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# HIGHLIGHT OF THE MONTH

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## ELECTRIC SECTOR REFORM

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Last month's main highlight was the Federal Government's publication of Provisional Measure No. 1,300/2025, which proposes wide-ranging reforms to the electricity sector. Key points include the complete opening of the free energy market (Brazilian free energy market), limitations on self-production (self-producers), and the termination of incentives for renewable energy sources (Renewables, Renewable Energy Sources). The market faces two major challenges in addition to interpreting the text of the Provisional Measure itself: the legal and commercial effects while the measure is in force, and its eventual conversion into law by the National Congress. There is also the issue of regulation by the Energy Trading Chamber, especially regarding self-production (self-producers), incentivized sources (Renewables, Renewable Energy Sources), and centralization of guarantees.

In the regulatory field, the Brazilian Electric Energy Agency (ANEEL) approved significant changes, such as new financial sustainability criteria for distributors (REN 948/2021), a new methodology for calculating operating costs, and rules for consumer access to the Basic Grid (Rede Básica).

In the transmission segment, the Superior Court of Justice (STJ) ruled that transmission companies are not subject to the presumed profit of 32%, which reduces their tax burden. ANEEL also authorized a reduction of R\$5.6 billion in RBSE indemnities until 2028. The Ministry of Mines and Energy (MME), in turn, released the schedule for transmission auctions until 2027 and opened a public consultation on the new Grant Plan (POTEE).



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# NEWS

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## ELECTRIC SECTOR

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### **THE FEDERAL GOVERNMENT PUBLISHED PROVISIONAL MEASURE NO. 1,300/2025 TO REFORM THE ELECTRICITY SECTOR**

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As previously reported, on May 21, 2025, the federal government published Provisional Measure No. 1,300, which addresses the following issues: the total opening of the Free Market (Brazilian free energy market); the creation of the Supplier of Last Resort (SUI); restrictions on the self-production of electricity (self-producers); the termination of the benefit applicable to TUSD/TUST for incentivized sources (Renewables, Renewable Energy Sources); the reallocation of sector charges; the reduction of energy tariffs for certain consumers; the creation of a centralized mechanism for amounts resulting from GSF injunctions; and other issues.

See here for details of the changes proposed by the Provisional Measure:

**Reforma Elétrica: entenda o que muda com a MP 1.300/2025**

**Reforma do Setor Elétrico: Pontos Recorrentes nas Emendas Parlamentares à MP 1300/2025**

## DISTRIBUTION

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### **ANEEL ADJUSTS FINANCIAL CRITERIA AND STRENGTHENS REGULATORY LINK WITH CONCESSION RENEWALS**

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On May 20, the Brazilian Electric Energy Agency (ANEEL) approved changes to the application of Normative Resolution (REN) 948/2021, which addresses the evaluation of the economic and financial sustainability of electricity distribution concessionaires (distribution companies).

In addition to guiding the continuous monitoring of distributors' financial situations, the regulation serves as a criterion for renewing concession contracts, thereby reinforcing its importance in regulatory decision-making. The changes are the result of technical analyses aimed at calibrating the assessment instruments, especially in light of the sector's more challenging financial context.

The resolution maintains the requirement for capital contributions by shareholders of concessionaires with unsatisfactory performance in the defined indicators. This mechanism must be activated within 180 days of noncompliance and acts as a safeguard to mitigate risks to the continuity and quality of public service provision. Additionally, the rule stipulates that in cases where a contract extension is requested based on Decree No. 12,068/2024, the obligation to contribute will be reevaluated at an opportune time during the process, in accordance with the parameters outlined in the new regulatory framework.

At the same time, ANEEL recommended the Ministry of Mines and Energy (MME) to extend the concession contracts of EDP São Paulo, Equatorial Maranhão, CPFL Piratininga, and Neoenergia Pernambuco, which are due to expire in 2025. Based on technical, legal, and regulatory criteria, this recommendation highlights the link between concessionaires' performance and decisions on contractual continuity. The reinforcement of inspection instruments and the connection between regulatory indicators and contract renewal policies demonstrate the institutional commitment to ensuring greater predictability, transparency, and stability in the electricity sector.

## **HOUSE OF REPRESENTATIVES' COMMITTEE APPROVES BILL TO CHANGE ELECTRICITY BILLS**

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On 28 May, the Consumer Protection Committee of the House of Representatives approved a bill (PL) that prohibits electricity distributors (distribution companies) from passing on losses resulting from theft, fraud, and measurement errors to electricity bills. This bill replaces Bill 560/21, which limited the pass-through to 5% of losses.

The bill aims to exempt consumers from non-technical electricity losses caused by inefficiencies on the part of distributors and illegal acts by third parties. According to the original bill's author, these losses currently account for 20% of electricity bills.

The bill will now be analysed by the Mines and Energy, Finance and Taxation, and Constitution, Justice and Citizenship committees. This is a conclusive procedure that does not require plenary deliberation.

## **ANEEL HAS APPROVED A NEW METHODOLOGY FOR CALCULATING OPERATING COSTS**

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On 20 May 2025, ANEEL approved a new methodology for calculating regulatory operating costs for use in electricity distributor tariff reviews. This decision was based on Public Consultation No. 62/2020, which sought contributions to improve the current criteria.

The update to Submodules 2.2 and 2.2A of the Tariff Regulation Procedures ('PRORET') simplifies the efficiency model, reduces the time lag of the data, and standardises the classification of urban and non-urban networks. It also takes into account the complexity of actions against non-technical losses.

Finally, ANEEL set a timetable for updating the results and established a rule for sharing the costs associated with the quality of service provided by concessionaires.

## TRANSMISSION

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### **STJ RULES OUT 32% PRESUMPTION OF PROFIT FOR ELECTRICITY TRANSMISSION COMPANIES**

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In Special Appeal No. 2.179.978/SP, the 1st Panel of the Superior Court of Justice (STJ) handed down a unanimous decision that is relevant for the electricity sector. It ruled that electricity transmission concessionaires (transmission companies) which opt for the Presumed Profit regime are not subject to the 32% profit presumption coefficient, which would apply to general service provision activities (such as civil construction).

According to the STJ's 1st Panel, revenues from infrastructure work carried out by transmission companies form part of the concession's end activity and are not characterised as autonomous civil construction activities. Therefore, the 8% presumption coefficient for IRPJ and the 12% coefficient for CSLL apply.

The lead vote emphasised that the public service concession contract makes the concessionaire responsible for constructing, operating and maintaining the Basic Grid facilities. Consequently, there is no justification for equating it to a civil construction activity, nor for applying the higher presumption percentage. The transmission company's remuneration derives from providing the public electricity transmission service and not from executing civil works in the strict sense.

This decision is a significant victory for transmission companies, particularly in the context of expanding the country's transmission infrastructure.

## **ANEEL APPROVES NEW RBSE INDEMNITY FOR TRANSMISSION COMPANIES**

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On June 10, ANEEL approved a reduction of R\$5.6 billion in total RBSE indemnities. These indemnities were established in 2012 when the federal government proposed early renewal of electricity transmission concession contracts. As part of the agreement, the concessionaires accepted a reduction in future revenue in exchange for compensation for assets not yet amortized.

In subsequent years, disagreement arose over the criteria for calculating these compensations. The government defended excluding assets prior to 2000 on the grounds that they had already been amortized. The concessionaires contested this view, and the issue went to court. Consequently, in 2016, these assets were authorized to be included in the indemnities, resulting in an increase in the amounts to be paid.

However, with ANEEL's new decision, the amounts to be paid to the concessionaires will decrease until 2028. This decision was considered favorable for transmission companies since the reduction was considerably less than originally proposed. This change in regulatory parameters could influence electricity tariffs since transmission costs are part of the final amount charged to consumers.

## **ANEEL DECIDED ON THE “MAXIMUM EFFORT” CRITERION TO BE USED BY TRANSMISSION COMPANIES IN THE EVENT OF DEFAULTS**

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On May 27, ANEEL approved Normative Resolution No. 1,125/2025, which establishes a methodology to verify the maximum effort of transmission companies to collect amounts related to termination charges of Transmission System Use Contracts (CUST).

The approved methodology regulates the maximum effort of transmission companies to collect amounts related to CUSTs entered into without the required guarantees under Order No. 3,245/2023. These CUSTs must have been terminated by June 10, 2024, the publication date of Order No. 1,687/2024. They must also not have been formally terminated by court

decision, provided that the decision does not rule out the enforceability of the termination charges.

Transmission companies shall demonstrate their maximum effort to ANEEL by taking the following measures to recover the owed amounts: (i) creditors including the debts in ANEEL's Default Register, (ii) register the debt default before a notary, and (iii) filing a lawsuit to recover the credit. The last measure must be carried out centrally by the National Grid Operator (ONS). These measures must be implemented within 180 days of the publication date of REN 1,125/2025 or the termination date of contracts that could not be terminated by court decision.

In this sense, transmission companies will be entitled to revenues from termination charges once the above measures have been carried out. However, this will not apply to recovered amounts. Conversely, revenues will be reversed at the expense of transmission companies that (1) were not diligent during legal proceedings by failing to provide requested information under the terms defined by the National Grid Operator (ONS) (item III above), or (2) failed to comply with the conditions established in REN 1,125/2025.

Lastly, the amounts recovered from termination charges will revert to Basic Grid users to promote tariff affordability.

## **THE MME HAS PUBLISHED A SCHEDULE OF ELECTRICITY TRANSMISSION AUCTIONS UNTIL 2027**

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On June 3, MME published Normative Ordinance 110, defining the schedule for electricity transmission auctions until 2027. Five auctions will be held between April and October over the next few years. The first auction is scheduled for October 31, 2025. Investments of R\$7.67 billion are expected, as well as the implementation of 1,178 km of new lines in 13 states.

Of the highlighted lots, Lot 4 calls for the construction of the 500 kV transmission line between Jauru and Vilhena 2. This 344 km line aims to increase flow capacity in the North and Midwest regions. Lot 3, covering the states of Rio Grande do Sul and Paraná, was adjusted to focus on expanding infrastructure following climatic events in 2024.

In addition to establishing the schedule, the Ministry of Mines and Energy (MME) launched a public consultation on the first issue of the 2025 Electricity Transmission Grant Plan ("POTEE"), in accordance with SNTep/MME Order No. 2947. The consultation is open until June 24 and welcomes contributions aimed at improving future transmission projects.

The POTEE is based on transmission planning studies developed by the Energy Research Company (EPE) and the National Grid Operator (ONS). The studies aim to promote the orderly expansion of the transmission system. The MME's proposal includes 36 new expansions to the transmission system and 28 works to the distribution system.

Until June 24, society and sector representatives will be able to participate in the public consultation and provide feedback on the expansion and reinforcement suggestions and their compatibility with the sector's needs and existing facilities.

## GENERATION AND TRADING

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### **ANEEL OPENS CALL FOR SUBSIDIES TO IMPROVE NETWORK AND COMMERCIALIZATION PROCEDURES**

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ANEEL approved the opening of Subsidy Call (TS) No. 006/2025 on May 19. This call is intended to revise sub-modules of the Network Procedures and modules of the Trading Procedures in accordance with REN No. 1,067/2023.

This REN consolidates the procedures for obtaining and maintaining operational status and defines the installed and net power of energy generation projects. Additionally, suggestions were submitted to the TS by the National Grid Operator (ONS) and the Energy Trading Chamber (CCEE) to adapt the Network and Energy Trading Procedures.

### **THE MME RECOGNIZES AN ALTERNATIVE CONNECTION TO THE BASIC GRID FOR A HYDROGEN PROJECT**

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Through Ordinance SNTEP/MME No. 2,938/2025, published on May 7, MME recognized an alternative connection to the Basic Grid for the Presidente Vargas Plant (UPV), an important steel plant owned by Companhia Siderúrgica Nacional (CSN) and located in Volta Redonda, Rio de Janeiro.

The ordinance supports the development of the H2orizonte green hydrogen plant, which will be associated with the UPV and is a participant in the Ministry's Public Call for Green Hydrogen Hubs to decarbonize the national industry.



The proposal was approved based on the criteria of minimum overall cost and compatibility with the electricity sector's expansion plans over the next five years, as defined in Decree 5.597/2005. Following approval by the Ministry of Mines and Energy (MME), the connection will be subject to systemic availability and specific studies conducted when the Access Report is evaluated by the ONS.

## **ANEEL APPROVES RULES FOR CONSUMER ACCESS TO THE BASIC GRID**

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Following Public Consultation No. 23/2024 on May 20, ANEEL approved new rules for consumer access to the Transmission System's Main Grid. The requirements include presenting the Access Proposal Guarantee ("GPA") and the Guarantee of Participation in the Transmission System Use Contract ("GPC"), which apply immediately.

. Lastly, the rule establishes that a Regulatory Result Assessment (RRA) must be carried out within two years of the new rules taking effect.

## DISTRIBUTED GENERATION

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### **THE ANSWER TO THE CONSULTATION REQUEST CLARIFIES THE ADHERENCE OF MICRO AND SMALL GENERATORS TO SIMPLES NACIONAL**

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The Brazilian Federal Revenue Service (RFB) issued COSIT Answer to Advance Tax Ruling Request No. 79/2025 on June 10, 2025. This document provides guidance for companies working with distributed microgeneration or minigeneration of electricity. According to the RFB, these companies can enter or remain in the Simples Nacional regime as long as they do not sell surplus energy or violate other prohibitions under Complementary Law 123/2006.

The RFB's binding opinion clarifies that a company's status as a consumer unit with distributed generation does not categorize it as an electricity generator under item VII of Article 17 of the aforementioned law. Therefore, the prohibition on the simplified regime does not apply.

Additionally, the RFB confirmed that allocating surplus energy to partners' properties does not disqualify a company from joining or remaining in the Simples regime, provided that all legal conditions are met.

This interpretation provides greater clarity on applying the tax regime to companies using distributed generation in the energy compensation model.

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# PUBLIC CONSULTATION

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**No. 184 / 2025**

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**TOPIC:**

Announces, for Public Consultation, draft resolution approving specific regulations defining minimum energy efficiency ratings for residential, commercial, service and public buildings

**Contribution Period:** From May 22 to July 5

**Link:** Consultas Públicas

**No. 185 / 2025**

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**TOPIC:**

Announces, for Public Consultation, the proposal for the Electricity Transmission Grant Plan - POTEE 2025 - Expansions and Reinforcements - Basic Grid and Other Transmission Facilities (1st Issue).

**Contribution Period:** From May 22 to June 24

**Link:** Consultas Públicas

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# CALL FOR SUBSIDIES

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**No. 05/2025**

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**TOPIC:**

Obtain subsidies for changes to the Network Procedures with a view to ONS regulatory compliance and changes relating to power quality

**Contribution Period:** From May 9 to June 23

**Link:** Tomada de Subsídios - ANEEL

**No. 06/2025**

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**TOPIC:**

Obtain contributions to improve the version of submodules of the Network Procedures and module of the Trading Procedure in compliance with Normative Resolution No. 1,067, of July 18, 2023.

**Contribution Period:** From May 19 to June 17

**Link:** Tomada de Subsídios - ANEEL

**No. 07/2025**

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**TOPIC:**

Obtain subsidies for the Minimum Viable Product of the Practical Guide on Climate Change and Energy Transition.

**Contribution Period:** From May 20 to July 4

**Link:** Tomada de Subsídios - ANEEL

**TOPIC:**

To obtain subsidies for the improvement of Submodule 2.3 - Assumptions, criteria and methodology for electrical studies (Criteria) and Submodule 2.3 - Assumptions, criteria and methodology for electrical studies (Methodology) of the Network Procedures.

**Contribution Period:** From May 27 to July 10

**Link:** Tomada de Subsídios - ANEEL

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# CONTACT US

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Our newsletter aims to keep our clients up to date with the latest news and regulatory changes in the electricity sector. For detailed legal advice, please contact our team of energy law specialists:

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