

NEWSLETTER

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IMAGEM: NUNO MARQUES

Legal framework for distributed generation is sanctioned

On January 7, 2021, Law No. 14,300 was approved with the purpose of establishing the legal framework for distributed generation (DG) projects in the country. DG corresponds to on-site generation limited, as applicable, to 5 MW, such as photovoltaic panels on rooftops that generate energy from sunlight.

Although DG is a type of generation that has evolved considerably in recent years, currently representing about 5% of the national installed capacity, there was no specific law regulating the implementation of DG projects yet. Their construction was only ruled by ANEEL Resolution No. 482, of April 17, 2012, Distribution Procedures (PRODIST) and rules defined by the local distribution concessionaires.

Among other matters, Law No. 14,300/2022 regulates progressive compensation for the network use, in accordance with a pre-defined transition regime, new ways to exploit shared generation, need to place performance bonds in certain cases, and procedures for the definition of guidelines and calculation of costs and benefits resulting from DG projects, either by the National Energy Policy Council (CNPE) or by the National Electric Energy Agency (ANEEL). ANEEL will still enact specific regulation about a number of aspects provided under Law No. 14,300.

Brazilian Federal Government enacts Exchange Market Legal Framework allowing the execution of Power Purchase Agreements in foreign currency

On December 30, 2021, Federal Law n° 14,286/2021 was enacted, regulating the Brazilian exchange market, Brazilian capital abroad, foreign capital in the country and the disclosure of information to the Brazilian Central Bank.

Among its provisions, the new rule now provides that the stipulation of payment in foreign currency for obligations enforceable in the national territory is also admitted under contracts entered into by exporters in which the counterparty is a concessionaire, license holder or lessee in the infrastructure sectors.

This specific provision permits the execution of Power Purchase Agreements (PPAs) in foreign currency when the offtaker is an exporter – structure that has been discussed a lot in the Brazilian energy market within the past years. Accordingly, Law No. 14,286/2021 – which effects shall start only in 2023 – allows power producers to access funding in foreign currency, using, for instance, their revenues – also in foreign currency – as a “natural hedge”.

Federal Government enacts decree that facilitates licensing of renewable generation projects before the end of the wheeling tariff discount

The Federal Government published, on December 14, Decree No. 10,893, dismissing the access information that certifies the feasibility of the power plant's connection to the grid, specifically from renewable generation projects whose licenses are requested by March 2022.

The rule facilitates the licensing requests submitted by energy agents that still intend to take advantage of the wheeling tariff discount applicable for incentivized sources, since the deadline defined under Law 14,120/2021 is March 2022.



IMAGEM: MATTHEW HENRY

ANEEL holds capacity auction for the first time

On December 21, 2021, Brazilian National Electric Energy Agency (ANEEL) held the Auction No. 11/2021 for contracting reserve capacity, seeking (i) to modernize existing thermoelectric plants and (ii) long-term alternatives and cost reduction in the thermoelectric dispatch scenario due to the current water crisis in Brazil. At all, 132 existing or new projects participated in the bidding.

There was no negotiation of the energy product, in which the delivery commitment consists of electric energy from new generation projects, in the modality by quantity, in average MW, associated with an inflexible generation.

As for the power product, 17 projects were declared as winners in the bidding (9 natural gas-fueled projects, 5 oil-fueled projects, 2 diesel-fueled projects, and 1 biomass project).

The delivery of the qualification documents shall take place on January 13, 2022, the result of the qualification judgment will be on March 14, 2022, and the publication of auction award on April 14, 2022.

ANEEL approves the newest convention for electric energy trading

ANEEL approved, on December 7, 2021, Normative Resolution No. 957, which establishes a new Electric Energy Trading Convention, revoking in whole or in part a number of Normative Resolutions approved since 1998.

The new resolution is part of a process of consolidation of rules related to several sector topics and, in this context, defines the requirements for transactions in the regulated, free and in the short term markets. It also establishes the rules for the organization, operation, and attributions of the Energy Trading Chamber (CCEE).

PLD values are updated for 2022

ANEEL's Board of Directors, in a meeting held on December 14, 2021, defined the limit values of the Differences Settlement Price (PLD) for 2022, being R\$ 55.70/MWh for the minimum value, R\$ 646.58 for the structural maximum, and R\$ 1,326.50/MWh for the hourly maximum. The new approved maximum values show an increase of 10.74% in relation to the prices approved for the year 2021.

Also, the regulator approved the value of R\$ 8.41/MVArh for the Ancillary Services Tariff (TSA) and R\$ 14.04/MWh for the Optimization Energy Tariff (TEO). For these two tariffs the increase in relation to 2021 was 10.24%, corresponding to the variation of the IPCA (National Extended Consumer Price Index).

Finally, the Agency also defined the value of the optimization energy tariff for Itaipu power plant at R\$ 55.70/MWh, with a variation of 11.9% compared to 2021, which is due, mainly, to the increase in the US dollar during the period.



IMAGEM: TEJJ

Federal Government publishes new Provisional Measure aimed at tackling the water crisis

The Federal Government, on December 13, 2021, published Provisional Measure (PM) No. 1,078, providing for new measures aimed at facing the financial impacts on the electric sector resulting from the water crisis situation imposed throughout 2021.

The new PM allows the raising of funds for the amortization of financial transactions related to measures to combat the financial impacts caused by water scarcity, to be collected through a tariff charge. Besides that, the Federal Government will be responsible for defining the conditions and requirements for the structuring of financial transactions and the availability and collection of funds.

The charge shall be handled by the Energy Trading Chamber (CCEE), and the Electricity Sector Monitoring Committee is authorized to establish extraordinary tariff flags to cover exceptional costs resulting from the water crisis. Such flag shall have transitory validity and must be justified and applied through billing.

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