semi-period, except for: a) the estimated revenue from energy sales during the remainder of its useful life (and the parameters directly related thereto); and b) for those technologies whose operating costs depend on the cost of fuel, its price and that of the CO₂ emission rights.

The estimated market price for years 2022 to 2024 will be the arithmetical average of the share prices of the annual futures in the futures markets organised by OMIP, the Portuguese Iberian Electricity Market Operator, during the last six months of 2021. For 2025 and subsequent years, the same value as that used for 2024 will apply.

The cost estimate for fossil fuels will take into account the six-monthly deviations in the cost of raw materials and in access tolls, as the case may be. Meanwhile, the estimated cost of the CO₂ emission rights for 2022 and subsequent years will be the arithmetical average of the daily share prices of the futures for 2022 traded during the last half of 2021.

The adjustment for market price deviations during 2020 and 2021 will be calculated using the value determined by the CNMC of 33.94 €/MWh for 2020 and 111.90 €/MWh for 2021, as the arithmetical average of the hourly prices of the daily and intraday market.

Key issues

- RD-Law 6/2022 orders an extraordinary review of the parameters for 2020-2022, applicable as of 1 January 2022. The parameters will be approved in 2 months.
- The mechanism to adjust for market price deviations for energy produced in 2023 and subsequent years is eliminated.
- A new methodology will be approved to update the Ro for facilities whose operating costs depend on gas prices that are updated annually (instead of every six months).
- For fixed-price PPAs with terms of more than one year entered into on 31 March 2022 and thereafter, a limit of 67€/MWh is set; any excess on this ("windfall profits") will be reduced by 90% ("gas claw-back").*

WHEN AND HOW WILL THIS APPLY AND WHAT WILL THE IMPLICATIONS BE?

The new parameters will be updated so that they apply as from 1 January 2022. In the settlements of the specific remuneration done once the new parameters are updated, the CNMC will settle the amounts corresponding to the difference between the amounts settled to date and the amounts that would have applied under the new parameters. Since the price of energy was lower than the estimate for 2020, and notably higher than the estimate for 2021, this will give rise to a reduction of the amounts receivable by those facilities with a specific future remuneration regime, and to the offset of the windfall profits received during the period under review.

WHAT HAPPENS TO THE PARAMETERS REVIEW SET TO TAKE PLACE IN SEMI-PERIOD 2023-2026, AND THE SUBSEQUENT REGULATORY PERIODS?

These remain as they are. Parameters will be reviewed according to the methodology in force, taking into account the changes resulting from RD-Law 6/2022, with reviews of all parameters (except for regulatory useful life and investment value) for each regulatory period, as well as a more limited review each regulatory semi-period.

THE DISAPPEARANCE OF THE ADJUSTMENT DUE TO CHANGES IN THE MARKET PRICE OF ELECTRICITY

The adjustment due to deviations in the market price of electricity regulated in Royal Decree 413/2014, which established remuneration for such changes by the electric system, will not apply to energy generated from 2023 onwards. Royal Decree 413/2014 is expected to be adapted to reflect this change. This increases the risk deriving from changes in the market price, compared to the estimates approved by the Spanish Ministry of Energy and the relevant parameters set by it, thereby encouraging more PPAs with fixed-term prices to be signed.

NEW METHODOLOGY FOR UPDATING THE REMUNERATION FOR OPERATING PLANTS WHOSE OPERATING COSTS DEPEND ESSENTIALLY ON THE PRICE OF FUEL

This new methodology will be approved within two months and establishes an annual update (instead of the six-monthly update that had been in place until now), which seems incongruent with the volatility cited in Royal Decree-Law 6/2022. Given how general the criteria for its approval are, it is impossible to anticipate its content.

WHAT DOES THE €67/MWH LIMIT THAT HAS BEEN APPROVED CONSIST OF?

It adjusts the mechanism for reducing the remuneration initially approved through Royal Decree-Law 17/2021 in the following key respects:

- a) It is extended to 30 June 2022.
- b) The scope of application of the mechanism is not altered. Consequently, all renewables facilities benefiting from the specific remuneration regime or that have been awarded in auctions, among others, remain outside its scope.
- c) Facilities with fixed-price PPAs signed before 31 March 2022 remain outside the scope of the mechanism, and their remuneration will not be capped.
- d) Facilities with fixed-price PPAs with a term of more than one year, signed from 31 March 2022 onwards and with a coverage price of more than €67/MWh, will be subject to the gas clawback mechanism, reducing the windfall profits on that price by 90%.
- e) Additional rules are approved for scenarios in which the PPA is not limited to a specific facility, as well as for vertically integrated companies with intragroup bilateral energy partnerships. Among other matters, the clawback will apply in these cases to the group's marketer, taking a certain marketing margin into consideration. The complexity of these provisions could foreseeably give rise to disputes.

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