

No. 21 / OCTOBER 2019

This issue of our Energy Newsletter provides information on the main administrative and regulatory actions and legal texts related to regulation of the electric energy sector in Brazil. This material is for informative purposes only and should not be used for decision making. Our lawyers are available to provide specific legal advice.

**ENERGY AND NATURAL RESOURCES AREA** 

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On September 19, Demarest's Energy Partner Raphael Gomes published an article in *Canal Energia* about the opening of Public Consultation No. 85/2019 by the Ministry of Mines and Energy (MME) which, in his view, could represent a legitimate lifting of the limits for the review of the physical guarantees of centrally dispatched plants. For Raphael, CP 85/2019 presents extremely important legal and economic aspects that deserve to be carefully evaluated. See in full.

On September 19, Demarest's Energy Partner Raphael Gomes gave an interview to *Extra Globo* about the new government's proposal to promote, by 2021, the extraordinary review of the country's hydro and thermal energy supply which, in his view, will only be justified through some compensation if the revision affect plants in operation as the government intends, considering it would be necessary to respect the "vested right" of the generators and the "immutable legal act" of the executed agreements. See in full.

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On September 25, Demarest's Energy Lawyer Pedro Dante was one of the speakers at the event: "Relevant Legal Aspects in Distributed Generation Projects – REN ANEEL 482/12", held at the Brazilian Institute of Legal Energy Studies (IBDE). For the event, Pedro discussed such relevant legal aspects in Distributed Generation projects – REN 482/12. See in full.

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# Government creates technical group to "streamline" the nuclear sector regulation

GSI creates inter-ministerial technical group to propose guidelines for the development of the nuclear industry in Brazil.

#### See in full

# Light approves the issuance of debentures of its subsidiary in the amount of BRL 1 billion

Light's Board of Directors approved the 17th issuance of debentures by its services subsidiary Light Sesa, totaling BRL 1 billion. The resources will be earmarked mainly for refinancing existing debt and for strengthening working capital.

#### See in full

## Cemig to hold new auction for energy purchase for 19-year period

The company Cemig, based in Minas Gerais, will hold an auction on November 14 for the purchase of electric energy from wind and solar sources, with a supply contract for a period of 19 years. According to the announcement by the company on Monday, September 30, those interested in participating have until October 31 to submit the required documentation.

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### Resumption of uranium extraction will guarantee operation of nuclear plants

The Minister of Mines and Energy says government is working to reopen mining in BA and CE and does not rule out private partnership.

### See in full

# MME offers new reinforcement and improvement plan for transmission

The Ministry of Mines and Energy has made available the new reinforcement and improvement plan for the electric power transmission systems, which aims to increase the useful life of the assets. The orders authorizing the execution of the works were published in the Official Gazette (DOU) on Monday, September 30.

#### See in full

### Cemig GD signs SPE contract for solar energy in hotels

Cemig Geração Distribuída has signed a Special Purpose Entity (SPE) agreement with the Associação Brasileira da Indústrias de Hotéis de Minas Gerais (ABIHMG) and Mori Energia Solar, for the implementation of photovoltaic energy in associated hotels, which will also receive a green seal of clean energy. The proposal includes the use of solar panels to capture energy, generating a reduction of between 13% and 22% in the tariff.

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### Energy in the spot market is 3% more expensive

Spot market energy prices rose by an average of 3% for the week of September 28 to October 4, 2019, in the four submarkets, effected by the rainfall prediction below the historical average for October. The PLD was set at BRL 241.94/MWh for heavy and medium loads.

#### See in full

### Servtec to invest BRL 68 million in solar plants in Brazil

The Servtec group will invest BRL 68 million in the construction of four solar plants to meet compliance requirements for distributed generation contracts. Adding 15 MWp of power, the projects will be built in the states of São Paulo and Bahia, with operations beginning by the end of the year.

# PDE 2029 and PNE 2050 to be presented by government on December 10

The federal government intends to present on December 10 the consolidated reports of the new cycles of the two principal energy planning studies of the country — the Decennial Energy Plan (with a timeline spanning to 2029) and the National Energy Plan (focusing on the long term, until 2050).

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### Aneel green lights commercial solar operation in Pernambuco

On Thursday, September 26, the National Electric Energy Agency gave the go ahead for the commencement of commercial operation of the UGV Fazenda Esmeralda generating unit UG1. The plant is located in the city of Agrestina, in Pernambuco.

### See in full

### Aneel approves changes to minimum and maximum PLD limits

The new rule provides for two maximum limits considering the structural price and the hourly price. Implementation begins in 2020.

#### See in full

### MME repeals the adoption of criterion N-2 in Brasilia

On Thursday, September 26, the Ministry of Mines and Energy published Ordinance 366/2019, which repeals the adoption of the Reliability Criterion "N-2" for the electric energy supply to Brasília (DF), in the transmission and distribution services. The "N-2" is a safety standard requiring that the system must be able to withstand the loss of up to two of its elements, without restriction of load supply. Ordinance 276, which determined the adoption of this criterion, was published in August 2013.

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# Chesf concludes increase of transmission capacity of CE and RN

Chesf has announced the completion of the refurbishment work of the Banabuiú - Russas II C1 transmission line in a single circuit and 230 kV, with 110.4 km length that runs through the state of Ceará. The upgrade works had investments of around BRL 10.5 million and the venture was made available for commercial operation by the company on September 10.

#### See in full.

# Brazil is the second most profitable country for Engie group

The company sees opportunities for growth in transmission lines, renewable sources, and energy efficiency solutions for end customers.

### See in full.

### MME extends contribution deadline in CP of sector modernization

On Wednesday, September 25, the Ministry of Mines and Energy published in the Federal Official Gazette Ordinance 365/2019, which extends to October 25 the deadline for submission of contributions from interested parties in the public consultation for the modernization of the electricity sector.

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# Campinas to have one of the largest plants for solar GD in the country

The first photovoltaic plant of TMW Energy, a renewable and sustainable energy company of the Royal FIC Group, is being built at Estância Jatobá, in Campinas. The unit will have a capacity of 4.75 MWp and is be projected to generate 7,318,000 kWh of energy per year, which could supply approximately 4,000 homes for the period. The venture, considered one of the five largest projects in Distributed Generation (GD) in Brazil, will enable two business models and distribution: Shared Generation and Remote Self-Consumption.

See in full.

### BB's bidding for photovoltaic plants may yield BRL 37 million in contracts

Banco do Brasil bid on September 10 and 11 for the provision of leasing services for photovoltaic power plants in the Federal District (DF), as well as in the states of Goiás (GO) and Pará (PA), in contracts that may reach BRL 37 million. The process, which provides for a 15-year contracting period, now goes to the technical and document qualification phase. Following these steps, as well as the phase of negotiation of prices, companies can be declared winners of the bids.

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# MME expected to extend public consultation on ballast and energy

The Ministry of Mines and Energy should extend the deadline for contributions to Public Consultation 83, which brings the Energy Research Company's proposal for the separation of ballast and energy. Stakeholder statements would be received by the following 25<sup>th</sup> of the month, but the MME considers that the topic is central to the discussion on the modernization of the electric energy sector and expects to receive as many contributions as possible. The extension was requested by industry representatives.

See in full.

## Aneel releases 16 MW of wind energy for commercial operation in Bahia

The National Electric Energy Agency has decided in favor of commercially operating eight 2 MW wind turbines of the Coqueirinho 2 wind power generation plant, totaling 16 MW of installed capacity in Pindaí, Bahia.

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### MME approves BRL 1.1 billion of CDE for Luz para Todos 2020

The Ministry of Mines and Energy approved BRL 1,138,343,503.00 as the proposed budget for the Energy Development Account (CDE) of the Luz Para Todos Program for the year 2020. The decision was published in the Federal Official Gazette on September 13, through Decree No. 358.

### See in full.

## Government publishes the 2019 Existing energy auction rules

The MME has published the scheme of the two existing energy auctions expected to be held jointly later this year. The document contains the operating rules of auctions A-1 and A-2.

### See in full.

# MME opens public consultation to review physical guarantees of plants

The Ministry of Mines and Energy has issued the Technical Note for the Physical Energy Guarantee Review of Centrally Dispatched Plants — Contributions on Short-Term Measures for Public Consultation. The relevant documents and information can be obtained from the MME website, on the Public Consultation Portal. The decision was published in the Official Gazette on September 13, through Ordinance No. 346, signed by Minister Bento Albuquerque.

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### Eletrobras elects the new Director of Generation

Eletrobras' Board of Directors has elected employee Pedro Luiz de Oliveira Jatobá as the Director of Generation, the company said in a statement to the market and to its shareholders on September 11. The decision came after evaluation by the People Management and Eligibility Committee. In accordance with current legislation, the new director must take office within 30 days.

#### See in full.

#### **A-4 Auction Result**

The Auction contracted an average of 81.1 MW from 15 solar photovoltaic, wind, SHP and biomass thermal projects.

#### See in full.

### Aneel studies allow the exchange of GD credits between distributors

The National Electric Energy Agency (Aneel) studies will now allow consumers to exchange credits of distributed generation between different concession areas, provided that the distributors are in the same state. At an event in São Paulo on September 11, Aneel's director Rodrigo Limp said that this is one of the improvements that can be incorporated into the proposed revision of Normative Resolution No. 482/12.

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#### Aneel sets physical guarantee quotas for 2022

Aneel's Board has defined the physical for electric guarantee factors energy distributors for the year 2022, following approval through the Homologation Resolution on September 10. The guarantee corresponds to the maximum energy capacity of the plants that can be used to prove the load fulfillment or commercialization through agreements.

See in full.

#### Aneel approves A-6 auction notice

Initial prices for the 2019 A-6 auction will be BRL 285.00/MWh for hydroelectric projects, BRL 189.00/MWh for wind farms, BRL 209.00/MWh for solar photovoltaic projects and BRL 292.00/MWh for the thermoelectric source. The Marginal Reference Cost of the auction will also be BRL 292.00/MWh. The announcement with the rules of the auction was approved by the National Electric Energy Agency on Tuesday, September 10.

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#### ONS bylaw changes enter into public hearing

The National Electric Energy Agency will open a public hearing with the proposal to change the bylaws of the National Electric System Operator. According to Aneel, there are 52 proposed modifications, of which 29 are changes concerning existing devices, 20 additions and three repeals. Aneel will receive contributions between September 18 and October 18.

See in full.

### MME opens public consultation for DEC and FEC limits

On September 16, the Ministry of Mines and Energy published Ordinance 359/2019, which opens a public consultation to publicize the limits of Equivalent Duration of Interruption of Internal Origin by Consumer Unit and Equivalent Frequency of Interruption of Internal Origin by Consumer Unit that will be considered for extension of the concession of the distributors. Documents are available on the MME website and the interested parties will have ten days to submit their contributions.

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## DECREE No. 341, OF THE MINISTRY OF MINES AND ENERGY, published September 2, 2019

Releases, for Public Consultation, the draft Ordinance with the purpose of proposing new Forced Unavailability Reference Values - TEIF and Scheduled Unavailability - IP of Hydroelectric Power Plants, with the updating of the Annex to MME Decree No. 484, of September 11, 2014, as well as adjustments to the provisions of the referred Decree.

# DECREE No. 342, OF THE MINISTRY OF MINES AND ENERGY, published September 2, 2019

Releases, for Public Consultation, the "Supporting Report for the Ballast and Energy Workshop".

# DECREE No. 345, OF THE MINISTRY OF MINES AND ENERGY, published September 6, 2019

Releases, for Public Consultation, the proposal of the Decree with Guidelines for the Exportation of Electricity from Thermoelectric Plants, of interruptible type, without return.

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# ORDER No. 2.492, OF THE ASSISTANT SUPERINTENDENT OF ANEEL, published September 9, 2019

Sets, for all transmission concessionaires, free consumers, self-producers and Eletrobrás, the amounts of the quotas related to the charge of the Energy Development Account - CDE, for July 2019.

# DECREE No. 346, OF THE MINISTRY OF MINES AND ENERGY, published September 10, 2019

Releases, for Public Consultation, the Technical Note No. EPE-DEE-RE-046/2019-r1, entitled "Review of the Physical Energy Guarantee of Centrally Dispatched Plants - Contributions on Short-Term Measures".

# ORDER No. 2.493, OF THE ASSISTANT SUPERINTENDENT OF ANEEL, published September 9, 2019

Fixes, for all transmission concessionaires, free consumers, self-producers and Eletrobrás, the amounts of costing quotas referring to the Incentive Program for Alternative Sources of Electricity (PROINFA), for the month of November 2019.

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### DECREE No. 359, OF THE MINISTRY OF MINES AND ENERGY, published September 12, 2019

Opens a Public Consultation to publicize the limits of Equivalent Interruption Duration of Internal Origin per Consumer Unit (DECi) and Equivalent Interruption Frequency of Internal Origin per Consumer Unit (FECi) to be considered in the case of extension of the Concession Agreement of Public Electricity Distribution Service No. 52/1999-ANEEL, held on June 28, 1999, owned by Energisa Tocantins Distribuidora de Energia S.A.

# APPROVAL RESOLUTION No. 2.603, OF THE SUBSTITUTE DIRECTOR-GENERAL OF ANEEL, published September 10, 2019

Approves the Auction Notice No. 4/2019-ANEEL and its Attachments (A-6 New Energy Auction, 2019), concerning the purchase of electric energy from new generation projects, from hydroelectric, wind, solar photovoltaic and thermoelectric plant (biomass, domestic coal and natural gas), destined for the National Interconnected System (SIN), in the Regulated Contracting Environment (ACR), and establishes the reference TUST and TUSDg for the generating plants that participate in the referred event.

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## ORDER No. 2.542, OF THE SUPERINTENDENT OF ANEEL, published September 13, 2019

Approves the Commercialization Procedure, CCEE Adhesion, Agent Registration and Retail Marketing, effective from the date of implementation of the new agent registration platform by the Chamber of Commercialization of Electric Energy (CCEE), which should occur by December 31, 2019.

# ORDER No. 2.626, OF THE SUPERINTENDENT OF ANEEL, published September 23, 2019

Approves the Trading Procedures, Free Environment Contracts, CCEAR Sales Revenue, Surplus Selling Mechanism and Existing Energy MCSD, results of the Public Consultation No. 009/2019, and other measures.

# ORDER No. 2.628, OF THE SUPERINTENDENT OF ANEEL, published September 23, 2019

Approves the Trading Rules Surplus and Deficit Compensation Mechanism version 2019.

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# DECREE No. 15, OF THE EXECUTIVE SECRETARY OF THE MINISTRY OF MINES AND ENERGY, published September 25, 2019

Approves, as defined in the Annex to the referred Decree, the System to be applied in the realization of the Electricity Purchase Auctions from Existing Generation Projects.

# ORDER No. 2.695, OF THE SUPERINTENDENT OF ANEEL, published September 27, 2019

Sets the Electricity Services Inspection Fee (TFSEE) for the electricity distribution agents with tariff update in September 2019.

# ORDER No. 2.689, OF THE SUPERINTENDENT OF ANEEL, published September 27, 2019

Sets, for all Distribution Concessionaires and Permission Holders, as well as Consumers of the National Interconnected System, the yellow tariff flag with effect in October 2019, pursuant to version 1.7 of Sub-Module 6.8 of Tariff Regulation Procedures (PRORET).

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	PUBLIC HEARING	SUBJECT	FORMAT	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints  Highlights  Regulatory Matters  Public Hearings and  Consultations	No. 33/2019	To obtain inputs for the improvement of the proposal of the Electricity Trading Rules, version 2020.  Phase 1: Submission of contributions to the proposal submitted by ANEEL.	Exchange of documents	Phase1: 8/21/2019 to 9/19/2019 and
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	No. 34/2019	To obtain inputs for the improvement of the Regulatory Impact Analysis Report and the draft standard regarding the procedures and criteria for determining the constrained-off operation restriction of wind power plants.	Exchange of documents	08/22/2019 to 10/20/2019

<sup>\*</sup> All dates expressed here as: mm/dd/YYYY

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	PUBLIC HEARING	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations Regulatory Calendar	No. 35/2019	To obtain inputs for the improvement of the draft of the Notice and respective Attachments of Generation Auctions No. 5/2019-ANEEL and No. 6/2019-ANEEL, known as Existing Energy Auctions "A-1" and "A-2", of 2019, which are intended for electricity purchase from existing generation projects.	Exchange of documents	09/05/2019 to 10/04/2019
	No. 36/2019	To obtain inputs for the improvement of the proposal to update the Reference Price Bank of the electricity distribution segment, as provided in Annex IV of Sub-Module 2.3 of the Tariff Regulation Procedures (PRORET).	Exchange of documents	09/11/2019 to 11/10/2019

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	PUBLIC HEARING	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints  Highlights  Regulatory Matters  Public Hearings and Consultations  Regulatory Calendar	No. 37/2019	To obtain inputs for the improvement of the proposed amendments of the Articles of Association of the National Electric System Operator (ONS).	Exchange of documents	09/18/2019 to 10/18/2019
	No. 38/2019	To obtain inputs and information for the establishment of the limits for the collective continuity indicators Equivalent Interruption Duration per Consumer Unit (DEC) and Equivalent Interruption Frequency per Consumer Unit (FEC) from the sets of consumer units of DME Distribuição S.A. (DMED), for the year 2020.	Exchange of documents	09/25/2019 to 11/11/2019

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints  Highlights  Regulatory Matters  Public Hearings and  Consultations	No. 22/2019	To obtain inputs for the drafting of ANEEL's 2020/2021 Regulatory Agenda. The contributions will be received exclusively through the form provided on the page.	Exchange of documents	09/16/2019 to 10/15/2019
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#### October 1, 2019

Beginning of the period to submit declarations of surplus and deficit (MCSD) of New Energy for October/2019.

#### October 3, 2019

End of the period to submit declarations of surplus and deficit (MCSD) of New Energy for October/2019.

#### October 4, 2019

End of the period to submit suggestions for Public Hearing No. 33/2019. See in full.

End of the period to submit suggestions for Public Hearing No. 35/2019. See in full.

#### October 7, 2019

Debit of the Financial Settlement of the Short-Term Market (MCP) - August/2019.

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### October 8, 2019

Credit of the Financial Settlement of the Short-Term Market (MCP) for August 2019.

#### Ocotber 15, 2019

Financial Settlement of Angra I and II for September 2019.

End of the period to submit suggestions for Public Consultation No. 22/2019. See in full

#### October 16, 2019

Financial Settlement of the Physical Guarantee Quota Regime for September 2019.

#### October 18, 2019

30<sup>th</sup> New Electric Energy Auctions (A-6)

Deadline for the release of MCSD final result of the New Energy for October 2019.

End of the period to submit suggestions for Public Hearing No. 37/2019. See in full

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### October 20, 2019

End of the period to submit suggestions for Public Hearing No. 34/2019. See in full.

#### October 24, 2019

Debit of the Financial Settlement of the Reserve Energy for September 2019.

#### October 25, 2019

Credit of the Financial Settlement of the Reserve Energy for September 2019.

#### October 28, 2019

Financial Settlement of MCSD of the New Energy for September 2019.

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### October 30, 2019

Financial Settlement of MCSD of the New Energy for September 2019.

### November 10, 2019

End of the period to submit suggestions for Public Hearing No. 36/2019. See in full.

#### November 11, 2019

End of the period to submit suggestions for Public Hearing No. 38/2019. See in full.

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