

The CNMC fines Enel Green 4.9 million euros for abusing its dominant position in two access nodes to the power transmission network

- Enel Green Power S.L. (**Enel Green**) abused its status as the so-called “Sole Node Interlocutor” (**IUN** in Spanish) in two access nodes to the power transmission network.
- It took advantage of this position to ensure that its own renewable energy generation facilities were awarded greater access capacity to nodes, to the detriment of its competitors.

Madrid, 14 June 2022.- The CNMC has sanctioned Enel Green for committing two infringements that constitute abuse of dominant position [\(S/0022/20\)](#).

In total, the fines amount to 4.9 million euros for two infringements of Article 2 of the [Competition Act 15/2007, of 3 July \(LDC in Spanish\)](#). These infringements consisted in distorting competition for access capacity to the nodes concerned by prioritising its own access requests.

Origin of the sanction

The investigation originated in a series of resolutions by the CNMC Regulatory Supervision Committee in the context of disputes over access to the power transmission network [CFT/DE/028/18](#), [CFT/DE/002/19](#) and [CFT/DE/013/19](#).

In these resolutions, the CNMC upheld the disputes over access, concluding that Enel Green had acted improperly as the “Single Node Interlocutor” for both nodes and ordered a reversal of the proceedings in both cases.

The CNMC then initiated an investigation to assess whether such action was subject to Article 2 of the Spanish Competition Act, which prohibits the abuse of a dominant position.

“Single Node Interlocutor” and dominating position

The companies promoting renewable energy generation facilities access the power transmission network through access points known as “nodes”, for which they must submit a request to Red Eléctrica de España S.A. (Spanish Electricity Network), the transmission network manager.

At the time when the sanctioned conduct was committed, the regulations required the designation of a "Single Node Interlocutor" (**IUN** in Spanish) from among the companies interested in accessing the nodes, whose mission was to process all the requests made before Red Eléctrica de España.

In its role as an intermediary, the IUN should act as a representative of all access requesters. When processing requests, the IUN decides on their ordering and coordination before submitting them to Red Eléctrica de España, which is decisive for the allocation of capacity among the different requesters.

This independence from the rest of the operators, with whom it competes for the limited access capacity available, gives the IUN a dominant position in the market made up of each network access node.

The special responsibility arising from this dominant position implies that the IUN must carry out its duties objectively, respecting the principles of transparency, good faith and non-discrimination in order to guarantee the right of equal access for all renewable generation operators to the power transmission network.

Misconduct alleged against Enel Green

The CNMC has proven that Enel Green abused its dominant position as IUN of the Tajo de la Encantada 220 kV and Lastras 400 kV nodes.

The misconduct consisted in Enel Green taking advantage of its status as IUN in the aforementioned nodes to prioritise the processing of the requests from the facilities of which Enel Green itself was the promoter, while unduly delaying submitting the requests from facilities promoted by its competitors to Red Eléctrica Española.

Enel Green gave, without justification, less favourable and therefore discriminatory treatment to access requests from its competitors than it gave to access requests from its own facilities.

As a result, there was not a fair and equitable distribution of the capacity available at the node at that time, and Enel Green was able to monopolise more capacity than it would have been entitled to, which in turn prevented competing companies from having the capacity they needed and which was the reason for their request for access.

The misconduct alleged against Enel Green at the Tajo de la Encantada 220 kV and Lastras 400 kV nodes had the effect of improperly allocating to Enel Green the requested capacity at said nodes and the consequent denial of access to its competitors, until the CNMC ordered a reversal of the proceedings in both cases.

Sanctions imposed

Consequently, the CNMC has imposed the following sanctions for two infringements of Article 2 of the LDC consisting of an abuse of dominant position in each of the two affected nodes.

- Abuse of dominant position at the Tajo de la Encantada node (220kV):
 - **4,000,000 euros**
- Abuse of dominant position in the Lastras node (400 kV):
 - **900,000 euros**

In addition to declaring the liability of Enel Green as the perpetrator of the sanctioned practices, its parent company Endesa Generación S.A. has been declared jointly and severally liable for the payment of the fines:

[\(S/0022/20\)](#)