

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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NEW REGULATIONS FOR ENROLMENT IN THE FEDERAL UPSTREAM COMPANIES REGISTRY

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On December 10, 2019, by means of Disposition N° 337/2019 of the Under-secretariat of Hydrocarbon and Fuels ("**Disposition 337**"), new regulations were published in the Official Gazette regarding the procedure and requirements for enrolment in the Federal Upstream Companies Registry (the "**Registry**"). Disposition 337 replaces the previous regulation set forth in Resolution N° 407/2007 of the Secretariat of Energy (the "**SE**").

Disposition 337 introduces the following changes to the previous regulatory framework: (i) specific requirements regarding technical capacity for operation in Offshore Blocks; (ii) the modification of the requirements for evidencing financial capacity for all applicants (by means of reference to Disposition N° 335/2019 of the Under-secretariat of Hydrocarbon and Fuels, also described in this Newsletter); (iii) a more detailed description of the documentation and

procedure required for initial enrolment and renewal with the Registry; and (iv) a broader set of prohibitions regarding engagement with entities that perform hydrocarbons activities in the Argentine Continental Shelf without a licence from the Argentine authorities.

APPLICATION OF DISPOSITION 337

- ENTITIES WHICH MUST ENROL IN THE REGISTRY. Disposition 337 applies not only to entities which submit bids for the awarding of, or hold title to, exploration permits and exploitation concessions pursuant to the Federal Hydrocarbons Law N° 17,319 (the “FHL”), but also to entities associated with such bidders or title holders, or that operate oil and gas fields, despite not holding a formal title in connection therewith (each, an “Applicant”). Disposition 337 does not apply to third-party contractors.

- APPLICATION OF DISPOSITION 337. Entities already enrolled in the Registry or that have obtained renewal therewith for the period 2019-2020 pursuant to Resolution N° 407/2007, shall be categorized by the SE (together with any superseding enforcement authority, the “Enforcement Authority”). Applicants which, following the entry into force of Disposition 337, request enrolment in the Registry or which renewal thereof for the period 2019-2020 is pending, must adapt their submissions to the provisions of Disposition 337.

INITIAL ENROLMENT

- APPLICANT DOCUMENTATION. Applicants requesting initial enrolment in the Registry must submit documentation regarding their corporate structure, legal representatives, assets, financial capacity, technical capacity and certain affidavits.

- TECHNICAL CAPACITY. Technical capacity must be evidenced in accordance with the category in which the Applicant seeks enrolment.

Non- Operator. Applicants are not required to evidence technical capacity, and it shall be at the discretion of the partners to determine how operations shall be carried out.

Operator. Applicants must evidence their technical capacity, either: (i) from their own technical team; or (ii) by furnishing a letter of technical support by a third party (the “**Technical Support Letter**”). Disposition 337 sets out

certain documentation that must be submitted for purposes of evidencing an Applicant’s own technical capacity as set out in (i) above; in case of (ii) above, such documentation must be furnished by the company providing technical support. Specific requirements apply for operators in Offshore Blocks. Applicants which purport to perform onshore and offshore operations must enrol as Offshore Operators.

RENEWAL OF ENROLMENT

- DEADLINE. Renewal of enrolment in the Registry must be requested annually between July 1 and July 31. Applicants which do not submit the required documentation and/or affidavits timely and in proper form shall have an automatic extension of an additional 10 business days. Non-compliance with these deadlines may amount to the application of sanctions by the Enforcement Authority.

- DOCUMENTATION. Applicants must submit certain corporate documentation and evidence they maintain their financial and technical capacity, as applicable.

COMMON PROCEDURAL RULES FOR INITIAL ENROLMENT AND RENEWAL

- SUBMISSIONS. Information and documentation must be submitted through the online platform Trámites a Distancia (“TAD”)¹.

- EVALUATION AND CLARIFICATIONS. Submissions shall be evaluated according to the category in which the Applicant seeks enrolment. In addition to the requirements set forth above, the Enforcement Authority shall take into consideration: (i) compliance by the Applicant with Resolutions SE N° 319/1993, 2057/2005 and 324/2006 and submission of the information corresponding to Chapter IV and SESCO; and (ii) the proper submission of the affidavits set forth in Resolutions SE N° 188/1993 and 435/2004 and, if applicable, the timely payment of surface fees corresponding to federal authorities pursuant to Section 57 of the FHL.

- PROHIBITIONS AND AFFIDAVIT. The Applicant must submit an affidavit within the terms of Annex II of Disposition 337, stating that: (i) all documents and information submitted to the Enforcement Authority are truthful; and (ii) it is in compliance with the prohibitions set out in Law N° 26,693 regarding hydrocarbons activities in the Argentine Continental Shelf, and the prohibitions set out in Section 18 of Annex I of Disposition 337.

¹TAD is an online platform created by the former Federal Ministry of Modernization that allows individuals and companies to digitally submit and manage proceedings with different federal authorities. Companies seeking to submit and manage proceedings through the TAD platform must do so through their Federal Tax Authority “Proceedings Manager” (Administrador de Relaciones), i.e., the individual already registered in the Federal Tax Authority platform who manages all online submissions and proceedings before such Authority on behalf of the Company. (www.tramitesadistancia.gob.ar)

These resolutions refer to the documents that the Applicant shall file in the SE regarding technical and statistic information. The Applicant shall file annually the information regarding the reservoirs within the project.

Companies that hold an interest in exploration permits, exploitation concessions and must pay royalties shall inform the Province where are located and the SE the volumes produces during the current year.

Law N° 26,659 was enacted on 2011 to reinforce the provisions of the former Resolution 407 that referred to prohibited activities in the Argentine Continental Shelf. As a result of the enactment of Law N° 26,659, several hydrocarbon companies have had their operations in the Argentine Continental Shelf declared illegal or otherwise decommissioned.

NEW STANDARDS FOR FINANCIAL CAPACITY OF UPSTREAM COMPANIES

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On December 10, 2019, by means of Disposition N° 335/2019 of the Under-secretariat of Hydrocarbon and Fuels ("**Disposition 335**"), new regulations were published in the Official Gazette, establishing new financial and solvency requirements for companies that hold an interest in exploration permits, exploitation concessions or transportation concessions (the "**Title Holders**"). These new requirements replace those set forth by former Resolution SE N° 193/2003 ("**Resolution 193**"), which is repealed by means of Disposition 335.

The criteria for evaluating the solvency of Title Holders is set forth in Annex I of Disposition 355 for the purpose of: (i) issuance of permits or concessions; (ii) enrolment in the Upstream Companies Registry (governed by Disposition N° 337/2019 of the Under-secretariat of Hydrocarbon and Fuels, also described in this Newsletter); and (iii) evaluation of the financial capacity of any assignee pursuant to Section 72 of the FHL.

In essence, Disposition 355 establishes new minimum net worth requirements (the "**Financial Requirements**"), measured by reference to the value of barrels of crude oil, as a means to avoid having to update Argentine Peso ("**Peso**") figures that dilute due to inflation and devaluations of the Argentine currency.

Similarly to former Resolution 193, Disposition 335 distinguishes the Financial Requirements that apply to Title Holders depending on whether they purport to operate in onshore or offshore blocks: (i) in the case of operations in onshore blocks, the net worth requirement is the Peso equivalent value of 27,000 barrels; and (ii) in the case of operations in offshore blocks, the net worth requirement is

the Peso equivalent value of 270,000 barrels.

For such purpose, the reference value of crude oil barrels shall be determined on the basis of the average price reported by the enforcement authority for the immediately preceding year. Dollar values shall be converted into Pesos by applying the average official exchange rate reported by the Argentine Central Bank "Circular Comunicación 'A' 3,500" for the preceding year.

Fulfillment of the Financial Requirements may be replaced by a corporate guarantee (the "**Guarantee**") issued by an Argentine or Non-Argentine company (the "**Guarantor**"). Differently from Resolution 193, which allowed only a partial substitution of the Financial Requirements (i.e. up to 70%), Disposition 335 does not establish any such limitation, thus allowing for full substitution of such Financial Requirements.

Disposition 335 requires that the Guarantor evidences a net worth **at least three times higher** than the net worth that would apply to the Title Holder, by means of its audited and certified financial statements. The Guarantor must issue an unconditional and irrevocable Guarantee as per a template contained in Annex II of Disposition 335 and waive any right it may otherwise be entitled to require a distribution of liabilities with the Title Holder and the prior exhaustion of the latter's assets. Disposition 335 does not limit the Guarantee to parent companies; thus, a financial institution or insurance company could potentially become a Guarantor.

Pursuant to Section 10 of Disposition 335, the Guarantee must meet different requirements, which vary depending on whether the Guarantor is an Argentine or Non-Argentine entity.

USE OF WATER REGULATION IN THE PROVINCE OF NEUQUÉN

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On December 20, 2019, by means of Disposition N° 507/2019 (the "**Disposition**") of the Under-secretariat of Water Resources, new regulations were published in the Official Gazette of the Province of Neuquén regarding the use of water for industrial purposes.

The Disposition established that the fee for the use of public water for industrial purposes shall be of AR\$ 5.29 per each m3 (the "**Fee**") as from January 1, 2020. In this sense, the Disposition approved the sworn statements application that

companies must file regarding: (i) the Fee "For the Use and Development of Public Water for Industrial Purposes"; and (ii) the Fee "For the Use and Development of Public Waters for Industrial Purposes - Non-Conventional Hydrocarbon Exploration and Exploitation" (the "**Application**"). Companies must file the Application prior to February 12, 2020. As for the Fee corresponding to the year 2019, the Disposition establishes that companies shall be able to request the payment receipt as from March 11, 2020 and must pay prior to April 13, 2020.

ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO OFFSHORE BLOCKS

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On November 26, 2019, Joint Resolution N° 3/2019 (“**Resolution 3/19**”) issued by the Federal Secretariat of Energy Governance (“**SEG**”) and the Federal Secretariat of Environment and Sustainable Development Governance (“**SESD**”) was published in the Official Gazette.

The purpose of Resolution 3/19 is to establish a unified and updated proceeding that is coordinated among the relevant enforcement authorities, with respect to the environmental impact approvals in connection with hydrocarbons surface recognition and exploitation works or activities in the Argentine Continental Shelf within federal jurisdiction (*i.e.*, off-shore blocks beyond 12 nautical miles from the coastline).

Resolution 3/19 sets out that, prior to executing its project, every holder of a superficial recognition permit, exploration permit and/or exploitation concession (herein, “**Submitting Party**”) must comply with the environmental impact assessment procedure and obtain an Environmental Impact Statement issued by the SESD.

Resolution 3/19 establishes and regulates two types of proceedings: (i) a “Standard Proceeding” (*Procedimiento Ordinario*); and (ii) a “Simplified Proceeding” (*Procedimiento Simplificado*), depending on the complexity of the hydrocarbons activity to be performed.

Any infringements of the terms of Resolution 3/19 or of the relevant Environmental Impact Statement shall be subject to the fines and penalties set out in Title VII of the Federal Hydrocarbons Law N° 17,319, which include suspension or removal from the relevant national oil companies registry.

“STANDARD” ENVIRONMENTAL IMPACT ASSESSMENT PROCEEDING

The Standard Proceeding consists of 4 phases, which main aspects are described below:

- Submission of the Environmental Impact Study, which must comply with the requirements established under Resolution 3/19;
- Regulatory review of the Environmental Impact Study by (i) the SEG, which shall prepare a Technical Report

(Informe Técnico) with respect thereto in a term of 20 days following receipt of the Environmental Impact Study; and (ii) the SESD, which shall prepare a Revised Technical Report (*Informe Técnico de Revisión*) in a term of 45 days following receipt of the Environmental Impact Study;

- Public Participation, which must be carried out in connection with the proposed project, via a public hearing (*audiencia pública*) or via public consultation (*consulta pública*); and
- Final technical report/Environmental Impact Statement: Within twenty (20) days following the completion of the public participation proceedings, the SESD shall issue the Final Technical Report (*Informe Técnico de Revisión Final*) and within fifteen (15) days following the issuance of the Final Technical Report, the SESD shall issue the Environmental Impact Statement (*Declaración de Impacto Ambiental*) which shall either approve or reject the proposed project.

SIMPLIFIED ENVIRONMENTAL IMPACT ASSESSMENT PROCEEDING

Depending on the complexity of the project, the Submitting Party may file a Simplified Environmental Study. In such case, an Environmental Impact Study shall not be required.

The Simplified Proceeding consists of the same 4 phases as the Standard Proceeding. However, the terms for reviewing the Simplified Environmental Study and issuing the Environmental Impact Statement are reduced:

- the term for preparing the Technical Report in the Simplified Proceeding is reduced from 20 to 15 days, and the term for preparing the Revised Technical Report is reduced from 45 to 35 days;
- public participation proceedings must be put in place via the Public Participation Platform with respect to public consultation (*consulta pública*); and
- the issuance of the Final Technical Report and the Environmental Impact Statement shall take place, respectively, within 10 days following the completion of the public participation proceedings and 5 days following the issuance of the Final Technical Report.

CHANGES IN REQUIREMENTS FOR THE PROCESSING OF EXPANSION WORKS OF GAS DISTRIBUTION SYSTEMS

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By means of Resolution N° 819/19, published on December 12, 2019 in the Official Gazette (the “**Resolution**”), the Argentine Gas Regulator (*Ente Nacional Regulador del Gas*, “**ENARGAS**”) approved the Rule NAG-602 (2019) “*Quality Specifications for the Transportation and Distribution of Natural Gas and other Similar Gases*”, effective as of the day following the publication in the Official Gazette (*i.e.*, 12/13/19).

The Resolution also revoked Resolution ENARGAS N° 1/259/08 and expanded the scope of the “Argentine Gas Code - NAG” (Resolution ENARGAS N° 2747/02 and

amendments), incorporating to Annex 1 the following text: “*Group VI - Operational control of gas and dispatch: Includes all aspects referring to the operational controls and procedures for management of fluid dispatch, with the aim of providing for the quality and continuity of the public service of gas transportation and distribution*”.

This Resolution supplements the “Gas Quality” specifications established in the Service Regulations of the Transportation License (Chap. 3) and of the Distribution License (Chap. 4), approved by Decree N° 2255/92.

NEW QUALITY CONTROL SYSTEM FOR NATURAL GAS DISTRIBUTION AND TRANSPORTATION SERVICES

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By means of Resolution N° 818/2019, published in the Official Gazette on December 12, 2019 (the “Resolution”), the Argentine Gas Regulator (*Ente Nacional Regulador del Gas*, the “**ENARGAS**”) established a new control system based on commercial and technical indicators to measure the quality of the commercial and technical services provided by natural gas distributors and transporters (the “**Licensees**”), and replaced the control system established by Resolution ENARGAS N° 1192/1999.

Indicators are based on the need to verify the level of performance of distributors and transporters and to reflect the quality of the distribution and transportation services.

The approved indicators include commercial and technical indicators in accordance with international standards.

Commercial indicators are related with the management carried out by Distributors in relation with those activities which imply interactions with users and third parties. Commercial indicators aim to unify the client attention proceedings and to identify the best practices on matters of

processes and results, as well as to evaluate the management carried by the Distributors. Commercial indicators include (i) billing management; (ii) problems in domiciliary gas supply; (iii) performance management; (iv) complaints; (v) user satisfaction; (vi) delays in telephone attention; and (vii) delay in the resolution of claims.

Technical indicators apply both to Distributors and Transporters and include the following aspects: (i) transparency; (ii) environmental protection; and (iii) safe operation and adequate maintenance of the distribution and transportation systems.

The system established by means of the Resolution has a dynamic approach, which means that the values established for each of the indicators shall be adapted to international standards and the local situation.

According to the Resolution, the Licensees shall comply with the new values set forth for each of the quality indicators. Failure to comply with such values shall result in an administrative inquiry.

RENOVAR PROJECTS MAY REQUEST A CHANGE OF TECHNOLOGY TO MEET REACTIVE POWER REQUIREMENTS

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On December 10, 2019, Resolution N° 805/2019 of the Ministry of Finance of the Secretariat of Energy (the "**Resolution**") was published in the Official Gazette.

The Resolution established the following:

- The owners of projects committed with Renewable Energy Power Purchase Agreements under the RenovAr Program and under Resolution 202 of the former Energy and Mining Ministry (the "**Projects**"), may adapt the power installed or to be installed and make the relevant modifications in order to meet the reactive power requirements established in Resolution 61/92⁵ of the former Secretariat of Electricity of the Former Ministry of Economy and Public Works and Services.

In this regard, the owners of the Projects must request the authorization of a change of technology to the Undersecretariat of Renewable Energy and Energy Efficiency (under the Secretariat of Renewable Resources and Electricity Market of the Secretariat of Energy). The change in the energy installed or to be installed shall in no event modify the Contracted Power.

- The calculation of the compliance percentage regarding the Declared National Component (DNC) in the plants engaged in power purchase agreements under the RenovAr Program shall be carried out in accordance with the provisions of Resolution 479, dated August 14, 2019, of the Secretariat of Energy.

⁵Resolution 61 dated April 29, 1992, of the former Secretariat of Electricity of the Former Ministry of Economy and Public Works and Services established the Procedures for Operation Programming, Cargo Dispatch and Price Calculation of the Wholesale Electricity Market (WEM).

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