

TECHNICAL SHEET

**ADOPTING THE CONSOLIDATED TEXT REGARDING EXTRA-JUDICIAL
RESOLUTION PROCEDURES FOR DISPUTES BETWEEN CUSTOMERS AND
OPERATORS IN THE SECTORS REGULATED BY THE ITALIAN REGULATORY
AUTHORITY FOR ELECTRICITY GAS AND WATER - CONSOLIDATED
CONCILIATION TEXT (TICO)
209/2016/E/COM (*)**

With resolution 209/2016/E/COM the Italian Regulatory Authority for Electricity Gas and Water approves the “Consolidated text regarding extra-judicial conciliation procedures for disputes between customers and operators in the sectors regulated by the Regulatory Authority” (Consolidated Conciliation Text-TICO), contained in the annex to the resolution. This regulation, by implementing both the law establishing the Regulatory Authority and the Consumer Code (Codice di consumo), defines the procedure to experiment the mandatory attempt of conciliation at the Conciliation Service, as a condition to proceed to judicial action, and it identifies alternative available procedures, through an organic text of acknowledgment.

The resolution follows consultation document 562/2015/E/com – whose the contents were also highlighted in the framework of relevant technical meetings with the *stakeholders* – and is deemed to complement and interconnect with the process leading to the reform of the consumer protection system regarding dealing with complaints and extra-judicial resolution of disputes in the regulated sectors.

In this context, in order to maximise the efficiency of extra-judicial resolution mechanisms for disputes, the Regulatory Authority has repealed the alternative with a second level complaint at the Consumer's helpdesk (Sportello per il Consumatore), in line with the mandatory nature of the conciliation as a condition to proceed to judicial action.

As far as the **scope of application and the types of disputes** are concerned, the procedure shall be applied, from the 1st January 2017, to domestic and non-domestic consumers of natural gas and various gases distributed via urban networks fed at low pressure, and to users of electricity fed at low and/or medium voltage, also including the *prosumer*, for disputes concerning operators and, solely for the *prosumer*, as well as concerning the GSE for dedicated withdrawal (ritiro dedicato) and on-site exchange (scambio sul posto). At the same time, it is specified that for the other sectors regulated by the Regulatory Authority, the regulation on the mandatory attempt of conciliation will explain the complete efficiency, following the extension of the legislation concerning the pooling for the management of the Conciliation Service in all of the regulated sectors, as well as following a confrontation with the *stakeholders*, also through possible technical meetings. In the same way, the resolution confirms the gradual nature for the regulation application, even with reference to the disputes that can be opened by an operator to a customer.

As far as **admissibility and the effects of the mandatory attempt of conciliation** are concerned, the Regulatory Authority establishes that the admissibility condition for any jurisdictional follow-up will be deemed to have been fulfilled if the first meeting at the Conciliation Service (Servizio Conciliazione) ends without an agreement, including in cases of default of appearance by the other party, without prejudice to any possible measures.

With specific reference to the **Conciliation Service**, the resolution makes clear that the procedure shall not be opened for disputes for which a conciliation attempt is pending or has already been experienced unsuccessfully. The first meeting must be planned within a time limit of 30 days, having effect from the date the conciliation request was made and at least 10 days after communicating the date to the parties, without prejudice to the 90-day term for concluding the procedure, that can be extended for a further 30 days. More specifically, concerning the timing for submitting a request, the resolution confirms the minimum period, equal to 50 days in the case where there is no response to the complaint and the maximum term of 1 year from the complaint being sent to the operator. The Regulatory Authority has also provided that, in the case in which the customer furnishes proof of the interruption of supply (due to a bill which has been timely challenged with a complaint to the operator) in the conciliation request submitted to the Conciliation Service, the meeting for the conciliation attempt will be planned within a limit of 15 days from the date of the completed request, rather than within the ordinary 30 days and that in these hypothetical situations the period of 10 days between communicating the date to the parties and the date itself is halved, without the possibility to ask for it to be postponed.

The resolution, furthermore, confirms the orientation on the issue of providing for the compulsory nature of participating in the conciliation for all of the operators thus extending the prediction that today concerns the operators of the standard offer regime for electricity and electricity, natural gas and GSE distributors.

The operator who has been summoned in conciliation, within a deadline of 5 days prior to the first meeting, may invoke legitimate reasons for the failure to participate which shall be supported by evidence stating the existence of one of the causes of the inadmissibility of the attempt of conciliation and is subject to self-declaration on the part of the client or final user. These legitimate reasons are communicated to the client or the final user and bring about early termination of the request.

As an alternative to the procedure at the Conciliation Service, in view of a wide accessibility and usability, the Regulatory Authority has provided that the mandatory attempt of conciliation may also be carried out by means of other extra-judicial solutions for the disputes, such as: the media/conciliation procedures at the Chambers of Commerce (upon prior agreement between the Regulatory Authority and Unioncamere); the procedures at the bodies registered on the ADR list for consumers, established by the Regulatory Authority with resolution 620/2015/E/com, including joint conciliations; the procedures carried out by one or more mediation bodies registered in the Ministerial Register provided for in Legislative Decree no. 28/10, with which the Regulatory Authority possibly considers it appropriate to sign specific protocols, in a second phase and on a residual basis.

With the coming into effect of the TICO, the Conciliation Service regulation currently in force - contained in Annex A of resolution no. 260/2012/E/com - will not produce effects any more except a transitional application to the pending conciliation procedures at the Service at such a date and until they are concluded. In a similar way, starting from the 1st January 2017, the Regulatory Authority has established the end of the effects of the list of operators who participate in the conciliations procedures on a voluntary basis (resolution no. 475/2012/E/com).

In any case, carrying out the mandatory attempt of conciliation shall not preclude the grant of urgent and precautionary judicial measures.

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