

## **NEWSLETTER ENERGY & NATURAL RESOURCES**

AUGUST 2024



*The energy world is under enormous transformation. Issues such as energy transition, energy security and climate change are in the global agenda. Thanks to its natural resources endowment, Argentina has a key role to play in the energy and mining sector. This newsletter intends to inform, with an analytical approach and on a monthly basis, the most relevant events, regulations, and case law taking place in our country.*

## IN THIS ISSUE

### P.1. HYDROCARBONS

Partial Deferment of Scheduled Adjustments to the Liquid Fuels Tax and Carbon Dioxide Tax

Biofuels: Increase in Mandatory Purchase Prices

ENARGAS dissolves Commissions and Technological Innovation Roundtables

ENARGAS approves new “Methodology and Informative Procedure for Segmentation Levels”

Transitional Tariff Schedules for Public Natural Gas Distribution and Transportation Services

Deregulation of the LPG Market

Sierras Blancas-Allen Pipeline: New Maximum Tariffs for Shippers

### P.2. POWER AND ELECTRICITY

Pais Tax Relief Extended to Renewable Energy Projects

Energy Conversion and Efficiency Program

Definitive Winter Quarterly Rescheduling for the MEM and the MEMSTDF

Adjustment of Power Spot Prices

ENRE: New amendments to the “Power Factor Improvement Program”

### P.3. ENVIRONMENTAL

Province of Neuquén: New Royalty and Fee for the Use of Public Fresh Water for Industrial Purposes

Province of Neuquén: Creation of the Undersecretariat of Climate Change

Province of Chubut: New Regime for the “Sustainable Management of Environmental Liabilities”

Province of Neuquén: Provincial Climate Action Regime

### P.4. CASE LAW

Federal Jurisdiction in Environmental Matters: the Federal Supreme Court rejects federal jurisdiction in environmental case

### P.5. Insights on the Argentine energy industry

New regulations on the Promotional Regime for Large Investments (RIGI)

## GENERAL DEFINED TERMS

“**AFIP**” means Federal Administration of Public Revenues (for its acronym in Spanish of *Administración Federal de Ingresos Públicos*).

“**BCRA**” means Central Bank of Argentina.

“**BNA**” means National Bank of Argentina.

“**CAMMESA**” means Compañía Administradora del Mercado Mayorista Eléctrico S.A.

“**CNG**” means Compressed Natural Gas.

“**ENRE**” means the National Electricity Regulatory Authority (for its acronym in Spanish of *Ente Nacional Regulador de la Electricidad*).

“**ENARGAS**” means the National Gas Regulatory Authority (for its acronym in Spanish of *Ente Nacional Regulador de Gas*).

“**FHL**” means the Federal Hydrocarbons Law N° 17,319, as amended by Laws N° 26,197, 27,007 and 27,742.

“**FSE**” means the Federal Secretariat of Energy.

“**INDEC**” means National Statistics and Census Institute (for its acronym in Spanish of *Instituto Nacional de Estadística y Censos*).

“**LPG**” means Liquefied Petroleum Gas.

“**MEM**” means the Wholesale Electricity Market (after its acronym in Spanish of *Mercado Eléctrico Mayorista*).

“**MEMTDF**” means the Wholesale Electricity Market for the Province of Tierra del Fuego (after its acronym in Spanish of *Mercado Eléctrico Mayorista de Tierra del Fuego*).

“**Omnibus Law**” means Law N° 27,742, named “Law of Bases and Starting Points for the Freedom of Argentines” (“*Ley de Bases y Puntos de Partida para la Libertad de los Argentinos*”).

“**PAIS Tax**” means Tax for an Inclusive and Solidarity Argentina incorporated by Law No. 27,541 of Social Solidarity and Productive Reactivation within the Framework of the Public Emergency.

“**PIST**” means the point of entry into the natural gas transmission system (for its acronym in Spanish of *Punto de Ingreso al Sistema de Transporte*).

“**RIGI**” means Promotional Regime for Large Investments (for its acronym in Spanish of *Régimen de Incentivo para Grandes Inversiones*).

“**SMEs**” means Small and Medium Companies.

## HYDROCARBONS

### PARTIAL DEFERMENT OF SCHEDULED ADJUSTMENTS TO THE LIQUID FUELS TAX AND CARBON DIOXIDE TAX

*By means of Decree No. 770/2024, the Federal Executive deferred the adjustment of the liquid fuels tax and the carbon dioxide tax, which were scheduled to become effective on September 1, 2024.*

Law No. 23,966 (as amended) established fixed amounts in pesos per unit of measurement to determine the tax on liquid fuels and the tax on carbon dioxide. These fixed amounts are updated quarterly by the AFIP, in accordance with Decree No. 501/2018, based on the Consumer Price Index (CPI) published by INDEC.

However, the effects of the increases in the amount of these taxes, resulting from the relevant updates, for unleaded gasoline, straight-run gasoline, and diesel fuel, have been repeatedly deferred until various dates. Please refer to the MHR Energy Newsletter: July 2024 for a detail of the previous updates.

By means of Decree No. 770/2024 ("**Decree 770**"), the Federal Executive partially deferred the effects of the increases that would have become applicable as of

September 1, 2024. As a result, taxes on liquid fuels and carbon dioxide were increase by 5% with respect to the last adjustment, which had been approved by means of Decree No. 681/2024.

Decree 770 also established that the total increase in the tax amounts resulting from the updates corresponding to the fourth calendar quarter of 2023 and the first calendar quarter of 2024, as well as the one originating from the update corresponding to the second calendar quarter of 2024, will take effect with respect to the abovementioned fuels as of October 1, 2024.



**Ariadna Rodriguez**  
ariadna.rodriguez@mhrlegal.com



**Rocío Zorraquín**  
rocio.zorraquin@mhrlegal.com

## BIOFUELS: INCREASE IN MANDATORY PURCHASE PRICES

*The FSE has adjusted the minimum purchase prices for biofuels for mandatory blending with diesel oil and gasoline, reflecting the latest economic conditions.*

Federal Law N° 27,640 (the "**Biofuels Law**") establishes the regulatory framework applicable to processing, storage, marketing and blending of biofuels, which include bioethanol and biodiesel produced in plants installed in the Argentine Republic from domestic raw materials deriving from agriculture, agroindustry and/or organic waste.

Sections 8 and 9 of the Biofuels Law establishes the mandatory blending of a minimum percentage of biofuels into fuels marketed within the Argentine territory: (i) in the case of diesel oil, a minimum of five percent (5%) of biodiesel; and (ii) in the case of gasoline (nafta), a minimum of twelve percent (12%) of bioethanol.

Section 13 of the Biofuels Law sets forth that the price for acquisition of biofuels in order to comply with the abovementioned blending obligation shall be established by the FSE.

On August 7, 2024, the FSE increased the minimum price for the acquisition of biofuels, considering the national macroeconomic context:

- by means of Resolution FSE No. 200/2024, it set the minimum purchase price of bioethanol made from (i) sugarcane for mandatory blending with gasoline is set at ARS 644.525 (approximately USD 0.69) per liter, and (ii) corn for mandatory blending with gasoline is set at ARS 590.730 (approximately USD 0.64) per liter; and
- by means of Resolution FSE No. 201/2024, it set the minimum purchase price of biodiesel for mandatory blending with diesel fuel is set at ARS 965.554 (approximately USD 1.04) per ton.



**Ignacio Martín Gomez**  
ignacio.gomez@mhrlegal.com



**Sofía Baldino**  
sofia.baldino@mhrlegal.com

## ENARGAS DISSOLVES COMMISSIONS AND TECHNOLOGICAL INNOVATION ROUNDTABLES

*The ENARGAS decided to dissolve eight commissions and seven technological innovation roundtables created between 2020-2022, in order to avoid the duplication of*

*functions with other entities specifically established for the same purposes.*

According to the changes occurring within the scope of the ENARGAS and in order to optimize the operational infrastructure for the proper fulfilment of the powers conferred by Law No. 24,076, by means of Resolution No. 451/2024 (“**Resolution 451**”) and Resolution No. 455/2024 (“**Resolution 455**”), ENARGAS decided to dissolve several commissions and technological roundtables created between 2020-2022.

In particular, by means of Resolution 451 ENARGAS abrogated the following Resolutions, in order to the duplication of functions between the following commissions and the User Protection Office (*Gerencia de Protección del Usuario*):

- Resolution ENARGAS No. 40/2020, which created the Commission of Subdistributors of Gas by Networks.
- Resolution ENARGAS No. 51/2020, which created the Commission of SMEs.
- Resolution ENARGAS No. 55/2020, which created the Tenant Users Commission.
- Resolution ENARGAS No. 63/2020, which created the Commission of Public Welfare Entities and its respective sub-commissions.
- Resolution ENARGAS No. 82/2020, which created the Commission of Users Belonging to the National Multisector Network.
- Resolution ENARGAS No. 88/2020, which created the Commission of Users of Recovered Companies – Worker Cooperatives.
- Resolution ENARGAS No. 143/2020, which created the Commission of CNG Dispensers.
- Resolution ENARGAS No. 164/2020, which created the Commission of Elder Users.

Moreover, by means of Resolution 455 ENARGAS abrogated the following Resolutions, in order to the

duplication of functions between the following roundtables and the Office of Innovation and Standardization (*Gerencia de Innovación y Normalización*):

- Resolution ENARGAS No. 377/2020, which created the Technological Innovation Roundtable - Smart Meters.
- Resolution ENARGAS No. 397/2020, which created the Technological Innovation Roundtable – Smart Decal.
- Resolution ENARGAS No. 402/2020, which created the Technological Innovation Roundtable – Air Quality and Home Safety.
- Resolution ENARGAS No. 187/2021, which created the Technological Innovation Roundtable – LNG Storage Technologies.
- Resolution ENARGAS No. 39/2022, which created the Technological Innovation Roundtable – Efficient Gas Use in Homes.
- Resolution ENARGAS No. 90/2022, which created the Technological Innovation Roundtable – Natural Gas Vehicle Technologies.
- Resolution ENARGAS No. 320/2022, which created the Technological Innovation Roundtable – Decarbonization Technologies for Public Gas Service by Networks.
- Resolution ENARGAS No. 404/2020, which created the Operational Regulation for the Technological Innovation Roundtables.



**Candela Sofía Marante**  
candela.marante@mhrlegal.com

## ENARGAS APPROVES NEW “METHODOLOGY AND INFORMATIVE PROCEDURE FOR SEGMENTATION LEVELS”

*ENARGAS modified its segmentation methodology and information requirements for distributors, updating the procedures to ensure compliance with recently established prices and discounts.*

By means of Resolution ENARGAS No. 399/2024, dated August 8, 2024, ENARGAS approved a new “Methodology and Informative Procedure for Segmentation Levels”, along with a new “Sworn Statement for Providers that purchase natural gas on their own behalf” and a new “Sworn Statement for Subdistributors”.

ENARGAS considered that, following the new prices established in Resolution FSE No. 93/2024, it had become necessary to update the mechanism for determining the proportional composition of gas volumes delivered monthly corresponding to each segmentation level and user category.

The purpose of this mechanism is to ensure that, upon invoicing natural gas sales to distributors and/or subdistributors that purchase natural gas directly from the producers, producers awarded under the Gas.Ar Plan and Energía Argentina S.A. (ENARSA) provide information regarding the volumes consumed by each segmentation level in accordance with their proportional composition in the implementation of the new natural gas prices at the PIST, based on the volumes consumed by each user level.



**Santiago Hearne**  
santiago.hearne@mhrlegal.com

**Bautista Sartori**  
bautista.sartori@mhrlegal.com

## TRANSITIONAL TARIFF SCHEDULES FOR PUBLIC NATURAL GAS DISTRIBUTION AND TRANSPORTATION SERVICES

*ENARGAS approves new Transitional Tariff Schedules for the providers of public natural gas distribution services to be applied as of August 1, 2024.*

On August 2, 2024, the ENARGAS issued Resolutions ENARGAS No. 411/2024, 412/2024, 413/2024, 414/2024, 415/2024, 416/2024, 417/2024, 418/2024, 419/2024, 420/2024, 421/2024, and 422/2024 (jointly, the "**Resolutions**").

Under the framework of Natural Gas Law No. 24,076 and the Federal Decree No. 55/2023, the ENARGAS was empowered to carry out a tariff review process for the providers of public natural gas distribution and transportation services, including by implementing any necessary transitional tariff adjustment.

The Resolutions, therefore, approved the Transitional Tariff Schedules, included in their respective annexes, to be applied by Transportadora de Gas del Sur S.A., Transportadora de Gas del Norte S.A., Metrogas S.A., Camuzzi Gas del Sur S.A., Naturgy Ban S.A., Distribuidora de Gas Cuyana S.A., Distribuidora de Gas del Centro S.A., Gasnor S.A., Gas Nea S.A., Litoral Gas S.A., Camuzzi Gas Pampeana S.A., y Redengas S.A.



**Santiago Hearne**  
santiago.hearne@mhrlegal.com



**Rocío Zorraquín**  
rocio.zorraquin@mhrlegal.com

## UPDATES IN THE NATURAL GAS PRICING FRAMEWORK

*The FSE established new prices for gas at the PIST, effective from August 1, 2024. This measure, which aims to ensure the sustainability of the energy sector, also includes instructions for updating contracts and billing, while maintaining discounts for low- and middle-income households.*

By means of Resolution FSE No. 191/2024 ("**Resolution 191**"), dated August 2, 2024, the FSE approved the PIST natural gas prices calculated by the ENARGAS, as part of the ongoing efforts to stabilize and restructure energy subsidies in Argentina and enhance the efficiency of the natural gas pricing framework.

Resolution 191 builds on the legal framework established by the FHL and Law No. 24,076, which establish national policies on hydrocarbon activities and mandate the incorporation of PIST natural gas prices to consumer tariffs. Additionally, to promote natural gas production, Decree No. 892/2020 (as amended) approved the "Federal Hydrocarbon Production, Self-Sufficiency, Export, Import Substitution, and Transportation System Expansion Plan 2023-2028" ("Gas.Ar Plan").

Resolution 191 establishes the new PIST prices and states that ENARSA, gas producers, and distributors/subdistributors must adjust their agreements to reflect the newly established prices.

Resolution 191 also makes significant adjustments in the structure of energy subsidies, following the guidelines of Resolution FSE No. 91/2024, and aligns with the transition period for the amendment of energy subsidies established by Decree No. 465/2024, ensuring that final users have access to essential energy consumption.

ENARGAS is instructed to ensure that the gas distribution and subdistribution tariffs reflect the new PIST prices and applicable subsidies.



**Santiago Hearne**  
santiago.hearne@mhrlegal.com



**Bautista Sartori**  
bautista.sartori@mhrlegal.com

## DEREGULATION OF THE LPG MARKET

*The FSE deregulated the maximum reference prices applicable to the liquefied petroleum gas (LPG) market and replaced them with reference prices, without a cap, to promote competitiveness and investments.*

The Argentine energy market is seeing new waves of deregulation. Through Resolution 216/2024 (the "**Resolution**"), the FSE has further liberalized the commercialization of Liquefied Petroleum Gas ("**LPG**"), ending nearly a decade of price controls, originally established by Resolution 70/2015 ("**Resolution 70**"), on LPG designated for residential supply in the domestic market.

Published in the Official Gazette on August 19, 2024, the Resolution eliminates the "maximum reference prices" previously set for the bottling, distribution, and retail sale of LPG cylinders. Instead, it establishes "reference prices" that serve as guidelines rather than strict caps, allowing businesses to adjust their prices in line with cost variations.

With this measure, the FSE seeks to enhance economic efficiency within the LPG market and stimulate private investment, thereby *elevating the local LPG market to international standards*, according to the Resolution.

The Resolution also revises the annexes of Resolution 70, setting the following reference prices for 10kg, 12kg, and 15kg cylinders:

CARAFE SIZE	REFERENCE PRICE
10Kg Carafe	\$8.500 (Approximately 9 USD)
12 Kg Carafe	\$10.200 (Approximately 11 USD)
15 Kg Carafe	\$12.750 (Approximately 14 USD)

Similarly, the Resolution sets new reference prices for butane and propane producers:

TYPE OF LPG	REFERENCE PRICE
Butane	\$240.000 (Approximately 258 USD)
Propane	\$240.000 (Approximately 258 USD)

Furthermore, the Resolution also assigns quotas that LPG producers must sell to bottlers, ensuring that 10kg, 12kg, and 15kg cylinders are available to meet domestic market demand, in accordance with the provisions of Resolution 70.



**Guillermo Re**  
guillermo.re@mhrlegal.com



**Marco Primo**  
marco.primo@mhrlegal.com

## SIERRAS BLANCAS-ALLEN PIPELINE: NEW MAXIMUM TARIFFS FOR SHIPPERS

The FSE approved a new maximum tariff applicable to shippers for the transportation of liquid hydrocarbons through the "Sierras Blancas - Allen" pipeline.

By means of Resolution FSE No. 219/2024 ("**Resolution 219**"), dated August 16, 2024, the FSE approved the maximum tariff applicable to shippers for the transportation of liquid hydrocarbons through the "Sierras Blancas - Allen" pipeline (the "**Pipeline**"), across the Provinces of Neuquén and Rio Negro. The maximum tariff was established at USD 6.92 per cubic meter (m<sup>3</sup>), plus VAT. Such tariff will be in effect for five (5) years as from August 16, 2024.

The Resolution 219 also establishes that carriers:

(i) may not charge higher rates than those approved by Resolution 219;

(ii) shall report annually, during the month of June, the rates effectively applied to their shippers for the transportation of liquid hydrocarbons through the Pipeline; and

(iii) shall submit the transportation contracts entered into with each shipper, certified by notary public.



**Mariana I. Cony Etchart**  
cony.etchart@mhrlegal.com



**Nicolás Cantero**  
nicolas.cantero@mhrlegal.com

## POWER AND ELECTRICITY

### PAIS TAX RELIEF EXTENDED TO RENEWABLE ENERGY PROJECTS

By means of Resolution FSE 195/2024, the FSE expanded the list of beneficiaries entitled to a reduction in the PAIS Tax, to include certain renewable energy projects.

By means of Decree No. 99/2019 the Federal Executive implemented the PAIS Tax (created by Law No. 27.541), which applies to various financial transactions, including the purchase of foreign currency by residents.

Thereafter, by means of Decree No. 377/2023, the Federal Executive updated the scope of the PAIS Tax, specifically excluding certain operations related to the import of goods covered by the Mercosur Common Nomenclature. Notably, this exclusion applied to import of goods related to energy generation, subject to further regulation by the FSE.

The FSE regulated the exemption by means of Resolution FSE No. 714/2023, which established that the exemption

applied to the imports of goods intended for electricity generation projects regardless of whether the importing party had external financing for the payment of said imports.

Thereafter, by means of Resolution FSE No. 195/2024, the FSE expanded the list of beneficiaries to include certain solar and wind projects, and a small hydropower facility.

Most recently, the Minister of Economy announced a general reduction of the PAIS Tax starting on September 1, 2024, from 17,5% of the value of imported goods, to 7,5%.



**Ariadna Rodríguez**  
ariadna.rodriguez@mhrlegal.com



**Rocío Zorraquín**  
rocio.zorraquin@mhrlegal.com

## ENERGY CONVERSION AND EFFICIENCY PROGRAM

*The FSE created the Energy Conversion and Efficiency Program.*

By means of Resolution FSE No. 192/2024, dated August 2, 2024 ("**Resolution 192**"), the FSE approved the definitive winter quarterly rescheduling for the MEM and the MEMTDF, as proposed by CAMMESA. This measure covers the period extending from August 1, 2024, to October 31, 2024 (the "**Period**").

Resolution 192 establishes the application, during the Period, of the Power Reference Prices (*Precios de Referencia de la Potencia*, "**POTREF**") and the Electric Energy Stabilized Price (*Precio Estabilizado de la Energía Eléctrica*, "**PEE**") specified in Annexes I and II, for the demand of electric energy quoted by the Distributing Agents and/or Public Distribution Service Providers, for the MEM (in the case of Annex I) and the MEMSTDF (Annex II).

In addition, Annex IV sets forth the values of the Electric

Energy Public Transportation Service for High Voltage and Trunk Distribution (*Servicio Público de Transporte de Energía Eléctrica en Alta Tensión y por Distribución Troncal*), for each distribution agent of the MEM.

Finally, Annex III establishes the prices without subsidy for the current quarter, which must be applied by the distributors and state in the users' invoices the amount of the corresponding subsidy. This subsidy shall be identified as "*Subsidio Estado Nacional*", as established in Resolution FSE No. 137/1992.



**Guillermo Re**  
guillermo.re@mhrlegal.com



**Marco Primo**  
marco.primo@mhrlegal.com

## ADJUSTMENT OF POWER SPOT PRICES

*The FSE approved the maximum spot prices for the MEM.*

By means of Resolution FSE No. 193/2024 ("**Resolution 193**"), dated June 14, 2024, the FSE approved new updated maximum spot prices of electricity for each energy source in the MEM, with the aim of updating power prices to economically reasonable and efficient conditions, within the framework of the reduction in inflation achieved by the Federal Government.

Resolution 193 was issued as part of a general policy to guide the regulatory process that will gradually organize the National Electric Sector towards mechanisms that ensure efficiency in generation costs and their associated remuneration regarding energy and capacity not committed under contracts, promoting a regime of greater freedom and competition in the MEM, in which supply and demand

carry out transactions, under the protection of rules that establish an autonomous, competitive and sustainable operation from an economic standpoint.

Resolution 193 updates maximum spot prices, which had been previously adjusted by means of Resolution FSE No. 99/2024 (see *MHR Energy Newsletter: June 2024*). The updated maximum spot price will be of ARS 9,606/MWh (approximately USD 10,3).



**Ignacio Martín Gomez**  
ignacio.gomez@mhrlegal.com



**Sofía Baldino**  
sofia.baldino@mhrlegal.com

## ENRE: NEW AMENDMENTS TO THE "POWER FACTOR IMPROVEMENT PROGRAM"

*The ENRE introduces modifications to the "Power Factor Improvement Program" applicable to EDENOR and EDESUR in relation to the requirements for the application of a tariff surcharge in the event of deviations from the values established recently.*

By means of Resolution ENRE No. 544/2024 ("**Resolution 544**"), the ENRE specified technical criteria for the implementation of the "Power Factor Improvement Program" (the "**Program**"), which ENRE had introduced in February 2024 by means Resolution ENRE No. 85/2024 ("**Resolution 85**"), as amended by means Resolution No. ENRE 222/2024 ("**Resolution 222**"). Among these specifications are the requirements for EDENOR S.A. and EDESUR S.A. (the "**Distributors**") to apply a surcharge for failing to meet the minimum allowable threshold, set at 0.95. Please refer to the *MHR Energy Newsletter: February-March 2024* for a description of Resolution 85, and to the *MHR Energy Newsletter: April 2024* for a description of Resolution 222.

The power factor measures the efficiency of electricity use on a scale from 0 to 1, where 1 represents excellent efficiency. The lower the power factor falls below the 0.95 limit, the greater the energy loss and, consequently, the damage it causes to installations and electrical grids.

To avoid both of these issues, the Program established by ENRE requires residential users in tariff categories T1 (small demands), T2 (medium demands), and T3 (large demands) to install capacitors that stabilize energy consumption, especially during demand peaks. This regulation also allows the Distributors to charge a 'deviation surcharge' for exceeding the mentioned threshold.

According to Resolution 544, the Distributors may jointly apply this surcharge in buildings with a common general connection that supplies all co-owners, but only after they install meters – at their own expense – capable of distinguishing between the energy actually consumed

(called “active energy”) and that which does not perform any work (called “reactive energy”). Conversely, they must stop applying the joint surcharge in buildings where smart meters are installed, which can record the same difference for each functional unit: in this case, the surcharges will affect the billing of each apartment or business in the building, including the condominium association’s account for common services.

The deviation surcharge will be applied proportionally to the deviation for values between 0.85 and less than 0.95 in all tariff categories, according to the following schedule:

- 30% of the total surcharge value, starting October 1, 2024;
- 60% of the total surcharge value, starting May 1, 2025;
- 100% of the total surcharge value, starting December 1, 2025.

Resolution 544 states that, for tariff categories T2 (medium demands) and T3 (large demands), the surcharge will apply to energy and power actually acquired, excluding the charge for contracted capacity.

Finally, the deviation surcharge, whether individual or joint, applicable in all tariff categories, may not exceed 40% of the net subtotal of charges for a given month, including the “Deviation Surcharge for Cosine (phi),” before the application of contributions and taxes.

Through the Power Factor Improvement Program, ENRE aims to address the needs of a system that is at the limit of its capacity and is overwhelmed during periods of high demand. The implementation of this initiative is intended to allow for the recovery of capacity in cables and transformers, a reduction in service outages, a decrease in power and energy losses in distribution networks, fewer voltage drops in the grids, and an extension of the useful life of installations due to lower load and heating.



**Ignacio Martín Gomez**  
ignacio.gomez@mhrlegal.com



**Sofía Baldino**  
sofia.baldino@mhrlegal.com

## ENVIRONMENTAL

### PROVINCE OF NEUQUÉN: NEW ROYALTY AND FEE FOR THE USE OF PUBLIC FRESH WATER FOR INDUSTRIAL PURPOSES

*The Undersecretariat of Water Resources of the Province of Neuquén approves new values for Water Royalties and the fee for use of public fresh water for industrial purposes.*

By means of Disposition No. 341/24, dated August 30, 2024, the Undersecretariat of Water Resources of the Province of Neuquén approved the new values of the coefficient applicable to the polynomial formula set forth by Disposition No. 9/2023 for the calculation of: (i) the Water Royalty; and (ii) the fee for use of public fresh water for industrial purposes.

Pursuant to the Disposition, as from September 1, 2024, the coefficient applicable to the polynomial formula for the calculation of the Water Royalty shall be AR\$ 115.91 (approximately USD 0.12) per cubic meter of extracted water, while the coefficient applicable to the polynomial

formula for the calculation of the fee for use of public water for industrial purposes shall be AR\$ 547.91 (approximately USD 0.57) per cubic meter of extracted water.

Comparatively, this change represents a 17,14% increase compared to the values set forth by the former Disposition UWR No. 124/2024, enacted four months ago, and is in line with the increase in the prices of Grade 3 Diesel, which is used as a benchmark for updating these amounts.



**Mariana I. Cony Etchart**  
cony.etchart@mhrlegal.com



**Nicolás Cantero**  
nicolas.cantero@mhrlegal.com

### PROVINCE OF NEUQUÉN: CREATION OF THE UNDERSECRETARIAT OF CLIMATE CHANGE

*The Province of Neuquén established a new Undersecretariat of Climate Change.*

By means of Decree No. 840/2024 (“**Decree 840**”), dated July 27, 2024, the Executive Branch of the Province of Neuquén established a new Undersecretariat of Climate Change, within the framework of the Secretariat of Environment of the Ministry of Energy and Natural Resources (“**MENR**”), which shall be tasked with implementing relevant policies and developing plans,

programs and projects related to climate change and sustainable development.



**Nicolás Cantero**  
nicolas.cantero@mhrlegal.com



**Mariana I. Cony Etchart**  
cony.etchart@mhrlegal.com



## PROVINCE OF CHUBUT: NEW REGIME FOR THE “SUSTAINABLE MANAGEMENT OF ENVIRONMENTAL LIABILITIES”

*The Province of Chubut passed a comprehensive regulatory framework for managing environmental liabilities, setting new standards for the identification, reporting, and remediation of environmental damage caused by human activities, with significant implications for ongoing and future operations.*

On August 5, 2024, the Province of Chubut (the “**Province**”) published Law XI No. 85 on the “Sustainable Management of Environmental Liabilities” (the “**Law**”). The Law provides a comprehensive framework for the identification, registration, and remediation of environmental liabilities resulting from human activities. Shortly after its publication, the Province issued Decree No. 1218/2024 (the “**Regulatory Decree**”), which provided further clarity regarding certain key aspects of the Law.

The Law introduces crucial definitions, most notably (a) the term “*environmental liability*”, which is defined as all environmental damage resulting in a negative impact on the biota, water, soil, subsoil, atmosphere, natural resources, ecosystems, landscape, and historical-cultural heritage caused by any public or private activity, posing a permanent or potential risk to public health, the surrounding ecosystem, and property, where the source of such contamination is an abandoned, inactive, transferred, or ceased activity by the responsible party; and “*environmental impact*”, which is defined as any significant alteration that negatively modifies the environment, its resources, ecosystem balance, or collective assets or values.

This Law is of particular importance to any person conducting activities involving the exploitation of natural resource within the Province.

In that regard, the Law sets forth that, in the event of the final cessation of activities or concession transfers, the operator must submit an environmental closure audit (the “**Closure Audit**”) for review by the Secretariat of Environment and Sustainable Development Control (the “**Enforcement Authority**”).

After submitting the Closure Audit, a specific environmental plan detailing the methodology for resolving generated

liabilities and a timeline for remediation tasks must be submitted (the “**Environmental Plan**”), which will be evaluated and approved by the Enforcement Authority. In the event of the transfer or assignment of the establishment, operation, or concession, the transferor is required to present the Closure Audit, while in the event of the final cessation of activities the Environmental Plan must be submitted by the operator. The Regulatory Decree outlines the minimum content requirements for the Environmental Plan that transferees of hydrocarbon blocks must submit. Additionally, in cases of partial block transfers, the Enforcement Authority may waive the requirement for submitting an Environmental Plan.

In cases of transfer or assignment of the establishment, operation, or concession, the lack of approval of the Closure Audit and the Specific Environmental shall result in the joint liability between the transferor and transferee. Contractual clauses that exempt the transferor from responsibility for environmental liabilities, or that assign such responsibility to the transferee, without approval from the Enforcement Authority, will not be enforceable against the Province.

Administrative sanctions for violations of the established regime include (i) warnings, (ii) fines of up to 3,000,000 liters of grade three diesel fuel, (iii) the suspension or revocation of permits, concessions, or licenses, as applicable, (iv) temporary or permanent, partial or total closure of the establishment, and (v) Permanent cancellation of authorizations and registrations.

Finally, the law created the Provincial Registry of Environmental Liabilities, which will operate under the Enforcement Authority. The competent authorities of the various jurisdictions will provide information corresponding to their territorial jurisdiction and verify its inclusion in the registry, which will be publicly accessible.



**Guillermo Re**  
guillermo.re @mhrlegal.com

## PROVINCE OF NEUQUÉN: PROVINCIAL CLIMATE ACTION REGIME

*Neuquén passes new environmental law with the objective of solidifying the Province's commitment to climate action.*

By means of Provincial Law No. 3454 (the “**Law**”), dated August 30, 2024, the Province of Neuquén outlined a comprehensive framework for addressing climate change through coordinated, science-based actions, ensuring environmental protection, economic development, and social equity.

To that effect, the Law sets principles, instruments, and strategies for integrating climate action into public policies, in accordance with Federal Law No. 27,520, which established minimum standards for the adaptation and mitigation of global climate change.

The key objectives of the Law include promoting a low-carbon development model, enhancing resilience, protecting ecosystems, ensuring the well-being of residents, especially vulnerable groups, encouraging renewable energy transitions, and promoting public participation, research, and education.

The Law requires the Secretariat of Environment of the Province of Neuquén (the “**Enforcement Authority**”) to develop a Provincial Climate Action Plan, which must be updated every five (5) years, integrating climate risk management, mitigation, and adaptation strategies.

A Provincial Climate Action Cabinet will coordinate efforts to implement the Provincial Climate Action Plan and related

public policies across government sectors, and an Advisory Council involving various stakeholders will provide guidance and recommendations. Government sectors are required to implement the Cabinet's resolutions and report on their progress.

Additionally, a Climate Action Fund is created to finance the implementation of the Provincial Climate Action Plan through annual budget allocations, donations, and international funds.

The Law also establishes mechanisms for regular environmental monitoring and evaluation, including the

development of a provincial greenhouse gas inventory, risk maps, and baseline studies on climate variability. It also emphasizes collaboration with national and international bodies and requires municipalities to create local climate action policies.



**Rocío Zorraquín**  
rocio.zorraquin@mhrlegal.com

## CASE LAW

### FEDERAL JURISDICTION IN ENVIRONMENTAL MATTERS: THE FEDERAL SUPREME COURT REJECTS FEDERAL JURISDICTION IN ENVIRONMENTAL CASE

*The Federal Supreme Court reversed a ruling by the Federal Court of Appeals of General Roca which had accepted federal and original jurisdiction to hear in an environmental case.*

The Mapuche Community “Lof Wirkaleo”, the “*Fundación Ambiente y Recursos Naturales*”, and residents of the Province of Neuquén filed a lawsuit against the Province of Neuquén (the “**Province**”) before the Federal Justice of Neuquén with the purpose of obtaining: (i) an order requiring the Province to conduct environmental impact studies and hold public hearings, prior consultation with the native communities potentially affected by hydrocarbon activities; (ii) an order requiring that, until such environmental impact studies and public hearings are completed, holders of unconventional hydrocarbon exploitation permits include in their environmental impact statements all impacts associated caused by this activity and include measures to prevent induced seismicity; and (iii) a declaration of unconstitutionality with respect to Resolution No. 54/2021 of the Ministry of Energy of the Province of Neuquén, which approved a Seismic Monitoring Program. They argued that if unconventional exploitation continues without proper regulation governing the effects of induced seismicity and without a seismographic network, there will be collective, serious and irreparable environmental damage to the communities in the area.

The lower Federal Court of Neuquén declared itself incompetent, arguing that the local courts should hear the case. The Federal Court of Appeals of General Roca (the “**Court of Appeals**”) reversed this decision and declared the original jurisdiction of the Federal Supreme Court to hear the case, based on (i) the potential interjurisdictional nature of the alleged events, since the alleged harmful effects of fracking could extend beyond the provincial

border, and (ii) the federal interest of the alleged environmental damage of collective incidence.

On August 13, 2024, the Federal Supreme Court reversed the Court of Appeals' decision and rejected its original jurisdiction to hear the case. The Supreme Court based its decision on the following arguments:

- Federal jurisdiction on environmental matters applies when an environmental resource or a geographic area that extends beyond provincial borders is involved, therefore involving multiple jurisdictions.
- The actual involvement of multiple jurisdictions in a single case must be interpreted in a restrictive manner. In this case, the degrading factor alleged by the plaintiffs could be located within the jurisdiction of the Province of Neuquén, just as the environment for which protection was sought. The mere fact that the Vaca Muerta formation extends beyond provincial borders is not enough to consider that the alleged damage extends across multiple jurisdictions. In that regard, no evidence was provided that the unconventional hydrocarbon exploitation in the blocks near Sauzal Bonito and Añelo have a negative impact in terms of seismicity in other jurisdictions.
- The protection of the environment is the responsibility of the Province that exercises authority in each jurisdiction.



**Milagros Sanguinetti**  
milagros.sanguinetti@mhrlegal.com



**Nayla Tudisca**  
nayla.tudisca@mhrlegal.com

## INSIGHTS ON THE ARGENTINE ENERGY INDUSTRY

### NEW REGULATIONS ON THE PROMOTIONAL REGIME FOR LARGE INVESTMENTS (RIGI)

By means of Law No. 27,743 (referred to as “*Law of Bases and Strating Points for the Freedom of Argentines*”, hereinafter, the “**Omnibus Law**”), published in the Official Gazette on July 8, 2024, the Federal Government introduced the “Promotional Regime for Large Investments” (“**RIGI**”, after its acronym in Spanish).

The RIGI is a federal regime that aims to attract large-scale investment projects in the forestry, tourism, infrastructure, mining, technology, steel, energy, oil, and gas industries.

These incentives include tax, customs, and foreign exchange (“**FX**”) benefits, with a guarantee of regulatory, customs, fiscal and FX stability for up to 30 years counted as from each project’s accession date to the RIGI. Additionally, the RIGI guarantees the unrestricted availability of project production (including exports), protection against confiscation and expropriation, and the uninterrupted operation of the projects.

The following is a summary of the latest developments regarding the implementation of the RIGI at the Federal and Provincial Level:

▪ On August 23, 2024, the Federal Executive issued Decree No. 749/2024 (“**Regulatory Decree**”), which approved the implementing regulations of the RIGI. The following is a summary of the main provisions of the Regulatory Decree:

- It limits the scope of the RIGI to certain sub-sectors within the industries included in the RIGI and establishes the minimum investment amounts for each of them.
- It provides clarifications on certain investments that may be considered to determine if the minimum investment amounts have been met.
- It provides clarifications and regulates details regarding the various incentives and benefits granted under the RIGI.
- It establishes the participation and benefits granted to suppliers of Projects admitted to the RIGI.

- It regulates the implementation of the RIGI with regards to existing entities and the expansion of pre-existing projects.

- It establishes additional procedural regulations regarding dispute resolution mechanisms for controversies under the RIGI.

- It requires other authorities (including the Argentine Central Bank, the Argentine Tax Authority, and other government offices) to issue complementary regulations to implement the provisions of the Omnibus Law within thirty (30) calendar days following its publication.

- On August 8, 2024, the Province of Jujuy issued Law No. 6409, by means of which the Province adhered to the RIGI.

- On August 22, 2024, the Province of San Juan issued Law No. 2671-I, by means of which the Province adhered to the RIGI.

- On August 27, 2024, the Province of Mendoza issued Law No. 9567, by means of which the Province adhered to the RIGI.

- On August 29, 2024, the Province of Chubut issued Law No. IX-171, by means of which the Province adhered to the RIGI. However, the Province excluded mining activities from the scope of the RIGI in the Province, as the same remain prohibited under Provincial Law No. XVII-68 (formerly, Law No. 5001).



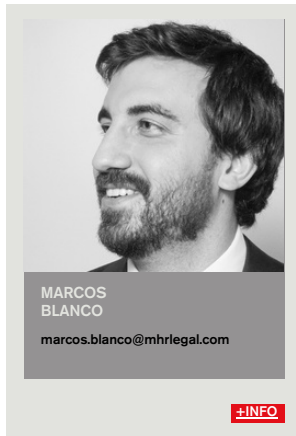
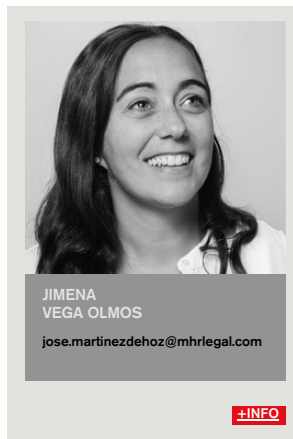
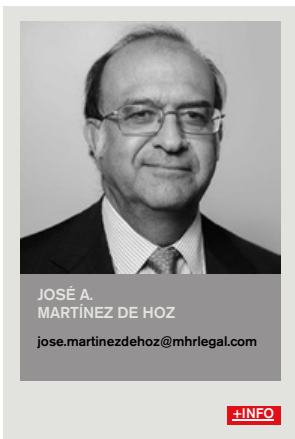
**Ignacio Martín Gomez**  
ignacio.gomez@mhrlegal.com



**Ariadna Rodríguez**  
ariadna.rodriguez@mhrlegal.com

# MEET OUR PARTNERS

For your further inquiries the following contact partners are available:



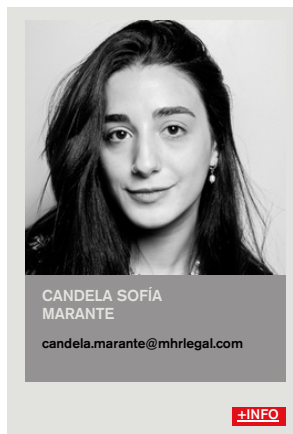
## EDITOR-IN-CHIEF



## EDITOR-IN-CHIEF



## EDITOR-IN-CHIEF



## CO-EDITOR

