

Energy Regulatory Commission modifies requirements related to the modification and transfer of permits

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On January 17, 2024, the Energy Regulatory Commission ("CRE") published the resolution number A/062/2023 (the "Resolution") which modifies resolution number RES/390/2017 that provides the General regulations that set forth the terms and conditions to request the authorization for the amendment or transfer of energy generation and supply permits (the "Regulations").

The Resolution imposes additional requirements to request the amendment or transfer of electricity generation, supply, import and export permits, in comparison to those originally provided for in the Regulations.

The Resolution introduces, among others, the following requirements to apply for a modification of an electricity permit:

- A. Concerning any type of modification, permit holders must be up-to-date in the compliance of all their obligations set forth in the corresponding permit or authorization, and the CRE may issue formal requests to verify such compliance status. In addition, in the event that the permit holder is a legal entity, it must submit the corporate structure or capital stock up to the level of natural persons, indicating the companies in which the shareholders of the permit holder have a stake and that participate in regulated activities in the energy sector or that have permits in this area.
- B. For the modification of the construction schedule, as well as for any modification related to power plants that have not yet started their operation regarding permits granted under the Electricity Industry Law, the progress in the work program foreseen in the permit must be evidenced. Likewise, reliable information must be submitted that allows the CRE to corroborate that the development activities were initiated within a three-month term in relation to the original program and that they were not suspended for an equivalent term.

Additionally, the term will be evaluated by the CRE and may imply modifications or restrictions, and its approval will be subject to the term being in accordance with the sectorial Plans and Programs.

- C. Regarding modifications in the characteristics of the power plant, a technical justification must be submitted detailing the reasons why the change of the generation equipment authorized or to be installed is considered necessary.

For interconnection capacity increases, it will also be necessary to submit the System Impact Study issued by the National Center of Energy Control.

- D. In the event that a modification is requested due to a merger or spin-off of the permit holder with respect to permits granted under the Electricity Industry Law, the merger or spin-off deed duly registered with the Public Registry of Commerce must be submitted within 30 business days after the merger or spin-off takes effect. On this point, it is not clear what would be the purpose of the modification request, or if it is rather a requirement applicable in the case of a permit transfer.
- E. Regarding modifications to the power plant of permits granted under the Electricity Industry Law, the applicant must file evidence of having submitted to the Ministry of Energy the request for a social impact assessment or its modification when there are changes derived from the modification with respect to what was submitted for the granting of the permit.
- F. For all types of modifications to permits granted under the Electricity Industry Law, documentation must be submitted that proves the technical and financial capacity of the applicant or the business group to which it belongs, even if there are no changes derived from the modification with respect to what was presented for the granting of the permit, as well as the business plan where the total investment program is included.

For the transfer of permits, the following requirements, among others, are established:

- A. The assignor and assignee must jointly request the assignment before the CRE.
- B. With respect to the assignee, the corporate structure up to natural persons must be submitted, specifying whether the assignee has other permits, participation in other companies or links with other permit holders.
- C. Likewise, regarding permits granted under the Electricity Industry Law, compliance with the business plan must be evidenced; and the assignee must prove its legal, technical and financial capacity and submit audited financial statements for the last two years, instruments that ensure the financing of the necessary investment and an updated business plan.

You may access the full text of the Resolution (in Spanish) [here](#).

Should the Resolution affect your rights or should you require advice on a request for modification or transfer of a permit, please do not hesitate to contact our expert team in Energy and Infrastructure.

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