

Serbia: The Government adopted bylaws in relation to the Law on Use of Renewable Energy Sources

On 25 November the Government of the Republic of Serbia adopted the Decree on Market Premiums and Feed-in Tariffs and the Decree on the Model for Market Premium Agreement which were published in the Official Gazette of the Republic of Serbia no. 112/2021.

The highly anticipated decrees now complete the regulatory framework for implementation of incentive measures envisaged in the Law on Use of Renewable Energy Sources (*Official Gazette of the Republic of Serbia, no. 40/2021*) (hereinafter: the "**Law on RES**") for production of electric energy from renewable energy sources (hereinafter: "**RES**").

Decree on Market Premiums and Feed-in Tariffs

The Decree on Market Premiums and Feed-in Tariffs regulates in detail the organization of auctions and the terms for obtaining the status of temporary privileged producer of electric energy from RES (hereinafter: the "**Temporary Privileged Producer**") and privileged producer of electric energy from RES (hereinafter: the "**Privileged Producer**").

The right on market premium is obtained on the day the decision on rewarding of the market premium becomes final, while the right on payment of market premium is obtained after obtaining the status of Privileged Producer.

Market premium is paid as the difference between the winning bid in the auction and the benchmark price that is determined according to the price of electric energy on the day-ahead market in

Srbija: Vlada usvojila podzakonske akte u vezi sa Zakonom o korišćenju obnovljivih izvora energije

Vlada Republike Srbije je 25. novembra usvojila Uredbu o tržišnoj premiji i fid-in tarifi i Uredbu o modelu ugovora o tržišnoj premiji koje su objavljene u Službenom glasniku Republike Srbije br. 112/2021.

Dugo očekivanim uredbama zaokružen je regulatorni okvir za sprovođenje podsticajnih mera predviđenih Zakonom o korišćenju obnovljivih izvora energije (*Službeni glasnik Republike Srbije, br. 40/2021*) (u daljem tekstu: "**Zakon o OIE**") za proizvodnju električne energije iz obnovljivih izvora energije (u daljem tekstu: "**OIE**").

Uredba o tržišnoj premiji i fid-in tarifi

Uredbom o tržišnim premijama i fid-in tarifama bliže se uređuje organizacija aukcija i uslovi za sticanje statusa privremenog povlašćenog proizvođača električne energije iz OIE (u daljem tekstu: "**Privremeni povlašćeni proizvođač**") i povlašćenog proizvođača električne energije iz OIE (u daljem tekstu: "**Povlašćeni proizvođač**").

Pravo na tržišnu premiju stiće se danom pravosnažnosti odluke o dodeljivanju tržišne premije, dok se pravo na isplatu tržišne premije stiće sticanjem statusa Povlašćenog proizvođača.

Tržišna premija se plaća kao razlika između ostvarene cene na aukciji i referentne tržišne cene koja se utvrđuje prema ceni električne energije na tržištu dan unapred u Republici Srbiji

Republic of Serbia (SEEPEX). In other words, two-way premiums are envisaged – if the benchmark price is higher than the winning bid, the producer will be obliged to pay the difference to the authorized contracting party.

The minimum capacity of power plants for the participation in the auctions is 500 kW and 3 MW for wind power plants.

As prescribed in the Law on RES, Ministry on Energy and Mining (hereinafter: the “**Ministry**”) initiates the auction procedure through public call. This decree prescribes all elements of the content of the public call as well as financial securities that should be submitted. Further, conditions for participation as well as proof that the said conditions are fulfilled are listed in full.

One of the most important elements of the application is the financial offer that contains the price which will be valid during the entire incentive period, expressed in EUR/kWh.

The financial security can be submitted in the form of a bank guarantee or monetary deposit in the amount of EUR 30 per kW of the offered capacity for premiums, i.e. EUR 10 per kW of the offered capacity for feed-in tariff.

As a rule, it is prescribed that the whole auction procedure (submission of documents, opening of applications, financial offers, bidding, ranking, etc.) will be performed through RES auctions Portal, organized within the eGovernment Portal. However, if due to technical reasons the auction cannot be organized in the described manner, it will be performed in paper form.

The decree regulates in more detail each phase of the auction (opening of applications, qualification phase, bidding phase, ranking, issuing a decision and decision publishing) and the status of Temporary Privileged Producer and Privileged Producer (agreement conclusion, delivery of the financial security, obtaining the status, duties, status transfer, termination of status, etc.).

(SEEPEX). Drugim rečima, predviđene su dvosmerne premije – ako je referentna cena viša od ostvarene cene, proizvođač će biti u obavezi da plati razliku ovlašćenoj ugovornoj strani.

Minimalni kapacitet elektrana za učešće na aukcijama je 500 kW, odnosno 3 MW za vetroelektrane.

Kako je propisano Zakonom o OIE, Ministarstvo energetike i rudarstva (u daljem tekstu: **Ministarstvo**) pokreće postupak aukcije putem javnog poziva. Ovom uredbom propisuju se svi elementi sadržine javnog poziva, kao i finansijska instrumenti obezbeđenja koja se dostavljaju. Dalje, propisala je celokupna lista uslova za učešće kao i dokaza da su navedeni uslovi ispunjeni.

Jedan od najvažnijih elemenata prijave je finansijska ponuda koja sadrži cenu koja će važiti tokom celog podsticajnog perioda, izraženu u EUR/kWh.

Finansijski instrument obezbeđenja se može dostaviti u vidu bankarske garancije ili novčanog depozita u iznosu od 30 evra po kW ponuđenog kapaciteta za premije, odnosno 10 evra po kW ponuđenog kapaciteta za fid-in tarifu.

Po pravilu je propisano da se ceo postupak aukcije (podnošenje dokumentacije, otvaranje prijave, finansijske ponude, nadmetanje, rangiranje i sl.) obavlja preko Portala za aukcije OIE, organizovanog u okviru Portala eUprava. Međutim, ako se iz tehničkih razloga aukcija ne može organizovati na opisani način, onda će se održati u papirnoj formi.

Uredbom se bliže uređuju svaka faza aukcije (otvaranje prijave, faza kvalifikacije, faza nadmetanja, rangiranje, donošenje odluke i objavljivanje odluke) kao i status Privremenog povlašćenog proizvođača i Povlašćenog proizvođača (zaključivanje ugovora, uručenje finansijskog obezbeđenja, sticanje statusa, dužnosti, prenos statusa, prestanak statusa itd.).

As envisaged by the Law on RES, this decree prescribes the amount of monetary deposit for removal of the power plant and sanitation of the land. The amount of the monetary deposit, expressed in EUR per kW of the offered capacity is as follows:

- a. 0.066 for wind power plants;
- b. 0.02 for solar power plants; and
- c. 0.033 for other power plants.

Lastly, this decree includes the model of the bank guaranty in the auction phase and for obtaining the status of Privileged Producer.

Kako je predviđeno Zakonom o OIE, ovom uredbom je propisan iznos novčanog depozita za uklanjanje elektrane i sanaciju zemljišta. Iznos novčanog depozita, izražen u evrima po kW ponuđenog kapaciteta je:

- a. 0,066 za vetroelektrane;
- b. 0,02 za solarne elektrane; i
- c. 0,033 za sve ostale elektrane.

Na kraju, sastavni deo ove uredbe čini model bankarske garancije kao dokaz o ozbiljnosti ponude i za sticanje statusa Povlašćenog proizvođača.

Decree on the Model for Market Premium Agreement

The Decree on the Model for Market Premium Agreement lists the content of the agreement, and more importantly, it includes a very detailed model agreement for market premium (hereinafter: the "**Model Agreement**").

It is important to note that, in accordance with this decree, it is not allowed to amend the Model Agreement so that certain provisions are added or deleted. However, if the parties determine that certain, non-essential matters are not regulated in the Model Agreement or it is required to adjust the Model Agreement to the specific situation, they may amend it with prior approval of the Ministry. The Ministry must decide on the request for approval within 30 day from the day the request is submitted.

Content of the Model Agreement includes:

Uredba o modelu ugovora o tržišnoj premiji

Uredba o modelu ugovora o tržišnoj premiji propisuje sadržaj ugovora, i što je još važnije, sadrži veoma detaljan model ugovora o tržišnoj premiji (u daljem tekstu: "**Model ugovora**").

Važno je napomenuti da, u skladu sa ovom uredbom, nije dozvoljena izmena Modela ugovora tako da se pojedine odredbe dodaju ili brišu. Međutim, ako strane utvrde da određena pitanja koja ne predstavljaju bitne elemente ugovora nisu regulisana Modelom ugovora ili je potrebno da se Model ugovora prilagodi konkretnoj situaciji, mogu ga izmeniti uz prethodno odobrenje Ministarstva. Ministarstvo je dužno da odluči o zahtevu za davanje saglasnosti u roku od 30 dana od dana podnošenja zahteva.

Sadržaj Modela Ugovora uključuje:

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| <ul style="list-style-type: none"> a. Initial statements; b. Definitions of used terms; c. Subject and duration of the agreement – incentive period lasts 15 years; d. Obligations of producer and authorized contracting party; e. Calculation formula for market premium; f. Payment of market premium – two-way premiums and objections to the invoice; g. Financial securities; h. Force major; i. Amendments to the relevant regulations concerning the incentive measures – it is possible to change the winning bid due to the change of regulations; j. Termination of the agreement and the compensation to the other party; k. Limitation of liability and compensation of damages; l. Communication, notification and confidentiality; m. Assignment of the agreement; n. Dispute resolution – the parties have four options to choose from (courts in the Republic of Serbia, arbitration before Chamber of Commerce of the Republic of Serbia, ICC arbitration, VIAC arbitration); o. Appendix 1 on the model agreement on entering into a project; and p. Appendix 2 on the formula for calculation of compensation for termination of the agreement. | <ul style="list-style-type: none"> a. Uvodne odredbe; b. Definicije korišćenih pojmova; c. Predmet i trajanje ugovora – podsticajni period traje 15 godina; d. Obaveze proizvođača i ovlašćene ugovorne strane; e. Obračun tržišne premije; f. Plaćanje tržišne premije – dvosmerne premije i prigovori na račun; g. Instrumente obezbeđenja plaćanja; h. Višu silu; i. Izmene relevantnih propisa koji se tiču podsticajnih mera – moguće je da se promeni ostvarena cena usled izmene propisa; j. Raskid ugovora i naknada drugoj strani; k. Ograničenje odgovornosti i naknada štete; l. Komunikacija, obaveštavanje i poverljivost; m. Ustupanje ugovora; n. Rešavanje sporova – strane mogu da biraju između četiri opcije (nadležni sud u Republici Srbiji, arbitraža pre Privrednom komorom Srbije, ICC arbitraža i VIAC arbitraža); o. Prilog 1 koji sadrži model ugovora o stupanju u projekat; i p. Prilog 2 koji sadrži formulu za računanje naknade zbog raskida ugovora. |
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Entry into Force

Početak primene



The decrees will enter into force on 4 December 2021.

Uredbe će stupiti na snagu 4. decembra 2021. godine.

Having in mind that the regulatory framework concerning incentive measures for use of RES is now complete, it is safe to expect that the first auctions will be held in the near future.

Imajući u vidu da je regulatorni okvir u vezi sa podsticajnim merama za korišćenje OIE sada zaokružen, može se očekivati i da će se prve aukcije održati u bliskoj budućnosti.