

REGULATIONS FOR RES AUCTIONS ADOPTED



JPM

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Pursuant to the Law on utilization of renewable energy sources (“Official gazette of the RS” no. 40/2021, “Law on RES”), Government of the Republic of Serbia has in November 2021 adopted two new regulations:

- i) the Regulation on Market Premium and Feed-In Tariff and
- ii) the Regulation on Market Premium Model Agreement.

Both regulations were published in the Official gazette of the RS no. 112/21. By adoption of these two regulations, as well as methodologies for RES and cogeneration and quotas for wind power plants, Republic of Serbia is finalizing the legal framework for conducting of auctions for granting of the RES incentives.

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Regulation on Market Premium and Feed-In Tariff

This regulation regulates the procedure for acquiring of the right on the market premium. It envisages that the market premium will be granted by way of auctions conducted by the Commission for conduction of auction ("Commission") that is to be established. The auctions will be held in the electronic form by using of the RES Portal, whereby the first auction may be organized in hard copy in case the RES Portal will not be ready for utilization at for the first auction.

The Commission will comprise of odd number of members, at minimum five. Members of the Commission must not be in conflict of interest, meaning that they must not be related with the participants on the auction in any manner. Commission is competent for selecting of the eligible participants for incentives through the auctions. Ministry for Mining and Energy ("Ministry") shall announce, on its website, the start of a planned auction at minimum 45 days, and maximum 90 days prior to the auction. After the expiry of this deadline, public invitation shall be published containing, among other, the deadline for the submission of applications, available quotas, maximum amount of incentives for which participants may bid, documents that must be submitted, financial security for seriousness of bid, conditions for eligibility for participation in auction etc. Participants must submit their applications through RES Portal (except in case first auction is organized in hard copy).



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Financial security for seriousness of the bid must be submitted in form of either the bank guarantee or deposit of cash. In case the participants are bidding for the market premium, they are obliged to secure 30 EUR per kW of power plant capacity for which they bid for, and in the case of feed-in tariff, the amount is 10 EUR per kW.

All auction process shall be conducted over RES Portal. The Commission will first evaluate submitted applications in order to determine which participants are eligible to submit application. Following this first phase, the Commission will open the financial bids of qualified participants and determine the ranging list for granting of the incentives. Bids are ranked from lowest to highest. After the ranking, the list will be published on RES Portal and sent to Ministry. Within 15 days as of the receipt of ranking list, Ministry renders the resolution on granting of market premium/feed-in tariff to the elected participants, or resolution on rejection to grant market premium/feed-in tariff.

Participants to which incentive is granted will obtain the status of temporary privileged producer on the date of the resolution on granting of the market premium/feed-in tariff. Such temporary privileged producer is obliged to submit request for entry into the agreement on market premium/feed-in tariff to the guaranteed supplier Elektro distribucija Srbije ("EPS"), within 30 days deadline as of acquiring of such status.



Additionally, temporary privileged producer is obliged to deliver to the Ministry financial security instrument for obtaining of the status of privileged producer within 30 days as of the date of obtaining such status. The financial security may be in the form of either the bank guarantee or the cash deposit.

In case of market premium, the temporary privileged producers are obliged to secure 60 EUR per kW of power plant capacity for which they acquired status of temporary privileged producer, and in case of feed-in tariff, amount is 30 EUR per kW.

One of the novelties is that the status of temporary privileged producer may be transferred to another entity by the execution of the transfer agreement. In this case, the entity to which this status will be transferred is obliged to submit the request to the Ministry to transfer the resolution on granting market premium/feed-in tariff to the new privileged producer.

Upon the fulfilment of all conditions for the acquiring of the status of privileged producer (obtaining license for energy activity, connection of power plant to the grid, obtaining usage permit etc.) temporary privileged producer is obliged to submit the request to the Ministry for the status of privileged producer.



Upon obtaining status of the privileged producer EPS is obliged pay market premium. However, it is envisaged that the market premium shall be paid as a difference between the granted market premium and the referent market price. EPS shall pay the market premium to the privileged producer only in case granted market premium is higher than the referent market price. If the referent market price is higher than the granted market premium, the privileged producer is obliged to pay the difference between these two amounts to the EPS. Referent market price is determined in line with the price for electric energy obtained per hour on day before organized electric energy market in the Republic of Serbia. Operator of organized electric energy market publishes the referent prices on its website.

Finally, one of the novelties in obligations of the privileged producers is that they are obliged, throughout the whole validity of their agreement on market premium/feed-in tariff, to pay monthly cash deposit for the removal of the power plant and remediation of soil. After the expiry of the working life of the power plant, the privileged producer is obliged to remove the power plant and perform remediation of the soil. Upon this removal and remediation, the privileged producer may request for the cash deposit to be paid back. However, in case the privileged producer does not fulfill this obligation, it will lose forfeit the cash deposit and the funds will be used for the removal and remediation.

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Regulation on Market Premium Model Agreement

The Second adopted regulation governs the mandatory content of the agreement on market premium that is to be entered into between the temporary privileged producers and EPS. Contracting parties are not entitled to amend this model agreement without the expressed consent of the Ministry.

Agreement on market premium must contain, inter alia,: i) the data on contracting parties, ii) the rights and obligations of contractual parties, iii) the subject of the agreement, iv) the amount and data on market premium, v) the data on possible payment to the EPS in case the referent price would be higher than the granted market premium, vi) the type and capacity of the power plant, vii) the incentive period and date of agreement execution, viii) the reasons for termination, ix) the manner of dispute resolution.

This regulation also stipulates mandatory elements of the agreement on market premium in case the lender of the RES project is authorized to request the transfer of the agreement of market premium from the privileged producer to any other entity.



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