

**TRACTION POWER IN SPAIN: THE
NEED OF EUROPEAN REGULATION TO
AVOID ANTICOMPETITIVE EFFECTS
AND PROMOTE MODAL CHANGE**
Florence School of Regulation
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1. Introduction

- **WHO IS OUIGO ESPAÑA?**

OUIGO is a subsidiary of SNCF. It has been offering High Speed travel in Spain since 2021.

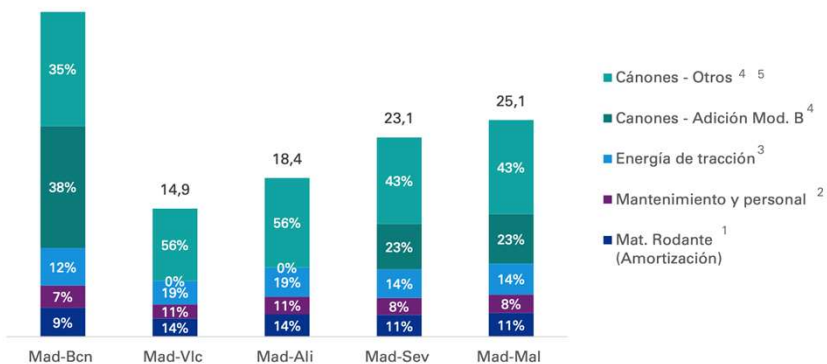
OUIGO is a High Speed Rail operator that aims to bring this means of transport closer to everyone by setting prices that are more affordable than others companies.

OUIGO competes in Spain in the High Speed market with RENFE (Spanish state-owned operator) and IRYO (operator in which Trenitalia is a partner together with Spanish company Air Nostrum and Globalvia -Spanish vehicle to different Canadian funds-)



• **THE IMPORTANCE OF TRACTION ELECTRICITY EXPENDITURE IN THE HIGH SPEED SYSTEM IN SPAIN** (Analysis of the impact of energy price increases on a High Speed rail operator KPMG, 2022).

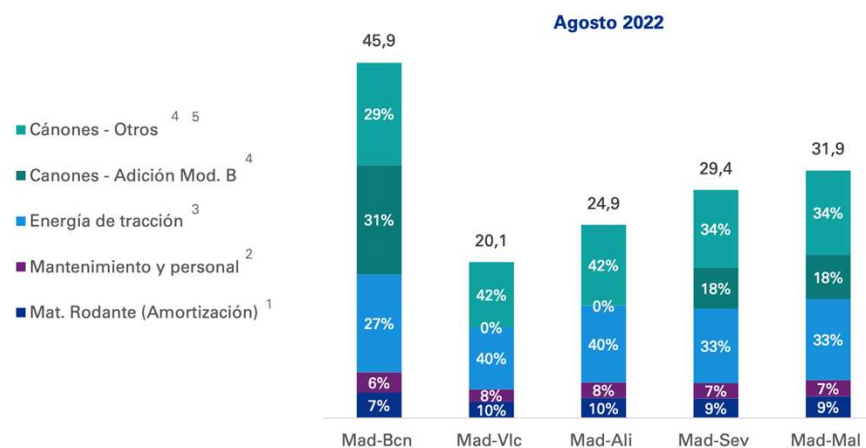
THE COST OF ELECTRICITY IN NORMAL CIRCUMSTANCES (MAY 2021) IS BETWEEN 12% AND 19% OF THE AVERAGE COST PER TICKET OF AN AVERAGE HIGH-SPEED OPERATOR.



1) Calculado en base a una vida útil de 35 años y una inversión de 35 M€ para un tren de 470 plazas que circula 1.400 km al día con un aprovechamiento del 77,3% (aprovechamiento medio de los servicios de Alta Velocidad en España según el Informe del Observatorio del Ferrocarril 2019)
 2) Coste medio de 0,32 cent €/plaza-km según https://www.técnica-vialibre.es/documentos/Libros/ExplotacionComercial_02.pdf
 3) Según coste de energía y ATR ofrecido por ADIF AV en Mayo 2021, para tren con freno regenerativo de 480 T brutas.
 4) Según DT6º LPGE 2021 para un tren de 470 plazas que circula con un aprovechamiento del 77,3%
 5) Cánones por utilización de las instalaciones de servicio estimados como un 33,5% de los cánones de acceso mínimo por utilización de líneas en base a las Cuentas Anuales de ADIF AV 2019

This oscillation is due to the differences in the amounts of the additions to the charges for use of the lines, which for some routes such as Madrid-Barcelona are greater, diluting the weight of the cost of energy in relative terms but not in absolute terms.

THE INCREASE IN THE PRICES AT WHICH ADIF SELLS ENERGY TO OPERATORS HAS MEANT THAT TRACTION ELECTRICITY NOW ACCOUNTS FOR 27-40% OF THE OPERATORS' COST STRUCTURE.



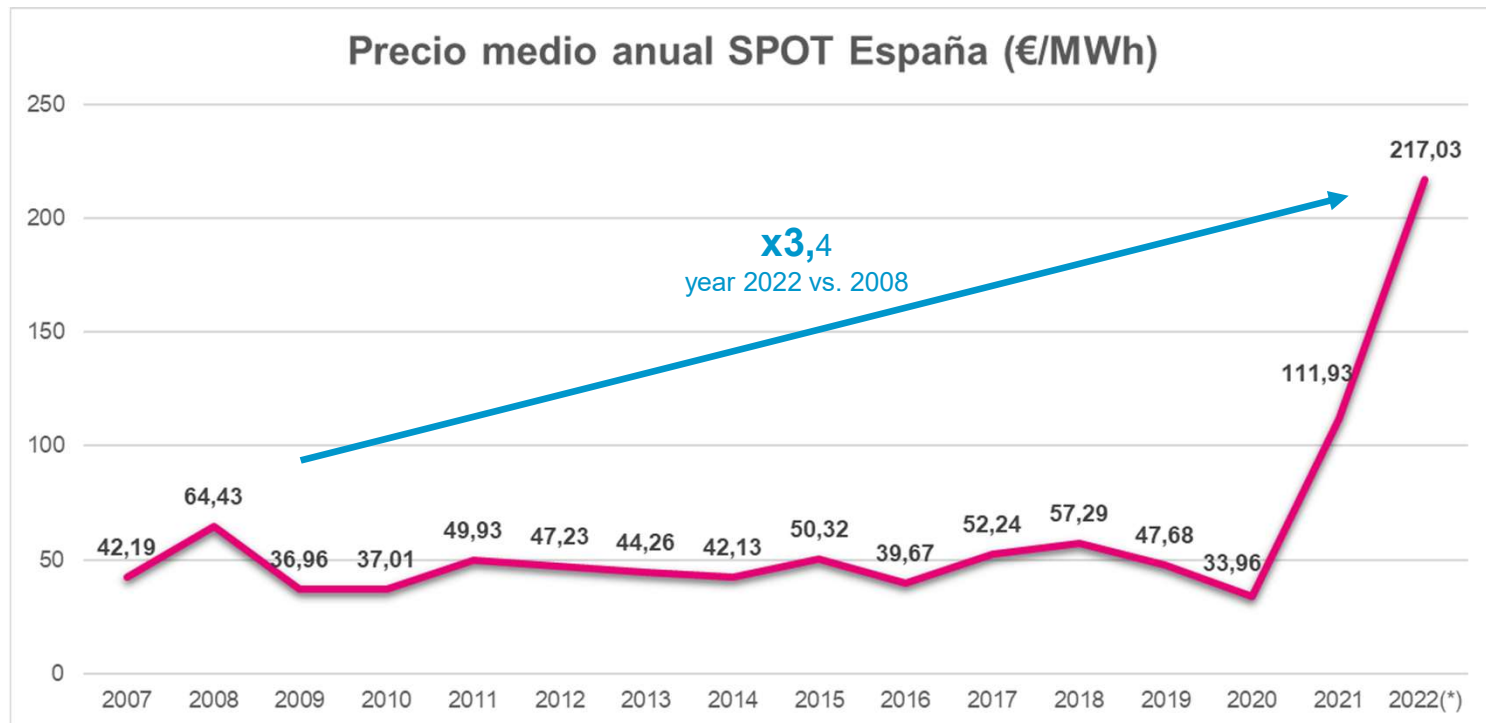
For an average operator, this price increase means an increase in the average cost per ticket of between 22 and 35%, equivalent to around 8 euros more per ticket on the Madrid-Barcelona route.



- **THE REGULATION OF TRACTION POWER PROCUREMENT AND ITS EFFECT ON THE BUSINESS MANAGEMENT OF RAILWAY OPERATORS**
 - The current regulation on the purchase of traction electricity assigns ADIF, the public manager of the rail infrastructure, the obligation to purchase energy and then ADIF resale this energy as a service to the three railway operators operating in Spain. ADIF receives green energy for this massive purchase that is key to its financing (e.g. green bonds).
 - ADIF's ownership of access points prevents operators from directly acquiring traction power supply from energy distributors.
 - ADIF has taken until October 2022 all decisions on energy procurement (selection of supplier, price and hedging) without consulting operators and without them being able to influence the contractual decisions affecting them. All costs of ADIF's decisions (or lack thereof) are automatically passed on to operators.
 - The new entrants have not been able, for the reasons outlined above, to develop a differentiated business policy in this segment of their activity at a time when the price of energy is crucial for the achievement of the business objectives of their business plan.

2. Situation of the electricity market in Spain.

➤ ENERGY PRICE INCREASES IN SPAIN VERSUS BUSINESS PLANS.



(*) Cumulative average to 2022, including the adjustment mechanism established in RD-law 10/2022, "gas cap".



Source: own elaboration based on REE and OMIE data.

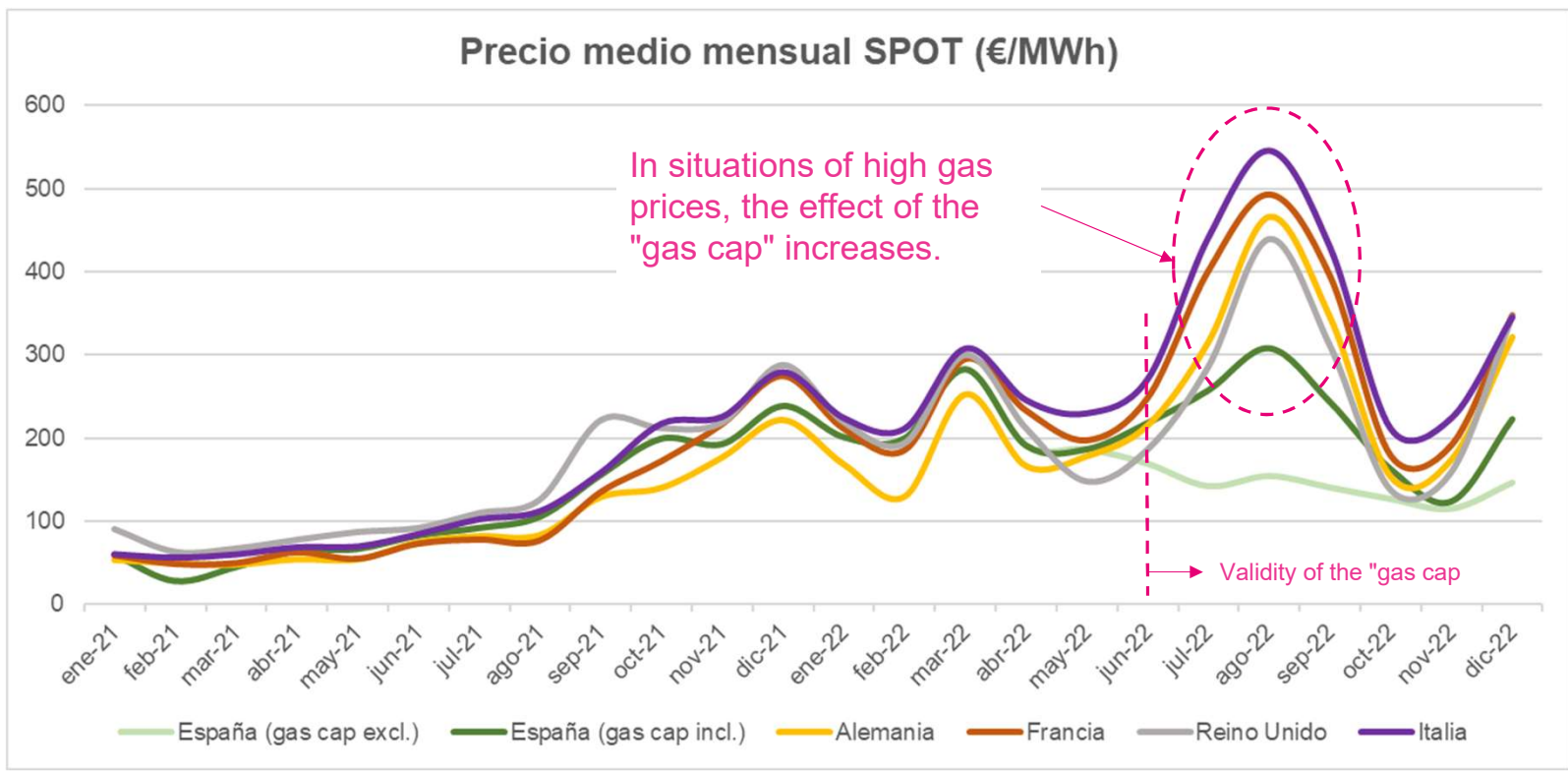
2. Situation of the electricity market in Spain.

- Adjustment mechanism RD-Act 10/2022, known as "gas cap".
 - ❑ Start of application 15/06/2022, until 31/05/2023
 - ❑ Limits the price at which gas and coal-fired generators can bid in the spot market.
 - ❑ This limitation is offset by an adjustment mechanism that reimburses these generators based on the MIBGAS quotation (spot gas market in Spain) and the reference price established by the regulation, initially 40 €/MWh + 5 €/MWh each month from Dec. 2022.
 - ❑ The remuneration is paid by all Spanish consumers, except those with a fixed price contract prior to 26/04/2022.
 - ❑ The objective achieved is to reduce the Spanish spot price, as the price of gas-fired generation is only paid to those generators that actually use gas and not to all generators, as was the case until now.



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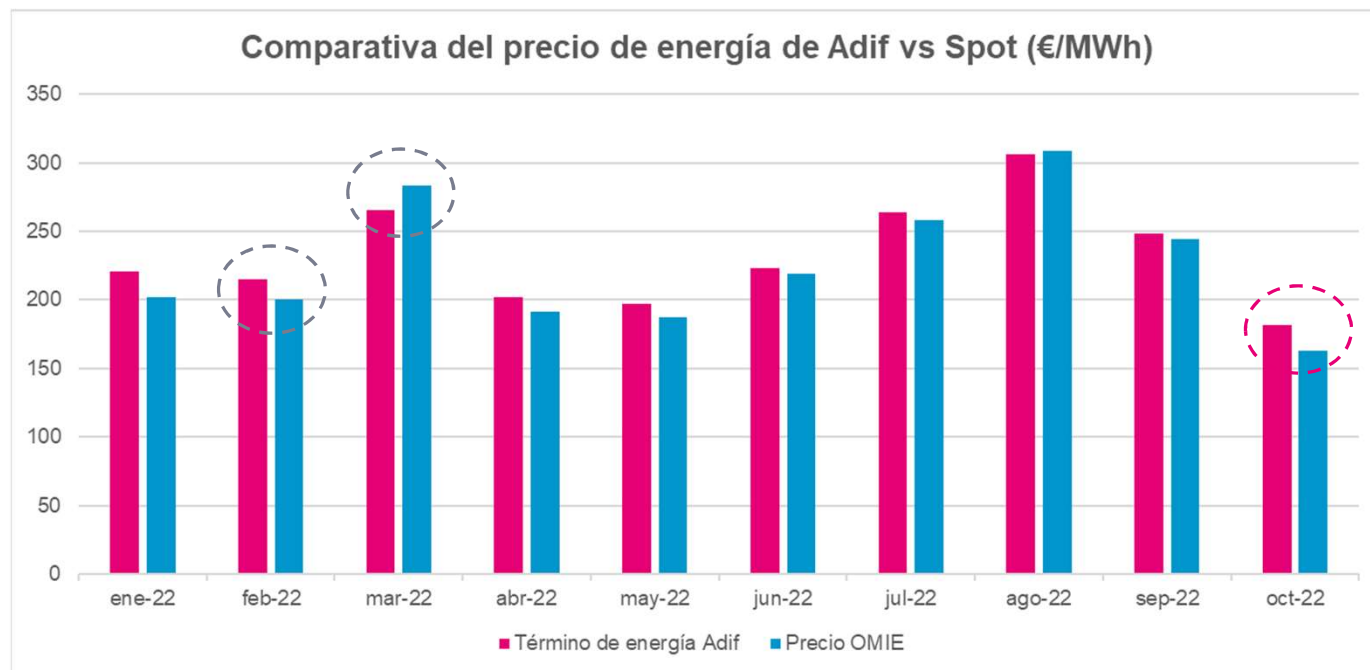


Source: own elaboration based on REE and OMIE data.

2. Situation of the electricity market in Spain.

➤ Price risk hedging in Adif contract

During 2022, coverage was provided at the request of Adif in February and March, for 40% of monthly consumption. Coverage was also provided at the request of OUIGO, with the consensus of all operators, in October, November and December 2022.



3. ADIF's traction power procurement model.

- IN ACCORDANCE WITH SPANISH REGULATIONS, ADIF BUYS TRACTION ENERGY CENTRALLY FOR ALL HIGH SPEED OPERATORS AND THEN RESALE THIS ENERGY AS A SERVICE
- ADIF IS A PUBLIC ENTITY SUBJECT TO SPANISH PUBLIC PROCUREMENT LAW.
 - ADIF's public nature makes it subject to Spanish public procurement regulations, which are very rigid in terms of contracting deadlines, negotiations and the involvement of interested parties in the management of electricity supply contracts. Contracts of more of 5 years are not possible.
- CENTRALISED PURCHASING : PROS AND CONS.
 - As a positive effect, centralised purchasing by ADIF allows better prices to be obtained due to economies of scale and simplifies the administrative management of this supply for new entrants.
 - As a negative effect, it restricts the possibility for operators to take their own decisions in complex times such as the current one without being able to have certainty on electricity supply prices in order to properly price the tickets.

- **ADIF MANAGEMENT: AN ASSESSMENT.**

- The fact that ADIF automatically passes on the prices of the supplier discourages the introduction of price reduction mechanisms.
- The National Markets and Competition Commission (CNMC), as the Spanish competition regulator in the high-speed rail market, has urged ADIF to consult with operators on the procedures for the acquisition of electricity supply.
- Since July 2022, an informal consultation procedure has been initiated with the operators and with the presence of the CNMC in which ADIF has not been particularly responsive to the operators' requests.
- At the request of OUIGO, ADIF has proceeded to make partial energy price hedges for the months of November and December 2022 and an attempt has been made in the first quarter of 2023 without being able to secure the requested price. The fact that ADIF has requested the unanimity of the railway operators has made the process of energy price closures excessively complex.

4. Current contractual regime

- **CONTRACT MANAGEMENT.**

ADIF decides on the choice of suppliers, extensions and any incidence related to marketers without any co-decision capacity of the railway operators.

- **CONTRACTUAL DEADLINES.**

The contract term is currently 24 months and may not exceed the maximum legally possible, i.e. five (5) years.

- **LOT SCHEME AND SOCIALISATION OF PRICES.**

The contract is divided into different lots according to rail corridors and price closures have to be made with the selected electricity trader and for each lot. However, the price is "socialised", being the same for all lots and a price closure is shared with the other lots.



- **PRICE CLOSURE SYSTEM.**

Price closures can be done for a minimum period of one month with the electricity marketer if the futures market allows it, and must be done by all operators in each lot.

- **NEW CONTRACT DEVELOPMENTS.**

From April 2023, a new contractual framework will enter into force in which the purchase modality is the variable price of the Iberian electricity market (Omie).

Each railway operator will be able to make price closures (for a minimum period of one month) without having to agree with the other operators.

The duration of the contract (33 months) makes it difficult to agree on PPAs or other types of financial hedges.



5. OUIGO's position as a rail operator

➤ TRANSPARENCY AND CO-MANAGEMENT OF THE ENERGY SUPPLY CONTRACT.

We consider it necessary that, without replacing the powers attributed to ADIF by current legislation to award contracts, a contract co-management body should be set up with the participation of all interested rail companies.

There must be transparency on the part of Adif in the selection of the supplier, prices, contract modalities and any measure that may have anti-competitive effects.

➤ THE NEED FOR PRICE CERTAINTY: TOWARDS PPAs AND NEW FINANCIAL SWAPS.

The duration of supply contracts, whether centralised or not, should be extended to 10 or 15 years in order to be able to enter into PPAs or swaps "on a long-term basis" that make it possible to give certainty to supply prices, with rail companies assuming the risks inherent in any derivative. These derivatives can be made either with marketers or with financial institutions.

➤ NEED FOR A PUBLIC AID SCHEME?

As in the case of other economic sectors or in the Czech Republic with the railways, there should be a transitional system of subsidies for the purchase of traction electricity in the exceptional situation of the electricity market.



6. CONCLUSIONS: URGENT CALL FOR EU REGULATION ⁵

- RAIL COMPETES WITH OTHER TRANSPORT AT EU LEVEL NOT ONLY IN PRICES BUT IN THE PROJECT FINANCING. CURRENT LEGISLATION IN SPAIN MAKES RAIL PROJECTS LESS COMPETITIVE FOR INVESTORS AS IT PRECLUDES TO COVER LONG TERM (> 3 yrs.) THE MAIN RISK OF THE OPERATION: ENERGY.
- LONG TERM FRAMEWORK CAPACITY AGREEMENTS CANNOT HAVE SHORT TERM ENERGY PURCHASING PROCUREMENT FOR LEGAL OBSOLETE REASONS.
- RAIL COMPANIES ARE SUFFERING FROM ENERGY PRICES DUE TO PANDEMIC GLOBAL CRISIS: NEEDS TO BE INCLUDED AS A REASON FOR INFRASTRUCTURE MANAGERS TO MODERATE THE ADDITIONAL CHARGES (IMs NON ELIGIBLE COSTS)

6. CONCLUSIONS: URGENT CALL FOR EU REGULATION ⁶

- TRAIN IS ONE OF THE BIGGEST CONSUMER OF ENERGY AND IS NOT INCLUDED IN THE COMMUNICATION FROM THE COMMISSION Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01) THAT IN SPAIN ALLOWS REDUCED PRICES FOR SUCH INDUSTRIES



Thank you!

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