

SPAIN: THE GOVERNMENT ADOPTS MEASURES TO ALLOW COGENERATORS TO RESUME OPERATIONS: RDL 17/2022

New package of measures in the energy sphere to, among other things, allow cogeneration plants to recover their operating costs, reduce the formalities involved in project alterations and reduce the tax pressure on gas consumers.

WAIVER BY COGENERATION PLANTS OF THE SPECIFIC REMUNERATION SYSTEM IN ORDER TO BENEFIT FROM THE TEMPORARY ADJUSTMENT MECHANISM ESTABLISHED BY RDL 10/2022

Cogeneration plants eligible for the specific remuneration system were excluded from the scope of the temporary cost of gas adjustment mechanism approved by Spanish Royal Decree-Law (RDL) 10/2022. This led to most of them having to stop their activities.

The purpose of this mechanism is to adjust the production cost of marginal fossil fuel technologies, with the consequent reduction, equivalent to this adjustment, in the electricity offerings of such technologies in the electricity market.

The adjustment value introduced by this mechanism thus refers to the difference between the reference price for gas envisioned by the mechanism and the actual daily price on the natural gas spot market posted by Mercado Ibérico del Gas, the Iberian gas market operator. Plants that receive this adjustment internalise the amount of the adjustment in their offerings on the daily electricity market.

This difference between the market price of natural gas and its reference price, internalised in offerings, is defrayed by the acquisition units of agents of Mercado Ibérico de la Electricidad, the Iberian electricity market operator.

However, the exclusion of cogeneration plants eligible for the specific remuneration from the adjustment mechanism has meant that they cannot recover the high cost of the gas used in their operations. For one thing, (i) being excluded from the scope of the mechanism, they are not compensated for the difference between the price of gas and its reference price and (ii) for another, the introduction of the mechanism means that this cost cannot be recovered with the price of electricity.

This has led to the production stoppage of more than half of the cogeneration installed capacity in Spain.

Key issues

- A temporary waiver of the specific remuneration system is enabled for cogeneration plants so that they can benefit from the temporary adjustment mechanism established by RDL 10/2020.
- Change in the thresholds determining the need to obtain additional authorisations to make alterations to projects in development.
- The applicable VAT rate for intra-Community deliveries, imports and acquisitions of natural gas is reduced.

What measures does RDL 17/2022 introduce to alleviate the situation of cogeneration plants eligible for the remuneration system?

Since RDL 10/2022 excludes only those cogeneration plants eligible for the specific remuneration system from its scope, RDL 17/2022 provides a mechanism to temporarily waive the specific remuneration so that such plants can benefit from the adjustment mechanism.

When can the waiver be filed and what are the applicable deadlines?

The waiver can be made while the adjustment mechanism remains in force. Once the waiver has been filed, an application may be filed for the inclusion of the plant in the adjustment mechanism, which will apply as from the first day of the following month.

The application of the mechanism and the waiver of the specific remuneration system will be applicable from the first day of the month following the filing date of the waiver with the authority responsible for making the payments, until the expiry date of the adjustment mechanism.

However, the adjustment mechanism may be waived, in order to again benefit from the remuneration system, before the end of the period of application of the mechanism.

What are the implications of the waiver for the specific remuneration system?

As long as the waiver is applicable, plants will not receive the specific remuneration or be required to comply with the energy efficiency conditions, nor with the fuel consumption limits established by Royal Decree 413/2014.

Once the period of application of the waiver has ended, the plant will regain the right to receive the specific remuneration, effective from the first day of the month following the end date of said period. In the case of applications for the early termination of the period of application of the waiver, and only in the event that the application is submitted at least two working days before the end of the month, the specific remuneration system will be reapplied from the first day of the following month. Otherwise, the effects of the application will be delayed by a further month.

The minimum number of equivalent operating hours and the operating threshold of the relevant standard plant will be calculated in proportion to the period during which the temporary adjustment mechanism was not in force.

AMENDMENTS TO THE THRESHOLDS FOR THE PURPOSES OF PROCESSING NEW AUTHORISATIONS FOR THE APPROVAL OF PROJECTS

RDL 17/2022 also amends the thresholds established in RD 1955/2000 to determine the need to process new authorisations for the approval of projects:

- Altered projects that have obtained a prior administrative authorisation (AAP) will not need to obtain a new one, if the alteration does not entail an increase in installed capacity of more than 15% – compared to the 10% established by the previous regulation.
- Altered projects that have obtained administrative authorisation for construction (AAC) will not need to obtain a new one if the alteration does not result in a change of more than 10% in the plant's capacity.

- The time frames and the scope of analysis of the report to be issued by the Spanish Markets and Competition Authority (CNMC) for the authorisation of new plants are specified.

RD 413/2014 is also amended to allow the prior registration in the administrative registry for power plants subject to a special regime (RAIPRE) of plants with the following alterations: (i) where there is excess access capacity of up to 5% over that included in the access and connection permit and (ii) an alteration in capacity of up to 5% in respect of the capacity included in the AAC.

URGENT MEASURES TO REDUCE THE VAT RATE APPLICABLE TO INTRA-COMMUNITY DELIVERIES, IMPORTS AND ACQUISITIONS OF CERTAIN FUELS

Effective from 1 October 2022 to 31 December 2022, the 5% VAT rate will apply to intra-Community deliveries, imports and acquisitions of natural gas, as well as intra-Community deliveries, imports and acquisitions of briquettes and pellets from biomass and firewood.

CREATION OF THE ACTIVE DEMAND RESPONSE SERVICE

Finally, the first additional provision establishes the creation of an active demand response service as a specific balancing product.

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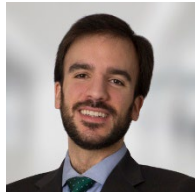
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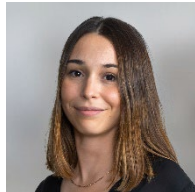
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