

***NON OFFICIAL VERSION***

*ONLY ORIGINAL SPANISH VERSION SHOULD BE CONSIDERED LEGALLY VALID FOR INTERPRETATION*

**MINISTRY OF ENERGY AND MINING**

**Resolution 71/2016**

**Electric Power from Sources of Renewable Energy. Open call for tender.**

Buenos Aires, May 17<sup>th</sup> 2016

HAVING REVIEWED File N° S01:0196327/2016 under the Registry of the MINISTRY OF ENERGY AND MINING, Acts N° 26190 and N° 27191, Decree N° 134 passed on December 16<sup>th</sup> 2015 and Decree N° 531 passed on March 30<sup>th</sup> 2016, and

**WHEREAS:**

The use of sources of renewable energy for the generation of electric power is a long-term state policy, in order to guarantee the benefits derived from the use of clean energies for the country and its inhabitants. .

Act N° 27191 amends and extends the provisions set forth in Act N° 26190 on the implementation of the “REGULATIONS ON NATIONAL PROMOTION FOR THE USE OF SOURCES OF RENEWABLE ENERGY FOR THE GENERATION OF ELECTRIC POWER”.

Act N° 27191 includes, among others, the following issues: (i) Creation of the Trust Fund for the Development of Renewable Energies (FODER, as per its acronym in Spanish); (ii) Determination of the Contribution of Electric Power Users to fulfill the aims of the Regulations on National Promotion; and (iii) Treatment of Electric Power Derived from Renewable Sources.

Act N° 27191 sets forth that the aim of these legal regulations is to reach a contribution of sources of renewable energy equal to EIGHT PER CENT (8 %) of the total national consumption of electric power by December 31<sup>st</sup> 2017 and to increase such contribution up to TWENTY PER CENT (20 %) by December 31<sup>st</sup> 2025.

The extension of the use of sources of renewable energy for the generation of electric power, which is the main aim of the Legal Regulations on National Promotion, features positive consequences for the country, since it implies a wider diversification of the national energy mix, the extension of the installed capacity, the reduction of fossil fuel consumption and greenhouse gas emissions, and the contribution to mitigate climate change, among others.

Besides, it is necessary to align the provisions of Act N° 27191 and its regulations with the regulatory provisions applicable to the Wholesale Electric Market (MEM, as per its acronym in Spanish) so as to achieve a proper operation in such market.

Decree N° 531 passed on May 30<sup>th</sup> 2016 has approved the regulations of Act N° 26190, which was amended by Act N° 27191, and it has revoked Decree N° 562/2009.

Section 12 of ANNEX II of Decree N° 531/2016 sets forth that the Enforcement Authority shall establish the policies to include new offers of electric power from sources of renewable energy in the WHOLESale ELECTRIC MARKET (MEM) by means of public and competitive proceedings, so as to fulfill the aims set forth in Section 8° of Act N° 27191.

Section 8° of Act N° 27191 sets forth that all electric power users in the Argentine Republic shall contribute to fulfill the aims set in such Act.

Accordingly, such Section 12° of ANNEX II of Decree N° 531/2016 also sets forth that the price included in the agreements herein called Agreements on Supply of Renewable Electric Power (SUPPLY AGREEMENTS) shall be added to the purchase price that users pay in the WHOLESale ELECTRIC MARKET (MEM).

***VERSIÓN NO OFICIAL***

*SOLAMENTE LA VERSIÓN ORIGINAL EN ESPAÑOL DEBE SER CONSIDERADA LEGALMENTE VÁLIDAS PARA INTERPRETRACIÓN*

**NON OFFICIAL VERSION**

*ONLY ORIGINAL SPANISH VERSION SHOULD BE CONSIDERED LEGALLY VALID FOR INTERPRETATION*

Decree N° 134 passed on December 16<sup>th</sup> 2015 has set forth the Emergency of the National Electric Power Sector until December 31<sup>st</sup> 2017 and it has instructed the MINISTRY OF ENERGY AND MINING to draft a national jurisdiction program of necessary measures related to generation, transport and distribution of electric power, so as to adjust the quality and security of the electric power supply, guaranteeing the provision of electricity public services under technical and economically proper conditions.

It is due and convenient to start the call for tender proceeding called "RenovAr Program (Step 1)", so as to purchase electric power from sources of renewable energy, by means of a schedule to promote the transparency and proceeding quality of the open call for tender. A preliminary version of the BIDDING TERMS AND CONDITIONS OF THE NATIONAL AND INTERNATIONAL OPEN CALL FOR TENDER FOR THE PROVISION OF ELECTRIC POWER TO DISTRIBUTORS AND LARGE USERS OF THE WHOLESALE ELECTRIC MARKET (MEM) FROM SOURCES OF RENEWABLE ENERGY shall be submitted for public consultation.

During the public consultation period, those who prove its interest in the process before the BODY RESPONSIBLE FOR THE DISPATCH (OED, as per its acronym in Spanish) may make comments, observations and suggestions on published preliminary documentation, for the better fulfillment of the aims of public interest that has triggered this Open Call for Tender which is started by virtue of this Resolution.

For that purpose, the BODY RESPONSIBLE FOR THE DISPATCH (OED), whose functions have been assigned to COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO S.A. (CAMMESA) by virtue of Decree N° 1192 passed on July 10<sup>th</sup> 1992, shall publish such documentation and shall manage the reception and classification process of observations and suggestions so as to be referred to the SECRETARY OF ELECTRIC POWER, when the term set forth for the Public Consultation expires.

On the other hand, within the framework of the of Open Call for Tender Proceeding, offers of electric power from sources of renewable energy admitted and chosen shall be the subject-matter of the AGREEMENTS ON SUPPLY OF RENEWABLE ELECTRIC POWER (SUPPLY AGREEMENTS). The Generator of the MEM identified in the corresponding offer shall be the seller in such agreements.

During the effectiveness of the Emergency established by Decree N° 134/2015, it is considered convenient to temporarily keep COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO S.A. (CAMMESA) as the representative of the Distributors and Major Users of the WHOLESALE ELECTRIC MARKET (MEM) which will be acting as buyer in the SUPPLY AGREEMENTS of the MEM Forward Market.

In order to draw the necessary investments and reduce the financing cost and, consequently, the price of renewable electric power, payment guarantee mechanisms of SUPPLY AGREEMENTS have been implemented by means of the management of the Trust Fund for the Development of Renewable Energies (FODER).

For the same purpose, the payment guarantee of SUPPLY AGREEMENTS is essential. The payment priority is hereby set forth.

Additionally, as it is important to preserve the payment chain integrity and the continuity of the electric power service and, without prejudice of the guarantee schedule set forth in the agreements, it shall be taken into consideration that Section 84 of Act N° 24065 has set forth the executive proceeding for payment, including the delayed debt payment derived from the trading of electric power in the WHOLESALE ELECTRIC MARKET (MEM). The debt certificate that may be determined by virtue of the regulations shall be a lawful title.

Consequently, it is convenient to allow for COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO SOCIEDAD ANÓNIMA (CAMMESA) to issue the commercial documentation that may be necessary to terminate the SUPPLY AGREEMENTS, to record and to certify, as appropriate, for the purposes of the executive proceeding for payment and in representation of the Generator Agent of the MEM Selling Agent in the SUPPLY AGREEMENTS which requires it, the proportional share of the delayed debt of the Demanding Agents of the WHOLESALE ELECTRIC MARKET (MEM) corresponding to the SUPPLY AGREEMENTS of the requiring Seller Agent.

**VERSIÓN NO OFICIAL**

*SOLAMENTE LA VERSIÓN ORIGINAL EN ESPAÑOL DEBE SER CONSIDERADA LEGALMENTE VÁLIDAS PARA INTERPRETRACIÓN*

**NON OFFICIAL VERSION**

*ONLY ORIGINAL SPANISH VERSION SHOULD BE CONSIDERED LEGALLY VALID FOR INTERPRETATION*

The UNDERSECRETARY OF RENEWABLE ENERGY of the SECRETARIAT OF ELECTRIC POWER under the MINISTRY OF ENERGY AND MINING has intervened within its competence.

The GENERAL DEPARTMENT ON LEGAL AFFAIRS under the UNDERSECRETARIAT OF ADMINISTRATIVE COORDINATION of the MINISTRY OF ENERGY AND MINING has acted within its competence.

This decree is hereby issued within the competence of the Ministry of Energy and Mining set forth in Sections 9° and 12 of Act N° 27191, Sections 35, 36 and 84 of Act N° 24065, Section 84 of its Regulations passed by Decree N° 1398 issued on August 11<sup>th</sup> 1992, Section 23 of the Act on Ministries (text passed by Decree N° 438 on March 12<sup>th</sup> 1992) and its amendments, Sections 5° and 8° of Annex I and Sections 9° and 12 of Annex II of Decree 531 passed on March 30<sup>th</sup> 2016 by the MINISTRY OF ENERGY AND MINING.

Therefore,

THE MINISTER OF ENERGY AND MINING

DECIDES:

**Section 1°** — To start the Open call for Tender Proceeding for the purchase of electric power from sources of renewable energy in the WHOLESAL ELECTRIC MARKET (MEM), hereinafter the “RenovAr Program (Step 1)”, so as to fulfill the aims of contribution of sources of renewable energy by December 31<sup>st</sup> 2017 set forth in Section 2° of Act N° 26190 and Section 8° of Act N° 27191.

To submit, for that purpose, to Public Consultation the preliminary version of the Bidding Terms and Conditions of the National and International Open Call for Tender for the Supply of Electric Power from Sources of Renewable Energy in the Wholesale Electric Market, hereinafter “RenovAr (Step 1) DRAFT BIDDING TERMS AND CONDITIONS”, which will be submitted to COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO SOCIEDAD ANÓNIMA (CAMMESA) which shall publish it. Besides, the UNDERSECRETARIAT OF RENEWABLE ENERGY under this Ministry shall submit, within five (5) business days as of the publishing of this Resolution, the preliminary versions of the remaining documents related to the open call for tender, so as to submit them to consultation and publish them.

**Section 2°** — The BODY RESPONSIBLE FOR THE DISPATCH (OED), whose functions have been assigned to CAMMESA (Decree N° 1193 passed on July 17<sup>th</sup> 1992), shall publish such documentation within TWENTY FOUR (24) hours after receiving it and for TWENTY (20) consecutive days (hereinafter Public Consultation Period). During such period, those interested in this proceeding and which fulfill the requirements set forth in the following section, may make observations or suggestions that they consider useful to fulfill the public interest aims involved.

It shall be published in CAMMESA's website, without prejudice of other means of publication.

**Section 3°** — Those interested in making observations and suggestions shall, for that purpose, previously indentify themselves before the OED by means of a signed document, which shall be previously sent in a digital format and which shall content the following:

- 1) Name or trade name of the interested party.
- 2) National Identity Card Number or Individual Taxpayer Identification Number, if the interested party is a legal entity.

**VERSIÓN NO OFICIAL**

*SOLAMENTE LA VERSIÓN ORIGINAL EN ESPAÑOL DEBE SER CONSIDERADA LEGALMENTE VÁLIDAS PARA INTERPRETRACIÓN*

***NON OFFICIAL VERSION***

*ONLY ORIGINAL SPANISH VERSION SHOULD BE CONSIDERED LEGALLY VALID FOR INTERPRETATION*

3) Identification of the representative or of the individual who bears a power of attorney from the signing legal entity certified by a notary public; the identity and the legal capacity shall be included in such power of attorney.

4) Contact Data: legal domicile, email address and telephone number.

5) Main business activity.

6) Explanation of the interest in the “RenovAr Program (Step 1)”.

The OED shall not consider, for the purpose of its classification and order, the issues submitted without observing these provisions herein set forth, or without a reasonable justification of the interest of the party.

**Section 4°** — The Public Consultation Period is set to facilitate the adjustment of RenovAr (Step 1) DRAFT BIDDING TERMS AND CONDITIONS to the aims of such program, by means of the contribution of the interested parties. Besides, the general and sectorial legal framework and the electric system and economy conditions shall be considered.

**Section 5°** — During the Public Consultation Period, it shall be exclusively received observations and/or suggestions on topics which are subject to consultation. Requests and offers related to the Proceeding shall not be accepted.

**Section 6°** — The BODY RESPONSIBLE FOR THE DISPATCH (OED) shall classify and order by subject the observations and suggestions received from the interested parties, and shall identify relevant issues of such observations and suggestions. Within FIVE (5) business days after the expiration of the Public Consultation Period, the body shall submit them to the SECRETARIAT OF ELECTRIC POWER under this Ministry for the UNDERSECRETARIAT OF RENEWABLE ENERGY to consider them.

The UNDERSECRETARIAT OF RENEWABLE ENERGY shall consider the observations received by means of the BODY RESPONSIBLE FOR THE DISPATCH (OED) and shall make the adjustments and amendments that it considers relevant on the RenovAr (Step 1) DRAFT BIDDING TERMS AND CONDITIONS. The UNDERSECRETARIAT OF RENEWABLE ENERGY shall draft the RenovAr (Step 1) BIDDING TERMS AND CONDITIONS and its complementing documentation for the Open Call for Tender within TEN (10) days after receiving the observations report made by the OED.

The issuing of observations and suggestions does not grant the right to the interested party to expect a decision by the OED or the acting public authorities on the issuing of the interested party. Besides, as a consequence, the OED or the acting public authorities are not obliged to make a decision on such issuing.

**Section 7°** — The complete Schedule of the “RenovAr Program (Step 1)” shall be established as Annex I of the RenovAr (Step 1) DRAFT BIDDING TERMS AND CONDITIONS.

**Section 8°** — Within the framework of the Open Call for Tender Proceeding, the granted offers of electric power generation from sources of renewable energy shall be the subject-matter of an Agreement of the Forward Market named Agreement on Supply of Renewable Electric Power (SUPPLY AGREEMENT).

**Section 9°** — The SUPPLY AGREEMENT shall feature the following main features and content:

1) Subject-matter of the Agreement: the selling of the amount of electric power related to the new equipment for the generation of electric power from sources of renewable energy in the WHOLESale ELECTRIC MARKET (MEM) as of the commercial authorization date of the Generation Plant in the MEM and for the effective term of the agreement.

2) Seller: the Generator, Co-generator and Self-Generator of the WHOLESale ELECTRIC MARKET (MEM) whose offer is accepted pursuant to the provisions of this resolution and complementing rules issued by the Secretariat of Electric Power.

***VERSIÓN NO OFICIAL***

*SOLAMENTE LA VERSIÓN ORIGINAL EN ESPAÑOL DEBE SER CONSIDERADA LEGALMENTE VÁLIDAS PARA INTERPRETRACIÓN*

**NON OFFICIAL VERSION**

*ONLY ORIGINAL SPANISH VERSION SHOULD BE CONSIDERED LEGALLY VALID FOR INTERPRETATION*

3) Buyer: COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO SOCIEDAD ANÓNIMA (CAMMESA), on behalf of Distributors and Large Users of the WHOLESale ELECTRIC MARKET (MEM), until Distributors and/or Large Users of the WHOLESale ELECTRIC MARKET are appointed buyers, so as to reach the contribution aims of sources of renewable energy set as of December 31<sup>st</sup> 2017 for the electric power demand in the MEM.

4) Effective term: up to a maximum of TWENTY (20) years as of the beginning of operation.

5) Type and technology of the energy to be supplied.

6) Reserved energy to be delivered per year.

7) Generation capacity of each unity and total reserved installed capacity.

8) The compensation to be paid to the seller by the buyer for the electric power supplied, whose determination shall be based on the offered price in US DOLLARS PER MEGAWATT/HOUR (USD/MWh).

9) The guarantee of fulfillment conditions of the SUPPLY AGREEMENT by the seller.

10) The delivery point of the electric power purchased shall be the link node with the ARGENTINE INTERCONNECTION SYSTEM (SADI, as per its acronym in Spanish) of the generation equipment of the Plant included in the corresponding accepted offer (Seller node).

11) The contractual sanction rules to be applied in cases of non-observance.

12) The application of the agreement payment guarantee, by means of the Guarantee Count of the Trust Fund for the Development of Renewable Energy (FODER), in accordance with the provisions set forth in Section 7°, subsection b) of Annex II of Decree N° 531/2016.

13) SUPPLY AGREEMENTS shall be firstly paid according to the ordering of priority, which shall be equal to the one that the supply agreements signed with the MEM bear (Resolution N° 220 passed on

January 18<sup>th</sup> 2007 by the former SECRETARIAT OF ENERGY). Such priority shall be kept nevertheless that, in the future, an exclusive collection system may be implemented to be applicable to the amount paid by users by virtue of the SUPPLY AGREEMENTS.

The Plant's operation in the MEM shall be ruled by the Electric Regulatory Framework, which comprises Acts N° 15336 and N° 24065 and its regulations, specially The Proceedings for the Planning of Operation, the Dispatch of Cargo and the Estimation of Prices in the MEM set forth by Resolution N° 61 passed on April 19<sup>th</sup> 1992 by the former Secretary of Electric Power and its amending and complementing rules (The Proceedings).

**Section 10.** — The offers issued within the framework of the Open Call for Tender Proceeding shall be technically and economically analyzed by the BODY RESPONSIBLE FOR THE DISPATCH (OED).

Offers shall fulfill the following legal and technical proper requirements for its qualification.

1) Legal and accounting documentation.

2) Project specifications.

3) Resource availability assessment.

4) Technical features of the offer.

5) Technology and estimated energy output.

6) The environmental authorization granted by the competent authority when issuing the offers shall guarantee the comprehensive fulfillment of the applicable environmental rules during the building, at

**VERSIÓN NO OFICIAL**

*SOLAMENTE LA VERSIÓN ORIGINAL EN ESPAÑOL DEBE SER CONSIDERADA LEGALMENTE VÁLIDAS PARA INTERPRETRACIÓN*

***NON OFFICIAL VERSION***

*ONLY ORIGINAL SPANISH VERSION SHOULD BE CONSIDERED LEGALLY VALID FOR INTERPRETATION*

the time of starting the operation of the generation equipment or the generator units involved, and during the performance of the projects.

The qualified offers shall be economically assessed by the BODY RESPONSIBLE FOR THE DISPATCH (OED) by means of a methodology that shall be established in the BIDDING TERMS AND CONDITIONS and which shall take the following into consideration:

- 1) The fulfillment of the requirements for the project and for the bidder that may be set forth in the BIDDING TERMS AND CONDITIONS of “RenovAr (Step 1)”, referred to as the “Envelope A”.
- 2) The fulfillment of the requirements for granting the Certificate of Inclusion in the Legal Regulations on National Promotion, that shall be set forth in the BIDDING TERMS AND CONDITIONS of “RenovAr (Step 1)”, in accordance with the provisions of Decree N° 531/2016 and its complementing rules.
- 3) The offered price, expressed in US DOLLARS PER MEGAWATTS (USD/MWh), referred to as the “Envelope B”.
- 4) The project site and the interconnection node.
- 5) Operational start-up committed date.

A maximum price shall be set forth for the granting of offers to meet the aim of the Open Call for Tender.

This Enforcement Authority may reject all and each one of the offers issued, if such authority deems that offered prices are inconvenient or do not fulfill the aims of the Open Call for Tender, without granting any right for compensation to the bidders.

**Section 11.** — COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO S.A.

(CAMMESA), while representing Distributors and Large Users of the WHOLESALE ELECTRIC MARKET (MEM) which will be acting as buyer in the SUPPLY AGREEMENTS of the MEM Forward Market, shall issue the commercial documentation and shall monthly pay the corresponding price by virtue of the SUPPLY AGREEMENTS, according to The Proceedings of the MEM.

**Section 12.** — The price of the Agreements which are the object of the proceeding to be started by virtue of this Resolution shall be part of the Reference Price for Distributors in the MEM.

**Section 13.** — COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO SOCIEDAD ANÓNIMA (CAMMESA) shall issue the commercial documentation corresponding to the SUPPLY AGREEMENTS during the effectiveness of the emergency set forth in Decree N° 134/2015 or until the issuing of the regulations assigning such issuing to Sellers.

While COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO SOCIEDAD ANÓNIMA (CAMMESA) issues such commercial documentation, it shall certify, pursuant to the published certificates in the Economic Transactions Document, in favor of the Seller of the SUPPLY AGREEMENT that requests it, the proportional share of the delayed monthly debt of the Demanding Agents of the WHOLESALE ELECTRIC MARKET (MEM) corresponding to the SUPPLY AGREEMENTS of the requesting Seller.

**Section 14.** — To notify this Resolution to COMPAÑÍA ADMINISTRADORA DEL MERCADO MAYORISTA ELÉCTRICO SOCIEDAD ANÓNIMA (CAMMESA).

**Section 15.** — To inform, publish and to refer this Resolution to the National Office of Official Record and then to file it. — Juan J. Aranguren.

***VERSIÓN NO OFICIAL***

*SOLAMENTE LA VERSIÓN ORIGINAL EN ESPAÑOL DEBE SER CONSIDERADA LEGALMENTE VÁLIDAS PARA INTERPRETRACIÓN*