

## CHAPTER VI

# AMENDMENT OF THE REGASIFICATION CODE

### VI.1 GENERAL PRINCIPLES

#### VI.1.1 Automatic modification for mandatory rules

Pursuant to articles 1339 and 1419, sub-section II of the Italian civil code, the Regasification Code and each Capacity Agreement shall be deemed to be automatically modified and/or supplemented to reflect any mandatory rules provided from time to time by any Regulations.

#### VI.1.2 Amendments

The following provisions of this chapter VI describe the procedure that will be followed by the Operating Company in the event that it will be necessary to amend and/or supplement the provisions of the Regasification Code in order to:

- (a) conform the Regasification Code to any mandatory rules provided by any Regulations which are partly or wholly incompatible with the Regasification Code and which do not automatically amend and/or supplement the Regasification Code pursuant to articles 1339 and 1419, sub-section II, of the Italian civil code;
- (b) conform the Regasification Code to new technical or market conditions;
- (c) correct material errors within the text of the Regasification Code; or
- (d) render the operation of the Terminal more efficient in light of the experience acquired while providing the Service, particularly during the course of the Start-up Period.

Proposed amendments shall be prepared by the Operating Company, including those in light of the requests given by the entitled subjects, according to the procedures indicated below. The proposed amendments, together with the opinion of the Consultation Committee, shall be filed with the ARERA in order for it to verify the compliance with the criteria for the preparation of regasification codes and with the general objectives relating to the access and use of LNG regasification plants.

The procedure described below is aimed at:

- (a) allowing the participation of the entitled subjects in the dynamic process for the update of the Regasification Code;
- (b) ensuring that the proposed amendments are consistent with the fundamental principles of the Regasification Code and aid in an effective process;
- (c) ensuring the implementation of the amendments adopted with a timing that is compatible with:
  - (i) the level of technical complexity;
  - (ii) the operational challenges that might be encountered by the Operating Company during the course of the Start-up Period;

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- (iii) the need to modify the operating processes in place at the Terminal; and
- (iv) the investments which are necessary for the implementation of the adopted amendments.

## **VI.2 REQUESTS FOR THE AMENDMENT**

### **VI.2.1 Subjects entitled to submit requests for the amendment of the Regasification Code**

The subjects who are entitled to submit requests for the amendment of the Regasification Code are:

- (a) The Users on an individual or associated basis ; and
- (b) The other companies (transport and storage) and the associations of distribution companies, limited to issues in which they are directly involved.

Such requests must be submitted to the Operating Company by registered letter anticipated via fax to the addresses indicated on its Electronic Communications System, in accordance with the timeframe indicated below, and can also be forwarded to the Consultation Committee, where appropriate.

### **VI.2.2 Requirements for the admissibility of the requests**

In order to be declared admissible by the Operating Company, each request shall:

- (a) include the information regarding the subject giving the notice (the company, the registered office, etc.) and at least one reference person to be contacted in connection with the request at issue (name, telephone number, fax number and e-mail);
- (b) contain a brief description of the nature of the amendment request;
- (c) indicate the reasons why the subject submitting the request is of the opinion that the amendment should be adopted;
- (d) file any further documentation (analysis, reports, etc.) supporting the amendment;
- (e) indicate a deadline for the entry into force of the request, which cannot be earlier than the sending of the request.

### **VI.2.3 Declaration of admissibility**

The Operating Company shall verify the compliance of the notice with the requirements set out in clause VI.2.2 within 3 (three) Business Days from its receipt. Should one or more of those requirements not be met, the Operating Company shall request the subject who has submitted the request to correct the deficiencies, it being understood that the correction shall be made – under penalty of non admissibility of the same – within 3 (three) Business Days from the request. The period of 20 (twenty) Business Days referred to in Article VI.2.4 will start following the receipt of the request containing the correction of the deficiencies required by the Operating Company.

In the event that the Operating Company does not express its opinion on the submitted request

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within 3 (three) Business Days either from the date of the service of the request or of receipt of the requested supplement, the request will be considered admissible.

#### **VI.2.4 Assessment of the request**

If the verification of admissibility, as provided in Article VI.2.3 above, is successful, the Operating Company shall review and evaluate the request based on the following criteria:

- (a) the consistency of the amendments with the Regulations and with the principles of the Regasification Code;
- (b) the modalities through which such proposals contribute to the improvement of the functionality of the Regasification Code; and
- (c) the operational implications on the LNG regasification activity and/or the Service, also in terms of time for the adaptation and costs generated.

During the assessment process, the Operating Company may request additional information and/or clarifications from the subject who has submitted the request.

The requests in relation to which the Operating Company has expressed a positive evaluation will become proposals for the amendment of the Regasification Code.

If the request is rejected, the Operating Company will make the request available to the ARERA within 20 (twenty) days after receipt by the Operating Company of the modification request that is considered admissible, together with a report outlining the reasons why the Operating Company has decided not to submit it to public consultation. However if the ARERA finds reason to submit the change request to consultation, the Operating Company will initiate the process for consultation within 15 (fifteen) days from the date of a special notice to that effect by the ARERA, by notifying the individual concerned.

### **VI.3 PROPOSALS FOR THE AMENDMENT OF THE REGASIFICATION CODE**

#### **VI.3.1 Preparation of the proposals for the amendment**

The proposals for the amendment of the Regasification Code shall be prepared by the Operating Company pursuant to article 15, section 2, of ARERA Resolution no. ARG/gas 55/09 of 7 May 2009, also on the basis of the requests submitted by the entitled subjects, for which a positive evaluation has been expressed. The proposals for amendment shall:

- (a) contain a brief description of the nature of the amendment, indicating the grounds on which the Operating Company bases its decision to adopt the amendment;
- (b) indicate the clauses and chapters of the Regasification Code which are affected by the proposal, together with the amendments to be made to the text of the Regasification Code;
- (c) be accompanied by any documentation (analysis, reports, etc.) which support the need for adopting the proposed amendment;
- (d) indicate a date on which the proposed amendment should become effective.

The Operating Company shall also assign to each proposal a reference number and it will register

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the proposal in the relevant registry, which shall be kept at the registered office of the Operating Company and be available for consultation by anyone who requests to do so.

### **VI.3.2 Consultation on the proposed amendment**

The Operating Company shall file the proposals for amendment with the Consultation Committee, in accordance with article 3 of ARERA Resolution no. ARG/gas 55/09 of 7 May 2009, its opinion in that respect.

Contemporaneously with the filing of the proposal for amendment with the Consultation Committee, the Operating Company shall publish the proposal for amendment on the Electronic Communication System, in order to enable all interested parties to formulate their own comments on the proposal.

The proposed amendment prepared by the Operating Company in accordance with the decrees, resolutions or other measures issued by the competent authority will be published on the Electronic Communication System within 15 (fifteen) days from the publication of the measure unless the measure itself does not provide a different deadline.

Operating Company may propose amendment at any time of the Thermal Year.

The consultation period lasts:

- a. 45 (forty five) days, or
- b. 30 (thirty) days if the proposed amendment prepared by the Operating Company in accordance with decrees, resolutions or other measures issued by the competent authority, unless the measure provides a deadline

### **VI.3.3 Filing with the Regulatory Authority for Energy Networks and Environment of the proposal for amendment**

Within 20 (twenty) days from the end of the process described under clause VI.3.2 above, the Operating Company, in order to allow the compliance assessment and pursuant to the provisions of article 3.7 of ARERA Resolution no. ARG/gas 55/09 of 7 May 2009, shall file with the ARERA:

- (a) the proposed amendments of the Regasification Code, as possibly modified in order to take into account the opinions and comments received during the course of the consultation process;
- (b) the related opinions and notices formulated or sent by the Consultation Committee;
- (c) a report illustrating how those opinions and notices have been taken into account.

The above deadline is reduced to 10 (ten) days if the proposed amendment prepared by the Operating Company is in response to decrees, resolutions or other measures issued by the competent authority.

The proposals filed with the ARERA will be published by the Operating Company on the Electronic Communications System.

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Operating Company publish the updated code on the Electronic Communication System within 10 (ten) days of the publication of the update on the website of the ARERA.

#### **VI.4 COMMUNICATIONS**

Any further communications related to the amendment of the Regasification Code or related to this chapter VI shall be sent – by registered letter anticipated via fax – to the address indicated on the Electronic Communication System.