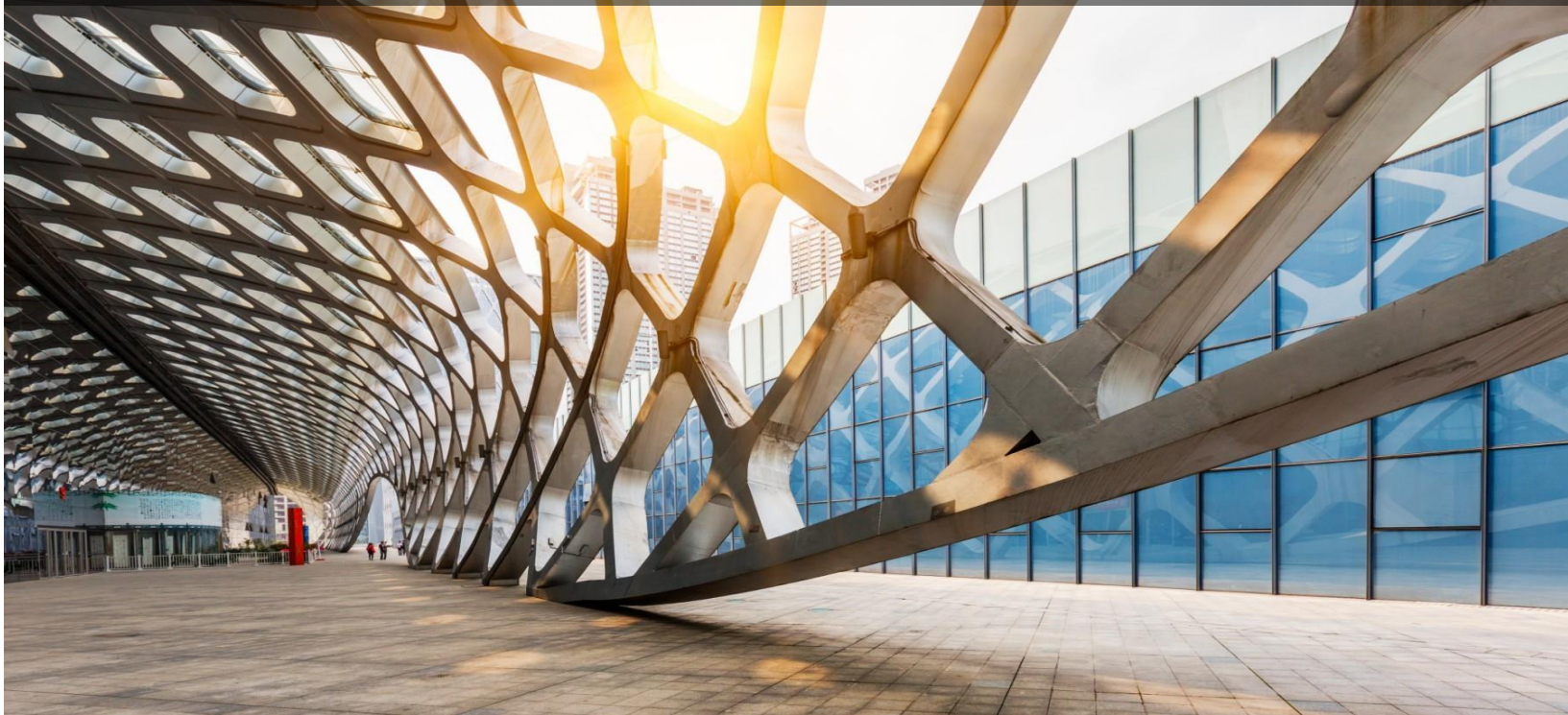


Developments in the energy sector in the light of Royal Decree-law 5/2023 and update of the “PNIEC”



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On 29 June 2023, published in the Official State Gazette, [Royal Decree-Law 5/2023 of 28 June, adopting and extending certain measures in response to the economic and social consequences of the war in Ukraine, support for the reconstruction of the island of La Palma and other situations of vulnerability; transposing European Union Directives on structural modifications of commercial companies and reconciliation of family and professional life for parents and carers; and on the implementation and enforcement of European Union law \("RD-L 5/2023"\)](#).

The extensive RDL 5/2023 is structured between an expository part and an operative part made up of 226 articles and a number of provisions - additional, transitory, derogatory and final - resulting in turn in the transposition of European Union directives, the adoption of multiple measures and regulatory modifications in various areas, thus affecting multiple sectors.

In this Alert we will detail the most relevant provisions concerning the energy sector contained in RDL 5/2023, and we also include a brief mention of the main modifications introduced in the [Draft Integrated National Energy and Climate Plan](#) for the period between 2023 and 2030 ("PNIEC"), which is currently under public consultation.

Main measures introduced by RDL 5/2023 in the energy sector

Adaptation of administrative milestones to the supply chain situation for installations that have obtained access permits since 1 January 2018

As is known, article 1 of [Decree-Law 23/2020, of 23 June, approving energy and other measures for economic reactivation](#) ("RDL 23/2020") regulates the conditions for maintaining access and connection to electricity transmission and distribution networks, introducing a series of mandatory administrative milestones.

In this regard, in relation to compliance with the administrative milestones established in the aforementioned article 1 of RDL 23/2020, RDL 5/2023 **extends by 6 months the deadline for accreditation of the fourth milestone corresponding to obtaining the administrative construction authorization ("ACC")** for holders of access permits obtained after 31 December 2017 and prior to the entry into force of RDL 5/2023.

In this respect, this measure extends the initial period of 28 months stipulated in section 1.b). 4 of the aforementioned Article 1 of RDL 23/2020 (37 more months following the extension of [Royal Decree-Law 29/2021, of 21 December, which adopts urgent measures in the energy sector to promote electric mobility, self-consumption and the deployment of renewable energies](#)) for obtaining the CCA to a period of no more than 43 months.

Specifically, in accordance with article 185 RDL 5/2023, the deadline will be calculated from:

- ▶ 25 June 2020 for electricity generation facilities that obtained access permits prior to that date and after 31 December 2017.
- ▶ From the date on which the permits were obtained for those holders of access permits that obtained them from 25 June 2020 and before the entry into force of this Royal Decree-Law.

For these purposes, holders of access permits for electricity generation facilities must accredit compliance with the requirement to obtain the CCA within periods no longer than those stipulated below:

- ▶ **If the access permit was obtained after 31 December 2017 and before the entry into force of RDL 23/2020:** 43 months from 25 June 2020 (i.e., 25/01/2024).
- ▶ **If the access permit was obtained after 25 June 2020 and before the entry into force of RDL 5/2023:** 43 months from the date of obtaining the access permit.

Regulation of renewable energy communities and citizen energy communities

The RDL 5/2023 introduces a new article (article 12 bis) in [Law 24/2013, of 26 December, on the Electricity Sector](#) ("Law 24/2013") by means of which the partners or members of **renewable energy communities** have the rights and obligations of the subjects of the electricity sector. Among other rights, they may share the renewable energy they produce within the community, subject to compliance with certain requirements. Likewise, in order to encourage and facilitate the development of these communities, certain guarantees are introduced, such as, among others, the availability of instruments to facilitate access to financing and information.

On the other hand, RDL 5/2023 introduces article 12 ter in Law 24/2013, which includes the figure of **citizen energy communities**, indicating that, in order to establish a favorable legal framework that includes the applicable requirements as well as access to the activity and their rights and obligations, they will be developed by regulation - the Draft Royal Decree that develops the figures of renewable energy communities and citizen energy communities is currently being processed. In this regard, it is stated that the regulation that develops this figure must guarantee, among other issues, that citizen energy communities can act as consumer representatives for collective self-consumption, as long as they grant the corresponding authorizations.

Updating of the remuneration parameters of installations under the specific remuneration regime

The update of the remuneration parameters of the standard installations for the regulatory half-period between **1 January 2023 and 31 December 2025** will be carried out considering the following in relation to the estimate of the electricity market price:

- ▶ The estimate for the **year 2023 is 109.31 €/MWh**.
- ▶ The estimate for the **year 2024 is 108.86 €/MWh and for the year 2025 is 89.37 €/MWh. For the years 2026 and beyond, the value obtained for the year 2025 will be used.**

For the calculation of the adjustment value for deviations in the market price for the year 2023 that will be applied in the updating of the remuneration parameters for the regulatory half-period starting on 1 January 2026, the weighted average value of the basket of electricity market prices for the year 2023 will be the minimum value between this value and the average annual price of the daily and intraday market in the year 2023 (**article 187 of RDL 5/2023**).

The provisions relating to the updating of the operating remuneration for standard installations whose operating costs depend essentially on the price of fuel for the first and second half of 2023 are also modified (**article 188 of RDL 5/2023**).

Extension of the support mechanism to ensure the competitiveness of the electro-intensive industry

The application of the support mechanism to guarantee the competitiveness of the electro-intensive industry contained in article 1 of [Royal Decree-Law 6/2022, of 29 March, which adopts urgent measures within the framework of the National Response Plan to the economic and social consequences of the war in Ukraine](#), is extended until 31 December 2023.

This mechanism provides support for the electricity-intensive industry by reducing electricity bills by 80% of the cost of access tolls to the electricity transmission and distribution networks applicable at any given time.

Destination of the Surplus of the Electricity Sector in the financial year 2022

Exceptionally, if at the close of the 2022 financial year a surplus of electricity system revenues is generated, the entire surplus will be applied to cover temporary mismatches and transitory deviations between revenues and costs in the 2023 financial year.

Updates of the new PNIEC 2023-2030

On 28 June 2023, MITECO presented the update of the new PNIEC 2023-2030, which will be open for public consultation until Monday 4 September 2023. The aim is to gather all the contributions and be able to prepare a final document which, in accordance with the Governance Regulation, must be sent to the European Commission in June 2024.

The new PNIEC foresees **an increase in climate targets for the year 2030**, in line with the proposals resulting from the "Fit for 55" package of 2021 and the recent "REPowerEU" of 2022.

Overall, **the new targets change:**

- ▶ **Reduction of GHG emissions in 2030 compared to 1990:** 32% compared to 23% in the previous PNIEC.
- ▶ **Share of renewables in electricity generation in 2030:** 81% compared to 74% in the previous PNIEC.
- ▶ **Total power in the energy mix to 2030:** 214GW compared to 160GW in the previous PNIEC.
- ▶ **Total renewable power in the energy mix to 2030:** 160GW renewables (of which 22GW will be storage) compared to 113GW renewables in the previous PNIEC.

- ▶ **Energy dependency ratio to 2030:** 51% compared to 61% in the previous PNIEC.
- ▶ **Regarding hydrogen production, the development of 11GW of electrolyzers is foreseen, compared to the 4GW contemplated in the roadmap.**

A special focus on the evolution of installed renewable capacity in 2030 shows the **following changes compared to the PNIEC 2020 target scenario:**

Potencia instalada MW

TECNOLOGÍA	2021 OBJETIVO	ACTUALIZACIÓN	VARIACIÓN	
	2030 (PNIEC 2020)	2030 (Actualización PNIEC 2023)	2030 (Actualización PNIEC 2023)	Variación
Eólica	50.333	62.044	11.711	23%
Solar PV	39.181	76.387	37.206	95%
Solar CSP	7.303	4.800	-2.503	-34%
Hidráulica	14.609	14.511	-98	-1%
Bioqás	241	440	199	83%
Otras renovables	80	80	0	0%
Biomasa	1.408	1409	1	0%
Carbón	0	0	0	0%
Ciclo combinado	26.612	26.612	0	0%
Cogeneración	3.670	3.784	114	3%
Fuel y Fuel/Gas	1.854	1.830	-24	-1%
Residuos	341	342	1	0%
Nuclear	3.181	3.181	0	0%
Almacenamiento*	12.024	18.543	6.519	54%
TOTAL	160.837	213.963	53.126	33%

- ▶ Both solar PV and wind power are increasing their installed capacity (95% and 23% respectively).
- ▶ Biogas also plays a more important role, increasing its installed capacity by 83%.
- ▶ Storage increases from 12GW (pure pumped storage + storage + mixed pumped storage) to 18.5GW (and 22GW if we include thermal storage (CSP Solar)).
- ▶ However, solar thermal power is the most affected, with forecasts decreasing by 34% compared to the initial 2020 plan.

Regarding the electricity generation forecast to 2030, **the following changes to the PNIEC 2020 target scenario are also detected:**

Generación prevista GWh

TECNOLOGÍA	2021 OBJETIVO	ACTUALIZACIÓN	VARIACIÓN	
	2030 (PNIEC 2020)	2030 (Actualización PNIEC 2023)	2030 (Actualización PNIEC 2023)	Variación
Eólica	119.520	110.900	- 8.620	-7%
Solar PV	70.491	104.818	34.327	49%
Solar CSP	23.170	9.555	- 13.615	-59%
Hidráulica	28.351	31.140	2.789	10%
Almacenamiento	11.960	14.522	2.562	21%
Biogás	1.204	2.540	1.336	111%
Geotermia	188	188	-	0%
Energías del mar	113	62	- 51	-45%
Carbón	-	-	-	0%
Ciclo combinado	32.725	17.601	- 15.124	-46%
Cogeneración carbón	-	-	-	0%
Cogeneración gas	14.197	13.123	- 1.074	-8%
Cogeneración P petrolíferos	982	982	-	0%
Otros	1.769	1.682	- 87	-5%
Fuel/Gas	5.071	3.589	- 1.482	-29%
Cogeneración renovable	1.126	1.848	722	64%
Biomasa	10.031	6.530	- 3.501	-35%
Cogeneración con residuos	84	84	-	0%
Residuos sólidos urbanos	395	465	110	31%
Nuclear	24.952	39.116	14.164	57%
TOTAL	340.289	358.745	12.456	4%

- ▶ Solar PV generation is forecast to increase by 49%, as are hydro (+10%) and biogas (+111%), while wind power's contribution decreases slightly (-7%).
- ▶ As regards back-up technologies, storage increases by +21%, and there is a major change with respect to combined cycle plants, whose share decreases by 46%, with other technologies being replaced by renewable cogeneration (+64%) and nuclear (+57%).

To this end, the PNIEC will be open for public consultation until Monday 4 September 2023, in order to gather all contributions and prepare a final document in accordance with [Regulation \(EU\) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the governance of the Energy Union and Climate Action](#), to be submitted to the European Commission in June 2024.

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