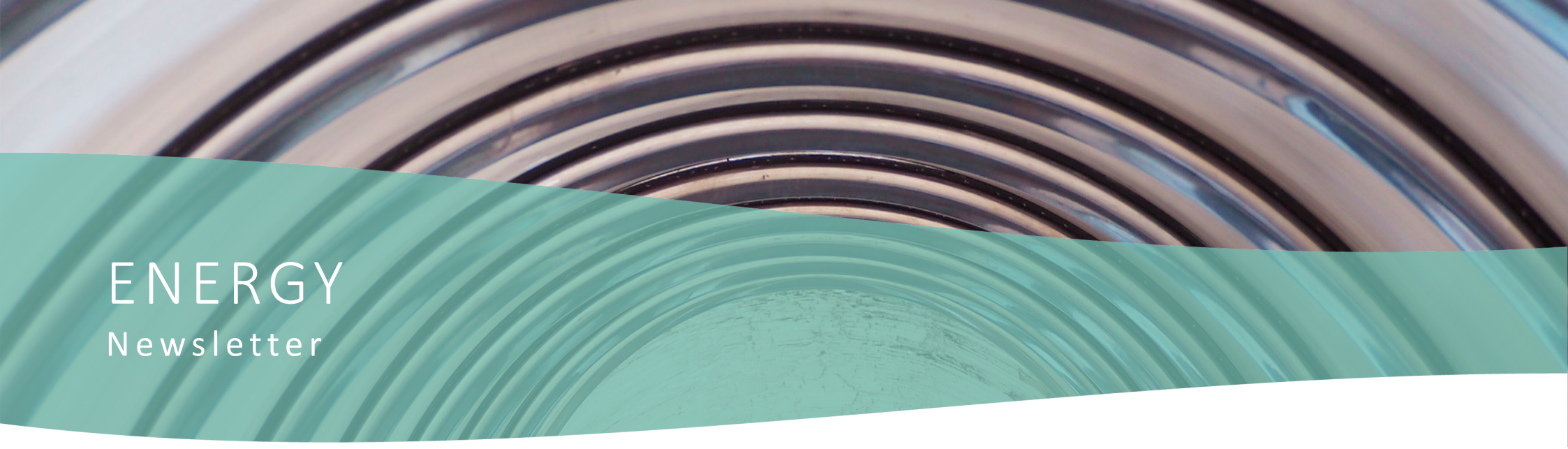

ENERGY
Newsletter

No. 24 / JANUARY 2020

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

ENERGY TEAM
Rafael Gagliardi, Raphael Gomes, Pedro Dante, Bruno Crispim, Renato Edelstein, Carolina Delamare and Allan Tasaka

DEMAREST

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On December 13, 2019, Demarest's Tax Partner, Douglas Mota, as well as the firm's Energy lawyer, Pedro Dante, spoke at the *"Reunião de Comissão de Estudos de Tributos e Econômico Financeiro" [Tax and Financial Economics Study Committee Meeting]*, hosted by the *Instituto Brasileiro de Estudos do Direito da Energia [Brazilian Institute for Energy Law Studies – IBDE]* for professionals in the sector, where they addressed the tax aspects of distributed generation. See in full

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New energy dispatch model successfully implemented by ONS

The National Electric System Operator (ONS) confirmed on Wednesday, January 1, 2020, the success in the implementation of the new short-term optimization model for a better definition of energy generation in the country. The DESSEM Model will bring information every half hour regarding the Marginal Cost of Operation (CMO) of the electrical system, and promises to bring greater efficiency and transparency to the sector.

See in full

GSF may generate losses of BRL 9 billion in 2020, estimates CCEE

Hydroelectric generation below the plants' physical guarantees may result in losses of BRL 9 billion to the energy market in 2020, according to estimates released by the Chamber of Commercialization of Electric Energy (CCEE) on Monday, December 30, during the presentation of the January InfoPLD. For 2019, the CCEE estimates that the GSF generated a negative impact of BRL 21 billion to the energy market.

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Tarifa Branca [White Flag Tariff] takes effect for all low voltage

The White Flag option for all low voltage connected consumer units in the country is in force since the beginning of the year. According to the National Electric Energy Agency, the modality does not apply to residential consumers classified as low-income, beneficiaries of discounts provided for by law and public lighting. According to the regulatory agency, the white tariff signals to consumers the variation of the energy value according to the day and time of consumption.

See in full

Eletrobras' capital increase reaches BRL 7.7 billion

At the end of 2019, Eletrobras announced the end of the period for payment of the shares subscribed by the shareholders in connection with the capital increase approved at the Company's Extraordinary General Meeting on November 14. The result of this capital increase was the private and paid-up subscription of 201,792,299 common shares, for the unit price of BRL 35.72 and 14,504,511 class "B" preferred shares, for the unit price of BRL 37.50.

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Expansion of generation reached 7.2 GW in 2019, points out Aneel

The volume of new capacity installed in 2019 in the country reached a volume of 7,246.41 MW, which represents an amount 25.3% higher than what was estimated by the National Electric Energy Agency in January for the entirety of last year. The target had been 5,781.58 MW. This 2019 year-on-year volume represents an increase of 0.35% when compared to the expansion of the matrix in 2018 when the country increased its generating capacity by 7,211 MW.

See in full

MME opens public consultation for study that comprises *Projeto Meta [Project Goal]*

The MME has published an ordinance releasing for public consultation the "Draft Study of Characterization and Evaluation of Social and Environmental Impacts - Scoping Paper and its Appendices". The draft is related to one of the documents required for approval of a new Loan Agreement between Brazil and the World Bank for implementation of the second phase of the Energy and Mineral Sector Technical Assistance Project – *Meta [Target]*. The goal is to put into effect the environmental and social standards of the World Bank, especially NAS 2, which deals with labor and working conditions in investment projects.

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ONS: operation marginal cost increases 25.9%

The first weekly review of the Monthly Operating Program for January brought a worsening in conditions for the period and with it an increase in the Marginal Cost of Operation across the country. According to the document published by the National Electric System Operator, the average value rose 25.9% compared with the week ending Friday, January 3. For the following seven days the average CMO is BRL 361.62/MWh in all four submarkets in the country. The heavy load level is BRL 367.43/MWh, the average load was set at BRL 364.40/MWh and the light load at BRL 357.22/MWh.

See in full

Salvador airport will have solar power plant starting in February

Salvador Bahia Airport is installing a solar power plant at the head of the airport runway. This is a pioneering initiative and the airport, located in the capital of Bahia and managed by Vinci Airports, will be the first in the country to have such an asset. It is scheduled to start operating in the second half of February. The concessionaire's forecast is to reduce the airport's carbon footprint by 30%, which is equivalent to 690 tons per year.

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PLD is up 27% nationwide

The Chamber of Commercialization of Electric Energy informed that the Settlement Price of the Differences for the period from January 4 to 10 rose 27% compared to the previous week, falling from BRL 290.33/MWh to BRL 368.51/MWh, for all submarkets. According to the CCEE, the main factor responsible for the increase in the price of the PLD was the worsening in the flow in the National Interconnected System. The PLD was quoted at BRL 372.89/MWh in the heavy load; BRL 370.48/MWh in the medium load; and BRL 365.27/MWh in the light load, in all submarkets.

See in full

Angra 1 records the largest production in its history in 2019

With 5,546,164 MWh generated, the Angra 1 nuclear power plant reached in 2019 the highest production in its history, surpassing the mark obtained in 2012, when it reached 5,395,561 MWh, reported Eletronuclear on Friday, January 3. By way of comparison, this energy would be enough to supply a city of more than 2.3 million inhabitants for one year, such as Belo Horizonte (MG) or Fortaleza (CE).

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Conta Bandeiras [Flag Account] will pass on BRL 127.2 million to creditor distributors

The National Electric Energy Agency confirmed the transfer of approximately BRL 127.2 million to the eleven electrical energy distribution concessionaires that were creditors of the *Conta Bandeiras [Flag Account]* for the November 2019 operations. According to the second dispatch published in 2020 in the Federal Official Gazette, in the case of Friday, January 3, the amounts will be passed on to 46 concessionaires by January 8.

See in full

CEB signs contract to raise BRL 94 million with BRB and Chinese Bank

Companhia Energética de Brasília - CEB and the financial institutions *Banco Regional de Brasília - BRB* and China Construction Bank - CCB signed two contracts on December 30, 2019, for credit operations in the order of BRL 94 million. The funds are intended for capital contributions from *CEB Distribuição*, its subsidiary, in order to improve the economic and financial conditions of the concessionaire.

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MME publishes CPAMP schedule for 2020

The Ministry of Mines and Energy published the annual work schedule of the Permanent Commission for the Analysis of Methodologies and Computational Programs of the Electricity Sector. In meetings held in September and November of 2019, Energy Research Company, National Electric System Operator, National Electric Energy Agency and the Chamber of Electric Energy Commercialization indicated the need for the formal creation of working groups, which would provide technical advice to CPAMP.

See in full

EMAE opens a public call for new revenues

The *Empresa Metropolitana de Águas e Energia [Metropolitan Water and Energy Company - EMAE]*, controlled by the São Paulo State government, opened a public call to select companies interested in commercially exploring three adjacent areas of the São Paulo Power Plant (previously Usina Elevatória de Traição). The objective is to generate new revenue for the company, according to a statement released to the market on Monday, December 23.

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Gas production breaks new record and reaches 137 million m³/ day

The natural gas production in Brazil in November was 137 million cubic meters per day. The record value exceeds that of August, when 133.3 MMm³/d of natural gas was produced. According to the National Petroleum, Natural Gas and Biofuels Agency, the growth is 21.6% compared to November 2018 and 3.8% compared to the previous month.

See in full

Profits of state-owned companies total BRL 85.2 billion between January and September

Petrobras, Eletrobras, BNDES, Banco do Brasil and Caixa presented a 70% increase in net income between January and September 2019, rising from BRL 50.2 billion in the same period last year to BRL 85.2 billion. The data from the 12th edition of the of the Federal State Governments Bulletin was released by the Ministry of Economy. According to the bulletin, the result for the third quarter exceeds that registered in 2018, which totaled BRL 71.5 billion. Together, the five state-owned companies hold 96% of the total assets of the companies controlled by the Union.

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CCEE: Angra liquidations and quotas total BRL 1.1 billion in November

According to the Chamber of Commercialization of Electric Energy, the financial settlements of nuclear energy and quotas of physical guarantee and power, referring to November 2019, moved around BRL 1.1 billion, registering 100% deferrals. The financial settlement of nuclear energy is the operation by which the distributors apportion the production of the Angra I and II plants. The November operation, which involved 46 distributors, had a 100% payment of the total amount of BRL 290,905,608.41.

See in full

Transmission auctions are estimated at BRL 11.1 billion in 2020

The National Electric Energy Agency (Aneel) announced on Thursday, December 19, that it intends to hold two transmission auctions in 2020, one in the first half with investment estimates of BRL 2.1 billion and in the second half with investment of over BRL 9 billion.

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ANEEL opens public consultation to enhance *MRE*

On Tuesday, December 17, 2019, the board of the National Electric Energy Agency approved a public consultation to improve the *Mecanismo de Realocação de Energia [Energy Reallocation Mechanism – MRE]* regarding the purge of outages dealt with in Normative Resolution No. 614/2014. The consultation aims to seek greater balance of allocation within the MRE and discuss the exclusion or not of some items of Annex I of the Normative Resolution No. 614/2014 for centrally dispatched hydroelectric plants.

See in full

ANEEL opens consultation on energy efficiency auctions

The bidding for the energy efficiency auction for the municipality of Boa Vista, in Roraima, will be in public consultation from Friday, December 20. The pilot project provides for the hiring of the Consumption Reduction Agent (ARC), which will be responsible for defining energy saving actions, in an amount previously defined by the National Electrical Energy Agency. The estimated cost of the project is BRL 21 million per year, between 2020 and 2024.

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ANEEL sets the maximum and minimum PLD for 2020

Aneel has established the minimum and maximum values of the Difference Settlement Price – PLD for 2020 for all submarkets. The value of the structural maximum limit (structural PLDmax) will be BRL 559.75/MWh between the first operating week of January and the last one of December; while the PLDmin for the same period will be BRL 39.68/MWh. Aneel also defined the value of BRL 1,148.36/MWh for the hourly PLDmax, which will be used from January 1, 2020 exclusively as the limit of the hourly PLD in shadow operations.

See in full

Auction notice A-4 and A-5 enters into public consultation

The bidding for the existing A-4 and A-5 energy auctions in 2020 will be in public consultation from December 19, 2019 to February 3, 2020. The auction, scheduled for April 30 of next year, is for the contracting of natural gas and national coal-fired thermoelectric power plants to replace contracts for coal, gas, diesel and fuel oil plants maturing from 2023.

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Angra 1 and 2 tariffs will be BRL 269.75/MWh in 2020

The tariff for the sale of energy produced by the Angra 1 and 2 nuclear power plants in 2020 will be BRL 269.75/MWh as of January 1. The amount was approved by the National Electrical Energy Agency on the Tuesday of December 17.

See in full

Consumer will pay BRL 20.1 billion in subsidies at CDE in 2020

The Energy Development Account budget for 2020 will be BRL 21.912 billion, and the bill for subsidies to be paid by consumers next year will be BRL 20.105 billion. The amount approved by the National Electric Energy Agency on Tuesday, December 17 will have an average tariff impact of 2.36% for consumers in the National Interconnected System, with a differentiated average effect of 2.73% in the South, Southeast and Center-West regions and 1.50% in the North and Northeast.

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MME publishes an ordinance establishing a new reduction of limits for migration to ACL

On Monday, December 16, 2019, the Ministry of Mines and Energy - MME published the Ordinance No. 465/2019, which establishes the deadlines for the commencement of the new limits for the migration of electricity consumers to the Free Contract Environment - ACL. The regulatory framework represents one more big step to the wide commercial opening of the Brazilian electric energy market.

See in full

Government publishes guidelines for the 2020 New A-4 Energy auction

The Ministry of Mines and Energy (MME) published in an extra edition in the Official Gazette (DOU) the MME Ordinance No. 455/2019, with the guidelines for the A-4 auction of 2020. The auction is scheduled for May 28 and aims to contract the capacity to generate electricity from hydro, wind, solar and biomass sources.

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CCEE: the real MCP default is BRL 1 million

In the 2019 balance sheet, carried out by the CCEE, the bias was positive, with emphasis on the several actions that were taken, especially in a year in which the market was surprised by the difficulty of some retailers in honoring their commitments at the beginning of the year. The positivity comes even when the theme is the GSF which has an outstanding liability of BRL 7.9 billion and has been dragging on since 2015.

See in full

Aneel approves regulatory agenda 2020/2021

The Aneel board approved the Regulatory Agenda for the period 2020/2021. The document will have 80 activities for next year, 34 of which are priority themes.

See in full

CCEE: settlement on the short-term market moves BRL 1.93 billion

Accounting totaled BRL 9.94 billion in October/2019, BRL 7.93 billion are open related to the GSF injunctions in the free market.

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CCEE: 100 new electric energy retailers in less than 2 years

The electricity sector gained more than 100 new electric energy retailers from December 2017 to October 2019, an official from the Chamber of Commercialization of Electric Energy (CCEE) said during an event last week in Bahia. The number of commercialization companies jumped from 219 to 324, and there are 68 more companies in line to enter this market.

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ORDER No. 10, OF THE TARIFF MANAGEMENT ASSISTANT SUPERINTENDENT OF ANEEL, published January 6, 2020

Establishes the Electric Power Services Inspection Fee - TFSE for the electric power distribution agents that went through a tariff update in December 2019.

ORDER No. 02, OF THE TARIFF MANAGEMENT ASSISTANT SUPERINTENDENT OF ANEEL, published January 3, 2020

It sets the values of the central account for tariff flag funds, for the purposes of settling short-term market operations with the Chamber of Commercialization of Electric Energy - CCEE, in relation to the November 2019 accounting.

APPROVAL RESOLUTION No. 2.664, OF THE DIRECTOR-GENERAL OF ANEEL, published December 23, 2019

Approves the 2020 Annual Budget of the Energy Development Account - CDE and sets the annual quotas of the tariff charge.

ORDER No. 3.572, OF THE DIRECTOR-GENERAL OF ANEEL, published December 23, 20219

Partially concludes the ANEEL 083 Public Hearing of 2017, according to detailed conditions.

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ORDER No. 3.654, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published December 23, 2019

Establishes the annual forecast of System Service Charge - ESS and Reserve Energy Charge - EER, for the purpose of tariff coverage of distributors with a tariff process, in the first four months of 2020, according to the table.

NORMATIVE RESOLUTION No. 862, OF THE DIRECTOR-GENERAL OF ANEEL, published December 19, 2019

Provides for the implementation of the Dessem computing model in the daily programming of the operation of the National Interconnected System.

DECREE No. 465, OF THE MINISTRY OF MINES AND ENERGY, published December 16, 2019

Amends the MME Ordinance No. 514, of December 27, 2018, which regulates the provisions of article 15, paragraph 3 of Law No. 9.074, of July 7, 1995, establishing a new reduction of limits for migration to the ACL (free market).

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ORDER No. 19, OF THE ENERGY PLANNING AND DEVELOPMENT DEPARTMENT OF ANEEL, published December 16, 2019

Corrects the SPE/MME 015 Order of September 27, 2019; approves the 2019 Electric Power Transmission Granting Plan - Basic Network and Other Transmission Installations - 3rd issuance; and determines that the Energy Planning Department promotes the disclosure of the electronic spreadsheet that contains the list of the installations, description of the expansions and reinforcements, requirements dates, as well as the classification of the installations.

DECREE No. 6.179, OF THE DIRECTOR-GENERAL OF ANEEL, published December 10, 2019

Approves ANEEL's Annual Management Plan - PGA for the year 2020.

ORDER No. 3.435, OF THE TARIFF MANAGEMENT SUPERINTENDENT OF ANEEL, published December 10, 2019

Establishes the amounts of the funding quotas related to the Program of Incentive to Alternative Sources of Electric Energy - PROINFA, for February 2020, for the concessionaires of the public service of electricity transmission, which serve free consumer and/or self-producer of the basic network of the SIN.

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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.

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PUBLIC CONSULTATION	SUBJECT	MODALITY	PERIOD FOR CONTRIBUTIONS
No. 38/2019	To obtain inputs for the improvement of the proposed revision of the regulation of the continuity of supply in the distribution of electrical energy.	Exchange of documents	12/12/2019 to 03/11/2020
No. 39/2019	To obtain inputs for the improvement of the Short-Term Market Recalculation process - MCP.	Exchange of documents	12/12/2019 to 02/12/2020
No. 40/2019	To obtain inputs for the improvement of the proposal for amendment of Submodule 5.6 of the Tariff Regulation Procedures - PRORET regarding the form of correction of the resource provided for collection from the National Program for the Conservation of Electric Energy - Procel by the electric energy distribution companies, pursuant to Law No. 9,991/2000.	Exchange of documents	12/12/2019 to 01/27/2020

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PUBLIC CONSULTATION	SUBJECT	MODALITY	PERIOD FOR CONTRIBUTIONS
No. 41/2019	To obtain inputs to improve the Assistant Services Requirements in Network Procedures.	Exchange of documents	12/12/2019 to 02/10/2020
No. 42/2019	To obtain inputs for the improvement of the bid and respective Annexes of the Auctions No. 2/2020-ANEEL and No. 3/2020-ANEEL, called Existing Energy Auctions "A-4, of 2020" and "A-5, of 2020", respectively, for the purchase of electric energy from existing generation projects.	Exchange of documents	12/19/2019 to 02/03/2020
No. 43/2019	To obtain inputs for the improvement of the proposal of revision of the quality standard of the electric power generation service provided by concessionaires of hydroelectric power plants provided for by Law No. 12,783/2013.	Exchange of documents	12/19/2019 to 02/17/2020

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PUBLIC CONSULTATION	SUBJECT	MODALITY	PERIOD FOR CONTRIBUTIONS
No. 44/2019	To obtain inputs for the improvement of the Energy Reallocation Mechanism - MRE regarding the Purge of Outages, which is dealt with in the Normative Resolution No. 614/2014.	Exchange of documents	12/19/2019 to 02/17/2020
No. 45/2019	To obtain inputs to establish the operational criteria for reduction or limitation of generation.	Exchange of documents	12/19/2019 to 02/17/2020
No. 46/2019	To obtain inputs for the improvement of the proposal for the Announcement of the Transmission Auction No. 1/2020-ANEEL, for the contracting of a public service of electric power transmission, referring to the electric power transmission facilities located in the states of Amazonas, Ceará, Goiás, Mato Grosso do Sul, Rio Grande do Sul and São Paulo.	Exchange of documents	12/20/2019 to 02/03/2020

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PUBLIC CONSULTATION	SUBJECT	MODALITY	PERIOD FOR CONTRIBUTIONS
No. 47/2019	To obtain inputs for the improvement of the Announcement of Auction No. 4/2020-ANEEL, called Energy Efficiency Auction, whose purpose is to hire an Agent for the development of Energy Efficiency Actions, with a view to reducing electricity consumption in the municipality of Boa Vista, in the state of Roraima.	Exchange of documents	12/20/2019 to 03/18/2020

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RECEIPT OF INPUTS	SUBJECT	MODALITY	PERIOD FOR CONTRIBUTIONS
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
No. 05/2019	To obtain inputs from the company on the Evaluation of Regulatory Results (ARR) of the rules regarding the possibility of purges, in the continuity indicators, motivated by Emergency Interruption (ISE).	Exchange of documents	21/27/2019 to 03/02/2020
No. 06/2019	To obtain inputs to encourage the opening of discussions on the subject of ancillary services applicable to the National Interconnected System – SIN.	Exchange of documents	12/30/2019 to 02/27/2020

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January 8, 2020

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

January 9, 2020

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

January 13, 2020

Deadline for the release of the results of the Financial Settlement of the Short-Term Market (MCP) - November/2019.

January 16, 2020

Financial Settlement of Angra I and II for December 2019.

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January 17, 2020

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

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

January 20, 2020

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

January 21, 2020

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

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

January 22, 2020

Deadline for the release of Financial Settlement of the Reserve Energy results for December 2019.

Deadline for the release of Financial Settlement of the Physical Guarantee Quota Regime results for December 2019.

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January 27, 2020

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

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

January 28, 2020

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

January 29, 2020

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

February 3, 2019

End of the period to submit suggestions for Public Consultation No. 42/2019. See in full

End of the period to submit suggestions for Public Consultation No. 46/2019. See in full

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February 10, 2019

End of the period to submit suggestions for Public Consultation No. 41/2019. See in full

February 12, 2019

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

February 17, 2019

End of the period to submit suggestions for Public Consultation No. 43/2019. See in full

End of the period to submit suggestions for Public Consultation No. 44/2019. See in full

End of the period to submit suggestions for Public Consultation No. 45/2019. See in full

February 27, 2019

End of the period to submit suggestions for Receipt of Inputs No. 06/2019. See in full

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March 2, 2019

End of the period to submit suggestions for Receipt of Inputs No. 05/2019. See in full

March 11, 2019

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

March 18, 2019

End of the period to submit suggestions for Public Consultation No. 47/2019. See in full

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