

THE BRAZILIAN MINISTRY OF ENERGY AND MINES (MEM) HAS PUBLISHED REGULATIONS 151 AND 152 SETTING NEW SCHEDULES FOR “NEW ENERGY” AUCTIONS AND AUCTIONS FOR EXISTING POWER PLANTS TO BE HELD BETWEEN 2019 AND 2021

The Brazilian Ministry of Energy and Mines (MEM) has published last March 6th regulations 151 and 152 setting, respectively, new schedules for “new energy” auctions and auctions for existing power plants to be held between 2019 and 2021.

Such auctions, it should be noted, must comply with Law No. 10,848/2004, which determines that the purchase and sale of power may take place in the free market (ACL) or in the regulated market (ACR). In the ACR, specifically, distribution companies buy energy from generation companies that have won those public auctions launched by the federal government determining the conditions, amounts and rates for sales of power. Over the years, auctions are mostly divided into: “new energy auctions” (“A-N” auctions, “N” being the year after the auction during which the power producer must start to deliver energy to the relevant

offtakers); “old energy” auctions; adjustment auctions; reserve energy auctions and renewable sources auctions.

Those auctions are mainly based in the lowest price criteria, considering that the government aims to obtain the best discount in the price determined as the referencial price of the auction. To participate, investors must be registered with National Energy Agency (ANEEL) and also enrolled and technically accredited with Energy Research Office (EPE).

Qualification documents concerning to legal qualification; tax and labor regularity; economic and financial qualification; technical qualification and compliance with ANEEL and other obligations of the power industry are also mandatory. Once declared winners of the auctions, investors are awarded concessions or authorisations for energy production; commit to build the project and have the right to execute long-term agreements (CCEARs) with distribution companies.

The announcement of the new schedule fulfills the requirement of Article 19, §1º-D, of Decree No. 5.163, dated July 30, 2004, as amended by Decree No. 9,143, dated August 22, 2017, determining that MEM should publish an estimated schedule of auctions for power contracting by the distribution concessionaires by March 30 of each year. Also, it represents a MEM’s compromise with public transparency and a great effort to make relevant information public as far in advance as possible to grant predictability and security for the market and its agents and also to improve the attraction of investments to the energy sector.

The “new energy” auctions, which would include solar, will be held as follows:

- 2019: A-4 Auction: July 27/ A-6 Auction: September 26
- 2020: A-4 Auction: April 23/ A-6 Auction: September 24
- 2021: A-4 Auction: April 29/ A-6 Auction: September 30

The auctions for existing power plants will be held as follows:

- 2019: A-1 e A-2 Auction: December 06
- 2020: Auction A-1 e A-2: December 04
- 2021: Auction A-1 e A-2: December 03
