

**Regulation of the auctions and the
Economic Regime for Renewable
Energy in Spain**

New call for October 2021

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The recent energy policy in Spain is aimed at the adoption of regulatory measures to achieve the decarbonisation of its economy and ensure compliance with the obligation to reduce greenhouse gas emissions, in order to achieve so-called "climate neutrality".

On 31 March 2021, the Decision of 25 March 2021, jointly issued by the General Directorate for Energy Policy and Mines and the Spanish Climate Change Office, was published in the Official State Gazette (*Boletín Oficial del Estado* - "BOE"), publishing the Agreement of the Council of Ministers of 16 March 2021, adopting the final version of the National Integrated Energy and Climate Plan ("NIECP") 2021-2030, which aims at a 100% renewable electricity system by 2050. The evolution of the installed power capacity foreseen by the NIECP is the following:

Evolution of the installed power of electrical energy (MW)

Target Scenario Generation Park (MW)

Year	2015	2020*	2025*	2030*
Wind (also marine)	22.925	28.033	40.633	50.333
Solar photovoltaic	4.854	9.071	21.713	39.181
S. thermoelectric	2.300	2.303	4.803	7.303
Hydraulics	14.104	14.109	14.359	14.609
Mixed Pumping	2.687	2.687	2.687	2.687
Pure Pumping	3.337	3.337	4.212	6.837
Biogas	223	211	241	241
Other renewables	0	0	40	80
Biomass	677	613	815	1.408
Coal	11.311	7.897	2.165	0
Combined cycle	26.612	26.612	26.612	26.612
Cogeneration	6.143	5.239	4.373	3.670
Fuel and Fuel/Gas	3.708	3.708	2.781	1.854
Waste and others	893	610	470	341
Nuclear	7.399	7.399	7.399	3.181
Storage	0	0	500	2.500
Total	107.173	111.829	133.802	160.837

*Data for 2020, 2025 and 2030 are Target Scenario estimates from the NIECP.

Thus, in 2030, a **total installed capacity in the electricity sector of 161 GW is foreseen**, of which 50 GW will be wind power; 39 GW solar photovoltaic; 27 GW combined cycle gas; 16 GW hydro; 9.5 GW pumped-storage; 7 GW solar thermal; and 3 GW nuclear, as well as smaller capacities of other technologies.

In this regard, **59 GW of renewable power and 6 GW of storage are expected to be put into operation.**

Therefore, very ambitious objectives are set, which will have to take into account the maintenance of security measures and provide a guarantee of supply, as well as bearing in mind the technological advances and development of networks, where international interconnections will have a relevant influence.

The private initiative for the development of new renewable facilities has been highlighted by the existence of **access permits requested and granted by the network managers for around 100GW**. All this after the reduction of 40GW as a result of the application of the rules included in the Royal Decree-law 23/2020, of 23 June, which passed measures in the field of energy and other areas for economic recovery ("**Royal Decree-law 23/2020**").

However, in order to further promote this private initiative which can be seen by the growth of projects (which also have some milestones that, if not met, involve the loss of access permits and, where appropriate, the enforcement of the guarantee deposited), the following **mechanisms** have been foreseen:

- **New auctions** (analysed in this note)
- **Lines of support for investment in renewable energy** financed by the European Regional Development Fund (*Fondo Europeo de Desarrollo Regional*) and implemented by the Institute for Energy Diversification and Saving (*Instituto para Diversificación y Ahorro de la Energía*)
- Public guarantees for medium and long-term electricity supply agreements (**PPAs**)

Hereafter we focus on the auction system for the promotion of renewable energy.

The new economic regime for renewable energy

Royal Decree-law 23/2020¹, has established the regulatory basis for the new remuneration framework for the generation of electricity from renewable sources **through a system of auctions based on the long-term recognition of a fixed price** for the energy produced.

Therefore, **this is an additional remuneration regime to that already provided for in Article 14.7 of the Act 24/2013, of 26 December 2013, on the Electricity Sector**, which will be granted through competitive bidding procedures in which the electrical energy, the installed power capacity or a combination of both are auctioned. The variable on which the tenders will be based is the remuneration price of said energy.

This remuneration regime, which must be oriented towards cost efficiency, may differentiate between different generation technologies on the basis of their technical characteristics, size, management levels, location, technological maturity and others in accordance with the process of decarbonisation of the economy.

Royal Decree-law 23/2020 envisages the **possibility of exempting small-scale facilities and demonstration projects** from this competitive procedure.

As a result, this law has legally foreseen the possibility of using different criteria for the auction, which may be specified in future regulations.

¹ Article 2 of the Royal Decree-law 23/2020, adds a paragraph 7 bis to Article 14 of Act 24/2013 on the Electricity Sector, providing for the regulation of another remuneration framework for the generation of electricity from renewable sources.

In this sense, the following regulations have been passed which develop the Royal Decree-law 23/2020:

- Royal Decree 960/2020, of 3 November, which **regulates the economic regime for renewable energy for electricity production facilities ("RD 960/2020")**.
- Ministerial Order TED/1161/2020, of 4 December, **regulating the first auction mechanism for the granting of the economic regime for renewable energy and establishing the indicative calendar for the period 2020-2025 ("Ministerial Order 1161/2020")**.

A decision by the **State Secretariat of Energy** (*Secretario de Estado de Energía* - "**SSE**") will be **necessary in order to call an auction**, to be published in the BOE, and which defines the specific aspects of the auction.²

The decision for the first auction, held on 26 January 2021, was announced by the SSE on 10 December 2020, which announced the granting of the economic regime for renewable energies under the provisions of Ministerial Order TED/1161/2020, of 4 December ("**Decision for the first auction**").

The Decision for the second auction was announced by the SSE on 8 September 2021 and published the following day in the Official State Gazette (*Boletín Oficial del Estado* - "**BOE**") - 9 September 2021 – within the economic regime for renewable energies under the same Ministerial Order TED/1161/2020 mentioned in the previous paragraph ("**Decision for the second auction**").

In the following sections we will look carefully at the key features and requirements for this second auction.

² In accordance with article 6 of MINISTERIAL ORDER 1161/2020, the resolution calling for the auction shall define at least the following:

- a) The date of the auction and its calendar.
- b) The quota of the product to be auctioned and, if applicable, minimum reserves.
- c) Detailed specifications and forms to be filled in to participate in the auction.
- d) The information and documents to be included in the application to participate in the auction.
- e) The deadline for the facility's availability.
- f) The removal date from the ERRE.
- g) The maximum delivery period.
- h) The start date of the maximum delivery period.
- i) Reserved energy price.
- j) Risk price.
- k) The maximum size of an indivisible section offered.
- l) Percentage of excess quota in the matching process.

Auction Calendar

Ministerial Order 1161/2020 established an indicative calendar for the allocation of the Economic Regime for Renewable Energy (“ERRE”) for the period 2020-2025, including indicative deadlines, frequency of calls, expected capacity and technologies.

Technology/years	Minimum Accumulated Power Volumes (MW)					
	2020	2021	2022	2023	2024	2025
Wind	1.000	2.500	4.000	5.500	7.000	8.500
Photovoltaic	1.000	2.800	4.600	6.400	8.200	10.000
Solar thermoelectric		200	200	400	400	600
Biomass		140	140	260	260	380
Others (biogas, hydraulics, tidal power, etc.)		20	20	40	40	60

For biomass and solar thermal technologies, auctions are planned every two years, accumulating the annual objectives. Likewise, it will be possible to call for auctions for renewable facilities made up of one or several technologies (hybridisation) allowing for storage as long as this is used to manage the energy produced by the facilities itself.

In the first ERRE allocation auction, 3,000 MW were auctioned. From these, 1,000 MW were reserved for wind technology and another 1,000 MW for photovoltaic technology. The remainder was open to a technology-neutral auction. In the end, 3,034 MW of wind and photovoltaic were awarded with a weighted average price of 24.47 €/MWh for photovoltaic technology and 25.31 €/MWh for wind.

In the current context marked by high prices in the wholesale electricity market, the government is planning a new bidding process in which **tighter deadlines are foreseen for the commissioning of the awarded facilities** in order to reduce the price of electricity.

To this end, the Decision for the second auction establishes new accelerated delivery times for generation facilities that can be ready to build in eight months.

By the end of 2021, further competitive procedures are planned for a minimum of 200 MW of thermoelectric solar energy, 140 MW of biomass and 20 MW for other technologies.

Developing this forecast, the second Decision includes the auction calendar for the second call, which is as follows:

Event	Date and time
Opening of the delivery deadline for submission of documentation for pre-qualification and qualification	08/09/2021, 11:00
Deadline for submission of documentation for qualification and prequalification	05/10/2021, 13:00
Deadline for clarifying and rectifying mistakes	07/10/2021, 13:00
Auction trials with qualified bidders	08/10/2021, 09:00
Testing access to auction system and digital signature	13/10/2021
Auction date	14/10/2021
Opening of period to receive bids	14/10/2021, 9:00
Closure of period to receive bids	14/10/2021, 11:00
Maximum time limit for the appeal process and publication of interim results	14/10/2021, 14:00
Period of complaints by participants about the provisional results	14/10/2021, 2h after the provisional results have been shared with the agents

It therefore provides for the start of the process to deliver the documentation on 13 September 2021 at 13.00h and the period for the receipt of bids to take place on 19 October 2021 between 09.00h at 11.00h.

Scope of the new auctions

Being eligible for the new ERRE is **subject to the facilities being the result of a new investment made after the auction was held**, whether it is a new facility or an extension or modification to an existing facility (more than 15 years old and when the modification is significant).

The facilities which qualify within ERRE according to the Ministerial Order 1161/2020, will be those that have **photovoltaic technology, wind** (marine or terrestrial), hydraulic, thermosolar or biomass, excluding the facilities of cogeneration of gas, coal and fuel³.

³ The scope of application of Royal Decree 960/2020 includes those facilities producing electrical energy from renewable sources, as defined in Royal Decree 413/2014 of 6 June, which regulates the production of electrical energy from renewable energy sources, cogeneration and waste, which will continue to apply to them, except for the provisions of the specific remuneration scheme. However, MINISTERIAL ORDER 1161/2020 is limited to regulating

For facilities that already exist, only new investments made will qualify for ERRE.

Storage is only allowed when it is used for the energy produced in the facility.

The Decision covering the second auction states that energy generating facilities call enter into such auction to receive economic support for renewable energy are those that generate energy using one or various technologies described in subgroup b.1.1 and b.2.1 of article 2.1 of Royal Decree-law 413/2014 dated 6 June 2014, which regulates electrical energy production from renewable sources, cogeneration facilities and waste:

- Subgroup b.1.1 Installations that only use solar radiation as primary energy using photovoltaic technology.
- Subgroup b.2.1 Wind installations located on land.

Furthermore, these facilities must meet the following requirements:

- They must be new facilities or extensions to existing facilities
- They must be located within the peninsular electrical system
- They must not have a storage system, or if they do, that this storage system be used to store energy produced exclusively by that facility.

Product to be auctioned

The product to be auctioned will be the installed power capacity and the SSE will establish a quota to be auctioned for each product per decision.

Each SSE decision sets the **Maximum Delivery Period** (period between 10 and 15 years extendable to 20) in which the obligation to sell the **Minimum Auction Energy** must be fulfilled (volume of energy sold that must be reached by each facility).

In total, the second auction Decision sets a product quota of 3,300 MW (with an excess percentage of 6%, up to 3.948MW), and four minimum quotas to be awarded to different technologies are established:

- 600 MW are reserved for photovoltaic and wind facilities with accelerated availability.
- 700 MW are reserved for solar PV projects.
- 1,500 MW are reserved for onshore wind technology.
- 300 MW are reserved for locally distributed photovoltaic generation facilities.

With regards to the reservation of 300 MW for locally distributed photovoltaic energy, the following additional requirements have been outlined:

- Those facilities eligible for this reserved energy quota must be connected to an energy distribution network up to or equal to 45 Kv.

the auctions for facilities included in category b) defined in Article 2.1 of Royal Decree 413/2014, of 6 June, basically all facilities with a renewable energy source, excluding cogenerations of gas, coal and fuel and black liquors (categories a) and c)).

- They should have an installed capacity up to or equal to 5 MW, meaning that no facility can register with ERRE if they are producing higher than 5 MW.
- Those facilities eligible for this reserved energy quota must encourage citizen participation at a local level. There are various legal formats in which this can be achieved, as outlined below:
 - Through **local cooperatives**, with at least ten members with registered addresses in one of the municipal areas that are either wholly or partially within 30 km of the geographic location of the energy generating facilities.
 - Through **local government or public ownership** when the facility is located within the scope of such body.
 - Through **limited companies**, where at least 25 % of the share capital or 25 % of the financing necessary to implement the renewable project, is held by at least four local participants, which may be natural persons, local authorities, cooperatives, micro, small and medium-sized enterprises, as defined in Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty. This requirement of four local participants may be replaced by the participation of a local cooperative with at least four local cooperative members. For the purposes of this call, local participants are considered to be those registered or with tax domicile located in municipalities that are totally or partially located at a distance of less than 30 km from the geographical location of the energy generating facilities. Participation in the share capital or in the financing of the project may take place through crowdfunding or crowdlending.

The second auction Decision sets the maximum delivery period for the committed energy at 12 years. The start date of the maximum delivery period, as well as the deadline for the availability of the facilities and the date of removal of ERRE status is shown in the following table:

Technology / minimum reserve	Subgroup as defined in article 2 of Royal Decree 413/2014, of June 6	Facility availability deadline	Removal date from the ERRE regime	Start date for the maximum delivery period	Maximum delivery period
Accelerated access photovoltaic & wind installations [4.a) of third point]	b.1.1 y b.2.1	30/06/2022	31/07/2022	31/10/2022	12 years
Photovoltaic [4.b) of third point]	b.1.1	30/04/2023	31/05/2023	31/08/2023	12 years
Wind installations located on land [4.c) of third point]	b.2.1	30/04/2024	31/05/2024	31/08/2024	12 years
Locally distributed photovoltaic energy generation [4.d) of third point]	b.1.1	30/04/2023	31/05/2023	31/08/2023	12 years

The auction will be **held by electronic means** and the awarding process will be carried out through the closed envelope auction method, according to a pay-per-bid mechanism.

The managing entity of the auction will be OMI-Polo Español, S.A. ("**OMIE**"), before which the interested parties must present new guarantees for the participation in the auction.

It shall be noted that **the volume of product awarded to the same company or business group may not exceed 50% of the total volume of the auctioned product.**

Auction Processes

In order to be the successful bidder in the auction, the following processes must be passed:

- a) The **pre-qualification process**, by means of which the right to receive information related to the auction, to participate in the training sessions that may be carried out and to request the qualification for the auction are obtained.
- b) The **qualification process**, in which the subjects who have been pre-qualified will be enabled to participate in the auction for a certain power declared by the bidder, which will determine their maximum qualification volume for the product.

Prior to the holding of the auction, the entity administering the auction shall verify that the volume of product actually qualified is at least 20% higher than the quota of each product to be auctioned. If this is not the case, the quota of said product to be auctioned shall be automatically reduced, giving rise to a reduced quota.

- c) The **auction process**, in which qualified bidders may participate, according to the following steps:
 - 1.^o The auction process is initiated by enabling a period of time during which qualified bidders can place their bids⁴. A different bid may be submitted for each product, technology and category and for a maximum of 40 sections⁵. Only one bid per bidder will be admitted which can be modified, the last one being valid. The second auction Decision sets the maximum size of an indivisible bidding section at 180 MW.
 - 2.^o Once the period for placing bids has ended, the auction will be closed, and the entity administering the auction will apply the allocation mechanisms set out in Article 10 of

⁴ Basically, it begins the process in which qualified bidders can place their offers. The sections of the offers whose price is higher than the quota price or lower than the risk price are discarded. Aggregate bidding curves are formed, ordering the sections from lowest to highest. If there is a minimum quota per product, the offer sections linked to this quota are selected. Then the remaining offer sections are selected until the quota is covered. Each bidder is assigned to the set of blocks selected by him. The award price is assigned, which coincides with the bid price of each block.

⁵ Each section will include the power offered in that section, expressed in blocks of 1 kW, the price offered for the energy, expressed in euros/MWh with two decimals, and an identifier relating to the divisibility of the section. Bids may be divisible or indivisible:

- Indivisible: In these, if all the power offered cannot be awarded, it will be excluded from the appeal in its entirety.
- Divisible: Even if not all the power can be awarded, partial awards may be made. However, different divisible sections expressed at the same price shall not be admitted.

Ministerial Order 1161/2020, which establishes the **appeals process**, together with the detailed specifications of the auction to be set by the SSE⁶.

3.^o At the end of the auction, the bidders will have a period to file claims in case they require it.

In this appeals phase, **it will be verified that the total volume offered for each product is at least 20% higher than the quota of the product to be auctioned**. If this is not the case, the quota will be automatically reduced, thus obtaining a new reduced quota.

Once the appeals process is completed, OMIE will send the provisional results⁷ to the agents and to the supervising entity and when the latter declares that the auction has been carried out in an objective, transparent and non-discriminatory manner, the results will be made public and the General Directorate of Energy Policy and Mines (*Dirección General de Política Energética y Minas - "GDEPM"*) **will issue a decision finalising the auction, which will be published in the BOE**⁸.

The Decision of the call for the second auction includes in its Annex III the Detailed Auction Specifications or "auction rules" and forms to be completed in order to participate in the auction, detailing, among other elements, the information and documents to be included in the application for participation in the auction.

Annex IV, which is confidential, contains the reserve price for each technology, which shall be delivered to the auction administrator between 07.00h and 09.00h on the opening day of the bid reception period.

Post-awarding procedures

The regulation of the auctions also includes a **series of milestones that must be complied with** and which must be accredited before the ERRE Registry.

To this end, the **obligation to provide guarantees is imposed and these will be executed if the following milestones are not met:**

- **Inscription in the Registry of the ERRE in pre-allocation status:** Each successful bidder must present its application for inscription in the Registry within **2 months** from the date of publication of the Decision of the auction in the BOE.
- **Selection of the facility:** The maximum selection period before the GDEPM is **6 months** from the publication in the BOE of the inscription of the facility in the Registry in status of Pre-assignment. Facilities with a total installed power equal to or less than the power registered in the Registry in pre-allocation status increased by 50 percent may be selected. After the resolution of the application, the data of the facility cannot be modified, and other facilities cannot be registered in order to obtain the ERRE.

⁶ However, it should be noted that those sections of the offers whose price is higher than the reserve price or lower than the risk price will be discarded, if it has been defined.

⁷ Pending validation by the entity supervising the auction.

⁸ This resolution will not put an end to the administrative process and, consequently, may be subject of an appeal to the SSE.

- **Evidence of the obtaining of administrative authorisation for the construction:** The maximum period to provide this evidence is of **12 months** from the publication in the BOE of the decision of inscription in the Registry in status of Pre-assignment. The administrative authorisation will include the evacuation infrastructures, the connection to the network and, if applicable, the transformation of the energy.
- **Inscription of the facility in the ERRE's Registry in operation status:** The inscription must be done before the end of the maximum period of one month from the deadline of availability of the facility or, in its case, from the date of exclusion from the ERRE established in the decision by which the auction is called⁹. The facility must have the same owner that is recorded, at that time, in the Registry in a pre-allocation status and in the Administrative Registry of Electricity Production Facilities.
- The second auction Decision also foresees the obligation to present a strategic plan with estimates of the impact on local employment and the industrial value chain, together with the application for registration in the ERRE Register in pre-assignment status, with such strategic plan being made public on the website of the Ministry for Ecological Transition and the Demographic Challenge. When the application for registration is in operating status, the final plan must be submitted, which must reflect the level of compliance with the forecasts made in the plan submitted after selection of the facility.

Remuneration of the awarded facilities: market

Since the product to be auctioned will be the installed power, bidders will bid the price they are willing to receive for the energy generated by the facilities and **the price for each successful bidder will coincide with the price they bid for** (*“pay as bid”*).

This price will not be updated, but some considerations must be taken into account:

- The beneficiary facilities **will participate in the daily and intraday market and shall receive**, for the energy sold on said markets, **the price established in the auction, corrected, where appropriate, for the determined exposure to the market** that is applicable, up to a determined volume of energy and for a maximum period of time.
- In addition, these facilities **may participate in the adjustment and balance services**, where they will charge the market price for such services. The price resulting from the auction will also be corrected with incentives for the successful bidder to participate in the market, introducing, as a consequence, certain exposure of the facilities to the electricity market.

⁹ The application for registration will include selection of the facility, location and power, and various statements of responsibility:

- Compliance with the fact that no storage is available or that the storage will be dedicated to energy storage.
- Dates of the beginning of the construction and the first firm commitment of the equipment order.
- In new facility, that it does not imply the closing or reduction of power of another facility in the same location and technology. In expansion, that the new investment means an increase in power and does not involve the elimination of generating equipment.
- Certificate of the market operator regarding the sale of energy in the market; and
- Any other documentation necessary to prove the requirements and conditions.

Technologies	Subgroup defined in article 2 of Royal Decree 413/2014, of June 6	Market adjustment percentage	
		Facilities with management capacity	Facilities without management capacity
Photovoltaic.	b.1.1	0.25	0.05
Solar Thermoelectric.	b.1.2	0.25	
Wind.	b.2	0.25	0.05
Rest of renewable technologies.	b.3	0.25	0.05
Hydroelectric plants (Installed power less than or equal to 10 MW).	b.4	0.05	
Hydroelectric plants (Installed power greater than 10 MW).	b.5	0.05	
Biomass, Biogas or Bioliquids.	b.6, b.7, b.8	0.25	

Ministerial Order 1161/2020 sets the **market adjustment percentage at 25% for technologies with the capacity to manage their production level and at 5% for those without such capacity.**

The second auction Decision reduces the value of the market adjustment percentage for facilities with management capacity in the same terms:

Technologies	Subgroup as defined in article 2 of Royal Decree 413/2014, of June 6	Market adjustment percentage	
		Facilities with management capacity	Facilities without management capacity
Photovoltaic	b.1.1.	0.25	0.05
Wind	b.2.1	0.25	0.05

In order to determine the remuneration to be obtained, the concept of "**Remuneration Unit**" should be considered, which is the part of the facility for which the values necessary to settle the regime are applicable to all the elements of said unit. Each remuneration unit is constituted as a unit of offer¹⁰.

Thus, **the specific remuneration of the Remuneration Unit will be obtained from its awarding price, the remuneration parameters** of the technology to which it corresponds (by the percentage of market adjustment and equivalent hours of operation), **the characteristics of each facility and its participation in the electricity market.**

The settlement to be received by each facility will be made by the market operator (OMIE) and will consist of the difference between the price to be received by each Remuneration Unit and that obtained from the sale of the energy in the market.

¹⁰ In the case of extensions or modifications, only the part corresponding to the new investment will be eligible for ERRE.

Inscription in the ERRE's Registry

In order to be eligible for ERRE, the facilities **must be registered in the Electronic Registry of the Economic Regime of Renewable Energies in a pre-allocation status or in an exploitation status.**

Compliance with the milestones and requirements set forth in RD 960/2020 and Ministerial Order 1161/2020 **must be accredited** before this Registry.

Furthermore, the importance of the Registry lies in the fact that **the information contained in it is taken for the return of the guarantees and for the calculation of the retribution corresponding to each facility**, without prejudice to any other data recorded, for other purposes, in the Registry of electricity production facilities or in any other registry.

In order to comply with this purpose, the registration information shall be sent, periodically and automatically, to the market operator (OMIE) and to the system operator (REE).

Warranties and costs

The guarantees established in the regulation of the auction are different from those that apply for permission to access the transport and distribution networks. The following guarantees are required:

- a) **Guarantee of participation in the auction: 60 €/kW offered.** It will be returned once the decision of the auction is published in the BOE¹¹.
- b) **Guarantee of registration of the pre-allocation in the ERRE's Registry: 60 €/KW of power to be registered.** It will be returned according to the following calendar:
 - a. **12€/kW** when the facility is correctly selected ¹².
 - b. **18€/kW** when the administrative construction authorisation is obtained and for the power included in it¹³.
 - c. **30 €/kW** when the facilities is registered in the ERRE registry in exploitation status¹⁴.

On the other hand, **the cost of organising the auction will be borne by those bidders who are awarded** and will be distributed according to the amount of product awarded (0.08 euros per kW awarded).

¹¹ The total or partial cancellation will be made in accordance with the provisions of Article 26.4 of RD 960/2020.

¹² If the difference between the power registered in pre-allocation and that selected is less than 5%, this part of the guarantee will be returned.

¹³ If the difference between the power registered in pre-allocation and the accredited power is less than 5%, this part of the guarantee will be returned.

¹⁴ The amount corresponds to the power registered with the limit of the lesser of the powers between the one registered in pre-allocation and the one previously selected. In the case of late registration, a proportional part of the remaining 30 €/kW of guarantee will be enforced.

Penalties

In order to encourage the fulfilment of the obligations related to the minimum energy of auction acquired by the facilities qualifying for ERRE, the following penalties are established:

A) Penalty for non-compliance with intermediate milestones.

There are intermediate control milestones of 3 years in which a minimum energy delivery must be achieved. The minimum auction delivery of each milestone will be 5€/ MWh per penalized energy and will be calculated according to a formula.

B) Penalty for the cancellation of the inscription in the ERRE's Registry when it is in exploitation and before the maximum delivery.

If the registration is cancelled before the end of the delivery period and the minimum auction energy has not been reached, a penalty of 5 €/MWh will be established for the energy that may be penalised. This energy shall be calculated according to a formula.

C) Penalty for failure to comply with the maximum delivery period.

If in the maximum delivery time the minimum energy is not reached, a penalty of 5 €/ MWh will be established for the energy susceptible to be penalised. This energy will be calculated according to a formula.

The GDEPM will initiate ex officio the procedures for the execution of guarantees once it has been verified that the milestones and requirements have not been met. The execution of guarantees according to the established procedure shall not prevent the imposition of sanctions.

Decision deadlines

When any type of request is presented before the GDEPM and for the ERRE's Registry, especially for the accreditation of milestones, **the maximum period of resolution and notification will be three months.**

After this period without obtaining a resolution, **the silence is considered negative** and therefore they are considered to be rejected. This resolution will not put an end to the administrative process and **may be appealed before the SSE.**



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The information contained in this Legal Notice is of a general nature and does not constitute legal advice, having been issued on 8 September 2021.