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Client briefing

ENERGY

23 September 2026

Spain launches its new capacity market

Order TED/966/2026 establishes Spain's capacity market – the product of a regulatory process that began in 2021 and received European Commission State aid clearance in May 2026. The Order is the final step before the market becomes operational. It creates a centralised mechanism that remunerates the availability and firmness of power, rather than energy produced or supplied – a new source of predictable, stable revenue for generation, storage and demand facilities.

1. CAPACITY MARKET

The capacity market established by Order TED/966/2026 of 15 September (the "**Order**") is a centralised mechanism based on the **firm power requirements** identified by the system operator for different time horizons. Its purpose is to guarantee security of supply **by ensuring that sufficient firm and flexible power is available**, using **financial incentives** to encourage participation across the system.

The Order concludes a regulatory process that began in 2021, which included two public consultations and notification to the European Commission for State aid purposes. The Commission raised no objections, issuing a clearance decision in May 2026. The Order **broadly follows the capacity market architecture consulted on at the end of 2024**, but regulates certain areas in greater detail – notably the integration of hybridised facilities and aggregators, and the regime for reliability testing and penalties.

The mechanism operates through **competitive, technology-neutral capacity auctions**. Participants bid to acquire commitments to provide the capacity service – that is, **guaranteeing the availability of a specified firm power output** – in exchange for a right to receive payment. Firm **power output** is defined as the average active power a facility can supply, taking into account the availability and reliability characteristics of its reference technology. For each reference technology, firm power output is determined by applying the corresponding **firmness coefficient** to installed capacity.

The **product auctioned is firm power**, expressed in MW, with bids expressed in €/MW firm per year. The system **awards contracts by sealed bid on a pay-as-bid basis**. The tender terms may set a maximum price for the required firm power curve and, for existing generation and storage facilities in main auctions, a lower reserve price – with specific rules for hybridisation with new facilities or repowering of existing ones.

The system operator manages the capacity service – including compliance, verification, financing and settlement – and acts as the auction administrator, with the CNMC having overall supervisory responsibility for the mechanism.

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2. TYPES OF AUCTIONS

- **Main capacity auctions** may allocate the service with a start date of up to **five years** from the award – or up to nine years for projects such as offshore wind or pumped-storage hydropower – giving providers sufficient lead time to commission new facilities. The service period is **12 months for existing** generation and storage **facilities**. For **new facilities**, the reference technology determines the period, based on half their useful life and capped at a **maximum of 15 years**. For demand-side facilities, the period may range from one to ten years.
- **Balancing capacity auctions** have a service period of **12 months**, commencing no later than 12 months after allocation. They address balancing requirements not covered by the firm capacity contracted through main auctions. Only facilities already in operation before the call for bids may participate.
- **Transitory auctions** are **held annually** and cover firmness requirements in the period between the Order entering into force and the start of the first service provision period under a main auction. In effect, they bridge the gap between the market's creation and the commissioning of new capacity contracted through the main auctions.

3. CAPACITY SERVICE PROVIDERS

Generators, owners of **storage** facilities, **end consumers** and certain **aggregation service** providers may participate in the auctions. Successful bidders, and those who acquire rights and obligations on the secondary market, may register as capacity service providers with the system operator.

The Order draws a key distinction between existing facilities and new facilities or investments. **Existing generation facilities** may participate whether or not they are renewable, provided **they comply with the emission limit** of 550 gCO_2/kWh, and may do so on the basis of the facility's registered capacity. As a general rule, a facility that holds **a commissioning authorisation** (*autorización de explotación*) before the auction is announced is treated as "existing"; facilities without such authorisation are classified as new facilities or investments. **New generation facilities** must use **renewable sources** and hold **access and connection permits**.

The Order also permits **aggregators** that group together **existing generation or storage facilities** – that is, those with a commissioning authorisation – **or demand facilities**. Notably, aggregators were not listed as a separate category in the earlier draft proposals.

In a significant change from previous drafts, where **hybrid facilities** are awarded a capacity service contract the provider may decide how to **distribute and allocate** the awarded bid blocks among the hybrid modules.

Participants must also meet certain **technical and regulatory requirements**, including: (i) a **minimum firm capacity of 1 MW**; (ii) location within the **Spanish mainland electricity system** – though the Order allows facilities in bidding zones bordering the Spanish zone to participate, subject to coordination agreements between the relevant system operators; and (iii) compliance with the other technical and operational requirements set out in the Order and the relevant operating procedure.

The Order establishes **remuneration and economic incompatibilities**. In particular, generation facilities may not benefit from **the specific remuneration scheme** and **may not receive, for the same firm capacity and service period**, other remuneration through capacity mechanisms, capacity services or specific balancing products – such as the active demand response service (SRAD). These incompatibilities do not prevent participation in the wholesale market or bilateral arrangements such as **PPAs or tolling agreements**, but the obligations under those contracts must be compatible with the provider's availability obligations under the capacity market.

Capacity providers must also post **financial guarantees of compliance** as set out in the new operating procedure. Guarantees may be required both for the period between the auction and the start of service provision, and for the service provision period itself.

4. REMUNERATION AND PENALTIES

During the service provision period, capacity providers receive a **fixed monthly remuneration** calculated on the basis of the firm capacity awarded and the award price. This remuneration is linked to **the availability commitment**, **not to the energy produced** or supplied.

In return, capacity providers must fulfil their service provision obligations:

- For generation and storage facilities, the main obligation is to ensure that committed firm power remains available during the system's "**stress hours**" –hours for which a high level of unsupplied energy is forecast. Stress hours are determined by the system operator and may not exceed 10% of the hours in a calendar year.
- For consumers and demand aggregators, the main obligation is to comply with requests from the system operator to reduce consumption.

Non-compliance results in financial penalties, calculated primarily by reference to the firm capacity shortfall and the average auction price. Providers will need to closely **monitor factors that may affect a facility's firm capacity over time** – such as availability, degradation or deterioration – to ensure ongoing compliance and avoid penalties.

The Order also provides for **disqualification from providing the service** in cases of serious or repeated breach. Disqualification entails loss of remuneration from the date of disqualification and potential enforcement of financial guarantees. The **system** operator carries out **continuous verification and monitoring of compliance with allocated firm capacity**, and may conduct availability tests at least once a year. A facility that fails these tests faces financial penalties and, after a third failure, disqualification and loss of the annual remuneration.

Electricity suppliers (*comercializadores*) bear the **cost of the capacity mechanism** – but will pass it on to customers – together with direct market consumers (*consumidores directos en mercado*), who are charged against their electricity consumption during the hours of greatest system stress. The annual amount is determined in accordance with the methodology set out in the Order, based on projected service costs and consumption by period and segment.

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5. SECONDARY MARKET

The Order allows the rights and obligations under a capacity service contract to be transferred or assigned. A **transfer** occurs on **a change of ownership of the facility**: the new owner assumes the existing capacity service rights and obligations. An **assignment** involves moving those rights and obligations to one or more different facilities or aggregations. In both cases, the Order's requirements must be met – including maintaining the transferred or assigned firm power – and **the system operator must consent as a condition** for the transfer or assignment to take effect.

The Order does not expressly prohibit **the pledging of payment rights** arising from the capacity service. However, it does not set out rules governing the creation, perfection or enforcement of any such pledge. The contractual framework for any pledge, and its recognition and enforceability vis-à-vis the system operator, will need careful analysis.

6. NEXT STEPS

While the Order establishes the regulatory framework for the capacity market, **its effective implementation requires further regulatory and technical developments**. These include approving the operating procedure, setting the firmness coefficients for each technology, and defining the firm power requirements to be contracted. Once those steps are complete, the Secretary of State for Energy will launch the auctions. **The Order does not set a binding deadline**, but the first auction is expected during 2027, based on industry forecasts and the remaining regulatory steps.

In the meantime, potential capacity providers should take two key preparatory steps. First, they must **verify that their facilities meet the Order's eligibility requirements**, paying particular attention to the applicable technical conditions – including the firmness coefficient, which will be set by technology – and the facility's classification as "existing" or "new". This classification matters: a facility nearing completion of construction and close to obtaining its operating licence may qualify as "existing", which affects its service provision period and other participation terms. Second, developers must **structure their contractual arrangements** – including project financing, PPAs and tolling agreements – **so that they are compatible** with capacity market participation and any obligations that may arise from it.

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Uría Menéndez Abogados, S.L.P. | Madrid Commercial Register, Volume 24490 of the Register of Companies, Folio 42, Section 8, Page M-43976. Tax Identification Number (NIF): B28563963