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Dear Friends and Clients,

With our newsletter we would like to inform you of recent and significant legal developments in the field of energy law in Argentina

Best regards,

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IN THIS ISSUE

ENARGAS SUBMITS TO COMMENT A NEW RESOLUTION ON NATURAL GAS STORAGE

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By means of Resolution No. 464/2019, issued on August 20, 2019 (the "**Resolution**"), the Argentine Gas Regulatory Agency ("ENARGAS") submitted for comment a new resolution on natural gas storage (the "**Regulation**") during a 30-day period, (i.e from August 20, 2019 until September 20, 2019).

The scope of the Resolution captures, aboveground and underground storage of: onshore natural gas, LNG storage, compressed natural gas storage ("**GNC**") and storage natural gas under pressure ("**GNP**"). The Resolution excludes floating storage. Facilities subject to the Resolution extend from storage infrastructure to reach all appurtenance facilities such as connecting gas pipelines, LNG, GNC and GNP tanks and liquefaction and regasification facilities, and it excludes facilities associated with the use of natural gas for vehicle transport, and LNG and GNC supply stations.

This scope of application could be interpreted to exceed the jurisdictional boundaries of the Natural Gas Law N° 24,076 (the "**Gas Act**"). In particular, LNG storage activity, as is the case of LNG marketing, could be interpreted to fall under the scope of the Hydrocarbons Law N° 17,319. Likewise, natural gas storage, LNG storage and associated liquefaction facilities located within the boundaries of hydrocarbons production concessions granted under the Hydrocarbons Law N° 17,319, especially when referred to natural gas outside the quality specifications of ENARGAS Resolution N° 259/2008, could be argued to be outside the jurisdiction of the Gas Act and thus outside the scope of the Resolution.

Regulatory matters covered by the Resolution are limited to technical safety matters, including technical processes, metering, invoicing, insurance and quality standards, and excluding localization of plants and environmental matters. The Resolution states that Resolution 338/2008 is applicable to all matters not covered by the Resolution. Such reference is significant since it implies that the very important permits regarding plant localization and environmental clearance remain under the jurisdiction of the Secretary of Energy.

Although the Resolution limits itself to technical matters, it also implies a further reach to include the power to control antitrust and discriminatory conduct by storage operators, which also arguably exceeds the jurisdictional limits granted by the Gas Act to the ENARGAS.

The Resolution provides that when the storage activities are carried out by licensed pipeline operators or distribution utilities, their storage activities must be accounted separately. Storage applications must be approved by the ENARGAS prior to the commencement of any construction works. In order to technically qualify as storage operator, the applicant must prove storage experience of not less than five years during the previous ten years. It must also file financial statements and become subject to further reporting obligations during the life of the permit.

Storage operators that market the stored natural gas must also be licensed as natural gas marketers. For this purpose, the Regulation creates the Registry of Natural Gas Storage ("**RAGNar**"), where all the storage operators and those operating storage appurtenance facilities must register.

THE SECRETARIAT OF ENERGY APPROVES THE REGIME APPLICABLE TO NATURAL GAS EXPORT PERMITS TO CHILE

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By means of Disposition No. 168/2019 (the "**Disposition**"), the Secretariat of Energy (the "**Secretariat**") approved the regime applicable to firm natural gas export authorizations ("**Export Permits**") for the period lapsing between September 15, 2019 and May 15, 2020 (the "**Term**") and only for exports to Chile (the "**Regime**") within the framework of the Economic Complementation Agreement No. 16 entered by and among the Argentine Republic and the Chile Republic, and the Thirtieth Additional Protocol dated April 26, 2018. The Disposition also established a maximum volume of natural gas equal to 10,000,000 m3/d that can be exported under firm conditions during the Term.

Below is a brief summary of the main terms of the Regime:

VOLUMES TO BE EXPORTED FROM EACH EXPORT ZONE

ZONE	VOLUME	GAS PIPELINE
Northeast	1MMm3/d	Norandino and Atacama
Center-West	6.5 MMm3/d	GasAndes and Pacifico
South	2.5 MMm3/d	Methanex

APPLICATION

The requirements applicable to submissions for an Export Permit may vary depending on whether the applicant has previously been granted a natural gas export authorization. In case the interested party has not been previously granted an authorization for natural gas exports, such person shall request the Export Permit and comply with the requirements set forth in Resolution No. 104/2018 (as amended by Resolution No. 417/2019). On the contrary, if the interested party has already been granted an export authorization under interruptible conditions, it shall request the Secretariat to transform such authorization into a firm export authorization. In this case, the request may cover the total or part of the volume previously authorized to export under interruptible conditions.

The applicants shall also file the form attached as Sub Annex B to the Disposition, as affidavit.

DEADLINE

Applications must be submitted before September 6, 2019, 16 hs. Applications submitted after such date will not be considered.

REPLACEMENT OF ENERGY

The Regime establishes a mechanism according to which, in the event of a need for increased use by the Wholesale Electric Market (WEM) of imported liquid natural gas, carbon, fueloil and gasoil, the cost of which is borne by the Federal State, the Beneficiaries of Export Permits will have to pay CAMMESA a compensation for the greater costs incurred by the same to replace the exported volumes. The compensation shall have a maximum value expressed in dollars per exported million BTU which shall be determined by the Secretariat.

The greater costs incurred by CAMMESA would be determined at the end of the Term.

Failure to pay the above-mentioned compensation shall result in the disqualification of the Beneficiary to export for a term of twenty-four (24) months counting from the verification of the default, notwithstanding the filing of claims to recover the due amounts.

ASSIGNMENT OF EXPORT PERMITS

The Regime prohibits the assignment of Export Permits.
If the export is finally not carried out, the Beneficiary shall immediately inform such situation to the Secretariat, which shall notify other Beneficiaries and those applicants which were not granted an Export Permit, in order for them to offer the natural gas volumes that were not exported by the former Beneficiary.

Failure to inform the Secretariat that the export transaction did not take place shall result in the loss, by the Beneficiary, of a volume equivalent to the non-exported gas volumes, in future calls for exports under firm conditions.

EVALUATION METHOD

For the allocation of volumes to be exported under firm condition the Secretariat shall prepare, for each exportat zone, a performance index per applicant and per application. Each performance index will, in turn, spread into four sub-indexes for the following items:

- past production performance;
- past export performance;
- actual performance; and
- application term.

90-DAY FREEZE ON CRUDE OIL AND FUEL PRICES

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After a steep increase in the exchange rate between the US dollar and the Argentine peso – from ARS 46.20 (August 9) to ARS 55.00 (August 12) –on August 16, 2019 the Federal Government issued Emergency Decree No. 566/2019, as amended by the Emergency Decree No. 601/2019, dated September 2, 2019 (the "**Decree**"), freezing crude oil, gasoline and diesel fuel prices for as from August 9, 2019 until November 13, 2019 (the "**Decree Period**").

The Decree sets forth the following measures, which shall apply during the Decree Period:

- Crude oil deliveries shall be invoiced and paid at the price that was agreed by producers and refining companies as of August 9, 2019, at a reference exchange rate of AR$ 46.69 and a Brent reference price of USD 59.00 per barrel;

- The price of gasoline and diesel fuel sold at gas shall be capped at the price that was in place on August 9, 2019 (Gasoline and diesel oil sold in the wholesale market is not subject to the price freeze);

- Refining, wholesale or retail fuel companies must supply the total domestic demand of liquid fuels, by delivering the volumes required from them in accordance with usual market practices; and

- Oil producers shall supply the total local demand of crude oil required by refining companies.

RENEWABLE ENERGIES – NEW SPECIFICATIONS FOR THE ISSUANCE OF TAX CERTIFICATES

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By means of Resolution Nº 479/2019 ("**Resolution 479**"), published in the Official Gazette on August 16, 2019, the Federal Secretariat of Energy (the "**FSE**") regulated the issuance of the tax certificate established in Section 9, Subsection 6 of Law Nº 26,190 (as amended by Law Nº 27,191) (the "**Tax Certificate**"). The Tax Certificate implements a tax benefit applicable to renewable energy projects when facilities include at least a 60% rate of local components, or 30% if the company evidences the insufficiency of local components to meet the 60% benchmark (the "**National Component**"). This Tax Certificate may be used to offset national taxes for an amount equal to 20% of the value of the National Component used in the facilities.

The issuance of the Tax Certificate and the determination of the National Component is governed by: (i) Joint Resolution Nº 123/2016 and Nº 313/2016 ("**Resolution 123/2016**") of the former Ministry of Production and the former Ministry of Energy and Mining ("**MINEM**") in the case of RenovAr Round 1 and 1.5 projects; and (ii) Joint Resolution Nº 1/2017 of the MINEM and former Ministry of Production, published on August 17, 2017 ("**Resolution 1/2017**") for PPAs awarded after its publication.

Resolution 479 further regulates, clarifies and amends certain aspects related to the implementation of the Tax Certificates and the determination of the National Component, as described below.

ELEMENTS OF THE NATIONAL COMPONENT CALCULATION

Resolution 479 clarifies certain elements for purposes of calculating the National Component.

Pursuant to Resolution 479, goods shall be deemed "national" to the extent they are qualified as such by the Product and Supplier Codes (*Códigos de Producto y Proveedor*, "**CPP**") issued by the National Industrial Technology Institute (*Instituto Nacional de Tecnología Industrial,* "**INTI**") pursuant to Resolution 123/2016 and Resolution 1/2017, as applicable. With regards to projects governed by Resolution 1/2017, Resolution 479 clarifies: (i) the values of the national goods comprised in a project's electromechanical installations for the purpose of calculating the total national component (the "**TNC**"); and (ii) the calculation of the TNC and the Electromechanical Installations Costs (*Costo de las Instalaciones Electromecánicas or* CIE).

With regards to projects governed by Resolution 123/2016, Resolution 479 clarifies: (i) the values of the national goods comprised in a project's electromechanical installations for the purpose of calculating the TNC; (ii) the calculation of the TNC; (iii) the calculation of the "miscellaneous" element included in the TNC value; and (iv) the "Total CIF" value included in the National Component calculation.

CURRENCY

For the purpose of calculating the National Component, Resolution 479 establishes that TNC values shall be considered in Dollars. Invoices issued in a different currency shall be converted to Dollars using the Divisas and Seller's exchange rate offered by *Banco de la Nación Argentina* at the close of day immediately preceding the date of invoice. Moreover, Resolution 479 states that in order to calculate the Tax Certificate's amount, the values of national goods shall be computed in Pesos. To that effect, all Dollar-denominated invoices issued by local residents shall be computed considering the equivalent Peso amount included in the electronic invoice. In addition, in order to compare the Peso invoiced amount and the Dollar amount included in the CPP, the latter must be converted to Pesos using the exchange rate included in the electronic invoice or, if none, the Divisas and Sellers' exchange rate offered by Banco de la Nación Argentina on the close of the day preceding the date of invoice.

The Tax Certificate shall be issued in Pesos and may be issued in different installments, something that may facilitate its application and/or sale.

ADVANCED TAX CERTIFICATE

Pursuant to Resolution 479, companies who have obtained a certificate of inclusion in the benefits of the Renewable Energies Regime (the "**Certificate of Inclusion**") and a declaration of effective commencement of performance pursuant to Disposition Nº 57/2017 of the former Under-Secretariat of Renewable Energies, may request the issuance of up to two anticipated Tax Certificates (each, an "**Anticipated Tax Certificate**") prior to the commercial operation date ("**COD**"). These shall be equal to 20% of the value of national goods which purchase is actually evidenced and may not exceed, in aggregate, 60% of the total benefit set forth in the corresponding Certificate of Inclusion.

In order to obtain an Anticipated Tax Certificate, the company must: (i) declare the investments carried out through acquisition of national goods and must furnish all the documentary evidence detailed in Resolution 479; and (ii) issue a guarantee to cover the total amount expressed therein in favor of the Federal Tax Authority (*the Administración Federal de Ingresos Públicos*, "**AFIP**").

Once COD is achieved, the applicant may request the issuance of the final Tax Certificate for the corresponding amount (deducting the amounts corresponding to the Anticipated Tax Certificates obtained, if any). Issuance of the final Tax Certificate is not subject to the posting of any guarantee.

If the declared National Component is above 30% (including

the tolerance thresholds set out below, if applicable) and if the TNC actually evidenced is above the amount undertaken in the Certificate of Inclusion, the amount expressed in the Tax Certificate shall be incremented up to 20% of the TNC actually integrated to the project.

If a beneficiary has not requested a Tax Certificate when applying for inclusion in the Renewable Energies Regime, but upon COD it evidences the effective incorporation of a TNC sufficient to obtain a Tax Certificate pursuant to Resolution 479, it may request a Tax Certificate at such time.

TOLERANCE

For purposes of evaluating whether a project has achieved a given National Component, Resolution 479 sets forth the following tolerance thresholds:

• projects that have declared a National Component higher than 30%: the national component effectively achieved shall be increased by 20% in accordance with the formula set forth in Resolution 479; and

• projects that have declared a National Component lower than 30%: the national component effectively achieved shall be increased by 10% in accordance with the formula set forth in Resolution 479.

This tolerance thresholds shall apply to: (i) PPAs awarded in RenovAr Rounds 1, 1.5, 2 and MiniRen/Round 3 or executed pursuant to MINEM Resolution N° 202/2016; and (ii) projects developed pursuant to Resolution N° 281/2017 which have either obtained dispatch priority pursuant to Section 7 of Annex I therein prior to the publication of Resolution 479, or which have requested a Certificate of Inclusion by declaring a National Component equal to or above 30%.

This tolerance only impacts the evaluation of the achievement of the National Component (for purposes of the maintenance of the tax benefit and the application of penalties) but may not be used to increase the value of the Tax Certificate.

BREACH OF NATIONAL COMPONENT

If, upon COD, the TCN in the electromechanical installations is:

• below 30% of the declared National Component, the National Direction of Renewable Energies shall revoke the total tax benefit granted, any issued Anticipated Tax Certificates which have not been assigned or applied shall be cancelled and any posted guarantees shall be released, without prejudice to any additional applicable sanctions for obligation undertaken with regards to achieving a certain National Component level; or

• above 30% of the declared National Component but below to the National Component expressed in the relevant Certificate of Inclusion, the maximum amount to be expressed in the Tax Certificate in accordance with the Certificate of Inclusion shall be adjusted in accordance with the National Component actually achieved. The amount expressed in the Tax Certificate shall not exceed the new maximum amount established by taking into consideration any issued Anticipated Tax Certificates, if applicable.

NEW REGULATION ON CHEMICAL PRECURSORS

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By means of the Decree No. 593/2019, issued on August 27, 2019 (the "**Decree**"), the Federal Government regulated the Chemical Precursors Act (Law No. 26,045, the "**CPA**").

Pursuant to the CPA, any person that (i) produces, manufactures, prepares, processes, repackages, distributes, markets (whether wholesale or retail), stores, imports, exports, transports, transships, or engages in any other transaction, either in Argentina or abroad, involving chemical substances or products included in the lists published by the Federal Government, or (ii) manufactures, sells, purchases, imports, exports or stores machines used for manufacturing capsules, tablets or pills (any such person, an "**Operator**"), in both cases of items (i) and (ii) must register with the National Registry of Chemical Precursors (the "**Registry**").

The Decree sets forth new provisions in relation to (i) the procedure for registering with the Registry and renewing such registration, (ii) the information that needs to be provided on a regular basis, by means of sworn statements, including in connection with imports and exports of regulated substances, and transportation and disposal thereof, (iii) the obligations of Operators upon receiving requests of information from the Ministry of Security (i.e. the enforcement authority), (iv) labeling of packaging and containers, (v) reporting obligations, and (vi) the applicable disciplinary procedure.

The Decree also expands Lists I, II and III of the CPA, and incorporated a new definition of "Products", referring to "Products" as any homogeneous or heterogeneous system formed by two (2) or more substances containing one (1) or more regulated substances, where the concentration or sum of concentrations of such regulated substances is higher than thirty percent (30%) P/V; provided, however, that if such system contains hydrochloric acid or ammonia in aqueous solution, such percentage shall be reduced to twenty percent (20%) P/V; and excluding (i) any product mixed in such a way that the regulated substances included in Lists I and II of the CPA may not be physically extracted therefrom; and (ii) pharmaceutical products containing one (1) or more regulated substances included in Lists I and II of the CPA.

The regulation introduced by the Decree will come into effect on November 26, 2019.

GUIDELINES FOR SYSTEMS AND FACILITIES FOR THE SUPPLY OF LNG AS A SHIP FUEL

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The Resolution SE N° 438/19, published on August 02, 2019, establishes the "Technical Specification ISO / TS 18683: 2015, Guidelines for Systems and Facilities for the Supply of Liquefied Natural Gas (LNG) as a Ship Fuel", and "International Standard ISO 20519: 2017, Specification for the Supply of Ships Fed with Liquefied Natural Gas" as mandatory rules for the design and operation of facilities for the supply of liquefied natural gas ("LNG") for use as a fuel for vessels, throughout the national territory.

Also, the Resolution establishes that the quantitative risk analysis required in the standards and an annual safety inspection of LNG supply operations for use as a fuel for ships, must be carried out by a "Classification Society" member of the International Association of Classification Societies LTD (IACS). The risk analysis must be updated on the earliest of every two (2) years or due to the variation of the conditions and / or circumstances that gave rise to the analysis.

INCREASED SANCTIONS ON BREACHES TO NEUQUEN'S HYDROCARBONS LAW

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By means of the Provincial Decree No. 1785/19, published in the Official Gazette of the Province of Neuquén on August 30, 2019, the Provincial Executive Branch, in exercise of Section 121 "j" of the Neuquén's Hydrocarbons Law No. 2,453 (the "**Law**"), established the new values for the failure to comply with any of the obligations set forth in the Law, and its applicable regulations.

All default events shall be subject to: disciplinary measures, suspension of permits or fines.

- For breaches in connection with safety in exploration, exploitation, transport, industrialization and marketing of hydrocarbons and by-products, the applicable penalties shall range from ARS 94,170.00 to ARS 125,560,000.00. (i.e. from USD 1,623 to USD 2,164,827, up to today exchange rate)

- For breaches in connection with technical regulations for exploration, exploitation and transport of hydrocarbons, the applicable penalties shall range from ARS 94,170.00 to ARS 6,278,000.00. (i.e. from USD 1,623 to USD 108,241 up to today exchange rate)

- For breaches in connection with regulations applicable to the submission of information or requests for information issued by the enforcement authorities, the applicable penalties shall range from ARS 94,170.00 to ARS 6,278,000.00. (i.e. from USD 1,623 to USD 108,241 up to the today exchange rate)

- For breaches in connection with safety in fractioning, transport, distribution and commercialization of liquefied petroleum gas, the applicable penalties shall range from ARS 94,170.00 to ARS 31,390,000.00 (i.e. from USD 1,623 to USD 541,206 up to today exchange rate)

All other noncompliance events not included in the preceding paragraphs shall be subject to disciplinary measures, suspension of the permits or fines ranging from ARS 94,170 to ARS 125,560,000.00 (i.e. from USD 1,623 to US 2,164,827 up to today exchange rate)The extent of such fines and other penalties shall be categorized, in each case, based on the severity of the breach, recidivism and the degree of involvement of the public interest, as mild, serious and very serious.

NEW ANCILLARY RULES FOR THE DISTRIBUTED GENERATION OF RENEWABLE ENERGY INTEGRATED INTO THE PUBLIC ELECTRICITY GRID

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By means of Disposition No. 97/2019 (the "**Disposition**"), the Secretariat of Energy (the "**Secretariat**") approved the new ancillary rules for the Distributed Generation of Renewable Energy Integrated into the Public Electricity Grid, which shall replace the ancillary rules annexed to Disposition No. 28/19.

ALLEVIATION OF THE LIQUID FUEL'S TAX INCREASE

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Decree No. 531/2019, published in the Official Gazette on August 1, 2019 (the "**Decree**"), amended Decree No. 381/2019, published in the Official Gazette on May 29, 2019, mitigating the amount of the liquid fuel's tax increase (the "**Tax**").

In that sense, the Decree established that, for taxable events that occurred between August 1st and August 31th of the current year, the amounts of the Tax corresponding to July 31, 2019 shall be adjusted as follows:

CONCEPT	INCREASE IN AR$*
Lead free gasoline, up to 92 RON	0.310
Lead free gasoline, more than 92 RON	0.310
Raw gasoline	0.310
Natural gasoline	0.310
Solvent	0.310
Turpentine	0.191
Gasoil	0.191
Kerosene	0.191

* Up to the publish of this newsletter, the exchange rate is USD 1 = ARS 58, and the unit of measure is expressed in liters.

SPECIAL REGIME FOR THE IMPORT OF USED GOODS FOR THE HYDROCARBONS INDUSTRY

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By means of Decree No. 555/19 published on August 12, 2019 in the Official Gazette of the Republic of Argentina (the "**Decree**"), a special and temporary regime is established on the import of used capital goods with a maximum age of 10 or 20 years, in connection with hydrocarbons exploration, drilling or exploitation activities, classified in the tariff positions of the Common Nomenclature of MERCOSUR ("**NCM**") included in ANNEXES I and II of the Decree.

The benefits will be in force from August 12, 2019 until December 31, 2019. The certificates issued under Decree No. 629/17 and its supplemantary regulations will remain valid.

Beneficiaries may be those who: (i) are registered in the Oil Companies Registry pursuant to Res. SE No. 407/07 and (ii) accredit the provision of goods and services directly related to the hydrocarbon activity for companies registered in the Oil Companies Registry. The beneficiaries must have an Import Certificate, which expressly specifies the goods required to be affected exclusively to the hydrocarbon industry.

For those goods included under Annex I, the applicable tariff arises from increasing the current rate applicable to new goods based on their age over the Extra-Import Import Law, establishing a minimum (7%) and maximum (35%) tariff scale. The used goods contemplated under Annex II, may be imported for consumption, without paying an Extra-Zone Import Duty (D.I.E.).

In addition, it sets out the exemption of the payment of the statistic fee to the import operations of goods that enter to the country under the Decree

A MAXIMUM AMOUNT IS ESTABLISHED FOR STATISTICAL RATES IN THE IMPORT OF CAPITAL GOODS USED IN RENEWABLE ENERGY PROJECT

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By means of Decree 548/2019, issued on August 7, 2019 (the "**Decree**"), Decree 332/2019 was amended, incorporating to its Article 1 that, in the case of capital goods that are imported exclusively for use in the construction of renewable energy generation projects within the framework of Rounds 1, 1,5 and 2 of the RenovAr Program and Resolution 202 of the former Ministry of Energy and Mining (the "**Regime**"), the maximum amount to be paid regarding statistical rate may not exceed the sum of USD 500.

The enforcement authority of Laws 26,190 and 27,191 shall inform the General Directorate of Customs under the Argentine Tax Authority the list of entities that have executed power purchase agreements under the Regime and shall determine the procedure in which the aforementioned limit to the statistical rate shall be verified

ENARGAS APPROVES METHODOLOGY TO DETERMINE THE ACCUMULATED DAILY DIFFERENCES BETWEEN THE NATURAL GAS PURCHASED BY DISTRIBUTORS AND THE GAS VALUE OF THE TARIFF SCHEDULES

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By means of Resolution 466/2019, issued on August 15, 2019 (the "Resolution"), the Argentine Natural Gas Regulatory Authority (**"ENARGAS"**) approved the methodology for the determination of the daily accumulated monthly differences between the value of the gas purchased by natural gas distributors through networks and the value of natural gas included in the tariff schedules in force between April 1, 2018 and March 31, 2019, generated exclusively by exchange rate variations and corresponding to volumes of natural gas delivered in that same period (the "**Accumulated Daily Differences**").

Furthermore, the Resolution approves the application form for inclusion in the regime regarding Accumulated Daily Differences provided for in Section 7 of Decree 1053/2018 (the "**Regime**").

In this regard, the Regime stipulates that the National State assumes, on an exceptional basis, the payment of the Accumulated Daily Differences. ENARGAS shall determine the amount corresponding to the Accumulated Daily Differences of each natural gas distributor and considering the natural gas suppliers adhered to the Regime. The resulting amount shall be transferred to each distributor in thirty monthly and consecutive quotas as of October 1, 2019. Once each quota is received, the distributors shall immediately make the corresponding payments to the natural gas suppliers within the following five business days from the receipt of the related quota. Said payments shall be informed and accredited on a monthly basis before ENARGAS.

The application for inclusion in the Regime must be submitted to the ENARGAS by natural gas distributors through networks and natural gas suppliers before September 15, 2019.

Furthermore, in addition to the application for inclusion in the Regime, the natural gas distributors through networks and the natural gas suppliers must submit before the ENARGAS the agreements evidencing the restructuring of their commercial relationship pursuant to the Regime.

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