

Eleven key points on the Auction January 2021 Spanish New Renewable Energy Facilities Remuneration Scheme

On 12 December 2020, the State Secretariat for Energy of Spain published a resolution calling the first auction for the procurement of renewable energy (the “**Resolution**”).

The Resolution is the final step in completing the new Economic Regime for Renewable Energy (the “**NERE**”) regulatory package. It is designed for the next 5 years, and includes an additional 20 GW of power. The NERE also consists of the following regulations: (i) Royal Decree-Law 23/2020 of 23 June 2020, which approves the regulation of energy and other areas for economic recovery; (ii) Royal Decree 960/2020 of 3 November 2020, regulating the economic regime for renewable energy for electricity production facilities; and (iii) Order TED/1161/2020 of 4 December 2020, regulating the first auction mechanism for granting the procurement of renewable energy and establishing the indicative timeline for the period of 2020-2025 (the “**Order**”).

The key points of the NERE are analysed below:

1) What is the purpose of the NERE?

The main purposes of the NERE, according to government statements, are to:

- i. obtain predictability and stability in the income and financing of new renewable facilities;
- ii. establish a mechanism through which a fixed price is recognised for energy generated over a long period (it is similar to that existing in other countries, with a structure similar to public PPAs);
- iii. reduce the price of electricity for consumers; and
- iv. promote energy production from renewable sources.

2) Which facilities are eligible to be part of the NERE?

Facilities that use certain renewable energy as their primary energy source are eligible for the NERE.

These facilities include those that use one of the following energy sources:

- i. Solar;
- ii. Wind;
- iii. Hydroelectric;
- iv. Geothermal;
- v. Hydro-thermal;
- vi. Aerothermal;
- vii. Wave and tidal; or
- viii. Cogeneration using as main fuel biomass.

In addition, to be part of the NERE, a renewables facility must comply with the following:

1- It must be considered new facility	<p>A) its construction does not involve the closure or power reduction of another facility in the same location and with the same technology; or</p> <p>B) the renewable facility is the result of <u>a new investment</u> made after an auction has been held.</p>
- OR -	
2- It must be considered an extension of an existing facility	<p>The new investment involves an increase in the output of the existing facility and does not involve the removal of generating equipment from the existing facility.</p> <p>In this case, only the part corresponding to the new investment will be eligible for the NERE. The extension of the existing facility shall ensure that the necessary measuring equipment is available for determining the energy generated by the existing facility and by the extension.</p>
3- In case of modification of an existing facility	<p>When the new investment involves replacing the existing facility's generating equipment, or in other situations where a facility cannot be considered a "new facility" or an "extension of an existing facility", in order to be eligible for the NERE:</p> <ul style="list-style-type: none"> (i) A minimum period of 15 years must have elapsed from the date of final registration of the existing facility to the date of the call for the auction; and (ii) The modification must be considered significant (i.e. the replacement of essential equipment in the existing facility, exceeding a standard level of investment).
4-In addition	<ul style="list-style-type: none"> (i) Storage system: a storage system shall be used for the exclusive storage of the energy produced by the facility (though it must be noted that this first auction is not designed for storage facilities). (ii) Hybrid facilities are included within the regime. (iii) Renewable facilities should include a strategic plan with estimates of their impact on local employment and industrial value.

3) What is the capacity to be auctioned?

Capacity is auctioned through a mechanism of auctions that may distinguish between different technologies, in accordance with the calendar below, for the following 5 years.

For the next January Tender, the capacity auctioned is 3,000 MW.

Technology	Year	Minimum power volumes (MW)					
		2020	2021	2022	2023	2024	2025
Wind	Increment	1,000	1,500	1,500	1,500	1,500	1,500
	Accumulated	1,000	2,500	4,000	5,500	7,000	8,500
Photovoltaics	Increment	1,000	1,800	1,800	1,800	1,800	1,800
	Accumulated	1,000	2,800	4,600	6,400	8,200	10,000
Solar Thermoelectric	Increment		200		200		200
	Accumulated		200	200	400	400	600
Biomass	Increment		140		120		120
	Accumulated		140	140	260	260	380
Other (biogas, hydraulic, etc.)	Increment		20		20		20
	Accumulated		20	20	40	40	60

4) Which technologies are eligible for the NERE?

In the first auction, to be held in January 2021, the government will allocate 3,000 MW of installed power capacity, to be divided as: (i) 1,000 MW for photovoltaic technology; (ii) 1,000 MW for onshore wind technology; and (iii) 1,000 MW to be distributed among acceptable technologies following the government's final decision once it has considered all the offers received.

5) How many phases the auction is divided into?

Pre-qualification and Qualification (from 19/12/2020)

The parties initially interested must submit a request for pre-qualification to the entity administering the auction. Pre-qualified participants who continue to be interested in the auction must then apply for qualification. Once they have obtained the appropriate qualification, parties acquire the status of qualified participant and are able to participate in the auction. Participants must provide a guarantee of 60 euro/kW.

Auction (26/1/2021)

Qualified participants are first given a period of time to submit their offers. Once the auction closes, the entity administering the auction applies an allocation mechanism established by the matching process (the allocation mechanism consists of: (i) elimination of bids whose price is higher than the reserve price or lower than the risk price; (ii) allocation of the bids to each participant up to the maximum amount of auctioned power; and (iii) allocation of its bid price to each of the successful bidders). At the end of the auction, participants may file complaints. The final result is published in the Official State Gazette.

6) What are the key dates & times for the first renewable energy auction?

The first auction consists of the following main milestones:

Milestone	Date and hour
Opening of the period for the delivery of the documentation for pre-qualification and qualification.	15/12/2020, 13:00h
Deadline for submission of documentation for qualification and pre-qualification.	19/01/2021, 13:00h
Date of the auction.	26/01/2021
Opening of the period for submission of offers.	26/01/2021, 09:00h
Closing of the period for submission of offers.	26/01/2021, 11:00h
Maximum time limit for the appeal process and publication of provisional results.	26/01/2021, 14:00h
Period of claims by participants regarding the provisional results.	26/01/2021,
Maximum period for the validation of the auction.	24h after the claims period

7) What is the product and variable offered in the 2021 auctions?

The product auctioned will be the installed capacity (i.e. the maximum amount of power that can be produced by a production unit). The power capacity offered shall be expressed in terms of the price of power offered in euros/MWh.

8) How are the renewable facilities paid within the NERE?

Renewable facilities are paid by means of a [fixed price equal to the price offered in the auction \(paid as a bid\)](#). Each successful bid in the auction will have an award price that coincides with its bid price. As such, different auction prices for each facility may arise depending on the prices offered.

In addition, the fixed price will be adjusted on the basis of symmetrical market participation incentives by means of a percentage market adjustment as set out in the Order for each different technology. These are limited adjustments of 25% or 5% of the fixed price depending mainly on the technology and the management capacity of the facility.

The price will be paid by the organised Spanish electricity market itself (OMIE Market) in which all the facilities under the NERE regime will sell energy at the prices referred to above.

In trading periods where the price of daily energy or the intraday market is zero or below zero euros/MWh, the price received by facilities covered by the NERE for the energy traded in those trading periods will be zero, and this energy will not be counted as energy in the auction. In any case, negative energy prices are not allowed under current energy regulation in Spain.

9) What is the deadline for delivering energy at the price awarded in the NERE and what are the obligations regarding the delivery of energy?

The NERE establishes a maximum delivery period (“COD”) for the energy produced. COD is defined as the maximum non-renewable time period within which the facilities under the NERE have to comply with the obligation to sell the minimum energy for auction, as set out in the table below:

Technology	Subgroup	Start date of COD	Term (years)
Photovoltaic	b.1.1	30/09/2023	12
Solar Thermolectric	b.1.2	30/09/2024	12
Onshore wind	b.2.1	30/09/2024	12
Offshore wind	b.2.2	30/09/2025	12
Other renewable technologies	b.3	30/09/2025	12
Hydroelectric (Installed capacity under or equal to 10 MW)	b.4	30/09/2025	12
Hydroelectric (Installed Capacity over 10 MW)	b.5	30/09/2025	12
Biomass (from energy crops, agricultural or livestock sector, etc)	b.6	30/09/2025	15
Biogas, Bioliquids	b.7	30/09/2025	15
Biomass (from industrial plants in the agricultural or forestry sector)	b.8	30/09/2025	15

In addition, within this period, the facilities must be able to deliver a certain power capacity that is controlled by a minimum number of operating hours, within a maximum delivery time.

Compliance with these requirements is monitored thanks to intermediate milestones until COD is met.

10) What guarantees are required?

A guarantee of 60 euros/kW for the installed power must be registered as a prerequisite for participation in the auction. This bid bond will be cancelled at the end of the auction.

Furthermore, at a later pre-allocation stage, the selected facilities should offer a 60 euros/kW guarantee for the installed power and registered in the NERE electronic register. This guarantee is progressively cancelled as certain milestones are met, as detailed below:

- The guarantee of 12 euros/kW is cancelled when the installed power selected is assigned to a specific project within 3 months of the date of award. If this first milestone is not met, the guarantee of 60 euros/kW is called on in full.
- Subsequently, the guarantee of 18 euros/kW is cancelled in accordance with the accreditation of the administrative construction authorisation (which is a required permit for the construction or modification of these renewable facilities) for the identified installations, for which there is a period of 12 months from the date of allocation of power to specific projects. If this second milestone is not met, the guarantee of 48 euros/MW is called on in full.
- The guarantee of 30 euros/kW remains until the minimum amount of energy deliverable has been delivered to the network within COD.

11) What penalties are applicable in the event of non-compliance with any of the conditions of the NERE?

There are two types of possible penalties:

- i. A series of penalties are established, intended to provide incentives to comply with the obligations relating to the minimum auction energy that the facilities have undertaken to deliver during the term of the regime (such as the guarantees mentioned above).
- ii. The submission of a bid and participation in the NERE binds the production facility under this scheme for the full period of production set out in the NERE. A penalty system is regulated for early exit from the scheme or failure to meet minimum production levels.



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