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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 October 1, 2019, Demarest's Energy Partner Raphael Gomes was one of the speakers at the First Brazilian Infrastructure and Energy Seminar, discussing the legal challenges of the Brazilian electricity sector in the commercialization and distribution of energy. See in full.

On October 2, 2019, Demarest's Energy lawyer Bruno Crispim gave an interview to Portal Energia Hoje about the deadlock between the Ministry of Mines and Energy (MME), ANEEL and FUNAI involving the construction of the Manaus-Boa Vista transmission line. In his view, this is a strategic construction for the country as well as the biggest, and certainly the worst outcome of a disagreement between the partners would be the project not being resumed. See in full.

On October 4, 2019, Demarest's Energy Partner Raphael Gomes spoke about the obligation of the retail trader during the 2nd edition of the event Café Jurídico. The event, organized by Demarest and which was attended by Grupo Energética Comercializadora and Safira Energia, was marked by discussions on important issues in the energy market. See in full.

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CCEE plans to have two years of Shadow PLD before January 2021

The Chamber of Commercialization of Electric Energy plans to have two years of Shadow PLD before the start of the hourly price that will take effect in the commercial environment from January 2021. The idea is to retroactively apply to the Shadow PLD the shadow version of Dessem that will be ratified by Aneel in November of this year and will be used by the National System Operator from next year.

See in full

Existing Energy of MCSD moves BRL 136.3 million in September

The Chamber of Commercialization of Electric Energy (CCEE) concluded the financial settlement of the assignment terms of regulated contracts arising from the Existing Energy Surplus and Deficit Compensation Facility (MCSD) for September 2019. The transaction involved BRL 136,392,238.03 and had 100% of default. In all, 50 distribution agents participated in the liquidation, half of them being debtors and the other half creditors.

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Abradee presents the GD 2.0 to MME on November 1

The Brazilian Association of Electricity Distributors presented to the Minister of Mines and Energy, Bento Albuquerque, what it calls Prosumidor's new regulatory framework, or GD 2.0. The meeting took place on Friday, November 1. The director of the entity, Marco Delgado, did not give details of what was in the document, but commented that the modality that is in a broad campaign to maintain its subsidies has already found its way to be sustainable.

See in full

Electricity sector modernization will work on five fronts with 38 short-term actions

The Ministry of Mines and Energy's proposal for the modernization of the electricity sector as a result of the working group assembled for this purpose has three lines of action. The common objectives are to assign a triad formed by governance, regulatory and legal stability, and predictability. The presentation should consist of a 5-front action plan and 87 actions, of which 38 should be short term.

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Taesa plans to invest up to BRL 1.8 billion in four projects

Transmissora Aliança de Energia Elétrica (Taesa) said that intends to invest between BRL 1.67 billion and BRL 1.8 billion between 2019 and 2022. The funds will be used to build four projects that, when completed, will add BRL 744 million in annual revenues for the company. According to the relevant fact disclosed by the company on Monday, October 28, the projects under construction are: Janaúba Electricity Transmitter, Mariana Transmitter. Energy Miracema Energy Transmitter and Sant'Ana Energy Transmitter, totaling 1,307 km of transmission lines and 13 substations. Some projects are at an advanced stage of construction.

See in full

Aneel approves a 9.1 MW SHP for testing in Mato Grosso

The National Electric Energy Agency accepted the SPE Recanto Energética's request and decided to test two 4.5 MW turbines of the Recanto small hydroelectric power plant, making a total of 9.1 MW approved at the plant located in the municipality of Tangará da Serra, in Mato Grosso.

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Regulation change heats up the clash between distributors and GD segment

Distributors and representatives of the photovoltaic solar energy segment face off with each other again this week at three public meetings in the National Congress, in the war of arguments against and favorable to the maintenance of subsidies for the mini and microsystems of electric power production. One of the guests at two of these public hearings is director Rodrigo Limp, reporter of Aneel's proposal, which provides for a change in the rules for offsetting energy injected into the grid by local consumers or served by remote facilities.

See in full

European experiences with offshore wind may support decisions in Brazil

The Brazilian Institute of Environment and Renewable Natural Resources released this month the results of a mapping of the decision-making models applied in European countries for offshore wind projects. The study that portrays the experiences of Germany, Portugal, Spain, Belgium, Denmark and France should support the proposal of the environmental agency for rules for the licensing of marine wind farms in Brazil. By December, Ibama expects to open a public consultation with the Term of Reference for the environmental impact studies of this type of project.

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EDP will invest BRL 2.5 billion in São Paulo

EDP will invest a total of BRL 2.5 billion in the state of São Paulo. The resources include projects in the areas of distribution, transmission, solar energy and electric mobility during the 2019-2023 cycle, as well as social and cultural projects. These are initiatives that, according to company calculations, should generate 3,000 new jobs during the construction period, in addition to the 4,500 employees that EDP already directly or indirectly employs in São Paulo.

See in full

A-6 winner, Tradener will invest around BRL 400 million in three SHPs

With a small hydroelectric power plant already being completed on the Tamboril River, Tradener is preparing to invest around BRL 400 million in the construction, on the same site, of three other SHPs contracted in the last A-6 Auction. The company plans to finance 70% to 75% of new ventures by contracting a bank loan or raising funds in the market through the emission of infrastructure debentures.

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PLD rises 10% in all submarkets

The Differences Settlement Price (PLD) for the first week of November (October 26 to November 1, 2019), the average price in all submarkets was set at BRL 301.65/MWh, an increase of 10% compared to the previous week.

See in full

Chamber of Deputies installs commission of the Portability PL

The Chamber of Deputies officially resurrected the PL 1917/2015, known as the Portability PL, which deals with the modernization measures of the electricity sector provided for in the Public Consultation 33.

See in full

Offshore wind could be USD 1 trillion industry, IEA points

The International Energy Agency points out that offshore wind energy will expand significantly over the next two decades. This behavior is predicted due to the need for increased efforts to decarbonize power systems and reduce air pollution. These are the findings of the agency's latest study, Offshore Wind Outlook 2019, published in part on Friday, October 25.

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MME opens public consultation with proposal to review supply criteria

The Ministry of Mines and Energy has opened a public consultation with the parameters associated with metrics already established for the review of supply assurance criteria to be applied in system expansion planning studies from January 2020. The objective of the measure is "to make the assessment tools for the conditions of service to the electricity system more transparent and assertive, increasing the adherence between operation planning, expansion planning and physical guarantee calculation", explains the technical note available on the ministry's website. MME will receive contributions until November 7.

See in full

New Version of the 2029 Ten Year Energy Plan (PDE) Released

The PDE draft proposes discussions on operational flexibility, alteration of the energy matrix, modernization of the hydrothermal park evaluation of and economic competitiveness of end-of-contract plants or termination of operating cost subsidies, as well as an analysis with more detailed transmission investment data, a special focus on decentralized generation and sensitivity distributed analysis for micro and minigeneration.

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ANEEL Approves the Calculation Methodology for UBP Payment for Hydraulic Projects with Installed Capacity Greater than 5MW and less than or equal to 50 MW

Pursuant to Article 20, Paragraph 1 of the Federal Constitution, the potentials of hydroelectric power are property of the Union, ensuring participation in the result of the exploitation of water resources for the purposes of electricity generation, or financial compensation for such exploitation.

See in full

Ministry of Economy criticizes GD subsidies and advocates the review of Res. No. 482

The Ministry of Economy published on its website a presentation with strong defense of the Aneel proposal to extinguish the subsidies granted mini and distributed to microgeneration photovoltaic systems in installed from next year. The portfolio makes scathing criticism of the current model, whereby residential and commercial units with local generation are exempt from the costs of using the grid, which end up being absorbed by consumers who do not have GD systems.

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Market praises the result of Auction A-6, but criticizes the hiring model

Like the federal government, the market was also positively surprised by the A-6/2019 Energy Auction, whose final result will enable the installation of 2,979 MW in 91 new generation projects over the next five years. Highlights in the expansion of the generation of the Brazilian electric sector in the last decade, the wind and solar segments celebrated the numbers obtained in each of their areas, highlighting points such as the competitiveness presented by the respective sources and the growth potential indicated for the next public bids, from 2020.

See in full

MME waives the rule imposing the retailer hiring obligation

The Ministry of Mines and Energy decided not to pursue the idea of establishing the obligation to represent consumers with a load equal to or less than 1 MW per retailer with the Chamber of Commercialization of Electric Energy. The proposal presented for public consultation in August of this year faced resistance from most market players who participated in the discussions. Only 9% of them agreed with the presented proposal.

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Remote GD may suffer due to reduction of its attractiveness by 2020

The proposal submitted to Public Hearing by the National Electric Energy Agency from Thursday, October 17, regarding the revision of the rules for distributed generation in Brazil will lead to a greater incentive to local GD over the remote option. If approved the way it is, GD away from the point of consumption is expected to lose an important part of its appeal in many cases. The option for the proposal is due to the fact that in the calculations made by the regulator, consumers in the regulated market would have more costs than benefits with the large GD plants compared to those at the point of consumption.

See in full

Aneel releases 62.1 MW for wind farms for commercial operation in Maranhão

The decision includes 23 wind turbines of 2.7 MW from Delta 7 I and II plants. UTE is also released for isolated system in São Paulo.

See in full

MME Launches Guidelines for Existing Gas and Coal Thermal Power Auctions

Power plants already in operation or entering by December 2023, may participate in the A-4 Auction, or by December 2024, in the A-5 Auction.

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Aneel sets the cutoff for regulatory losses until 2020 for privatized distributors

Aneel's tariff management superintendence has set the Regulatory Loss Cutoff Factor that will be considered in the calculation of the monthly refunds of the beneficiary distributors' Fuel Consumption Account, with the amounts applicable to the payments from January to December 2020. The decision was published in the Federal Official Gazette of Thursday, October 10, by Order No. 2,773. Check out the numbers and dealerships listed in the link below.

See in full

MME Publishes Decree on the Commission that establishes the Guidelines for Energy Auctions

MME published the Ordinance No. 381/2019, amending the Special Commission on Electricity Auctions - CELEE, established by Decree MME No. 51/2006.

See in full

MME studies removing barriers to gas thermal deployment from 2020

Integration GT between the electricity and gas sectors will be responsible for updating the Gas to Grow diagnosis and proposal measures.

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ACL consumer defaulters can only return to ACR after paying debts

Special or free consumers that are in default with the payment of purchased energy can only return to the captive market if they renegotiate their disputes with the Chamber of Commercialization of Electric Energy. The understanding was established by the National Electric Energy Agency, in response to the CCEE consultation reinforced by the Energisa Group and the Brazilian Association of Electric Energy Traders. The non-payment may be punished by termination of membership to the Chamber. In this situation the consumer usually turns to the distributor, with the interruption of the power supply by the supplier.

See in full

MME Completes Analysis of Contributions Received in Public Consultation No. 76/2019

The Ministry of Mines and Energy - MME provided the Technical Note No. 54/2019/CGPR/DGSE/SEE with the final analysis of the 64 contributions received under Public Consultation No. 76/2019, set up to collect subsidies on mandatory representation. Electricity consumers with a total charge of less than or equal to 1MW per free market retailer before the CCEE.

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ORDER No. 2.493, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published October 1, 2019

Fixes the credits and debts of the Centralizing Account of Tariff Flags Resources, for the purpose of the Settlement of short-term market operations with the Chamber of Commercialization of Electric Energy - CCEE, from August 2019.

DECREE No. 381, OF THE MINISTRY OF MINES AND ENERGY, published October 7, 2019

Establishes the Special Commission of Electricity Auctions - CELEE, of advisory character and of indefinite duration, with the purpose of proposing strategic, systematic guidelines and norms for the holding of electric power auctions.

ORDER No. 2.603, OF THE SUBSTITUTE DIRECTOR-GENERAL OF ANEEL, published October 1, 2019

Establishes that the default of special or free consumer within the scope of CCEE entails its associative disconnection with the suspension of supply to the respective consumer units, concomitant with the resolution of the contractual instruments entered into with the distributor and, pending discharge, precludes new conclusion; and defines as necessary for the consumer to negotiate their disputes with CCEE to be allowed to conclude contracts with the distributor.

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NORMATIVE RESOLUTION No. 858, OF THE SUBSTITUTE DIRECTOR-GENERAL OF ANEEL, published October 1, 2019

Establishes the criteria and procedures for calculating the maximum and minimum limits of the Differences Settlement Price (PLD) and the value of the optimization energy tariff for the energy assignment made by the energy trader of the Itaipu Hydroelectric Power Plant (TEOItaipu).

ORDER No. 2.755, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published October 7, 2019

Establishes the Assessment Factor of the electricity distribution concessionaires for the return of the remaining balance of CDE Account - ACR, pursuant to Normative Resolution No. 612, of April 16, 2014.

ORDER No. 2.771, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published October 9, 2019

Establishes the quota amounts for the charge of the Energy Development Account - CDE for August 2019.

ORDER No. 2.772, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published October 9, 2019

Establishes the amounts of costing quotas for the Program of Incentive to Alternative Sources of Electric Energy - PROINFA, for December 2019.

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DECREE No. 389, OF THE MINISTRY OF MINES AND ENERGY, published October 14, 2019

Establishes the Guidelines for conducting the Electricity Purchase Auctions from Existing Generation Ventures "A-4" and "A-5", both of 2020.

APPROVAL RESOLUTION No. 2.625, OF THE SUBSTITUTE DIRECTOR-GENERAL OF ANEEL, published October 15, 2019

Approves the result of the 2019 Annual Tariff Adjustment of CEB Distribuição S/A - CEBDIS, effective from October 22, 2019, and other measures.

DECREE No. 396, OF THE SUBSTITUTE MINISTRY OF MINES AND ENERGY, published October 21, 2019

Releases, for public consultation, the draft of the Decennial Energy Expansion Plan 2029 -PDE 2029, which can be obtained on the Ministry of Mines and Energy website.

DECREE No. 398, OF THE SUBSTITUTE MINISTRY OF MINES AND ENERGY, published October 22, 2019

Releases, for public consultation, the "Report of the Supply Guarantee Criteria Thematic Group - Proposed Parameters", whose electronic file and relevant information can be obtained from the MME website.

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APPROVAL RESOLUTION No. 2.628, OF THE DIRECTOR-GENERAL OF ANEEL, published October 22, 2019

Establishes the triggering ranges and additional tariff flags, which is dealt with in sub-module 6.8 of the PRORET Tariff Regulation Procedures, effective as of November 2019.

APPROVAL RESOLUTION No. 2.629, OF THE DIRECTOR-GENERAL OF ANEEL, published October 22, 2019

Approves the result of the Fourth Periodic Tariff Review - RTP of EDP SP - São Paulo Energy Distribution S.A., effective from October 23, 2019, and other measures.

NORMATIVE RESOLUTION No. 859, OF THE DIRECTOR-GENERAL OF ANEEL, published October 22, 2019

Establishes, pursuant to the Resolution in question, the methodology for calculating the amount of payment for the Use of Public Property - UBP, for the extension of the granting of hydroelectric improvements achieved by article 2 of Law No. 12,783, of January 11, 2013, pursuant to article 2 of Decree No. 9,158, of September 21, 2017.

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DECREE No. 6.074, OF THE SUBSTITUTE DIRECTOR-GENERAL OF ANEEL, published October 14, 2019

Establishes the Structure Decree with the internal operation of the Generation Services Inspection Superintendence (SFG) through certain coordinations, without prejudice to the other attributions of competence of the unit.

ORDER No. 2.935, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published October 9, 2019

Establishes the red tariff flag level 1 effective in November 2019, pursuant to version 1.7 of Sub-Module 6.8 of the Tariff Regulation Procedures - PRORET.

DECREE No. 403, OF THE MINISTRY OF MINES AND ENERGY, published October 29, 2019

Establishes the Implementation Committee for the Modernization of the Electric Sector within the Ministry of Mines and Energy, with the purpose of enabling the effective execution of the action plan referred to in art. 5, § 4, of Ordinance MME No. 187 of April 4, 2019, as well as to propose possible complementary measures that may be necessary, in order to promote the best solutions for the modernization of the sector, in accordance with the principles of public governance, legal and regulatory stability and predictability.

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ORDER No. 2.954, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published October 9, 2019

Establishes the credits and debits of the Centralizing Account of Tariff Flags Resources, for the purpose of Settlement of short-term market operations with the Chamber of Commercialization of Electric Energy - CCEE, of September 2019, pursuant to Sub-Module 6.8 of Tariff Regulation Procedures - Proret, approved by Normative Resolution No. 845 of May 21, 2019.

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	PUBLIC HEARING	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations Regulatory Calendar	No. 39/2019	To obtain inputs for the Regulatory Impact Analysis Report - AIR and for the Normative Resolution draft that establishes the indicators, efficiency criteria and procedures for monitoring the quality of service and the Economic and Financial Management of the electricity distribution concessionaires.	Face-to-face	11/20/2019 to 11/20/2019
	No. 40/2019	To obtain inputs and additional information regarding the rules applicable to distributed micro and mini generation for the preparation of the draft text of Normative Resolution No. 482/2012 and Section 3.7 of Module 3 of the Electricity Distribution Procedures in the National Electric System (PRODIST).	Face-to-face	11/07/2019 to 11/07/2019

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations Regulatory Calendar	No. 23/2019	To obtain inputs and additional contributions to the improvement proposal of the X Factor calculation methodology regarding productivity gains (Pd), to be applied to electricity distribution concession agreements from 2020.	Exchange of documents	10/03/2019 to 11/16/2019
	No. 24/2019	To obtain inputs for the Regulatory Impact Analysis Report - AIR and for the Normative Resolution draft that establishes the indicators, efficiency criteria and procedures for monitoring the quality of service and the Economic and Financial Management of the electricity distribution concessionaires.	Exchange of documents	10/14/2019 to 11/28/2019

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PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
No. 25/2019	To obtain inputs and additional information regarding the rules applicable to distributed micro and mini generation for the preparation of the draft text of Normative Resolution No. 482/2012 and Section 3.7 of Module 3 of the Electricity Distribution Procedures in the National Electric System (PRODIST).	Exchange of documents	10/17/2019 to 11/30/2019
No. 26/2019	To obtain inputs for definition of calculation methodology and update of the regulatory rate of capital remuneration.	Exchange of documents	10/17/2019 to 12/09/2019
No. 27/2019	To obtain inputs to discipline the enhancement of the Tariff Flags mechanism, in order to suppress the rounding system from its calculation criteria.	Exchange of documents	10/23/2019 to 12/09/2019

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations Regulatory Calendar	No. 28/2019	To obtain inputs to: (i) extend the term of the permit agreements of 26 Rural Electrification Cooperatives, whose grants were granted prior to the Law No. 12,111/2009, from 20 to 30 years, with the possibility of extension for an equal period; (ii) to promote the adherence of 7 Permissionaires to the economic rules contained in Sub-Module 8.4 of the Rate Regulation Procedures - PRORET; and (iii) to change the reference dates of 9 Permissionaires.	Exchange of documents	10/23/2019 to 12/06/2019

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations Regulatory Calendar	No. 29/2019	To obtain inputs (i) to approve the annual budget of the Energy Development Account - CDE 2020 and set the annual dues to be paid by all agents of the National Interconnected System - SIN that serve the final consumers of electricity; (ii) to amend Chapter III-A of Normative Resolution No. 414/2010 and Sub-Module 7.3 of Tariff Regulation Procedures - PRORET, as a result of the publication of Decree No. 9,642/2018, which provided for the gradual reduction of certain discounts granted in Distribution System Use Tariff - TUSD and Electric Energy Tariff - TE; and (iii) to amend art. 61 of Normative Resolution No. 801/2017, in order to continue the preliminary reimbursement procedure.	Exchange of documents	10/30/2019 to 12/29/2019

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations Regulatory Calendar	No. 30/2019	To obtain inputs for the review of submodules 4.1, 4.2, 6.1, 6.2, 6.3, 6.4, 6.5, 7.2, 7.4, 9.9, 11.8, 13.2 and 15.4 of the Network Procedures.	Exchange of documents	10/31/2019 to 12/16/2019

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November 4, 2019

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

November 5, 2019

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

November 6, 2019

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

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

November 7, 2019

End of the period to submit suggestions for Public Hearing No. 40/2019. See in full.

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November 8, 2019

Deadline for the release of the final amounts of surplus and deficit (MCSD) of Existing Energy for November/2019.

November 16, 2019

End of the period to submit suggestions for Public Consultation No. 23/2019. See in full.

November 18, 2019

Financial Settlement of Angra I and II for October 2019.

November 19, 2019

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

Deadline for the release of TUSD/TUST Discount Reports for September 2019.

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November 20, 2019

End of the period to submit suggestions for Public Hearing No. 39/2019. See in full.

November 21, 2019

Deadline for the release of Angra I and II financial settlement results for October 2019.

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

November 22, 2019

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

November 25, 2019

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

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November 26, 2019

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

November 27, 2019

Deadline for the release of the results of the Financial Settlement of MSCD of the Existing Energy for October 2019.

Deadline for the release of the amounts to be settled from the MCSD of Existing Energy assignments for November 2019.

November 28, 2019

End of the period to submit suggestions for Public Consultation No. 24/2019. See in full.

November 29, 2019

End of the period to submit suggestions for Public Consultation No. 29/2019. See in full.

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November 30, 2019

End of the period to submit suggestions for Public Consultation No. 25/2019. See in full.

December 2, 2019

End of the period to submit suggestions for Public Consultation No. 26/2019. See in full.

December 6, 2019

End of the period to submit suggestions for Public Consultation No. 28/2019. See in full.

December 9, 2019

End of the period to submit suggestions for Public Consultation No. 27/2019. See in full.

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December 16, 2019

End of the period to submit suggestions for Public Consultation No. 30/2019. See in full.

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