

III. OTHER PROVISIONS

MINISTRY FOR ECOLOGICAL TRANSITION AND THE DEMOGRAPHIC CHALLENGE

13591 *Royal Decree 960/2020, of 3 November, regulating the economic regime for renewable energies for electricity production facilities.*

I

Royal Decree-Law 23/2020, of 23 June, which approves measures in the field of energy and other areas for economic recovery, backed by the Spanish Government's declaration of a climate emergency, in the quest to promote the predictability and certainty that will encourage investment in new renewable generation capacity and, in turn, to ensure compliance with the obligation to reduce greenhouse gas emissions with the aim of achieving climate neutrality by 2050 at the latest, on the basis of a 100% renewable electricity system, provides for the obligation to develop a regulatory framework for the generation of electricity from renewable energy sources, distinct from the specific remuneration scheme, based on the long-term recognition of a price for energy.

The aforementioned remuneration framework shall be granted through competitive bidding procedures in which the product to be auctioned shall be installed power, electrical energy or a combination of both and the supply variable, the price per unit of electrical energy. In the competitive tendering procedures that are called, a distinction may be made between different generation technologies on the basis of their technical characteristics, size, manageability levels, location criteria, technological maturity and those others that guarantee the transition to a decarbonised economy. All this, within the framework established by Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

With the aim of encouraging citizen participation in the development of new renewable installations, Royal Decree-Law 23/2020, of 23 June, defines the concept of a renewable energy community by modifying Article 6.1 of Law 24/2013, of 26 December, on the Electricity Sector, thus laying the foundations for the promotion of citizen participation in the renewable sector.

The remuneration framework regulated by this royal decree must ensure the diversity of agents in the deployment of renewables and take into account the particularities of the renewable energy communities so that they can compete for access to the remuneration framework on an equal footing with other participants, all in accordance with Community regulations.

In addition, in the case of small-scale installations and demonstration projects, they may be exempted from the competitive procedure for granting the above-mentioned remuneration framework. In these cases, the result of such procedures may be used as a reference for remuneration.

In this context, Spain has taken on ambitious objectives in relation to the development of renewable energies in its proposed Integrated National Energy and Climate Plan (PNIEC) 2021-2030, which involves the installation of around 5,000 MW/year of new capacity over the next decade. In order to achieve these objectives, the PNIEC itself proposes, among other measures, the convening of auctions for the granting of new remuneration frameworks in line with that described above.

The existence of renewable resources in Spain and technological improvements make it possible to follow this path, provided that attractive financing conditions are available to investors.

However, electricity forward markets in Spain are underdeveloped and the forecast of a significant inflow of renewables adds additional uncertainty about wholesale market prices, which is passed on to project cash flows, making them more expensive and, in the extreme, unviable to finance under market conditions.

The current regulation of support schemes for renewables in Spain, based on capacity auctions in which bids were made for a return on investment, can be improved, given the current state of development of these technologies, so that it gives efficient economic signals and takes into account the average production costs of these technologies.

In general, it can be said that when new renewable power with low operating costs is integrated into the market, there can be a drop in the price of electricity as perceived by the consumer. This occurs when, in certain daily and intraday market trading periods, the last matched offer corresponding to a technology with high operating costs is replaced by an offer made by a technology with low operating costs. However, in all those trading periods in which the last matched offer corresponds to technologies with high operating costs, the integration of renewables under the remuneration scheme established by the specific remuneration regime does not produce a drop in the price received by the consumer, but rather a benefit for installations with low operating costs.

The incorporation of new renewable power under the remuneration framework regulated by this royal decree not only allows for an indirect reduction in the price of energy, as mentioned above, but also produces a direct reduction in the price of energy, even in trading periods in which the last matched offer corresponding to a technology with high operating costs, thanks to the fact that the lower price of energy, resulting from the competitive procedures for the allocation of this remuneration framework, is integrated into the market, generating an economic surplus. These circumstances call for public intervention to address the market failure described above and to establish a new remuneration framework that will allow the reduction in production costs experienced by renewable technologies in recent years to be passed on directly to consumers.

II

The purpose of this royal decree is to regulate an economic regime accessible to installations producing electricity from renewable energy sources through an auction mechanism.

In shaping this economic regime, account has been taken of its necessary compatibility with Community legislation contained in Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources; Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 concerning common rules for the internal market in electricity and amending Directive 2012/27/EU; and Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 concerning the internal market in electricity.

The three main elements to be considered in assessing the compatibility of renewable energy auctions with European legislation are necessity, proportionality and market exposure.

With regard to the need for the measure, it should be borne in mind that it aims to resolve a market failure that prevents the achievement of a general interest objective, such as decarbonisation. The failure is that renewable energy generation projects currently underway or planned can cannibalise in the middle of the year the energy supply of the country.

In the medium term, the Spanish renewable energy market will be depressed, depressing prices and preventing the installation of more renewable power in the face of the uncertainty of income from projects without public support of any kind. The implementation of the renewable capacity required to achieve the objectives in terms of renewable generation and decarbonization can lead to an intense reduction in electricity market prices, mainly in those moments when there is an abundant renewable resource available that can be exploited by the different technologies. The proposed auction mechanism facilitates access to financing for renewable energy projects for promoters by providing greater certainty regarding future income and avoiding the appearance of strong economic-financial tensions, which could put the integrity and stability of the electricity system at risk, as well as the coverage of electricity demand.

Given the long lead times, both technical and administrative, for this type of project, it is necessary to act urgently and anticipate this effect, otherwise there would be no room for intervention and compliance with the renewable energy and emission reduction targets for 2030 would be put at risk, as well as the achievement of economic savings for consumers as a whole and the improvement of the competitiveness of the productive sectors involved in the deployment of renewables.

Price risk hedging could not be developed exclusively in the market itself by forward contracting energy with a counterparty, such as a trader or end customer, in organised forward markets, Over The Counter (OTC) markets or through bilateral trading (Power Purchase Agreements or PPAs) as the forward markets for electricity in Spain currently have neither the liquidity nor the depth required to offer a counterparty to the renewable generation contingent that is necessary to meet the objectives of the PNIEC, so public intervention would still be necessary to complement the risk coverage mechanisms for financing renewables.

With regard to the proportionality of the measure, access to the economic regime through a competitive mechanism, such as auctions, guarantees the proportionality of the support scheme, as well as its granting in an open, transparent, competitive, cost-effective and non-discriminatory manner, as stipulated in Article 4.4 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018. Transparent and non-discriminatory criteria to meet the requirements of the auction will be established and published and clear dates and rules will be set for the correct completion of the project, as stipulated in Article 4.6 of that directive.

Finally, with regard to market exposure, Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 requires beneficiaries to have market exposure. The proposed scheme guarantees this exposure by obliging the beneficiaries of the auction to sell their energy on the electricity market and ensuring that they operate with the same balance sheet obligations as the other generators. The obligation to sell energy therefore requires that each installation covered by the economic regime for renewable energy must make an offer to sell on the market, at a price freely determined by the installation, and that this offer is matched on the market. In addition, the income received by the installations from the sale of the energy depends on the price obtained at the auction and also on the price on the electricity market when this is below a certain value or once the maximum energy subject to the auction has been sold. There is therefore direct exposure to the market in line with the requirements of Community law. In addition, when it is so established in the call for tenders, for example in the case of auctions for manageable technologies or with storage, this royal decree enables auctions to be called with a formula which provides for additional exposure to the market price which encourages the displacement of generation towards the hours of greatest scarcity.

One of the motivations for establishing some market exposure is that support mechanisms do not provide incentives for negative or zero prices. To this end, the proposed scheme excludes from it hours when the market price is not positive. Although negative prices are not currently permitted in Spain and hours with a zero market price are still a very rare phenomenon, unlike in Central Europe, it is likely that this phenomenon will become more frequent over the period of application of this mechanism.

III

The scope of application of the royal decree covers installations producing electricity from renewable energy sources as defined in category b) of Article 2.1 of Royal Decree 413/2014 of 6 June, which regulates the production of electricity from renewable energy sources, cogeneration and waste.

Royal Decree 413/2014, of 6 June, will continue to apply to the installations covered by the economic regime for renewable energies established by this royal decree, with the exception of the specific remuneration scheme.

The royal decree authorises the ministerial order which, in its development, regulates the auction mechanism for the granting of the economic regime for renewable energies and the characteristics of the said regime, to specify the technologies or the group of installations with specific characteristics which may participate in the auctions and the product to be auctioned, which may be installed capacity, electrical energy or a combination of both. In addition, in accordance with Article 22.7 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018, the particularities of public participation projects, such as renewable energy communities, may be taken into account so that they can compete for the economic regime on an equal footing with other market participants. In turn, Article 4.4 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 provides that small-scale installations and demonstration projects may be excluded from the auction procedures.

With regard to the possibility of calling for auctions for specific renewable technologies, account should be taken of Article 4.5 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018, according to which tendering procedures may be limited to certain technologies when the opening of support schemes to all producers of electricity from renewable sources would lead to sub-optimal results, taking into account

- a) The long-term potential of a specific technology;
- b) the need for diversification;
- c) the costs of network integration;
- d) the limitations and stability of the network;
- e) in the case of biomass, the need to prevent distortions on the raw material markets.

The order regulating the auction mechanism may define technical requirements relating, inter alia, to improving network stability and system integration costs, as stipulated in Article 4.2 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018.

Also in line with the provisions of the Directive, the royal decree provides for the establishment of an auction calendar in order to enhance the predictability of the auctions and thus facilitate participation in them, as set out in Article 6.3 of the Directive, as well as the publication of information regarding the outcome of the auctions already held, including the project completion rates, as stipulated in Article 4.6 of the Directive. This timetable shall be geared towards achieving the renewable production targets set out in the PNIEC.

In auctions for the purpose of granting the economic regime for renewable energy, the price of the electricity, expressed in euro/MWh, will be bid and the product to be auctioned will be awarded by applying a payment by tender mechanism. Each successful bid in the auction will have an awarding price corresponding to its bid price. This award price will not be subject to updating, ensuring that the level of support provided to renewable energy projects, as well as the conditions to which it is subject, are not revised in such a way as to have a negative effect on the rights conferred, in accordance with Article 6.1 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018.

The price to be received by the installations under the economic regime for renewable energies for each trading period, per unit of energy traded in the daily and intraday markets, will be calculated on the basis of the auction clearing price, which may be corrected on the basis of symmetrical market participation incentives through the percentage market adjustment. In addition, in those trading periods in which the price of these markets is lower than the price of exemption from collection established in the call for tender, the price to be received will be that resulting from the matching of the two markets.

The price to be received by the installations under the economic regime for renewable energy for their participation in markets other than the daily and intraday markets will be the price directly derived from their participation in these markets. Subsequently, the net value of the energy traded in the balancing and adjustment services, valued at the difference between the price to be received and the daily market price, will be settled for each installation.

This will allow for the optimisation of the integration of electricity in the electricity market and ensure that renewable energy producers respond to market price signals and optimise their market revenues, in accordance with Article 4.3 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018.

The royal decree defines the concepts of auction energy, minimum auction energy, maximum auction energy and maximum delivery period, the quantification of which will be carried out by means of the order regulating the auction mechanism.

The royal decree states that the operators of installations under the economic regime for renewable energy will participate freely in the daily and intraday markets and will be able to participate in the system operator's processes, avoiding unnecessary distortions of the electricity markets, while integrating electricity from renewable sources into the market in a market-driven and market-driven manner, as stipulated in Article 4.2 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018. Such operators may not, however, declare physical bilateral contracts with installations under the economic regime for renewable energy. This restriction aims to maximise the passing on of the reduction in generation costs of renewable technologies to all consumers by preventing installations under the EER from opting for bilateral contracts at times when this option is more profitable for them than selling the energy on the daily or intraday markets.

The market operator shall settle the difference, which may be negative or positive, between the daily and intraday market prices received for the energy traded by each installation under the economic regime for renewable energy and the price recognised for such installations.

Therefore, this royal decree partially transposes Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, with regard to support schemes for electricity from

renewable sources, Article 4 of that Directive, as well as to the publication of a long-term timetable, Article 6(3) of that Directive, and to the guarantee of no revision with negative effect of the level of support provided to renewable energy projects, Article 6(1). The completion of the transposition process will require the transposition of the remaining articles of the Directive into national law.

IV

In order to monitor the economic regime for renewable energy, the royal decree regulates the organisation and operation of the electronic register of the economic regime for renewable energy, which will be registered in one of the following two states: pre-allocation and operation. In order to be registered in the register in the exploitation state, prior registration in the pre-allocation state will be a condition.

The auction rules may establish mechanisms by which the maturity of the facilities can be demonstrated prior to registration in the electronic register in either state.

The decision of the holder of the Secretariat of State for Energy calling the auction shall establish the deadline for the availability of the facility, by which time the requirements necessary for facilities registered in the register in a pre-allocation status must generally have been met. However, those installations which comply with the aforementioned requirements after that date and before the date of expulsion from the economic regime for renewable energies may be registered in this register as being in operation, in which case the guarantees will be enforced.

Once the installations have been registered in the administrative register of electricity production installations, those registered in the register in pre-allocation status may address their application for registration in the electronic register of the economic regime for renewable energy in operation to the Directorate-General for Energy Policy and Mining, which is a necessary condition for the application of the economic regime for renewable energy.

The royal decree regulates the cancellation of the registration in the electronic register of the economic regime for renewable energies in the pre-allocation state and in the operating state, and provides for the inspection of the installations registered in the electronic register of the economic regime for renewable energies by the competent body of the General State Administration.

It also establishes a series of penalties, which are not of a penal nature, aimed at encouraging compliance with the obligations relating to the minimum auction energy that the installations have undertaken to deliver.

V

This royal decree has been drawn up taking into account the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency which form the principles of good regulation referred to in Article 129.1 of Law 39/2015 of 1 October on the Common Administrative Procedure of Public Administrations.

It thus complies with the principle of necessity, as it aims to address the market failure described above, which would put at risk the achievement of the renewable energy and emission reduction targets for 2030.

It also complies with the principle of effectiveness, given that, as explained above, the auction mechanism is the most appropriate instrument for carrying out the most effective development of these support systems.

It also complies with the principle of proportionality, given that the provision contains the regulations which are essential to meet the need to be covered, without there being any other measures which are less restrictive of rights or which impose fewer obligations on the recipients in order to achieve the aims set out in the provision.

Moreover, it complies with the principle of legal certainty by developing and being consistent with the provisions of the laws and regulations on which it is based.

This royal decree also complies with the principle of transparency, as the corresponding public information and hearing procedures have been carried out during its processing, and its objectives have been clearly defined, both in the preamble and in the accompanying Regulatory Impact Analysis Report. Likewise, this principle of transparency is one of those governing the holding of auctions, which shows the consistency of the regulation with this requirement.

Finally, it is consistent with the principle of efficiency, since this rule does not impose unnecessary or ancillary administrative burdens.

VI

The processing of this royal decree is carried out as a matter of urgency, by Agreement of the Council of Ministers of 7 July 2020, which authorises the urgent administrative processing provided for in Article 27.1.b) of Government Law 50/1997, of 27 November, of the draft Royal Decree regulating the economic regime for renewable energies for electricity production facilities. In accordance with Article 26.6 of Law 50/1997, of 27 November, of the Government, this Royal Decree has been submitted for public information and hearing through its publication on the website of the Ministry for Ecological Transition and the Demographic Challenge. In addition, the hearing procedure has also been carried out through consultation with the representatives of the Electricity Advisory Board of the National Commission for Markets and Competition, in accordance with the provisions of the tenth transitional provision of Law 3/2013, of 4 June, which creates the National Commission for Markets and Competition, of which the communities autonomous.

In accordance with Article 5.2.a) of Law 3/2013, of 4 June, this royal decree has been reported by the National Commission for Markets and Competition in its report entitled "Report on the draft royal decree regulating the economic regime for renewable energies for electricity production facilities", approved by the regulatory supervision board at its session of 30 July 2020 (IPN/CNMC/014/20).

In addition, during the processing of this royal decree, the following has been obtained: the competence report of the Ministry of Territorial Policy and Public Function provided for in article 26.5, sixth paragraph, of Law 50/1997, of 27 November, of the Government; the prior approval of the Ministry of Territorial Policy and Public Function provided in its fifth paragraph; the report of the General Technical Secretariat of the Ministry for Ecological Transition and the Demographic Challenge provided in its fourth paragraph; the report of the Ministry of Economic Affairs and Digital Transformation and the report of the Spanish Office for Climate Change provided in its first paragraph; and the report of the Office for Coordination and Regulatory Quality, provided in Article 26.9.e).

This royal decree is issued under the provisions of Articles 149.1.13 and 25 of the Spanish Constitution, which grants the State exclusive competence to determine the bases and coordination of the general planning of economic activity and the bases of the mining and energy regime.

By virtue of this, on the proposal of the Fourth Vice-President of the Government and Minister for the Ecological Transition and the Demographic Challenge, with the prior approval of the Minister for Territorial Policy and the Civil Service, in agreement with the Council of State, and after deliberation by the Council of Ministers at its meeting of 3 November 2020,

AVAILABLE:

CHAPTER I

General provisions

Article 1. *Purpose.*

The purpose of this royal decree is to regulate a remuneration framework for the generation of electricity from renewable energy sources, known as the economic regime for renewable energies, based on the long-term recognition of a price for energy.

Article 2. *Scope of application.*

1. Installations for the generation of electricity from renewable energy sources included in category b) defined in Article 2.1 of Royal Decree 413/2014, of 6 June, which regulates the production of electricity from renewable energy sources, cogeneration and waste, will be included in the scope of application of this Royal Decree.

These facilities may consist of more than one technology, as well as storage systems.

2. It is an essential condition for the collection of the economic regime for renewable energy that the installations are the result of a new investment undertaken after the auction which gives rise to the right to collect the payment, either because it is a new installation in its entirety or an extension or modification of an existing installation under the terms specified in the order governing the auction mechanism and the characteristics of that economic regime.

Existing installations that carry out an extension or modification of the installation will only be eligible for the economic regime for renewable energy for the part corresponding to the new investment, ensuring that the necessary measuring equipment is available for the determination of the energy generated by each one of them, allowing the adequate remuneration of the economic regimes applicable to them.

Granting of the economic regime for renewable energy through auctions.

1. The granting of the economic regime for renewable energy will be done through auctions, ensuring that it is granted in an open, transparent, competitive, profitable and non-discriminatory manner. Transparent and non-discriminatory criteria to meet the requirements of the auction will be established and published, and clear dates and rules will be set for the correct completion of the project.

2. In the competitive competition procedures that are called, a distinction may be made between different generation technologies according to their technical characteristics, size, manageability levels, location criteria, technological maturity and those others that guarantee the transition to a decarbonised economy, as well as taking into account the particularities of the renewable energy communities so that they can compete for access to the remuneration framework on an equal footing with other participants, all in accordance with Community regulations.

In the event that the competitive procedures include any of the specificities mentioned in the previous paragraph, this fact must be duly justified, by obtaining suboptimal results in the opposite case, taking into account

- a) The long-term potential of a specific technology;
- b) the need for diversification;
- c) the costs of network integration;
- d) the limitations and stability of the network;
- e) in the case of biomass, the need to prevent distortions on the raw material markets.

In the case of small-scale installations and demonstration projects, the order regulating the auction mechanism may provide for their exemption from the competitive procedure for the granting of the aforementioned remuneration frameworks. In these cases, the result of such procedures may be used as a reference for remuneration. For these purposes, installations with an installed capacity of less than 5 MW shall be considered small-scale installations.

3. The economic regime for renewable energy allows for the collection of revenues through the sale of energy on the market, with the particularity that, for a given volume of energy and within a defined time frame, the selling price of energy will be calculated on the basis of the result of each auction.

Article 4. Order for approval of the auction mechanism.

1. By order of the head of the Ministry for Ecological Transition and Demographic Challenge, and following agreement by the Government's Delegate Commission for Economic Affairs, the auction mechanism for granting the economic regime for renewable energies and the characteristics of said economic regime will be regulated, and may include, among other aspects, the technologies, conditions and guarantees for participating in the auction, the product to be auctioned, as well as the parameters and other elements that make up and specify the economic regime for renewable energies.

2. The auctions held under the terms of the aforementioned ministerial order shall be called by means of a resolution by the head of the State Secretariat for Energy, which shall be published in the "Official State Gazette".

Article 5. Obligations of installations under the economic regime for renewable energies.

1. The provisions of Royal Decree 413/2014, of 6 June, will apply to the installations covered by the economic regime for renewable energies, with the exception of the provisions relating to the specific remuneration scheme.

2. The order regulating the auction mechanism may define additional technical requirements relating to system regulation and balancing services; monitoring, control and protection capacity; remote triggering systems, voltage control, and other technical requirements aimed at improving network stability and system operation, system integration costs, and enabling better and closer integration into the electricity system.

Article 6. Compatibility regime with aid for the same purpose.

1. In general, the application of the economic regime for renewable energies is not compatible with the receipt of the specific remuneration scheme provided for in Royal Decree 413/2014 of 6 June, nor with aid granted for the same purpose and linked to the same investment, from any public administration or public or private entity, whether national, from the European Union or from other international bodies.

2. Exceptionally, the order regulating the auction mechanism may, with justification, determine compatibility with certain aids in situations where there is an improvement in the economic efficiency of the electricity system and a favourable impact on consumers.

CHAPTER II

Auction mechanism

Article 7. *Product to be auctioned and supply variable*

1. The product to be auctioned will be the installed power, the electrical energy or a combination of both, and the supply variable will be the price per unit of electrical energy, expressed in euros/MWh.

2. The product to be auctioned will be established in the order regulating the auction mechanism.

3. The decision of the holder of the State Secretariat for Energy calling the auction shall specify the quota of product to be auctioned, and confidential clauses may be used for this purpose.

Article 8. *Conduct of the auction procedure.*

1. The award process will be carried out by means of the closed envelope auction method, according to a pay-per-bid mechanism.

2. The agents interested in participating in the auction must present the guarantees for the participation in the auction to the managing body of the same under the terms that are regulated in the implementing regulations. Prior to the holding of the auction, the interested party may withdraw their application, in which case the guarantee for participation in the auction shall be cancelled.

3. The financial offer will be expressed in euros/MWh to two decimal places.

4. The decision of the head of the State Secretariat for Energy calling the auction shall set a maximum price, known as the reserve price, which may be confidential, expressed in euros/MWh to two decimal places, as a fixed value or as the result of a calculation formula. In establishing the value of this reserve price, the prices of the electricity market, the values of the futures markets and the production costs of each technology at the time the auction is called shall be taken into account.

In addition, a minimum price, known as the risk price, may be set, which may be confidential, expressed in euros/MWh to two decimal places, as a fixed value or as the result of a calculation formula.

5. The selection of offers will be made on the basis of the following general methodology:

a) Offers whose value is higher than the reserve price will be rejected and, if there is a risk price, offers with a value lower than the risk price will be rejected.

b) The offers considered will be ordered from lowest to highest value of the economic offer.

c) The bids will be selected starting with the bid with the lowest economic value until reaching the quota of the auctioned product established in the resolution of the call for the auction, not being selected a bid whose inclusion causes the quota of the product to be exceeded.

Notwithstanding the above, the order regulating the auction mechanism may establish a system that allows for the allocation of the quota not covered by the selected bids, even if it entails a moderate increase in the product quota.

d) The tenders thus selected will be considered as successful.

The order regulating the auction mechanism may establish the particularities and adaptations necessary in the methodology for selecting the bids in order to adapt it to the characteristics of each call.

6. To ensure effective competition in the auction, it is laid down that the volume of product offered must exceed the volume of product to be auctioned by at least 20%. If this ratio is not met, the volume of product to be auctioned will be reduced to the value necessary to meet it. An increase in this percentage may be established in the order governing the auction mechanism.

The volume of the product awarded to a single company or group of companies may not exceed 50% of the total volume of the product auctioned, and a reduction of this percentage may be provided for in the order governing the auction mechanism.

7. The order regulating the auction mechanism may establish the criterion for a tie-break between different bids whose combined allotment exceeds the quota for the auction, and may also establish the procedures for ensuring competition in the auction on the basis of the minimum ratio defined in Section 6(a) above.

8. Once the process of submitting bids has been carried out and the auction has been held in accordance with the established rules, the entity administering the auction shall proceed to determine the outcome of the auction, as provided for in Article 9, and to communicate the results to the supervisory body and to the State Secretariat for Energy.

9. The outcome of the auction and the procedure followed in the auction must be validated by the auction monitor. To this end, it will send a report to the State Secretariat for Energy and the entity administering the auction.

10. In the event that the auction is declared invalid by the entity supervising the auction in accordance with the criteria laid down in Article 11, the auction procedure shall be rendered ineffective by a decision of the State Secretary for Energy.

11. Once the auction has been declared valid by the entity supervising the auction, the Director General of Energy Policy and Mines, on the basis of the results of the auction sent by the administering entity, will issue a resolution resolving the auction, which will be published in the "Official State Gazette".

12. After the holding of each auction, the entity supervising the auction shall issue a report assessing its outcome and the effects of past auctions on the functioning of the electricity market and the promotion of renewable energy. It may also include proposals for regulatory changes for subsequent auctions, which may be considered in future revisions to the order regulating the auction mechanism.

13. In the case of small-scale installations and demonstration projects, the order regulating the auction mechanism may provide for their exemption from the competitive procedure for the granting of the aforementioned remuneration frameworks. In these cases, the result of such procedures may be used as a reference for remuneration.

In addition, the particularities of renewable energy communities may be taken into account in the definition of the criteria and the operation of the auction, including mechanisms for joining the auction, so that they can compete for access to the economic regime on an equal footing with other market participants.

Article 9. *Auction result and awarding price*

1. As a result of the auction, the power or energy awarded to each participant will be obtained, according to the product auctioned, as well as its awarding price, which will correspond to its economic offer.

2. The result of the auction will be public, and the auction management body will be responsible for its dissemination.

3. If the auctioned product is electrical energy, a minimum power to be constructed is defined, which will be calculated on the basis of the energy awarded and the maximum number of equivalent hours of operation per year of each technology, the value of which will be approved in the order regulating the auction mechanism.

Article 10. Managing entity of the auction.

The managing entity of the auction will be OMI-Polo Español S.A. (OMIE) directly or through one of its subsidiaries.

Article 11. Auction Supervisory Body.

The National Commission for Markets and Competition will be the body supervising the auction, in order to confirm that the process has been objective, transparent and non-discriminatory, and that the auction has been carried out in a competitive manner, and that no practices have been detected which could restrict competition or be otherwise flawed.

Article 12. Timetable for access to economic support instruments

In order to promote the predictability of the development of renewable technologies, an envisaged timetable for access to economic support instruments, covering a minimum period of five years and including indicative deadlines, the frequency of calls for support instruments, the expected capacity and the technologies envisaged, if any, will be established by ministerial order and subject to the agreement of the Government's Delegate Commission for Economic Affairs. This timetable will be updated at least annually and will be geared to achieving the renewable production targets set in the National Integrated Energy and Climate Plan (PNIEC) 2021-2030.

CHAPTER III

Economic Regime for Renewable Energies

Article 13. Auction energy.

1. Auctioned energy is defined as energy traded during the maximum delivery period by installations covered by the economic renewable energy regime through their participation in the market under the terms of Article 21, which does not exceed the maximum auctioned energy, in accordance with the provisions of Articles 15, 16 and 17.

2. Auction energy shall be remunerated in accordance with the provisions of Article 18.

3. The guarantees of origin associated with auctioned energy will be assigned to the electricity system, and the appropriate operating mechanism will be regulated by ministerial order.

Article 14. Minimum auction energy.

1. Minimum auction energy is defined as the minimum volume of auction energy to be reached by each installation under the economic renewable energy regime before the end of the maximum delivery period defined in Article 16.

2. In the case of auctions in which the product to be auctioned is electrical energy, the minimum bidding power of each installation shall coincide with the maximum bidding power calculated in accordance with Article 15.

3. In the case of auctions in which the product to be auctioned is installed power, the minimum auction power of each installation shall be calculated on the basis of the minimum number of equivalent hours of operation per year of each technology and the maximum delivery time, using the following formula:

$$\text{Minimum auction energy} = \text{Power} * \text{Minimum number of equivalent operating hours per year} * \text{Maximum delivery time in years}$$

The power will correspond to the lowest power registered in the electronic register of the economic regime for renewable energies in either of its two states, pre-allocation or operation.

The minimum number of equivalent operating hours per year shall be laid down in the order governing the auction mechanism.

4. The order regulating the auction mechanism may set intermediate control milestones, at which the auction energy computed up to the control milestone must be greater than the minimum auction energy set for that milestone.

Article 15. *Maximum auction energy.*

1. Maximum auction energy is defined as the maximum volume of auction energy that can be covered by the economic regime for renewable energy.

2. The maximum auction energy of each installation will be calculated according to the maximum number of annual operating hours of each technology and the maximum delivery time, using the following formula:

$$\text{Maximum auction energy} = \text{Power} * \text{Maximum number of equivalent operating hours per year} * \text{Maximum delivery time in years}$$

The power will correspond to the lowest power registered in the electronic register of the economic regime for renewable energies in either of its two states, pre-allocation or operation.

The maximum equivalent number of hours of operation per year will be laid down in the order regulating the auction mechanism.

Article 16. *Maximum delivery period and start and end dates of the maximum delivery period.*

1. The maximum delivery period is defined as the maximum and non-renewable time period within which the installations under the economic regime for renewable energies must comply with the obligation to sell the minimum energy for auction, being established in the resolution of the person holding the State Secretariat for Energy calling the auction. The maximum delivery period will be limited to a period of time sufficient to transmit a signal of certainty regarding the income of the installations, so as to facilitate the financing of new projects. The maximum delivery period will be between 10 and 15 years, and may exceptionally be extended to 20 years in cases where this is justified on the grounds of technologies with a high initial investment or technological risk.

2. The start date of the maximum delivery period will be established in the decision of the person holding the State Secretariat for Energy calling the auction.

3. The end date of the maximum delivery period shall be calculated by adding the maximum delivery period to the start date of the maximum delivery period, and shall not be altered by the date of registration of the installation in the electronic register of the economic system for renewable energy in operation.

Article 17. *Calculation of energy for auction.*

1. The energy of the installation, as defined in Article 13, shall be counted from the latest date between the starting date of the maximum delivery period and the day after the date of registration in the electronic register of the economic system for renewable energy in operation, until the date of expiry of the maximum delivery period.

During this period, the installation under the economic renewable energy regime shall participate in the market in accordance with Article 21, counting the energy thus traded as energy at auction and in accordance with Article 18.

2. Once the installation under the economic renewable energy regime has reached the maximum auction energy or the date of expiry of the maximum delivery time has been exceeded, the application of the economic renewable energy regime and therefore the counting of auction energy shall be automatically terminated, and Article 30 shall apply.

3. Installations covered by the economic regime for renewable energy, once the minimum volume of energy to be auctioned has been exceeded, may opt out of the regime and continue their activity, participating freely in the electricity production market and receiving the resulting remuneration. For this purpose, the procedures laid down in Article 30 shall apply.

4. Installations covered by the economic regime for renewable energy sources may opt out of the regime without having exceeded the minimum auction volume, under the economic penalty laid down in Article 20, and may continue their activity, freely participating in the electricity production market and receiving the resulting remuneration. For this purpose, the procedures regulated in Article 30 shall apply.

5. The market operator shall be responsible for the calculation of the auction energy. For this purpose, the market operator may request the information strictly necessary in this respect from the system operator, from the installations themselves, or from any other operator who has relevant information, for the proper discharge of this responsibility in relation to the economic regime for renewable energies.

The market operator shall communicate to the Directorate General for Energy Policy and Mines the information regarding the calculation of the auction energy when the installations exceed the maximum delivery deadline and at the intermediate control milestones.

Article 18. *Remuneration of installations under the economic regime for renewable energies.*

1. The price to be received, in each trading period, by the installations covered by the economic regime for renewable energy, for each unit of auctioned energy negotiated in the daily and intraday market, will be its awarding price corresponding to the result of the auction.

2. The order regulating the auction mechanism may determine that the price to be received by the installations covered by the economic renewable energy regime, in each trading period, for each unit of auctioned energy traded in the daily and intraday market, shall be calculated on the basis of its awarding price corresponding to the result of the auction, which shall be corrected on the basis of symmetrical market-sharing incentives by means of the percentage market adjustment.

In this way, the price to be received for the sale of energy in the daily and intraday markets is linked, in both cases, to the price of the daily market and is calculated using the following formula:

$$\begin{aligned} \text{Precio a percibir en Mercado Diario } \left(\frac{\text{€}}{\text{MWh}} \right) &= \text{Precio de adjudicación } \left(\frac{\text{€}}{\text{MWh}} \right) + \\ &\text{Porcentaje de ajuste de mercado} \times \left(\text{Precio del Mercado Diario } \left(\frac{\text{€}}{\text{MWh}} \right) - \right. \\ &\left. \text{Precio de adjudicación } \left(\frac{\text{€}}{\text{MWh}} \right) \right) \end{aligned}$$

$$\begin{aligned} \text{Precio a percibir en Mercado Intradía } \left(\frac{\text{€}}{\text{MWh}} \right) &= \text{Precio de adjudicación } \left(\frac{\text{€}}{\text{MWh}} \right) + \\ &\text{Porcentaje de ajuste de mercado} \times \left(\text{Precio del Mercado Diario } \left(\frac{\text{€}}{\text{MWh}} \right) - \right. \\ &\left. \text{Precio de adjudicación } \left(\frac{\text{€}}{\text{MWh}} \right) \right) \end{aligned}$$

In order to determine the value of the market adjustment percentage, the maturity of the technologies, their competitiveness, their management capacity, their production profile and other technical characteristics, as well as the size of the installations will be taken into account, among other variables. The value of the market adjustment factor will be expressed as a percentage and will be between 0 and 0.5, being set in the order in which the auction mechanism is regulated. If no value is specified in the order, the market adjustment percentage is considered to be zero.

3. The order regulating the auction mechanism may adapt the remuneration mechanism described in the previous points for application to installations with storage capacity under the economic regime for renewable energies.

4. In those trading periods in which the daily or intraday market price is equal to or lower than the price for exemption from collection, which is set at zero euros/MWh, the price to be received by the installations covered by the economic regime for renewable energy for the energy traded in those trading periods will be equal to the market price, and such energy will not be counted as energy for auction. The order governing the auction mechanism may provide, for individual auctions and if appropriate according to common market criteria

electricity, a price of exemption from charging more than zero euros/MWh.

The price of the exemption from charging may not be changed during the period in which the installations are covered by the economic regime for renewable energy.

5. The price to be charged for installations covered by the economic renewable energy system, for each unit of auctioned energy traded on markets not included in paragraph 1 of this Article, shall be the price directly derived from their participation in those markets, without prejudice to Article 23.

6. Installations covered by the economic regime for renewable energy which, having obtained all the relevant permits under the applicable legislation, were in a position to feed energy into the grid before the start date of the maximum delivery period may start their production activity by participating in the market with the totality of the energy produced, and consequently receive the income from such participation.

7. Installations may freely participate in the electricity production market and receive the resulting remuneration in the following cases

- a) When they have reached the maximum auction energy.
- b) When the maximum delivery period has expired.
- c) When, having exceeded the minimum energy auction volume, they have renounced the economic regime for renewable energy.

d) When, having not exceeded the minimum energy auction volume, they have renounced the economic regime for renewable energy.

The above shall apply without prejudice to any penalties that may be imposed in the event of failure to reach the minimum bidding energy, as provided for in Article 20.

Article 19. *Updating of the awarding price.*

The auction price will not be updated.

Article 20. *Measures to encourage compliance with obligations relating to minimum energy for auction.*

1. Participation in the auction for the collection of the economic regime for renewable energies entails the assumption of the system of penalties regulated in this Article, without prejudice, and independently of, the penalties that may correspond in accordance with the provisions of Article 34.2.

The order regulating the auction mechanism may develop the penalties provided for in this Article, in order to provide incentives for compliance with the obligations relating to minimum auction energy under the terms provided for in the following paragraphs.

2. Automatic penalties may be imposed for failure to reach the equivalent minimum auction energy at intermediate control milestones to be set in accordance with Article 14.4.

In this case, the order regulating the auction mechanism shall establish the formula for calculating these automatic penalties, which shall take into account the values of the equivalent minimum bidding energy in the intermediate control milestones and of the bidding energy computed by the installation, and may in turn consider the values corresponding to the previous milestones.

The automatic penalties will be applied by reducing the awarding price. This reduction will be applied from the milestone at which the minimum equivalent tender energy is not reached until the next control milestone.

The market operator, as the party responsible for calculating the auction energy, shall verify compliance with the minimum equivalent auction energy at the intermediate control milestones by applying the automatic penalties defined in this section. The market operator shall notify the Directorate-General for Energy Policy and Mines the penalties that are carried out in accordance with the provisions of this section.

3. Penalties may be imposed if the auction energy of an installation, calculated in accordance with Article 17, does not exceed the value of the minimum auction energy at the end of the maximum delivery period.

In determining the amount of the penalty, the difference between the minimum bidding energy and the bidding energy of the installation computed at the date of the end of the maximum delivery period shall be taken into account, and the values corresponding to the intermediate control milestones may be considered in turn.

4. In the event of cancellation of the registration of the installation in the electronic register of the economic system for renewable energy in operation prior to the date of expiry of the maximum delivery period, penalties may be imposed if the auction energy of the installation at the time of cancellation, calculated in accordance with Article 17, does not exceed the minimum auction energy.

In determining the amount of the penalty, the difference between the minimum bidding energy and the bidding energy of the installation computed at the time of cancellation shall be taken into account, and the values corresponding to the intermediate control milestones may be considered in turn.

5. The penalties regulated in this Article shall not be applicable to energy which has not been accounted for as auction energy pursuant to Article 18.4.

6. The penalties regulated in paragraphs 3 and 4 of this Article shall be established by resolution of the Director General of Energy Policy and Mines, following a procedure that shall guarantee, in all cases, the hearing of the interested party. The maximum period for initiating this procedure shall be six months from the date of expiry of the maximum period of submission, or, in the cases provided for in paragraph 4, from the date of cancellation of the registration. The maximum period for resolving this procedure and notifying its resolution shall be six months.

The resolutions of the Director General of Energy Policy and Mines establishing the penalties will not put an end to the administrative process and, consequently, may be the subject of an appeal to the State Secretariat for Energy, in accordance with the provisions of Articles 121 and 122 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.

7. The penalties will be considered as income from the electricity system.

CHAPTER IV

Inclusion of the mechanism in the market

Market participation of installations during the application of the economic regime for renewable energy.

1. The operators of installations under the economic regime for renewable energies will participate in the daily and intraday market, both in sessions and in the continuous intraday market, in accordance with the applicable regulations.

2. In order to participate in the various markets, each installation covered by the EER must be constituted as a unit of supply. Aggregated offers from installations covered by the EER are not valid.

3. Operators of installations under the economic regime for renewable energy may not declare physical bilateral contracts with such installations.

4. Installations under the economic regime for renewable energies will bid on the daily and intraday market with their best production forecasts and in accordance with the rules for the operation of the daily and intraday markets for electricity production.

5. Installations under the economic regime for renewable energy may participate in adjustment and balancing services in accordance with the implementing regulations.

6. Installations under the economic regime for renewable energy will be responsible for balancing under the terms to be established in their implementing regulations.

7. The system operator shall notify the National Commission for Markets and Competition of any action that is contrary to the proper functioning of the adjustment and balancing services, as well as the proper functioning of the remuneration mechanism established in this Royal Decree, in order to assess whether such action may constitute an infringement punishable by the corresponding body.

8. The changes derived from the reliable communications established in this royal decree with an impact on the market share of an installation will in no case be applicable prior to the next working day of their reception, and in no case can settlements or invoices be made with retroactive effects.

Article 22. Entity responsible for the settlement of the energy of the auction.

The market operator will settle the auction energy traded in the daily and intraday markets.

Article 23. *Settlement of energy for auction.*

1. The market operator shall 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 installation under the economic regime for renewable energies in accordance with Article 18.

Similarly, the market operator shall settle for each installation the net value of the energy traded in the balancing and adjustment services, valued at the difference between the price to be received established in Article 18 and the daily market price.

2. The economic surplus, in the event that the matching price of a bid unit is higher than its price to be received, will represent an income for the market, which will be distributed by the market operator among the national purchasing units in proportion to the daily power programmed in its final hourly schedule after the continuous market.

3. The economic deficit, in the event that the matching price of a bid unit is lower than its price to be received, will entail an obligation for the market to pay, which will be distributed by the market operator among the national purchasing units in proportion to the daily power scheduled in its final hourly schedule after the continuous market.

4. Storage facilities not covered by the economic regime for renewable energy will be excluded from the settlement mechanism described in the previous points of this Article. The order regulating the auction mechanism may adapt the settlement mechanism to apply to storage facilities with storage capacity under the economic renewable energy regime.

5. The rules for the functioning of the daily and intraday market for production will develop the mechanism for the settlement of the auction energy, as well as the guarantees to be provided by the holders of the purchasing units to cover any resulting payment obligations.

6. The system operator will send the market operator daily information on the net value of the energy traded by each installation in the balancing and adjustment services.

7. The settlement system described in the previous sections will be taken into account in the regulation of the methodology for calculating the final price of the mainland market and of the non-peninsular territories, as well as, if necessary, adjustment and balance sheet services.

8. The market operator shall be responsible for disseminating and making available to the public the result of the settlement process, publishing for this purpose the energy and prices resulting from this process for the daily and intraday markets, and, where appropriate, any other information that will help market participants to make their forecasts.

CHAPTER V

Electronic registration and administrative procedures relating to the economic regime for renewable energy

Article 24. *Electronic registration of the economic regime for renewable energy.*

1. The electronic register of the economic regime for renewable energy is established, which will be governed in terms of its organisation and operation by the provisions of this chapter.

2. The electronic register of the economic regime for renewable energy aims at the granting and adequate monitoring of the economic regime for renewable energy.

3. Entries in the electronic register of the economic regime for renewable energy will be made in one of the following two states: pre-allocation state or

state of exploitation. In order to be able to register in the state of exploitation, it is necessary to first register in the state of pre-allocation.

No facility may be entered in the register in a pre-allocation status if it is already registered in the register in any status.

4. The order regulating the auction mechanism may establish mechanisms to guarantee the maturity of the projects, as well as any other requirement aimed at guaranteeing their viability, such as the establishment of milestones prior to the completion of the construction of the projects, in which the degree of progress in the processing and construction of the projects will be analysed. Their compliance shall be taken into account for registration in the electronic register and for the cancellation or partial seizure of the corresponding guarantees of Article 25, as established in the aforementioned order.

5. The resolution of registration in the registry in pre-allocation status will grant the holder the right to receive the economic regime for renewable energies, subject to compliance with the requirements established in this royal decree and its implementing regulations.

6. For the application of the economic regime for renewable energy and therefore for the receipt of the remuneration defined in Article 18, it is a condition that the installations are registered in the electronic register of the economic regime for renewable energy in operation.

7. For the application of the economic regime for renewable energy and the calculation of the tariff for each installation, the information contained in the electronic register of the economic regime for renewable energy will be taken, without prejudice other data recorded for other purposes in the register of electricity production installations or in any other register.

8. Entries in the aforementioned register will be the responsibility of the Director General for Energy Policy and Mining.

9. In accordance with the provisions of Article 14.3 of Law 39/2015, of 1 October, applications relating to the various procedures related to the economic regime for renewable energies, which are the subject of this Royal Decree, shall be submitted exclusively by electronic means, with an electronic certificate, using the procedures established for this purpose.

Communications between the applicant and the investigating body will be carried out exclusively by electronic means.

10. The requests for resolution by the Director General of Energy Policy and Mines provided for in this chapter may be understood to be rejected if no express resolution is notified within the established period.

Likewise, the resolutions of the Director General of Energy Policy and Mines provided for in this chapter shall not put an end to the administrative process and, consequently, may be the subject of an appeal to the Secretary of State for Energy, in accordance with the provisions of Articles 121 and 122 of Law 39/2015, of 1 October.

11. The Directorate General for Energy Policy and Mines may give the market operator, the system operator, the National Commission for Markets and Competition and the Autonomous Communities and cities of Ceuta and Melilla access to the information in the electronic register of the economic regime for renewable energies for the proper fulfilment of their functions in relation to this royal decree.

Guarantees for the registration in the electronic register of the economic regime for renewable energies in a pre-allocation state.

1. In order to register in the electronic register of the economic regime for renewable energies in a pre-allocation state, it shall be necessary to submit to the Directorate General for Energy Policy and Mines the receipt from the General Deposit Fund certifying that a financial guarantee has been deposited for the amount specified in the order regulating the auction mechanism.

The guarantee will be provided by any of the methods established in the Regulations of the General Deposit Fund, approved by Royal Decree 161/1997, of 7 February, and will be proportional to the power for which registration in the electronic register of the economic regime for renewable energies in a pre-allocation state will be requested.

The object of the guarantee shall be the registration of the installation in the electronic register of the economic regime for renewable energies in operation, complying in all cases with the requirements established in Article 27.1.

It must be expressly indicated on the receipt of the guarantee that it is deposited for the purposes of compliance with the provisions of this article.

The person or entity providing the guarantee must coincide with the applicant for registration in the electronic register of the economic regime for renewable energies in a pre-allocation state.

2. The order regulating the auction mechanism may exempt certain installations from the obligation laid down in paragraph 1 of this Article.

3. Prior to the decision to register in the electronic register of the economic regime for renewable energies in pre-allocation status, the interested party may withdraw its application and request the cancellation of the guarantee for registration in the electronic register of the economic regime for renewable energies in pre-allocation status, without prejudice to the provisions of Articles 8.2 and 26.4 regarding the guarantee presented to the entity administering the auction for participation in the auction.

4. The decision of the Director General of Energy Policy and Mines agreeing to the rejection of the application shall be considered sufficient reason for the cancellation of the guarantee for registration in the electronic register of the economic regime for renewable energies in a pre-allocation state.

5. Once the application for registration in the electronic register of the economic regime for renewable energies in a pre-allocation state has been favourably resolved, the abandonment of the construction of the installation or the non-fulfilment of the requirements established for the collection of the economic regime in Article 27.1, shall imply the forfeiture of the guarantee and the loss of the right to the collection of the economic regime for renewable energies under the terms established in Article 28.1.

The order regulating the auction mechanism may provide that the Directorate General for Energy Policy and Mines may exempt the execution of the guarantee deposited, if non-compliance with the requirements established for the collection of the economic regime in Article 27.1 is due to impeding circumstances that are neither directly nor indirectly attributable to the interested party.

Procedure for registration in the electronic register of the economic regime for renewable energy in a pre-allocation state.

1. The successful bidders in the auction shall address the request for registration in the electronic register of the economic regime for renewable energies in a pre-allocation state to the Directorate General for Energy Policy and Mines, accompanied by the receipt from the Caja General de Depósitos certifying that they have deposited the economic guarantee established in Article 25, a copy of the said guarantee and the documentation determined in the order regulating the auction mechanism.

This application shall contain, at least, the identification of the successful bidder in the auction, the power for which registration is requested and the technologies to be used. In addition, the order regulating the auction mechanism may establish additional requirements and conditions applicable to the corresponding invitation to tender, such as, among others, those relating to the positive impact on local employment and the industrial value chain associated with the territory.

In the event that the auctioned product is electrical energy, the power or sum of powers for which registration is to be requested by the successful bidder may not be greater than the minimum power to be built as defined in Article 9.3, without prejudice to the provisions of Article 28.5 with regard to the power to be registered in the register in the state of operation.

In the event that the product to be auctioned is installed power, the power or sum of powers for which registration is to be requested by the successful bidder may not exceed the power awarded.

2. The order governing the auction mechanism will set a maximum deadline for the submission of applications.

3. The Director-General for Energy Policy and Mines shall issue and notify the decision within a maximum of three months. Once this period has elapsed without an express decision having been notified, the interested parties may consider that their applications have been rejected due to administrative silence. The resolution will be published in the "Official State Gazette".

The decision to register the installation in the electronic register of the economic system for renewable energy sources at the preallocation stage shall include, at least, the identification of the operator, the power registered in the register at the preallocation stage, the minimum energy in auctions preallocated, the maximum energy in auctions preallocated, the auction price and the technologies used.

In the case of auctions in which the product to be auctioned is electrical energy, the minimum pre-allocated auction energy of each installation shall coincide with the maximum pre-allocated auction energy calculated according to the following formula:

$$\begin{aligned} \text{Minimum pre-allocated auction energy} &= \text{Maximum pre-allocated auction energy} = \\ &= \text{Power} * \text{Maximum number of equivalent operating hours per year} * \text{Maximum delivery} \\ &\quad \text{time in years} \end{aligned}$$

In the case of auctions where the product to be auctioned is installed power, the minimum pre-allocated auction power and the maximum pre-allocated auction power shall be calculated in accordance with the following formulas:

$$\text{Minimum pre-allocated auction energy} = \text{Power} * \text{Minimum number of equivalent operating hours per year} * \text{Maximum delivery time in years}$$

$$\text{Maximum pre-allocated auction energy} = \text{Power} * \text{Maximum number of equivalent operating hours per year} * \text{Maximum delivery time in years}$$

For the purposes of this paragraph, the power shall correspond to the power registered in the electronic register of the economic regime for renewable energy in a pre-allocation state.

4. After the publication in the "Official State Gazette" of the resolution to register in the electronic register of the economic regime for renewable energies in a pre-allocation state, the auction administration body shall proceed, with reference to each successful bidder, in accordance with the following criteria, without the need for a prior requirement by the Directorate General for Energy Policy and Mines:

a) In the event that the power registered in the pre-allocation is equal to the power awarded or, where appropriate, to the minimum power to be built as established in Article 9.3, all the guarantees deposited for participation in the auction shall be cancelled.

b) Otherwise, the securities lodged for participation in the auction shall be forfeited in proportion to the quantity of product not entered in the preallocation in relation to the quantity of product awarded. Thus, the amount to be realised shall be calculated by multiplying the total amount deposited by the following value

$$\frac{\text{Cantidad de producto adjudicada} - \text{Cantidad de producto inscrita en preasignación}}{\text{Cantidad de producto adjudicada}}$$

In the event that the product awarded is installed capacity, the quantity of product registered in pre-allocation shall be understood to be the pre-allocated capacity.

If the awarded product is energy, the quantity of product registered in preallocation shall be understood as the minimum pre-allocated auction energy.

Requirements for registration in the electronic register of the economic regime for renewable energies in operation.

1. In order for an installation to be registered in the electronic register of the economic regime for renewable energies in operation, it must comply with the following requirements prior to the deadline for availability of the installation established in Article 28.1, without prejudice to the provisions of paragraphs a) and b).

a) That the installation is fully completed. For the purposes of this royal decree, an installation will be considered to be fully completed if it has all the elements, equipment and infrastructure necessary to produce energy and feed it into the electricity system, including, where appropriate, storage systems; it has obtained definitive registration in the administrative register of electricity production installations, which reports to the competent body, and it has begun to sell energy in the market.

Accreditation of the commencement of sales in the electricity market shall be done by means of a certificate issued by the market operator.

b) That the installation meets the requirements and conditions relating to its characteristics established by the order regulating the auction mechanism.

2. Furthermore, in order for an installation to be registered in the electronic register of the economic regime for renewable energy in a state of operation, the owner of the installation entered in the administrative register of electricity production installations must coincide with the owner of the entry in the electronic register of the economic regime for renewable energy in a state of pre-allocation.

Procedure for registration in the electronic register of the economic regime for renewable energies in operation.

1. The holder of the registration in the electronic register of the economic regime for renewable energies in pre-allocation status shall request registration in operation status from the Directorate General for Energy Policy and Mines prior to the end of the maximum period of one month from the deadline for availability of the installation or, where applicable, the date of expulsion from the economic regime for renewable energies.

The deadline for the availability of the installation is the maximum date set for compliance with the requirements of Article 27(1) necessary for the installation to be registered in the electronic register of the economic system for renewable energy in operation. This date will be established in the decision of the holder of the State Secretariat for Energy calling the auction.

Notwithstanding the above, the decision of the holder of the State Secretariat for Energy calling the auction may establish the date of expulsion from the economic regime for renewable energies, which will have the following effects:

a) If the requirements of Article 27(1) are not met before the deadline for the availability of the installation and before the date of expulsion from the economic regime for renewable energies, the right to receive the economic regime for renewable energies shall not be modified, but the partial implementation of the guarantees of Article 25 shall proceed under the terms established in paragraph 3.

b) If the requirements of Article 27.1 are met after the date of expulsion from the economic regime for renewable energies, the guarantees shall be fully executed and shall entail the loss of the right to receive the economic regime for renewable energies, as established in Article 29.

The deadline for the availability of the installation must be at least 4 months before the start date of the maximum delivery period defined in Article 16.

The date of expulsion from the economic regime for renewable energies will in any case be equal to or later than the deadline for the availability of the installation.

2 The application for registration in the electronic register of the economic system for renewable energies in operation shall include, at least, the identification of the holder, the identification and characteristics of the installation and the quantity of power for which registration is requested, and shall be accompanied by a statement of responsibility, in accordance with the model established in Annex I, stating that the requirements established in Article 27.1 have been met, as well as the market operator's certificate of the date on which the sale of electric power in the market has commenced and the other documentation established in the order regulating the auction mechanism.

3 The Director General of Energy Policy and Mines, after verifying compliance with the requirements established in Article 27, shall decide, if appropriate, within a maximum period of three months, to register the installation in the electronic register of the economic regime for renewable energies in a state of operation, to cancel ex officio the registration in said register in a state of pre-allocation and to issue ex officio the order to cancel the guarantee defined in Article 25, taking into account the provisions set out below.

If the power to be entered in the register in operation is less than that which was entered in the register in pre-allocation status, the entry in the register in pre-allocation status will be cancelled in the part corresponding to the power which was entered in the register in operation status.

In those cases in which compliance with the requirements established in Article 27.1 occurs prior to the deadline for availability of the installation, an order will be issued for cancellation of the fraction of the guarantee corresponding to said power. If the difference between the power registered in pre-allocation and the power registered in operation is less than 5 percent, an order shall be issued for the cancellation of the guarantee deposited by the power registered in pre-allocation.

In those cases in which compliance with the requirements established in Article 27.1 occurs after the deadline for availability of the installation and before the date of expulsion from the economic regime for renewable energies, partial execution of the guarantee will proceed in the following terms:

The amount of the security to be enforced shall be calculated by multiplying the security corresponding to the power that has been registered in operation by the following value:

Fecha real de cumplimiento de requisitos – fecha límite de disponibilidad de la instalación
Fecha de expulsión del REER – fecha límite de disponibilidad de la instalación

The amount of the guarantee to be cancelled will be calculated by multiplying the guarantee corresponding to the power that has been registered in operation by the following value:

$$\frac{\text{Fecha real de cumplimiento de requisitos} - \text{fecha límite de disponibilidad de la instalación}}{\text{Fecha de expulsión del REER} - \text{fecha límite de disponibilidad de la instalación}}$$

4. The Directorate General for Energy Policy and Mines, prior to issuing the resolution for registration in the electronic register of the economic regime for renewable energies in operation, may request from the competent body for granting administrative authorisation, the entity administering the auction or the owner of the installation, additional information regarding the installation for its correct registration in the register.

The Director General for Energy Policy and Mines will issue and notify the interested party of the decision to register in the electronic register of the economic regime for renewable energies in operation within a maximum period of three months. Once this period has elapsed without an express decision having been notified, the interested parties may consider their applications to have been rejected due to administrative silence.

The Directorate General for Energy Policy and Mines will communicate the resolution to the system operator and the market operator.

5. The decision to register the installation in the electronic register of the economic system for renewable energies in operation shall include at least the identification of the operator, the identification and characteristics of the installation, the power registered in the register in operation, the award price, the minimum energy in auction, the maximum energy in auction, the maximum delivery time, the start date of the maximum delivery time and the end date of the maximum delivery time.

The power recorded in the register in the operating state shall correspond to the power actually installed, and may be greater than the power recorded in the pre-allocation state.

In any event, the minimum bidding energy and the maximum bidding energy shall be calculated in accordance with Articles 14 and 15.

The date of commencement of the maximum delivery period established in the decision of the holder of the State Secretariat for Energy calling the auction, in accordance with Article 16.2, shall not be affected by the date of registration of the installation in the electronic register of the economic system for renewable energies in operation.

6. In no case may the economic regime for renewable energy be applied before the day following the date on which the market operator is notified of the decision to register the installation in the electronic register of the economic regime for renewable energy in operation.

7. Once the start date of the maximum delivery period established for each auction held has been exceeded, the Directorate General for Energy Policy and Mines will publish the information regarding the completion rates of the projects awarded in the auction.

Article 29. Cancellation due to failure to register in the electronic register of the economic regime for renewable energies in pre-allocation status.

1. Once the maximum period for presentation of the application for registration in the register in a state of operation established in article 28.1 has passed, when compliance with the requirements established in article 27 has not been accredited for all of the power registered in the register in a state of pre-allocation, the Directorate General for Energy Policy and Mines shall initiate the cancellation procedure for failure to register in the electronic register of the economic regime for renewable energies in a state of pre-allocation for the power that has not been registered in a state of operation. The aforementioned cancellation procedure shall include, in any case, a hearing for the interested party.

2. Cancellation due to failure to register in the electronic register of the economic regime for renewable energy in a pre-allocation state shall entail the loss of the rights associated with the pre-allocation and the forfeiture of the guarantee corresponding to the failure to comply with the registration in accordance with Article 25.

3. The Directorate General for Energy Policy and Mines will notify the interested party of the cancellation decision due to failure to register in the electronic register of the economic regime for renewable energies in a pre-allocation state.

4. In the cancellation procedure for non-compliance regulated in this article, the maximum period for resolving and notifying will be six months from the date of the initiation agreement issued by the Director General of Energy Policy and Mines.

Article 30. Cancellation of the registration in the electronic register of the economic regime for renewable energies in operation.

1. The following shall be grounds for the cancellation of the registration of an installation in the electronic register of the economic regime for renewable energies in operation:

- a) To reach the maximum auction energy set in accordance with the provisions of Article 15 of this Royal Decree.
- b) The end of the maximum delivery period referred to in article 16 of this royal decree.
- c) The closure of the installation.
- d) The renunciation of the economic regime for renewable energy after having exceeded the minimum auction volume of energy referred to in Article 14.
- e) The renunciation of the economic regime for renewable energies, under economic penalty, without having reached the minimum volume of auctioned energy referred to in Article 14.
- f) The establishment, as a result of an inspection or any other legally valid means, of the failure of the installation to comply with the requirements of Article 27.
- g) The establishment of false statements or other documentation submitted to the administration in relation to the application of the economic regime for renewable energy.
- h) The revocation by the competent body of the administrative authorisations of the installation.

2. The market operator shall cease to pay the remuneration corresponding to the economic regime for renewable energies to the installations which are in the cases provided for in sections 1.a), 1.b) and 1.c).

3. In the cases defined in sections 1.d) and 1.e), the plant operator must notify the market operator and the Directorate-General of Energy Policy and Mines of the withdrawal of the economic regime for renewable energies, indicating the date of application, which must in any case be later than the date of presentation of the withdrawal.

The market operator shall take account of any waivers submitted for the purposes of the winding-up of the economic system for renewable energy, without prejudice to any procedures for the cancellation of registrations provided for in paragraph 4 that may be applied subsequently.

The market operator shall notify the Directorate General for Energy Policy and Mines of any changes in settlement that occur as a result of the provisions of this article.

4. Entries in the electronic register of the economic regime for renewable energies in operation will be cancelled by the Director General for Energy Policy and Mines at the request of the interested party or on his own initiative, following a procedure that will guarantee the interested party a hearing in all cases.

The maximum period for resolving this procedure and notifying its resolution will be six months from the date of the agreement to initiate it issued by the Director General of Energy Policy and Mines or from the date on which the application was entered in the electronic register.

Notwithstanding the above, in cases a), b) and d) of section 1, the Director General of Energy Policy and Mines shall automatically cancel the registration in the electronic Register of the economic regime for renewable energies in operation, which shall be notified to the interested party.

5. The competent body of the General State Administration will carry out periodic inspections and verifications of the installations registered in the electronic register of the economic regime for renewable energies in a state of operation, in order to verify compliance with the requirements and obligations established in the regulations and the maintenance of the conditions that served to grant the economic regime for renewable energies. If it is proved by any means that the installation no longer holds the right granted, the procedure for cancelling the registration in the register in operation will be initiated. This is without prejudice to the applicable penalty regime and any other penalties that may apply.

6. The cancellation of the registration in the electronic register of the economic regime for renewable energies in operation shall imply that the installation will no longer receive the remuneration of the economic regime for renewable energies with effect from the day following its notification to the market operator, without prejudice to the provisions of paragraphs 2 and 3.

The installation will be able to continue its activity, participating freely in the electricity production market and receiving the remuneration derived from it.

In cases where the obligations relating to minimum energy for auction have not been fulfilled, the corresponding penalties provided for in Article 20 shall be applied and the existence of such penalties shall be recorded.

7. The Directorate General for Energy Policy and Mines shall notify the interested party of the resolution to cancel the registration defined in this article and shall communicate it to the system operator and the market operator.

Article 31. Modification of the data of the operators of installations registered in the electronic register of the economic regime for renewable energies.

1. Operators of installations that have been entered in the electronic register of the economic system for renewable energy in operation must notify the market operator of any change in the data on operators and of any transfer of ownership of such installations so that they can be taken into account for correct settlement.

These modifications include, among others, changes in the name, company name or address of the owner and mergers, takeovers or splits of companies that affect the ownership of the installations.

Likewise, the owners of the installations must send these communications, within a maximum period of one month, to the Directorate General for Energy Policy and Mines for the modification of the data in the register.

Changes in the contact details of the owners and the address for notification purposes will not require an express decision and will take effect from the time the communication is submitted to the corresponding electronic register.

2. Likewise, if the inaccuracy of the data contained in the register is found by any means, the Director General of Energy Policy and Mines may proceed to modify it, ex officio or at the request of the interested parties. The deadline for resolving this procedure shall be six months.

Modification of information regarding installations registered in the electronic register of the economic regime for renewable energies.

1. Owners of installations registered in the electronic register of the economic regime for renewable energies in operation must notify the Directorate-General for Energy Policy and Mines of any modification to the installation in relation to the characteristics it had at the time of applying for registration in the register in operation or any change in the fuels initially notified.

Exempted from the notification obligation are those actions on the installation whose purpose is the maintenance of the installation and those that do not affect the correct application of the economic regime for renewable energy.

Such communications shall be made by means of a responsible statement including a description of the modification made and, if required, the final operating permit. It must be submitted by electronic means within a maximum period of one month from the occurrence of the aforementioned modification, the change of fuel or the circumstance communicated.

The above communication shall be made without prejudice to the authorisations that are required by virtue of other applicable regulations, or to the communications that are necessary for the modification of the registration in the administrative register of electricity production facilities by the competent body.

Likewise, the Directorate General for Energy Policy and Mines must be notified of the closure of the installation or any other circumstance that could affect the economic regime for renewable energies.

2. In those cases in which, in view of the communication referred to in the previous section, it is necessary to modify the registration, the Director General of Energy Policy and Mines shall decide to modify the aforementioned registration.

In the event that this resolution affects the settlement of the energy of the installation, it will be notified to the market operator and to the system operator, taking effect from the day following that on which access to its contents is granted.

Article 33. Processing of data.

1. The processing of personal data entered in the register regulated in this chapter shall be subject to the provisions of Regulation (EU) 2016/679 of the European Parliament and Council, of 27 April 2016, on the protection of individuals with regard to the processing of their personal data and on the free movement of such data, and to Organic Law 3/2018, of 5 December, on the Protection of Personal Data and the Guarantee of Digital Rights.

2. The subjects obliged to communicate data to this register will be responsible for the veracity and topicality of the data they provide.

3. Persons who, in the exercise of their duties, have access to data contained in this register shall be obliged to keep it secret. Personal data shall be collected for specified, explicit and legitimate purposes and shall not be further processed in a way incompatible with those purposes. In accordance with Article 89(1) of the General Data Protection Regulation, approved by Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, the further processing of personal data for archiving purposes in the public interest, for scientific and historical research or for statistical purposes shall not be considered incompatible with the original purposes.

4. Interested parties will have electronic access to the data contained in the register.

5. By order of the head of the Ministry of Ecological Transition and Demographic Challenge, the electronic procedure for the communication to the system operator and the market operator of the data relating to the entries in the electronic register of the economic regime for renewable energies shall be established.

Article 34. *Inspection of installations registered in the electronic register of the economic regime for renewable energies.*

1. The competent body of the General State Administration will carry out inspections of the electrical energy production installations registered in the electronic register of the economic regime for renewable energies, in order to verify compliance with the requirements necessary for the application of the economic regime for renewable energies and the other obligations provided for in this Royal Decree and its implementing regulations.

2. Failure to comply with the requirements and obligations mentioned in the previous section may, after processing the corresponding sanctioning procedure which will include a hearing of the interested party, lead to the imposition of sanctions, in accordance with the provisions of Title X of Law 24/2013, of 26 December, on the Electricity Sector.

First final provision. *Amendment to Royal Decree 216/2014, of 28 March, establishing the methodology for calculating voluntary prices for small electricity consumers and the legal framework for contracting.*

Article 12 of Royal Decree 216/2014, of 28 March, which establishes the methodology for calculating voluntary prices for small electricity consumers and the legal regime for contracting, is amended as follows

"The value of the cost corresponding to other costs associated with the supply in the tariff period p , OCh , shall be calculated according to the following formula

$$OCh = CCOMh + CCOSh + CAPH + INTTh + EDSRh$$

Being:

CCOMh: Amount relating to the payment by the marketers to finance the remuneration of the Iberian Energy Market Operator, Spanish Pole, expressed in euros/MWh and fixed in accordance with the regulations in force at any given time. This amount shall be the same for all tariff hours and periods.

CCOSh: Amount relating to the payment of the marketers for the financing of the System Operator's remuneration, expressed in euros/MWh and fixed in accordance with the applicable regulations. This amount shall be the same for all hours and tariff periods.

CAPH: Payment for generation capacity mechanisms corresponding to consumption in hour h , expressed in euros/MWh, and set in accordance with the regulations in force at any given time.

INTTh: Hourly amount relating to the payment of the reference marketers for the financing of the interruptibility service expressed in euros/MWh in accordance with the applicable regulations. This price will be calculated by the system operator and published the day before the supply, for each of the 24 hours of the following day.

EDSRh: Amount relating to the payment or collection from the marketers of the surplus or deficit in the settlement of energy from renewable auctions expressed in euro/MWh. This price shall be calculated by the system operator and published the day before the supply, for each of the 24 hours of the following day; for this purpose the Market Operator shall inform the System Operator of the hourly amount of the surplus or deficit resulting from the settlement of the difference between the prices of the daily market and the first session of the intraday market with respect to the price established for each installation. The System Operator shall calculate this component using the method established in the operating procedure P.O.: 14.12 Estimation of the cost of the voluntary price components for small consumers.

Second final provision. *Competence title.*

This royal decree is issued under the protection of rules 13 and 25 of Article 149.1 of the Constitution, which grant the State exclusive competence over the bases and coordination of the general planning of economic activity and the bases of the mining and energy regime, respectively.

Third final provision. *Normative qualification.*

The Minister for the Ecological Transition and the Demographic Challenge is authorised to approve, by means of an order, the auction mechanism to be carried out for the granting of the economic regime for renewable energies, as well as the characteristics of said regime and any other aspect necessary for its application.

Fourth final provision. *Incorporation of rules of European Union law.*

This royal decree partially incorporates Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December into Spanish domestic law with regard to support schemes for electricity from renewable sources.

Fifth final provision. *Entry into force.*

This royal decree shall enter into force on the day following its publication in the "Official State Gazette".

Given in Madrid, 3 November 2020.

FELIPE R.

The Fourth Vice-President of the Government
and Minister for the Ecological Transition and the
Demographic Challenge, TERESA RIBERA RODRÍGUEZ

ANNEX

Declaration of responsibility for registration in the electronic register of the economic system for renewable energy in operation

Responsible statement:

MS D. ,
of legal age, with national identity card / foreigner's identity number, in
the name and on behalf of. ,
with registered office a.....t and CIF, holder of the
installation with an identification number in the electronic register of the economic regime
for renewable energy in a pre-allocation.....state and a definitive
registration number in the administrative register of electricity production installations,
which reports to the competent body

I declare under my responsibility, for the purposes set out in Article 28 of Royal
Decree 960/2020, of 3 November, which regulates the economic regime for renewable
energies for electricity production installations, that the said installation complies with the
requirements necessary for registration in the electronic register of the economic regime
for renewable energies in a state of operation, regulated in Article 27.1 of the said royal
decree, and in particular

a) That by the established deadline, the installation is fully completed and has all
the elements, equipment and infrastructure necessary to produce energy and to
discharge it into the electrical system, including, where appropriate, storage systems;

b) That the installation meets the requirements and conditions relating to its
characteristics as established by the order regulating the auction mechanism.

I also declare that I have the documentation that accredits compliance with the
aforementioned requirements and that I undertake to maintain them during the period of
time in which the installation is entitled to receive the economic regime for renewable
energies regulated in Royal Decree 960/2020, of 3 November, which regulates the
economic regime for renewable energies for electricity production installations, and to
notify the facts that imply a modification of the same, assuming legal responsibilities in
the event of non-compliance, falsification or omission. Finally, I hereby declare that I am
aware that the establishment of the falsehood in this responsible declaration will be
grounds for the cancellation of the registration of the said installation in the electronic
register of the economic regime for renewable energies in operation,
in accordance with the provisions of article 30.1.g) of the

aforementioned royal decree. In

.....a.....de

Signature