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NOTE ON THE CHANGES INTRODUCED BY ROYAL DECREE-LAW 2/2013, OF 1 FEBRUARY, ON URGENT MEASURES IN THE ELECTRICAL SYSTEM AND THE FINANCIAL SECTOR

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The Council of Ministers approved on Friday 1 February several measures on the electricity system and financial sector, included in Royal Decree-Law 2/2013, of February 1st, on urgent measures in the electrical system and financial sector (hereinafter "**RDL 2/2013**"), published in the Official Gazette of February 2nd, 2013.

In this sense, the main changes introduced by RDL 2/2013 focus on the modification of the remuneration system of regulated activities and the remuneration formula of the special regime facilities, with the intent to avoid (i) the increase of the tariff deficit and (ii) that consumers bear these costs through higher electric tolls.

The innovations introduced by RDL 2/2013 on the previous regulatory framework are the following:

- Change in the updating of all the electric system costs:

The methodologies for updating the remunerations, tariffs and premiums that were linked to the general Consumer Price Index (regulated activities such as transportation, distribution or the special regime -mainland costs, renewable energy and cogeneration-), will be updated applying said Index to constant taxes excluding unprocessed food and energy products.

- Sole formula to remunerate special regime facilities:

The remuneration through the price market + premium is eliminated and the upper and lower limits for all special regime technologies in which these concepts were not equal to zero (ie, all of them except photovoltaic facilities and facilities under subgroup a.1.1. and a.1.2 with an installed capacity exceeding 1 MW).

Therefore, the remuneration of all the special regime facilities will be under the regulated tariff formula, unless the titleholder of the facility decides to perceive only the market price, but without a premium.

This measure is estimated to entail an estimated savings of 250 to 500 million Euros depending on the market price.

- Direct consequences for special regime facilities under the market price + premium option:

The retroactive nature of RDL 2/2013 is based on that those special regime facilities that between January 1st, 2013 and February 2nd, 2013 (date of entry into force of the Royal Decree-Law) had sold its energy during some period by the formula market + premium, its remuneration will be liquidated in that period as if they have had chosen the regulated tariff option.

These facilities that, at the date of entry into force of RDL 2/2013, were selling their energy by the formula of market + premium will automatically be included under the regulated tariff formula, with effects from January 1st, 2013, unless prior to February 15, 2013 they notify the Directorate General for Energy Policy and Mines about their decision to sell energy at a market price, but in this case without a premium. The decision to remain in the mechanism of sale at a market price can not be changed later.

These provisions do not apply to projects of facilities of electricity generation by solar thermal technology of innovative character, which were awarded with the regime established under the third additional provision of Royal Decree 1565/2010 of 19 November¹.

- Service management companies that make sufficient investments in order to increase the production capacity of electricity:

Before the entry into force of RDL 2/2013, facilities that were under the provisions of Royal Decree 1538/1987 of December 11, which determines the electricity tariff of the service management companies, could perceive a premium if they made a sufficient investment in the facility in order to increase the production capacity of electricity.

With the entry into force of RDL 2/2013, this premium is replaced by a regulated tariff.

- Changes in the tariff to be received by certain facilities depending on the technology used:
 - Facilities under subgroup b.2.2 (offshore wind): a maximum reference rate of 14.8557 c€/kWh is established for the procedure to regulate the granting of the reservation of a concrete area for wind facilities in the territorial sea.
 - Elimination of the possible additional premium of up to 0.7 c€/kWh, payable until December 31st, 2017, applicable to the repowering of wind farms with a final registration date in the Registry of electricity energy production facilities prior to December 31st, 2001.
 - Modification of the remuneration for facilities using cogeneration for the drying of the by-products from the production of olive oil that were operating prior to the entry into force of Royal Decree 661/2007, setting a tariff of 14,6773 c€/kWh to be charged for a maximum period of 15 years since its operation.

¹ These facilities shall be subject to the remuneration specified in the decision of the Secretary of State for Energy. The values of the premium and the upper and lower limits are calculated from the values for solar thermal power facilities of 50 MW, published in Order IET/3586/2011 of 30 December, establishing the access fees from January 1st, 2012 and the tariffs and premiums for special regime facilities, reduced by the percentage indicated in the resolution.