2023 | ENERGY

THE PORTUGUESE ELECTRICITY SYSTEM

MACEDO VITORINO

About us

MACEDO VITORINO WAS ESTABLISHED IN 1996, FOCUSING ITS ACTIVITY ON ADVISING DOMESTIC AND FOREIGN CLIENTS IN SPECIFIC ACTIVITY SECTORS, INCLUDING BANKING, TELECOMMUNICATIONS, ENERGY, AND REAL ESTATE AND INFRASTRUCTURE.

Since the incorporation of the firm, we have been involved in several high-profile transactions in all of the firm's fields of practice, including banking and finance, capital markets, real estate, M&A, complex disputes, and corporate restructurings.

We have strong relationships with leading international firms in Europe, the United States, and Asia, enabling us to handle cross-border legal matters effectively. We are mentioned by The European Legal 500 in most of its practice areas, including Banking and Finance, Capital Markets, Project Finance, Corporate and M&A, Tax, Telecoms, and Litigation. Our firm is also mentioned by IFLR 1000 in Project Finance, Corporate Finance, and Mergers and Acquisitions and by Chambers and Partners in Banking and Finance, Corporate and M&A, TMT, Dispute Resolution, and Restructuring and Insolvency.

The multidisciplinary and integrated character of our corporate and commercial group allows us to efficiently solve the legal issues of our clients, in particular:

- Commercial contracts, distribution agreements and franchising
- Competition and European law
- Copyright, intellectual property, IT, patents, and trademarks
- Corporate and acquisition finance
- Dispute resolution, litigation, mediation, and arbitration
- Employment
- Foreign investment, mergers & acquisitions, and privatisations
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FOREWORD

During the Paris Conference of the Parties to the United Nations Framework Convention on Climate Change Portugal made a commitment to achieve carbon neutrality by 2050. This commitment resulted in the approval of the Roadmap to Carbon Neutrality 2050 ("**RNC 2050**") and of the National Energy and Climate Plan 2030 ("**PNEC 2030**"). "This plan will act as the primary tool for shaping national energy and climate policies in the coming decade, aiming to facilitate the shift towards a carbon-neutral future.

The PNEC 2030, recently subject to a revision and update proposal,[1] addresses key aspects like lowering greenhouse gas emissions, integrating renewable energy sources, enhancing energy efficiency, ensuring energy security, considering the internal market, and fostering research, innovation, and competitiveness, the plan establishes a clear roadmap to achieve its objectives effectively.

To respond to this changing landscape, also the rules governing the National Electricity System ("**SEN**")[2] have been adjusted, resulting in the approval of Decree-Law 15/2022, of 14 January ("**Electricity System Law**").

The main focus of new Electricity System Law has been to change the electricity production rules, with an emphasis on decentralized forms that rely on local production and self-consumption. This approach required a significant revision of the permitting procedures. Additionally, regulations were established to promote and regulate the upgrading and expansion of electricity production from oceanic sources or locations to reduce pressure on land-based resources.

The second cornerstone of the Electricity System Law has been to optimize the use of the public service electricity grid ("**RESP**")[3] by introducing new rules into the development and investment plans

[1] The Portuguese government released on 30 June 2023 a first draft revision of the PNEC 2030, setting a bold target for 2030 of 85% electricity from renewable sources.

[2] SEN: *Sistema Elétrico Nacional.*

[3] RESP: *Rede Eletrica de Serviço Público.*

of both transmission and distribution networks. This is essential to fully utilize the grid's potential and ensure its efficient operation and growth.

Finally, there has been a push to include competitive procedures for the licensing of several activities within the National Electricity System, to promote fairness and competition in these areas of the electricity sector. Rules such as those in the Electricity System Law establishing the obligation to use competitive procedures to select the Last Resort Supplier ("**CUR**")[4] and the Entity Responsible for Issuing Guarantees of Origin ("**EEGO**")[5].

Throughout this study, we will address these and other matters governed by Electricity System Law.

[4] CUR: *Comercializador de Último Recurso.*

[5] EEGO: *Entidade Emissora de Garantias de Origem.*

1. GENERAL PROVISIONS

1.1. SCOPE

The Electricity System Law applies to the activities of generation, storage, self-consumption, transmission, distribution, aggregation and commercialisation of electricity, as well as to the logistical operation of change of supplier and aggregator, the organisation of the respective markets, the activity of issuing guarantees of origin, the activity of managing guarantees of the National Electricity System, the procedures applicable to access to those activities and consumer protection.

The Electricity System Law excludes certain activities from its scope, namely: (i) the production of electricity through cogeneration, which is regulated by Decree-Law 23/2010, 25 March; (ii) the production of electricity from waves' energy in the pilot areas, governed by Decree-Law 5/2008, 8 January, and Decree-Law 238/2008, 15 December; (iii) the organization, access, and activities related to electric mobility, regulated by Decree-Law 39/2010, of 26 April; and (iv) the production of electricity from nuclear energy.

1.2. MARKET PLAYERS[6]

The Electricity System Law contemplates the following market participants:

- **Electricity producers,** responsible for generating and supplying electricity to the national electricity grids;
- **Electricity stores,** responsible for storing the energy produced by energy producers;
- **Global Manager of the National Electricity System,** responsible for ensuring the harmonised operation of the SEN, the security and stability of the electricity supply in the short, medium and long term, as well as coordinating a stable and secure electricity supply with other European countries;

[6] For more information on market players, where they are regulated, what they are and more details, please see our study on market players here.

- **Integrated Distribution Network Manager ("Integrated ORD[7]"),** responsible for the technical management of the electricity distribution networks in high, medium and low voltage and for the technical management of the distribution networks in articulation with the Global Manager of the National Electricity System;
- **Transmission System Operator ("ORT")[8],** responsible for the activity of electricity transmission, and for the construction, operation and maintenance of the transmission system;
- **Distribution System Operator ("ORD")** of electricity in high and medium voltage, responsible for (i) the construction, operation, and maintenance of distribution networks, (ii) the management, operation, and maintenance of the electricity system, (iii) the expansion to new locations, (iv) the maintenance of the network and (v) connecting all consumers who request it;
- **Low-Voltage Distribution System Operators ("Low-Voltage ORD"),** responsible, in addition to commercial duties, for reading meters, making meter-reading data available to suppliers and invoicing and collecting network access tariffs by suppliers;
- **Closed Distribution System Operators ("Closed ORD"),** responsible for ensuring the capacity of the closed distribution system, i.e. for (i) interrupting the supply of electricity within the closed distribution systems, provided that this is duly justified and notified to ERSE[9], the Portuguese Energy Services Regulatory Authority or to DGEG[10], the Portuguese Department of Geology and Energy, (ii) knowing the consumption demand and energy produced by the closed distribution systems and (iii) entering into transparent and non-discriminatory agreements with consumers/users of the closed distribution system;
- **Electricity traders,** responsible for making commercial offers, buying electricity from electricity producers in the market and selling it to customers;
- **Last Resort Suppliers ("CUR"),** responsible for the supply of electricity, namely (i) in areas where there are no free market offers, (ii) to economically vulnerable consumers and (iii) to customers whose free-market supplier has been prevented from exercising its activity;

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[7] ORD: *Operador de Rede de Distribuição*

[8] ORT: *Operador da Rede de Transporte*

[9] ERSE: - Entidade Reguladora dos Serviços Energéticos

[10] DGEG: Direção-Geral de Energia e Geologia

- **Electricity Market Operators,** responsible for managing the market and related activities, namely managing organised markets for contracting electricity, ensuring that the markets are provided with adequate settlement services and establishing the criteria for determining the price indexes for each of the different types of contract;
- **Guarantees Manager,** responsible for ensuring the management of the guarantees to be provided by suppliers or market agents;
- **Last Resort Aggregator,** responsible for acquiring electricity from producers of electricity from renewable energy sources and which is remunerated at a price freely determined on organised markets and for acquiring electricity from self-consumers who inject surplus energy into the RESP in the event that no electricity aggregators are offered on the market or when aggregators are unable to exercise their activity;
- **Electricity Aggregators,** responsible for buying electricity on the free market and selling it to customers who enter into an Electricity Supply Contract, subject to the terms and conditions agreed therein;
- **Self-consumers** are those who produce their own electricity from renewable sources and consume it themselves, rather than selling it back to the grid. They may store or sell their electricity, although these activities may not constitute their main business or professional activity;
- **Citizens' Energy Communities ("CCE")**[11]**,** whether public or private, including, in particular, small and medium-sized enterprises or local authorities, whose main objective must not be the achievement of financial profit;
- **Renewable Energy Communities ("CER")**[12]**,** whose main objective is to provide environmental, economic and social benefits to the members or localities where the community operates;
- **Guarantees of Origin Issuing Entity,** responsible for issuing Guarantees of Origin ("**GO**"), whose activity is subject to a license to be awarded under a public tender. Currently, the activity is entrusted to REN - Redes Energéticas Nacionais, S.A. ("**REN**") for electricity produced from renewable energy sources;

[11] CCE: *Comunidades de Cidadãos para a Energia.*

[12] CER: *Comunidades de Energias Renováveis.*

- **Collective Self-Consumption Management Entity ("EGAC")[13],** responsible for managing and communicating with the self-consumption and renewable energy community platform and connecting self-consumers to the RESP. They are also responsible for the commercial relationship to be adopted for the surplus energy produced by self-consumers;
- **Logistics Operator for Switching Electricity,** responsible for operating the change of supplier and aggregator in the electricity markets and providing personalized information to consumers, electricity producers, and self-consumers; and
- **Electricity Consumers, typically residential and commercial customers.** They are also responsible for, among other things, (i) making the relevant monthly payments, (ii) contributing to the development of energy efficiency, (iii) keeping their equipment in a safe condition, under the terms of the applicable legal and regulatory provisions.

[13] EGAC: *Entidade de Gestão de Autoconsumo Coletivo.*

2. PRODUCTION AND STORAGE

2.1. PERMITTING: PRIOR CONTROL

The electricity generation and storage activities are subject to a permitting procedure (or prior control, as referred to in the Electricity System Law).

The following activities will require a production and a operating license:

- Production of electricity from non-renewable sources;
- Production of electricity from renewable energy sources for injection into the RESP network or for self-consumption with an installed capacity exceeding 1 MW;
- Autonomous storage of electricity with an installed capacity exceeding 1 MW;
- Autonomous production or storage when subject to an environmental impact assessment ("**AIA**")[14] or environmental incidence assessment ("**AINCA**")[15]; and
- Other production or storage activities non-exempted from prior control or not subject to prior registration or prior communication.

The permitting for other activities is less demanding. A prior registration and an operating certificate will be sufficient for:

- Production of electricity from renewable energy sources for total injection into the RESP, with an installed capacity equal to or less than 1 MW;
- Production of electricity for self-consumption with an installed capacity greater than 30 kW and less than or equal to 1 MW;
- Autonomous storage of electricity with an installed capacity equal to or less than 1 MW;
- Research and development projects, demonstration and testing, in a real environment, of innovative technologies, products, services, processes and models, within the scope of

[14] *Avaliação de impacto ambiental*

[15] *Avaliação de incidências ambientais*

production, storage and self-consumption activities with an installed capacity greater than 30 kW.

Small dimension producers must only serve DGEG with a prior notice for:

- Production of electricity for self-consumption with installed power above 700 W and less or equal to 30 kW;
- Research and development projects, demonstration and testing in real environment of innovative technologies, products, services, processes and models, within the scope of production, storage and self-consumption activities with installed power higher than 700 W and less than or equal to 30 kW;
- The refitting of an electro-production centre, of primary solar or wind source, when it maintains or reduces the installed power initially established in the prior control procedure.

Finally, the following are exempt from prior control: (i) the production of electricity for self-consumption with an installed capacity of 700 W or less, as long as the injection of surplus into the RESP is not foreseen; (ii) research and development projects, demonstration and testing, in a real environment, of innovative technologies, products, services, processes and models, within the scope of production, storage and self-consumption activities with an installed capacity of 700 W or less, as long as the injection of surplus into the RESP is not foreseen.

2.2. CAPACITY RESERVATION TITLE

In most cases, the procedure to obtain a production license starts with the granting of a capacity reservation title ("**TRC**")[16]issued by E-Redes - Distribuição de Eletricidade, S.A. (as the ORD), or by REN (as the ORT).

However, no TRC is required in the following cases:

- For Self-Consumption Production Units ("**UPAC**")[17], except those where the injection of surplus into the RESP is expected to be greater than 1 MVA;
- For hybridization;

[16] *Título de Reserva de Capacidade.*

[17] *Unidades de Produção para Autoconsumo.*

- For over-equipment and stand-alone over-equipment; and;
- For the retrofitting.

When needed, promoters can obtain the TRC in one of three ways:

- Under the general access regime, when there is capacity available in the RESP;
- By agreement with the grid operator, when, in the absence of available capacity in the RESP, the developer assumes the costs of strengthening the RESP to allow the connection of its project;
- By award in a competitive procedure, when the competent authority, subject to tender the capacity available in the RESP.

The award of the TRC is subject to the provision of a deposit to ensure that the promoter obtains the respective production license, with the following amounts:

- € 10,000/MVA (up to a maximum of €10,000,000), in the general access mode;
- € 15,000/MVA (up to a maximum of €10,000,000), in the form agreed with the network operator.

In competitive procedures, the amount of the deposit is defined by DGEG in the tender documents.

2.2.1. GENERAL ACCESS

When the general access regime applies, TRC applicants must file a request at the electronic platform created for the purpose by DGEG, after DGEG publishing the injection capacity available in the National Electricity Distribution Network ("**RND**")[18] and at the National Electricity Transmission Grid ("**RNT**")[19] at each substation of connection and voltage level.[20]

The applicant submission must identify (i) the intended injection capacity, (ii) the chosen connection substation and voltage level, and (iii) the grid operator to which it wishes to connect.

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[18] RND: *Rede Nacional de Distribuição de Eletricidade.*

[19] RNT: *Rede Nacional de Transporte de Eletricidade.*

[20] Pursuant to article 19 no. 2 of Electricity System Law, the available capacity should have been published by DGEG already twice: until 15 July, 2022 and of 15 July, 2023. As this has not yet occurred, obtaining TRC under the general access regime has remained unfeasible to this date.

The submission will automatically be rejected if (i) it does not refer to a substation in the DGEG list or it exceeds the total available capacity of the intended substation; (ii) the intended injection capacity has already been assigned or has been request earlier by another promoter; or (iii) after being notified by DGEG in 5 days from submission the promoter files to provide the deposit mentioned in the above section.

The TRC also requires prior compensation payment for the benefit of the SEN, in the amount of €1500/MVA.

Within 5 days from the deposit, DGEG forwards the request to the relevant network operator to decide within 45 days. The network operator follows the order of the requests received from DGEG, and may be refused the granting of new capacity in the following cases: (i) non-payment of the service fee; (ii) non-payment of the contribution to the SEN, (iii) there are no technical conditions to implement the requested grid connection, or it would affect the security and reliability of the RESP.

In case the grid operator notifies the applicant and DGEG of a favourable decision, DGEG will issue the TRC within 10 days.

2.2.2. AGREEMENT WITH THE NETWORK OPERATOR

If there is no available reception capacity in the RESP, promotor and the grid operator may enter into a grid reinforcement agreement, whereby the promoter assumes the financial costs arising from the construction or reinforcement of the grid necessary for the reception of energy from the production facility, storage or UPAC.

The negotiation of a grid reinforcement agreement (which will constitute itself the TRC) is conditional to an order from the Secretary of State for Energy until 5 January of each year, defining the maximum injection capacity at the RESP made available:

- By production technology;
- By RESP operator;
- By production with total injection into the RESP and production for self-consumption.

Although reality has been different to this date[21], the Electricity System Law establishes that:

- Requests for agreements must be submitted to DGEG by 15 March of each year;
- DGEG must send them to the operator of the RESP within five days. The requests are accompanied by the provision of a guarantee;
- By 10 August, the network operator, in coordination with the overall SEN manager or the integrated manager of the distribution networks, as appropriate, will proceed to prioritise the requests for agreement, proposing the approval of the provisional list with the requests accepted and excluded in accordance with the following criteria[22]:
    - Technical criteria for the safety and reliability of the SEN, namely those relating to the use of infrastructures and optimising the operation and management of the SEN;
    - Criteria of territorial and environmental sustainability, namely those referring to the efficiency and rationalisation of infrastructure planning through the joint use of various interested parties, the obtaining of favourable prior information issued by the municipality, the existence of a favourable environmental impact statement, or the contractual title legitimising the use of the land necessary for the respective use;
    - Targets that Portugal is obliged to meet according to the applicable technology.
- From drawing up the provisional list, the grid operator has 5 days, to provide it to DGEG, which must, within 5 days, notify the excluded promoters for a prior hearing of 10 days.

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[21] The obtaining of a TRC through an agreement with the network operator was introduced in 2019 as a solution found to handle around four hundred pending production license requests at DGEG. In 30 December 2020, DGEG published a set of criteria for the ordering of the requests submitted according, essentially, to feasibility and development stages already achieved ("*Termos de Referência*"). On 6 June and 13 October 2021, DGEG published, respectively, the final rankings of eligible projects for agreement with the TSO (with 78 projects) and DSO (with 53 projects), subsequently revised to give priority to projects already with environmental assessment completed. The final draft grid reinforcement agreements have been submitted to a small number of promoters (roughly the first ten ranked from each list) and, as far as is public knowledge, no TRC has yet been awarded under this regime. On the other hand, to this date, the maximum annual connection capacity to the RESP has never been published by the Secretary of State for Energy; and the platform developed for the TRC requests does not allow, for the time being, the submission of new TRC requests.

[22] According to article 20 n.º 6 of the Electricity System Law, the specification of the criteria and the weighting to be attributed to each of them should have been established by DGEG in February 2023.

- DGEG, after consultation with the grid operator, shall draft the final list within 10 days of the end of the prior hearing period, and notify the interested parties of it in the following 5 days[23].
- The grid operator must, in 10 days from the publication of the final list, provide the selected promoter with a budget for the execution of the network studies and the respective payment deadline.
- By 30 April of the following year, the grid operator shall send the following information to the selected promoters who paid for the studies: (i) the network studies, (ii) the cost of reinforcements or construction of the new infrastructure, including the criteria for allocation between interested parties, when applicable, (iii) the deadline for making the new infrastructure available, (iv) a proposal for agreement.
- The promoters have then a period of 30 days to accept or refuse the agreement proposed by the grid operator. In case of acceptance, the agreement must be executed until 30 November.

The agreement with the network operator must include:

- The rights, obligations and conditions to be observed, to add power injection capacity in the RESP;
- The injection capacity at the RESP assigned to the promoter;
- The charges, payment plan and plan for submission and release of guarantees.

With the signing of the agreement, the promoter must pay an amount corresponding to 5% of the budget presented by the grid operator. The remaining budget amount will be secured by a guarantee, which shall be subsequently released once the agreed payment plan is fulfilled.

2.2.3. COMPETITIVE PROCEDURE

The Secretary of State for Energy may launch competitive procedures for the allocation of a TRC for electricity production from renewable energy sources.

The procedure documents should define:

[23] During the year of submission and the following year, the grid operator may replace requests that have not resulted in the conclusion of an agreement, for initially excluded requests, provided that, when technically feasible, the initial prioritization list is respected.

- The scope of the procedure and the launching method adopted;
- The conditions and criteria for the allocation of the TRC;
- The requirements for the qualification of interested parties;
- The electricity production remuneration models admitted and the respective access, duration and maintenance conditions;
- The deadlines for entry into operation; and
- The amount of the required deposit.

When a decision is taken to start a competitive procedure, all pending TRC requests for the same grid connection points that will be included in the procedure are immediately voided. And the respective deposit will be returned within 10 days from the procedure's opening date. However, the competitive procedure cannot include grid connection where there is an agreement between the interested party and the grid operator or where the applicant has already paid for the grid reinforcement studies.

2.2.4. TRANSFER OF THE TRC

Holders of a TRC can, subject to the consent of DGEG, transfer it before the respective production license is issued. A TRC transfer is deemed to occur whenever there is:

- A transfer of the project itself,
- When a change of control over the TRC holder occurs, being in any case subject to the consent of the DGEG.

The change of ownership of a TRC also depends on the promote providing a reinforcement of the guarantee in half of its initial value, except when:

- The TRC is transferred to a SPV - a vehicle company whose corporate purpose includes the exercise of the activities of construction and operation of an electricity generation plant, storage facility or UPAC, as the case may be, and which has as its sole shareholders the holders of the TRC;
- The shares are encumbered in favour of financing entities, changes in the direct ownership of the holder resulting from the execution of pledges of shares under agreements entered with the same financing entities, or changes in direct ownership under group restructuring operations that do not imply a change in the beneficial owner.

2.3. PRODUCTION LICENSE

The installation of 1MW or plus electrical generation plants can only begin after a production license has been obtained.

The procedure starts with the presentation of an application to DGEG for the granting of a production license with a set of documents specified in Annex I of Electricity System Law, including (a) a copy of the TRC; (b) proof of the right to use the land where the installation will be installed[24], (c) a description of the project and technical documentation relating to it, and (d) favourable environmental opinions, if applicable.

DGEG has 15 working days to decide on the reception of the application and may request additional information only once. The production license holder must provide the requested information within 30 working days.

The application for a production license must be filed within a maximum period of 1 year from the award of the TRC if the project is subject to AIA. Otherwise, this deadline is reduced to 6 months.

These deadlines may be extended at the request of the applicant:

- To DGEG, only on time and for a maximum period of 1 year, if de delay arises of reasons not attributable to the applicant; or
- To the Government[25], for an indefinite period, where in exceptional and duly justified circumstances the time limit proved to be insufficient.

The holder of the production license is entitled to:

- Install the electricity generation plant, the UPAC or the storage facility according to the terms of the production license;
- Sell electricity in organised markets or through bilateral contracts and buying electricity up to the limit of the injection capacity defined in the production license;

[24] A contract or promissory contract for the vesting of the applicant, in a property right, surface right, usufruct right or rental right.

[25] Request addressed to the Energy Secretary of State.

- Establish and operate direct lines to supply electricity to end customers when this cannot be done through the RESP or when it is technically and economically more advantageous for the SEN, in accordance with DGEG' assessment;
- Deliver the electricity produced to CUR, against payment of the guaranteed remuneration if the plant benefits of a FiT;
- To deliver the electricity produced, to an aggregator or supplier, against payment of remuneration at a price freely determined between the parties; and
- Selling storage capacity to third parties.

On the other hand, the duties of the holder of the production license are, namely:

- Comply with the provisions of the production license;
- Obtain licenses, authorisations or opinions required for the installation and operation of the plant, UPAC or storage facility;
- Notify DGEG and the respective grid operator of the conclusion of the electrical installation;
- Send DGEG and ERSE data regarding the operation and exploitation of the electricity installation: (i) by the 15th of each month, the data referring to the previous month, (ii) by the end of March of each year, the annual data referring to the previous calendar year;
- Establishing and keeping insurance up to date that guarantees the civil liability of the holder of the production license arising from the exercise of the activity;
- Informe DGEG in advance, who will inform the grid operator, of any changes to the electrical installation that are not subject to obtaining a new production license.

2.3.1. EXPERIMENTAL SCHEME

Before starting operation of the power plant, UPAC or storage facility, it is possible to carry out previous tests and trials. These are subject to request by the holder of the production license and authorisation from DGEG and they may relate to units capable of operating autonomously (in the case of phased construction), or to the entire facility.

The application for authorisation to carry out tests and trials must be addressed to DGEG and accompanied by (i) the test programme to be carried out and its duration, signed by the technician or experts responsible for its execution, (b) the opinion of the grid operator to which the generating plant is connected, (c) a sworn statement by the holder of the production license that the installation complies with the terms of the respective license, the applicable regulations and the technical and safety conditions, and (d) a favourable opinion from the overall manager of the SEN.

DGEG will issue a decision on the authorisation request within 20 days from receipt of the application. It is considered tacitly granted if it is not expressly decided upon within that period and provided that the grid operator has given a favourable opinion on the existence of grid connection conditions.

The period for carrying out tests and trials and trial operation may not exceed:

- 3 months, except in exceptional circumstances recognised by DGEG; or
- 12 months[26], in the case of contractors of a competitive procedure for the award and TRC.

After the experimental operation period has elapsed, the continued operation of the electrical installation depends on the issuance of an operation license.

The energy injected into the RESP in the test and trial or experimental operation phase is remunerated at market price, through the signing of a contract with a market agent.

2.3.2. TRANSFER OF THE PRODUCTION LICENSE

The production license can be transferred by its holder, subject to the same regime applicable to the transfer of the TRC before the issue of the operating license, which includes an authorisation from DGEG.

The transfer request to DGEG must be accompanied by all the elements relating to the identification, technical and financial standing of the transferor, as well as by a declaration of acceptance of the transfer and of all the license conditions.

DGEG decides within 15 days and may request additional elements. The elements must be provided within a maximum period of 30 days, during which time the decision period will be suspended.

2.3.3. TERMINATION OF THE PRODUCTION LICENSE

The effects of the production license cease by expiry or revocation, implying the automatic extinction of the operating license and expiry of the TRC.

The production license expires in the following situations:

- With the expiry of the reserve capacity title for injection into the RESP;
- When the guarantee is not provided;

[26] For the solar auctions held in 2019, 2020 and 2021, the maximum limit of the trial period is 24 months, pursuant to the provisions of Article 4(1) of Decree-Law 72/2022, of 19 October, without prejudice to the application of the deadlines set for obtaining the operating licence for all the installations under the terms determined in the competitive procedures.

- With the issuing of a new production license replacing it;
- By renunciation by the holder, exercised by means of a written statement addressed to DGEG [27];
- In the event of dissolution, cessation of activity or approval of the liquidation in insolvency and company recovery proceeding of the company that holds the license; and
- With the extinction of the title of use of water resources or of the title of use of the maritime space on which it depends, if applicable.

The production license may be revoked when its holder:

- Fails to comply with the duties relating to the exercise of the activity;
- Fails to comply with the determinations imposed by the technical supervision;
- Does not obtain or maintain updated the civil liability insurance;
- Fails to send to DGEG and ERSE, on two consecutive occasions, informative data on the operation and exploitation of the electricity installation;
- Abandons the installations allocated to electricity production or interrupts the licensed activity, for a continuous or interspersed period of six months or more, within a period of one year, for reasons not based on technical reasons or on capacity mechanism or system services[28];
- Undertakes substantial changes to the electrical installation without having obtained a permit.

2.4. OPERATING LICENSE

Except for the possibility of operation on an experimental basis, the electrical projects subject to production license can only start operating after obtaining the operation license.

[27] 6 months in advance for electrical installations with a connection power equal to or less than 10 MVA or 12 months in advance if more.

[28] In these cases, DGEG has a pre-emption right in the sale of the electricity production or storage facilities, with a view to opening a competitive procedure for allocation to a new owner.

The application for the issuance of the operation license is addressed to DGEG and must be accompanied by the following documents: (i) a declaration of conformity of execution, signed by the person responsible for the execution and by the installing entity, certifying that the installation is concluded and ready to operate in accordance with the conditions of the production license, (ii) an opinion from the grid operator that the conditions for connection and injection of energy into the grid have been met, (iii) a favourable opinion from the overall manager of the SEN, (iv) proof of conclusion of the civil liability insurance, and (v) a document proving the availability of the land[29].

Once the application for an operation license is submitted, DGEG must inspect the electrical installations within 30 days of receipt of the license application. If the application is duly completed, DGEG will make its decision within 10 days of receipt of the inspection report.[30]. The request for the issue of the operating license can only be rejected on the grounds of non-compliance of the installations with the legal and regulatory conditions or with the conditions stipulated in the production license.

Once granted, the operation license establishes the conditions under which the electrical installation is to operate and certifies that the project was built in accordance with the requirements and specifications set out in the production license and applicable regulations, as well as that it is fit to supply power to the grid, granting the project the right to start operating.

The operation license must be issued within a maximum period of one year from the date of issue of the production license, except in the following cases:

- TRC allocation in agreement with the operator of the RESP, in which case the operating license may be issued within a maximum period of 90 days after the start-up date of the RESP infrastructures to be built or reinforced;
- Operationalisation of the connection conditions by the operator of the RESP within a period longer than that defined for the issue of the operating license, in which case it may be issued within a maximum period of 90 days after the availability of that infrastructure.

[29] The following must be presented: (i) purchase and sale contract, (ii) constitution of surface right, (iii) constitution of usufruct, (iv) promissory contract with real effectiveness with recognized signatures of the contracts referred to above, or (v) definitive contract or rental promise that includes specific execution and with recognized signatures.

[30] When the inspection report concludes that the facilities do not comply with legal and regulatory provisions or with the conditions set forth in the production license, it must state in detail the standards or conditions whose compliance was not observed and, where applicable, the corrective measures to be adopted and the respective deadline.

In any case, the periods for issuance of the operation license may be extended under the same terms applicable to the issuance of the production license referred to in paragraph 2.3 above.

Decree-Law 30-A/2022 of 18 April, which established exceptional measures to simplify the procedures for producing energy from renewable energy sources, exempted the issuance of an operation license for electricity generating centres from renewable energy sources, for storage facilities and for production units for self-consumption whenever the grid operator confirms the existence of conditions for connection to the RESP. The operating license is now requested within 3 years after notification by the grid operator, and the DGEG may also waive the need for a previous inspection.

The rules set out in Decree-Law 30-A/2022 are temporary in nature and will remain in force until 19 April 2024.

2.5. PRIOR REGISTRATION AND OPERATING CERTIFICATE

The previous registration for project 1 MW or below capacity is made through an electronic platform as follows.

After the applicant has registered on the platform, the ORD has 20 days to issue an opinion on the existence of technical conditions for connection to the grid and compliance with applicable regulations, respecting the sequential order of requests[31].

DGEG may refuse prior registration within 30 days of the issuing of a statement by the ORD or after the end of the respective period in which it was issued, in the event of non-compliance with the legal and regulatory requirements for exercising the activity.

After the deadline for refusal, the prior registration is issued (with or without conditions) and the applicant can proceed with the installation.

After installation, the holder of the previous register requests the inspection entity for private service electrical installations to carry out an inspection to check the compliance of the installation with legal and regulatory standards. If the inspection report is not refused within 10 days after submission, the

[31] A negative decision for lack of injection capacity into the RESP should only occur if it is not possible to allocate it with restrictions or if the applicant wants firm capacity.

operation certificate is considered awarded and the connection of the installation to the RESP is authorised.

The request for the issuing of the operation certificate must be made within a maximum period of 9 months after the issue of the previous register, except in cases where there is a delay in the network operator's provision of the connection conditions to the RESP. In this case, DGEG will suspend the deadline for the corresponding period. In any case, the time limit can be extended by half.[32]

The previous register can be freely transferred by its titleholder. However, changing ownership before issuing the operating certificate follows the same regime as that established for the transfer of the production license (see 2.3.2 above) and the TRC (see 2.2 above). The prior registration can also cease its effects due to expiration or revocation.

The prior registration expires when:

- Fees due are not paid;
- No request for an operating certificate is presented within nine months after the issue of the prior registration (except in cases where there is a delay in the RESP operator making the connection conditions available to the RESP); and
- The holder renounces the registration.

In turn, prior registration is revoked by DGEG when the activity is carried out in breach of legal and regulatory norms and the holder has not - within the time limit set - adopted the DGEG's recommendations for restoring legality.

2.6. PRIOR NOTICE

The prior notice of small (up to 700W) self-consumption projects is carried out through an electronic platform. After registration of the applicant by filling in a form, the respective proof of submission is automatically issued.

After obtaining the proof, the interested party may proceed immediately with the installation of the equipment.

[32] 18 months in the case of hydroelectric plants.

If the injection of electricity into the RESP is planned, the DGEG requests the ORD to indicate the conditions for connection to the RESP within 30 days of obtaining proof.

The effects of the prior notice cease under the same terms applicable to prior registration.

2.7. OVER-EQUIPMENT AND RE-EQUIPMENT

Over-equipment and re-equipment are allowed with the aim of: (i) maximizing the generation capacity allocated to a reception point at the RESP and (ii) reducing the pressure on the territory resulting from the installation of new power generation plants. These are defined in Electricity System Law as:

- **Over-equipment:** the alteration of the generating plant through the installation of more generating equipment or inverters with an increase in installed capacity up to a limit of 20% of the connection power assigned to the generating plant in the respective prior control title;
- **Retrofitting:** the total or partial substitution of equipment, without changing the implantation polygon of the power plant [33], with a maximum limit of 20% of the connection power at the RESP [34].

Both overfitting and retrofitting constitute a non-substantial amendment to the pre-existing prior control title. Both may be requested after the issue of the production license or prior registration and before or after the issue of the operating license or operating certificate. Non-substantial alterations depend on prior authorization from DGEG and are annotated to the production license or prior registration.

The request for alteration of the prior control title is submitted to DGEG with the same information that accompanied the application for the granting of the production license or prior registration. Within 5 days of submitting these elements, DGEG may request additional information to be provided within a maximum period of 30 days. Within the same period, DGEG may also consult the entities

[33] According to DGEG's clarification 01/2023, in the case of wind power plants the metric is different and refers to the number of existing towers, abandoning the concept of area.

[34] If the minimum power of the generating equipment existing on the market exceeds the value of the initial power increased by a maximum of 20%, this increase corresponds to the minimum value of the minimum power of the generating equipment.

that have made statements in the prior control process on the issues that are the object of the alteration.

DGEG issues its decision within 15 days from the deadline for responses from the entities consulted.

Except for hydroelectric plants with a connection power of more than 10 MVA, all renewable energy power plants can be over-equipped or retrofitted.

The energy injected into the RESP relative to over-equipment and/or re-equipment is remunerated at market price or through bilateral contracts. However, in relation to retrofitting, if the power plant benefits from a guaranteed remuneration scheme, this scheme is also applicable to the electricity injected into the RESP resulting from the retrofitting.

The over-equipment may be legally separated from the pre-existing generating plant, being registered, in the pre-existing prior control title, in the name of a legal entity distinct from the holder of the generating plant to be over-equipped, but compulsorily controlled by the holder of the generating plant.

To this end, the holder of the plant must submit to DGEG a contract signed with the holder of the new plant resulting from over-equipment defining, namely, (i) production of electricity, (ii) injection of electricity into the RESP, (iii) metering and billing, (iv) ownership of facilities and equipment, and (v) sharing of information.

The holder of the generating plant and the holder of the autonomous over-equipment are jointly liable to the licensing and supervisory entities, grid operators or the overall SEN manager for the fulfilment of legal and regulatory duties and obligations arising from the prior control and inherent to the installation and operation of the over-equipment and its connection to the grid..

The over-equipment installation is not susceptible to autonomous transmission in relation to the pre-existing power plant, even in cases of legally separated over-equipment, except when the transmission is part of group restructuring operations that do not result in a change of the beneficial owner registered in the RCBE[35].

[35] RCBE: *Registo Central do Beneficiário Efetivo.*

2.8. HYBRIDS AND HYBRIDIZATION[36]

Hybrid power plants and hybridization regimes aim at mitigating the scarcity of grid capacity and maximizing the reception of energy at the RESP, and are defined in Electricity System Law as follows:

- **Hybrid plants:** generating plants or UPAC that, in the prior control procedure, present simultaneously more than one production unit using several primary sources of renewable energy;
- **Hybridization:** the addition to an existing plant of new generation units using different primary renewable energy sources, without changing the injection capacity of the pre-existing generating plant. Hybridization can be carried out at any power plant.

The Electricity System Law allows hybrid production systems to be set up *ab initio* or, subsequently, through a greatly simplified prior control procedure to amend the production license.

The installation of a hybrid power plant and the hybridization of an existing power plant are subject to the prior control regime applicable to the exercise of the activity of electricity generation referred to in chapter 2.1. However, hybridization, regardless of the installed capacity, is exempt from obtaining TRC, since there is no increase in the injection capacity of the existing electricity generating plant.

For hybridization, a new prior control title will be issued - the subsequent prior control title - which expressly identifies the injection capacity in the RESP allocated to the new production unit. This implies the modification in conformity of the pre-existing TRC, to be promoted by DGEG or, in cases of modality of agreement with the grid operator, by the respective operator. In the prior control procedure, DGEG informs the applicant of the instructional elements already delivered and which remain valid.

As in the case of over-equipment, the new plant resulting from hybridization may be legally separated from the generating plant to be hybridized. However, in hybridization, it is not necessary to have a domain relationship with the owner of the pre-existing generating plant[37].

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[36] For more information on hybrids and hybridisation, please see our full study here.

[37] The holder of the subsequent electricity generating plant and the pre-existing electricity generating plant are jointly and severally liable to the licensing and supervisory entities, the grid operators and the overall manager of the SEN for compliance with all legal and regulatory duties and obligations arising from the subsequent prior control order and inherent in the installation and operation of the new electricity generating plant and the respective grid connection.

Hybridization is granted to an applicant other than the holder of the electricity generating plant to be hybridized and the new prior control title is issued in the name of a person other than the holder of the pre-existing prior control title. For this purpose, the holder of the pre-existing generating plant must present a contract between himself and the holder of the new generating plant that complies with the same criteria applicable to the legal separation of over-equipment.

The prior control title of a hybrid or hybridized electricity generating plant may also be transferred under the general terms[38], subject to DGEG's authorization and to compliance with the legal requirements for its attribution. The autonomous transmission of the subsequent prior control title issued in the scope of the hybridization is also possible, subject to DGEG's authorization and the existence of the above-mentioned agreement[39].

Prior control titles issued for hybrid or hybridized power plants will also cease due to expiration or revocation under the general terms applicable to the respective prior control title[40]. Regarding the prior control titles of hybridized power plants, the cessation of effects determines:

- In relation to the pre-existing prior control title, the issuing by DGEG of a new TRC in the name of the holder of the new production unit, ensuring the injection capacity into the RESP of the subsequent prior control title and the remaining injection capacity in the RESP available for new allocation;
- Regarding the subsequent previous control title, the endorsement of the termination of the subsequent previous control title to the pre-existing previous control title, keeping the TRC the corresponding capacity.

[38] See chapters 2.3.2 and 2.5

[39] The TRC remains with the holder of the pre-existing generating plant without prejudice to the issue by the DGEG of a new TRC in the name of the holder of the new generating unit in the event of termination of the pre-existing prior control title.

[40] See chapters 2.3.3, 2.5 and 2.6.

2.9. STORAGE [41]

Energy storage consists of transferring the end use of electricity to a time after its production by converting it into another form of energy (e.g., chemical, potential or kinetic). Energy is stored by means of a storage facility in two distinct ways:

- **Autonomous storage:** when the installation has a direct connection to the RESP and is not associated with an electricity generation plant or UPAC; or
- **Associated storage:** when the installation is not directly connected to the RESP and is associated with an electricity-producing plant or UPAC.

The autonomous storage of electricity is subject to the same prior control regime applicable to the exercise of the activity of electricity production referred to in chapter 2.1.

In relation to a storage facility associated with an electricity generating plant or UPAC, licensing may occur:

- ***Ab initio:*** in this case the intention is to simultaneously start the licensing process for the production and storage facility; or
- ***A posteriori:*** case in which a storage facility is to be installed in an existing power plant.

In the case of associated storage *ab initio*, the prior control procedure adopted is the one applicable to electricity production and which encompasses both activities (production and storage) simultaneously.

In turn, the associated storage *a posteriori* will follow the procedure foreseen for the non-substantial alteration of the production license or previous registration, as the case may be, under the same terms applicable to over-equipment and re-equipment referred to in chapter 2.7.

2.10. SELF-CONSUMPTION[42]

Self-consumption consists in the production of renewable energy by a final consumer through one or more UPAC (self-consumption production units), for its own consumption on its own premises,

[41] For more information on national energy storage, please see the full study here.

[42] For more information on the self-consumption scheme, please see our full study on this subject here.

subject to the requirements of proximity and connection to the RESP, and which can store or sell unconsumed electricity of renewable origin from its own production.

The Electricity Law foresees two different self-consumption types:

- **Individual self-consumption:** where the final consumer produces renewable energy for his own consumption on his premises; or
- **Collective consumption:** where the energy produced is for consumption in two or more installations of different self-consumers organized through one of the models foreseen in the law.

Individual or collective self-consumption is subject to the same prior control regime applicable to the exercise of the activity of electricity generation referred to in Chapter 2.1. In individual self-consumption, the title is always issued to the respective consumer, while in collective self-consumption, the title is issued to: (i) the condominium represented by its administrator, (ii) the EGAC on behalf of the self-consumers or, if they exist, (iii) the CER or (iv) the CCE.

The proximity between the UPAC and the consumption facilities is also a condition for the exercise of the production activity, and the distance between them cannot be greater than:

- 2 km or, alternatively, are connected to the same transformer substation in the case of connection to low voltage ("**BT**")[43] networks; or
- 4 km in case of MV connection, 10 km in case of HV connection and 20 km in case of EHV connection

2.10.1. COLLECTIVE SELF-CONSUMPTION

The collective self-consumption activity can be exercised by:

- Collective Self-Consumers ("**ACC**[44]"),
- Renewable Energy Communities ("**CER**[45]") and

[43] BT: *Baixa Tensão*

[44] ACC: *Autoconsumo Coletivo*

[45] CER: *Comunidade de Energia Renovável*

- Citizens' Energy Communities ("**CCE**[46]").

ACC is defined as a group of at least two final consumers who share the energy produced by both or by only one of them and the costs of access to the RESP, and membership may be open or closed to new members.

The organization of the ACC is subject to the approval of an internal regulation and the appointment of the EGAC that manages the system, with the ACC connected through the RESP or internal/closed network.

The internal regulations must be communicated to DGEG within 3 months of the UPAC coming into operation, to define, at least: (i) the criteria for the free entry of new members and the exit of participants, (ii) the deliberative majorities, (iii) the rules for sharing energy and the payment of tariffs, (iv) the destination of the surpluses and (v) the commercial relations.

In turn, CER and CCE are legal entities, constituted through open and voluntary adhesion by their members, who may be natural or legal persons, public or private in nature.

In the CER and CCE:

- Members or participants must be located in close proximity to production facilities or have activities related to the renewable energy projects of their respective CER/CCE;
- Renewable energy projects must be owned and developed by REC/CEC or by third parties, provided that they are for the benefit and service of CER/CCE;
- The primary goal of CER/CCE should be to provide environmental, economic, and social benefits (rather than financial gain) to the members or the localities where the community operates.

The CER and CCE are entitled to:

- Produce, consume, store, buy and sell renewable energy with its members or with third parties;
- Share and trade among its members the renewable energy produced by UPAC serving them, without prejudice to CER/CCE members maintaining their rights and obligations as consumers;
- Access to all energy markets, either directly or through aggregation.

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[46] CCE: *Comunidade de Cidadãos para Energia.*

Access of consumers to a CER/CCE shall not be subject to unjustified or discriminatory conditions or procedures which prevent their participation and the withdrawal of any participant from the CER/CCE shall always be allowed, subject to compliance with the obligations to which it is subject. The management rules may be defined in the statutes of the legal entity or in internal regulations. Participants in the CER and CCE are obligatorily consumers.

CCE also have the particularity that they can (i) own, establish, purchase or lease closed distribution networks and manage them and (ii) produce, distribute, market, consume, aggregate and store energy regardless of whether the primary source is renewable or non-renewable.

Regarding the sharing of energy between members of collective self-consumption, the EGAC (in the case of ACC), or CER/CCE must communicate to the network operator the desired sharing method for sharing the UPAC production among self-consumers. In the absence of such communication, the network operator shall proceed to apportion the production to each installation based on measured consumption.

The power sharing modes can be based on:

- Fixed coefficients differentiated by weekdays, holidays, weekends and/or seasons;
- Variable coefficients established based on the hierarchy or on the consumption measured in each period in the time period established in ERSE regulations;
- The combination of fixed and variable coefficients.
- The use of specific dynamic management systems, through monitoring, control and dynamic energy management (being necessary to provide the network operator with the data from the measuring equipment and the sharing coefficient).

2.10.2. SALE OF ENERGY

Whether in individual or collective self-consumption, the surplus energy from production that is not consumed can be sold and remunerated in the following ways:

- On an organised market or through bilateral contracting, at a price previously agreed between the parties;
- Through the market participant against payment of a price freely agreed upon between the parties;
- Through a market aggregator, which is subject to the obligation to purchase the energy produced by producers.

While the market facilitator license is not been established, the CUR ensures the acquisition of electrical energy whose authorised power for injection into the RESP does not exceed 1 MW.

The Portuguese Government may also establish support schemes for production from renewable energy sources, subject to competitive procedures.

2.10.3. ELECTRO-INTENSIVE SELF-CONSUMPTION

The Electricity System Law created the Electro-Intensive Customer Regime ("**ECE**")[47] to ensure that installations benefiting from it will enjoy more equal conditions in terms of competition vis-à-vis identical installations operating in other European Union Member States. For Self-Consumption, this is of particular importance as it exempts the application of the proximity criteria between the UPAC and the location of the consumption installation. This allows so-called "heavy industry" to consume electricity produced by UPAC (possibly owned by third parties) located elsewhere in the country which are easier to install and have better solar exposure.

The ECE is further regulated by Order No. 112/2022, of 14 March, which establishes the obligations and support measures for consumer installations that adhere to this status through a membership contract to benefit from the following:

- Partial reduction (minimum 75% discount) of energy policy, sustainability and general economic interest costs ("**CIEG**"[48]) in consumption from the RESP;
- Total exemption from the charges corresponding to the CIEG on the consumption of energy from self-consumption supplied through the RESP;
- Access to a risk coverage mechanism (minimum 10%) relative to payment of the medium and long-term acquisition price of electricity from renewable energy sources, through contracts with a minimum duration of five years;
- Exemption from the application of the proximity criteria between the UPAC and the location of the consumer installation.

Electricity consumers may apply for the ECE if they: (i) fall within the sectors of activity identified in Annex 3 or Annex 5 of the European Commission Communication 2014/C 200/01 on the "Guidelines on State Aid for Environmental Protection and Energy 2014-2020"; (ii) have an annual electricity consumption equal to or greater than 20 GWh and an annual consumption in the normal off-peak and super-peak hours equal to or greater than 40% of annual electricity consumption; and (iii)

[47] ECE: *Estatuto do Cliente Eletrointensivo*

[48] CIEG: *Custos de política energética, de sustentabilidade e de interesse económico geral*

register an annual electro-intensity degree equal to or greater than 1 kWh/€ of gross value added by the arithmetic average of the last three years.

The ECE membership application must be submitted to DGEG by June 15th of each year, accompanied by the following documents: (i) identification of the applicant, (ii) identification of the consumer installation, (iii) indication of the sector or subsector and activity code of the consumer installation, (iv) proof of the electricity supply contract, (v) proof of compliance with the requirements established for the lawful exercise of the consumer installation's activity, and (vi) gross annual added value of the consumer installation in the last three years, duly certified and audited (if any).

In the event of a favourable decision, DGEG sends the consumer the draft of the ECE adhesion contract for signature. The adhesion contract is valid for a period of 1 year, subject to renewal for an equal period and provided that the consumer submits a new request by 15 June of each year.

The ECE adhesion contract shall be subject, namely, to the following causes of termination (determining the immediate end of the support measures): (i) cessation of activity, (ii) supervening non-compliance with the ECE eligibility requirements, and (iii) non-compliance with the obligation to communicate changes to the contractual conditions or with the terms of the obligation to install and operate measuring, recording and control equipment.

3. MANAGEMENT OF THE TRANSMISSION AND DISTRIBUTION NETWORKS

3.1. MANAGEMENT OF THE TRANSMISSION AND DISTRIBUTION NETWORKS

3.1.1. OVERALL TECHNICAL MANAGEMENT OF THE SEN

The overall technical management of the SEN must be exercised through a concession contract, which may not exceed 30 years from the date on which it is concluded.

The award of the concession is preceded by a public tender procedure or by any of the procedures provided for this purpose in the Public Contracts Code. The Energy Secretary of State has the power to (i) decide launching of the tender, (ii) to approve of the procedural documents, (iii) to issue the tender award decision and (iv) to approve of the draft concession contract.

The overall technical management of the SEN is entrusted to the ORT, according to the concession contract with the RNT.

The overall SEN manager must, among other duties, carry out the technical management of the system and the management of the system services market. It must also carry out energy planning, by developing integrated planning studies of energy resources and identifying the conditions necessary for the security of future supply.

3.1.2. TECHNICAL MANAGEMENT OF DISTRIBUTION NETWORKS

As in the case of the overall technical management of the SEN, the technical management of the distribution networks is also exercised through a concession contract (which cannot exceed 30 years), and

- The technical management of distribution in high and medium voltage is entrusted to the operator of the RND; and
- The technical management of low-voltage distribution networks is entrusted to the assignees.

Management consists of the exercise of, among others, managing the flows of electricity on the distribution networks, cooperating with the overall SEN manager for the purposes of effective participation of network users in the electricity markets and ensuring the capacity and reliability of the respective electricity distribution networks.

3.2. THE OPERATION OF TRANSMISSION AND DISTRIBUTION NETWORKS

RNT and RND operation activities are exercised through a concession contract. The term of the concessions may not exceed 50 years for RNT and 35 years for RND.

The Secretary of State for Energy decides (i) the opening of the tender, (ii) the approval of the parts of the procedures, (iii) the award decision and (iv) the approval of the draft concession contract.

The installations of the RESP are subject to the approval of the respective projects, which grants their holders the rights to (i) use the public or private property of the State and municipalities to establish or pass through the integral parts of the RESP; (ii) request the expropriation, for public and urgent utility purposes, of the property necessary to establish the integral parts of the RESP; and (iii) request the creation of easements on the property necessary to establish the integral parts of the RESP.

Regarding the functions common to the national electricity transmission grid and the national electricity distribution grid, consider, among others, the following:

- To ensure the construction, operation and maintenance of RNT and RND;
- Ensure the long-term capacity of RNT and RND in coordination with the overall SEN manager; and
- Promote the development and adoption of advanced solutions for the protection, control, management and digitalisation of networks and operations.

Regarding the exploitation of electricity distribution in low voltage, it must be exercised through direct exploitation or concession contract. Distribution concessionaires may not, in accordance with the provisions of article 115 of the Electricity System Law, (i) acquire electricity for commercialisation, (ii) own, develop, manage or operate storage facilities (with limited exceptions) and (iii) own, develop, manage or operate charging points (without prejudice to private charging stations).

Each municipality, in what concerns the distribution of low voltage electricity, grants the concession, which cannot exceed 20 years. Municipalities are entitled to an annual rent which, calculated in accordance with Decree-Law 230/2008, of 27 November, must be calculated based on a percentage of low-voltage energy sales in the area of each municipality, and is determined according to the number of consumption places per square kilometre in that municipality.

3.2.1. CLOSED DISTRIBUTION NETWORKS

Closed distribution networks ("**RDF**")[49], i.e. those that distribute electricity within a geographically confined industrial, commercial or shared services site, railways, ports, airports and campsites, without supplying domestic customers, are excluded from the scope of the RDF electricity distribution concessions.

3.3. PLANNING OF ELECTRICITY TRANSMISSION AND DISTRIBUTION NETWORKS

3.3.1. PLANNING OF THE NATIONAL ELECTRICITY TRANSMISSION GRID

The planning of the RNT (which, like that of the RND, ensures the security of supply and the existence of capacity for the reception and delivery of electricity) integrates the characterisation of the RNT, the PDIRT (ten-year plan of development and investment in the RNT), the assessment of alternative options to the RNT investment and the characterisation of the RNT, in accordance with Regulation (EU) 2019/943 of the European Parliament and of the Council concerning the internal electricity market.

The PDIRT shall include a set of measures regarding (i) information on the infrastructures to be built or upgraded (ii) the planning of the network infrastructures; (iii) the forecasted values of the interconnection capacity to be made available for commercial purposes; and (iv) the forecasted implementation schedule for all investment projects.

The PDIRT proposal must be submitted by the RNT operator to DGEG and ERSE. DGEG, promotes various consultations and, within 2 days of the end of the period for the entities to pronounce, sends the RNT operator the opinions received. After receiving the PDIRT proposal, ERSE has 22 days to promote the respective public consultation (lasting 30 days).

After receiving the opinions, the operator has 60 days to send DGEG the final PDIRT proposal. Within 15 days DGEG sends it to the member of the Government responsible for the energy sector for submission for discussion in the Portuguese Parliament.

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[49] *Redes de distribuição fechadas*

3.3.2. PLANNING OF THE NATIONAL ELECTRICITY DISTRIBUTION GRID

The planning of the RND includes the characterisation of the RND, the National Development Plan ("**PDIRD**")[50] and the assessment of alternatives to investment in the RDN.

The procedure for the preparation of the PDIRD is, to a great extent, similar to the procedure referred to regarding the planning of the electricity transmission and distribution network, the only difference concerning the sending of the report of the public consultation. In addition to being made known to DGEG and RND, the report must also be made known to the RNT operator, which must also prepare an opinion.

[50] *Plano de Desenvolvimento e Investimento da Rede Nacional de Distribuição*

4. TRADING OF ELECTRICITY

4.1. ELECTRICITY TRADING

The electricity supply activity consists of the wholesale and retail purchase and sale of electricity to customers.

Under the terms of the Electricity System Law, the electricity supply activity is exercised in a free competition regime, being, however, subject to registration. DGEG is the competent entity to register suppliers.

4.1.1. THE ELECTRICITY TRADERS

Suppliers present at the electricity market supply electricity to customers also present at the free energy market, i.e. in the Free Contracting Environment ("**ACL**")[51]. In this case, consumers and suppliers negotiate the conditions for purchasing electricity and, therefore, customers may choose their supplier and there may be consequent changes.

While the CUR is obliged to apply tariffs regulated by the ERSE, the electricity market supplier has the freedom to negotiate prices and tariffs with its customers.

This means that the electricity and supply tariffs are set by the market operator itself, while the network access tariffs are set by ERSE and the fees and taxes are set by the State, as is the case with the CUR.

The change of electricity supplier by the customer may occur at any time and does not have any associated costs, since there is no loyalty in contracts.

In addition to the registration of suppliers, there is the principle of mutual recognition, whereby in the context of the operation of markets constituted under international agreements to which the Portuguese State is a party, recognition of the quality of supplier by one of the parties means automatic recognition by the other party.

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[51] *Ambiente de Contratação Livre*

4.1.2. REGISTRATION OF SUPPLIERS AND APPLICATION

The energy supplier registration application is addressed to DGEG and is made through the online platform intended for this purpose.

After receiving the application for registration, DGEG will evaluate the application and request, if necessary and within 10 days, additional elements required for the application, which must be submitted by the applicant within 20 days.

Thirty days after submission of the application or delivery of the additional elements requested, DGEG is obliged to issue a decision. In case DGEG has not pronounced within the established deadline, the application is considered as accepted.

The registration is individual and non-transferable. However, in certain situations, such as corporate restructuring, it is possible that it is not, so the amendment will be recorded in the register itself.

If DGEG refuses the registration request, the applicant must be heard to make a statement or present a defence against the refusal.

4.2. LAST RESORT TRADING

Last Resort Suppliers are entities holding an electricity supply license, whose term does not exceed 20 years, and which, subject to a price regulated by ERSE, supply electricity under certain specific conditions.

The activity of the CUR is to provide the universal public service of supplying electricity to low-voltage customers with contracted power of 41.4 kVA or less.

The CUR is responsible for the supply of electricity:

- In areas where there are no offers on the free market;
- To economically vulnerable consumers; and
- Customers whose free-market supplier has been prevented from exercising its activity.

The activity of the CUR is subject to a license granted by DGEG. The Electricity System Law establishes that the granting of a new CUR license is carried out through a public tender.

There are currently 11 CUR operating in specific areas of mainland Portugal and 2 others operating in the Azores and Madeira islands respectively.[52]

Where there is not yet a last resort aggregator, the CUR may purchase electricity produced by plants with an allocated connection power of up to 1 MW.

According to Order No. 83/2020 of 1 April, consumers who currently maintain a contract with the LRS have until 31 December 2025 to secure energy supply with a market-based supplier. This provision provides consumers with sufficient time to make the transition of supplier as necessary.

[52] The full list of active CUR can be found here.

5. ELECTRICITY AGGREGATION

5.1. ELECTRICITY AGGREGATION

The activity of electricity aggregators comprises the purchase of electricity on the free market and its sale to customers who enter into an electricity supply contract, subject to the terms and conditions agreed therein.

5.1.1. REGISTRATION OF ELECTRICITY AGGREGATORS IN THE MARKET REGIME

Obtaining registration as an electricity aggregator in the market regime requires prior demonstration of the technical and economic capacity to operate in the markets for which registration is sought.

Until economic criteria are established to verify the economic capacity and suitability of market agents applying for registration to supply, registration will be subject to future demonstration of these criteria.

Registrations are for an indefinite term but they may be terminated in accordance with the applicable legislation. The request can be made by post, by request to Avenida 5 de Outubro, 208, 1069-203 Lisbon or via e-mail, to eletricos@dgeg.gov.pt[53]

It is important to note that registered suppliers are exempt from obtaining aggregator registration and are automatically entitled to exercise the aggregation activity after notifying DGEG.

5.2. AGGREGATION OF LAST RESORT

Last resort aggregation consists of the obligation to supplementary purchase of electricity from renewable energy producers and self-consumers that inject surplus energy into the RESP, as well as

[53] Currently, there are 40 electricity aggregators in the market regime. The full list of electricity aggregators can be found here.

the purchase of electricity from producers benefiting from guaranteed remuneration schemes or other subsidised remuneration support schemes and is subject to a license.

In the event that no electricity aggregators are offered on the market or when aggregators are unable to carry out their activity, the last resort aggregator shall purchase electricity from:

- Renewable electricity generators, excluding hydroelectric power stations with a connection capacity exceeding 10 MVA, remunerated at prices freely determined on organised markets; and
- Self-consumers who inject surplus energy into the RESP.

The last resort aggregator is obliged to purchase energy produced by Producers benefiting from guaranteed remuneration schemes.

The award of the last resort aggregator license - subject to a maximum term of 20 years - is carried out through a public tender.

The procedure for the attribution of the last resort aggregator license has not yet been opened by the Portuguese Government. Until then, the competences of last resort aggregator are entrusted to the last resort supplier.

6. MARKETS

6.1. ORGANISED MARKETS

The electricity organised market is a system that encompasses several contracting options to connect supply and demand of electricity and financial instruments whose underlying asset is electricity or its equivalent.

The management of organised electricity markets is a free activity but requires authorisation from the Energy Secretary of State. In some cases, authorisation from Ministry Finance may also be required. The responsibility for managing these markets lies with the market operators, notwithstanding the need to comply with the financial legislation applicable to forward markets.

Agents of the organised market are (i) financial intermediaries, (ii) producers, (iii) traders, (iv) aggregators, (v) customers and (vi) other agents that meet the requirements set out in article 206, no. 2 of the CVM (the Portuguese Securities' Code) and other requirements established by the market managing entity. Marquet members must enter a contract with a participant of the settlement system or with the manager of the settlement system for the operations executed at the market, in accordance with by an order of the from ministerial departments of finance and energy.

The management of organised markets is part of the operation of markets based on international agreements signed between the Portuguese State and other Member States of the European Union.

6.2. SYSTEM SERVICES MARKETS

The system services market is a process of contracting the essential services to deal with imbalances between generation and actual electricity consumption, ensuring the security of operation and the reliability and efficiency of the SEN.

This market is governed by the SEN global manager (REN.SA), in accordance with the regulations established by ERSE, guided by the principles of economic efficiency, transparency and non-discrimination.

The system services market has a European scope, when specifically determined by European legislation, and a national scope in other situations, including the RNT, the RND and the BT electricity distribution networks. Furthermore, system services markets with a regional scope may be implemented whenever this need is identified and approved by ERSE.

The acquisition of system services by the overall SEN manager is carried out through competitive, open and transparent mechanisms that aim to reduce costs for the SEN and guarantee:

- The effective non-discrimination between market participants, considering the different technical needs of the electricity grid and the different technical capabilities of generation, energy storage and demand response sources;
- A clear, technology-neutral definition of services and the procurement of those services in a transparent and market-based manner; and
- Non-discriminatory access to all market participants, both individually and through aggregation, including electricity from variable renewable energy sources, demand response and energy storage.

Finally, responsibility for deviations to the SEN programming is assigned to the market agents, under the terms established in the Networks Operation Code ("**ROR**")[54] approved by ERSE. This responsibility can be delegated to an aggregator, or a representative designated by the market agents.

The above-mentioned does not extend to electricity generating plants or UPAC benefiting from a guaranteed remuneration scheme or another subsidised remuneration support scheme, except in cases where the responsibility for the deviations is expressly excluded in the legal schemes for awarding the respective remuneration.

[54] *Regulamento de Operação das Redes*

7. GUARANTEES OF ORIGIN[55]

7.1. CONCEPT

Guarantees of Origin ("**GO**")[56] are electronic documents that prove to the final purchaser of electricity that a certain quantity or percentage of the electricity supplied comes from renewable sources.

The activity of issuing GO is regulated in Chapter XI of the Electricity System Law, in Decree-Law 84/2022, of 9 December and in the Procedures Manual of the EEGO.

7.2. ENTITY RESPONSIBLE FOR ISSUING GO

The EEGO is REN, which is also the responsible for managing the GO system and is the concessionaire of the national electricity transmission grid.

The activity of the EEGO is subject to a license to be awarded under a public tender, opened by order of the member of the Government responsible for the energy area. The EEGO license has a maximum duration of 10 years as of its issue[57].

The EEGO license holder enjoys a number of rights but is also bound by certain duties.

The EEGO license holder's rights are, inter alia:

- Be paid for the service provided;

[55] For more information on grants of origin, their issue, registration in the EEGO system and further details, please consult the full study on guarantees of origin here.

[56] *Garantias de Origem*

[57] Until a competitive procedure is held for the award of the EEGO license, the EEGO competences remain with REN.

- Carry out auditing and monitoring of the production facilities, as well as of the energy measurement equipment that allows and ensures the correct qualification of the facilities and the guarantee or certification of the origin of the electricity;

The EEGO license holder's duties include:

- Issuing and monitoring GO;
- Implement and manage a system for issuing GO, including the electronic registration, issue, transmission and cancellation of the respective proofs;
- Make relevant and non-confidential information on the issuance of GO available for public consultation, through its website;

7.3. REGISTRATION OF PRODUCERS

Registration in the EEGO system is mandatory for the following entities:

- Installations producing electricity from renewable energy sources and producers of heating and cooling energy; and
- High efficiency co-generation facilities.

To register in the EEGO system, producers must:

- Submit an application through the online platform eego.ren.pt, which includes filling in forms, providing company documentation and indicating one or two contact persons;
- Sign the adhesion contract with REN after approval of the application[58]; e
- Register the production facilities.

The registrations of the production facilities are made on the online platform of the EEGO system through the submission of an application and information on the specifications of the production unit that are evaluated by REN.

[58] After approval of the application, the access credentials to the online platform are granted to the entity and must be used throughout the process. Registration costs € 1,000.00.

The decision on the application is notified to the applicant within 10 working days of its presentation. Once the application is accepted, REN assigns an identification code to the registered generating facilities.

Only installations that have already obtained authorisation from the DGEG to enter into operation may be registered in the EEGO system.

The person responsible for registering a production facility shall inform the EEGO within 10 days of any changes resulting in:

- Inaccuracy of the information in the EEGO system;
- Loss of the conditions necessary for the production facility to remain registered with the EEGO;
- Transmission of the production license.

7.4. FORM AND ISSUE OF GO

After completing the registration of the installation, the producer must request the issue of GOs[59].

Each GO corresponds to 1 MWh of energy produced[60] and is valid for 12 months from the production of the energy unit to which it refers, being cancelled after its use, or at the latest 6 months after the end of the validity period. GO issued in other member states are recognized by the Portuguese State, except if there are founded suspicions about their accuracy, reliability or veracity.

[59] The GO must specify: (i) the source from which the energy was produced, (ii) the start and end dates of production, (iii) the identification, location, type and capacity of the installation where the energy was produced, (iv) whether the installation benefited from investment support or other form of national support, as well as the type of support scheme, (v) the date of commissioning of the installation, (vi) the date, country and entity of issue, and (vii) unique identification number.

[60] Each unit of energy is expressed in MWh and can only be the subject of one GO.

Registered producers must submit a production declaration on the online platform of the EEGO system. Upon receipt of a correct and complete production declaration, REN must register the GO in the producer's account within 5 working days[61].

The issue of GO is subject to the payment of a fee of 0.037€/MWh to EEGO.

7.5. TRANSFER OF GO

Producers may trade and transfer their GO to other entities separately from the energy that originated them, including other producers and energy suppliers through the EEGO system, with the exception of producers benefiting from a subsidised remuneration scheme that cannot trade separately the GO[62].

When the energy produced benefits from a direct price support scheme or from an investment incentive, or in cases where the energy is produced under a power purchase agreement ("**PPA**") or an early termination agreement of a PPA, the payment of the remuneration or incentive to the generator depends on the delivery of the respective GO to the DGEG.

The request to transfer a GO is submitted on the online platform of the EEGO system by the participant holding the GO. EEGO removes the GO from the seller's account and

- If the buyer is registered with the EEGO system, transfers the GO to the buyer within 5 days and notifies the buyer of the transfer;
- If the buyer is registered with a foreign entity equivalent to REN, it notifies the respective entity and, after confirming the success of the transfer, confirms to the seller the conclusion of the transaction.

The administrative fee for the completion of a GO transfer is 0.010€/MWh [63].

[61] The values are always rounded: (i) to kWh in the production declarations, and (ii) to MWh when the GO are issued.

[62] Producers who obtain TRC under a competitive procedure in cases where the application of the remuneration scheme constitutes a gain for the SEM, may trade separately the GO.

[63] The transfer request may be rejected if the seller has any outstanding administrative fees with EEGO.

7.6. GO AUCTIONS

DGEG can trade the GO received by producers benefiting from a support mechanism, through a competitive auction mechanism. The auction allows energy suppliers to dispute GO in a competitive way, assuring their customers that their energy is produced in Portugal from renewable sources.

The rules for GO auctions are regulated in Ordinance no. 53/2020, of 28 January. The entities involved in the auction process are:

- SU ELETRICIDADE, S.A., as the CUR, as the entity responsible for the financial settlement and invoicing of the auction revenues;
- OMIP - Pólo Português, S.G.M.R. ("**OMIP**")[64], as the entity in charge of managing the participation and operation of auctions;
- OMIP, S.A., as the entity responsible for managing the financial guarantees required for auction qualification; and
- REN - Rede Elétrica Nacional, S.A., as the EEGO, assuming the role of entity responsible for the physical settlement of the GO traded in the auctions

To participate in the GO auctions, participants must be registered in the EEGO system and have completed the admission process as:

- Registered Participant: up to 5 business days before the auction date; and
- Qualified Participant: up to 2 business days before the auction date.

The admission process as a Registered Participant must be instructed with OMIP and accompanied, namely, by the following elements: (i) application for admission in accordance with the draft included as Annex I of Ministerial Order no. 53/2020, (ii) permanent certificate, (iii) indication of the holders that directly or indirectly hold more than 10% of the company's share capital, and (iv) operational information necessary for the management of financial guarantees, financial settlement, invoicing and physical settlement.

It is OMIP's responsibility, after analysing the requirements, to issue the decision of admission or non-admission of a candidate to be a Registered Participant. The effects of the admission are subject to

[64] OMIP is a Regulated Market Operator that provides the market with a trading platform for energy derivatives, namely: Futures, Forwards, Swaps and Options, whose underlying assets are electricity and natural gas, as established by the International Agreement celebrated between the Portuguese Republic and the Kingdom of Spain for the Iberian Electricity Market (MIBEL).

the execution of the Adhesion Agreement to the Auction Rules by the candidate, which regulates the terms under which Registered Participants develop their relationship with the CUR, OMIP, OMIP, S.A. and EEGO.

In turn, the status of Qualified Participant is subject to the enrolled participant complying with the following conditions: (i) having provided to OMIP, S.A., until 12:00 a.m. of the second business day prior to the auction, an amount corresponding to the economic volume of its offer; (ii) not having any pending debts or other obligations related to GO auctions; and (iii) being registered in the EEGO system until 2 business days prior to the auction.

The date of the Auction and the terms of the Auction, namely the quantity, type, period of production of the GO and reserve price, are fixed by the DGEG by means of a notice published no later than 20 days prior to the auction. The model for GO-PT auctions is as follows:

- Marginalist "Clock Up" auction, the base price being set out in the call for tenders;
- Several auctions can take place simultaneously and independently. Specific lots (technology, production period...) are auctioned through individual auctions;
- The auction results, after approval by the DGEG, are communicated by OMIP to the LRS and EEGO for subsequent financial and physical settlement.

The next GO auctions for the year 2023[65] will take place on the following dates: (i) 14 June 2023 (16th auction); (ii) 9 August 2023 (17th auction); (III) 11 October 2023 (18th auction); and (iv) 5 December 2023 (19th auction).

[65] According to official information published on the DGEG website: (i) in 2021 around 18.5 million GO were put up for auction, generating revenue of around €9.2 million, (ii) in 2022 around 25 million GO were put up for auction, generating revenue of around €61 million, and (iii) in the first 2023 auction around 4 million GO were put up for auction, generating revenue of around €20 million.

8. THE CONSUMERS

8.1. CONSUMER PROTECTION

The Electricity System Law ensures the protection of energy consumers, in particular with regard to the provision of the service, exercise of the right to information, quality of service provision, adequate information on tariffs and prices and dispute resolution.

The right to the provision of electricity supply service is guaranteed through access (i) to the networks, (ii) to a supplier, (iii) the conclusion of a supply contract or several contracts simultaneously with several suppliers, (iv) a wide choice as to simple and non-discriminatory payment methods, (v) the change of supplier and aggregator, without any associated charges, without a limit on the number of changes and within a reasonable period of time, and (vi) the suppliers' reference tariff for BT supplies.

To guarantee the right to information, it must be ensured that consumers have access to the following information:

- Information necessary for the exercise of their rights, an indication of the legislation in force and the means available for resolving disputes
- Simple and free access to their own consumption and metering data through easy, transparent, non-discriminatory and interoperable mechanisms, as well as data necessary for supplier switching, market demand participation and other services and, free of charge and subject to prior consent, allow third parties access to their data;
- Where a smart meter exists, access to actual electricity consumption and actual period of use, and should:
    a. Validated historical consumption data be easily and securely accessible and viewable by end-customers, or third parties on their behalf, upon request, at no additional cost;
    b. Non-validated near real time consumption data will also be made easily and securely available to end customers, or third parties on their behalf, at no additional cost, through a standardised interface or remote access, to support automated energy efficiency programmes, demand response and other services;
- Complete and appropriate information in order to promote energy efficiency;
- Complete and adequate information in order to enable their participation in the electricity markets;

- Timely access to all information of a public nature, in a clear and objective manner, allowing freedom of choice on the best supply options;
- Prior consultation on all acts that may modify the content of their rights;
- Non-discriminatory information appropriate to their specific conditions, in particular with regard to economically vulnerable final customers; and
- The extinction dates of the transitory tariffs for the sale of electricity to end customers.

The right to quality of service is guaranteed by the obligation of network operators, suppliers and aggregators to provide a service that complies with the quality levels established in the Quality of Service Code[66].

Consumers must be informed, in a transparent and non-discriminatory manner, of applicable prices and tariffs and of standard terms and conditions for accessing and using electricity services, in order to guarantee the right to information on tariffs and prices.

As regards dispute resolution, efficient handling is ensured through a one-stop shop for the attendance, information, processing and handling of complaints, made available by ERSE, without prejudice to the use of alternative dispute resolution mechanisms.

Economically vulnerable end-customers are granted special protection and guaranteed access:

- The social electricity tariff;
- The supply of electricity by the CUR at a tariff set by ERSE after the extinction of the transitory tariffs established by law, if they so wish;
- The support mechanisms set out in the Long-Term National Strategy to Combat Energy Poverty[67].

[66] *Regulamento da Qualidade de Serviço*

[67] *Estratégia Nacional de Longo Prazo para o Combate à Pobreza Energética*

9. SOCIAL TARIFF OF ELECTRICITY

9.1. BENEFICIARIES

The Electricity System Law provides for a Social Electricity Tariff, applicable to economically vulnerable final customers. This tariff guarantees the right of access to the essential service of electricity supply, through the application of appropriate prices.

For the purposes of applying the Social Electricity Tariff, economically vulnerable end customers are considered to be natural persons who, among others, benefit from (i) the solidarity complement for the elderly; (ii) the social insertion income, or (iii) unemployment benefits.

DGEG shall, in coordination with Social Security and the Tax and Customs Authority, present to the Government member responsible for the energy sector an annual report indicating the number of final customers benefiting from the Social Electricity Tariff.

9.2. SETTING AND FINANCING THE TARIFF

The Social Electricity Tariff is set through the application of a discount determined by order of the Secretary of State for Energy, vis-à-vis the general network access tariff in BTN, defined in the Tariff Regulations. This order is published by 20 September each year, for application in the following year.

9.3. ALLOCATION AND APPLICATION OF THE SOCIAL TARIFF

To benefit from the Social Electricity Tariff, economically vulnerable final customers must cumulatively fulfil the following requirements:

- Be a party to an electricity supply contract;
- For electricity exclusively for domestic use, in a permanent house.
- Supplied in BTN with a contracted power equal or inferior to 6,9 kVA.

Each customer can only benefit from the Social Electricity Tariff at a single connection point to the electricity distribution networks.

The number of end customers benefiting from the Social Tariff is defined by DGEG and, for such purpose, electricity suppliers must send DGEG the necessary information to identify the holders of electricity supply contracts. The transmission of information is subject to the opinion of the National Data Protection Commission.

Potential beneficiaries may object to the application of the Social Electricity Tariff within 30 days of notification. If they fail to do so, the Social Tariff will be automatically applied to them.

Maintenance of the application of the Social Electricity Tariff is subject to annual confirmation from the DGEG, to be issued by September of each year.

10. TECHNOLOGICAL FREE ZONES

The Free Technology Zones ("**ZLT**")[68] are special territories where it is possible to promote and facilitate the research, demonstration, and testing of innovative technologies, products, services, processes, concepts, business models, within the activities of production, storage, promotion of electric mobility, and electricity self-consumption activities. The ZLT are managed by DGEG or under concessions awarded through a competitive procedure.

The Electricity System Law created the following ZLT:

- Of offshore and nearshore renewable energies, located in Viana do Castelo, aimed at establishing innovation and development projects for the production of electricity from renewable energies from an oceanic source or location; and
- For renewable energies located in the Abrantes municipality, aimed at establishing innovation and development projects for the production, storage and self-consumption of electricity from renewable energies, to be developed within the scope of the decommissioning process of the existing coal-fired thermoelectric power plant there.

Once prior registration is obtained, projects for the installation of scientific research and development projects in ZLT are exempt from the payment of network access tariffs and other network sharing charges. However, pilot projects are subject to the payment of a value established by ERSE fixed in euros per MW/day and to be made operational in the Tariff Regulations.

The energy injected into the RESP is remunerated at the price freely formed on organised markets or through bilateral contracts, with the costs inherent to participation in the market, including deviations from the schedule, being charged to the holder of the prior registration.

Any interested party, individually or jointly with other interested parties, may proceed with the installation of innovation and development projects in the maritime space under national sovereignty or jurisdiction or in continental territory, even if it is not a ZLT.

[68] *Zonas Livres Tecnológicas*

11. SUPERVISION

Entities with supervisory or oversight powers of the SEN have the right to obtain from their respective players the information necessary for the exercise of their specific competences and knowledge of the market and may also request access to the accountability documents of electricity undertakings.

Commercially sensitive information is subject to confidentiality on the part of SEN entities, although they may exchange or disclose among themselves the information that is necessary for the exercise of their function.

DGEG is the entity responsible for supervising the compliance of production, storage and self-consumption activities with the respective prior control procedures and the technical supervision of electrical facilities related to the exercise of those activities. However, the RNT and RND concessionaires may supervise the production, storage and self-consumption and consumption facilities connected to the respective grids, especially with a view to their adequate compatibility with the said grids.

In these cases, the holder of the prior control title is obliged to:

- Allow and facilitate the free access of the technical staff to the facilities and their dependencies, as well as to the measuring devices and instruments;
- Provide technical staff with all the information and assistance they require to carry out their supervisory duties.

ERSE is the entity responsible for the supervision, inspection, instruction and decision of the proceedings brought under the sanctioning regime of the energy sector, the regime on unfair commercial practices and on matters of advertising.

When the advertising does not comply with the applicable provisions, ERSE may:

- Order the necessary modifications to put an end to irregularities;
- Order the suspension of the advertising actions concerned; and
- Determine the immediate publication, by the person in charge, of an appropriate rectification and, should the person in charge fail to do so, substitute himself/herself and publish the rectification.

The administrative offences provided for in the energy sector sanctioning regime do not constitute economic offences for the purposes of the legal regime on economic offences.

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