



Borja Acha Besga  
Secretary of the Board of Directors

Madrid, 18 November 2022

Pursuant to Article 227 of the Spanish Securities Market Act, Endesa, S.A. hereby reports the following relevant information:

### **Related-Party Transactions Reporting**

Endesa reports related-party transactions entered into with its controlling shareholder Enel S.p.A. and its corporate group in accordance with the provisions of articles 529 unvicies and 529 tervicies of the Corporate Enterprises Act, which establishes the obligation of companies to publicly report, no later than the time they are entered into, the related-party transactions carried out by it or its subsidiaries with the same counterparty in the last twelve months, and which amount to or exceed: (a) 5 per cent of the total assets or (b) 2.5 per cent of the annual turnover.

In meetings held in June, July and October 2022, the Board of Directors approved the related-party transactions described below, which together with those approved by the Extraordinary General Shareholders' Meeting on 17 November 2022, mean that they have now exceeded the limit of 2.5 per cent of annual turnover.

#### **I. LIST OF RELATED PARTY TRANSACTIONS CARRIED OUT WITH THE ENEL GROUP**

1. Logistics services provided by Endesa Generación, S.A.U. to Enel Produzione, S.p.A in the Ports of Carboneras and Ferrol.
2. Contracting to Gridspertise S.R.L. by Edistribución Redes Digitales, S.L.U. for the supply of LVM hubs, BIRD 3.0 probes and QED equipment.
3. Re-invoicing of expatriate costs between companies of the Endesa Group and companies of the Enel Group.
4. Contracts for the provision of technical services and management support between the Enel Group and Endesa for 2023.
5. Renewal of the Insurance and associated services Mandate for those services included in the technical and management support service contracts with Enel SpA.
6. Acquisition of a liquefied natural gas carrier from Enel Generación Chile, S.A. by Endesa Energía, S.A. during the fourth quarter of 2023.



## **II. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE REPORTS**

The Audit and Compliance Committee has issued a report for each related party transaction in which it has concluded that the transactions entered into are fair and reasonable from the point of view of Endesa and the shareholders apart from the related party.

In addition, for all related transactions there is at least one independent expert's report that has concluded that the transactions between Enel and Endesa are fair and reasonable from the point of view of Endesa and non-related party shareholders.

## **III. CONCLUSION OF THE BOARD OF DIRECTORS**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved all transactions.



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE LOGISTICS SERVICES PROVIDED BY ENDESA GENERACIÓN, S.A.U. TO ENEL PRODUZIONE, S.P.A IN THE PORTS OF CARBONERAS AND FERROL**



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE LOGISTICS SERVICES PROVIDED BY ENDESA GENERACIÓN, S.A.U. TO ENEL PRODUZIONE, S.P.A IN THE PORTS OF CARBONERAS AND FERROL**

**I. INTRODUCTION AND REGULATORY FRAMEWORK**

In accordance with the provisions of section 3 of article 529 duovicies of the consolidated text of the Spanish Corporate Enterprises Act approved by Royal Legislative Decree 1/2010, of 2 July, Endesa's Audit and Compliance Committee issues this Report to assess whether the transaction is fair and reasonable from the point of view of the company and, where appropriate, shareholders other than the related party, and to give an account of the assumptions on which the assessment is based and the methods used.

In accordance with paragraph 3 of Article 529 unvicies, the Report issued and, where appropriate, published by Endesa's Audit and Compliance Committee, must at least include the following information:

- a) Information on the nature of the transaction and the relationship with the related party,
- b) the identity of the related party,
- c) the date and the value or amount of the consideration for the transaction, and
- d) any other information required to assess whether this is fair and reasonable from the point of view of the company and of shareholders who are not related parties.

On 21 December 2021, Endesa's Board of Directors approved a new Regulation on related-party transactions, after repealing the Regulation in force. In addition, on 21 December 2021 Endesa's Audit and Compliance Committee approved a new operational procedure for related-party transactions that develops the guidelines contained in the Regulation, defining the operations, functions and responsibilities of the general regime established for the application, approval, publication and supervision of related-party transactions. The regulation has been applied in this case.

**II. OVERVIEW OF THE GENERAL TRANSACTION**

**a) Background of the transaction**

Endesa holds the concession for the port terminals of Ferrol and Carboneras until 2035 and 2037 respectively. Until now these terminals were mainly used to serve Endesa's coal-fired power plants. Because of the closure of Endesa's coal plants, new traffic is being sought for these terminals, which will enable them to remain economically viable.

In this process, and due to the situation generated in the energy markets by the conflict in Ukraine and the increase in coal-fired electricity generation in Italy, an opportunity has arisen for Endesa to provide logistics services to Enel in the Ports of Ferrol and Carboneras, for the management of its coal supplies.



## **b) Purpose of the transaction**

The purpose of the transaction is for Endesa Generación, S.A.U. to provide logistics services to Enel Produzione, S.p.A., at the Carboneras and Ferrol terminals, with a duration from 1 July 2022 to 30 June 2023.

This contract will involve Endesa Generación undertaking the following activities:

- Unloading solid fuels, with cranes and own or third-party conveyor systems and/or lorries, to the storage area, including the cleaning of warehouses;
- Handling the storage of discharged solid fuels, including ancillary services necessary to maintain solid fuels in the storage area;
- Loading of solid fuels onto ships, with a conveyor belt system, loader or own or third-party cranes, including auxiliary services for transferring coal from the storage area to the loading area;
- Shipping agency, if requested by Enel Produzione, S.p.A.;
- Customs clearance service by an accredited customs agency, if requested by Enel Produzione, S.p.A.;
- Inspection services, if requested by Enel Produzione, S.p.A.;
- Suitable measures against environmental pollution in accordance with current legislation.

## **c) Value of the transaction**

The contract subject to the report has an estimated maximum value of €5.1 million.

In the Contract, Endesa Generación and EP have agreed on the maximum coal storage volumes for the operations to be undertaken, and these volumes may be increased at the request of PE and with approval by Endesa Generación at its sole discretion. The maximum value for the contract includes the provision of customs clearance and inspection services.

The contract establishes unit tariffs agreed by Endesa Generación and EP for the provision of the services described based on a number of categories:

- Tariff for unloading a cargo of coal from the ship to the storage area, including ancillary services necessary to complete the unloading service, i.e. cleaning of holds.
- Tariff for the storage and handling of coal in the storage area including ancillary services necessary to keep the coal in good condition. This tariff includes 30 days of storage at no additional cost.
- Tariffs for reloading a cargo of coal from the storage area to the vessel, including ancillary services necessary to complete the loading service, i.e. the means of moving the coal from the storage area to the loading position, etc.
- Endesa Generación will also re-invoice the costs of agency services, customs clearance, inspections, etc. provided by third parties if required by EP

Each party will be responsible for the fees and taxes applicable to it by law and will be liable for any damages, expenses or indemnities caused by breach of contract or negligence to the other party or third parties.



### **III. IDENTIFICATION OF THE PARTY RELATED TO ENDESA**

Firstly, **Endesa Generación, S.A.U. ("Endesa Generación")** is a fully-owned subsidiary of Endesa, S.A.

Secondly, **Enel Produzione S.p.A. ("EP")** is a company wholly owned by Enel Italia S.p.A., which in turn is wholly owned by Enel, S.p.A. and therefore dependent on it.

Enel SpA is the sole shareholder of Enel Iberia S.L, which is in turn a shareholder of Endesa S.A with a 70.101% stake. Related-party transactions are those entered into by Endesa or its subsidiaries with Endesa's shareholders who hold 10% or more of the voting rights or who are represented on the Board of Directors, as well as with any other parties considered as parties related to Endesa, in compliance with the International Accounting Standards. Therefore, all transactions entered into by Endesa or its subsidiaries and Enel or its subsidiaries (excluding the Endesa Group) will be considered related-party transactions.

Enel and its subsidiaries (excluding the Endesa Group) and Endesa and its subsidiaries are considered "the same counterparty" when calculating the thresholds to publish related-party transactions. In other words, the same counterparty is considered both the related person, whether natural or legal, as well as any other entity under its control, and, in the case of natural persons, close relatives, as defined in IAS 24.

### **IV. ANALYSIS OF THE TRANSACTION FROM THE POINT OF VIEW OF THE INTEREST OF ENDESA AND OF SHAREHOLDERS OTHER THAN THE RELATED PARTIES**

#### **1. Strategic, technical and commercial rationality of the transaction**

Endesa Generación has established targets for reducing greenhouse gas emissions within the general context of energy transition. In this regard, the latest Strategic Plan (2022-2024) includes a plan with more ambitious objectives to achieve carbon neutrality by 2040. This involves accelerating the dismantling of the Company's thermal generation installations. Specifically, the termination of all coal-based production by 2027 has been set as an intermediate milestone. To support this process and undertake it as efficiently as possible, Endesa Generación is taking a number of initiatives to highlight the importance of and give a second life to the important residual infrastructures associated with this type of installation, included in which are the two port terminals of Ferrol and Carboneras. These infrastructures have historically provided logistics services associated with the handling of the coal required to feed the company's thermal plants. These infrastructures can be used to load, unload and store coal that is transported on ships.

In line with the above-mentioned strategy, Endesa Generación is currently in the process of undertaking a physical and administrative reconversion of both terminals in order to adapt to new traffic and different types of bulk cargo once the activity at the coal-fired power plants has been terminated. Endesa Generación is currently developing an active commercial activity to pursue contracts for the provision of this type of service. The contract under analysis falls within this transition process.



The Related-Party Transaction is compatible with potential operations for third parties and the TP in Alcludia (if it needs to be operative), since there is sufficient surplus capacity to meet other possible demands. Other types of operations may also be compatible.

Furthermore, the installations, capacity and experience of both terminals enable Endesa Generación to offer this service without making any further investments and with costs adjusted to market rates, and the execution of the Contract will enable Endesa Generación to recover part of the fixed costs for the terminal.

Based on the above, it is reasonable for Endesa Generación to make the logistics services offered at its terminals in Ferrol and Carboneras available to third parties, as it will enable more efficient progress to be made in the process of converting these infrastructures by covering all or part of the associated costs. The conditions under which EP would be served are reasonable and are reasonably price, so this will enable progress to be made in the transformation towards new traffic while leaving sufficient surplus capacity to meet possible new demands from Endesa Generación itself or third parties, so the associated opportunity cost is not significant.

## **2. Legal reasonableness of the transaction**

The obligations of both parties are determined in precise, clear and reasonable terms, with the establishment of a detailed distribution of risks between the parties with regard to the nature of the services to be provided, the product to be handled (coal) and the means of transport to be used (bulk carriers) which is comprehensive and in accordance with the usual practice for the provision of services of this nature between independent parties. The Contract also contains clauses governing general aspects such as force majeure, expenses and taxes, damages, applicable law and jurisdiction drafted in market terms in accordance with the Contract's objective.

Furthermore, the Contract incorporates provisions typically included in a contract signed between related parties and belonging to the same group of companies that are drafted in balanced terms and in the interest of both parties. In this regard, the clause governing conflict of interest deserves special mention as it enables Endesa Generación to terminate the Contract if certain particularly noteworthy situations of conflict of interest were to arise.

For all this, given the legal and commercial terms and conditions under which the Related-Party Transaction is expected to be formalised, it can be concluded that it has been reasonably articulated and the contractual terms and conditions could have been agreed by independent parties.

## **3. Economic rationale of the transaction**

The application of the at arm's length principle is generally based on the comparison of the terms and conditions for a related-party transaction with the terms and conditions for transactions between independent parties. For these comparisons to be useful, the corresponding economic characteristics with regard to the situations being compared should be sufficiently comparable.

Paragraph 1.33 of the OECD Guidelines states that "The application of the at arm's length principle is generally based on a comparison of the terms and conditions for a related-party transaction with the terms and conditions for transactions between independent companies. There are two key aspects for this analysis: The first is to identify the commercial or financial



relationship between the associated entities, as well as the economically relevant conditions and circumstances of that relationship in order to define precisely the related-party transaction; The second aspect is to compare the conditions and economically relevant circumstances of the precisely defined and related-party transaction with those of comparable transactions between independent entities."

To verify that the Related-Party Transaction is in line with the principle of free competition, firstly, the possibility of applying the Comparable Uncontrolled Price ("CUP") method was analysed. In accordance with paragraph 2.14 et seq. of the OECD Guidelines, the CUP method consists of "comparing the invoiced price for goods or services transferred or provided in a related-party transaction with the invoiced price for goods or services transferred or provided in a comparable transaction between unrelated parties in comparable circumstances." Similarly, paragraph 2.15 provides that the CUP method is preferable to others in circumstances where comparable unrelated-party transactions can be found. In accordance with the above, the CUP method is accepted as the most appropriate method to analyse the transfer pricing policy applied in the related-party transactions detailed.

The price proposed by Endesa Generación has been contrasted with a number of comparable market offers (recent spot operation with a third party corrected for shorter planning time, similar recurring operations that have been completed by different operators in the ports of Gijón and Tarragona and old updated Enel operations), with the result that the rates offered by Endesa Generación to EP were market rates.

In any case, the agreed rates mean that Endesa is able to forecast a positive operating margin of more than one million euros

As a result of the above, this price determination procedure complies with the Spanish tax regulations on transfer pricing and the OECD Guidelines; the price for this transaction is the same as that which independent parties would have agreed under similar circumstances.

#### **V. REPORTS BY INDEPENDENT EXPERTS ISSUED AT THE REQUEST OF THE AUDIT AND COMPLIANCE COMMITTEE**

After analysing the transaction, the Audit and Compliance Committee has taken into account the Report of PricewaterhouseCoopers Tax and Legal S.L. and PricewaterhouseCoopers Asesores de Negocios, S.L. (hereinafter "PwC") on the fairness and reasonableness of the approval of the contract being analysed.

PwC has issued its Report in its capacity as an independent expert. On the date the report was issued, PwC did not maintain any sort of commercial relationship with the Enel Group or with the Endesa Group that could compromise its condition as an independent expert for the purposes of issuing this Report or that, in particular, could place them in a situation of conflict of interest to conduct the analysis and draw up the conclusions set out therein.

In the Report issued to Endesa's Audit and Compliance Committee, it can be concluded that the approval of the provision of logistics services at the Carboneras and Ferrol terminals between Endesa Generación and Enel Produzione described in this document is fair and reasonable from the point of view of Endesa and shareholders who are not related parties.





## **VI. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE**

The Audit and Compliance Committee comprises five non-executive members of the Board of Directors, four of whom (80%) are independent. The Committee also includes a Proprietary Director representing the controlling shareholder Enel, which owns 70.10% of Endesa's shareholding. In accordance with paragraph 3 of Article 529 duovicies of the Corporate Enterprises Act, Alberto de Paoli, Proprietary Director, representative of Enel, has not participated in the preparation of this Report.

The rest of the members of the Audit and Compliance Committee participated and agree on the content of this Report.

Based on the background information detailed above, the Audit and Compliance Committee concludes as follows:

- It is reasonable for Endesa Generación to make the logistics services offered at its terminals in Ferrol and Carboneras available to third parties, as it will enable more efficient progress to be made in the process of converting these infrastructures by covering all or part of the associated costs.
- The conditions under which service would be provided to Enel are reasonable and are reasonably price, so this will enable progress to be made in the transformation towards new traffic while leaving sufficient surplus capacity to meet possible new demands from Endesa Generación itself or third parties, so the associated opportunity cost is not significant.
- The agreed price was contrasted with offers from qualified operators for comparable transactions. This price determination procedure complies with Spanish tax regulations on transfer pricing and the OECD Guidelines; and the prices of these transactions would be the same as what independent parties would have agreed under similar circumstances.

The Audit and Compliance Committee concludes that the approval of the contract for the logistics services provided by Endesa Generación, S.A.U. to Enel Produzione, S.p.A. in the ports of Carboneras and Ferrol is fair and reasonable from the point of view of Endesa and shareholders other than the related party.

## **VII. CONCLUSION OF THE BOARD OF DIRECTORS**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved the transaction.



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE CONTRACTING TO GRIDSPERTISE S.R.L. BY EDISTRIBUCIÓN REDES DIGITALES, S.L.U. FOR THE SUPPLY OF LVM HUBS, BIRD 3.0 PROBES AND QED EQUIPMENT**



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE CONTRACTING TO GRIDSPERTISE S.R.L. BY EDISTRIBUCIÓN REDES DIGITALES, S.L.U. FOR THE SUPPLY OF LVM HUBS, BIRD 3.0 PROBES AND OED EQUIPMENT**

**I. INTRODUCTION AND REGULATORY FRAMEWORK**

In accordance with the provisions of section 3 of article 529 duovicies of the consolidated text of the Spanish Corporate Enterprises Act approved by Royal Legislative Decree 1/2010, of 2 July, Endesa's Audit and Compliance Committee issues this Report to assess whether the transaction is fair and reasonable from the point of view of the company and, where appropriate, shareholders other than the related party, and to give an account of the assumptions on which the assessment is based and the methods used.

In accordance with paragraph 3 of Article 529 unvicies, the Report issued and, where appropriate, published by Endesa's Audit and Compliance Committee, must at least include the following information:

- a) Information on the nature of the transaction and the relationship with the related party,
- b) the identity of the related party,
- c) the date and the value or amount of the consideration for the transaction, and
- d) any other information required to assess whether this is fair and reasonable from the point of view of the company and of shareholders who are not related parties.

Moreover, Endesa has developed its own internal regulatory framework with regard to this. This includes regulations on related-party transactions, which have been approved by the Board of Directors, and an Operational Procedure for related-party transactions, which has been approved by the Audit and Compliance Committee and develops the guidelines contained in the Regulations, defining the operations, duties and responsibilities under the general regime of application, approval, publication and supervision of related-party transactions. The regulation has been applied in this case.

**II. OVERVIEW OF THE GENERAL TRANSACTION**

**a) Background to the operation**

A significant feature of electricity distribution in Spain is that it is a regulated and asset-intensive activity. The main functions that distributors typically undertake include the following: (i) building, maintaining and operating installations; (ii) meeting new demands for electricity



supply; (iii) ensuring supply and maintaining quality of service; and (iv) addressing access and connection requests.

E-Distribución is the largest electricity distributor in Spain. It is part of the Endesa Group and responsible for distributing energy from generation units to supply points located mainly in Andalusia, Aragón, the Canary Islands, Castile-León, Catalonia, Extremadura and the Balearic Islands.

Gridspertise is a company owned by the Enel Group and its activities include the development of the following:

- Reliable, advanced and interactive measurement technologies designed to meet the present and future needs of distributors;
- Remote control and automation solutions, protection and restoration, power cut management and advanced sensors with the purpose of digitalising distribution networks; and
- Artificial intelligence solutions and machine learning technologies for digital image knowledge.

#### **b) Objective of the transaction**

The purpose of the operation is for Gridspertise to supply E-Distribución Redes Digitales S.L. with hubs and a variety of accessories for the remote management system, as well as new equipment for pilot projects in the distribution network:

- 12,140 measurement hubs, LVM (Low Voltage Manager) model, without telecommunications equipment, for installation in newly built transformer centres or the renovation of existing ones. The hubs are intended to ensure communication with remote management meters, by capturing measurement information, the parameterisation of equipment, and device status, etc. and linking with Digital Network Distribution systems. This communication also enables a number of business operations to be undertaken remotely.
- 1,000 wireless probes, Bird 3.0 model. The probes are accessories that enable smartphones and tablets to communicate locally with remote management meters for programming, as an alternative to remote management.
- 170 units of QED (Quantum Edge Device) equipment, for a pilot project, which will be installed in transformation centres, with the aim of having better knowledge about the real state of the distribution networks through the iteration of the installed hardware with different software platforms that enable digital, virtual and remote control of those factors that affect the quality and continuity of the supply provided and enable operation, either locally or remotely, by the control centre or, where applicable, automatically.

The proposed contract represents continuity of the conditions and prices applicable in the previously existing contract, with regard to LVM hubs and accessories (Bird probes).



### **c) Value of the transaction**

As remuneration for the supply of the Products, E-Distribución will pay Gridspertise a maximum amount of €3,630,000. The duration of the contract is expected to be until the completion of deliveries of the units required, scheduled for 2022 and 2023.

The unit amounts indicated for LVM hubs and Bird 3.0 probes remain the same as for those included in the previous contract concluded in October 2019.

Unit prices will remain fixed throughout the term of the Agreement for the defined scope, without being subject to review or variation, unless expressly agreed between Gridspertise and E-Distribución. Notwithstanding the above, possible cost variations involving a modification equal to or greater than  $\pm 5\%$  of the total price for the equipment, will require a report by an independent expert accrediting the variation in the costs for the components of the equipment being supplied.

QED equipment will have fixed prices and will not be subject to review.

However, the maximum contract amount of €3,630,000 should not be changed, so where applicable the number of units to be delivered by Gridspertise will be adjusted so as not to exceed this amount. If any variation to unit prices for the LVM and BIRD equipment mean that the quantities included in the contract detailed above cannot be reached, a corresponding authorisation should be requested by the Corporate Governing Body of Endesa, S.A. in order to formalise the corresponding addendum or agreement.

### **III. IDENTIFICATION OF THE PARTY RELATED TO ENDESA**

The company receiving the products: **E-Distribución Redes Digitales S.L. (hereinafter "E-Distribución")** is a fully-owned subsidiary of Endesa, S.A.

Company supplying the products: **Gridspertise, S.l.r. (hereinafter "Gridspertise")** is a fully-owned subsidiary of Enel S.p.A.

Enel SpA is the sole shareholder of Enel Iberia S.L, which is in turn a shareholder of Endesa S.A with a 70.101% stake. Related-party transactions are those entered into by Endesa or its subsidiaries with Endesa's shareholders who hold 10% or more of the voting rights or who are represented on the Board of Directors, as well as with any other parties considered as parties related to Endesa, in compliance with the International Accounting Standards. Therefore, all transactions entered into by Endesa or its subsidiaries and Enel or its subsidiaries (excluding the Endesa Group) will be considered related-party transactions.

Enel and its subsidiaries (excluding the Endesa Group) and Endesa and its subsidiaries are considered "the same counterparty" when calculating the thresholds to publish related-party transactions. In other words, the same counterparty is considered both the related person,



whether natural or legal, as well as any other entity under its control, and, in the case of natural persons, close relatives, as defined in IAS 24.

#### **IV. ANALYSIS OF THE TRANSACTION FROM THE POINT OF VIEW OF THE INTEREST OF ENDESA AND OF SHAREHOLDERS OTHER THAN THE RELATED PARTIES**

##### **1. Operational and strategic rationality of the transaction**

Firstly, it should be noted that Endesa uses the Meters&More Communication Protocol. This Protocol establishes the rules to be followed for the transfer of information between the remote management meters (Smart Meters) located at the points of consumption, the measurement hubs, which are in our transformation centres, and the EDRD systems. There is no alternative hub on the market which could be provided by other suppliers, compatible or developed in the Meters&More protocol used by Endesa, and compatible with the remote management meters installed by Endesa.

##### LVM hubs and Bird 3.0 probes:

The regulations for the electricity sector (Royal Decree 1955/2000, of 1 December, which regulates the activities of transport, distribution, marketing, supply and authorisation procedures for electricity installations, and Royal Decree 1110/2007, of 24 August, which approves the unified Regulation for measurement points in the electricity system) requires that all meters for electricity supplies with a contracted power of up to 15 kW (type 5 measuring equipment) should enable time discrimination and remote management (it will be understood that the equipment is effectively integrated into the remote management system when it has the capacity to read the hourly records for active energy remotely).

In this regard, "E-Distribución" will ensure compliance with the legal obligations arising from its status as reading manager, by making measurement hub equipment available (necessary to be able to remotely manage the new low voltage supplies from the new transformation centres) and "BIRD" wireless probes, compatible with the Remote Management system.

It should therefore be noted with regard to the purchase of LVM hubs and Bird 3.0 probes designed by Gridspertise that: (i) they ensure compatibility with E-Distribución's remote management system in accordance with the Meters&More protocol; (ii) they implement the communications protocol; and (iii) they are compatible with the new ForceBeat mobility system, which is currently the only compatible alternative on the market for this equipment.

##### QED equipment for the pilot project:

The QED equipment provides greater knowledge with regard to the state of the E-Distribución networks through the interaction of the installed hardware with the different software platforms that enable the digital, virtual and remote control of those factors that affect the quality and continuity of the supply provided and enable operation, either locally or remotely, by the control centre or, where applicable, automatically.

The completion of a pilot project for the QED element in a sufficient number of transformation centres of different types and locations will enable the suitability of the product in E-Distribución's distribution network to be tested.



## **2. Economic rationale of the transaction. Methods used**

### LVM hubs and Bird 3.0 probes.

To verify that the Related-Party Transaction is in line with the principle of free competition, firstly, the possibility of applying the Comparable Uncontrolled Price ("CUP") method was analysed.

The CUP method consists of "comparing the invoiced price for goods or services transferred or provided in a related-party transaction with the invoiced price for goods or services transferred or provided in a comparable unrelated transaction in comparable circumstances." Furthermore, paragraph 2.15 of the OECD Guidelines provides that one transaction may be considered comparable to another if "adjustments can be made that are sufficiently precise to be able to eliminate the material effects of such differences".

Both Enel Global Infrastructure and Networks, S.r.l. and Gridspertise have prepared offers to independent third parties for the supply of LVM hubs and Bird 3.0 probes under terms and conditions comparable to those foreseen in the Related-Party Transaction.

For this, the CUP method was selected to analyse the transfer pricing policy applied in the related-party transactions for the purchase of LVM hubs and Bird 3.0 probes.

The terms and conditions applicable to the Related-Party Transaction are consistent with the conditions applied to independent third parties in comparable offers, so it may be concluded that the agreed price for the purchase of LVM hubs and Bird 3.0 probes provided for in the Related-Party Transaction is reasonable from a transfer pricing point of view.

### QED Equipment

Based on the information received, it was not possible to identify purchase transactions undertaken between independent third parties that would enable the selection of the CUP method to verify compliance with the at arm's length principle for the acquisition of such products within the framework of the Related-Party Transaction.

As this involves equipment under development, there are still no reference contracts with DSOs that are external to the Enel Group. That is why the Net Margin Method for the Transaction (TNMM) was applied to Gridspertise, whose profit level indicator to verify that the profitability obtained by Gridspertise in the sale of QED equipment to E-Distribución is consistent with the principle of market value and is the operating margin on total costs (Full Cost Mark-Up or FCMU), which is calculated as the ratio between the operating result and the total costs incurred, with a slightly negative margin for the supplier being obtained in the pilot phase.

Based on the above circumstances and on all available information, it was concluded that the TNMM is the most appropriate method to assess whether the valuation methodology applied to the purchase of QED equipment in the Related-Party Transaction is consistent with that applied by independent parties engaged in similar activities.

This enabled verification that the profitability on operating costs obtained by Gridspertise in the sale of QED equipment as part of the Related-Party Transaction is not higher than that obtained



by functionally comparable independent third parties in similar operations. Therefore, it is reasonable to conclude that the agreed price for the sale of QED equipment as part of the Related-Party Transaction does not exceed the market value.

### **3. Legal and commercial reasonableness of the transaction**

The terms and conditions agreed between the parties are similar to those agreed by independent parties in a contract for the supply of goods and equipment and, in any case, enable a suitable balance with the distribution of risks in the Agreement to be obtained by objectively allowing E-Distribución to meet its obligations to Gridspertise, obtain compensation in case of non-compliance with the objectives of the Agreement or, ultimately, proceed to terminate the same.

All industrial and intellectual property rights relating to the products subject to the contract are the exclusive property of Gridspertise, which will manage the guarantees for the products it supplies and will communicate to E-Distribución Redes Digitales any modifications, improvements or technological innovations that may arise.

In the event that one of the parties ceases to be an Enel Group company, the Agreement is expected to be terminated. However, the supplier is obliged, if requested by E-Distribución, to ensure the continuation of the supply for the time reasonably necessary for E-Distribución to select an alternative solution (maximum 24 months). The parties may also mutually agree not to terminate the Agreement.

So, given the legal and commercial terms and conditions under which the Related-Party Transaction is expected to be formalised, it can be concluded that it has been reasonably articulated and similar contractual terms and conditions could have been agreed by independent parties.

### **V. REPORTS BY INDEPENDENT EXPERTS ISSUED AT THE REQUEST OF THE AUDIT AND COMPLIANCE COMMITTEE**

After analysing the transaction, the Audit and Compliance Committee has taken into account the Report of PricewaterhouseCoopers Tax and Legal S.L. and PricewaterhouseCoopers Asesores de Negocios, S.L. (hereinafter "PwC") on the fairness and reasonableness of the approval of the contract being analysed.

PwC has issued its Report in its capacity as an independent expert. On the date the report was issued, PwC did not maintain any sort of commercial relationship with the Enel Group or with the Endesa Group that could compromise its condition as an independent expert for the purposes of issuing this Report or that, in particular, could place them in a situation of conflict of interest to conduct the analysis and draw up the conclusions set out therein.

The Report issued for Endesa's Audit and Compliance Committee concludes that the approval of the contract for the supply of LVM hubs and Bird 3.0 probes and QED equipment for a pilot project, for a maximum total amount of €3,630,000, between E-Distribución Redes Digitales, S.L.U. and Gridspertise S.R.L. as described in this document is fair and reasonable from the point of view of Endesa and those shareholders who are not related parties.



## **VI. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE**

The Audit and Compliance Committee comprises five non-executive members of the Board of Directors, four of whom (80%) are independent. The Committee also includes a Proprietary Director representing the controlling shareholder Enel, which owns 70.10% of Endesa's shareholding. In accordance with paragraph 3 of Article 529 duovicies of the Corporate Enterprises Act, Alberto de Paoli, Proprietary Director, representative of Enel, has not participated in the preparation of this Report.

The rest of the members of the Audit and Compliance Committee participated and agree on the content of this Report.

Based on the background information detailed above, the Audit and Compliance Committee concludes that:

- Taking into account the obligations of the distributor with regard to the reading of the measurements and given the need for meters in electricity supplies with a contracted power of up to 15 kW (type 5) to enable time discrimination and remote management, it is reasonable to require the installation of LVM hubs and Bird 3.0 probes.
- Taking into account the future needs of the E-Distribución network and considering the potential savings based on the reduction of the level of electrical losses and the average interruption times, it is reasonable to request the installation of QED equipment.
- It should also be noted that the nature of the Related-Party Transaction is in line with the purpose, values and the strategic plan of E-Distribución.
- The purchase of LVM hubs and accessories for the remote management system and QED equipment from an Enel Group company with the characteristics of Gridspertise is presented as the best alternative since it enables the following: (i) meeting and satisfying the functional needs of E-Distribución; (ii) ensuring compatibility with their current systems; and (iii) minimising cost by taking advantage of economies of scale.
- The risks arising from the purchase of the Products from an Enel Group company are the same as those that would be identified in the event that the supplier of the Products were a third party external to the Enel Group.
- The procedure for establishing the price complies with Spanish tax regulations on transfer pricing and the OECD Guidelines; and the prices for these transactions would be the same as those that independent parties would have agreed under similar circumstances.
- The Related-Party Transaction is articulated in a reasonable manner and under contractual terms and conditions similar to those that could have been agreed by independent parties.

The Audit and Compliance Committee concludes that the contracting of the supply of LVM hubs, Bird 3.0 probes and QED equipment for a pilot project, between E-Distribución Redes Digitales, S.L.U. and Gridspertise S.R.L., is fair and reasonable from the point of view of Endesa and shareholders other than the related party.



**VII. CONCLUSION OF THE BOARD OF DIRECTORS**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved the transaction.



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE RELATED-PARTY TRANSACTION CONSISTING OF THE RE-INVOICING OF EXPATRIATE COSTS BETWEEN COMPANIES OF THE ENDESA GROUP AND COMPANIES OF THE ENEL GROUP**



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE RELATED-PARTY TRANSACTION CONSISTING OF THE RE-INVOICING OF EXPATRIATE COSTS BETWEEN COMPANIES OF THE ENDESA GROUP AND COMPANIES OF THE ENEL GROUP**

**INTRODUCTION AND REGULATORY FRAMEWORK**

In accordance with the provisions of section 3 of article 529 duovicies of the consolidated text of the Spanish Corporate Enterprises Act approved by Royal Legislative Decree 1/2010, of 2 July, Endesa's Audit and Compliance Committee issues this Report to assess whether the transaction is fair and reasonable from the point of view of the company and, where appropriate, shareholders other than the related party, and to give an account of the assumptions on which the assessment is based and the methods used.

In accordance with paragraph 3 of Article 529 unvicies, the Report issued and, where appropriate, published by Endesa's Audit and Compliance Committee, must at least include the following information:

- a) Information on the nature of the transaction and the relationship with the related party,
- b) the identity of the related party,
- c) the date and the value or amount of the consideration for the transaction, and
- d) any other information required to assess whether this is fair and reasonable from the point of view of the company and of shareholders who are not related parties.

Moreover, Endesa has developed its own internal regulatory framework in this area. This includes regulations on related-party transactions, which have been approved by the Board of Directors, and an Operational Procedure for related-party transactions, which has been approved by the Audit and Compliance Committee and develops the guidelines contained in the Regulations, defining the operations, duties and responsibilities under the general regime of application, approval, publication and supervision of related-party transactions. The regulation has been applied in this case.

I. **OVERVIEW OF THE GENERAL TRANSACTION**

a) **Background of the transaction**

It is common practice for personnel transfers to occur between the different entities of the Endesa Group and the Enel Group, in order to promote integration between companies and create synergies as a result of such integration. This means that certain entities of the Endesa Group transfer part of their staff ("expatriates") to entities of the Enel Group and vice versa, with the companies that transfer the staff assuming in the first instance the costs associated with the personnel transferred. For this reason, it is considered to be in the mutual interest of both the Endesa Group and the Enel Group to proceed with the temporary transfer of Enel's specialised personnel from different countries to Endesa and vice versa, with these transfers between the companies formalised by means of contracts called "Re-invoicing Agreements" or "*Recharge Agreements for Personnel Secondment*". This type of contract is common practice in



multinational groups in which workers are transferred between companies belonging to the same group.

Generally speaking, these operations do not entail any cost for any of the companies involved, since the company benefiting from the service pays all expenses to the company of origin. However, this circumstance is not an obstacle for the operation to be considered a related-party transaction, with the application of the corresponding regulations.

In accordance with CNMV guidelines "on the regime for the communication of related-party transactions regulated in Chapter VII bis of Title XIV of the Corporate Enterprises Act", which indicate that in the case of multi-year contracts, the "*Recharge Agreements for Personnel Secondment*" that are the object of this report shall be approved on the basis of an estimate for the total duration of the contract, i.e. they include an assessment of the contracts in force up to the date of their termination.

#### **b) Objective and amount for the transaction.**

The purpose of the transaction is to re-invoice the expatriate personnel costs originated through the current contracts ("*Recharge Agreements for Personnel Secondment*"), formalised between Endesa, S.A. or its controlled companies and companies of the Enel Group, until the completion of each of these contracts, which amount to a total of approximately €14.55 million.

The entity receiving the expatriate workers will be responsible for coordinating, directing and managing these workers, without receiving in any case instructions from the transferring entity, the latter acting as a mere intermediary. Similarly, the entity receiving expatriates will be responsible for instructing and providing the necessary assistance to expatriate workers who have come to work in its entity. For their part, the entities receiving expatriate workers undertake to pay the costs that the transferring entity would have had to bear with regard to the expatriate staff. So, based on the analysis of functions, risks and assets, the ceding entities may be classified as mere intermediaries in the transfer of personnel, and they undertake minimum functions and assume limited risks. In general, "*Recharge Agreements for Personnel Secondment*" are those denominated as "pass-through".

Each transfer of personnel between an Endesa Group company and an Enel Group company determines the need to sign a "*Recharge Agreements for Personnel Secondment*" contract, taking into account the specific needs and moments when such a transfer should take place. These contracts are executed by means of a unified model that presents substantially common characteristics, which regulate the legal and economic terms for the recovery of the costs incurred by the "Company of origin" for the international displacement of its personnel, by invoicing the "Host Company" for all these costs. The need for such a contract arises essentially from the fact that, according to the agreed recruitment scheme, workers on international assignment remain on the payroll of the "Company of origin".

## **II. IDENTIFICATION OF THE PARTY RELATED TO ENDESA**

**Endesa Group Companies that have entered into contracts with Enel Group Companies:** Endesa, S.A., Endesa Energía, S.A., Endesa Generación, S.A., Endesa X Servicios,



S.L., Enel Green Power España, S.L., Edistribución Redes Digitales S.L. y Endesa Distribución Eléctrica S.L. (currently Edistribución Redes Digitales S.L.).

**Enel Group Companies that have entered into contracts with Endesa Group**

**Companies:** ENEL S.p.A., Enel Distribucion Peru SAA., Eletropaulo Metropolitana Eletricidade de Sao Paulo SA., Enel Green Power Italia Srl, Enel Green Power Chile, SA, Energia Nueva Energia Limpia Mexico S de RL de Cv, ENEL X S.r.l., Enel Energie Muntenia SA, Enel Energia SpA, Enel Green Power Cachoeira Dourada SA, Enel Américas S.A., Enel Investment Holding BV, Enel Finance International NV, Enel Generacion Peru SAA, Enel Global Trading SpA, Enel Global Trading, Singapore Branch, Enel North America Inc., Enel Romania SA, Enel Green Power India Private Limited, Enel Green Power Colombia SAS ESP, Enel Green Power SpA, Enel Global Infrastructure and Networks Srl and Enel Brasil SA.

Enel SpA is the sole shareholder of Enel Iberia S.L, which is in turn a shareholder of Endesa S.A with a 70.101% stake. Related-party transactions are those entered into by Endesa or its subsidiaries with Endesa's shareholders who hold 10% or more of the voting rights or who are represented on the Board of Directors, as well as with any other parties considered as parties related to Endesa, in compliance with the International Accounting Standards. Therefore, all transactions entered into by Endesa or its subsidiaries and Enel or its subsidiaries (excluding the Endesa Group) will be considered related-party transactions.

Enel and its subsidiaries (excluding the Endesa Group) and Endesa and its subsidiaries are considered "the same counterparty" when calculating the thresholds to publish related-party transactions. In other words, the same counterparty is considered both the related person, whether natural or legal, as well as any other entity under its control, and, in the case of natural persons, close relatives, as defined in IAS 24.

**III. ANALYSIS OF THE TRANSACTION FROM THE POINT OF VIEW OF THE INTEREST OF ENDESA AND OF SHAREHOLDERS OTHER THAN THE RELATED PARTIES**

**1. Operational rationale of the transaction**

- Shared experiences/knowledge: Both Endesa, its subsidiaries and the Enel Group have historically had an extensive international presence that determines the need for specialised personnel who can join companies in different countries, contributing to the exchange of experiences and knowledge between them and also favouring the professional growth of their workers and those of the destination companies. For this reason, it is considered to be in the mutual interest of both the entities of the Endesa Group and those of the Enel Group to proceed with the temporary transfer of specialised personnel, formalising these transfers between the companies through Contracts.
- Confidentiality: To the extent that the activities undertaken by staff that have been transferred may have a strategic component for the Group (especially when sharing knowledge and experience in certain areas where specialisation is a key factor), they will entail a high degree of confidentiality. Therefore, the provision of such services by a third party would not be feasible, not only because the third party may lack specialised experience but also because of the sensitivity of the information contained in the shared knowledge.



- **Neutrality:** Account must also be taken of the neutral effect of the monetary amounts involved in the transaction, that is those that will be received (or paid) by the Endesa Group companies. The price will be closed in accordance with the provisions of the Contracts. The price includes all costs, estimated by the "Company of origin" and which it will re-invoice, including any costs necessary to meet its contractual obligations. The price calculated in this way should not include any margin on the total costs calculated, except for Chile and Peru. This means that the Contracts, in any case, have no economic effect for the entities of the Endesa Group, since they simply involve re-invoicing costs without margin and have no tax effect, with the exception of those in which Chilean or Peruvian companies take part.

In the specific case of exchanges of personnel with Enel Group entities located in Chile or Peru, where the local regulations themselves require that an estimated amount be included in the basis of re-invoiced costs, in addition to direct and indirect costs (actual costs, incurred by expatriates, where there needs to be a receipt), direct and indirect costs (real costs, incurred by expatriates, where there needs to be a receipt), direct and indirect costs (real costs, incurred by expatriates, where there needs to be a receipt), as well as the "mandate cost", or costs for the management and administration of the payroll and service to the employee. This cost is estimated at approximately USD 3,000-4,000 per employee per year and is therefore considered to have an insignificant impact for the purposes of this analysis.

## **2. Economic reasonableness of the transaction. Methods used**

"Recharge Agreements for Personnel Secondment" enable the recovery of the costs borne by the "Company of origin" by having some of its workers on international assignment, in accordance with internal expatriation policies:

- **Internal direct cost:** Personnel costs, including fixed and variable salary, social security, contributions to a pension fund where applicable, special incentives, complementary benefits and any other costs directly related to remuneration.
- **External direct cost:** Travel and other external direct costs
- **Internal indirect cost:** Digital costs, administrative management etc.

OECD Guidelines establish as a second criterion for determining the deductibility of an intra-group service charge, confirmation of the fact that it represents suitable remuneration for the provision of such services in accordance with the at arm's length principle. The transfer pricing policy applied in the re-invoicing of expatriate Costs by entities of the Endesa Group (either as "Originating Entity" or as "Host Entity ") consists of invoicing all costs associated with the transfer of personnel.

Once it has been concluded that the costs incurred by the entity transferring the expatriate staff should be re-invoiced to the entity receiving the expatriate staff, and that the cost basis is reasonable, Article 18.5 of the LIS, aligned with the OECD Guidelines, provides for services provided jointly in favour of several related persons or entities that (i) whenever possible, should follow a direct or individualised cost allocation criterion, and (ii) only in those cases where this is not possible, an indirect distribution criterion should be followed.



The costs corresponding to these personnel transfer operations are invoiced to each beneficiary entity for each of the expatriate employees in the "Host Entity", following a direct allocation criterion, since they can be identified precisely.

Finally, consideration should be given to whether the mere re-invoicing of services provided by expatriate staff is consistent with the at arm's length principle, or whether a profit margin should be established.

In this regard, paragraph 7.34 of the OECD Guidelines provides that, where a related company intervenes solely as an intermediary in the provision of services, it is not appropriate to establish an at arm's length price by adding a margin to the costs of services.

Paragraph 1.174 of the OECD Guidelines recommends that the transfer or secondment of individual employees among members of a multinational enterprise group should not, as a general rule, be specifically compensated. In many cases, the secondment of individual employees between associated companies will not generate the need for compensation. When an employee is assigned (i.e. remains on the payroll of the transferring entity but works for the acquiring entity), the simple payment required will constitute, in many cases, an appropriate at arm's length compensation for the services provided by the transferring entity,

Therefore, in view of the above, it is reasonable to pass on the corresponding costs to the entities to which the expatriate staff have been transferred, without the application of a profit margin.

For all these reasons, it is considered that the remuneration applied is in line with the at arm's length principle and therefore its economic rationality is justified.

#### **IV. REPORTS BY INDEPENDENT EXPERTS ISSUED AT THE REQUEST OF THE AUDIT AND COMPLIANCE COMMITTEE**

After analysing the transaction, the Audit and Compliance Committee has taken into account the report prepared by Ernst & Young Abogados, S.L.P. on the fairness and reasonableness of the contracts being analysed. Ernst & Young Abogados, S.L.P. issued a report in their capacity as an independent expert, having ascertained that at the date of issue of the Report, EY Abogados did not maintain any sort of commercial relationship with the Enel Group or with the Endesa Group that could compromise its condition as an independent expert for the purposes of issuing this Report or that, in particular, could place them in a situation of conflict of interest to conduct the analysis and draw up the conclusions set out therein.

The Report concludes that the re-invoicing of employee transfer costs through the "*Recharge Agreements for Personnel Secondment*" between the companies of the Endesa Group and the companies of the Enel Group, provides advantages to Endesa, so it can be concluded that Endesa obtains a benefit derived from the transfer of employees from which the re-invoicing of costs derives (rationality of the operation, technical and/or commercial), and that the remuneration applied is in line with the at arm's length principle (economic rationality). Therefore, the re-invoicing of costs between companies of the Endesa Group and companies of the Enel Group is fair and reasonable from the point of view of Endesa and shareholders who are not related parties.





## **V. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE**

The Audit and Compliance Committee consists of four non-executive members of the Board of Directors, four of whom (80%) are independent. The Committee also includes a Proprietary Director representing the controlling shareholder Enel, which owns 70.10% of Endesa's shareholding. In accordance with paragraph 3 of Article 529 duovicies of the Corporate Enterprises Act, Alberto de Paoli, Proprietary Director, representative of Enel, has not participated in the preparation of this Report.

The rest of the members of the Audit and Compliance Committee participated and agreed on the content of this Report on the "re-invoicing of expatriate costs between companies of the Endesa Group and companies of the Enel Group"

In accordance with all the above-mentioned antecedents, the Audit and Compliance Committee concludes that the "*Recharge Agreements for Personnel Secondment*" contracts between the companies of the Endesa Group and the companies of the Enel Group:

- Promote the professional development of Endesa employees, both expatriates and those who locally share their work with expatriates of the Enel Group through the exchange of experiences and knowledge.
- Have a neutral effect on the amounts for the provision of the operations, which will be received or lent by entities of the Endesa Group, since the "*Recharge Agreements for Personnel Secondment*" enable the recovery of the total costs borne by the "company of origin" by having some of its workers on international assignment and the "Host Entity" will not bear any margin charged by the "Entity of origin".

**The Audit and Compliance Committee concludes that the re-invoicing of expatriate costs between companies of the Endesa Group and companies of the Enel Group is fair and reasonable from the point of view of Endesa and its shareholders other than the related party.**

## **VI. CONCLUSION OF THE BOARD OF DIRECTORS**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved the transaction.



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE CONTRACTS FOR THE PROVISION OF TECHNICAL SERVICES AND MANAGEMENT SUPPORT BETWEEN THE ENEL GROUP AND ENDESA FOR 2023**



## **REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE CONTRACTS FOR THE PROVISION OF TECHNICAL SERVICES AND MANAGEMENT SUPPORT BETWEEN THE ENEL GROUP AND ENDESA FOR 2023**

### **I. INTRODUCTION AND REGULATORY FRAMEWORK**

In accordance with the provisions of section 3 of article 529 duovicies of the consolidated text of the Spanish Corporate Enterprises Act approved by Royal Legislative Decree 1/2010, of 2 July, Endesa's Audit and Compliance Committee issues this Report to assess whether the transaction is fair and reasonable from the point of view of the company and, where appropriate, shareholders other than the related party, and to give an account of the assumptions on which the assessment is based and the methods used.

In accordance with paragraph 3 of Article 529 unvicies, the Report issued and, where appropriate, published by Endesa's Audit and Compliance Committee, must at least include the following information:

- a) information on the nature of the transaction and the relationship with the related party,
- b) the identity of the related party,
- c) the date and the value or amount of the consideration for the transaction, and
- d) any other information required to assess whether this is fair and reasonable from the point of view of the company and of shareholders who are not related parties.

Moreover, Endesa has developed its own internal regulatory framework in this area. This includes regulations on related-party transactions, which have been approved by the Board of Directors, and an Operational Procedure for related-party transactions, which has been approved by the Audit and Compliance Committee and develops the guidelines contained in the Regulations, defining the operations, duties and responsibilities under the general regime of application, approval, publication and supervision of related-party transactions. The regulation has been applied in this case.

### **II. BRIEF DESCRIPTION OF THE TRANSACTION**

#### **a) Purpose of the transaction.**

Endesa and its subsidiaries have been receiving management support services and technical services from the Enel Group and its subsidiaries since 2009. During this time, the service delivery model has adapted to the changes in the Group's organisational structure and has introduced technical improvements.

The purpose of the transaction "**Contracts for the provision of technical and management support services between the Enel Group and Endesa during 2023**" is the renewal of the support services provided by the Enel Group to the Corporate areas of the Endesa Group, as well as the provision of Technical Services to its Business areas. These may also be regarded as reciprocity contracts, i.e., the Endesa Group may also provide services to the Enel Group.



It should be noted that the services proposed for the Corporate and Business areas are associated with procurement management activities, as well as the maintenance and development of computer and telecommunications systems.

The contracts are formalised between the supplier and service recipient with the following documents:

- Closed catalogue of services and activities, which are likely to generate utility or benefit to the recipient, together with a list of pre-established documents (deliverables) that can certify the effective provision of services.
- Quoted price of each service, established in accordance with the current Spanish transfer pricing regulations.

In 2022, the catalogue included 382 services (89 management support services and 293 technical services). In 2023, the catalogue will have 352 services, as compared to the 2022 catalogue (76 management support services and 276 technical services). Minor changes that do not affect the service catalogue were made, associated with the definition of activities that encompass some of the existing services and with the deliverables of each service.

The services are provided through the following contracts:

- **Support management**, Procurement and ICT services, provided by Enel, SpA to Endesa, S.A. and its subsidiaries. The management support services are provided to the Group companies under the following main categories or areas: Administration, Finance and Control (which include the Risk Control, Administration, Planning and Control and Financial and Insurance units), Human Resources, Communication, Legal and Corporate Affairs, Audit and Sustainability.
- **Technical**, Procurement and ICT services **for the Thermal Generation Business**, provided by Enel Global Thermal Generation Srl to Endesa Generación, S.A. and its subsidiaries: The services of the *Thermal Generation* business line are associated with the production of conventional electricity, focusing on the operation of coal, combined cycle and fuel-gas thermal power plants.
- **Technical**, Procurement and ICT services for the **Distribution Business**, provided by Enel Global Infrastructure & Networks Srl to Endesa Red, S.A. and its subsidiaries.
- **Technical**, Procurement and ICT services for the **Renewable Generation Business**, provided by Enel Green Power SpA to Enel Green Power España S.L.
- **Technical**, Procurement and ICT services **for the Supply Business**, provided by Enel Global Services to Endesa Energía S.A. and its subsidiaries.
- **Technical** and ICT services for **Endesa-X's Business**, provided by Enel X Srl to Endesa X Soluciones S.A.
- **Technical** and ICT services for the **Energy and Commodity Management Business**, provided by Enel Global Trading, SpA to Endesa, S.A.
- In addition, and transversally, Enel (and its subsidiaries) provides **ICT services** to the Endesa Group. In particular, each business line has an operational group that has been specifically appointed to address all cybersecurity issues and matters, another operational group that provides technology and infrastructure services, as well as other services related to specific projects in each area.



- Finally, and as in the previous case, Enel (and its subsidiaries) provides the Endesa Group with procurement services across all of Endesa's businesses, except for Endesa X and Energy and Commodity Management.

➤ Contractual terms and conditions of the services:

- The contract will have a one-year duration and can be extended for successive periods of equal duration. The contracts shall be fully-executed from the date of authorisation of Endesa at the meeting of its Board of Directors, held on 14 October 2022, with effect from 1 January 2023 to 31 December 2023.

The contracts will be extended for a one-year period, unless express notice of termination is given by any of the parties in advance, in the case of Endesa with the corresponding report of the Audit and Compliance Committee and approval of Endesa's Board of Directors or General Shareholders' Meeting. The Audit and Compliance Committee has established the need for the contract extension to be reviewed every year. The contract extension will be reviewed expressly by the Audit and Compliance Committee. A specific mechanism has been established for any of the parties to request an update of the List of Services and in which the Supplier undertakes to provide a new List of Services with the updated prices two months before the contract is renewed.

- The contract may be terminated prior to the expiration of its term in the following cases:
  - Without prior notice, if one of the parties ceases to belong to the Enel Group. In this case, the parties shall negotiate the amounts due within a period of no more than two months and in good faith.
  - In the case of mutual agreement between the parties.
  - In the case of non-compliance with the obligations established in the agreement.

**b) Transaction amount**

➤ The contracts for the provision of Technical and Management Support Services by Enel, SpA and some of its subsidiaries to Endesa, S.A. and its subsidiaries are worth €137.75 million for the year 2023, with the following breakdown.

- Support Management, Procurement and ICT services provided by Enel, SpA to Endesa, S.A. and its subsidiaries: €19.71 million.
- Technical, Procurement and ICT services for the Thermal Generation Business, provided by Enel Global Thermal Generation Srl to Endesa Generación, S.A. and its subsidiaries: €18.93 million.
- Technical, Procurement and ICT services for the Distribution Business, provided by Enel Global Infrastructure & Networks Srl to Endesa Red, S.A. and its subsidiaries: €31.21 million.
- Technical, Procurement and ICT services for the Renewable Generation Business, provided by Enel Green Power SpA to Enel Green Power España S.L.: €22.07 million.



- Technical, Procurement and ICT services for the Supply Business, provided by Enel Global Services to Endesa Energía S.A. and its subsidiaries: €21.92 million
- Technical and ICT services for Endesa-X's Business, provided by Enel X Srl to Endesa X Soluciones S.A.: €10.96 million.
- Technical and ICT services for the Energy and Commodity Management Business, provided by Enel Global Trading, SpA to Endesa, S.A.: €12.95 million.

This agreement also includes the renewal for 2023 of the Technical Service contracts provided by Endesa, S.A. to Enel Global Trading SpA, worth **€1.04 million**.

➤ The price of the Services included in the contracts for the provision of Technical and Management Support Services by Enel, SpA and some of its subsidiaries to Endesa, S.A. and its subsidiaries is calculated as follows:

- In some cases, and where possible, such as prices based on the external cost incurred by Enel, without adding any margin; and
- In all other cases, by re-invoicing the costs incurred by Enel for the provision of these services (distributed between the companies receiving the services, with a distribution key determined according to the type of service) and adding a margin (5%, 7% or 8%, according to the case).
  - The costs associated with activities for the benefit of shareholders and those associated with duplicate services (those already carried out by the recipient), if any, will not be used to determine the cost.
  - If there are variations on the initial estimated price (per recipient), there may be changes on the final invoices. A new authorisation of the Audit and Compliance Committee is required when these variations exceed 10% of the contract value.
  - There are possible adjustments to the initial quoted price, (a) in case of deviations between the quote and real costs, or (b) in case of non-recurring services or services that are provided according to Endesa's real needs throughout the year. The initial quoted price must be adjusted in these cases to the service that is actually being provided, provided that it does not exceed the 10% limit mentioned above.

### **III. IDENTIFICATION OF THE PARTY RELATED TO ENDESA:**

**Service providers:** Enel SpA, Enel Global Service SpA, Enel Grids, SpA, Enel Global Thermal Generation Spa, Enel Global Trading SpA, Enel Green Power SpA and Enel X Srl.

**Service recipients:** *Endesa, S.A., Endesa Generación Portugal, S.A., Distribuidora Eléctrica del Puerto de la Cruz, S.A., Energías de Aragón I, S.L., E-Distribución Eléctrica, S.L., Empresa Carbonífera del Sur, S.A., Endesa Ingeniería, S.L., Endesa Energía, S.A., Energía XXI, S.L., Endesa Operaciones y Servicios Comerciales, S.L., Endesa Generación, S.A., Gas y Electricidad Generación, S.A., Unión Eléctrica de Canarias Generación, S.A., Endesa Red, S.A., Enel Green Power España S.L, Endesa Medios y Servicios, S.L and Endesa X Servicios S.L.*

Enel SpA is the sole shareholder of Enel Iberia S.L, which is in turn a shareholder of Endesa S.A with a 70.101% stake. Related-party transactions are those entered into by Endesa or its subsidiaries with Endesa's shareholders who hold 10% or more of the voting rights or who are



represented on the Board of Directors, as well as with any other parties considered as parties related to Endesa, in compliance with the International Accounting Standards. Therefore, all transactions entered into by Endesa or its subsidiaries and Enel or its subsidiaries (excluding the Endesa Group) will be considered related-party transactions.

Enel and its subsidiaries (excluding the Endesa Group) and Endesa and its subsidiaries are considered "the same counterparty" when calculating the thresholds to publish related-party transactions. In other words, the same counterparty is considered both the related person, whether natural or legal, as well as any other entity under its control, and, in the case of natural persons, close relatives, as defined in IAS 24.

#### **IV. ANALYSIS OF THE TRANSACTION FROM THE POINT OF VIEW OF THE INTEREST OF ENDESA AND OF SHAREHOLDERS OTHER THAN RELATED PARTIES**

##### **a) Operational, technical and commercial rationale.**

The proposed services are aimed at providing the necessary support to almost all of the Endesa Group's business lines (except for Nuclear Power) and all corporate areas, and are the contractual result of the business organisation and strategy shared by the Enel Group and the Endesa Group. The rationale of the proposed services is aimed at achieving the following goals and creating the following synergies:

- In general,
  - The globalisation of services as a means of capturing synergies since it allows the company to take advantage of the knowledge and experience of the solutions that have already been proposed in other countries, reducing not only the cost of development but also the time of resolution, and the prevention of future problems.
  - The provision of the service by Endesa or a third party contracted by Endesa would not allow the company to benefit from economies of scale, resulting in a higher cost of the service when compared to that provided by Enel, since it does not have the experience in other countries or can take advantage of synergies and cross-knowledge between the countries.
  - The correct execution of the business strategy shared by the Enel Group and the Endesa Group for each of the business lines and corporate areas is achieved.
  - The best practices resulting from the experience acquired by sharing knowledge that gives a competitive advantage to the recipients are transferred.
  - The processes and procedures are standardised and harmonised, facilitating the audit and compliance processes, with the consequent reduction of risks.
  - The same systems, platforms and applications are used, generating important synergies and economies of scale.



- The roles within the organisation are rationalised through a correct distribution of the activities, avoiding their duplication, which results in cost savings and specialisation of the teams, making the resources more efficient.
- With regards to the *Procurement* and ICT services, in addition to the cost savings and improvement of efficiency, contracting volumes are added, with the resulting savings associated with economies of scale and the achievement of an optimum negotiating position at the time of contracting and when executing the contracts.

It is common practice to share services within a Group at the national and international level and, in particular, in the energy sector, which is a knowledge-intensive sector. Moreover, it would be unusual for the Enel Group not to provide these services, since it would prevent the Endesa Group from benefiting from being part of a Multinational Group (present in 30 countries) that operates across the entire value chain, from generation to supply, and this could leave the Endesa Group at a disadvantage with respect to its competition.

#### **b) Economic rationale. Methods used**

Pricing formula and relationship with the rationale of the transaction:

The goals of the proposed services and the pricing method are in line for the following reasons:

- The company providing the service carries out the activity for the Group, avoiding duplicate roles/costs, distributing the cost among the different recipients, obtaining a lower unit cost at the recipient level.
  - By concentrating the activity in a single supplier, the teams specialise in improving efficiency and effectiveness.
- Valuation of services:

The re-invoicing of costs plus a margin, distributed according to a distribution key, is a widespread practice, validated by the OECD in its Transfer Pricing Guidelines.

The transfer pricing policy applied in the provision of services involves invoicing all costs incurred in providing such services plus a margin:

- 0% in the cases in which an external cost is being re-invoiced (for example, and in the vast majority of cases, the cost of licences), to the extent that the remuneration of the service provider is determined by taking into account its internal costs only (and not external costs, on which no margin is applied);
- In other cases, 5, 7 or 8%, depending on the additional value brought about by the contract.
- The Net Operating Margin (**NOM**) method was used for the assessment of the market adequacy of the price agreed between the parties. The Operating Income on Total Costs (**OITC**) was used as an indicator of the level of profit to check whether transfer pricing has been established, in accordance with the arm's length principle.

For all the above, it can be concluded that the remuneration applied to the provision of services is consistent with the arm's length principle. Therefore, the economic rationale of the transaction can be justified.



**c) Other information**

➤ Endesa's internal controls can help check that the M&T services are being provided by Enel to the service recipients in the required terms throughout the year.

- Prior to the approval of the contract, an independent expert will analyse the catalogue of services covered by the contract to prove that each of them is useful and necessary for Endesa. According to the contract, the cost base will not take into account those costs incurred by Enel as a result of shareholder activities (those inherent to their status as an Endesa shareholder) and duplicate activities (those already carried out by Endesa, without Enel's participation being required).
- The contract model establishes that the deliverables corresponding to each service must be determined prior to the provision of the services, in such a way that the effective provision of the service can be certified with documents after delivery.
- Each of Endesa's Managing Directors must examine the individual catalogue of services that Enel makes available to Endesa once a year, analysing it and accepting each service individually, on the understanding that there is a need and/or usefulness for the Company for each of the services.
- The CEO must approve the internal procedure that ensures that each of the Units receiving these services is assessing and controlling the services being received and their documents, so that this serves as support and backs the conclusions that must finally be drawn up by the Independent Expert assessing the results. In this regard, Operational Instruction No. 516 "Internal Control with respect to the Technical and Management Support Services provided by Enel to Endesa" was published on 1 April 2017 and has been followed after it was published.
- Endesa's Audit Department will supervise the execution of this contract directly, ensuring the effective approval and compliance with the internal procedure mentioned above. The result of its activity will be reported every six months to the Audit and Compliance Committee.
- The contract establishes an annual duration, with the possibility of terminating it at the end of each year, requiring a two-month notice, which guarantees the dynamic adaptation of the same to the interests and needs of Endesa.

In addition, Endesa will commission a top-level independent expert to analyse the documents received from Enel and have the expert prepare and submit a report to the Audit and Compliance Committee on:

- The actual Services provided, which will involve reviewing and ensuring that the deliverables made available to Endesa correspond to those agreed in the Contract, and that such deliverables adequately prove that the Services have been provided in the manner required by Endesa in the Contract; and
- The consistency of the price invoiced by Enel: for which the following will be checked: (i) that the cost-sharing criterion has been correctly applied to those services assessed using the increased cost method; (ii) that the internal services that can be compared



are suitable and sufficient from the point of view of Spanish taxes; and (iii) that the hours, persons or resources used by Enel in providing the services are reasonable.

These checks make it possible to reinforce the conclusions of this report.

**V. REPORTS BY INDEPENDENT EXPERTS ISSUED AT THE REQUEST OF THE AUDIT AND COMPLIANCE COMMITTEE**

The Audit and Compliance Committee has taken into account the following reports when analysing the transaction:

- Report prepared by Garrigues Legal on the contractual documents.
- Report prepared by Ernst & Young Abogados, S.L.P. on the fairness and reasonableness of the contracts being analysed. Ernst & Young Abogados, S.L.P. has issued its Report in its capacity as an independent expert. On the date the report was issued, EY Abogados did not maintain any sort of commercial relations with the Enel Group or with the Endesa Group that could compromise its condition as an independent expert for the purposes of issuing this Report or that, in particular, could place them in a situation of conflict of interest to conduct the analysis and draw up the conclusions set out therein.

The Report issued for Endesa's Audit and Compliance Committee assesses the actual benefit obtained by Endesa Group entities from the M&T services, with particular emphasis on the need for all services, based on the general market practices (i.e. analysing whether Endesa Group entities could have carried out such activities autonomously, more effectively and efficiently than a third party, or whether they would have been able to obtain such services from third parties on the market under better conditions than those planned by Enel).

After analysing the M&T Services to be provided within the Enel/Endesa Group, based on the information received as well as the exchange of information between Endesa and EY Abogados, the independent expert concluded that the provision of such services by Enel to Endesa provides, among others, the following advantages:

- A rationalisation of the corporate functions through the correct distribution of the activities, avoiding the duplication of the same;
- Specialised teams, increasing the efficiency of the resources, while transferring the best practices of suppliers to the different Group companies, as a result of the experience acquired by their presence in the different countries in which they operate;
- Standardisation and homogenisation of processes and procedures;
- Addition of total volumes when taking out the services.

These benefits translate into cost savings, the improvement of operational efficiency, risk reduction and the generation of economies of scale and a better position and greater bargaining power in the market.

For all these reasons, it can be concluded that Enel is the best possible provider (technical and/or commercial rationale of the transaction), and that the remuneration applied is in line with the principle of full competition (economic rationale).



Therefore, the report concludes that the provision of the M&T services to be provided by Enel to Endesa (and its subsidiaries) described above is fair and reasonable from the point of view of Endesa and shareholders who are not related parties.

## **VI. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE:**

The Audit and Compliance Committee comprises five non-executive members of the Board of Directors, four of whom (80%) are independent. The Committee also includes a Proprietary Director representing the controlling shareholder Enel, which owns 70.10% of Endesa's shareholding.

In accordance with paragraph 3 of Article 529 duovicies of the Corporate Enterprises Act, Alberto de Paoli, Proprietary Director, representative of Enel, has not participated in the preparation of this Report.

All other members of the Audit and Compliance Committee have participated and agreed on the content of this Report on the **"Contracts for the provision of technical services and management support between the Enel Group and Endesa during 2023"**

In accordance with the background information mentioned above, the Audit and Compliance Committee concludes that with the contracts subject to the analysis:

- The correct execution of the business strategy shared by the Enel Group and the Endesa Group for each of the business lines and corporate areas is achieved.
- The centralisation of services allows large volumes to be generated, resulting in economies of scale and allowing the company to receive more advantageous offers.
- The processes and procedures are standardised and harmonised for all services, which facilitates audit and compliance processes, with the consequent reduction of risks.
- By centralising services, businesses are managed globally, i.e., the same systems, platforms and applications are used, creating great synergies and economies of scale.
- The roles within the organisation are rationalised through a correct distribution of the activities, avoiding their duplication, which results in cost savings and specialisation of the teams, making the resources more efficient.
- The remuneration associated with the provision of services is consistent with the arm's length principle and, therefore, the economic rationale of the transaction is justified.
- The contract has a series of internal controls that help verify that they are effectively being provided by Enel on the required terms throughout the year and by the recipient entities.

In view of the above, the Audit and Compliance Committee concludes that the contracts for the Technical and Management Support Services to be provided by Enel, SpA and some of its subsidiaries to Endesa, S.A. and its subsidiaries, and the Technical Services of the Energy and Commodity Management Business to be provided by Endesa, S.A to Enel Global Trading SpA



during the business year ending on 31 December 2023 are fair and reasonable from the point of view of Endesa and its shareholders other than the related party.

**VII. CONCLUSION OF THE BOARD OF DIRECTORS.**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved the transaction.



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS  
AND REASONABLENESS OF THE RELATED-PARTY TRANSACTION  
INVOLVING THE RENEWAL OF THE INSURANCE AND ASSOCIATED  
SERVICES MANDATE FOR THOSE SERVICES INCLUDED IN THE TECHNICAL  
AND MANAGEMENT SUPPORT SERVICE CONTRACTS WITH ENEL SPA**

**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE RELATED-PARTY TRANSACTION INVOLVING THE RENEWAL OF THE INSURANCE AND ASSOCIATED SERVICES MANDATE FOR THOSE SERVICES INCLUDED IN THE TECHNICAL AND MANAGEMENT SUPPORT SERVICE CONTRACTS WITH ENEL SPA**

**I. INTRODUCTION AND REGULATORY FRAMEWORK**

In accordance with the provisions of section 3 of article 529 duovicies of the consolidated text of the Spanish Corporate Enterprises Act approved by Royal Legislative Decree 1/2010, of 2 July, Endesa's Audit and Compliance Committee issues this Report to assess whether the transaction is fair and reasonable from the point of view of the company and, where appropriate, shareholders other than the related party, and to give an account of the assumptions on which the assessment is based and the methods used.

In accordance with paragraph 3 of Article 529 unvicies, the Report issued and, where appropriate, published by Endesa's Audit and Compliance Committee, must at least include the following information:

- a) information on the nature of the transaction and the relationship with the related party,
- b) the identity of the related party,
- c) the date and the value or amount of the consideration for the transaction, and
- d) any other information required to assess whether this is fair and reasonable from the point of view of the company and of shareholders who are not related parties.

Moreover, Endesa has developed its own internal regulatory framework in this area. This includes regulations on related-party transactions, which have been approved by the Board of Directors, and an Operational Procedure for related-party transactions, which has been approved by the Audit and Compliance Committee and develops the guidelines contained in the Regulations, defining the operations, duties and responsibilities under the general regime of application, approval, publication and supervision of related-party transactions. The regulation has been applied in this case.

**II. OVERVIEW OF THE GENERAL TRANSACTION**

**a) Background of the transaction**

Endesa has an Annual Insurance Plan that includes all of the policies of Endesa and its subsidiaries, which are classified into two sets of policies: Global and local policies<sup>1</sup>.

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<sup>1</sup> Local policies, which are not affected by the services provided by Enel, are negotiated by Endesa directly at the local level. Local policies, among others: own damage and loss of profits of nuclear assets, nuclear civil liability, fleet of vehicles leased, other damage policies, loss of profits and civil liability on other assets not covered by the global policy, credit risk of counterparties and drones.

The policies included in this transaction, which are known as "Global Policies", are negotiated by Enel, S.p.A. for the entire Enel Group, including those of Endesa and its subsidiaries, which it represents through a Commercial Mandate (Insurance), under renewal in this related-party transaction. Thus, the global policies are designed and taken out by Enel for all of the Enel Group's subsidiaries, Endesa also being one of the companies insured. Policies are renegotiated every year through top-tier insurance market brokers. In general, the expiration and renegotiation schedule for the different policies runs from November to November.

At its meeting on 14 March 2016, following a favourable report from the Audit and Compliance Committee, the Board of Directors authorised the signing of a Mandate with Enel, authorising it to negotiate and take out certain insurance policies, acting in its own name and on behalf of Endesa. In this regard, Enel and Endesa signed an "Insurance Mandate" in July 2016. Subsequently, in 2017, 2018, 2019, 2020 and 2021, Enel and Endesa signed subsequent amendments to the Insurance Mandate, with the aim of extending the duration of the contract (the last one was signed and valid until 30 November 2022).

During the financial year 2023 and onwards, it is expected that the subsequent renewals will also cover temporary 12-month periods, although from now on, from January to December.

#### **b) Purpose of the transaction**

There are two interconnected related-party transactions during the provision of the services covered by this Report:

The renewal by Endesa of the **insurance mandate**, a contractual instrument through which Enel, while acting in its own name and on behalf of Endesa, can take out insurance policies for Endesa and its subsidiaries and **the Technical and Management Support Services for the Enel Group during 2023, in relation to the services associated with the Insurance activities**. In particular, the services associated with brokering or negotiating global policies of the Enel Group are aimed at:

- Allowing Enel to choose and take out the policies of insurance brokers, to the benefit of the entities receiving the services. To this end, Enel also performs brokerage activities, namely risk placement management, advice and assistance when preparing insurance documentation, support and monitoring of insurance contracts, and notification and advice on matters related to losses.

This is also known as the Global coverage and main claims management service: the service guarantees the acquisition of global insurance coverage, managing global relationships with brokers and insurance and reinsurance companies, including the necessary negotiations and the acquisition of global policies.

Enel also provides risk assessment support, managing the insurable risk assessment process and defining strategies related to insurance activities. In this role, Enel manages the insurable risk analysis process, collects data associated with global risk lines, develops insurance coverage strategies, designs execution plans for global risk lines or risk lines being converted into global, and organises the Loss Prevention Programme.

- Allowing Enel to draft and renew the insurance contracts, to the benefit of the recipient entities. It should be noted that Enel will not be authorised to sign any

insurance contract on behalf of Endesa's entities without the prior approval from Endesa's Board of Directors (and its subsidiaries).

- Allowing Enel to coordinate the brokers and insured entities when a significant loss occurs (loss amount, reputational impact on the Group, etc.). The most common or small claims are handled locally, although they are notified to Enel.  
Enel also provides insurance contracts governance services, guaranteeing the effectiveness and efficiency of the insurance contracts and documents related to insurance activities. These services refer to the administrative activities comprising specific services of the insurance field, such as issuing invoices, policies, certificates, etc.

Moreover, there is another related-party transaction derived from the negotiation of the Group's global policies: the distribution of costs of global policies taken out by Enel on behalf of its Group subsidiaries, including those of Endesa and its subsidiaries. Enel distributes the premiums of the policies taken out globally for each insured subsidiary, so it is necessary to analyse the fairness and reasonableness of this distribution procedure.

The specific insurance contracts entered into between the insurance company and Endesa and its subsidiaries, which are responsible for paying the proportional amount of the total amount previously determined by them and Enel to the insurance companies directly. To this end, this transaction does not constitute a related-party transaction.

### **c) Duration of the contracts Transaction amount and**

With regards to the **insurance mandate**, the transaction covers (i) the extension of the Insurance Mandate (approved for the period from 1 December 2021 to 30 November 2022), until 31 December 2022, coinciding with the duration of the Technical and Management Support Service contracts signed for 2022, valid from 1 January 2021 to 31 December 2022, and which includes the services associated with the Insurance activity and provided by Enel to Endesa, including the cost of the mandate, so the extension will have no additional cost; and (ii) the Renewal of the Insurance Mandate between Enel and Endesa for the period from 1 January 2023 to 31 December 2023.

With regards to the renewal of the Technical and Management Support Services contracts with the Enel Group for 2023 and the services associated with the Insurance activity, the contract will be valid from 1 January 2023 to 31 December 2023.

The amount for both contracts, i.e., the Insurance Mandate and Technical and Management Support Service contract, amounts to €466,000. Any variations of the price estimated initially (by the recipient) may result in changes to the invoices finally issued, with a 10% limit of the amount initially authorised, as established in the contract and by the client company.

## **III. IDENTIFICATION OF THE PARTY RELATED TO ENDESA**

**Company providing the services:** Enel S.p.A.

**Service recipients:** Endesa, S.A.



Enel SpA is the sole shareholder of Enel Iberia S.L, which is in turn a shareholder of Endesa S.A with a 70.101% stake. Related-party transactions are those entered into by Endesa or its subsidiaries with Endesa's shareholders who hold 10% or more of the voting rights or who are represented on the Board of Directors, as well as with any other parties considered as parties related to Endesa, in compliance with the International Accounting Standards. Therefore, all transactions entered into by Endesa or its subsidiaries and Enel or its subsidiaries (excluding the Endesa Group) will be considered related-party transactions.

Enel and its subsidiaries (excluding the Endesa Group) and Endesa and its subsidiaries are considered "the same counterparty" when calculating the thresholds to publish related-party transactions. In other words, the same counterparty is considered both the related person, whether natural or legal, as well as any other entity under its control, and, in the case of natural persons, close relatives, as defined in IAS 24.

#### **IV. ANALYSIS OF THE TRANSACTION FROM THE POINT OF VIEW OF THE INTEREST OF ENDESA AND OF SHAREHOLDERS OTHER THAN RELATED PARTIES**

##### **1. Operational rationale of the transaction**

The benefits derived from the **extension of the Insurance Mandate and renewal of the Technical and Management Support Service** contracts provided by Enel to Endesa are:

1. Having Enel take out global policies on behalf of, among others, Endesa, allows Endesa to benefit from a number of advantages:
  - **Grouping of heterogeneous assets:** a portfolio of very heterogeneous global assets is built, which can reduce the risks for the insurance market, making its coverage much more attractive. Risk diversification, by building a portfolio with assets from different regions and of different profiles, allowing the mitigation of the portfolio's total risk. A significant increase in the size of the portfolio, together with the reduction of its risk profile, will allow Endesa to benefit from much more beneficial insurance terms and conditions.
  - **Negotiation capacity when managing claims.** The size of the Enel Group's global portfolio of assets worldwide allows Endesa to have a much higher negotiating capacity in claims management processes, derived from the inclusion of its assets in global policies. This allows Endesa to close claims in shorter periods and with better economic results. In addition, Endesa is much more protected when renewing policies in the event of high accident rates.
2. The experience and analysis of the different risk issues of Enel's global portfolio across all regions allows Endesa to benefit from a high level of knowledge about different technologies, by sharing experiences and risks. This allows the coverage taken out for Endesa to be designed much better, optimising the cost-benefit ratio of the policies, and ensuring high quality policies are taken out.
3. The scale obtained in the global programmes allows the **optimisation of any additional administrative contracts and services** required by Endesa, through the designated global broker that offers a specialised solution to Endesa. This allows a reduction of time in the different activities to be developed.

In view of all the reasons described above, it can be considered that the provision of the services associated with the Insurance activity - together with the extension of the Insurance Mandate - by Enel to Endesa, as opposed to its direct provision by Endesa, as well as the provision of this service by Enel instead of by an independent third party in the market, is fair and reasonable and benefits Endesa.

## **2. Economic reasonableness of the transaction. Methods used**

### **1. Analysis of the remuneration established for the services associated with the Insurance activity provided by Enel**

The price of the Technical and Management Support Service contracts provided by the Enel Group during 2023, which include the services associated with the Insurance activity and the Insurance Mandate, is calculated as follows:

- The base cost is calculated with the costs incurred by Enel in providing them, excluding costs associated with activities for the benefit of shareholders and those associated with duplicate services (those already being performed by the recipient), if any.
- A 5% margin is added, which is within the market range.
- Any variations of the price estimated initially (by the recipient) may result in changes to the invoices finally issued, with a 10% limit of the amount initially authorised, as established in the contract and by the client company.

With regards to all Technical and Management Support Service contracts, it must be taken into account that a unilateral APA (*Advanced Pricing Agreement*) has been reached with the Spanish Tax Authority that concludes on the adequacy of the pricing methodology to the transfer pricing regulations in force in the Corporation Tax, where special reference is made to the cost sharing criteria. The APA will be valid from 1 January 2017 to 31 December 2023.

The transaction analysed involves the provision of services, therefore, it is considered that the OITC (*Operating Income on Total Costs*) was the most suitable profitability indicator. The OITC calculates the price of a transaction on the basis of the costs of the service provider, adding a suitable margin to remunerate the functions performed, the assets used and the risks assumed. The OITC is often used as the cost-effectiveness indicator to analyse intra-group service provision processes.

The analysis of 15 comparable companies that provide management support service activities comparable to those carried out by Enel determines that 5% can be considered as the median. Therefore, it can be concluded that the remuneration applied is consistent with the arm's length principle and, therefore, is calculated at the market value. Consequently, the economic rationale of the operation is justified.

### **2. Analysis of the cost base and allocation criteria for the distribution of policies**

Endesa and its subsidiaries are responsible for paying the proportional share of the overall amount previously determined by them to the insurance companies and Enel will pay the insurance companies directly, so the contracts entered into by Enel and Endesa do not constitute a related-party transaction.

However, the market nature of the distribution criteria selected by Enel to allocate costs to Endesa's entities must be analysed if the decision taken by Enel (as the related party) affects Endesa's entities.

First, it should be noted that the cost base to distribute among the Enel Group's subsidiaries is made up of the premiums provided for in the extension of the Insurance Mandate, derived from the centralised negotiation of premiums by Enel. In this regards, such expenses correspond to the services provided by insurance companies, as independent third parties, so that the cost base is considered to be calculated under market conditions.

Moreover, the applicable cost allocation criteria must be taken into account to determine whether the amount to be paid by each recipient has been established according to the arm's length principle. The OECD Guidelines suggest two main cost allocation methods: direct and indirect cost allocation methods.

The OECD Guidelines describe the difficulties associated with putting into practice the direct allocation methodology for multinational groups of a high complexity or size, thus allowing the possibility of developing other allocation and cost-sharing methods that often require the establishment of estimates or approximate valuations. These methods are classified as indirect allocation methods and, although subsidiary, are accepted, provided that sufficient attention is given to the value of the services provided to the recipients.

In this context, and in accordance with the OECD Guidelines, there are other requirements that must be met in any indirect allocation methodology, such as the fact that they must respond to the commercial characteristics of each case, contain salvatory clauses to prevent any form of manipulation, be in accordance with basic accounting principles and be able to generate charges or cost allocations proportionate to the benefits obtained or which are reasonable to be obtained by the service recipient.

Therefore, the proportion of premiums for global insurance policies corresponding to each entity receiving the services through the application of an indirect distribution key will be determined.

The table below shows the indirect distribution key selected by Enel to assign the premium corresponding to each type of global insurance policy.

Policy	Key to delivery	Description
Property damage and loss of profits	Business line and country	Development with regard to the following two aspects is taken into account: (a) insured securities for each entity, and (b) claims over the last five years.
Liability	Business line and country	Development with regard to the following three aspects is taken into account: (a) the number of customers for the global distribution line, (b) installed capacity for generation companies, and (c) claims over the last five years.
Transport	Number of transports	The amount for the total premium (which is given as fixed amounts and a specific rate or percentage agreed between Enel and the insurer) is charged to each subsidiary in accordance with the number of actual transports during the year, as well as taking into account the insured values transported during that year.
Freight	Type of ship and by trip	The amount for the premium is distributed in accordance with the type of ship and by trip, regardless of the number of days that the freight is active, which is the same criterion as that applied with the insurer.
Expatriate professionals	Number of expatriate employees	The impact of the premium (which is expressed as a fixed value per person agreed between Enel and the insurer) is based on the number of employees that the subsidiary expatriates to another Group company during the year.
Medical insurance on travel abroad	Nights stay	The impact of the premium (which is expressed as a fixed value per day of travel agreed between Enel and the insurer) is based on the number of nights of stay in transit for the professionals in each subsidiary.

Construction insurance	CAPEX invested	The amount for the total premium (which is expressed as specific rates or percentages agreed between Enel and the insurer) is imputed in accordance with the CAPEX invested by the subsidiary in each of its construction projects.
Cyber Risk Insurance	Number of hardware units	The amount for the total premium is charged in accordance with the number of hardware units belonging to the subsidiary, connected to the Group's corporate network.
COVID medical coverage	Number of employees	The amount for the total annual premium is imputed in accordance with the number of people working at the start date for the insurance programme and multiplying this number by a value of €X/employee.

In line with the above, in the Spanish laws, article 18.5 of the LIS establishes that, in the case of services provided jointly to several related entities, and whenever it is not possible to provide a service individually or to quantify the determining elements of its remuneration, it is possible to distribute the total consideration among the beneficiaries, in accordance with the applicable distribution rules that meet the rationality criteria. Therefore, this criterion will be deemed to have been met when the method applied takes into account the benefits obtained or likely to be obtained by the intended persons or entities in addition to the nature of the service and the circumstances in which it is provided.

In this regard, and in accordance with the OECD 15 Guidelines, there are other requirements that must be met in any indirect allocation methodology, such as the fact that they must respond to the criteria used in each case, must contain salvatory clauses to prevent any form of manipulation, be in accordance with basic accounting principles and be able to generate charges or cost allocations proportionate to the benefits obtained or which are reasonable to be obtained by the service recipient.

Considering the above, it can be concluded that the distribution keys used by Enel to distribute the premiums of each type of global policy to the Endesa Group and all other entities of the Enel Group are based on the principles of rationality and proportionality, since these are adapted to the nature of the service and the circumstances in which the benefit obtained by the recipient is provided and made evident. Likewise, the methodology used is considered to be in line with standard market practices.

## **V. REPORTS BY INDEPENDENT EXPERTS ISSUED AT THE REQUEST OF THE AUDIT AND COMPLIANCE COMMITTEE**

After analysing the transaction, the Audit and Compliance Committee has taken into account the report prepared by Ernst & Young Abogados, S.L.P. on the fairness and reasonableness of the contracts being analysed. Ernst & Young Abogados, S.L.P. issued a report in their capacity as an independent expert, having ascertained that at the date of issue of the Report, EY Abogados did not maintain any sort of commercial relationship with the Enel Group or with the Endesa Group that could compromise its condition as an independent expert for the purposes of issuing this Report or that, in particular, could place them in a situation of conflict of interest to conduct the analysis and draw up the conclusions set out therein.

Ernst & Young's Report concludes that the renewal of the Insurance Mandate and the Technical and Management Support Services contracts between the companies of the Endesa Group and the companies of the Enel Group provides, among others, the following benefits:

- A rationalisation of the corporate functions associated with the negotiation of insurance policies through the correct distribution of the activities, avoiding the duplication of the same;
- Standardisation and homogenisation of processes and procedures; and
- Addition of total volumes when taking out the services.

Ernst & Young's Report points out that all of the above translates into cost savings, an improvement in operational efficiency, a neutralisation of the associated risks and a better positioning and bargaining power when taking out and enforcing insurance policies.

The Report also states that the distribution keys used by Enel to distribute the premiums for each type of global policy provided for in the renewal of the Insurance Mandate are based on the principles of rationality and proportionality, since they are adapted to the nature of the service and the circumstances in which the benefit obtained by the recipient is provided and made evident.

Therefore, Ernst & Young's Report concludes that the renewal of the services associated with the Insurance activity, together with the extension of the Insurance Mandate, and the distribution keys of the resulting premiums, are fair and reasonable from the point of view of Endesa and those shareholders who are not related parties.

In addition, Endesa's General Manager - Administration, Finance and Control analysed the transaction and informed the Audit and Compliance Committee that, in his opinion, the transaction is fair and reasonable for Endesa and its shareholders, other than those of Enel.

## **VI. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE**

The Audit and Compliance Committee comprises five non-executive members of the Board of Directors, four of whom (80%) are independent. The Committee also includes a Proprietary Director representing the controlling shareholder Enel, which owns 70.10% of Endesa's shareholding. In accordance with paragraph 3 of Article 529 duovicies of the Corporate Enterprises Act, Alberto de Paoli, Proprietary Director, representative of Enel, has not participated in the preparation of this Report.

All other members of the Audit and Compliance Committee have participated and agreed on the content of this Report on the "RENEWAL OF THE INSURANCE MANDATE AND TECHNICAL AND MANAGEMENT SUPPORT SERVICE CONTRACTS".

Based on the background information detailed above, the Audit and Compliance Committee concludes that:

- The renewal of the services associated with the Insurance activity, including the Insurance Mandate, valid until 31 December 2023, resulting in the provision of a series of services by Enel to Endesa's entities, provides a series of benefits to Endesa's entities receiving these services.

In particular, the benefit or usefulness that these services bring to Endesa's entities translates into cost savings, an improvement in operational efficiency, a neutralisation of the associated risks and a better positioning and bargaining power when taking out and enforcing insurance policies.

- The remuneration applied is consistent with the arm's length principle and, therefore, it is applied according to the current market value. Consequently, the economic rationale of the operation is justified.

- Likewise, the distribution keys used by Enel to distribute the premiums for each type of global policy are based on the principles of rationality and proportionality, since they are adapted to the nature of the service and the circumstances in which the benefit obtained by the recipient is provided and made evident.

**The Audit and Compliance Committee concludes that the renewal of the Insurance Mandate and associated services included in the Technical and Management Support Services in 2023 between companies of the Endesa Group and companies of the Enel Group is fair and reasonable from the point of view of Endesa and its shareholders, other than those of the related party.**

## **VII. CONCLUSION OF THE BOARD OF DIRECTORS**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved the transaction.



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE RELATED-PARTY TRANSACTION INVOLVING THE ACQUISITION OF A LIQUEFIED NATURAL GAS CARRIER FROM ENEL GENERACIÓN CHILE, S.A. BY ENDESA ENERGÍA, S.A. DURING THE FOURTH QUARTER OF 2023.**



**REPORT OF THE AUDIT AND COMPLIANCE COMMITTEE ON THE FAIRNESS AND REASONABLENESS OF THE RELATED-PARTY TRANSACTION INVOLVING THE ACQUISITION OF A LIQUEFIED NATURAL GAS CARRIER FROM ENEL GENERACIÓN CHILE, S.A. BY ENDESA ENERGÍA, S.A. DURING THE FOURTH QUARTER OF 2023.**

**I. INTRODUCTION AND REGULATORY FRAMEWORK**

In accordance with the provisions of section 3 of article 529 duovicies of the consolidated text of the Spanish Corporate Enterprises Act approved by Royal Legislative Decree 1/2010, of 2 July, Endesa's Audit and Compliance Committee issues this Report to assess whether the transaction is fair and reasonable from the point of view of the company and, where appropriate, shareholders other than the related party, and to give an account of the assumptions on which the assessment is based and the methods used.

In accordance with paragraph 3 of Article 529 unvicies, the Report issued and, where appropriate, published by Endesa's Audit and Compliance Committee, must at least include the following information:

- a) Information on the nature of the transaction and the relationship with the related party,
- b) the identity of the related party,
- c) the date and the value or amount of the consideration for the transaction, and
- d) any other information required to assess whether this is fair and reasonable from the point of view of the company and of shareholders who are not related parties.

Moreover, Endesa has developed its own internal regulatory framework in this area. This includes regulations on related-party transactions, which have been approved by the Board of Directors, and an Operational Procedure for related-party transactions, which has been approved by the Audit and Compliance Committee and develops the guidelines contained in the Regulations, defining the operations, duties and responsibilities under the general regime of application, approval, publication and supervision of related-party transactions. The regulation has been applied in this case.

**II. OVERVIEW OF THE GENERAL TRANSACTION**

**a) Background**

Endesa Energía is the second largest gas retailer in Spain, with a portfolio of approximately 1.7 million customers. Endesa Generación manages Endesa's wholesale gas trading activity. During 2021, Endesa sold a total of 77 TWh of gas.

The Spanish gas market in which Endesa Energía operates is marked by the high dependence on external gas sources and the need to import gas to cover almost 100% of the demand, due to the low availability of natural gas in Spain.

According to the medium-term gas demand forecasts of the national market, Endesa Energía needs to import gas during the fourth quarter of 2023, mainly as a consequence of the high seasonality of gas demand.





On 20 August 2013, Enel Generación Chile, S.A. and Endesa Energía, S.A. signed an open-ended framework agreement for the supply of LNG (hereinafter, the "Framework Agreement"), which remains in effect at the date of this report.

By virtue of the Framework Agreement, Enel Generación Chile, S.A. and Endesa Energía, S.A. may agree to the sale of LNG by Enel Generación Chile, S.A. to Endesa Energía, S.A. under certain supply conditions. If an agreement is reached on the specific terms of the sale of LNG, both parties would formalise it through a "Confirmation Memorandum", in accordance with the provisions of the Framework Agreement. The Confirmation Memorandum determines the quantity of LNG to be supplied, the loading and unloading locations, the delivery times, the price and characteristics of the means of transport and everything not specifically regulated by the content of the Framework Agreement that may apply.

Moreover, Enel Generación Chile is the holder of a long-term LNG framework contract with a third-party supplier, which gives it the possibility of deciding to purchase a certain number of vessels (carriers). The supply contract allows for the international marketing of these carriers, with certain restrictions.

#### **b) Purpose of the transaction.**

Approval of the amendment to the agreement adopted by Endesa's Board of Directors on 9 May 2022, replacing the acquisition of a liquefied natural gas carrier during Q4 of 2022 from Enel Global Trading SpA, with a volume of 1 TWh and for an approximate amount of €90M, with the acquisition of a liquefied natural gas carrier, with the same volume (1 TWh), from Enel Generación Chile S.A., during Q4 of 2023, for an approximate amount, at current market prices, of €72M. This amount may vary, depending on the TTF price. This transaction is included in the Framework Agreement signed between Enel Generación Chile, S.A. and Endesa Energía, S.A., which is described in the previous section.

With regards to the original transaction, it should be borne in mind that in the very short term, during Q4 of 2022, there are several levers available to manage the position, making it more efficient to replace the purchase and sale of one of the two LNG carriers from Enel Global Trading, approved by the Board of Directors on 9 May 2022, with the purchase of a 1 TWh carrier from Enel Generación Chile during Q4 of 2023.

Endesa Energía has an opportunity to acquire 1 TWh of liquefied natural gas from Enel Generación Chile at a competitive price below the TTF spot gas price in Europe (TTF: "Title Transfer Facility" or spot market price in the Netherlands).

Enel Generación Chile and Endesa Energía would sign a contract, whereby the former would sell to the latter one of its additional carriers. Once Endesa Energía, S.A. has decided to purchase the carriers under the terms and conditions described above, the carrier purchase transaction would be documented in accordance with the contract model, in compliance with the international standards for this type of transaction, previously agreed between the parties.



### c) **Transaction amount**

The approximate value of the carrier is €72M. This amount may vary, depending on the TTF price. The Audit and Compliance Committee will be informed of the final amount of the transactions.

In view of the offer made by Enel Generación Chile, S.A. and to the extent that it results from the interest of Endesa Energía, S.A. in the related-party transaction, both entities would sign a Confirmation Memorandum in which the terms under which Endesa Energía, S.A. would acquire one LNG carrier from Enel Generación Chile S.A. will be agreed, with the corresponding Confirmation Memorandum being signed. The terms and conditions are as follows:

- Quantity: 1 LNG carrier, with a specific volume to be determined by Enel Generación Chile, S.A.
- Remuneration: Enel Generación Chile would sell the carrier to Endesa Energía with a gross discount on the TTF
- Supply terms and conditions: In accordance with the provisions of the Framework Agreement, Enel Generación Chile, S.A. will determine the carrier used to transport LNG and Endesa Energía, S.A. will determine the place and date of unloading. All other terms and conditions applicable to the Term Sheet and, where appropriate, to the Confirmation Memorandum by which the sale of LNG between the parties is executed will be those contained in the Framework Agreement.

### **III. IDENTIFICATION OF THE PARTY RELATED TO ENDESA**

Firstly, **Endesa Energía, S.A.** is a fully-owned subsidiary of Endesa, S.A. and a member company of the Endesa Group.

Secondly, **Enel Generación Chile, S.A.** is a company majority owned by Enel Chile, S.p.A., which is in turn majority owned by Enel Spa.

Enel SpA is the sole shareholder of Enel Iberia S.L, which is in turn a shareholder of Endesa S.A with a 70.101% stake. Related-party transactions are those entered into by Endesa or its subsidiaries with Endesa's shareholders who hold 10% or more of the voting rights or who are represented on the Board of Directors, as well as with any other parties considered as parties related to Endesa, in compliance with the International Accounting Standards. Therefore, all transactions entered into by Endesa or its subsidiaries and Enel or its subsidiaries (excluding the Endesa Group) will be considered related-party transactions<sup>2</sup>.

### **IV. ANALYSIS OF THE TRANSACTION FROM THE POINT OF VIEW OF THE INTEREST OF ENDESA AND OF SHAREHOLDERS OTHER THAN THE RELATED PARTIES**

#### **1. Operational and strategic rationale of the transaction**

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<sup>2</sup> Endesa Group: With regards to the internal regulations associated with related-party transactions, the term "Endesa Group" refers to Endesa, S.A. and its subsidiaries, as described in Article 42 of the Code of Commerce.



According to the medium-term forecasts for gas demand in the national market, Endesa Energía needs to import gas for 2023, mainly as a consequence of the high seasonality of gas demand.

Endesa Energía has a unique opportunity to acquire 1 TWh of liquefied natural gas from Enel Generación Chile at a price below the TTF spot gas price in Europe (TTF: "Title Transfer Facility" or spot market price in the Netherlands).

Although the price of the transaction is subject to variations in the TTF market price, the transaction would not become effective until the parties sign the "confirmation notice".

In order to calculate the transaction discounts, Endesa Energía's risk department has assessed each of the potential risks of the transaction with the aim of ensuring that the discount offered in this case by Enel Generación Chile on the TTF market price is higher than the potential risks and to ensure there is a net positive margin for Endesa. These risks are:

- **Base risk:** Assessment, based on historical data series, of decoupling between the PVB (Spain hub) and TTF (Europe hub).
- **Volume risk.** Assessment of the impact on the price of the carrier derived from the potential deviations (maximum deviations between -5% and +20%) of the volume contemplated in the supply contract.
- **Risk of rescheduling:** Assessment of the uncertainty derived from the arrival of liquefied natural gas (scheduled for Q4 2023 but the date of reception within the period is not known yet).
- **LNG price risk** Relative assessment of the level of volatility in LNG prices compared to the hub benchmarks.

In this context, the conditions negotiated with Enel Generación Chile place a discount on the TTF price, which is enough to ensure that the margin for Endesa Energía is substantially higher when all the associated logistics risks and costs are taken into account.

Based on the above, it is worth mentioning that **the nature of the transaction is in line with the company's strategic plan**, to the extent that it supplies gas as part of its sales plan with a discount on the market price, including an assessment of the transaction's potential risks. Therefore, the impact on the operations and organisation of the acquisition of an LNG carrier to Enel Generación Chile during Q4 of 2023 would be as follows:

- **Positioning and strategy.** Endesa Energía manages its medium-term needs to be able to address specific emergency situations in energy markets, ensuring the supply of 100% of its expected demand.
- **Operational capacity.** The international opportunities are extended by exploiting the capabilities of the Enel Group, contributing to better risk management.
- **Risks.** The economic risks inherent to the activity are reduced, contributing to their partial mitigation. In addition, the larger number of resources at the Group level allows the Group to deal more easily with events and to overcome them successfully.
- **Costs.** With regards to the Supply Contract, Enel Generación Chile can offer the carrier to Endesa Energía at a sale price that includes a discount, ensuring that Endesa Energía has a positive net margin, when compared to the current market prices
- **To summarise,** it should be noted that the completion of the transaction will enable Endesa Energía to: (i) partially cover gas demand during Q4 of 2023 and (ii) achieve a saving on market prices.



In addition, the transaction also includes a series of procedural guarantees:

1.- Prior to the firm acquisition of the carrier, at least three offers submitted by qualified operators will be analysed, one of them being from Enel Generación Chile. Once the offers are available, these will be analysed to assess whether those issued by independent qualified operators can be compared (in terms of price, volume, term, characteristics of the transaction, etc.) with the offer submitted by Enel Generación Chile. Therefore, the price initially proposed by Enel Generación Chile will be compared with at least two other market offers before closing the transaction.

2.- Subsequently, a third party ensures that the selected price is indeed the most favourable to the interests of Endesa Energía

3.- In addition, the purchase will only be executed if there is a positive margin for Endesa Energía of at least €5M, as a guarantee mechanism

## **2. Economic reasonableness of the transaction. Methods used**

To analyse compliance with the principle of free competition, according to paragraph 2.14 of the OECD Guidelines and article 18.4 of the CTR, the *Comparable Uncontrolled Price* method (CUP) is the most reliable transfer pricing method for determining the nature of the market value associated with the corresponding related-party transaction.

The ex ante control methodology involves comparing the price proposed by Enel Generación Chile with at least two comparable market offers before closing the transaction. As a result of this comparison, the price established will be the most favourable offer for Endesa Energía in each case.

If no alternative offers are received, the price established in the purchase of the carrier is agreed based on market prices (TTF index) and applying a discount. The TTF market price is obtained from an independent financial information database and is therefore in line with the prices established in the market, as they are agreed under the conditions that would be established with independent third parties. Taking the above into account, although the price would be at the market value, it would be necessary to assess whether the discount applied to the TTF market price complies with the principle of market value.

Information on transactions between independent third parties comparable to the related-party transaction was gathered, such as long-term quotations from independent brokers, where the PVB is quoted at a discount to the TTF, enabling application of the CUP method. According to the information analysed, the discount on the TTF determined in the related-party transaction is, in general, consistent with the discounts on the market TTF and never lower than the discounts applied by independent third parties.

Therefore, it is reasonable to conclude that the price agreed for the related-party transaction is, in general, consistent with the principle of market value and in no case lower than that agreed by independent entities under similar conditions.

## **3. Legal and commercial rationale of the transaction**

The related-party transaction is legally specified at the outset through signature of the Confirmation Memorandum, in accordance with the Framework Agreement, which involves the execution of the LNG trade and, therefore, the related-party transaction.



The related-party transaction would be executed under the terms and conditions determined with regards to the quantity of gas to be supplied and the delivery method and form, which can be considered reasonable in the context of the price paid for the supply of said gas.

With regards to all other terms and conditions that apply to the related-party transaction, either because they are defined in the Confirmation Memorandum or because they are defined in the Framework Agreement, it can be concluded that they have been agreed by the parties in the usual terms for international contracts of this nature. In particular, the parties have determined a reasonable distribution of the risks associated with the sale and supply of gas. Moreover, they have established an invoicing, payment and regulation system that can also be considered appropriate according to the nature of the related-party transaction, as well as mechanisms for the management of cases of force majeure in generally-accepted terms, cases of early resolution and liability, and resolution of conflicts through international arbitration, also according to the nature of the related-party transaction.

In view of these legal and commercial terms and conditions, it can be concluded that the related-party transaction is articulated in a reasonable manner and under contractual terms that could have been agreed by independent parties and that, if these were to be agreed between related parties, they would not create unjustified or disproportionate benefits for Enel Generación Chile to the detriment of Endesa's subsidiary, i.e. Endesa Energía and, ultimately, Endesa.

#### **V. REPORTS BY INDEPENDENT EXPERTS ISSUED AT THE REQUEST OF THE AUDIT AND COMPLIANCE COMMITTEE**

After analysing the transaction, the Audit and Compliance Committee has taken into account the Report of PricewaterhouseCoopers Tax and Legal S.L. and PricewaterhouseCoopers Asesores de Negocios, S.L. (hereinafter "PwC") on the fairness and reasonableness of the acquisition of the liquefied natural gas carrier from Enel Generación Chile by Endesa Energía.

PwC has issued its Report in its capacity as an independent expert. On the date the report was issued, PwC did not have any sort of commercial relationship with the Enel Group or with the Endesa Group that could compromise its capacity as an independent expert for the purposes of issuing its Report or that could give rise to a conflict of interest in conducting the analysis and drawing up the conclusions therein.

The Report issued for Endesa's Audit and Compliance Committee concludes that the acquisition of one liquefied natural gas carrier from Enel Generación Chile by Endesa Energía, partially covers the gas demand for Q4 of 2023 and represents a discount on the market price after discounting the risks and costs estimated by Endesa Energía for the transaction.

The independent expert concludes that the acquisition of a liquefied natural gas carrier is fair and reasonable from the point of view of Endesa and, in particular, of its shareholders other than the related party, i.e., shareholders other than those of the Enel Group.

#### **VI. CONCLUSION OF THE AUDIT AND COMPLIANCE COMMITTEE**

The Audit and Compliance Committee is made up of four non-executive members of the Board of Directors, three of whom (80%) are independent. The Committee also includes a Proprietary Director representing the controlling shareholder Enel, which owns 70.10% of Endesa's shareholding.

In accordance with paragraph 3 of Article 529 duovicies of the Corporate Enterprises Act, Alberto de Paoli, Proprietary Director, representative of Enel, has not participated in the preparation of this Report.



All other members of the Audit and Compliance Committee have participated and agreed on the content of this Report on the acquisition of a liquefied natural gas carrier from Enel Generación Chile, S.A. by Endesa Energía, S.A.

Based on the background information detailed above, the Audit and Compliance Committee concludes that:

1. Given the identified lack of gas for Q4 2023 it is reasonable for Endesa Energía to purchase gas from the gas markets to meet the estimated demand in the medium-term.
2. Given the current market context and the conditions of the contract between Enel Generación Chile and its supplier, it is reasonable to have the Confirmation Memorandum signed, as it allows Endesa Energía to: (i) partially cover the need for 1 TWh for Q4 of 2023; and (ii) have a discount on the market price after considering the risks and costs of the transaction estimated by Endesa Energía.
3. Therefore, it is reasonable to conclude that the price agreed for the related-party transaction is, in general, consistent with the principle of market value and in no case lower than that agreed by independent entities under similar conditions.
4. This price determination procedure complies with the Spanish tax regulations on transfer pricing and the OECD Guidelines to the extent that the price of the related-party transaction reflects what independent parties would agree under similar circumstances.

The Audit and Compliance Committee concludes that Endesa's acquisition from Enel Generación Chile of one liquefied natural gas carrier, is fair and reasonable from the point of view of Endesa and its shareholders other than the related party.

## **2. CONCLUSION OF THE BOARD OF DIRECTORS**

Endesa's Board of Directors, following a favourable report from the Audit and Compliance Committee, has unanimously approved the transaction.