

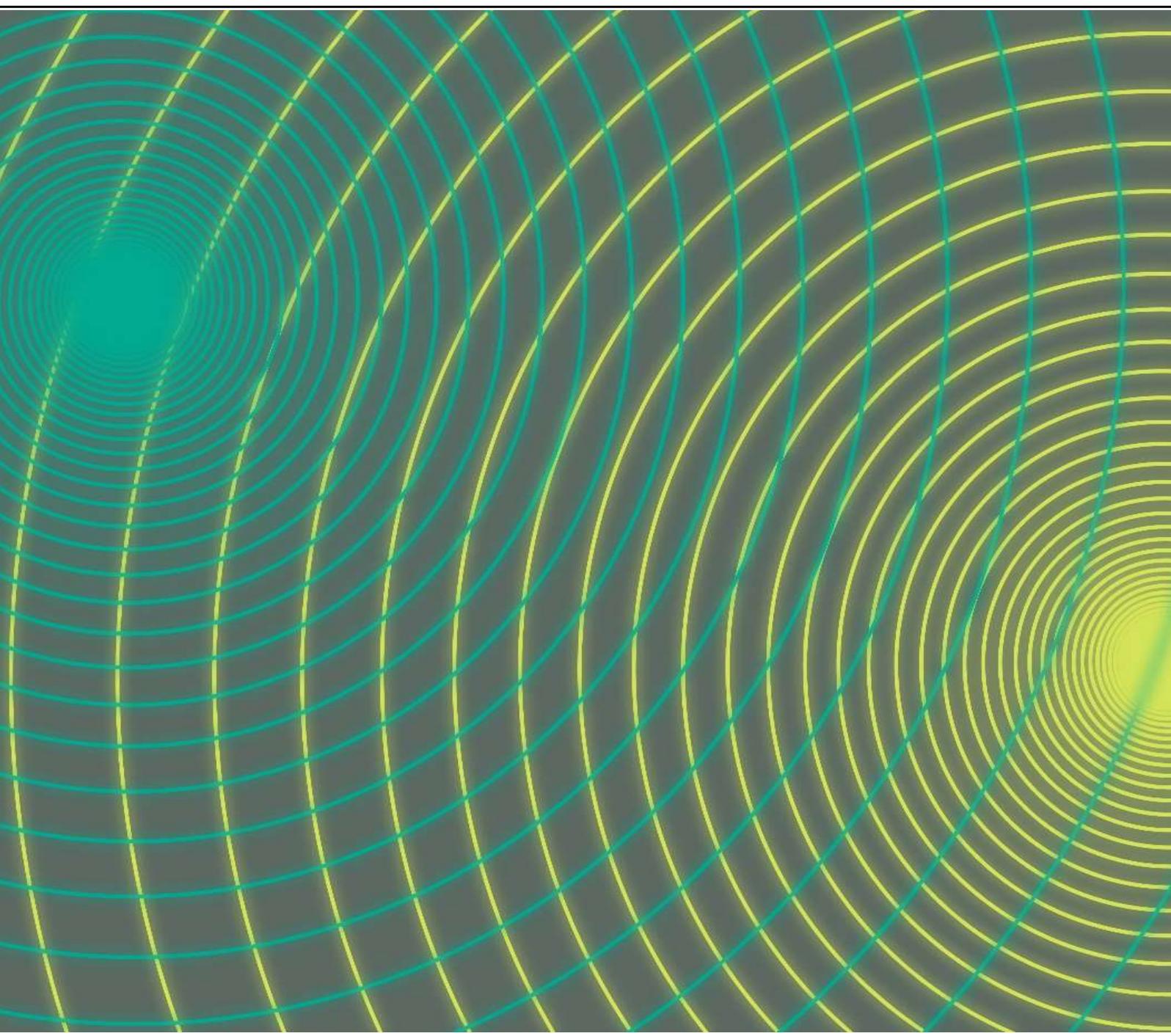
NEWSLETTER SPAIN

Issue:
01. January
2019

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Renewable power plants: preliminary draft law relating to the financial remuneration rate for the period 2020-2025

MADRID, January, 10.

1. The Electrical Sector Act establishes that all the parameters for the determination of the remuneration to renewable power plants may be revised in each regulatory period (every 6 years), revising among others, the value of the reasonable profitability for the remaining regulatory useful life of the plants.

On January 1, 2020 the second regulatory period will start which will finish on December 31, 2025. To this effect, the Spanish Ministry for Ecological Transition presented on December 28, 2018 a preliminary draft law with a remuneration proposal for the period 2020-2025. The financial remuneration rate is calculated with reference to the Spanish 10-year bond yield, increased by a differential.

As regards renewable energy, cogeneration and treatment of waste plants the financial remuneration rate for the period 2020-2025 will be 7.09% and for the activity of electricity production with additional remuneration in the non-mainland territories (TNP) the financial remuneration rate will be 5,58% for such period. The calculation methodology for the financial remuneration rate of the activity of electricity production has been proposed by the National Commission for Markets and Competition (CNMC) and is based on Weighted Average Cost of Capital (WACC).



2. However the most important point in this preliminary draft law is that it is intended to amend the Electrical Sector Act, proposing that the remuneration rate currently recognised (first regulatory period) for those renewable energy, cogeneration and treatment of waste plants entitled to the feed-in tariff before the Real Decreto-Ley 9/2013 came into force (i.e. those established under Real Decreto 661/2007 or Real Decreto 1578/2008) cannot be modified during the next two regulatory periods, i.e. until December 31, 2030.

The current remuneration rate is 7.389% for renewable energy, cogeneration and treatment of waste plants prior to Real Decreto-ley 9/2013, and 6.503% for electricity production in TNP.

In any case, holders of these plants are entitled to waive this remuneration framework and have recourse to the ordinary framework, subject to modification in each regulatory period (every 6 years). This waiver has to be presented at the Dirección General de Política Energética y Minas before January 1, 2020.



However, any compensation that shall be paid to the plant holder as a consequence of final judicial or arbitration resolutions based on the amendment of the remuneration regime which

took place after the Real Decreto-Ley 9/2013 and complementary regulations entered into force, shall be deducted from the amount corresponding to the difference between the remuneration that shall be paid from the remuneration rates frozen until December 31, 2030 and the remuneration which they would have received in case of waiving this remuneration framework.

Meaning that, foreign investors with a favourable arbitration resolution or with ongoing arbitration procedures may opt for:

- Joining the remuneration rate of 7.389%, in which case any compensation will be deducted until December 31, 2030 (except in case of waiving such compensation); or
- Waive this regime and join the remuneration rate of 7.09% during the period 2020 - 2025.

It is clear that this measure is aimed at avoiding disputes with foreign investors under the Energy Charter Treaty (ECT).

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