

› SUPREME DECREE NO. 88/2019: NEW OBLIGATIONS FOR PMGDS UNDER DEVELOPMENT WITH UPCOMING AND CLOSE DEADLINES

Supreme Decree No. 88/2019 of the Ministry of Energy, published in the Official Gazette of on October 8th, 2020, establishes the new regulation that governs Small Generation Means (either connected to a transmission system: PMG, or connected to a distribution system: PMGD) (“DS 88”). This decree that came into force 30 days (administrative business days), as of October 8th, 2020 -i.e. November 20th, 2020- (the “Enforceability Date”), establishes in its interim articles new obligations for PMGDs under development:

DISPOSITION	OBLIGATION	TERM	CONSEQUENCE
<p>A. FIFTH INTERIM ARTICLE</p> <p>ICC re-validation process</p>	<p>PMGDs with a valid Interconnection’s Criteria Report (“ICC”) at the Enforceability Date, <u>must submit to the relevant distribution company</u>, the following information:</p> <p>a) Land information. If the PMGD is developed on private land:</p> <ul style="list-style-type: none"> (i) copy of the ownership title of the real estate; (ii) copy of registration of the ownership title, granted by the relevant Real Estate Custodian, no older than 30-days prior to its submission; (iii) copy of the real estate owner’s ID, and if it is a legal entity, copy of the power of attorney granted to its representative which enables the latter to dispose the real estate; and (iv) sworn affidavit of the real estate’s owner, enabling the PMGD’s establishment in the real estate, no older than 30-days prior to its submission. <p>b) Land information. If the PMGD is developed on state-owned property: an affidavit of the Ministry of National Assets must be attached to the Grid Interconnection Request (“SCR”) stating that the real estate is state-owned, and it is available for the establishment/ siting of an energy project.</p>	<p>General rule: 6 months as of the Enforceability Date (i.e. May 20, 2021).</p> <p>Exception: If the ICC is older than 6 months, this information shall be delivered within 3 months as of Enforceability Date (i.e. February 20, 2021).</p> <p>The “under-construction declaration” must be delivered within the ICC’s validity term.</p>	<p>Breach of this obligation results in the ICC losing its validity, and, therefore, the PMGD developer will have to start a new interconnection process pursuant to the terms and conditions of DS 88.</p>



If you have any questions regarding the matters discussed in this news alert, please contact the following attorneys or call your regular Carey contact.

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	<p>c) Environmental information: provide the environmental impact declaration, study or pertinence letter submitted before the Environmental Assessment Service (“SEA”), and the requests of sectorial permits, if applicable. If the PMGD is qualified as a “non-significant impact”, a sworn affidavit may be submitted declaring the lack of necessity of the PMGD’s entry into the SEA.</p> <p>*) Other: the PMGD must also submit its “under-construction declaration” issued by the National Energy Commission (“CNE”). **Note once declared under construction, the ICC’s validity depends on the PMGDs maintaining such declaration in-force.</p>		
<p>B. SIXTH INTERIM ARTICLE</p> <p>SCR re-validation process</p>	<p>PMGDS with:</p> <p>(i) Grid Interconnection Request (“SCR”) submitted to the distribution company prior to the Enforceability Date, without an ICC and without the distribution company starting the drafting or review of the interconnection studies; or</p> <p>(ii) SCR submitted to the distribution company prior to the Enforceability Date, without an ICC and with the distribution company starting the drafting or review of the interconnection studies, must submit to the relevant distribution company:</p> <p>a) Complete individualization of the applicant;</p>	<p>2 months as of the Enforceability Date (i.e. January 20, 2021).</p>	<p>Breach of this obligation enables the distribution company to consider the SCR as desisted. Thus, PMGD developer will have to start a new interconnection process pursuant to the terms and conditions of DS 88.</p> <p>The ICC cannot be issued by the relevant distribution company until the latter confirms fulfillment of this interim article and its obligations^[1].</p>

[1] SEC resolution ORD. No. 06580, dated November 18, 2020.

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	<p>b) Complete individualization of the company that owns the PMGD, and its corporate information, including, tax ID, copies of incorporation, good standing certificates issued no earlier than 30-days prior to its submission;</p> <p>c) Contact information;</p> <p>d) Georeferenced location of the PMGD, its Interconnection Point and a layout with the polygon containing the geographic coordinates;</p> <p>e) Land information, private land (please see letter a) of fifth interim article above);</p> <p>f) Land information, state-owned land (please see letter b) of fifth interim article above);</p> <p>g) Water rights' registration copy, if applicable, enabling the title holder of the PMGD to the use of such water;</p> <p>h) Sworn affidavit of the PMGD's owner, indicating that the land described in letters e) and f) above has all necessary characteristics for the PMGD's establishment/siting;</p> <p>i) Chronogram of works for the PMGD's execution;</p> <p>j) PMGD's installed capacity and injection, together with all of its technical characteristics;</p> <p>k) Payment voucher for 20% of the cost of interconnection studies, to be conducted by the distribution company or by the PMGD title holder.</p>		