

NEWSLETTER

April 2022



IMAGEM: ANDREY METELEV

Resolution consolidates energy contracting rules

On March 22, 2022, the Brazilian National Electric Energy Agency (ANEEL) published Normative Resolution No. 1,009/2022, which consolidated the rules relating to the contracting of electricity in the regulated and free markets, which were previously presented in 26 different normative acts. The Normative Resolution applies to distribution companies, free and special consumers, power producers and sellers and, in general, deals with matters such as the supervision of power purchase agreements, New Energy MCSD, bilateral agreements, criteria for addressing energy costs in case of delays regarding commercial operation date, among others.

The Normative Resolution complies with the provisions of Decree No. 10,139/2019, concerning the revision and consolidation of normative acts issued by agencies and entities of the direct federal public government.

ANEEL approves new rules to improve criteria applicable to the entrance, maintenance, and withdrawal of sector agents in the energy market

On April 25, 2022, the Brazilian National Electric Energy Agency (ANEEL) published Normative Resolution No. 1,014/2022, which defines the criteria for the entry, maintenance, and withdrawal of agents in the energy market. The new Normative Resolution establishes the improvement of security mechanisms for the sector – reinforcing the approval process and the monitoring of trading companies throughout the period of their operations by means of periodic evaluations proving the companies' good financial health.

The Normative Resolution defined that trading companies must be classified into two distinct types: (i) large-sized agents (Type 1), with no limitation for the registration of sales amounts in the Accounting and Settlement System (SCL) of the Energy Trading Chamber (CCEE), being required to prove net worth exceeding BRL 10 million, without, however, imposing entry barriers that could harm the sector competitiveness; and (ii) small-sized agents (Type 2), subject to the monthly limit of 30 MWav.

Referred rule came into effect on May 1, 2022. CCEE will have 60 days to send ANEEL the respective Trading Procedures that must be adapted to meet the regulation's requirements.

ANEEL approves rules associated with placement of financial guarantees in the Surplus Sale Mechanism

The Brazilian National Electric Energy Agency (ANEEL) approved, on April 12, 2022, Normative Resolution No. 1,015/2022, responsible for establishing the obligation to provide financial guarantees in the Surplus Sale Mechanism (*Mecanismo de Venda de Excedentes* – MVE).

The purpose of the Normative Resolution is to enhance rules in order to reduce defaults in the scope of power contracts and to provide more safety to transactions made by and between distribution companies and free market participants.

In this context, such rule indicates that the Energy Trading Chamber (CCEE) shall promote, either directly or by means of a financial institution, the services for deposit, assessment, custody, and enforcement of financial guarantees.

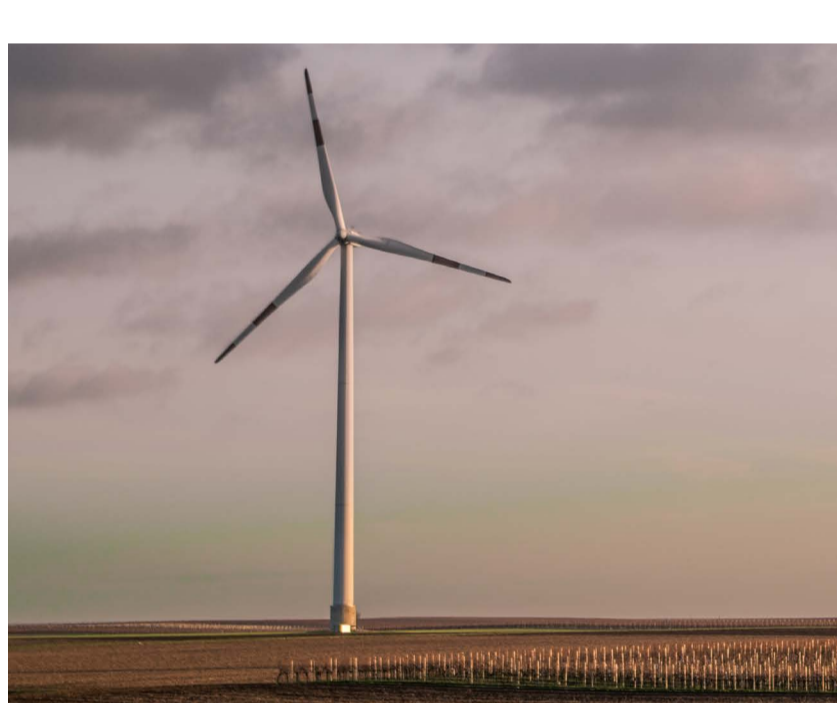


IMAGEM: KARSTEN WÜRTH

ANEEL rejects requests for registration order regarding offshore wind farms

The Brazilian National Electric Energy Agency (ANEEL) rejected on April 5, 2022, by unanimity, requests for the issuance of Orders of Grant Application Registration (*Despacho de Registro de Requerimento de Outorga* – DRO) made by agents of the energy sector interested in developing offshore wind power plants.

The DRO requests were rejected mainly because ANEEL considered that they were made prior to the entrance into force of Decree 10,946/2022, scheduled for June 2022, and, consequently, of the regulation applicable to the use assignment related to the public assets, required for this type of project.

By the end of 2022, the Decree provides for the publication of rules for development of offshore wind energy projects. Nevertheless, the Ministry of Mines and Energy (MME) intends that the projects prior to the Decree should be adapted to the rules that still will be established.

Based on the foregoing, ANEEL rejected DRO requests made by these interested agents and the proceedings were declared extinct.

ANEEL establishes that all risks regarding grid access dispute shall be undertaken by the generator

After the issuance of Decree No. 10,893/2021, which waived the submission of access information to licenses applications for renewable projects filed until March 2022 – in a context of termination related to benefits applicable to connection tariffs for referred undertakings –, the Brazilian National Electric Energy Agency (ANEEL) initiated a public hearing regarding grid access disputes.

In the public consultation, ANEEL aims to propose the conditioning of the licenses issuance to the entrepreneur's formal declaration of recognition of all risks assumed in the process.

ANEEL has been working, therefore, to guarantee the benefit only to those agents in the electricity sector that will actually implement the projects. ANEEL's regulation reinforces the legal provision that these projects must start commercial operation within 48 months after they are granted with licenses.

A-5 and A-6 New Energy Auctions

The Ministry of Mines and Energy (MME) published on April 18, 2022 the rules for the A-5 and A-6 auctions regarding the purchase of electricity from new generation projects, which will take place in September this year.

Interested distribution companies must declare their need to participate in the auction to the MME between July 20 and 29, 2022, and must consider supplying the totality of the market, as of January 1, 2027 for the A-5 auction, and January 1, 2028 for the A-6 auction.

For the A-5 auction, Energy Purchase Agreements in the Regulated Environment (CCEAR) will be negotiated in the modality by quantity, with a supply term of 20 years for Hydroelectric Generating Plants (CGH), Small Hydroelectric Power Plants (PCH), and Hydroelectric Power Plants (UHE), with power equal to or less than 50 MW, and expansion of these existing hydro plants with power equal to or less than 50 MW.

In the availability modality, with a 20-year supply term, CCEARs will be negotiated for the energy recovery projects of solid urban waste, biomass, national coal, and biogas-fueled thermoelectric plants.

The A-6 auction, in turn, will negotiate the same CCEARs, but will also include, in the availability modality, with a 20-year supply term, the natural gas-fueled thermoelectric plants (in open cycle, combined cycle, and expansion of existing enterprises, including, by means of closing of the thermal cycle).

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