

New Italian Incentives for Biomethane

On September 15, 2022, the Ministry of Ecological Transition adopted a new decree earmarking up to €4.5 billion¹ of State support to biomethane production through capital contributions and feed-in tariffs (the “**New Biomethane Decree**”).² The European Commission had cleared this aid scheme on August 8, 2022.³

The incentives provided in the Italian scheme are consistent with goals included in the [REPowerEU Plan](#) and the Italian [National Recovery and Resilience Plan](#).

The first competitive procedure to award the incentives is set to take place before the end of 2022, and thereafter at least 2 procedures per year are envisaged (see Section 7 below).

Introduction

The New Biomethane Decree extends the scope of the previous regime, which was limited to biomethane used in transport,⁴ to cover biomethane used in the heating, industrial, residential, tertiary and agricultural sectors. The thermoelectric generation sector is excluded from the scope of the New Biomethane Decree.

The New Biomethane Decree also ensures continuity for the current Italian incentive measures under the 2018 Biomethane decree, which are soon coming to an end.⁵

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¹ Of which €1.7 billion for capital contributions and €2.8 billion for feed-in tariffs.

² Full text available at [Ministry of Ecological Transition – New Biomethane Decree](#).

³ See European [Commission decision of August 8, 2022, State Aid SA.100704 \(2021/N\) – Italy RRF - Support scheme for the promotion of biomethane](#).

⁴ See [Ministerial Decree of March 2, 2018, the “2018 Biomethane Decree”](#). The 2018 Biomethane Decree also includes provisions relating to biomethane injected into the gas grid, not specifically used for transportation (*e.g.*, Article 4 provides for guarantees of origin for biomethane injected into the grid without a specific use destination).

⁵ Incentives provided for by the 2018 Biomethane Decree only apply to biomethane plants that (i) already applied for incentives by September 18, 2022, (ii) already obtained the relevant authorizations for the construction and operation by August 19, 2022 and (iii) will enter into operation by December 31, 2023.

Comparison of the 2018 Biomethane and the New Biomethane Decree

	2018 Biomethane Decree	New Biomethane Decree
Amount of the Aid (in € billion)	€4.7 billion	€4.5 billion
Relevant period	2018 - 2023	2022 - 2026
Uses	transport	transport, heating, industrial, residential, tertiary and agricultural

Biomethane covered by the New Biomethane Decree must comply with sustainability and greenhouse gas emissions-saving criteria under the EU Energy Directive (“**RED II**”).⁶

- (a) for the transport sector, the goal is to achieve at least a 65% reduction of greenhouse gas emissions through the use of biomass. Biomethane has to be produced from feedstock for the production of advanced biofuels listed in Annex IX to RED II; and
- (b) for other uses, the goal is to achieve at least an 80% reduction of greenhouse gas emissions through the use of biomass.

The New Biomethane Decree concerns biomethane that will be injected into the gas grid.⁷ For the time being, and until the expiry of the incentives provided for in the Decree (*i.e.* 2026), it is expected that no other low-emission technology will compete with biomethane. Other renewable gases, such as renewable fuels of non-biological origin and hydrogen, have different maturity and profiles and thus operate in a different market segment.

The measure is intended to support a large number of beneficiaries, which are expected to differ in size, type and depending on whether they are agricultural- or bio-waste-based. In its assessment of the scheme, the Commission notes that the choice of introducing a reference tariff targeted specifically at small plants is one way to ensure that such plants can benefit from the support and to prevent market concentration.⁸

A plant that has been awarded other types of grants cannot obtain incentives under the New Biomethane Decree. This non-cumulation rule does not apply to other plants that the applicant may own elsewhere.⁹ Similarly, no cumulation restrictions apply if the owner of a beneficiary plant acquires other beneficiary plants or wishes to apply for support following the acquisition of a plant that has not yet received incentives.¹⁰

According to the Italian government, the grants’ rationale is that, at present, the production of biomethane injected into the grid cannot compete on market terms with gas generated from existing conventional fossil gas production. Absent

⁶ [EU Directive 2018/2001](#).

⁷ See Article 1, paragraph 1: “*this decree [...] is aimed at supporting production of biomethane injected into the grid*”, and paragraph 2: “[...] *this decree regulates incentives for biomethane injected into the grid*”.

⁸ See European [Commission decision of August 8, 2022, State Aid SA.100704 \(2021/N\) – Italy RRF - Support scheme for the promotion of biomethane, paragraph 192](#).

⁹ According to European [Commission decision of August 8, 2022, State Aid SA.100704 \(2021/N\) – Italy RRF - Support scheme for the promotion of biomethane](#), paragraph 31, applicants are the **owners** of newly-built biomethane plants or agricultural biogas plants upgraded to biomethane. However, the New Biomethane Decree provides a wider definition of “applicants”, encompassing **investors** and **managers** (“the person who has incurred the costs for the execution of the interventions and who is entitled to apply for the incentives under this Decree” as well as “the person who holds the permit for construction or conversion intervention and for the management of the plant”).

¹⁰ Detailed application procedures are going to be regulated by a further implementing decree.

government aid, the production of biomethane would simply not be financially viable.

The Italian government has stated that the support provided under the measure will incentivize investments in the construction of new biomethane plants and the partial or full conversion of existing biogas into biomethane plants. In particular, to elaborate the reference tariffs (see Section 5.B below), the Italian government identified two main reference projects,¹¹ for:

- (a) agricultural plants, where the reference project is a new plant with a production capacity of 250 Sm³/h, using raw materials comprised of 60% manure and 40% intermediate crops; and
- (b) bio-waste fuelled plants, where the reference project is a new plant with a production capacity of 1,000 Sm³/h, comprised entirely of organic waste.¹²

¹¹ Pursuant to [Guidelines on State aid for climate, environmental protection and energy 2022](#), a “reference project” is “an example project that is representative of the average project in a category of eligible beneficiaries for an aid scheme”.

¹² See [Commission decision of August 8, 2022, State Aid SA.100704 \(2021/N\) – Italy RRF - Support scheme for the promotion of biomethane](#), paragraphs 41 and 42.

Table of contents

1. **Scope**
2. **Intervention time constraints**
3. **Plant requirements**
4. **Excluded entities**
5. **The incentives**
6. **Available contingents**
7. **Timeline of competitive procedures**
8. **Biomethane plants outside Italy**

1. Scope

Provided that biomethane is produced according to sustainability requirements under RED II,¹³ capital contributions and feed-in tariffs are available to:

- (a) **new**¹⁴ plants fuelled by agricultural residues and organic waste; and
- (b) **revamped**¹⁵ agricultural biogas power plants.

2. Intervention time constraints

Biomethane plants are eligible for incentives, provided that the intervention (*i.e.* the construction or conversion of the plant):

- (a) has not started before the publication of the list ranking accepted projects (see Section 7 below); and
- (b) is completed (and the plant is operational) by June 30, 2026.

An intervention is deemed to have started once the company undertakes a commitment resulting in a definitive investment (*e.g.* ordering relevant equipment, or beginning construction works).

An intervention is not deemed to have commenced in the case of merely preparatory activities, such as:

- (a) purchasing land;
- (b) obtaining relevant permits; or
- (c) undertaking preliminary viability studies.

3. Plant requirements

To access incentives under the measure, biomethane plants must satisfy a number of conditions, such as:¹⁶

- (a) permission must be obtained for the plant's construction and operation;
- (b) the applicant must accept a proposal from the competent grid operator for connection to the grid (may the plants have to be connected to gas grids with third-party connection obligations);
- (c) interventions must be made onto pre-existing agricultural plants (in case of revamping); and
- (d) plants must respect sustainability requirements set out under RED II.

4. Excluded entities

Entities are excluded from the measure's benefits if they:

- (a) will almost certainly go out of business in the short or medium term without State intervention;¹⁷
- (b) have infringed requirements of honourability, integrity and reliability of competitors for public tender procedures;¹⁸

¹³ In particular, under [EU Directive 2018/2001](#).

¹⁴ "New plants" are plants built using new or fully regenerated components for all the works and equipment necessary for the production, conveyance, purification, refining of biogas and the injection of biomethane into the grid.

¹⁵ "Revamping" is the intervention onto an existing agricultural biogas production and utilization plant that is converted to the production of biomethane and, therefore, allocates all or part of the biogas production to that of biomethane, including with an increase in production capacity.

¹⁶ Please see Article 4 of the New Biomethane Decree for a complete list of requirements.

¹⁷ Pursuant to point 20 of the [Communication from the Commission 2014/C 249/01](#).

¹⁸ Pursuant to Article 80 of [Legislative Decree 2016, No. 50](#).

- (c) benefit from previous incentives provided for by the 2018 Biomethane Decree; or
- (d) are subject to a “recovery decision” by the Commission,¹⁹ under which access to incentives is prevented until the relevant entity has repaid the entire amount, including interest, of unlawful and incompatible State aid.

5. The incentives

Biomethane plants will benefit from incentives consisting of:

- (a) a **capital contribution of 40%** to eligible investment expenses within the limits of the maximum investment cost (please see part A of this paragraph below); and
- (b) a **feed-in tariff** applied to the net production of biomethane for 15 years beginning from the plant’s date of entry into operation (please see part B of this paragraph below).

Incentives **cannot be cumulated** with any other kind of public incentive or aid for the same projects.

A. Capital contribution

i. Eligible expenses

For the purposes of capital contribution, eligible expenses consist of costs for:

- (a) the plant’s construction and efficiency-improvement;
- (b) equipment for the monitoring and oxidation of biomethane, exhaust gas and the monitoring of fugitive emissions;
- (c) connection to the grid;
- (d) the purchase of software to manage the plant;
- (e) the design, construction management, testing, consultancy, conducting of

feasibility studies and purchase of licenses related to the implementation of the abovementioned investments (of up to 12% of the total eligible expenses); or

- (f) “digestating as compost” phase.

ii. Maximum investment cost

The maximum investment costs in relation to various types of biomethane plants are the following:

Type of biomethane plant	Biomethane production capacity (Cp)	Maximum investment cost [€/Sm ³ /h] (for new plants)	Maximum investment cost [€/Sm ³ /h] (for revamping)	Capital contribution percentage [%]
Agricultural	Cp ≤ 100 Sm ³ /h	33,000	12,600	40%
	100 Sm ³ /h < Cp ≤ 500 Sm ³ /h	29,000	12,600	40%
	Cp > 500 Sm ³ /h	13,000	11,600	40%
Organic waste-powered	No capacity threshold	50,000		40%

B. Feed-in tariff

i. All-inclusive tariff

Biomethane plants with a production capacity equal to or lower than 250 Sm³/h that are connected to gas grids with third-party connection obligations may apply for an all-inclusive tariff²⁰ (alternatively, the producer may apply for a premium tariff).

¹⁹ Pursuant to Article 16 of [EU Council Regulation 2015/1589](#).

²⁰ “All-inclusive tariff” means a tariff equal to the reference tariff, reduced by the percentage discount offered and accepted in the competitive procedures, including the economic value of the sale of gas as well as the value of the guarantees of origin.

ii. Premium tariff

Biomethane plants with a production capacity higher than 250 Sm³/h, and all plants connected to gas grids with no third-party connection obligation, may benefit from a premium tariff.²¹

Feed-in tariffs are calculated in accordance with reference tariffs set forth in the table below:

Type of biomethane plant	Biomethane production capacity (Cp)	Reference tariff [€/MWh] (for new agricultural and organic waste-powered plants, and for revamping agricultural plants)
Small agricultural	Cp ≤ 100 Sm ³ /h	115
Other agricultural	>100 Sm ³ /h	110
Organic waste-powered	No capacity threshold	62

6. Available contingents

The New Biomethane Decree provides for the following annual contingents:

	2022	2023	2024	Total amount
Total amount (Sm ³ /h)	67,000	95,000	95,000	257,000

7. Timeline of competitive procedures

The New Biomethane Decree provides for a single competitive procedure in 2022, and at least 2 annual

competitive procedures starting from 2023, with a 60-day opening period for a call for tenders.²²

Within 90 days of the completion of each procedure, the GSE (*i.e. Gestore dei Servizi Energetici GSE S.p.A.*) will publish a ranking of the admitted projects, based on the percentage discount offered with respect to the relevant reference tariff.

Awarded biomethane plants **may be transferred** to third parties only after:

- (a) entering into operation, and
- (b) entering into the relevant agreement with the GSE for the awarding of the feed-in tariff.²³

8. Biomethane plants outside Italy

Plants located in Member States and non-Member States bordering Italy (which have a free trade agreement with the European Union and physically export biomethane to Italy) are equally eligible for incentives, subject to the following conditions:

- (a) a common project or statistical transfer agreement (“*progetti comuni e trasferimenti statistici*”) with the Member State or the non-member bordering state where the plant is located must exist;²⁴
- (b) there must be a system of reciprocity under the abovementioned agreement; and
- (c) plants must be compliant with all the requirements set forth in the New Biomethane Decree.

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²¹ “Premium tariff” means a tariff equal to the difference between the reference tariff, reduced by the percentage discount offered and accepted in the competitive procedures, the average monthly price of natural gas and the average monthly price of guarantees of origin (if such difference is negative, GSE adjusts or requests the producer to pay back the relevant amounts).

²² Exact dates of competitive procedure will be determined by a Ministerial decree to be approved within 30 days from the effective date of the New Biomethane Decree.

²³ Pursuant to Article 12, paragraph 2, letter d) of the New Biomethane Decree.

²⁴ Pursuant to Article 16 of [Legislative Decree 2021, No. 199](#).