

## Legal update – October 2024

Circular 1/2024, of 27 September, of the National Commission on Markets and Competition, which establishes the methodology and conditions for access to and connection to the transmission and distribution networks of electricity demand facilities



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Circular 1/2024, of 27 September, of the National Commission on Markets and Competition, which establishes the methodology and conditions for access and connection to the transmission and distribution networks of electricity demand facilities (the "**Circular**"), was published in the Official State Gazette ("**BOE**") last Friday.

The Circular complements the rules (mainly, Royal Decree-Law 8/2023 and Royal Decree 1183/2020) on access to and connection to the networks of demand requests, either through the self-consumption of generation facilities, or for large consumptions such as those required for stand-alone storage and for infrastructures such as data centers.

In this alert we will address the measures contained in the Circular that regulates, among others, the criteria for evaluating the availability of access capacity for demand and the procedure for requesting and obtaining access and connection permits and introduces the concept of flexible access, in order to optimize the use of networks.

## Object

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The Circular provides the regime applicable to the entities obliged to apply for access and connection permits that are going to demand electricity from the grid, operating as a "reflection" of Circular 1/2021 with respect to generation, so much of its regulation on the process followed to request access and connection is reminiscent of the one regulated in said Circular.

The Circular is articulated in five chapters that develop the content of the applications, the process for their analysis and obtaining and rejection, and the transparency obligations of transmission and distribution system operators.

It is of interest to note that it incorporates as Annex III the criteria for evaluating access capacity at a specific point in the network, which until now were not established.

It should also be remembered that last September we published the [Alert "Knots reserved for bankruptcy proceedings. Current status in terms of access for storage and access to electricity demand".](#)

## Firm access and flexible access

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One of the novelties of the Circular is the regulation of the possibility of demanding not only firm or ordinary capacity (which is the maximum active power that can be met with a guarantee of supply during all hours of the year) and flexible power, in which supply is not guaranteed at all hours of the year.

Logically, the analysis of the flexible access capacity at a given point is more complex. The Circular refers to subsequent detailed specifications for the determination of the criteria to be taken into account in the analysis, as well as the different models of flexible access capacity, but specifies that:

- ▶ A certain value of flexible access capacity will only be granted or considered available if the facility in question has an expectation of being able to consume at least a percentage of hours per year, which will be determined in the detailed specifications.
- ▶ Until the National Commission on Markets and Competition ("CNMC") approves the entire regulatory framework necessary for its "full application", it will not be possible to apply for access and connection permits for flexible access capacity. From the expression of the Circular, it therefore seems that not only the detailed specifications will be approved, but also some other regulation.

## Access and connection requests and procedure development

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The procedure for applying for and obtaining access and connection permits for demand facilities is very similar to that provided for generation.

The Circular includes the mandatory content of the applications, their analysis and the requirements for their viability (developed in Annex IV). The prior proposal of the network operator will determine the technical and economic requirements of the access requested.

It is interesting to note that the Circular contains an amendment to the Circular on access and connection for generation (the 1/2021) to clarify that in storage facilities, when demand is requested, the relevant information for demand purposes must be included in the application corresponding to the generation facility.

Also as in generation, for demand, access requests may only be denied for lack of access capacity, motivated by the criteria of Annex III, and connection requests may only be rejected for their technical infeasibility based on the criteria indicated in Annex IV. In the event of obtaining access and connection permits, the Circular regulates the conclusion of the project contract ("CEP") and the technical access contract ("CTA").

Likewise, as in the case of access for generation, the possibility of raising an access and connection dispute before the CNMC is foreseen in accordance with the general rule of Law 24/2013, of 26 December, on the Electricity Sector.

## Publishing access capability. Transparency

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The Circular imposes on transmission and distribution network operators the obligation to publish on their management platforms, among others, the following information:

- ▶ Total firm access capacity of demand in said node.
- ▶ Occupied demand access capacity, taking into account the connected capacity, with permits in force and with a favorable capacity study.
- ▶ Capacity to access demand applications admitted for processing and pending capacity assessment.
- ▶ Available capacity at said node.
- ▶ Storage capacity corresponding to the maximum power that can be absorbed from the grid at the connection point by applying a specific profile for these installations.

Network operators have a period of 10 months to incorporate this information into their platforms, which must be updated at least monthly.

It should be recalled here that REE has been publishing those nodes in which, because there are requests for access on demand greater than the available access capacity, they are subject to the holding of a tender.

Finally, it is also of interest the regulation that, in connection with these platforms of the network operators and their transparency obligations, is incorporated both in relation to the monitoring of network access files for electric vehicle charging infrastructures, and (through an amendment in Circular 1/2021) for self-consumption installations.

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