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ADVOGADOS

Energy.

6th Edition | 2024

This is an informative newsletter
of the **Infrastructure & Energy** practice
of TozziniFreire Advogados.

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HOT TOPICS AND TRENDS IN THE ENERGY SECTOR

The month of May 2024 brought significant progress in the distributed generation sector: among the regulatory changes for the sector, the long-awaited publication of a decree by the Ministry of Mines and Energy (MME) stands out, which addresses the classification of mini-distributed generation projects under the Special Incentive Regime for Infrastructure Development (REIDI).

Additionally, the Brazilian National Council for Energy Policy (CNPE) issued a directive defining the guidelines for assessing costs and benefits of micro and mini-distributed generation systems, as outlined in Law No. 14,300/2022, while the Brazilian National Electric Energy Agency (ANEEL) approved regulations regarding involuntary overcontracting and the sale of surpluses resulting from the MMGD regime.

These regulatory innovations aim to address various market concerns and, consequently, enhance legal certainty for the distributed generation sector. In the realm of renewable

energies, now from a centralized perspective, ANEEL opened a public consultation on discounts in TUSD and TUST for incentivized sources, following discussions led by the Brazilian Federal Audit Court (TCU).

Once again, we witnessed a regulatory initiative that will have the effect of market legal stability. Finally, in May 2024, the General Assembly of the Energy Trading Chamber (CCEE) approved the new version of the Chamber's Bylaws – an effort in which our firm had the pleasure and opportunity to contribute to. The new version of the Bylaws, still subject to ANEEL approval, reflects the provisions of Decree No. 11,835/2023, in the revised version of the Negotiation Agreement, the good governance practices, and the aspirations of both members, sectoral associations, and the CCEE itself.

Below, you will find the main regulatory movements and other events involving the energy sector in Brazil over the last month.

MME publishes rules for the classification of distributed minigeneration projects under the Special Regime of Incentives for Infrastructure Development

On June 5, 2024, the Ministry of Mines and Energy (MME) published Ordinance No. 78/GM/MME, with the purpose of establishing the procedures applicable for the classification request regarding distributed minigeneration projects under the Special Regime of Incentives for Infrastructure Development (REIDI), as determined by Law No. 14,300/2022.

The classification request must be made to the respective distribution company by filling out information on a form available on the Brazilian National Electric Energy Agency (ANEEL)'s official website. In addition to data from the legal entity holding the project, the form requests information about the project itself, such as the identification of

the respective consuming unit, connection contract number, project location, equipment description, environmental installation license of the enterprise, investment estimates, and the tax value and contribution exemptions under REIDI.

According to the new regulations, the distribution company will be responsible for attesting the completeness and accuracy of the information form. The information must subsequently be made available to ANEEL, which will then forward the requests to MME's approval.

The project will be considered classified under REIDI upon publication of the respective ordinance by the Ministry.

CCEE approves its Bylaws

The Energy Trading Chamber (CCEE) approved, on May 23, 2024, a new version of its Bylaws, which establishes the guidelines for the operation and functioning of the institution, as well as the rights and duties of its members.

The new Bylaws of CCEE provide for the creation of an executive board, as well as the redefinition of roles and the expansion of the current board of directors. Moreover, the Government, through the Ministry of Mines and Energy (MME), was enabled to appoint four

members to the board of directors, with the other members being appointed by the sectors of generation, distribution, commercialization, and consumption.

The new governance structure of CCEE was designed in accordance with the provisions of Decree No. 11,835/2023 and the revised Trading Convention, but it is still pending approval by the Brazilian National Electric Energy Agency (ANEEL).

ANEEL approves draft of notice for the Second Transmission Action of the year

The Brazilian National Electric Energy Agency (ANEEL) approved, on May 15, 2024, the bid notice for the Transmission Auction No. 2/2024, scheduled to take place on September 27 of this year, at the B3 (Brazilian stock exchange) headquarters in São Paulo.

The auction will offer four lots of transmission assets, for the construction and maintenance of 850 kilometers (km) and 1,600 megavolt-amperes (MVA) in transformation capacity, in addition to the continuation of public service provision of 162.9 km of transmission lines and 300 MVA in transformation. The facilities will be implemented in the states of Bahia, Espírito Santo, Minas Gerais, Paraná, São Paulo, Santa Catarina, and Rio Grande do Sul.

The total investment expectation is BRL 3.76 billion. Lot 1, which will cover the states of Santa Catarina, Paraná, Minas Gerais, and

Espírito Santo, represents approximately 78% of the estimated investments regarding all the assets in the bidding process. Additionally, Lot 1 was divided into two sub-lots, 1A and 1B, as a way to promote competitiveness. It will also be possible to contract Lot 1 in its entirety (sub-lots 1A and 1B together) or each sub-lot individually, with ANEEL deciding on the option with the lowest Annual Permitted Revenue (RAP).

Lastly, regarding the first auction of the year, ANEEL approved, on May 15, 2024, the final ratification of the results and the award of Transmission Auction No. 1/2024, which resulted in the negotiation of all 15 lots and featured an average discount rate of 40.78%. The auction encompassed 6,464 km of transmission lines and substations with a transformation capacity of 9,200 MVA, for a total investment of approximately BRL 18.2 billion.



ANEEL opens public consultation on discounts on TUSD and TUST for incentivized sources

The Brazilian National Electric Energy Agency (ANEEL) opened on May 22, 2024, the Public Consultation (PC) No. 13/2024 to receive contributions regarding the application of discounts to the Use of Transmission and Distribution Systems Tariffs (TUST and TUSD) for solar, wind, and biomass-fueled power plants with up to 300 megawatts (MW) of injected power.

The opening of PC No. 13/2024 is in compliance with the determination provided by Rulings No. 2,353/2023 and No. 129/2024 of the Brazilian Federal Audit Court (TCU), which establish that ANEEL should improve its regulations to prevent renewable generation projects with power exceeding 300 MW from splitting into two or more projects to benefit from the TUST and TUSD subsidies.

The rule revision to be carried out by the Agency will only apply to pending authorizations and will not retroactively impact projects that have already been granted with authorizations, provided they have complied with the subsidy criteria at the time of issuance.

Contributions to PC No. 13/2024 was accepted until July 5, 2024.

ANEEL sets deadlines for wire discount extension

The Brazilian National Electric Energy Agency (ANEEL) extended, on May 10, 2024, by additional 36 months, the deadlines set forth in Provisional Presidential Decree No. 1,212/2024 which, among other topics, provides for discounts in the use of wires for renewable energy projects (wind and solar).

The deadline extension allows entrepreneurs of wind and solar projects to ensure access to discounts on the transmission and distribution system use rates (TUST and TUSD). The extension applies to projects for which the authorization application was submitted to ANEEL by March 2, 2022, provided they are in compliance with the current regulations.

To request an extension, the party responsible for the enterprise had to submit a request to the Agency by June 10, 2024, and provide **(i)** the Adhesion Agreement within 45 days after the protocol; and **(ii)** evidence of the deposit of the performance bond as stipulated in the regulations by July 9.

Once the requirements are met, the ANEEL will review the request and proceed with the publication of a ruling. In cases that the request is granted, the benefit guarantee will be subject to the enterprise's start date, which must be implemented by October 10, 2025.

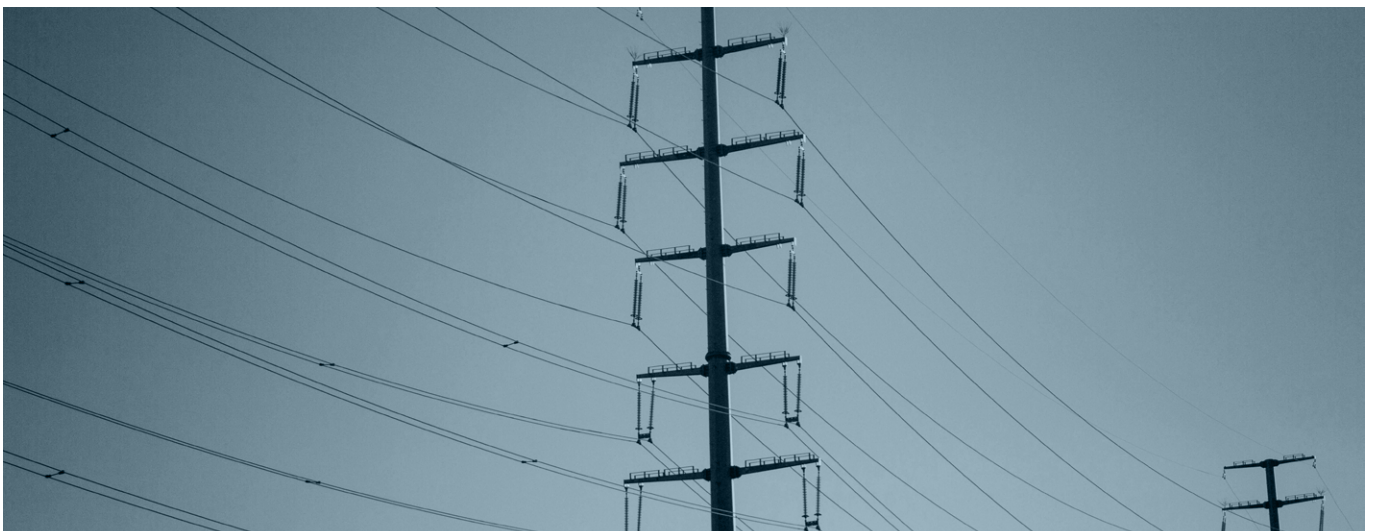
ANEEL approves regulations on involuntary overcontracting and the sale of surpluses resulting from the MMGD regime

The Brazilian National Electric Energy Agency (ANEEL) approved, on May 22, 2024, the new regulation of articles 21 and 24 from Law No. 14,300/2022, specifically regarding involuntary overcontracting and the sale of surpluses resulting from the micro and mini distributed generation (MMGD) regime.

The regulation of article 21 was modified with the aim of expanding the scenarios to characterize them as an involuntary overcontracting. It is worth noting that Regulatory Resolution No. 1,009/2022 currently considers four scenarios to characterize them as an involuntary overcontracting: **(i)** acquisition of amounts of electrical energy in excess of the purchasing declaration; **(ii)** allocation of physical guarantee quotas and power

from hydroelectric plants above the replacement amount; **(iii)** staggered entry of uncompensated generation units into the Surplus and Deficit Compensation Mechanism (MCSD); and **(iv)** load reduction due to effects of the COVID-19 pandemic. The amendment to article 21 incorporates a fifth scenario: involuntary overcontracting resulting from consumers opting for the MMGD regime.

Article 24 allows consumers with MMGD to sell energy to the distribution company, provided they adhere to the Energy Trading Chamber (CCEE) and are subject to a pre-defined maximum price. This change enables the distributor to make specific calls to interested generators, with information to registered consumers.



Brazilian National Council for Energy Policy publishes MMGD guidelines

The Brazilian National Council for Energy Policy (CNPE) published Resolution No. 2 of April 22, 2024 on May 7, 2024 (CNPE Resolution No. 2/2024), responsible for determining the guidelines for valuing the costs and benefits of micro and mini distributed generation (MMGD) to the system.

The CNPE Resolution No. 2/2024 outlines how the Brazilian National Electric Energy Agency (ANEEL) should act to establish the criteria for assessing the increase of the costs and benefits of this modality, considering the net value to be applied to the billing of consumer units participating in the Electricity Compensation System (SCEE).

The criteria take into account, among other aspects, investments in transmission and distribution networks, power contracting, and auxiliary systems, the overcontracting of distributors due to the increase in distributed energy generation, and the need for or postponement of investments in system reinforcements and improvements.

Considering the standards outlined, the Agency will sum the positive and negative values to determine a net value to be applied in the billing of consumer units participating in the SCEE. This net value cannot exceed the total of non-energy-related costs on the

electricity bill (such as network usage costs and charges), preventing consumers with MMGD from having credits higher than the total electricity bill.

The process will follow a similar approach to other tariff processes. Thus, if the net value is positive for the consumers, they will receive a discount corresponding to the benefit of their installation to the network on the electricity bill. Conversely, a negative value will indicate a burden to the network and entail an additional cost for the consumers.



ANEEL approves methodology for calculating penalty for insufficient energy

The Brazilian National Electric Energy Agency (ANEEL) approved, on May 14, 2024, the enhancement of the calculation methodology related to the penalty for insufficient collateral for energy sales and contractual coverage of electric energy consumption.

The calculation method for the penalty to be applied will only be altered in cases of collateral insufficiency, which will be determined by applying the Reference Value (VR), annually disclosed by ANEEL, instead of considering the higher value between this VR and the Differences Settlement Price (PLD), as established in current regulations.

The main topics evaluated for the enhancement of the calculation methodology were: **(i)** definition of the calendar year for penalty assessment; **(ii)** leverage rule and penalty proposal; **(iii)** penalty calculation; and **(iv)** allocation of financial resources for exceeding the maximum leverage limit.

ANEEL opens call for subsidies on regulation regarding expiring transmission concessions

The Brazilian National Electric Energy Agency (ANEEL) opened on May 23, 2024, the Public Consultation No. 8/2024, aimed at obtaining contributions regarding the regulation of Decree No. 11,314, published on December 28, 2022, which addresses the procedure applicable to expiring energy transmission concessions. The regulation of the Decree is defined in the ANEEL's Regulatory Agenda 2024-2025. The Public Consultation No. 8/2024 will accept contributions until July 8, 2024. For more information, click [here](#).



MME and ANEEL discuss the cost formation related to the activation of thermoelectric power plants

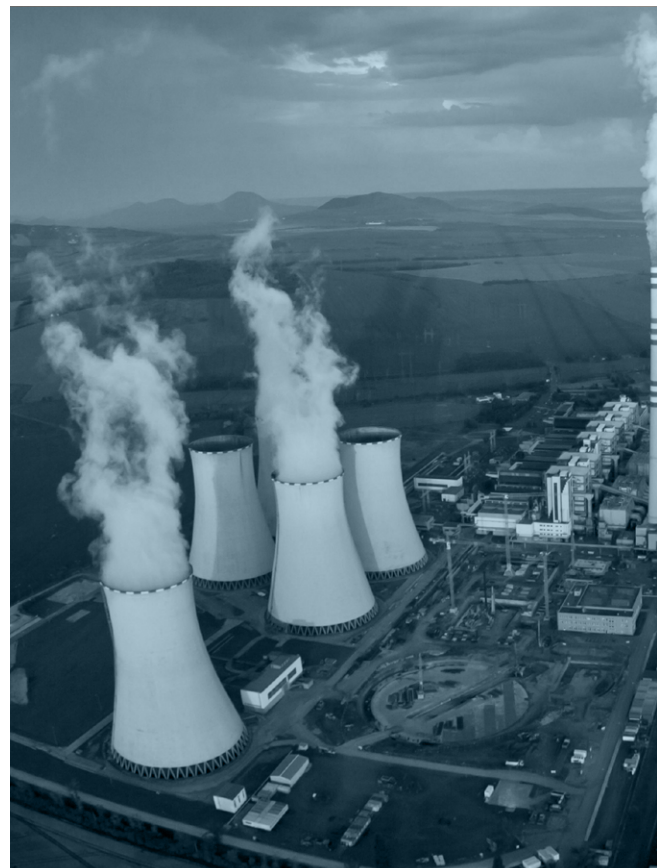
The Ministry of Mines and Energy (MME) published, on April 30, 2024, the Normative Ordinance No. 76/2024, which discusses the inclusion of fixed costs to variable values for the electric power generation of merchant thermal power plants without energy commercialization contracts.

The incorporation of fixed costs aims to incentivize the increase in energy contribution from Merchant Thermal Power Plants. This measure will significantly contribute in challenging supply situations, such as water crises, enabling greater availability of resources for the full provision of electric energy to consumers.

In addition, the Brazilian National Electric Energy Agency (ANEEL) approved, on May 21, 2024, the outcome of Public Consultation (PC) No. 38/2022, which received contributions for the development of a regulation responsible for establishing new criteria and procedures for the approval of Unit Variable Costs (CVUs).

The CVU is used both by the National Grid Operator (ONS) to enable the planning and scheduling of electro energy operations, and by the Energy Trading Chamber (CCEE) for the accounting and settlement of generated energy.

The proposal approved by the Agency covers Thermal Power Plants (UTES) that meet two criteria: **(i)** having fuel from fuel oil, diesel oil, or natural gas; and **(ii)** not being committed to regulate power purchase agreements (CCEARs). The Normative Resolution will also determine the fixed costs that may be included in the Unit Variable Cost (CVU), subject to approval by the Ministry of Mines and Energy (MME).





MME opens public consultation for new energy auctions

The Ministry of Mines and Energy (MME) opened, on May 23, 2024, Public Consultation (PC) No. 165/2024, to receive contributions on the draft guidelines for Electricity Purchase Auctions from New Generation Projects, called the “A-4” and “A-6” Auctions of 2024.

The “A-4” and “A-6” Auctions aim to supply the market growth of the distributors of the National Interconnected System (SIN) for 2028 and 2030, respectively, and are scheduled to occur in December of this year.

The “A-4” New Energy Auction foresees the negotiation of a product that allows the participation of new energy generation projects from hydropower (up to 50 MW), wind, photovoltaic solar, and thermal sources

with a zero unit variable cost, including the expansion of existing projects and the adoption of hybrid solutions. The contracting will be performed in a quantity modality, with a supply term of 15 (fifteen) years.

The “A-6” New Energy Auction will offer two products: (i) one similar to the “A-4” Auction, with the exception of hydropower sources; and (ii) other with hydropower plants of up to 50 MW, also available for contracting in the quantity modality, with a supply term of 20 (twenty) years, in compliance with Law No. 14,182/2021.

Contributions to PC No. 165/2024 were received until June 3, 2024.



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