

NEWSLETTER

February 2022



IMAGEM: THOMAS REAUBOURG

Brazilian Federal Government enacts legal framework for offshore wind energy

On January 25, 2022, the Brazilian Federal Government published Decree No. 10,946/2022 (Decree), which defines the first guidelines for offshore wind projects in Brazil. The rule applies to the internal waters of the Federal Government's domain, the territorial sea, the exclusive economic zone and the continental shelf.

The Decree mainly deals with the assignment of use of physical spaces and the use of natural resources for the generation of electric energy through offshore projects. The assignment of use may be granted either by a planned assignment, consisting in the offer of area delimited by the Ministry of Mines and Energy (MME), or by independent assignment, involving areas required by interested parties.

The Decree will enter into effect on June 15, 2022, and will be further regulated by the MME within 180 days of its entry into effect.

ANEEL initiates Public Consultation to discuss the proposal of public notice for A-4/2022 Auction

The National Electric Energy Agency (ANEEL) opened on February 10, 2022 the Public Consultation No. 03/2022 to receive contributions on the public notice of Auction No. 3/2022-ANEEL, also known as A-4/2022 Auction.

The bid presents as innovation a single product for wind and photovoltaic projects, increasing the level of competition. The Energy Research Company (EPE) has registered 1,894 projects for participation in the auction, scheduled for May 27 this year, totaling 75,250 MW of power.

For wind, solar photovoltaic and hydroelectric projects, the entrepreneur shall execute quantity agreements, with a supply period of 15 years for the first two sources and 20 years for hydroelectric. For biomass projects, entrepreneurs shall execute availability contracts, with a 20-year supply period. The supply is scheduled to begin on January 1, 2026.

The period for contributions to the Public Consultation will be open until March 28.

Eletrobras' Privatization Moving Forward

The Federal Audit Court (TCU) approved, on February 15, 2022, the first phase of the Eletrobras' capitalization, with the analysis of the economic and financial modeling. The approved model estimates that the capitalization shall be made at a cost of BRL 67 billion. This first approval allows the Federal Government to proceed with the necessary steps to proceed with the transaction.

In the second phase of the process, which is scheduled for March, 2022, the TCU should conclude the capitalization format, evaluating and defining the price of the shares that shall be offered to the market. The Federal Government expects the deal to be concluded by 2022.

It is worth mentioning that the privatization will take place mainly in two stages. The first stage will be a capitalization process, in which Eletrobras shall issue new shares that can be purchased in the primary market until the Federal Government's participation in the company is diluted – which will not prevent the Federal Government from being Eletrobras' main shareholder.

The privatization's second stage will comprise the amendment to Eletrobras' By-laws for the pulverization of the Company's shares. Mechanisms will be included to prevent a single shareholder, or a group of shareholders, from exercising control over the company.



IMAGEM: ANTHONY INDRAUS

ANEEL releases Technical Opinion regarding the expansion of the energy Free Market

Today, pursuant to Ruling No. 514/2018, issued by the Ministry of Mines and Energy (MME), as amended, consumers must demand 1 MW to participate in the Brazilian Free Market. As of 2024, such requirement should once again be reduced (to less than 500 kW) in accordance with guidelines still to be defined by ANEEL.

ANEEL, to fulfill the deadline mentioned above, issued, on January 31, 2022, Technical Opinion No. 10/22 presenting a study on the necessary regulatory measures to allow the expansion of the energy Free Market for consumers with energy charge below 500 kW.

The agency understands that the opening of the Free Market should be implemented gradually, based on a harmonic agenda with the reduction of legacy agreements (long-term agreements), so that responses can be obtained from other market players and necessary adjustments can be made for the next steps, minimizing the distribution concessionaires' potential overcontracting.

ANEEL approves regulation of the tariff processes applicable to energy concessionaires and permissionaires

On February 1, 2022, ANEEL published Resolution No. 1,003/2022, which approved and consolidated the regulation on tariff processes applicable to energy concessionaires and permissionaires.

The issuance of ANEEL Resolution No. 1,003 required the analysis of 92 normative acts and, in the end, once published, revoked Normative Resolutions No. 435/2011, 457/2011 and 478/2012, consolidating the rules about the tariff processes involving the electric sector agents.

Brazilian Government's 2022 priority agenda includes Bill of Law No. 414

The Brazilian Federal Government considers as a priority the approval of Bill of Law No. 414/2021, which provides for measures related to the modernization of the electric sector, including the expansion of the energy Free Market in Brazil. This Bill of Law changes the regulatory framework of the electric sector in order to create more competitive operations amongst companies that supply energy. The purpose of the bill, which is currently under discussion in the House of Representatives, is still to diversify the Brazilian energy matrix bringing power of choice to consumers.

It is worth mentioning that Bill of Law No. 414/2021 provides that all Brazilian consumers, even those who consume low amounts of energy, can migrate from the captive market to the energy Free Market. This means that people will be able to freely negotiate the purchase of energy with the trading companies/producers, removing from the distributors the monopoly on the sale of electrical energy.

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