

TECHNICAL SHEET

DEFINITION OF THE METHOD OF TRANSFER, BY OPERATORS, OF AMOUNTS DUE TO THE SPECIAL ACCOUNTS OF THE SINGLE COMMISSIONER REFERRED TO IN ART. 2 OF ITALIAN LEGISLATIVE DECREE 243/2016

281/2017/R/IDR (*)

With consultation document 281/2017/R/idr, the Italian Regulatory Authority for Electricity Gas and Water outlines its guidelines for the definition of the methods for transferring the amounts due to the Single Commissioner's special accounts, in compliance with the provisions of Italian Decree Law no. 243/2016 (so-called "Mezzogiorno" Decree Law), identifying - as operators affected by the final measure - operators providing sewerage and/or water treatment services in conglomerates subject to conviction by the European Court of Justice¹ that have not yet been declared to be compliant with Directive 91/271/EEC, where the concurrency of the tariffs or regional resources are envisaged in order to implement the necessary interventions.

The document outlines the guidelines for the transfer of these amounts, taking into account the economic and financial balance of the operators concerned and, in particular, sets out guidelines for the following aspects:

✓ Scope

In order to identify the operators liable for the transfer of the amounts to the special account of the Single Commissioner, the Regulatory Authority intends to request the Local Authorities concerned - or other competent parties identified by regional law - to transfer (promptly and in any case not later than 30 days from the adoption date of the final measure) the results of the *survey* conducted on the conglomerates subject to infringement belonging to the relevant ATO (optimal territorial area) indicating the conglomerates subject to the above-mentioned convictions that have not yet been declared compliant as of 31 December 2016, and in particular emphasising those for which "*concurrency of tariffs or regional resources*" is envisaged for the implementation of the necessary interventions to comply with the aforementioned convictions.

✓ Clarifying the interventions and relative resources

The Regulatory Authority is inclined to expect that, in line with what is already contained in existing planning, the initial information requested is explained within the context of specific categories of infrastructural critical issues already envisaged for the purpose of tariff setting for the second regulatory period 2016-2019, according to MTI-2. In the event that at least one violating conglomerate falls within the jurisdiction of a Local Authority that is unable to explain, within the current programming, the interventions needed to overcome the aforementioned critical issue, an evaluation of the priority system in the selection of interventions will be unavoidable.

For the purpose of a consistent identification of resources to be transferred to the Single Commissioner, the Regulatory Authority is therefore inclined to require that Local Authorities in the sector or other competent bodies, in the light of the information data and documents drawn up for the definition of the intervention programme as required under the MTI-2, with the operator in question taking part in the procedure, to explain:

¹ Sentence pronounced on 19 July 2012 (in lawsuit C-565/10) and on 10 April 2014 (in lawsuit C-85/13).

- the extrapolation of the time schedule for the planned interventions on functional collection, sewerage and effluent water treatment systems to ensure the compliance of the conglomerates subject to conviction by the European Court of Justice that have not yet been declared to be compliant as of 31 December 2016;
 - the quantification of investment requirements (for which "*concurrency of the tariff or regional resources*" is expected) related to the implementation of the interventions referred to in the previous paragraph;
 - an indication of the funding sources for the above-mentioned requirement, identifying the portion recognized in the allowed revenues and that possibly covered by regional resources or other sources of public funding.
- ✓ Method for transferring resources to the accounts of the Single Commissioner
- The Regulatory Authority is inclined towards foreshadowing different methods of transferring resources depending on the technical and operational conditions encountered with the individual offending conglomerates by identifying three main cases:
- *case 1*: the operator with the go-ahead in compliance with the current *pro tempore* regulation is already operational and is observing the time schedule of the interventions established by the competent government body in the sector. In that case, the Commissioner may merely coordinate the activities which the operator would continue to carry out for the full implementation of the interventions and resource management methods to ensure the continuity of the ongoing activities would be implemented;
 - *case 2*: the compliant operator is not carrying out the necessary activities, or these are not provided for in the intervention time schedule. In that case, the Commissioner may, in addition to coordination tasks, also carry out tasks implementing the interventions and, with reference to resources, in the light of an integration of programming limited to the conglomerates in question, the Regulatory Authority intends to define methods of transferring any resources to the Commissioner's special accounts, taking into account the share of specific tariff components;
 - *case 3*: the Local Authority, or other competent party identified by regional law, is in breach of its service allocation obligations, or tariff setting obligations and, consequently, the operator stopped under the law is not carrying out the activities necessary to overcome non-compliance. In that case, the Commissioner would carry out the tasks of coordinating and implementing the interventions, also being able to take on the role of the competent authority in charge of tariff setting, while at the same time - with reference to the critical issues for which it has been called upon to overcome - taking on the relevant Investment Plan and the resulting Financial Plan drawn up in keeping with the "Virtual Regulatory Scheme" provided for by MTI-2. In that case, the Commissioner would also become the party tasked with operating sewerage and/or water treatment plants and/or infrastructures, with the definition of wholesaler-operator, and the arrangements for transferring any resources envisaged by the regulation to the Single Commission's special accounts will be defined taking into account the tariff components quantified in the relevant regulatory scheme.

The parties concerned are invited to send their observations to the Regulatory Authority by 28 April 2017.

(*) This sheet is for disclosure purposes only; it is not a measure.