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### Approval of the New Electricity Law

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Law No. 12/2022 of July 11, approving the new Electricity Law ("Electricity Law"), repealed Law No. 21/97 of October 1 ("Old Law"). The Electricity Law comes into force 90 days after its publication, thus on October 9, 2022.

In terms of content, the Electricity Law brings some innovations, highlighting the following:

- 1 Scope of application - article 2 of the Electricity Law regarding the scope of application (previously provided for in article 2 of the Old Law), extends applicability to the storage of electricity, an activity that was not provided for in the Old Law. Also in this regard, article 21 of the Electricity Law states that the storage of electrical energy may take place autonomously or integrated with the supply activity to provide ancillary services, referring the rules and standards on energy storage systems to specific regulation<sup>1</sup>.
- 2 Competent Authority - Article 6 of the Electricity Law introduces reference to the Energy Regulatory Authority (ARENE) as the body responsible for supervision, regulation, representation, oversight and sanctioning with respect to energy supply activity and the operation of the system and market. Under article 7 of the Old Law, the competent body was the National Electricity Council (CNELEC) abolished by Law 11/2017 of September 8, therefore, the reference to ARENE in the Electricity Law is a matter of alignment with Law 11/2017.
- 3 National Electricity System Management - under article 7 of the Electricity Law, the National Electricity System Manager is created, which with the support of the National Dispatch Center, is responsible for System Operation<sup>2</sup> and Market Operation<sup>3</sup>, also performing the functions of planning and development of the National Electricity System<sup>4</sup>. The Council of Ministers is responsible for approving the statute, defining the powers, competences and organic structure of the National Electricity System Manager.

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<sup>1</sup> Still to be approved.

<sup>2</sup> Management and technical conduct of generation, of the transmission grid and of interconnections with neighboring countries, guaranteeing, in a permanent, flexible, reliable and secure manner, the balance between generation and consumption of electricity.

<sup>3</sup> Management and conduct of the contracting activities and commercial relationship with the national and regional electricity market, in order to provide an efficient platform for the transaction of electricity and the supply of system services.

<sup>4</sup> The set of electrical facilities related to the entire chain of electricity supply activities covered by the Electricity Law.

- 4 Energy Register - the Electricity Law in its article 9, also creates the Energy Register, a national database which must contain information about the activity of energy supply or provision of energy services, its suspension, modification, extension and extinction. This register will be managed by ARENE, under the terms of the applicable legislation.
- 5 Concession term - with respect to the term of the concession, article 16 of the Electricity Law refers to the legislation on public-private partnerships<sup>5</sup>, under which the term of the concession may be 10, 20 or 30 years. The Old Law, on the other hand, established a longer term, where the concession contract could have a maximum duration of 50 years.
- 6 Transfer of the concession - the Electricity Law details in its article 17, the rights and obligations covered by the concession, subjecting the direct or indirect transfer of shares, quotas or other forms of participation that imply the corporate control of the concession holder to the prior approval of ARENE. In this respect, the Old Law was very vague, merely subjecting to the approval of the competent entity the total or partial transfer of rights covered by the concession, a provision that was subject to discussion as to which operations should be previously approved by the competent entity.
- 7 Consumer rights and obligations - the Electricity Law introduces consumer rights and obligations, not previously provided for in the Old Law. These include, among others, the right to quality of goods and services as established in the rules and regulations, the right to privacy and data protection, the right to information (regarding tariffs and prices, equipment safety, suspension of supply and payment methods), the right to protection regarding unfair terms or conditions, etc.
- 8 Resumption of power supply - article 28 of the Electricity Law provides for the resumption of power supply within 24 hours from the time of regularization of the situation that gave rise to the suspension or reduction of power supply. The Old Law did not establish any deadline in this regard.
- 9 Termination of the concession - article 32 of the Electricity Law establishes as grounds for termination of the concession, the agreement of the parties and the occurrence of force majeure events that cannot be remedied or mitigated.
- 10 Demobilization - articles 34 and 35 of the Electricity Law establish the rules for demobilization in the event that there is no extension of the concession or reversion of assets and rights to the State. In this regard, the concession holder must have recourse to the demobilization fund<sup>6</sup>.

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<sup>5</sup> Law 15/2011, of 10 August.

<sup>6</sup> Until the date of commencement of commercial operation, the concessionaire must open an interest-bearing account to be called a demobilization fund into which funds to cover expected demobilization costs are periodically deposited.

- 11 Tariff and price system - under article 40 of the Electricity Law, a tariff and price system is introduced which is composed of a production sales price, supplementary services price, transport network tariffs including transit for access and use of networks by third parties and the consumption tariff. Rules for setting tariffs and prices are also established.
- 12 Fees for supply of electricity - the Electricity Law establishes that the performance of power supply activities is subject to payment of the following fees: concession fee, universal access fee and the regulatory fee. Under the Old Law (article 27), only the annual concession fee was due.

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