

No. 23 / DECEMBER 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 November 28, 2019, Demarest's Energy Partner, Raphael Gomes and lawyer Pedro Dante spoke at the event "Geração Distribuída e Oportunidades de Negócio no Ambiente de Contratação Livre – ACL" [Distributed Generation and Business Opportunities in the Free Contracting Environment – ACL], where, together with representatives from Greener, Exata Energia, Vivo, Thymos Energia and Itaú BBA, discussed the main topics of the energy sector, addressing the key points of the REN ANEEL 482/12 (Distributed Generation) reform and business opportunities in the ACL. See in full

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Pátria sells Argo Energia for BRL 3.5 billion

Pátria Investimentos announced the sale of Argo Energia for BRL 3.5 billion to the companies of the Energía Bogotá and Red Eléctrica Internacional group. According to Pátria, the implementation of the transaction is subject, among others, to the approvals of the Administrative Council of Economic Defense (CADE) and the National Electric Energy Agency (ANEEL).

See in full

Taesa approves BRL 248.7 million in receipts to shareholders

Taesa's Board of Directors approved the distribution of BRL 248.7 million to its shareholders, of which BRL 180 million as Interim Receipts and BRL 68.7 million as Interest on Equity (JCP). The confirmation is based on the interim financial statements, prepared by the company on June 30.

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Chesf, Furnas and Copel are out of the energy transmission auction

The subsidiaries of Eletrobras Chesf and Furnas and the state-owned Copel will not be able to participate in the next energy transmission auction, because they do not meet the qualification items set forth in the notice, the National Electric Energy Agency (Aneel) informed in an order published in the Federal Official Gazette (DOU), on Thursday, November 14.

See in full

Government extends the deadlines for 2020 thermal auctions

The Ministry of Mines and Energy (MME) rescheduled to April 30, 2020, the electricity auctions to replace existing thermoelectric plants with more modern technologies. As a result, other deadlines regarding document delivery have been extended. Two sequential auctions will be held, first the A-4 and then the A-5, with a delivery period of 15 years. The unprecedented initiative foresees the replacement of diesel thermoelectric plants with natural gas plants, which are considered cheaper and less polluting.

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Energisa invests BRL 41 million and opens a new distribution line in MT

The city of Paranaíta, 849 km from Cuiabá, received a new High Voltage Distribution Line. The 138 kV asset is linked to a new supply point, the Paranaíta Substation, which will benefit municipalities in the north of Mato Grosso with greater security concerning the energy supply.

See in full

The Tariff Flags Resources Centralizing Account will repass BRL 39.2 million to creditor electricity distributors

The National Electricity Agency confirmed the transference amount of BRL 39.2 million to the electricity distribution concessionaires, creditors of the Tariff Flags Resources Centralizing Account for October 2019 operations. On December 4, the amounts will be repassed on to 46 concessionaires by December 9.

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Coprel becomes the first cooperative to migrate to ACL

Coprel (RS) is the first energy cooperative to migrate to the Free Contracting Environment. Electra won an auction promoted by the permissionaire in which 32 MW of conventional energy were sold. The migration operation was conducted by AlphaInfra Energia and resulted in an energy purchase and sale agreement of BRL 500 million that comes into force in 2021.

See in full

ABEEólica invests in hybrid regulation in 2020

A regulation proposal for hybrid energy projects was submitted to the National Electric Energy Agency (Aneel) and was well-received, according to an executive of the electric sector. The study is the result of a partnership between the Associação Brasileira de Energia Eólica (ABEEólica), the Associação Brasileira de Energia Solar Fotovoltaica (Absolar) and the Associação Brasileira dos Produtos Independentes de Energia Elétrica (Apine).

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Enel wants to add 2.7 GW to Brazil's electricity installed capacity by 2022

Of the 5.1 GW predicted for the expansion of renewable sources in Brazil and the United States by 2022, about 2.7 GW will be maintained in Brazil. In a presentation of the 2020-2022 investment plan held on November 26, Enel CEO Francesco Starace has pledged 5.1 GW of additional renewable capacity to both countries, which will come under contracts in the regulated environment and primarily demand in the free market with industrial consumers. This expansion will involve investments of BRL 4.7 billion in the period. This increase will leave the company with 5.5 GW installed capacity in the country.

See in full

MME approves 215 MW of solar energy for independent production in Piauí

The Ministry of Mines and Energy approved the requirement of Enel Green Power and authorized the photovoltaic solar generation plants of São Gonçalo 14, 15, 17, 18 and 19, located in the municipality of São Gonçalo da Gurguéia, Piauí, to operate in the modality of independent production of electricity. Each UFV forecasts approximately 43 MW of installed capacity, totaling 215 MW of installed capacity in the region.

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The preliminary order preventing the incorporation of Eletrosul by CGTEE is repealed

Eletrobras informed on the website of the Brazilian Securities Commission (CVM), that the injunction granted by the 2nd Federal Court of Florianópolis, which suspended the Extraordinary Shareholders' Meetings of the subsidiaries Eletrosul and CGTEE, was repealed to evaluate the incorporation of the former by the latter state-owned company.

See in full

PLD falls 26% in all submarkets

The Chamber of Commercialization of Electric Energy (CCEE) reported that the average Settlement Price of Differences (PLD) for the first week of December (November 30, 2019 to December 6) of all submarkets fell 26% from the previous week, coming from BRL 317.33/MWh to BRL 234.99/MWh. In heavy and medium loads, the PLD was BRL 236.04/MWh and in the lightweight load was BRL 233.37/MWh in all regions.

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Decree allows to extend concessions of privatized plants

On Friday, November 29, Presidential Decree 10.135/2019 was published, which grants the Union the power to grant a new concession contract for a term of up to 30 years to privatized power generators, including those under the concession quota system.

See in full

Enel São Paulo: shares will stop being trading on the B3

Enel Brasil bought 2,959,302 shares of Eletropaulo (Enel São Paulo) at an auction held on November 21, taking another step towards delisting the company.

See in full

The State of Bahia calculates more than BRL 500 million in energy investments

Two projects in the energy segment will be responsible for the investment of BRL 500 million in Bahia, as reported by the Secretariat of Economic Development (SDE). This amount is the result of letters of intent signed between the agency and companies in these two sectors. According to a published statement, the highest amount comes from the solar farm Sol do Sertão II, which will implement a project in Oliveira de Brejinhos, whose contribution is expected to be BRL 300 million.

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Aneel regulates the geospatialization of electricity transmission facilities

The National Electricity Agency approves a regulation term on the geospatialization of electricity transmission facilities and the creation of the Transmission Facilities Database. BDIT will concentrate on a single platform the key information on power transmission assets that are dispersed in different databases at Aneel and other institutions, which will benefit the transmission companies themselves, according to the agency.

See in full

Ranking lists the most competitive cities for GD Solar

Comerc Energia released a ranking with the most competitive cities to invest in distributed solar generation. Teresina, in Piauí, assumed the Brazilian capital post with the most attractive rate of return for residential solar energy projects, considering the rules in force in the country. An investment in the state capital is paid in only 2.85 years. The top 10 cities are Belém (2.92 years), Rio de Janeiro - Enel (2.93 years), Manaus (3.04 years), João Pessoa (3.10 years), São Luiz (3.17) Goiânia (3.17), Maceió (3.23 years), Cuiabá (3.29 years) and Vitória (3.36 years).

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MME expected to soon publish a decree to reduce the ACL limit

The idea, in principle, is to continue reducing the consumer access limits up to 500 kW load. Thus the limits would progressively fall back to 1.5 MW, 1 MW until reaching the minimum limit that a consumer has to become eligible for ACL.

See in full

Clean energy investments totaled BRL 133 billion in 2018, says BNEF

Investments in clean energy sources, excluding hydropower, totaled BRL 133 billion in 2018, compared with BRL 169 billion in 2017, according to Climatescope, an annual survey of 104 emerging markets by Bloomberg New Energy Finance (BNEF), released on November 25. The overall result reflects the slowdown in investments in renewables in China, which totaled BRL 86 billion in 2018 from BRL 122 billion in 2017.

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TCU denies the request to suspend resolution 482 review

Minister Ana Arraes, of the Federal Audit Court (TCU), denied the request for suspension of the revision process of Normative Resolution 482 by the National Electric Energy Agency, until the court judges the merits of the matter. The representation requesting a precautionary measure was presented by the Deputy-Attorney General of the Public Prosecutor's Office with the TCU, Lucas Furtado, who argued that there was a possible offense against the principles of legal stability, legitimate expectations or good faith in the changes proposed by Aneel in the rules that deal with micro- and mini- distributed generation.

See in full

Government includes A-4 and A-5 auctions in PPI

At its final meeting of the year, the Investment Partnership Program (PPI) Board approved the qualification of the A-4 and A-5 2020 auctions scheduled for March 31 of the next year. The inclusion of the Formoso hydroelectric power plant project (306 MW-MG) was also approved to support the PPI in the process of obtaining the project's prior license.

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CEEE-D will have a tariff reduction of 5.06% on average

CEEE-D's annual readjustment will lead to an average reduction in utility tariffs of 5.06%, down 3.26% for high voltage consumers and 5.82% in the low voltage segment average. In 2018, the company's tariffs increased by an average of 7.35%. Annual adjustment will be applied to 1.7 million consumer units in the state of Rio Grande do Sul.

See in full

Cemig suffers a loss of BRL 281,834 million in the third quarter

Cemig registered a loss of BRL 281.834 million in the third quarter of the year, reversing a profit of BRL 244.540 million in the same prior period. According to the company, the result was strongly influenced by the recognition of the tax contingency related to lawsuits discussing the incidence of social security contributions on the payment of profit sharing (PLR), in the amount of BRL 1.182 billion.

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The Brazilian Code of Electricity will have a new draft

The rapporteur of the commission that discusses the Brazilian Code of Electricity, Lafayette Andrada (of Republicanos-MG), announced that he intends to present a second version of the draft bill that deals with the subject. Two themes will be covered in this new proposal, according to the parliamentarian: framework guidelines for Aneel and the legal treatment for micro- and mini- distributed generation.

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2020 TAR will be BRL 79.62/MWh

The Updated Reference Rate for 2020 will be BRL 79.62/MWh from January next year. The adjustment approved by the National Electric Energy Agency is 2.89% and corresponds to the variation of the National Broad Consumer Price Index. Aneel also approved the Average Price of Hydraulic Energy (PMEH), which will be at BRL 146.71/MWh from January 1.

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Aneel approves public notice of the auction of electricity transmission

The National Electricity Agency approved the announcement of the transmission auction of 2019, with some adjustments recommended by the Federal Court of Accounts. On offer during the event, scheduled for December 19, will be 12 lots with 33 projects, totaling 2,380 km of power line transmission, with completion terms of 36 to 60 months and expected investment of approximately BRL 4 billion.

See in full

Privatization of Eletrobras involves an operation totaling approximately BRL 28 billion

Eletrobras's privatization process involves funds of around BRL 28 billion, of which BRL 16.2 billion will come from the process of issuing shares for the company's capitalization and will be paid in cash to the National Treasury as a grant bonus. The remainder will be disbursed by the company during the grant, in contributions to the Energy Development Account (around BRL 8 billion, estimated the São Francisco value) and River revitalization project (BRL 3.5 billion), with resources that will enter the treasury from the de-levying of energy from hydroelectric plants.

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ORDER No. 2.999, OF THE REGULATION DISTRIBUTION SERVICES SUPERINTENDENT OF ANEEL, published November 5, 2019

Publishes the ELETROBRAS reference table with the direct costs of the connection extension, the internal installation kit and the entry standard, for the calculation of the economic subsidy with resources from the Energy Development Account (CDE) for the installations carried out for the period 10/01/2019 to 12/31/2019.

ORDER No. 3.066, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published November 6, 2019

Establishes the amounts of the quotas related to the Energy Development Account (CDE), for September 2019, related to the concessionaires of the public electricity transmission service, serving free consumers and/or self-producers of the basic grid of the National Interconnected System.

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ORDER No. 3.067, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published November 6, 2019

Establishes the amounts of costing quotas related to the Program of Incentive to Alternative Sources of Electric Energy (PROINFA), for January 2020, related to the concessionaires of the public electricity transmission service, serving free consumers and/or self-producers of the basic grid of the National Interconnected System.

DECREE No. 412, OF THE MINISTRY OF MINES AND ENERGY, published November 11, 2019

Establishes provisions on the institution, competencies and performance of the Governance Committee of the Ministry of Mines and Energy (CGOV-MME), subordinate body to the Holder of this Portfolio, with decision-making powers and of indefinite duration.

DECREE No. 10.114, published November 20, 2019

Amends Decree No. 8,401, of February 4, 2015, which provides for the creation of the Centralizing Account of Tariff Flag Resources.

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APPROVAL RESOLUTION No. 2.636, OF THE DIRECTOR-GENERAL OF ANEEL, published November 21, 2019

Establishes the amount of the Reference Updated Tariff - effective from 01/01/2020, for the calculation of the financial compensation for the Use of Water Resources (CFURH) and the Average Price of Hydraulic Energy (PMEH).

APPROVAL RESOLUTION No. 2.637, OF THE DIRECTOR-GENERAL OF ANEEL, published November 21, 2019

Approves, for the purposes of reimbursement by the Fuel Consumption Account (CCC), the regulatory value of the Extensions Thermoelectric Portion, levied on the natural gas supply contract for the Tambaqui, Jaraqui, Cristiano Rocha, Manauara and Ponta Negra Thermoelectric Plants.

DECREE No. 10.135, published November 29, 2019

Amends the Decree No. 9,271 of January 25, 2018, which regulates the granting of a concession agreement in the electricity sector associated with the privatization of the holder of a public power generation concession, pursuant to the Law No. 9,074, of July 7, 1995.

DECREE No. 10.139, published November 29, 2019

Provides for the revision and consolidation of normative acts inferior to the decree (attention to the point of amendment of the *vacatio legis*).

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ORDER No. 3.332, OF THE REGULATION DISTRIBUTION SERVICES SUPERINTENDENT OF ANEEL, published December 2, 2019

Approves the Monthly Revenue Difference in the scope of the application of the Social Electricity Tariff (TSEE) and the resources of the Energy Development Account (CDE) to be transferred by the Electric Energy Trading Chamber (CCEE), referring to October 2019 and residual; and denies the homologation regarding the determined competences.

NORMATIVE RESOLUTION No. 861, OF THE DIRECTOR-GENERAL OF ANEEL, published December 3, 2019

Provides for the definition of the Database of Transmission Facilities (BDIT) and other provisions.

ORDER No. 3.355, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published December 4, 2019

Establishes the Electricity Services Inspection Fee (TFSE) for the electricity distribution agents that underwent tariff update in November 2019.

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ORDER No. 3.361, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published December 4, 2019

Establishes the amounts of the centralizing account of tariff flag resources, for the purpose of settlement of short-term market operations with the Electric Energy Trading Chamber - CCEE, referring to the October 2019 accounting.

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PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
No. 27/2019	To obtain inputs to standardize 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
No. 28/2019	To obtain inputs to: (i) extend the term of the permit agreements of 26 Rural Electrification Cooperatives from 20 to 30 years, with the possibility of extension for an equal period; (ii) promote the adherence of 7 Permissionaires to the economic rules contained in Sub-Module 8.4 of the Rate Regulation Procedures - PRORET; and (iii) change the base dates of 9 Permissionaires.	Exchange of documents	10/23/2019 to 12/06/2019
No. 30/2019	To obtain inputs for the review of the 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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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters Public Hearings and Consultations	No. 31/2019	To obtain inputs for amendments to the Electricity Trading Rules in view of the provisions of Normative Resolution No. 827/2018, which provides for the penalty for fuel supply failure, as provided for in CNPE Resolution No. 18/2017.	Exchange of documents	11/07/2019 to 12/23/2019
Regulatory Calendar	No. 32/2019	To obtain inputs for the proposal of alteration of the limits of the continuity indicators of Equivalent Interruption Duration per Consumer Unit (DEC) and Equivalent Interruption Frequency per Consumer Unit (FEC) for the CERPRO Permissionaire.	Exchange of documents	11/13/2019 to 12/27/2019
	No. 33/2019	To obtain inputs to improve the regulation concerning the Secondary Energy Financial Exposures.	Exchange of documents	11/13/2019 a 12/12/2019

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights Regulatory Matters		To obtain inputs and additional information to improve the Electricity Trading Rules, version 2020.		
Public Hearings and Consultations	No. 34/2019	1st Stage (11/20 to 12/04): to obtain inputs for the improvement of the methodology under discussion.	Exchange of documents	11/20/2019 to 01/03/2020
Regulatory Calendar		2nd Stage (12/05 to 01/03): to receive objections related to the contributions received in the first stage.		
	No. 35/2019	To obtain inputs for the establishment of limits for the collective continuity indicators of Equivalent Interruption Duration per Consumer Unit (DEC) and Equivalent Interruption Frequency per Consumer Unit (FEC) of the DME Distribuição S.A. (DME-D) sets of consumer units for the year 2020.	Exchange of documents	11/28/2019 to 01/13/2020

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	PUBLIC CONSULTATION	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints Highlights	No. 36/2019	To obtain inputs for the revision of item 4.1.1.1 (a)(3) of the Submodule 13.2 of the Network Procedures.	Exchange of documents	11/28/2019 to 12/12/2019
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	RECEIPT OF INPUTS	SUBJECT	FORMA	PERIOD FOR CONTRIBUTIONS
Demarest Viewpoints	No. 04/2019	To obtain inputs to improve the financial association associated with the Transmission System Use Charges (EUST).	Exchange of documents	11/19/2019 to 01/17/2020
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December 6, 2019

21st Existing Energy Auction (A-1)

22st Existing Energy Auction (A-1)

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

December 9, 2019

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

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

December 10, 2019

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

December 12, 2019

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

End of the period to submit suggestions for Public Consultation No. 36/2019. 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

Financial Settlement of Angra I and II for November 2019

December 17, 2019

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

December 18, 2019

Debit of the Financial Settlement of the Reserve Energy for November/2019.

December 19, 2019

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

Credit of the Financial Settlement of the Reserve Energy for November/2019.

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December 20, 2019

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

December 23, 2019

End of the period to submit suggestions for Public Consultation No. 31/2019. See in full

December 26, 2019

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

December 27, 2019

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

End of the period to submit suggestions for Public Consultation No. 32/2019. See in full

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December 30, 2019

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

December 31, 2019

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

January 3, 2019

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

January 13, 2019

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

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

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January 17, 2019

End of the period to submit suggestions for Public Consultation No. 04/2019. See in full.

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