

## ARE NEW TENDERS FOR LOW-VOLTAGE ELECTRICITY DISTRIBUTION CONCESSIONS AT SIGHT?

*Against all odds, the publication of the model tender documents for the award of 20-year concessions for the low-voltage electricity distribution grid may be a sign that tenders may be launched soon by the Portuguese municipalities.*

### CONTACTS

**JOÃO MACEDO VITORINO**

[JVITORINO@MACEDOVITORINO.COM](mailto:JVITORINO@MACEDOVITORINO.COM)

**FREDERICO VIDIGAL**

[FVIDIGAL@MACEDOVITORINO.COM](mailto:FVIDIGAL@MACEDOVITORINO.COM)

**MARIA HELENA CÔRTEZ**

[MCORTES@MACEDOVITORINO.COM](mailto:MCORTES@MACEDOVITORINO.COM)

*This information is provided for general purposes only and does not constitute professional advice.*

The Portuguese Energy Secretary of State, on November 28, 2023, issued the [Ministerial Ordinance 397/2023](#) disclosing the model documents for the public tender procedures to award low-voltage ("LV") electricity distribution concessions in Portugal.

The [Decree-Law 15/2022 of 14 January 2022](#), known as the Portuguese Electricity System Law, empowers municipalities to manage low-voltage (LV) electricity distribution through concession contracts lasting for a period of 20 years. The Ordinance provides the instruments that municipalities must use when launching tenders for such concessions.

The tender procedures will be divided into two phases: first, a qualification phase for the submission of applications; and a second phase for the submission of proposals by the candidates who have qualified in the initial phase. Regarding the award criteria, tenderers will be evaluated based on the criterion of the most economically advantageous tender for the contracting authorities, so no base price has been established.

The discussion on the size of the concessions has a long history. Law 31/2017, of 31 May 2017, established that a territorial delimitation criterion will determine the number of competitive procedures to be launched. In 2019, the Energy Services Regulatory Authority ("ERSE") proposed a territorial delimitation in three regions of the country (North, Centre, and South), indicating that there will be three competitive procedures.

However, municipalities have the power to decide on the territorial delimitation proposed by ERSE. If they choose to establish a different territorial area, they must demonstrate significant advantages for the public interest in doing so.

These tenders were initially planned for 2019 because most of the concession contracts were set to expire between 2021 and 2022. Extensions have been granted to the concessionaires in the meantime. The publication of the model tender documents is a first step, but there is no indication of when the tender for awarding LV electricity distribution concessions will take place. So, it is unclear if this will happen soon or if stakeholders will continue to wait for a long period for their opportunity in this market.

© 2023 MACEDO VITORINO