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# Approval of the procedure for connecting biomethane generation facilities to the transport and distribution grid

Following the public information period of the initial motion for a resolution, the Spanish Markets and Competition Commission (“CNMC”) gives the go-ahead to a procedure intended to advance decarbonization

Legal flash – Energy

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## Key aspects

Approval of the procedure for connecting biomethane facilities to the transport and distribution grid:

- Operators of transport and distribution grids must set up a web platform to process requests for connection.
- Connection applications will be processed following a time priority criterion.
- The right of connection cannot be transferred to third parties or to a project other than the one for which that right was granted.
- Grid operators may request payment of a capped amount for the costs of drawing up the connection budget quote.



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## Introduction

CNMC [Resolution of April 19, 2024](#), which entered into force on May 1, adopts resolution RDC/DE/004/22 (the “**Resolution**”), which seeks to standardize and homogenize the procedure for connecting biomethane generation facilities to the gas grid with the aim of advancing decarbonization. Thus, as determined in section 3 of the report attached to the Resolution (the “**Report**”), the development of biogas:

- is a basic tool to provide a solution for waste treatment by making it energy-efficient;
- it provides a competitive alternative to the high prices of natural gas and to CO<sub>2</sub> emissions; and
- it can serve as a substitute for fossil natural gas.

The publication of the Resolution acts on the mandate established under [Royal Decree-Law 14/2022, of August 1](#), which introduced article 12 bis into [Royal Decree 1434/2002, of December 27](#) (“**RD 1434/2002**”), section 2 of which requires the CNMC to approve a procedure for managing connections of renewable gas generation plants with the gas grid. It is, however, a partial response, given that the scope of this provision encompasses a broader concept (renewable gases) than the scope covered by the Resolution (biomethane).

As indicated on page 5 of the Report, the Resolution aims to regulate “*the logistical and operational aspects of the connection management procedure*,” developing a prompt and agile regulation necessary due to the large number of biomethane injection projects currently being processed. Thus, although the Resolution is a vital step towards a specific procedure regulating the management of connections of biomethane generation plants to the transport or distribution grid, page 5 of the Report advises that **a detailed analysis is yet to be carried out of the requirements of biomethane installations and their implications for the natural gas grid**, meaning that the CNMC’s [Circular 8/2019, of December 12](#)<sup>1</sup> (“**Circular 8/2019**”) will need to be reviewed.

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## Objective scope

- **Biomethane plants.** The Resolution sets out a new definition of “biomethane plant” and

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<sup>1</sup> Yet to be reviewed is how the connection of biomethane projects affect the gas grid in terms of (i) access to the capacity and criteria to assess the connection; (ii) the contents of the requests; (iii) permits and agreements; (iv) economic criteria; (v) grounds for refusal; and (vi) requirements of publication and transparency of the corresponding information for access and connection.



imposes two conditions the plants must fulfill to be able to request connection to the grid, namely they must (i) produce renewable gases of biological origin, mainly composed of methane; and (ii) meet the necessary gas quality parameters for injection into the gas system.

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## Main features of the procedure

### Management of requests for connection

- **Start of procedure.** Under the general regime set out in [RD 1434/2002](#), to begin the connection procedure, producers of renewable gases must submit an application to the transport or distribution grid operator.

Grid operators are obliged under the Resolution to set up a **web platform** that allows (i) the applications to be managed, and (ii) the status of the processing to be consulted. This information must be available within six months of the entry into force of the Resolution (section 3.4 of the Resolution).

- **Prior requests for information.** Under the Resolution, before submitting an application for connection, interested parties may **request information** from transport and distribution grid operators on the connection options available. Grid operators must respond to these requests within **one month**, The response will be considered **non-binding**.
- **Time priority criterion.** Connection requests will be processed following a time priority criterion. As a rule, if the application does not require any amendments, the **date and time at which the request was submitted** to the grid operator will be taken into account.
- **Payment of costs for drawing up the budget quote.** The Resolution enables transporters and distributors to request a payment of up to **€3,000** for the costs of drawing up the connection budget quote. This amount will be deducted from the final implementation amount if the request is accepted and refunded if the request is rejected.

### Response to the request

- **Response deadline.** The transporter or distributor must reply to the applicant within **40 working days** from the submission of the application, stating whether it has been accepted or rejected.

If the grid operator **accepts the application**, it must provide certain information such as (i) the economic conditions of the connection (including the financial budget, the estimated construction time and the financial cost of each action); (ii) the connection agreement (the



conditions of which must be based on the principles of transparency, objectivity and non-discrimination); and (iii) the corresponding injection capacity.

Regarding point (iii) above, note that page 5 of the Report emphasizes the need to previously amend CNMC Circular 8/2019, although the Resolution offers a temporary solution to channel this issue using the calculation criteria set out in the resolution of November 10, 2022 (section Fifth.3).

If the **application is rejected**, to be sufficiently justified, the grid operator must (i) specify the reasons for refusal, and (ii) submit a justifying report including the information, references and calculations taken into account to reject the application.

In any case, the reply must include alternative proposals or explicitly state the non-existence of proposals.

- **Transfer of the right of connection.** If the application is accepted, the resulting right of connection cannot be transferred to third parties, as the right is granted exclusively to **the applicant** and “*in respect of the biomethane installation with the characteristics stated in the application.*” In other words, the right of connection cannot be transferred to a biomethane plant other than the one granted access. However, this does not prevent the right of connection being transferred through the acquisition of a biomethane plant with a “right of connection” or of the shares of the plant’s holding company.
- **Acceptance of the connection budget quote.** Once the application has been accepted, the applicant has 60 working days to (i) accept the quotation, (ii) sign the connection agreement, and (iii) pay 10% of the connection fee. Otherwise, it will be assumed that the applicant has withdrawn its application.

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## New developments regarding the motion for the Resolution

Following the public information period of the motion for the Resolution, the final text of the Resolution introduces certain amendments to the initial text proposed, the most important of which we summarize below:

- **Payment of costs for drawing up the budget quote.** The Resolution makes two amendments regarding the amount applicants must pay for drawing up the connection budget quote:



- a) First, the maximum amount has increased. Thus, while the motion capped the amount at €1,000, the Resolution sets this amount at **€3,000**.
  - b) Second, contrary to the provisions of the motion, if the applicant does not accept the connection quotation, this amount **will not be refunded** to it.
- **Duty of confidentiality.** The Resolution subjects the transport and distribution grid operators to a duty of confidentiality as regards requests for information made before the application for connection.
  - **Acceptance of the quotation.** If the applicant accepts the connection budget quote, it must pay 10% of the connection quote. This figure is lower than the one originally established in the motion, which required 50% of the connection budget quote.
  - **Transitional regime.** Applications for connection submitted before the Resolution enters into force will be processed in accordance with article 12.bis of RD 1434/2002. They will not be subject to the provisions laid down in the Resolution.
  - **Web platforms.** While the web platforms to manage applications are being set up (section 3 of the Resolution), applicants must send their requests to the email addresses that the grid operators have provided for that purpose.

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For additional information, please contact our [\*Knowledge and Innovation Group\*](#) lawyers or your regular contact person at Cuatrecasas.

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