

Belén Wert, Lorenzo Morejón and Sol Sepúlveda

Key aspects of Order TED/966/2026 of 15 September, which establishes a capacity market in the Spanish peninsular electricity system

On 17 September 2026, the Official State Gazette published Order TED/966/2026 of 15 September, which establishes a capacity market in the Spanish peninsular electricity system (“**Order TED/966/2026**”). The order entered into force on 18 September 2026, the day following its publication.

Order TED/966/2026 implements the provision contained in Article 14.5 of Law 24/2013 of 26 December on the Electricity Sector (“**LSE**”), and regulates the requirements for participating as a capacity service provider, the conditions for the provision of the service, the auction procedures, as well as its remuneration and financing arrangements.

This Legal Briefing analyses the key changes introduced by Order TED/966/2026.

I. Creation of a capacity market

Order TED/966/2026 seeks to create a capacity market within the peninsular electricity system to address any potential coverage issues that could jeopardise security of supply, ensuring the availability of sufficient firm power from capacity service providers.

The mechanism is structured as a centralised, peninsular-wide capacity market, whereby the identified firmness requirements are met in full through a competitive bidding process, and is based on the firm power requirements identified by the system operator at a single node for each time horizon.

The most significant aspects of this mechanism are analysed below: the participants in the capacity market, the product to be auctioned, the auction formats, incompatibilities, the auction mechanism, the provision of the capacity service, its remuneration and settlement, the assignment and transfer of rights and obligations associated with the service, the inspection and non-compliance regime, and its financing.

II. Participants in the capacity market

The following entities in the electricity system may participate in the capacity market:

- Electricity producers.
- Owners of storage installations.
- End consumers of electricity.
- Entities that provide demand aggregation services, including electricity suppliers, provided that they are able to participate in all electricity production markets at the time the relevant capacity auctions are held.
- Entities that provide production and storage aggregation services, subject to the same requirement regarding participation in the production markets.

Order TED/966/2026 also applies to the grid manager (*Red Eléctrica de España, S.A.*) (“**REE**”), as the system operator, and to the National Commission for Markets and Competition (*Comisión Nacional de los Mercados y la*

Competencia) (“CNMC”), which assume, within the mechanism, the roles of auction administrator and auction supervisor, respectively.

Finally, Order TED/966/2026 provides for the cross-border participation of installations that belong to any of the above categories and are located in bid zones that border the Spanish bid zone. Such participation is subject to the approval of coordination agreements between the system operators of each bid zone and the conditions that permit compliance with the requirements and obligations set out in Order TED/966/2026 itself.

III. Product to be auctioned

The product to be auctioned shall be firm power, expressed in MW, and the bid variable shall be the price per unit of firm power, expressed in euro/MW per year.

Firm power is defined as the average active power that a generation, storage or demand installation can supply to meet demand, and is obtained by applying the firmness coefficient of the corresponding reference technology to the installed power, without exceeding the access capacity granted to the installation.¹

IV. Auction formats

Order TED/966/2026 provides for two standard auction formats – the main auction and the adjustment auction – depending on the time horizon for the effective provision of the service; in addition, transitional auctions may be held on an exceptional basis.

i) Main capacity auctions

These auctions seek to contract the firm capacity identified for a specific time horizon. Such an auction shall include a lead time of up to five years between the assignment of the service following the auction and the commencement of the provision of the service, and the provision period must include at least one year during which a coverage problem has been identified.

The periods for the provision of the service set out in the regulation vary according to the type of participant and shall be specified in the resolution that convenes each main capacity auction:

- » Existing generation and storage installations: twelve months. For these purposes, installations are considered to be existing if they hold an operating authorisation prior to the convening of the auction.
- » New investments in generation and storage: the regulation provides for periods of up to fifteen years, which will be defined by reference technology and are intended to reflect a period equivalent to half the useful life of the installation.
- » Demand installations: the service provision period may range from one to ten years, with participants in capacity auctions being able to decide the applicable service provision period within this range.²
- » Production and storage aggregations: these require that all participating installations have an individual firm power of less than 1 MW and share the same status (existing or new investments). The service provision period shall be one year where the aggregation comprises existing installations and, in the case of new investments, shall correspond to the shortest of the periods applicable to the various technologies represented within the aggregation.

On an exceptional basis, the convening resolution may authorise a capacity quota for new investment with a time horizon of up to nine years between the assignment of the service and the start of the provision. This quota is available to installations which, in the context of a new investment, use the technologies referred

¹ The firmness coefficients are set by reference technology in the resolution that convenes each auction, following a proposal from the CNMC, and only those technologies for which a coefficient has been previously defined may participate in the capacity market.

² In the case of demand aggregations, all the installations of which they are comprised will share a single service provision period, and may only be formed with demand installations that have an individual firm power of less than 1 MW that share the same status (existing or new investments).

to in the final paragraph of Article 1.1 of Royal Decree-Law 23/2020 of 23 June – namely, pumped-storage hydro and offshore wind power – provided that they specify this in their application to participate.

ii) Auctions for balancing capacity

Held annually, these auctions are intended to resolve any potential supply shortfalls that will not be covered by the firm power secured through the main capacity auctions, in particular those that may arise unexpectedly, such as deviations in demand coverage requirements or the failure of any of the projects awarded in the main auction.

Only installations that are in operation prior to the date of the announcement to submit bids may participate in this category, and only for the firm power corresponding to the modules of that installation that are in operation.

iii) Transitional auctions

Provided for in the sole transitional provision of Order TED/966/2026, these are of an extraordinary and annual nature and cover the period between the entry into force of Order TED/966/2026 and the start of the service provision period resulting from the first main capacity auction. A transitional auction shall be held for each of the calendar years falling within that period, and such auctions may be held simultaneously.

V. Incompatibilities

Order TED/966/2026 sets out certain incompatibilities regarding participation in the capacity market. To this end, it expressly excludes:

- The receipt by the installations of additional remuneration under a capacity mechanism, including capacity payments regulated by Order ITC/3127/2011 of 17 November.
- The receipt by installations of remuneration for capacity services, for the same firm power offered, and where the service provision period is the same.
- The recognition in favour of production installations of a remuneration framework as regulated in Article 14 of the LSE.
- The receipt by production or storage installations of any form of public aid, provided that such installations have not fully incorporated the aid received into all bids submitted in new markets or mechanisms such as the capacity market.
- The receipt by installations of remuneration, for the same firm power offered and service provision period, as a specific balancing product.

VI. How the auction operates

Announcement of the auction

The capacity auction, in its various forms, shall be announced by resolution of the Head of the State Secretariat for Energy.

Prior to the approval of this resolution, the system operator shall submit to the Directorate-General for Energy Policy and Mines (“**DGPEM**”), at the latter’s request, and to the CNMC, the firm power curve and the firmness coefficients,³ as well as any other relevant considerations for the purposes of holding the auction. The final setting of both elements is set out in the resolution calling for bids itself, following a proposal from

³ The required firm power curve reflects how much firm power the system requires over the relevant time horizon. For each auction, a required firm power curve shall be constructed based on existing forecasts for each time horizon and in accordance with the coverage requirements identified by the system operator on the basis of existing parameters, such as the reliability standard. In turn, firmness coefficients are values ranging from 0 to 1 that measure the extent to which each reference technology can provide firm power to the system. These will be known prior to the holding of the various auctions and will be based on the best forecast of the back-up capacity provided by the different technologies, for which both historical data and forecasts for the various established coverage horizons may be used.

the CNMC, which must be submitted to the DGPEM within a maximum of ten days of receipt of the system operator's proposal.

The proposed resolution to announce the auction shall be subject to public consultation, and a report on this shall be requested from the CNMC, which must be issued within a maximum of twenty working days.

The resolution announcing the auction shall define, amongst other aspects, the following:

- » The date of the auction and its schedule.
- » The required firm power curve, including the quantity-price pairs, which may be declared confidential.
- » The auction format and the start date of the service provision period.
- » Where applicable, the power quota for new investment, which may be declared confidential.
- » The maximum price on the required firm power curve and, where applicable, the lower reserve price applicable to existing installations, which may be declared confidential.
- » The firmness coefficients for each of the reference technologies and the flexibility threshold.
- » The service provision periods by reference technology.
- » The applicable Capacity Market Auction Rules.
- » The estimated cost, per euro/MW of firm capacity awarded, which each successful bidder must pay to cover the cost of the auction.
- » The unit investment values by reference technology and the threshold for new hybridisation investment.
- » Where applicable, the minimum and maximum percentages designed to guarantee effective competition in the auction.⁴

In addition, and on an exceptional basis, the resolution announcing the main capacity auctions may include a maximum emissions threshold which may not be exceeded by the successful bidders. To this end, for each reference emission technology, equivalent CO₂ emission levels may be defined so that, taken together, the volume of emissions associated with the successful bidders' installations does not exceed that threshold; bids corresponding to the highest-priced emission technologies that cause the threshold to be exceeded shall be excluded from the selection process.

Access to the auction

Parties interested in participating must submit an application to the system operator to take part in the capacity auction, using the procedures established for this purpose and in accordance with the template published on its website. The application must be accompanied by supporting documentation that verifies compliance with the legal, technical and economic requirements, which shall be certified by means of a responsible declaration, without prejudice to the possibility of more detailed provisions being set out in the operating procedure and the Capacity Market Auction Rules.

The application must state the number of bid blocks, each with a minimum firm power of 1 MW, with which the participant will enter the auction; these blocks shall be grouped by installation.

The application period shall last for at least one month, and the deadline for submission shall be set at least six weeks before the auction takes place. The system operator, having examined the information submitted, shall authorise those participants who demonstrate compliance with the requirements and shall notify the DGPEM, within a maximum of four weeks following the deadline, of the details of the authorised participants, while also informing each participant, in a reasoned and transparent manner, of the status of their application.

⁴ These are two discretionary percentages aimed at preserving effective competition in the auction. The first is a minimum percentage of the volume of bids received in relation to the firm power to be contracted; if this is not met, the awarded volume may be reduced to the level necessary to ensure that this percentage is satisfied. The second is a maximum percentage of the volume of firm power that may be awarded to a single company or business group in relation to the total awarded. If set, both will be specified in the resolution announcing the auction and will be taken into account in the Auction Rules.

Once authorised, the owner of the installation or aggregation, or their legal representative, must formally adhere to the regulatory framework established for participation in the auction. Such adherence implies acceptance of the contents of Order TED/966/2026, the operating procedure applicable to the capacity service and the conditions of the service, as well as the obligation to provide the service should they be awarded the contract.

Award process

The award process will be conducted using the sealed-bid auction method, in accordance with a “*pay as bid*” mechanism. The bid price shall be expressed in euro/MW of firm capacity per year, without decimal places, and in primary capacity auctions, the same bid value shall be assigned for all the years of the service provision period.

The selection of bids for each block will generally be carried out by ranking the bids from lowest to highest financial value and selecting them starting with the lowest-value bid until the cut-off point is reached on the curve for the required firm power defined in the announcement of the auction; the last bid whose inclusion would cause this intersection point to be exceeded will not be selected. The bids selected in this way shall be deemed successful, provided they do not exceed the maximum price or, where applicable, the lower reserve price.

Once the presentation of bids has concluded and the auction has been conducted in accordance with the Capacity Market Auction Rules, the administering body – REE – shall determine the result and notify the supervisory body – the CNMC – and the State Secretariat for Energy. The CNMC must validate the outcome of the auction and the procedure followed, for which purpose it shall submit a report to the State Secretariat for Energy and to the administering body. If the auction is declared invalid, the procedure shall be rendered null and void by a decision of the State Secretariat for Energy.

Once the auction has been declared valid, the Head of the DGPEM shall issue a resolution, which shall be published in the Official State Gazette. The outcome will be the power awarded to each participant and the award price for each assigned bid block, which shall correspond to their bid price and will not be updated. The outcome of the auction shall be made public, with the administering body being responsible for its dissemination following the publication of the aforementioned resolution.

Finally, the cost of the auction shall be borne by the successful bidders, based on the amount of firm power awarded; it shall be expressed in euro/MW of firm capacity awarded and shall be approved in the resolution concluding the auction. Following its publication, the administering body will manage the settlement of this cost prior to the successful bidders being authorised as service providers.

VII. Provision of the capacity service

Once the resolution determining the outcome of the capacity auction has been published, the successful bidders may apply to the system operator for authorisation as capacity service providers. This service will be managed by the system operator and governed by an operating procedure to be approved by resolution of the Head of the State Secretariat for Energy.

The capacity service shall consist of the provision, by these capacity service providers (whether as successful bidders in the relevant auction or through assignment or transfer), of a service that ensures the availability of a specified amount of firm power that addresses potential supply problems.

Obligations

The following are the key obligations with which capacity service providers must comply:

- » Electricity producers and owners of storage installations must guarantee the availability of their installations during defined periods of stress on the peninsular electricity system,⁵ with a firm power output that does not exceed the access capacity of their installations.

⁵ System stress periods shall be set by the system operator and may not exceed 10% of the hours in a calendar year. In any event, capacity service providers shall be informed of these periods before the start of each year that falls within the service provision period.

- » Consumers must ensure their availability during defined periods of stress on the peninsular electricity system, responding to the system operator's activation request, with firm power not exceeding the lowest contracted power of their installation.
- » Entities that provide demand aggregation services must respond to the system operator's activation request during defined periods of stress on the peninsular electricity system, providing a firm power output that does not exceed the lowest contracted power of the group of installations.
- » Entities that provide production and storage aggregation services must ensure their availability under the conditions set out in the approved operating procedure.

Verification of the provision of the service

The system operator shall be responsible for verifying the provision of the service by capacity service providers, without prejudice to the supervisory powers of the CNMC.

For these purposes, the system operator may carry out tests at least once a year to verify the availability of the firm power of the installations. Should any test fail, up to three further tests may be carried out; unsatisfactory results in these tests shall have the following consequences, which shall not be cumulative:

- » First failed test: loss of one month's remuneration, increased by 20%.
- » Second failed test: loss of one quarter's remuneration, increased by 20%.
- » Third failed test: loss of the annual remuneration, increased by 20%, and disqualification of the installation from providing the capacity service.

VIII. Remuneration and settlement of the capacity service for capacity service providers

From the start date of the service provision period, the capacity service provider is entitled to receive a fixed monthly remuneration that corresponds to one twelfth of the amount resulting from multiplying the volume of firm power awarded at the auction by the price bid and awarded at the auction ("*pay as bid*"). The settlement shall be carried out by the system operator.

IX. Assignment and transfer of rights and obligations associated with the capacity service

Order TED/966/2026 establishes a secondary capacity market, which is organised through the assignment or transfer, by capacity service providers, of the rights and obligations associated with the provision of the service.

To this end, in order to acquire the aforementioned rights and obligations, the parties referred to in paragraph 2 of this Legal Briefing must demonstrate, prior to the acquisition, that they meet the requirements set out in Order TED/966/2026 for participation in the capacity market. The assignment or transfer shall not take effect until the system operator has verified compliance with the aforementioned requirements and has given its approval.

The assignment or transfer of the rights and obligations of a capacity service provider has the following implications:

- Assignment entails the transfer of rights and obligations to one or more installations or aggregations that meet the requirements set out in Order TED/966/2026, while a transfer involves a change in the ownership of the installation and, with it, the transfer of rights and obligations.
- In both cases, the assignment or transfer shall be made on the basis of the firm power acquired, and the firm power assigned may not be reduced.
- The assignment or transfer of the rights and obligations assumed as a result of an auction shall not preclude participation in subsequent auctions organised within the framework of the capacity market.

X. Inspection and non-compliance regime

The CNMC shall inspect the conditions under which the capacity service is provided, the effective availability of the installations supplying it, and the settlements carried out by the system operator, which the CNMC may correct where irregularities are detected.

Non-compliance with the obligations of capacity service providers may result in deterrent payment obligations (for example, for failure to maintain the availability of the assigned firm power or to activate the service – whether in a test environment or otherwise) or, in serious cases, disqualification from providing the service (for example, for failing to meet certain reporting obligations or for concealing from the system operator the unavailability of an installation providing the service), which entails the loss of remuneration from that point onwards and the enforcement of the financial guarantees provided. Furthermore, withdrawal from the provision of the service entails the loss of remuneration, the enforcement of guarantees and, in accordance with the terms established by the operating procedure, the possible loss of the right to participate in subsequent auctions.

XI. Financing of the capacity service

The annual cost arising from the capacity service corresponds to the remuneration received by all capacity service providers who are successful bidders in the auctions. It shall be financed:

- By electricity suppliers, including reference suppliers for domestic Spanish consumption, and direct market consumers.
- Through the applicable unit prices for the financing of the capacity market, which shall be updated each financial year by order of the Minister for Ecological Transition and the Demographic Challenge, subject to the agreement of the Government's Delegated Commission for Economic Affairs.

Contact



Ana Cremades

Partner, Administrative Law

acremades@perezllorca.com

T. +34 91 423 66 52



Belén Wert

Partner, Administrative Law

bwert@perezllorca.com

T. +34 91 423 70 20

Offices

Europe ↗

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