

## Update

# The deadline for waiving applications and permits for access and connection ends

18th September 2020

Regarding Royal Decree-Law 23/2020 of 23rd June, which approves measures in the field of energy and other areas for economic recovery and establishes that 25th September will be the deadline for renouncing applications and permits for access and connection, without the seizure of guarantees

On 25th June [Royal Decree-Law 23/2020](#) of 23rd June, approving measures in the field of energy and other areas for economic recovery ("**RDL 23/2020**"), entered into force. The second paragraph of Article 1.2 of RDL 23/2020 allows access and connection permits or, where appropriate, applications to be renounced within three months of its effective date. **This period ends on 25th September.**

The waiver without seizure of the guarantee is recognised for any request submitted after the effective date of the Electricity Sector Act of 2013 and before 25th June 2020, whether or not it was deemed necessary. If the developer does not waive the guarantee within the aforementioned three-month period, it is subject to the obligation to accredit compliance with the temporary milestones set out in RDL 23/2020, which refer to the substantiation of administrative procedures and the resolution of administrative proceedings. If these milestones are not met, the competent administrative body will seize the guarantee provided. Failure to obtain a favourable environmental impact statement for reasons not attributable to the developer is the only exception which, if the milestone is not reached, allows the guarantee to be returned.

RDL 23/2020 does not provide for extensions to the exercise of the waiver. This is consistent with the anti-speculative nature of RDL 23/2020, the exceptional nature of non-seizure and its defined temporal scope for the exercise of this right.

The draft Royal Decree on access and connection subject to public participation by the Government provides for a specific temporary scheme for those developers who have renounced their access and connection permits under RDL 23/2020.

The Second Transitional Provision of this draft Royal Decree provides that, exceptionally, and within one month of its effective date, projects that have renounced their access permits, in accordance with article 1.2 of RDL 23/2020, may apply for a new access and connection permit at that node and for that same installation. The processing of these applications will have priority over new applications submitted and accepted after the entry into force of this Royal Decree and the regulatory circular to be approved for this purpose by the National Commission for Markets and Competition; in return, the operators must deposit significantly higher guarantees than those required for other projects.

The Andersen Energy and Natural Resources Practice Group is available to answer your questions on this and other energy law issues.

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