

Contract of assignment of the use of the Mutriku wave power plant

BETWEEN

BISCAY MARINE ENERGY PLATFORM, S.A.

AND

[...]

In Armintza, at the date of the electronic signature

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APPENDIX I

APPENDIX II

APPENDIX III

APPENDIX IV

In Armintza, at the date of the electronic signature.

PARTIES

- I. On the one hand, **BISCAY MARINE ENERGY PLATFORM, S.A.**, with tax identification number A-95671244, a company of Spanish nationality and registered at C/ Atalaia, nº 2, bajo, 48620 – Armintza (Lemoiz).

It is represented by **Mr./Ms. [...]**, holder of identity card number [...], in his/her capacity as [...], whose legal authorisation as the representative of [...] is accredited by virtue of the deed granted before Mr./Ms. [...], member of the [...], of [...] [...] [...] under number [...] in his/her notarial register.

This part is hereinafter referred to as “**BIMEP**” or “**the Owner**”.

- II. On the other hand, [...], with tax identification number [...], a commercial company of [...] nationality and registered at [...].

It is represented by **Mr./Ms. [...]**, holder of identity card number [...], in his/her capacity as [...], whose legal authorisation as the representative of [...] is accredited by virtue of the deed granted before Mr./Ms. [...], member of the [...], of [...] [...] [...] under number [...] in his/her notarial register.

This part is hereinafter referred to as “[...]” or “**the User**”.

WHEREBY

- I. By order of the Basque Government Directorate of Ports and Maritime Affairs (14 July 2009), Ente Vasco de la Energía (EVE) was authorised to occupy the public port area to set up a power plant in the new breakwater of Mutriku.
- II. By order of the Director of Energy and Mining of the Basque Government Department of Industry, Trade and Tourism (21 July 2008), authorisation and project approval were given to the construction of the electromechanical facilities for a wave power plant of public utility in the municipality of Mutriku.
- III. On 8 July 2011, EVE commissioned the Mutriku wave power plant (hereinafter, the “Plant”) for testing and demonstrating new concepts of air turbines, generators, auxiliary equipment and control systems, with a view to speeding up the technological development of marine energy to reach the commercial stage. The plant uses oscillating water column (OWC) technology and consists of 16 such columns open to the sea below water level, each one connected to a turbine with a nominal output of 18.5 kW, thus providing a total installed capacity of 296 kW.
- IV. In 2020 the effective transfer of ownership of the Plant to BIMEP took place.
- V. At the time of signing this Contract, the Plant is equipped with the necessary elements to install Oscillating Water Column technology renewable marine energy power systems for testing purposes, together with components of those systems, ancillary equipment and/or control systems.
- VI. In view of the foregoing, [...] has expressed interest in making use of particular facilities of the Plant and of certain Ancillary Services provided by the Owner, for the purpose of testing a prototype of an air turbine.

- VII. On the basis of the above, the Owner and the User formally enter into this Contract for the use of particular facilities of the Plant and of certain Ancillary Services (hereinafter, the “Contract”), pursuant to the terms and conditions laid out below.

TERMS AND CONDITIONS

1 Definitions and order of prevalence

Except as expressly provided otherwise, the following terms and expressions shall have the following meaning and scope:

- (i) Infrastructure: the entire set of equipment, components and facilities located on and off shore that make up the Mutriku wave power plant owned by BIMEP. A summary and non-exhaustive outline of the Infrastructure is provided in Section A of Appendix I.
- (ii) Assigned Infrastructure: specific elements of the Infrastructure the Owner assigns for use by the User under this Contract. An exhaustive list of this Infrastructure is detailed in Section B of Appendix I.
- (iii) Ancillary Services: the set of services and benefits which the Owner puts at the User’s disposal under this Contract on an incidental basis, to be able to use and test its Prototype in the Assigned Infrastructure. An exhaustive list of these services is provided in Appendix II.
- (iv) Office premises: details of these premises and the services provided within them are provided in Appendix II. Under this Contract, the Owner authorises the User to use these premises.
- (v) Owner: BIMEP.
- (vi) Representative of the Owner: the person duly authorised to represent the Owner in dealings with the User. The Owner has appointed [...] as its Representative.
- (vii) Representative of the User: the person duly authorised to represent the User in dealings with the Owner. The User has appointed [...] as its Representative.
- (viii) Licences, permits and authorisations for the Plant: licences, permits and authorisations held by the Plant for its operation and which, for the purposes of this Contract, are listed below:
 - The Resolution of the Director of Energy and Mining of the Basque Government Department of Industry, Trade and Tourism (21 July 2008), authorising and giving project approval to the construction of the electromechanical facilities for a wave power plant of public utility in the municipality of Mutriku.
 - The Resolution of the Basque Government Directorate of Ports and Maritime Affairs (6 July 2009), authorising EVE to occupy the public port area to build a power plant in the new breakwater of Mutriku.
 - The Resolution of the Director of Transport Infrastructures (29 September 2016), amending the Resolution of 6 July 2009 authorising EVE to occupy the public port area to set up a power plant in the new breakwater of Mutriku.All such licences, permits and authorisations are attached in Appendix III.
- (ix) Licences, permits and authorisations of the User: all the licences, permits and authorisations the User may need for the execution of the Contract other than those listed in Appendix III.

- (x) Prototype: a specific device designed by the User, together with the accessory elements to be installed by the User in the Assigned Infrastructure. The Prototype and other elements are detailed in **Appendix IV**.
- (xi) Tests: Prototype testing and exploratory work to be conducted by the User in the Assigned Infrastructure within the framework of this Contract. A description of the Prototype and of the tests to be conducted is included in **Appendix IV**.
- (xii) Notice of Commencement: notice by the Owner to the User, in accordance with Clause 3.2 of these Terms and Conditions, thereby enabling the User to make effective use of the Assigned Infrastructure.
- (xiii) Contract documentation: documents which form part of the Contract and which, at the time this Contract was signed and notwithstanding any other documents that may be generated during the term of this Contract, are as follows:
 - a. Licences, permits and authorisations held by the Plant of Mutriku and by the User.
 - b. This Contract and its appendices.
 - c. The documents to be provided by the User, in accordance with Clause 3.3. of these Terms and Conditions.

2 Object of the contract

2.1 Object of the Contract

Under this Contract, the Owner provides and consents to the use of the Assigned Infrastructure and Ancillary Services by the User, who in turn accepts to use the Assigned Infrastructure and Ancillary Services in line with the Terms and Conditions laid out in this Contract.

2.2 Designated use

In accordance with this Contract and at its own risk, the User shall only use the Assigned Infrastructure and Ancillary Services for:

- The testing and demonstrating of new concepts of air turbines, generators, ancillary equipment and/or control systems.
- [NOTE: If necessary, please specify which activities will be conducted.]

3 Assigned infrastructure

3.1 Use of the Assigned Infrastructure

The User, at its own risk, will be authorised to begin to use the elements of the Assigned Infrastructure from the moment it receives Notice of Commencement from the Owner, thereby informing it that the facilities are at its disposal.

Notice of Commencement shall take effect from the moment the User takes receipt of it.

3.2 Notice of Commencement

Notice of Commencement shall be filed by the Owner when the following requirements have been met:

- (i) The Owner has checked the suitability and adequacy of the documentation required for the Notice of Commencement to be filed, in accordance with Clause 3.3 of these Terms and Conditions.

- (ii) The User is in possession of all required authorisations, permits and licences, if any, to install the Prototype in the Assigned Infrastructure and to conduct the Tests described in Clause 2.2 of these Terms and Conditions.

If, for reasons attributable to the User, Notice of Commencement cannot be filed by the Owner within a maximum forty five (45) calendar days from the day this Contract is signed, the Contract may be terminated in accordance with Clause 19 of these Terms and Conditions.

3.3 Documentation for the Notice of Commencement and for User licences, authorisations and permits

The User shall have a maximum of thirty (30) calendar days from the day this Contract is signed to submit the following documents to the Owner:

- (i) A comprehensive report describing the object of the Tests and the licences, permits and authorisations required to conduct them.
- (ii) A description of the Prototype and of the equipment to be installed. A description of the construction, of the operations for installing and removing the Prototype and a description of anticipated/planned operations and maintenance activities, if any.
- (iii) Test plans. Beginning, main actions and end.
- (iv) Human and technical resources, both of the User and external, to be used.
- (v) An Occupational Risk Plan.
- (vi) In connection with occupational risk prevention:
 - A description of the tasks to be performed, with a risk assessment of the activities to be conducted and preventive measures to be taken in the Plant.
 - A list of workers taking part in the Tests (name, ID number and post held).
 - EVE Group Health & Safety Certificate – full, duly completed and signed.
 - The preventive organisation model of the company.
 - Training and information certificates of the workers.
 - Medical certificates of all workers.
 - Certified proof that workers have been provided with PPE.
 - If some of the works are subcontracted, certified evidence that the necessary means for coordination have been adopted.
 - Workers' social security contribution forms (TC1 and TC2, the former from last month).
 - A copy of the civil liability policy and proof of payment by the company.
- (vii) The corresponding insurance policies as set out in Clause 12.1 of these Terms and Conditions.

Once the Owner has received the Documentation for the Notice of Commencement, the Owner will analyse the content of that Documentation within a maximum of fifteen (15) calendar days.

If the Owner subsequently considers the documentation to be in any way inadequate or divergent with the rest of the contract documentation, the Owner may justifiably terminate the Contract in accordance with the provisions of Clause 18 of these Terms and Conditions and without this implying any right to compensation in favour of the User. However, if the Owner considers the defects, omissions or contradictions to be of a minor and/or rectifiable nature, the Owner may grant the User a maximum period of fifteen (15) calendar days to correct them.

If the Owner gives its approval to the Documentation for the Notice of Commencement, the Owner will then indicate to the User which of the Licences, permits and authorisations will be managed by the Owner for the reasons described herein. All other Licences, permits and authorisations will be processed and obtained by the User. In both cases, the corresponding costs incurred (included those of any guarantees that may need to be provided), duties and taxes shall be borne by the User.

If the Owner needs to issue or submit new guarantees to the relevant authorities to obtain the Licences, permits and/or authorisations, the User will provide the Owner with a counter-guarantee of the same form and amount.

The Owner shall assume no liability whatsoever if the competent authorities, regardless of their nature, decide not to grant the required Licences, permits and authorisations, in which case the Contract will be terminated as established under Clause 19 of these Terms and Conditions.

The collaboration and verification of the Owner as expressed in this Clause does not exclude, limit or exempt the User from its obligation to obtain and maintain in full force all Licences, permits and authorisations required for the Tests, throughout the entire period of the Contract.

3.4 Installation of the Prototype and use of the Assigned Infrastructure

Having received the Notice of Commencement, the User may assemble and install the Prototype and use the Assigned Infrastructure.

Throughout the entire period of the Contract, up to and including the complete removal and dismantling of the Prototype, the User will:

- (i) Keep the Owner informed of all operations it intends to conduct in the Assigned Infrastructure, with enough prior notice for due analysis of those intended operations and including all corresponding documentation. These operations include, by way of illustration, the installation, operation, maintenance, revision, visits to and dismantling of the Prototype.
- (ii) Submit in due time to the Owner the details of any type of operations the User intends to perform in the Plant. Such details will, as a minimum, include a description of the operations themselves, of the equipment required (human and material resources), the weather conditions required for the operations to be performed safely, instructions of how to perform those operations and, if necessary, a Health and Safety Plan.
- (iii) Allow the presence of the Owner, either directly or through third parties, in the Plant.
- (iv) Not change the location of the elements of its Prototype, or of the elements required for Tests, without prior approval of the Owner.
- (v) Follow the instructions given to it by the Owner for performance of the Contract, the Contract documentation and/or orders issued by authorities with powers over the Infrastructure.

The User guarantees the Owner that the use to be made of the Assigned Infrastructure and of the Ancillary Services, both by its own employees and by subcontracted third parties, will be in accordance with the following:

- (i) The Terms and Conditions of this Contract and its Appendices.
- (ii) The obligations and restrictions imposed through the Contract documentation.
- (iii) The conditions established under the legislation applicable at any time to the Infrastructure.
- (iv) The requirements and procedures of the manufacturers and suppliers of the equipment making up the Infrastructure.
- (v) All and any instructions that may be given to the User by the representative of the Owner.
- (vi) Good use and practice.

3.5 Supervision, maintenance and repairs

The Owner shall be responsible for all maintenance, repair and renovation works required to maintain all the Infrastructure and Ancillary Services in good working order throughout the entire period of this Contract, thereby ensuring that said Infrastructure and Ancillary Services are used in the same conditions as at the beginning of the Contract.

The User shall be responsible for all maintenance, repair and renovation works required to maintain the Prototype in good working order throughout the entire period of this Contract.

3.6 Inspection and access to the Assigned Infrastructure

The Owner will have the right to:

- (i) Access the Assigned Infrastructure to carry out, either by itself or through designated third parties, all and any inspections it considers necessary.
- (ii) Grant third parties access to the Assigned Infrastructure for any purpose considered as necessary to ensure the correct functioning and management of the Infrastructure, its safety and its monitoring.

Under no circumstances will the User have the right to deny or decline to provide access for inspection purposes or any other type of visit provided for under this Clause.

During inspections of the Assigned Infrastructure, the Owner will be responsible for compliance with all Health and Safety requirements as applicable to personnel of the User.

Likewise, the User will provide access to the Assigned Infrastructure and to its facilities to official authorities and agencies.

3.7 Intervention by the Owner in the Assigned Infrastructure and the Prototype

The Owner will have the right to intervene in the Assigned Infrastructure and the Prototype, however and to the extent it considers appropriate, if:

- (i) Such intervention is considered necessary due to meteorological, environmental or other such circumstances; and/or
- (ii) Such intervention is considered necessary for performance of the Contract, the Contract documentation and/or orders issued by authorities with powers over the Infrastructure.

If the Owner's intervention comes about as the direct or indirect consequence of the User's non-compliance with the Contract or with instructions it may have been given by the Owner's representative, or of the User's failure to act in accordance with the Contract and/or those instructions, the cost of the intervention will be met in its entirety by the User, without prejudice to any compensation that may be payable to the Owner for damages caused by the User.

4 Ancillary services

4.1 Assignment of the use of the Office premises

The User will have the right to use the Office premises, with access to the Internet but no telephone service. Details of these premises and the services provided within them are provided in **Appendix II**.

The User will not undertake any type of works which change the structure or arrangement of the office premises or any of its facilities or services, however minor that change may be, and will have no right to demand from the Owner any type of innovation or improvement.

On termination of the Contract, the User will remove, at its own expense, all its property from the office premises, leaving the premises in exactly the same state as when it entered them. If not, any elements left by the User in the Owner's office premises will revert in benefit of the Owner, without entitlement to compensation.

The Owner shall not be liable for any robbery, theft or unauthorised entrance into the Office premises. The User shall be responsible for ensuring the security of the elements kept inside the Office premises.

The Owner shall maintain right of access to the Office premises at all times for inspection purposes to ensure compliance by the User with all obligations undertaken under the Terms and Conditions of this Contract or to perform repair, maintenance and/or cleaning works.

4.2 Information services

The Owner shall provide the User with the available information on the Assigned Infrastructure and its characteristics to enable Tests to go ahead, in line with the content described in [Appendix II](#).

5 Removal and vacation

On termination of the Contract, and within a maximum of ten (10) calendar days, the User will remove and vacate both the Assigned Infrastructure and the Office premises, leaving both in exactly the same state as when it entered them, i.e. in perfect state of use and cleanliness and with no damage, breakage or modifications of any type.

The User shall pay the Owner a fine of five hundred (500) euros per day, or part of each day, it delays in vacating the Assigned Infrastructure, and of two hundred (200) euros per day, or part of each day, it delays in vacating the Office premises. This fine shall accrue automatically and payment of this fine will not grant the User any type of additional rights of use. Furthermore, the Owner will have the right to claim compensation from the User for damages attributable to the delay.

In the event of the User failing to remove its facilities and equipment from the Assigned Infrastructure and the Office premises within the time period stated in this Clause, the Owner will have the right to dismantle and remove them at the User's expense. The Owner is expressly authorised to dispose of said facilities and equipment through a waste management company or to sell them to a third party to recoup the costs of dismantling them, any agreed fines or any other further damages of any nature.

6 Regulations, permits, licences and authorisations

In the performance of this Contract, the User undertakes to comply at all times with all relevant legislation applicable at any given moment.

The User shall be responsible for obtaining the User Licences, permits and authorisations, and all corresponding costs shall be met by the User.

Nevertheless, the Owner shall be responsible for processing and obtaining Licences, permits and authorisations if and when the Licence, permit or authorisation in question affects, on account of its subject matter and/or scope, the Licences, permits and authorisations of the Plant.

The User acknowledges its collaboration to be essential for the good performance of this Contract, as some of the Licences, permits and authorisations will be processed and obtained by the Owner. The User will, at all times, act with due diligence and in close collaboration with the Owner to obtain the aforementioned specific permits and authorisations, as soon as possible and without delay, minimising any impact on the Infrastructure as a whole.

7 User obligations

The User is responsible for organising, running and developing the Tests, at its own expense, and answerable both to the Owner and third parties (including Public Administrative bodies).

The Owner shall not be held responsible for any relations between the User and its contractors and subcontractors, its customers, its employees and those taking part in the Tests, or between the User and any other persons with whom the User enters into relation. The User shall bear sole liability in relation to these parties and undertakes to hold the Owner harmless from these relations and any claims which may arise from them.

The User shall take all necessary human and technical measures, and shall ensure provision of all required equipment, to comply with the Terms and Conditions of this Contract, and shall pay all and any fines, penalties and sanctions arising from non-compliance with this concept, be they of an administrative, penal, social, contractual or non-contractual nature. Likewise, the User shall comply with all and any obligations imposed on it, holding the Owner harmless from any claims and/or damages that may arise on account of non-compliance by the User.

The User shall be solely liable for any damages or responsibility of any type that may arise from the lack of any of the required Licences, permits or authorisations for the performance of this Contract. The User exonerates the Owner from any liability which may arise in relation to the aforementioned authorisations, licences or permits.

The User shall be solely responsible for compliance of its contractors and/or subcontractors with all applicable occupational health and safety, risk prevention and Social Security regulations, and shall hold the Owner harmless in the event of any claims made in relation to labour, Social Security and risk prevention regulations.

8 Duration

8.1 Starting date

This agreement shall be effective from the moment it is signed, whereupon it will become binding for both parties. However:

- (i) The right to use the Assigned Infrastructure will take effect from the moment the User receives the Notice of Commencement, as established in Clause 3.2 of these Terms and Conditions.
- (ii) The Ancillary Services to be made available for the User are as follows:
 - a) Office premises, from the moment the Contract is signed.
 - b) Information services, from the moment the Contract is signed.

8.2 Duration

The User will have the right to use the Assigned Infrastructure and to receive Ancillary Services for [...] ([...]) weeks from the date of Notice of Commencement, even in the event of that notice being filed prior to the availability of one or more of the Ancillary Services.

Notwithstanding the above, the User will have the right to withdraw from this Contract prior to the date indicated, provided that:

- (i) It gives the Owner at least two weeks' notice of its decision to terminate the Contract.
- (ii) It compensates the Owner with the equivalent of 50% of the Fee payable for the period remaining to the expiry date of the Contract, as a replacement for damages otherwise due.

8.3 Extension

On expiry of the time limit stated in the previous Clause, the Contract may be extended, by common agreement, on the basis of conditions freely established by the two parties.

9 Non-exclusivity

It is hereby stated that the signing of this Contract does not confer on the User any type of benefit or exclusive rights with respect to the assignment of other spaces of the Infrastructure to third parties, including for the development of similar activities to that authorised under this Contract.

The User undertakes to coordinate with all other users of the Infrastructure and to respect and comply with the orders and instructions of the Owner to reconcile and enable the shared and simultaneous use of the Infrastructure.

10 Bank guarantee

To ensure the proper fulfilment of obligations under this Contract, the User will submit to the Owner a joint and several guarantee, with an express waiver of rights and benefits of order, excussio and division and payable on first demand, of 50% of the Fee ([...] euros).

In the event the guarantee needs to be effected, either totally or partially, the User shall be compelled to submit a new guarantee for the total sum indicated in this Clause of the Terms and Conditions of the Contract. Non-compliance with this condition within ten (10) calendar days will grant the Owner the right to terminate the Contract on the grounds of breach of Contract attributable to the User.

The guarantee will be released back to the User sixty (60) days after the expiry date of the Contract and after the User has vacated the Assigned Infrastructure and ceased to use the Ancillary Services.

11 Fee and form of payment

11.1 Fee determination

In return for the use of the Assigned Infrastructure and Ancillary Services, the User will pay the Owner a total of [...] ([...]) euros for [...] weeks of use of said Assigned Infrastructure and Ancillary Services (hereinafter, the "**Fee**").

The previously stated amount is exclusive of Value Added Tax (VAT) and of any other tax payable by the User if applicable.

11.2 Accrual and form of payment

The Fee shall be paid as per the following milestone dates:

- (i) On receipt by User of Notice of Commencement: 50%.
- (ii) Half way through the Test period: 25%.
- (iii) At the end of the Test period: the remaining 25%.

Within the first five (5) days of reaching the milestone payment dates outlined above, the Owner shall submit to the User an invoice detailing the days of use of the Assigned Infrastructure and the Ancillary Services provided. Expenses and costs for which the User is liable under the Terms and Conditions of this Contract shall be added to each invoice.

The amounts payable to the Owner shall be paid by the User within thirty (30) days of receipt of invoice.

Payment shall be made by bank transfer to the account specified by the Owner. Any delay in payment on the User's part shall be subject to interest on arrears at the 12-month Euribor rate, or the rate that replaces it, plus five (5) points on the amount in arrears calculated from the payment due date until the payment is made, without prejudice to the penalties applicable under the Terms and Conditions of this Contract.

11.3 Penalties

All penalties applicable under this Contract shall be invoiced by the Owner to the User within thirty (30) days of the event which triggered the penalty. All such invoices shall be paid within thirty (30) days of receipt of invoice.

The Owner has the right to effect payment of penalties by effecting, either partially or wholly, the guarantee lodged in line with the Terms and Conditions of this Contract.

12 Insurance

12.1 Insurance

To cover potential damage incurred by the Owner or third parties whilst using the Plant and in the course of assembly and dismantling operations, the User will contract a Civil Liability insurance policy clearly stating the activity to be rolled out and covering:

- (i) Operational liability
- (ii) Employers' liability
- (iii) Products / Completed Operations liability

Without losing its third party status, BIMEP shall be named as additional insured in the policy.

For the Civil Liability insurance the limit of 1,000,000 euros shall be established for claims covered by Employers' liability, where the test site will be included as additional insured.

In any case, damages will be borne by the User in the amount of the excess payable under the insurance policies, if damage costs exceed the limits established in the different insurance policies and for those goods and risks not covered under those same policies.

Similarly, the User shall, as a minimum, maintain Compulsory Public Liability Insurance on and for all vehicles used in the execution of the Contract and subject to the Use and Circulation of Motor Vehicles Act.

Finally, the lessee company shall ensure all people intervening in the implementation of the Contract are registered in the Social Security administration and shall comply with Life and Accident Insurance demands as established under the different sectoral agreements applicable to those people.

12.2 Proof of policies

In order to verify compliance with the obligations laid out in this Clause of the Terms and Conditions of this Contract, the User, when so requested, shall submit to the Owner a copy of the policy and proof that the corresponding premiums have been paid.

13 Documentation

As research facilities, the use of this Infrastructure involves a series of additional obligations for users, with a view to ensuring a continuous channel of communication with the Owner and thereby enabling all knowledge and information which may be generated to be commonly pooled.

These obligations are as follows:

- (i) Work schedule.

Every three months (if the test period exceeds that length of time), the User shall submit to the Owner the work schedule and any other documents and information which effectively and significantly update, modify or affect the documentation submitted to the Owner as

established under Clause 3.3 of these Terms and Conditions and the information contained in the Contract documentation.

(ii) Access to information.

The User shall permit the Owner access to information and documentation in relation to the performance of this Contract and which may be necessary to verify compliance with the Contract and the safety of the Infrastructure.

(iii) Activity and incident reports.

Every three months (if the test period exceeds that length of time), and no later than seven (7) days after the end of the previous 3-month period, the User shall submit to the Owner an activity and incident report.

The User shall immediately inform the Owner of any incident arising in relation to the Prototype, the Infrastructure, the Ancillary Services provided and/or any other goods or properties owned by third parties or by the Owner.

14 Intellectual or industrial property

The User hereby represents and warrants before the Owner that it holds all the necessary rights to conduct the Tests on the Prototype and pledges not to infringe or violate any intellectual or industrial property rights of others over the term of this Contract.

The User shall hold the Owner harmless from and against any claims, liabilities, obligations, losses, costs, damages, expenses or delay attributable to an effective (or alleged) breach of any intellectual or industrial property of third parties in connection with the use of the Assigned Infrastructure and the Ancillary Services.

The signing of this Contract does not imply any assignment between the Parties of brands, trademarks, initials, logos or any other industrial or intellectual property rights. Any use of such rights outside of the provisions of the Terms and Conditions of this Contract requires the express agreement of the Parties.

15 Contract suspension and modification

15.1 Suspension of the term of the Contract

The term of the Contract may be suspended in the light of causes not attributable to the User (such as emergencies, heavy swell, long-lasting storms or similar circumstances) and which impede the User from using the Assigned Infrastructure.

The User shall request suspension of the Contract within a maximum of five (5) calendar days following cessation of the cause. Non-compliance with this condition shall be understood as the User waiving its right to request suspension of the term of the Contract.

The Owner, after due and reasoned assessment of the concurrent circumstances, will decide whether the cause is attributable or not to the User or whether it can be explained by one or another of the circumstances mentioned in this Clause. If the latter is the case, the Owner will duly inform the User of the decision to suspend the term of the Contract. Under no circumstances shall the suspension of the term of the Contract exceed two (2) weeks.

Suspension of the term of the Contract shall trigger suspension of the accrual of the Fee for the same period.

At the end of the period of suspension, or on cessation of the cause of the suspension (whichever occurs first), the term of the Contract (together with the accrual of the Fee) shall resume from the point in time when it was suspended.

15.2 Modification of the Contract

The Owner reserves the right to modify the Contract in the event of changes:

- (i) To the regulations, where such changes substantially affect the cost of providing the Ancillary Services and/or the use of the Assigned Infrastructure.
- (ii) To the Licences, authorisations, and permits of the Plant and/or the User, where such changes substantially affect the technical and/or economic conditions stipulated in this Contract.

Any such modifications shall be made in writing and their financial consequences commonly agreed to. Lack of agreement between the two Parties shall be deemed cause for Contract termination, with no right to any type of compensation for Contract termination being granted to either Party.

16 Costs and charges

The User shall bear sole responsibility for all costs and charges which:

- (i) The User is contractually obliged to meet, as well as those not explicitly incurred by the Owner.
- (ii) In accordance with applicable legislation, are imputable to the User on account of using the Assigned Infrastructure and the Ancillary Services.

With respect to the specific costs of the Office premises, no phone service is available, and the Internet connection, power consumption, heating and water costs are to be met by the Owner.

17 Penalties

The Owner will have the right to impose penalties on the User. No one penalty shall exceed the amount of 5% of the Fee, and the joint sum of penalties shall not exceed 20% of the Fee, for defective or late performance of the User's obligations.

To apply penalties, the Owner shall submit to the User support documentation justifying the penalty and describing the User's specific non-compliance with, or late or defective performance of, its obligations as set out under the Terms and Conditions of this Contract, as well as the amount of the penalty.

In addition to the penalty, the Owner shall have the right to claim compensation from the User to cover any damages suffered by the Owner as a consequence of the User's specific non-compliance with, or late or defective performance of, its obligations.

18 Inability to comply

If for any reason the User finds itself in a position in which it is not able to fulfil its obligations agreed to under the Terms and Conditions of this Contract, the User shall inform the Owner accordingly as soon as this situation arises and shall bear all and any possible additional costs and damages the Owner may incur on account of this situation.

19 Termination of contract

19.1 Grounds for termination

The following will be considered as grounds for the termination of this Contract, without prejudice, as the case may be, to the right of the Party who has complied with the Contract to demand its performance:

- (i) Death or supervening incapacity of one or another of the Parties or termination of the legal status of the User.
- (ii) Mutual agreement between the Owner and the User.
- (iii) Delay in compliance with deadlines by the User or the Owner.
- (iv) Expiry of the deadline.
- (v) A delay in excess of two (2) months in payment by the User.
- (vi) In general, non-compliance with any of the obligations agreed to under the Terms and Conditions of this Contract.
- (vii) Non-submission of the documentation described in Clause 3.3 of these Terms and Conditions, or failure to file Notice of Commencement within thirty (30) calendar days from the date this Contract is signed.
- (viii) All other causes of termination established in this Contract.
- (ix) Expiry of the Licences, permits and authorisations of the Plant, or failure on the User's part to obtain the corresponding licences, permits and authorisations enabling it to carry out the Tests.
- (x) Withdrawal by the User, thereby triggering early termination of the Contract pursuant to the conditions established in Clause 8.2 of these Terms and Conditions.
- (xi) A lack of agreement between the Parties regarding the financial consequences of the modifications as set out in Clause 15.2 of the Terms and Conditions of this Contract.

In the event of termination attributable to non-performance, the Party in compliance shall inform the non-performing Party of said non-performance as soon as it occurs. The Contract shall then be automatically terminated if the non-performing Party has not begun to correct the non-performance within a maximum seven (7) calendar days following the date of notification, or if the corrective actions have not been completed within a maximum twenty (20) calendar days following the date of notification.

19.2 Consequences of termination

Contract termination on any of the grounds outlined in Clause 19.1 will, in such cases, grant the Party in compliance the right to compensation for corresponding damages.

If non-performance is attributable to the User, Contract termination will in any event entail the loss of the guarantee lodged for the proper execution of this Contract. This does not preclude any compensation the Owner may have the right to for damages caused by the User.

Notwithstanding the above:

- (i) In the event of termination due to cause (ix) of Clause 19.1 and attributable to the Owner, the User shall have no right to claim any type of compensation from the Owner, and the Fees paid up to and including that moment in time shall continue to be held by the Owner with no possibility of them being recovered by the User. However, the User will have the right to exercise its rights with the awarding authorities.
- (ii) In the event of termination due to cause (x) of Clause 19.1, the User shall pay the penalty pursuant to the conditions established in Clause 8.2 of the Terms and Conditions of this Contract as a replacement for damages otherwise due.

- (iii) Termination due to cause (xi) of Clause 19.1 shall grant no right to either Party to claim damages arising from Contract termination.

20 Assignment

20.1 Transfer by the User

The User is not permitted to assign or transfer, either wholly or partly, the rights and obligations arising from this Contract without the prior written permission of the Owner.

To this end, any changes, direct or indirect, to the shareholding structure or composition of the User shall be considered as a transfer.

20.2 Transfer by the Owner

The Owner has the right to freely transfer, either wholly or partly, the rights and obligations arising from this Contract.

21 Processing of personal data

Processing of personal data shall be understood as covering all those operations and technical procedures, of an automatised nature or otherwise, which enable data to be collected, recorded, retained, prepared, modified, blocked and/or cancelled, as well as data connections arising from communications, enquiries, interconnections and transfers which affect any type of information pertaining to identified or identifiable natural persons.

In the event the Contract involves processing personal data or access by the User or its team to data of this nature, the following conditions will apply:

- (i) The User shall process the data exclusively in accordance with the instructions of the data controller.
- (ii) Personal data subject to processing shall be used only and exclusively for the fulfilment of the purpose of the Contract, and shall not be used for any purpose other than that.
- (iii) No personal data processed as a consequence of this Contract shall be made accessible to third parties, unless legally required. To this effect, the User undertakes not to reveal, transfer, disclose or pass on said data, or files created with the data, whether orally or in writing, in paper form, by electronic means or by computer, not even for display purposes, to any third parties.
- (iv) The User and all persons involved in the object of this Contract are obliged to observe confidentiality under Article 5 of the Organic Law 3/2018, of December 5, on Protection of Personal Data and Guarantee of Digital Rights. This obligation shall remain in force after the Contract has expired, whether said expiry of Contract be on the grounds of completion or termination.
- (v) The User undertakes to adopt all technical, administrative and organisational measures to ensure the security of all and any personal data processed for the fulfilment of the purpose of the Contract.
 - a) In this respect, the User shall submit to the Owner, prior to the commencement of the works, a list with the names, surnames, functions and workplace of all persons with access to personal data. If, in the course of the performance of the Contract, persons need to be recruited or laid off, the User will submit a new list within a maximum seven (7) calendar days of the occurrence of this event. Both the User and all persons appearing on those lists shall formally undertake in writing to be bound by their duty of professional secrecy with respect to all data processed.

- b) The User undertakes to implement security measures in relation to all data-processing centres, premises, equipment, systems and programmes which may be used in the performance of this Contract.
 - c) On completion of the object of this Contract, all computer storage media must be returned and all files containing personal data must either be destroyed or deleted by the User. The files will be destroyed in such a way as to render their recovery impossible. Official documented verification of the return and/or destruction of the files shall be provided by the Representative of the User and by the Works Director, certifying this to be the case.
- (vi) The Owner reserves the right to inspect compliance with security measures established and to adopt, where considered necessary, all and any required corrective actions.

22 Confidentiality

22.1 Confidential information

Unless otherwise specified in this Contract, all information of a personal, contractual, banking, technical and/or commercial nature to which the Parties may have access, or which may be communicated by one Party to the other, irrespective of whether this information was accessed or communicated before or after this Contract was signed, in relation to the preparation and/or performance of this Contract, shall be considered as confidential and used exclusively for the purposes of the Contract (hereinafter, "**Confidential Information**").

The Parties undertake to keep all Confidential Information secret and not to make it accessible to third parties without the prior written consent of the other Party.

Obligation to secrecy as established in this Clause will be waived:

- (i) When confronted with any type of administrative or judicial requirement or legal imperative or, in general, for those people with the right to access Confidential Information.
- (ii) If the Confidential Information is in the public domain.
- (iii) If the Confidential Information was known prior to the negotiation of the Contract.
- (iv) If the Confidential Information has been received from third parties without duty of confidentiality being applicable to it.
- (v) If the Party from which the information originates has given its prior written consent for the information to be made accessible.

For the purposes provided in this Clause, the User states cognisance of the status of the Owner as a public company of the Basque Government, and that the implications of this include, but are not limited to, transparency obligations, access to public information and good governance, as well as being subject to audit and control by various public bodies and institutions.

22.2 Obligations of the Parties

Under this Contract, the Parties undertake:

- (i) To limit to the absolute minimum the number of people with access to Confidential Information;
- (ii) To keep all Confidential Information secret and not disclose it to any natural or legal person other than the members of their team, and to ensure no third parties become privy to Confidential Information even through acts of negligence (it being understood, in this case, that the Parties assume the risk of theft, misplacement or loss of Confidential Information, such that Confidential Information received by third parties on any of these grounds shall be considered as negligence attributable to that Party);

- (iii) Not to reproduce, transform or, in general, make use of Confidential Information other than for due performance of the Contract;
- (iv) To inform their team of the secret nature of the Confidential Information, securing from them a similar undertaking in writing and doing whatever is necessary for them to comply with that commitment;
- (v) To keep the existence and content of the Contract confidential and not to disclose this to any third party; and
- (vi) To compensate the Party in compliance for any damage that may arise directly or indirectly from non-compliance with the obligations assumed under this Contract.

22.3 Ownership

All and any Confidential Information disclosed by the Owner to the User shall remain the sole property of the Owner, and all and any Confidential Information disclosed by the User to the Owner shall remain the sole property of the User.

Both the Owner and the User shall immediately return any Confidential Information they may have when requested to do so by the other Party.

22.4 Duration

Unless one of the Parties expressly authorises the other to the contrary, confidentiality shall be maintained both during the performance of this Contract and subsequently for a period of five (5) years following the completion or early termination of the Contract.

On expiry, for whatever reason, of this Contract, the Parties shall:

- (i) Return to each other all and any material, unless one of the Parties orders the other to destroy that material, containing Confidential Information, without keeping any copies, extracts or reproductions, either as a whole or in part, of that Confidential Information.
- (ii) Not use, or disclose to third parties, or use for their own benefit, any Confidential Information obtained under this Contract.

22.5 Non-compliance

The Owner and the User, as the case may be, shall be liable for any non-compliance with the obligations as established in this Clause, even in the event of said non-compliance being attributable to one of the members of their team, and shall compensate the Party in compliance for any damage that may arise directly or indirectly from non-compliance with the obligations established in this Clause.

Breach of the duty of confidentiality shall be just cause for termination of the Contract.

23 Notifications

23.1 Method

Correspondence between the Parties in relation to this Contract shall be conducted either by postal or electronic mail (e-mail) or by fax. In the latter case, messages shall be deemed valid and binding only when the fax number which appears on the message corresponds with the declared fax number of the counterpart and when the original correspondence bears the signature of a Representative of the counterpart.

23.2 Addresses

Addresses and contact details of the Parties are shown below:

The Owner:

- (i) Address: C/ Atalaia, nº 2, bajo. 48620 Armintza, Bizkaia.

- (ii) F.A.O.: [...]
- (iii) Fax: 94 687 98 31
- (iv) Email: [...]

The User:

- (i) Address: [...]
- (ii) F.A.O.: [...]
- (iii) Fax: [...]
- (iv) Email: [...]

23.3 Change of address

All and any correspondence sent to the above addresses shall be understood as correctly sent, unless the receiving Party has previously notified the other Party by registered mail of a change of address.

24 Integrity of the contract

If any of the Clauses of this Contract, or the application of them to any person or circumstance, are deemed, either partly or wholly, to be invalid or ineffective, that invalidity or ineffectiveness shall not affect the rest of the provisions established under the Contract, all of which shall remain in force and the declared Clause shall be considered to have been excluded.

25 Acknowledgement by notary public

This Contract is drawn up as a private document. However, both Parties may agree to its acknowledgement by notary public at any time.

26 Applicable law

This Contract will be governed by Spanish Law.

27 Dispute settlement and jurisdiction

27.1 Settlement of disputes by mutual agreement

The Parties will negotiate in good faith and make their best efforts to settle any disagreements, disputes, controversies or claims of whatever nature arising from or related to this Contract within fifteen (15) calendar days from the date the dispute arose.

27.2 Dispute settlement

If disputes cannot be settled as established in Clause 27.1, the Parties shall be subject, expressly waiving any other jurisdiction that may apply, to the Courts and Tribunals of Bilbao for any dispute directly or indirectly arising out of, or related to, or in connection with, this Contract, including issues related to its existence, validity, effectiveness, interpretation, performance, settlement or termination.

As an expression of consent, the Parties will electronically sign the original copy, thereby formalising to one effect this Contract at the place and on the date indicated above.

BIMEP

P.p.

[...]

P.p.

[...]

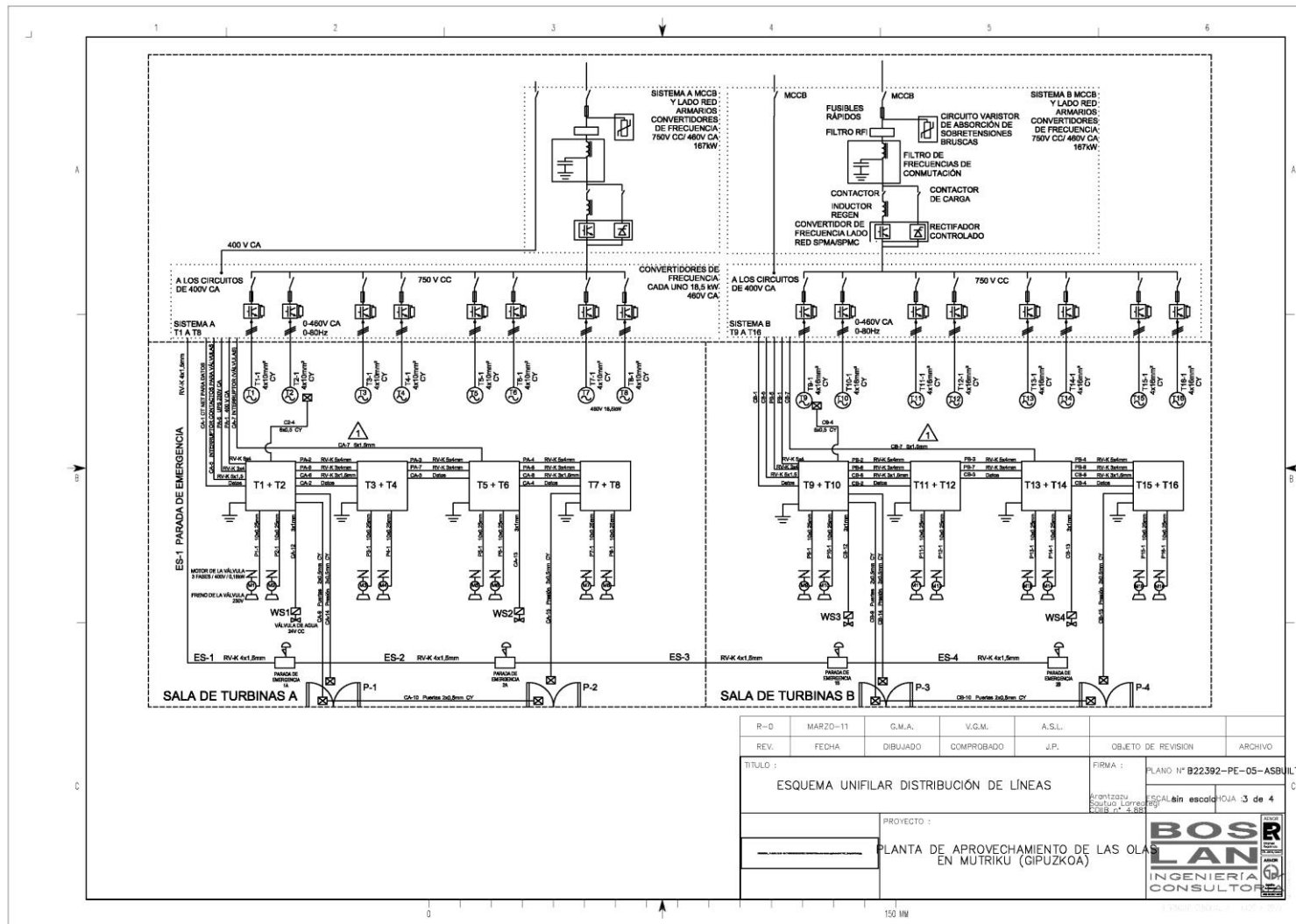
[...]

APPENDIX I

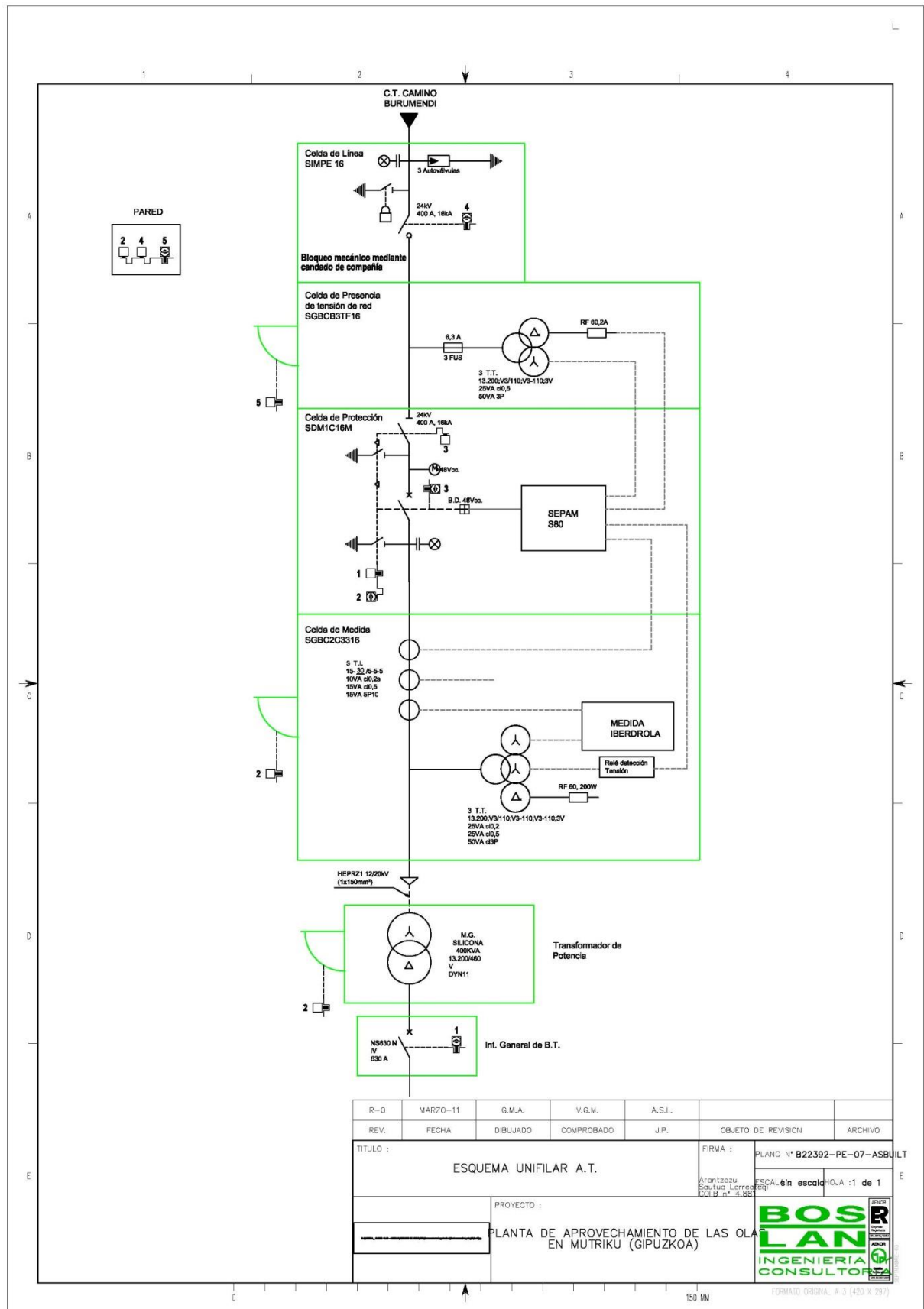
SECTION A: INFRASTRUCTURE OF THE MUTRIKU PLANT

The equipment and elements that are part of the Infrastructure are described below and therefore they are not available for the User:

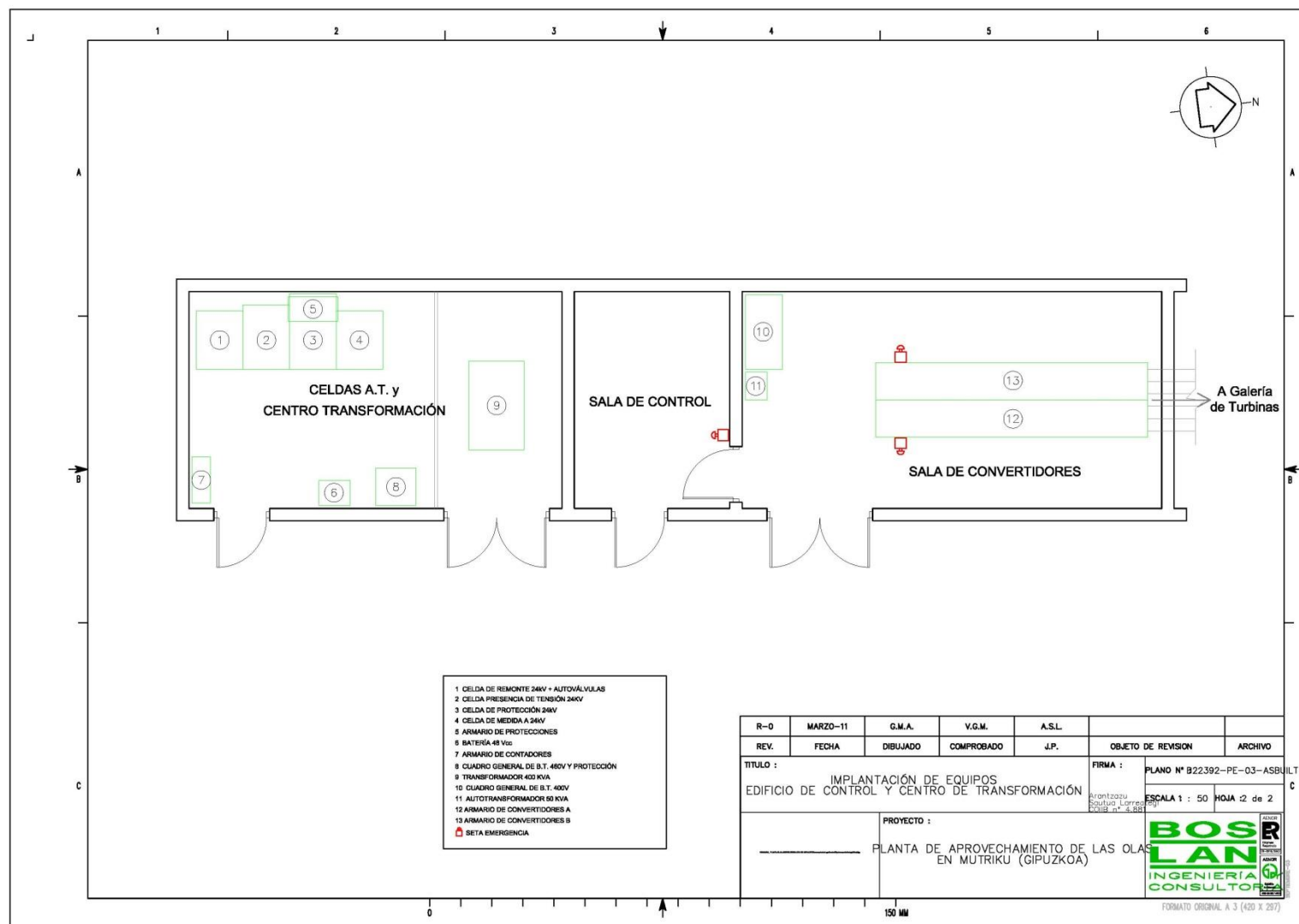
- 16 chambers open to the sea and below its level allowing the wave comes in and out.
- 16 Wells-type turbo-generators and 18.5 kW power output, 2.83 meters high and 1.25 meters of maximum width and approximately 1,200 kg. Each turbo-generator group, which is vertically arranged, has a butterfly valve at its bottom to isolate the chamber if necessary, electrically driven by a motor reducer and equipped with counterweight, so that, in the event of connection failure with the power grid the valve automatically closes.
- 16 variable frequency drives that each one controls a turbo-generator and also converts the AC power generated by the turbo-generator into DC power. This equipment is connected as seen in the *B22392-PE-05* single-line scheme.
- 2 regenerative units, 1 for each group of 8 turbo-generators, which convert 700 V DC into 460 V AC.
- 1 transformer of 400 kVA and 13,200/460 V to supply the generated energy into power grid, protection and measurement cells according to the *B22392-PE-07* single-line scheme and *B22392-PE-03* implantation of control building and transformation centre equipment layout.
- Autotransformer with 400 V and 50 kVA output for auxiliary services.
- Control room.
- Warehouse/storage room.
- Communication networks:
 1. Main network, through which all the elements of the installation are communicated, consisting of two networks:
 - a. CTNet bus where the information is transferred between drive and 8 fieldbus headers (Beckhoff).
 - b. Ethernet network through which information flows between drives, regenerative units and servers.
 2. Secondary network, for researchers:
 - c. Ethernet network for research and Testing purposes, connecting the test position with the Office.



B22392-PE-05 single-line scheme



B22392-PE-07 single-line scheme

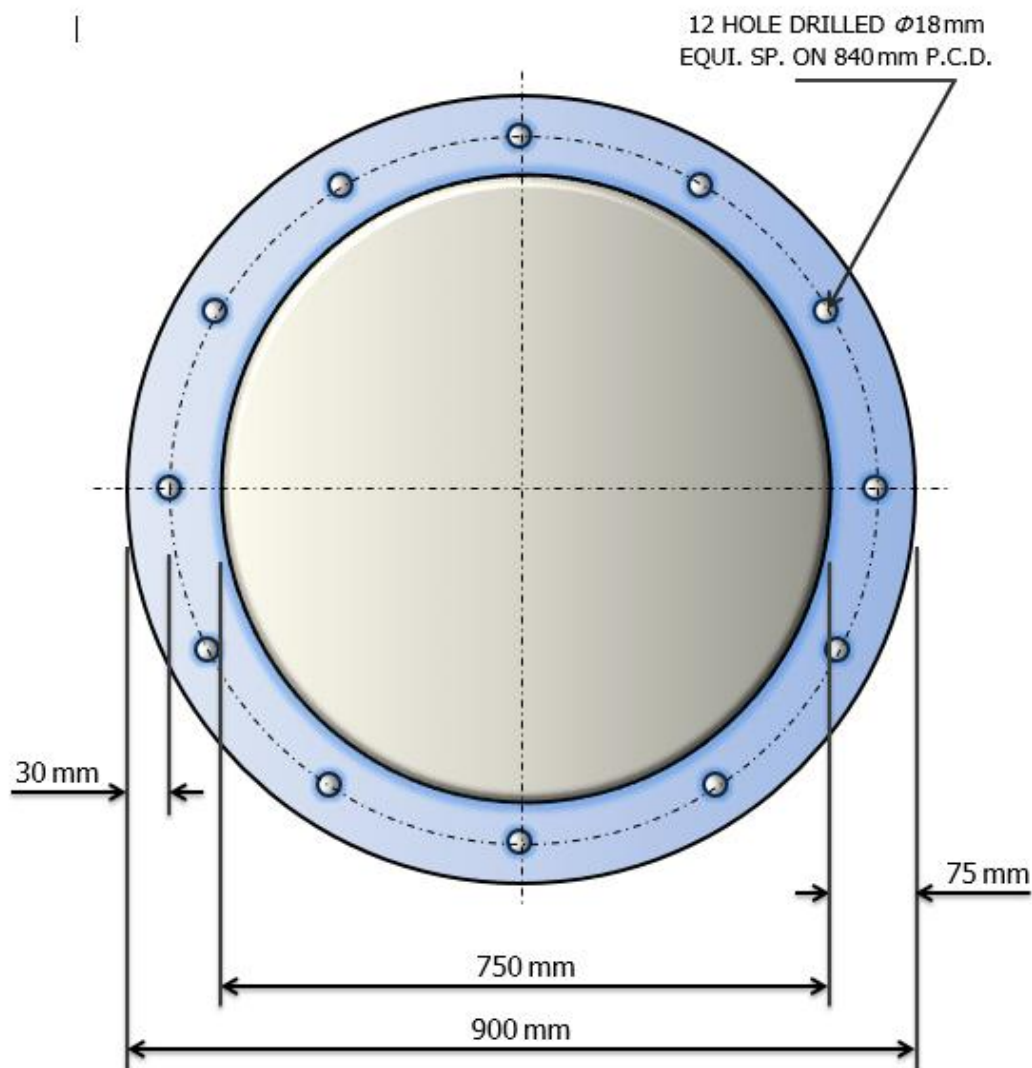


Control building and transformation centre equipment, B22392-PE-03

SECTION B: INFRASTRUCTURE ASSIGNED TO THE USER

From the Infrastructure described in Section A), under this Contract, the Owner makes available to the User only and exclusively the elements described below, with a limiting and exclusive purpose of any other not expressly mentioned below:

- The available location shall be that corresponding to the position [...].
- 750 mm diameter orifice connected to the air chamber of the characteristics indicated in the figure below.
- Butterfly valve and a motor reducer to open or close it.
- Power grid connection point (input transformer) at 460 V.
- Power intake at 400 V and limited power for ancillary services.
- Freshwater intake.
- Sensors available at the moment.



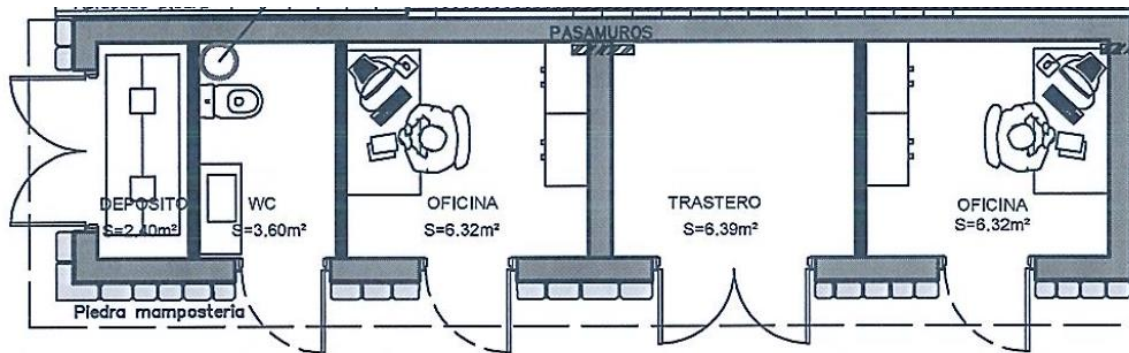
Flange detail for 750 mm orifice

APPENDIX II

ANCILLARY SERVICES

The Owner shall provide the User only and exclusively the Ancillary Services described below, with a limiting purpose:

- a) Office premises:
 - Transfer of use of Office premises in the Mutriku Plant, with the Internet access but without telephone.
 - Use of WC.
- b) Information services:
 - The Owner shall provide the User with all available information that is useful and necessary to facilitate the Tests.



Layout of Office premises at the Mutriku Plant

APPENDIX III

PLANT LICENCES, PERMITS AND AUTHORISATIONS



ENTE VASCO DE LA ENERGÍA S.A.
Alameda Urquijo 36
Edificio Pza. Bizkaia 1ª Planta
48011 - BILBAO

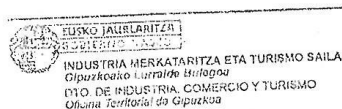
Eguna/Fecha : 26-8-2008
Zerbitzua/Servicio: **Energía**
Ref.: 28972/AT-J-2008-1

Asunto: Planta de generación de energía eléctrica mediante el aprovechamiento de las olas, en el término municipal de Mutriku.

Adjunto se remite la Resolución del Director de Energía y Minas del Departamento de Industria, Comercio y Turismo, por la que se Autoriza la instalación de referencia, se aprueba el Proyecto de ejecución y se declara en concreto la Utilidad Pública de la misma.

Atentamente,

EL COORDINADOR DE ADMINISTRACIÓN
INDUSTRIAL Y ENERGÉTICA,



2008 ABU. 28

SARRERA	IRTEERA
Zk.	Zk. 325856

EUSKO JAURLARITZA



GOBIERNO VASCO

INDUSTRIA, MERKATARITZA
ETA TURISMO SAILA
Berrikuntza eta Energia Sailburuordetza
Energia eta Meategien Zuzendaritza

DEPARTAMENTO DE INDUSTRIA,
COMERCIO Y TURISMO
Viceconsejería de Innovación y Energía
Dirección de Energía y Minas

RESOLUCIÓN, de fecha 21 de julio de 2008, del Director de Energía y Minas, por la que se autoriza la instalación, se aprueba el proyecto y se declara la Utilidad Pública para la construcción de las instalaciones electromecánicas de una Planta de generación de energía eléctrica mediante el aprovechamiento de las olas, en el término municipal de MUTRIKU. Ref.: 28972/AT-J-2008-1.

VISTO el expediente incoado en la Oficina Territorial de Gipuzkoa, a petición del ENTE VASCO DE LA ENERGÍA, con domicilio en -48011- Bilbao, Alameda de Urquijo 36, solicitando autorización administrativa, aprobación del proyecto de ejecución y Declaración de Utilidad Pública, para las instalaciones electromecánicas de referencia citada y cumplidos los trámites reglamentarios ordenados en el Decreto 282/2002, de 3 de diciembre (BOPV 23.12.02), por el que se regulan los procedimientos de autorización administrativa para la construcción, modificación, explotación, transmisión y cierre de las instalaciones de producción, transporte y distribución de energía eléctrica, así como de las acometidas, líneas directas e instalaciones de conexión de consumidores, y de acuerdo con lo dispuesto en la Ley 21/92, de 16 de Julio, de Industria.

RESULTANDO que notificado el Ayuntamiento de Mutriku, informó favorablemente el otorgamiento de la Autorización al proyecto presentado, estableciendo un condicionado.

RESULTANDO que notificada la Dirección de Puertos y Asuntos Marítimos del Gobierno Vasco, manifestó su conformidad con la autorización solicitada, señalando que en su posterior autorización recogerían las correspondientes condiciones técnicas.

RESULTANDO que sometido el expediente a la preceptiva información pública, con publicación en el B.O.P.V. de 8-4-2008 y en el B.O.G. de 7-3-2008, no se presentó alegación alguna.

RESULTANDO que habiendo dado traslado del informe emitido por el Ayuntamiento de Mutriku al Ente Vasco de la Energía, contestó que aceptaba dicho condicionado.

VISTO el Proyecto presentado, firmado por el Ingeniero Industrial D. J. Ignacio Villanueva Ortueta, visado por el Colegio Oficial de Ingenieros Industriales de Gipuzkoa el 4-12-2007, con el nº 073232.

El Director de Energía y Minas, en virtud de las atribuciones conferidas en el Decreto 284/2005, de 11 de octubre, por el que se establece la Estructura Orgánica y Funcional del Departamento de Industria, Comercio, y Turismo (B.O.P.V. de 27-10-2005).

RESUELVE

AUTORIZAR al ENTE VASCO DE LA ENERGÍA la instalación y aprobar el Proyecto de ejecución de las instalaciones electromecánicas de una planta de generación de energía eléctrica mediante el aprovechamiento de las olas, de 296 kW. de potencia eléctrica, situadas en el término municipal de MUTRIKU, de las siguientes características principales:

- Dieciseis turbogeneradores de 18,5 kW de potencia eléctrica cada uno, un alternador asíncrono, tensión 460 V.



2º.- DECLARAR EN CONCRETO LA UTILIDAD PÚBLICA de las instalaciones eléctricas que se autorizan.

Esta resolución se concede de acuerdo con lo dispuesto en el Decreto 282/2002 de 3 de diciembre (B.O.P.V. 23-12-2002) y con las condiciones generales siguientes:

- 1) Las instalaciones deberán realizarse de acuerdo con el proyecto aprobado, con las variaciones que, en su caso, se soliciten y autoricen.
- 2) El plazo de puesta en marcha será de dos años, contado a partir de la fecha de publicación de esta Resolución en el Boletín Oficial del País Vasco.
- 3) El titular de las instalaciones dará cuenta de la terminación de las obras a esta Oficina Territorial, a efectos de reconocimiento definitivo y la extensión del Acta de Puesta en Marcha.
- 4) La presente resolución se otorga sin perjuicio e independientemente de las autorizaciones, licencias o permisos de competencia municipal, provincial y otros necesarios para la realización de las obras, no relevándose al peticionario de la obligación de obtener las mismas. Así mismo, se concede sin perjuicio de posibles derechos de terceros y dejando a salvo el derecho de propiedad.

Contra la presente resolución, que no pone fin a la vía administrativa, se podrá interponer Recurso de Alzada ante la Viceconsejería de Innovación y Energía, en el plazo de un mes a partir del día siguiente al de notificación de esta resolución, todo ello en virtud de lo establecido en la Ley 4/1999, de modificación de la Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común.

Vitoria-Gasteiz, 21 de julio de 2008.

El Director de Energía y Minas,
TXABER LEZAMIZ CONDE.

EUSKO JAURLARITZA
GOBIERNO VASCO
INDUSTRIA MERKATARITZA ETA TURISMO SAILA
Gipuzkoako Lurralde Bulegoa
DEPARTAMENTO DE INDUSTRIA, COMERCIO Y TURISMO
Oficina Territorial de Gipuzkoa

25 AGO. 2008

EUSKO JAURLARITZA
GOBIERNO VASCO
INDUSTRIA MERKATARITZA ETA TURISMO SAILA
Gipuzkoako Lurralde Bulegoa
D.T.O. DE INDUSTRIA, COMERCIO Y TURISMO
Oficina Territorial de Gipuzkoa

2008 ABU. 28

SARRERA	IRTEERA
Zkla. 630887	Zkla.

SARRERA	IRTEERA
Zk.	Zk. 325856

EUSKO JAURLARITZA



GOBIERNO VASCO

INDUSTRIA, MERKATARITZA
ETA TURISMO SAILA
Berrikuntza eta Energia Sailburuordetza
Energia eta Meategien Zuzendaritza

DEPARTAMENTO DE INDUSTRIA,
COMERCIO Y TURISMO
Viceconsejería de Innovación y Energía
Dirección de Energía y Minas

EBAZPENA, 2008ko uztailaren 21ekoa, Energia eta Meategien zuzendariarena; horren bitartez, MUTRIKUKO udal-mugapean instalazioa ezartzea baimentzen da eta olatuak aprobetxatuz energia elektrikoa sortzeko Planta bateko instalazio elektromekanikoak eraikitzeko proiektua onartu eta Onura Publikokoa dela deklaritzen da. Erref.: 28972/AT-J-2008-1.

ENERGIAREN EUSKAL ERAKUNDEAK (helbidea: Urkixo zumarkalea, 36, Bilbo 48011) eskaturik, Gipuzkoako Lurralde Bulegoan hasi zen espedienteaz AZTERTU DA. Espediente horren bitartez, adierazitako erreferentzia duten instalazio elektromekanikoak egikaritzeko proiektua gauzatzeko administrazio-baimena eta proiektuaren onarpena eta Onura Publikokoa dela deklaratzeko eskatzen zen, eta abenduaren 3ko (02.12.23ko EHAA) 282/2002 Dekretuan —energia elektrikoa ekoitzi, garraiatu nahiz banatzeko instalazioak eta kontsumitzaileak konektatzeko hartuneak, zuzeneko lineak eraikitzeko, aldatzeko, ustiatzeko eta eskualdatzeko prozedurak arautzen ditu— agindutako arauzko izapideak bete ondoren, eta betiere Industriari buruzko uztailaren 16ko 21/92 Legean xedaturikoari jarraiki.

GERTAKARIAK

Mutrikuko Udalari jakinarazi ondoren, aurkeztutako proiektuari baimena ematearen aldeko txostena eman zuen Udalak, eta baldintza batzuk ezarri zituen.

Eusko Jaurlaritzaren Garraio eta Herri Lan Sailaren Portu eta Itsas Gaietako Zuzendaritzari jakinarazi ondoren, Zuzendaritza horrek adierazi zuen ados zegoela eskatutako baimenarekin, eta adierazi zuen ondorengo baimenean dagozkion baldintza teknikoak bilduko dituela.

Espediente hori jendaurrean jarri zen 2008-04-08ko EHAAren eta 2008-03-07ko GAOn argitaratuta, eta ez zen alegaziorik aurkeztu.

Mutrikuko Udalak emandako txostena Energiaren Euskal Erakundeari bidali ondoren, erakunde horrek erantzun zuen onartzen zituela adierazitako baldintzak.

Industria-ingeniari Ignacio Villanueva Ortueta jaunak sinatutako proiektua AZTERTU DA. Proiektua Gipuzkoako Ingeniari Tekniko Industrialek Elkargo Ofizialak ikus-onetsi zuen 2007-12-04an, eta 073232 zenbakia du.

Energia eta Meategien zuzendariak, Industria, Merkataritza eta Turismo Sailaren Egitura Organikoa eta Funtzionala ezartzen duen urriaren 11ko 284/2005 Dekretuan (2005-10-27ko EHAA) eman zaizkion atribuzioen indarrez, honako hau

EBATZI DU

ENERGIAREN EUSKAL ERAKUNDEARI BAIMENA EMATEA olatuak aprobetxatuz energia elektrikoa sortzeko 296 kW-ko potentzia elektrikoko planta bat jartzeko eta planta horretako instalazio elektromekanikoak egikaritzeko Proiektua onartzea. Instalazio horiek MUTRIKUKO udal-mugapean daude eta honako ezaugarri nagusi hauek dituzte:

- Hamasei turbosorgailu, bakoitza 18,5 kW-ko potentzia elektrikoarekin, 460 V-ko tentsioko alternadore asinkrono bat.



2.- Baimendutako instalazio elektrikoak ONURA PUBLIKOKOAK DIRELA DEKLARATZEA.

Ebazpen hau abenduaren 3ko 282/2002 Dekretuan (2002-12-23ko EHAA) ezarritakoaren arabera eta honako baldintza orokor hauekin eman da:

- 1) Instalazioak onartutako proiektuaren arabera egin behar izango dira, eta, hala badagokio, eskatu eta baimentzen diren aldaketekin.
- 2) Martxan jartzeko epea bi urtekoa izango da, Ebazpen hau Buskal Herriko Agintaritzaren Aldizkarian argitaratzen den egunetik aurrera zenbatzen hasita.
- 3) Instalazioen titularrak obren amaieraren berri emango dio Lurralde Bulego honi, behin betiko onarpena egin eta Martxan Jartzeko Akta eman dezan.
- 4) Obrak egiteko beharrezkoak diren udal- eta probintzia-eskumeneko eta bestelako baimenak edo lizentziak edozein direla ere eta horiek aparte utzi gabe ematen da ebazpen hau; izan ere, eskatzaileak nahitaez eskuratu beharko ditu baimen horiek guztiak. Halaber, hirugarrenen eskubideak aparte utzi gabe emango da, jabetza-eskubidea izan ezik.

Administrazio-bidea amaitzen ez duen ebazpen honen aurka Gora jotzeko Errekurtsoa jar daiteke Berrikuntza eta Energia Sailburuordetzan Ebazpen hau jakinarazi eta hurrengo egunetik aurrera zenbatzen hasita hilabeteko epean, eta hori guztia Herri Administrazioen Araubide Juridikoaren eta Administrazio Prozedura Erkidearen azaroaren 26ko 30/92 Legea aldatzen duen 4/1999 Legean ezarritakoari jarraiki.

Vitoria-Gasteiz, 2008ko uztailaren 21a.

Energia eta Meategien zuzendaria,
TXABER LEZAMIZ CONDE.

EUSKO JAURLARITZA
GOBIERNO VASCO
INDUSTRIA MERKATARITZA ETA TURISMO SAILA
Gipuzkoako Lurralde Bulegoa
DEPARTAMENTO DE INDUSTRIA, COMERCIO Y TURISMO
Oficina Territorial de Gipuzkoa

25 AGO. 2008

EUSKO JAURLARITZA
GOBIERNO VASCO
INDUSTRIA MERKATARITZA ETA TURISMO SAILA
Gipuzkoako Lurralde Bulegoa
Dpto. DE INDUSTRIA, COMERCIO Y TURISMO
Oficina Territorial de Gipuzkoa

2008 ABU. 28

SARRERA	IRTEERA
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Zk.	Zk. 325 856

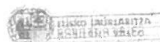
EUSKO JAURLARITZA



GOBIERNO VASCO

ETXEBIZITZA, HERRI LAN
ETA GARRAIO SAILA
Gorrala eta
Herri Lan Sailordetza
Portu eta Itsas Gaietako Zuzendaritza

DEPARTAMENTO DE VIVIENDA,
OBRAS PÚBLICAS Y TRANSPORTES
Viceconsejería de Transportes
y Obras Públicas
Dirección de Puertos y Asuntos Marítimos



ETXEBIZITZA, HERRI LAN ETA GARRAIO SAILA
DEPARTAMENTO DE VIVIENDA,
OBRAS PÚBLICAS Y TRANSPORTES

Ente Vasco de la Energía (EVE)
Alameda de Urquijo, 6-1º
Edificio Plaza Bizkai
48011 Bilbao

2009 Y3T: 14

Registro Ordeko Nagusia
Registro General Central

SARRERA	IRTEERA
Zk.	Zk. 332747

Adjunto se remite Resolución de 6 de julio de 2009, por la que se autoriza al EVE a ocupar el dominio público portuario para instalación de una planta de generación de energía eléctrica en el nuevo dique de abrigo de Mutriku.

Atentamente.

En Vitoria-Gasteiz, a 14 de julio de 2009

PORTU ETA ITSAS GAJETAKO ZUZENDARIA
EL DIRECTOR DE PUERTOS Y ASUNTOS MARÍTIMOS

[Handwritten signature]

Fdo.: Félix Asensio Robles



	EVE Ente Vasco de la Energía
Sarrera / Entrada	
Eguna / Día:	20/7/09
Zenbakia/ número:	

EUSKO JAURLARITZA



GOBIERNO VASCO

ETXEBIZITZA, HERRI LAN
ETA GARRAIO SAILA
Garraio eta
Herri Lan Sailburuordetza
Portu eta Itsas Gaiekako Zuzendaritza

DEPARTAMENTO DE VIVIENDA,
OBRAS PÚBLICAS Y TRANSPORTES
Viceconsejería de Transportes
y Obras Públicas
Dirección de Puertos y Asuntos Marítimos

Resolución de 6 de julio de 2009 del Director de Puertos y Asuntos Marítimos, por la que se autoriza al Ente Vasco de Energía a ocupar dominio publico portuario en Mutriku para la instalación de una planta de generación de energía eléctrica en el nuevo dique de abrigo.

ANTECEDENTES

Primero.- Con fecha 31 de enero de 2005 se suscribe un Protocolo de colaboración entre el Departamento de Transportes y Obras Públicas y el Ente Vasco de Energía (en adelante Eve) para la instalación de una planta de generación de energía eléctrica en el nuevo dique de abrigo del Puerto de Mutriku.

En la estipulación tercera de dicho protocolo el Eve se compromete a acometer la inversión correspondiente a equipamientos mecánicos y eléctricos, los gastos correspondientes a la colocación de la boya y los ensayos del nuevo dique y de la central así como la ejecución puesta en marcha y explotación del proyecto.

Asimismo en la estipulación segunda se establece que para llevar a cabo ese proyecto el Departamento de Transportes y Obras Públicas cederá el emplazamiento correspondiente ubicado en el dominio público portuario del nuevo dique de de abrigo del puerto de Mutriku y asumirá el sobrecosto que supone la integración de la central OWC en cuanto a la obra civil se refiere, incluyendo el apartado de la nueva batimetría y modificaciones del proyecto.

FUNDAMENTOS DE DERECHO

Primero.- El art. 95.3 de la Ley 48/2003 de 26 de noviembre de régimen económico y de prestación de servicios de los puertos de interés general establece que " *Cuando algún órgano de la Administración General del Estado o cualquier organismo o entidad vinculada o dependiente de la misma requiera la utilización del dominio público portuario, solicitará de la Autoridad Portuaria correspondiente los bienes de dominio público necesarios, quien autorizará dicha utilización siempre que sea compatible con la normal explotación del puerto y durante el tiempo que sea preciso, debiendo suscribir el correspondiente convenio en el que se establecerán las condiciones de la misma, incluyendo las tasas que, en su caso, procedan y los costes que debe asumir aquel*".

Al amparo de dicho artículo, con fecha 31 de enero de 2005 se suscribe un Protocolo de colaboración entre el Departamento de Transportes y Obras Públicas y el Ente Vasco de Energía (en adelante Eve) para la instalación de una planta de generación de energía eléctrica en el nuevo dique de abrigo del Puerto de Mutriku.

En virtud de dicho protocolo, el Director de Puertos y Asuntos Marítimos, de acuerdo con las facultades que tiene atribuidas por el Decreto 20/2002 de 15 de enero,



por el que se establece la estructura orgánica y funcional del Departamento de Transportes y Obras Públicas en relación con la Disposición Transitoria Primera del Decreto 4/2009, de 8 de mayo, del Lehendakari, de creación, supresión y modificación de los de los Departamentos de la Administración de la Comunidad Autónoma del País Vasco y de determinación de funciones y áreas de actuación de los mismos.

RESUELVE

Autorizar al Eve la ocupación de dominio público portuario en Mutriku para la instalación de una planta de generación de energía eléctrica en el nuevo dique de abrigo estando dicha ocupación sometida a las siguientes condiciones:

1ª.- La presente autorización, que no supone cesión del dominio público portuario, ni de las facultades dominicales de la Comunidad Autónoma del País Vasco, se otorga con sujeción a lo dispuesto en la Ley 27/1992, de 24 de noviembre, de Puertos del Estado y de la Marina Mercante, modificada por Ley 62/1997, de 26 de diciembre, Ley 48/2003, de 26 de noviembre, de régimen económico y de prestación de servicios de los puertos de interés general y demás disposiciones aplicables al dominio público portuario.

2ª.- Es objeto de la autorización la ocupación de terreno en la zona portuaria de Mutriku para la instalación de una planta de generación de energía eléctrica en el nuevo dique de abrigo así como la construcción de una línea de energía eléctrica subterránea de MT para la conexión a la red de distribución eléctrica de la planta. El autorizado no podrá destinar los terrenos de dominio público concedidos, ni las obras en ellos ejecutadas, a usos distintos de los expresados.

3ª.- Esta autorización se otorga por un plazo de 35 años a partir del día siguiente a la notificación de la resolución de otorgamiento, todo ello, salvo los derechos preexistentes y sin perjuicio de tercero.

4ª.- El otorgamiento de esta autorización no exige a su titular de la obtención y mantenimiento en vigor de las licencias, permisos y autorizaciones que sean legalmente exigibles, ni del pago de los impuestos que le sean de aplicación, incluyendo el Impuesto sobre Bienes Inmuebles. Dadas las características de la planta se prestará especial atención al cumplimiento de la normativa referente a ruidos.

5ª.- El autorizado vendrá obligado a cumplir las disposiciones vigentes o que en lo sucesivo se dicten, que afecten al dominio público portuario concedido y a las obras y actividades que en este dominio público se desarrollen, especialmente las correspondientes a licencias y prescripciones urbanísticas, sin que las obras que se ejecuten puedan ser obstáculo al paso para el ejercicio de la vigilancia litoral ni de las demás servidumbres públicas que procedan.



6ª.- Las obras se realizarán con arreglo al Proyecto "Planta de aprovechamiento de las olas en Mutriku (Gipuzkoa)" y el proyecto "LSMT a 13,2KV de interconexión con CT Burumendi de la planta de aprovechamiento de las olas en Mutriku" en la parte que afecta a la zona portuaria. Ambos proyectos han sido realizados por la Ingeniería y consultoría Bos Lan en noviembre de 2007 y septiembre de 2007 respectivamente. Durante la ejecución de la obra se seguirán las instrucciones del Servicio Territorial de Puertos de Gipuzkoa.

Durante la vigencia de la presente autorización se deberán respetar las siguientes condiciones:

- a) Siendo transitable el espaldón del dique a diversos niveles, se habilitarán por el titular de esta autorización los oportunos cierres en ambos extremos de la planta con la finalidad de impedir el libre acceso a personas no autorizadas; tanto a la plataforma existente sobre la galería de turbinas a la cota +16'50 como al pasillo de acceso a la propia galería situado a la cota +10'50. En las proximidades de estos cierres se señalará con claridad la prohibición de paso.
- b) Dado el riesgo que entrañarían, se prohíbe en un perímetro de la Planta de 20 mts. la realización de todo tipo de actividades náuticas (pesca, buceo, surf, etc.) ajenas al mantenimiento y explotación de la misma. El titular de la autorización habilitará los medios para impedir dichas actividades.
- c) De todos los cierres de la planta, así como de la galería y edificio de control se entregarán copia de las llaves al Servicio Territorial de Puertos de Gipuzkoa.

7ª.- La ejecución de las obras se llevará a cabo bajo el exclusivo riesgo y responsabilidad del autorizado, quien deberá designar, antes de la iniciación de las obras, como Director de las mismas, a un técnico competente, según se acreditará ante la Dirección de Puertos y Asuntos Marítimos. El mencionado técnico deberá aportar el correspondiente certificado del colegio profesional respectivo sobre el registro del nombramiento de director de las obras.

8ª.- El autorizado dará comienzo a las obras dentro del plazo de tres meses, contados desde el día siguiente a aquél en que tenga lugar la notificación de la presente Resolución, debiendo quedar aquellas totalmente terminadas en el plazo de nueve meses a contar desde su inicio.

9ª.- El autorizado solicitará por escrito del Servicio Territorial de Puertos de Gipuzkoa, con la suficiente antelación para que las obras puedan comenzarse dentro del plazo, el replanteo de las mismas, que se practicará por los Servicios Técnicos competentes, con asistencia del interesado y del técnico por él designado, levantándose acta y plano, en los que se consignará la superficie ocupada, correspondiendo a la Dirección de Puertos y Asuntos Marítimos su aprobación, si procede.



Estos proyectos de construcción deberán ser examinados por los servicios técnicos competentes del Servicio Territorial de Puertos de Gipuzkoa para comprobar que es suficientemente completo y que no altera los proyectos básicos. Si dichos servicios técnicos estimaran que los proyectos son incompletos, el autorizado deberá completarlos debidamente.

10ª.- La Dirección de Puertos y Asuntos Marítimos, a través del Servicio Territorial de Puertos de Gipuzkoa, podrá inspeccionar en todo momento la ejecución de las obras para comprobar si las mismas se ajustan a lo previsto en la condición 6ª. Si se apreciara la existencia de desviaciones en relación con los proyectos, se comunicará al titular de la autorización tal circunstancia y podrá la Dirección de Puertos y Asuntos Marítimos acordar la paralización de las obras hasta que se subsanen los defectos observados.

11ª.- Terminadas las obras, el autorizado solicitará por escrito del Servicio Territorial de Puertos de Gipuzkoa el reconocimiento de las mismas, que se practicará con asistencia de los Servicios Técnicos competentes de dicho Servicio y del autorizado y su técnico, levantándose plano y acta, que serán elevados a la Dirección de Puertos y Asuntos Marítimos para su aprobación, si procede.

12ª.- El autorizado queda obligado a conservar las obras y terrenos concedidos en perfecto estado de utilización, limpieza, higiene y ornato, realizando a su cargo, las reparaciones ordinarias y extraordinarias que sean precisas.

A los efectos de esta condición, no se considera incluida la infraestructura del dique entendiendo por esta toda la estructura situada por debajo de la cota +10,50.

El Servicio Territorial de Puertos de Gipuzkoa podrá inspeccionar en todo momento el estado de conservación de las obras y terrenos concedidos y señalar las reparaciones que deban realizarse, quedando obligado el autorizado a ejecutarlas a su cargo en el plazo que se le señale.

13ª.- El autorizado esta exento del pago de tasas en virtud del artículo 16 del Decreto Legislativo 1/2007 de 11 de septiembre, de aprobación del texto refundido de la Ley de Tasas y Precios Públicos de la Administración de la Comunidad Autónoma del País Vasco.

14ª.- El autorizado gestionará la actividad de la autorización a su riesgo y ventura. El Departamento de Vivienda, Obras Públicas y Transportes en ningún caso será responsable de las obligaciones contraídas por el autorizado ni de los daños o perjuicios causados por éste a terceros.

Todo el personal necesario para la explotación de la actividad objeto de la presente autorización será por cuenta y a cargo del autorizado. También serán a su cargo

los gastos de electricidad, agua, servicio telefónico, recogida de basuras y cualesquiera otros necesarios para el desarrollo de la actividad y todos los gastos que ésta ocasione, así como la contratación de los correspondientes servicios, las acometidas y el pago de los derechos correspondientes.

15ª.- Durante la vigencia de la autorización el titular de ésta no podrá realizar ninguna modificación o ampliación de las obras sin la previa autorización de la Dirección de Puertos y Asuntos Marítimos.

16ª.- La autorización se extinguirá por las siguientes causas:

- a) Vencimiento del plazo de otorgamiento.
- b) Renuncia del titular, que sólo podrá ser aceptada por la Dirección de Puertos y Asuntos Marítimos cuando no cause perjuicio a ésta o a terceros.
- c) Mutuo acuerdo entre la Dirección de Puertos y Asuntos Marítimos y el titular.
- d) Por cualquier otra causa que impida la continuación de la actividad objeto de la instalación autorizada.

17ª.- De la recepción por la Administración de los bienes revertidos se levantará la correspondiente acta en presencia del autorizado, si compareciese. En el acta se reseñará el estado de conservación de los bienes revertidos, especificándose, en su caso, los deterioros que presenten.

18ª.-A la extinción de la autorización, la Administración tomará posesión de las obras e instalaciones, pudiendo obtener de las empresas suministradoras de energía eléctrica, agua, gas y telefonía la suspensión del suministro.

Asimismo a la extinción de la autorización, el autorizado deberá retirar todas las instalaciones electromecánicas, turbinas etc siendo obligación del mismo el cierre de manera segura de los dieciséis orificios pasantes entre las cámaras de aire y la galería de turbinas.

20ª.- Cuando por extinción de la autorización se produzca la reversión, quedarán extinguidos automáticamente los derechos reales o personales que pudieran ostentar terceras personas sobre el dominio público concedido y las obras e instalaciones objeto de la reversión. Tampoco asumirá el Departamento de Vivienda, Obras Públicas y Transportes los contratos de trabajo que pudiera haber concertado el autorizado para el ejercicio de su actividad empresarial, sin que, por tanto, pueda en forma alguna entenderse que la reversión implica la sucesión de empresa prevista en el artículo 44 del texto refundido de la Ley del Estatuto de los Trabajadores, aprobado por el Real Decreto



Legislativo 1/1995, de 24 de marzo, ni que el Departamento de Vivienda, Obras Públicas y Transportes sea el empresario principal de la actividad realizada por el autorizado, a los efectos del artículo 42 de dicho texto refundido.

En Vitoria-Gasteiz, a 6 de julio de 2009

**PORTU ETA ITSAS GAIETAKO ZUZENDARIA
EL DIRECTOR DE PUERTOS Y ASUNTOS MARITIMOS**

Fdo.: Félix Asensio Robles



EUSKO JAURLARITZA



GOBIERNO VASCO

INGURUMEN ETA LURRALDE
POLITIKA SAILA
Garraio Sailburuordetza
Garraio Azpiegituren Zuzendaritza

DEPARTAMENTO DE MEDIO AMBIENTE
Y POLÍTICA TERRITORIAL
Viceconsejería de Transportes
Dirección de Infraestructuras del Transporte



INGURUMEN ETA LURRALDE POLITIKA SAILA
DPTO. DE MEDIO AMBIENTE Y POLÍTICA TERRITORIAL

2013 JUL 23

EVE

Edificio Plaza Bizkaia
Alameda de Urquijo, 36 -1ª planta
48011 BILBAO

SARRERA	IRTEERA
Zk.	Zk. 294771

Asunto: “ Planta generación energía eléctrica Mutriku”.

En Vitoria-Gasteiz, a 22 de julio de 2013

Según lo exigido en el artículo 58.1 de la Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común, mediante este escrito se le notifica el contenido de la **Resolución de 22 de julio de 2013, de la Directora de Infraestructuras del Transporte, por la que modifica la Resolución de 6 de julio de 2009, por la que se autoriza al EVE, la ocupación de dominio público Mutriku para la instalación de una planta de generación eléctrica en el nuevo dique de abrigo.**

Atentamente,



ASESORÍA JURÍDICA

DIRECCIÓN DE INFRAESTRUCTURAS DEL TRANSPORTE

EUSKO JAURLARITZA



GOBIERNO VASCO

INGURUMEN ETA LURRALDE
POLITIKA SAILA
Garraio Sailburuordetza
Garraio Azpiegituren Zuzendaritza

DEPARTAMENTO DE MEDIO AMBIENTE
Y POLÍTICA TERRITORIAL
Viceconsejería de Transportes
Dirección de Infraestructuras del Transporte

Resolución de 22 de julio de 2013, de la Directora de Infraestructuras del Transporte, por la que modifica la Resolución de 6 de julio de 2009 por la que se autoriza al EVE, la ocupación de dominio público Mutriku para la instalación de una planta de generación eléctrica en el nuevo dique de abrigo.

Primero.- Por Resolución de 6 de julio de 2009, del Director de Puertos y Asuntos Marítimos, se autoriza al EVE, la ocupación de dominio público Mutriku para la instalación de una planta de generación eléctrica en el nuevo dique de abrigo

Segundo.- En escrito presentado en el servicio territorial por D. Yago Torre Enciso, en nombre y representación del Ente Vasco de la Energía (EVE), se solicita la autorización para realizar un convenio entre el EVE y el Ayuntamiento de Mutriku que posibilite visitas del público en general a la planta de generación de energía eléctrica existente en el dique de abrigo de Mutriku.

Tercero.- Por parte del servicio territorial, en el informe al respecto se señala que no se ve inconvenientes para autorizar lo solicitado siempre que se cumplan determinadas condiciones.

Cuarto.- En la Resolución de 6 de julio de 2009, del Director de Puertos y Asuntos Marítimos, por la que se autoriza al EVE, la ocupación de dominio público Mutriku para la instalación de una planta de generación eléctrica en el nuevo dique de abrigo se señala, en su condición segunda, que *"el autorizado no podrá destinar los terrenos de dominio público concedidos, ni las obras en ellos ejecutadas a usos distintos de los expresados"*.



Quinto.- El artículo 88 del Texto Refundido de la Ley de Puertos del Estado y de la Marina Mercante, aprobado por el Decreto Legislativo 2/2011, de 5 de septiembre, establece los procedimientos de modificación de las concesiones en función de si la modificación es sustancial o no.

Sexto.- Considerando que con la propuesta expuesta en el escrito de solicitud del EVE no se modifica el objeto de ocupación autorizada, sino que se complementa con una iniciativa *"encaminada a mejorar la aceptación social de la planta de olas y del propio proyecto de dique de abrigo de Mutriku"*, y que ésta es compatible con el objeto de la ocupación procede modificar la Resolución de 6 de julio de 2009, del Director de Puertos y Asuntos Marítimos, para permitir la actividad mencionada.

Séptimo.- El art. 3 del Reglamento de Actividades Portuarias, aprobado por Decreto 236/1986, de 21 de octubre, atribuye al actual departamento de Medio Ambiente y Política Territorial la ordenación portuaria, la gestión y control de los servicios portuarios y, en definitiva, todo lo relacionado con las actividades que se desarrollan en los puertos e instalaciones portuarias competencia de la Comunidad Autónoma del País Vasco.

De acuerdo con lo anterior, y visto el informe del servicio territorial de puertos de Gipuzkoa, en virtud de las facultades que tiene atribuidas esta Dirección por los artículos 6.e) y 14. 1. m) del Decreto 196/2013, de 9 de abril, por el que se establece la estructura orgánica y funcional del Departamento de Medio Ambiente y Política Territorial,

RESUELVO

Primero.- Modificar la condición segunda de la Resolución de 6 de julio de 2009, del Director de Puertos y Asuntos Marítimos, por la que se autoriza al EVE, la ocupación de dominio público Mutriku para la instalación de una planta de generación eléctrica en el nuevo dique de abrigo añadiendo in fine el siguiente párrafo:

"Será compatible con los citados usos el acceso a la planta de personas ajenas al EVE con la finalidad de visitarla con objeto educativo, profesional o turístico.

El EVE adoptará las medidas necesarias tanto para eliminar los riesgos durante las visitas (construcción de una sala insonorizada en el interior de la galería de turbinas) como para promocionar la citada actividad (convenio con el ayuntamiento).

Además, se deberán cumplir las siguientes condiciones:

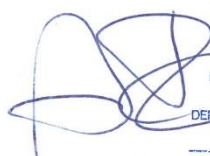
- *El verano pasado se habilitó un acceso desde la nueva piscina de mareas hasta la entrada de la OWC conociendo que se iban a organizar visitas públicas. Aunque el camino es adecuado se informará al público que se encuentran en una infraestructura portuaria, dique rompeolas, por lo que no es un paseo marítimo. En ningún caso se accederá a la visita por el camino de acceso al dique que está sin finalizar.*
- *El EVE deberá de señalizar y explicar al visitante, previo inicio de la, visita cuál es el recorrido permitido para acceder a la visita no debiendo salirse del mismo.*
- *Durante las pleamares vivas equinocciales el acceso peatonal por la nueva piscina de mareas se ve inundado por el nivel del mar, por lo que no se podrá acceder por existir riesgo de caída.*
- *Cuando se haya activado la alarma AMARILLA por riesgo marítimo costero se suspenderán las visitas.*
- *El público que asista a la visita deberá estar en todo momento acompañado del responsable de la visita y éste no permitirá que los visitantes deambulen por el dique a su libre albedrío.*
- *En ningún caso accederán a la plataforma de la cota 16,50, ya que no posee barandilla en todos sus tramos y existe riesgo de caída a distinto nivel.*
- *Se enviará copia del convenio que se firme con el Ayuntamiento de Mutriku a la Dirección de Infraestructura para su conocimiento y visto bueno.* ✓



- Se informará al Servicio Territorial de la empresa o persona responsable de las visitas, así como el régimen de horarios establecidos si éstos fueran regulares.
- Al final de cada año se entregará una Memoria Resumen de las visitas a la OWC.
- EVE deberá exigir al Ayuntamiento de Mutriku la responsabilidad de las visitas públicas ante el visitante y la Administración, respondiendo de los daños que, como consecuencia del mismo, pudieran producirse por su negligencia o imprevisión.
- Debe proceder al aseguramiento de los posibles riesgos derivados de la visita o actividad, en función de sus características, así como, en su caso, disponer de servicios de vigilancia y seguridad.
- Debe adoptar las medidas de seguridad e higiene exigibles conforme a la normativa vigente y exigir al visitante el cumplimiento de las mismas”.

Segundo.- La presente Resolución surtirá efectos a partir de su fecha.

En Vitoria-Gasteiz, a 22 de julio de 2013.



EUSKO JAURLARITZA
GOBIERNO VASCO
INGURUMEN ETA LURRALDE
POLITIKA SAILA
DEPARTAMENTO DE MEDIO AMBIENTE
Y POLÍTICA TERRITORIAL

Almudena Ruiz del Angulo del Campo
DIRECTORA DE INFRAESTRUCTURAS DEL TRANSPORTE

APPENDIX IV

DESCRIPTION OF THE PROTOTYPE AND THE TESTS TO BE CONDUCTED

[To be written by the User]