



DIRECTIVE 2/2020

ELECTRONIC FORMALIZATION OF GUARANTEES

March 16, 2020

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1. PREAMBLE

The Regulations for Operation for the Day-ahead and Intraday Market for Electrical Energy Production were approved by a Resolution from the Comisión Nacional de los Mercados y la Competencia (CNMC) dated October 10, 2019.

Regulation 56.6.1 “INSTRUMENTS FOR GUARANTEE FORMALIZATION” establishes the following, among other possibilities, as potential instruments for guarantee formalization on the market operator:

“b) Guarantee of a joint and several nature provided by a bank, savings bank or credit cooperative domiciled in Spain or the branch in Spain of a non-resident institution../..”

e) Surety Bond Certificate provided by an insurance company residing in Spain or a non-resident entity with a branch in Spain ../..”

Article 7 of Royal Decree 463/2020, dated March 14, which declares a state of emergency for managing the health crisis situation caused by COVID-19, limits the freedom of movement of people.

The market operator has been studying the implementation of a method for formalizing guarantees by electronic means which will allow both market agents as well as guarantor entities and the market operator to benefit from the advantages that this method may offer, which include: automatic validation and handling of guarantee information, authentication of the signatory, immediate receipt of the guarantee, ease of cancellation, lower operational risks, etc.

Regardless of the preceding statement, the declaration of the state of emergency and corresponding restrictions on movement make it advisable for this operator to establish a method of formalizing guarantees by electronic means urgently and exceptionally, which, even though this may not encompass all of the characteristics listed previously, will enable agents to formalize guarantees without needing to be physically present to deliver the guarantee at the Market Operator’s offices.

2. DEVELOPMENT OF REGULATION 55.6.1

The Market Operator will accept the guarantee in the form of a guarantee or surety bond certificate in pdf format signed electronically with an electronic certificate of representation for the guarantor entity.

The signature must be such that it may be validated using the Valid-e application at the following link:

<https://valide.redsara.es/valide/validarFirma/ejecutar.html>

The electronically-signed guarantee should be sent by email to liquidaciones@omie.es. It will not be necessary to provide any documents in person at the OMIE offices.

Regulation 56.6.3 regarding the NOTIFICATION OF THE ARRANGEMENT, WITHDRAWAL OR MODIFICATION OF GUARANTEES will continue to be in effect, so the agents must send guarantee data through the OMIE agent website for it to be accepted or to request cancellation.

The market operator's acceptance of the cancellation of the electronic guarantee will, for the purposes of the guarantor entity's knowledge, be sent by electronic means from the market operator to the agent with the document signed electronically by the market operator, authorizing the cancellation of that guarantee.

Valid guarantee and surety certificate models are available in the "Market Access Guide." The market operator will not allow any modification to these texts. Regardless of the previous statement, the following exceptions are in effect:

For guarantees, the following paragraph applies (in Spanish version):

"Whenever the Guarantor entity may have this document in its possession, it shall be understood that there are no pending liabilities arising from the described guarantee, and it may therefore proceed with the cancellation."

It is nullified and must be replaced by the following statement: (in spanish version)

"Whenever the Guarantor entity has a document with an electronic signature from the market operator authorizing the cancellation of this guarantee, it shall be understood that there are no pending liabilities arising from the described guarantee, and it may therefore proceed with the cancellation.

The financial institution will be solely and exclusively responsible at all times for the authenticity of the electronic signatures found on this document, as well as for the sufficiency, validity, and duration of the powers of the signatories."

For surety bond certificates, the following paragraph applies (in Spanish version):

“Whenever the Insurer may have this document in its possession, it shall be understood that there are no pending liabilities arising from the described surety bond certificate, and it may therefore proceed with the cancellation.”

It is nullified and must be replaced by the following statement (in Spanish version):

“Whenever the Insurer has a document with an electronic signature from the market operator authorizing the cancellation of this surety bond certificate, it shall be understood that there are no pending liabilities arising from the described guarantee, and it may therefore proceed with the cancellation.

The Insurer will be solely and exclusively responsible at all times for the authenticity of the electronic signatures incorporated in this document, as well as the sufficiency, validity, and validity of the powers of the signatories.”

This Directive will enter into effect on March 16, 2020.