Reform of the Brazilian Electricity Sector

Provisional Measure (PM) no. 1,300/2025

VEIRANO ADVOGADOS

» **OPENING OF THE ELECTRICITY MARKET**

» **CHANGES TO THE RULES ON CDE**

» **LIMITATION ON THE GRID TARIFF (TUSD/TUST) DISCOUNT**

» **NEW RULES FOR THE SOCIAL ELETRICITY TARIFF**

» **NEW RULES FOR SELF-PRODUCTION**

» **NEW DUTIES FOR CCEE, ANEEL, AND DISTRIBUTORS**

APPROVAL PROCESS

21.05.2025 | PM Published
Maximum validity period of 120 days for approval

21.05.2025 | PM Published
Prazo máximo de validade de 120 dias para sua aprovação

If the PM is not analyzed within 45 days, it will be placed on an urgent track, suspending all legislative deliberations of the Legislative Chamber in which the PM is being processed

26.05.2025
Joint committee is appointed

27.05.2025
Deadline for amendments

Joint Committee

House Plenary

Senate Plenary

Approved
02.10.2025
(foreseen, considering an approval period of 60 + 60 days)

Presidential Sanction

Published Law
23.10.2025
(foreseen, as the maximum deadline)

If the original text is changed, the PM will be processed as a conversion bill.

MAIN POINTS ON THE OPENING OF THE ELECTRICITY MARKET AND SELF-PRODUCTION

THE PM INTRODUCED THE TOTAL AND GRADUAL OPENING OF THE ELECTRICITY MARKET: WHAT CHANGES FOR CONSUMERS* IN THE FREE ELECTRICITY MARKET (ACL)?

CURRENTLY

all consumers connected to high and medium voltage can migrate to the ACL

Currently, consumers in Groups A1, A2, A3, A3a, A4 and AS can migrate to the ACL.

Consumers with demand of more than 0.5 MW can choose to participate directly in the CCEE, subject to their enrollment, or participate through representation by a retail agent.

- <500kW → retail trader participation
- 500kW > → direct participation in the CCEE

»

CURRENTLY AFTER THE MARKET'S OPENING

August 1, 2026
industrial and commercial consumers

December 1, 2027
other consumers

* According to the classification currently in force, provided for in ANEEL Resolution No. 1,000/2021

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- Although the energy market could be opened through an administrative rule (under the terms of Law 9.074/1995), the involvement of the National Congress is institutionally important.
- The expectation is that opening the market will promote more competition, lower prices, and deliver better and more diverse services and products to consumers (for example, via "energy as a service" structures).
- If approved, the reform will put Brazil on a par with more advanced jurisdictions in the regulation of the electricity sector. See the table on the right-hand side, taken from a study conducted by ABRACEEL (the Brazilian association of power trading organizations).

International ranking of electricity freedom in the Free Market

1°	Japan	All consumers
2°	South Korea	All consumers
3°	Germany	All consumers
4°	France	All consumers
5°	United Kingdom	All consumers
6°	Italy	All consumers
7°	Spain	All consumers
8°	Australia	All consumers
9°	Poland	All consumers
10°	Sweden	All consumers
11°	Norway	All consumers
12°	Holand	All consumers
13°	Belgium	All consumers
14°	Finland	All consumers
15°	Austria	All consumers
16°	Checz Republic	All consumers
17°	Switzerland	All consumers
18°	Greece	All consumers
19°	Romania	All consumers
20°	Portugal	All consumers
21°	New Zeland	All consumers
22°	Hungary	All consumers
23°	Bulgaria	All consumers
24°	Denmark	All consumers
25°	Ireland	All consumers
26°	Slovakia	All consumers
27°	Slovenia	All consumers
28°	Croatia	All consumers
29°	Lithuania	All consumers
30°	Estonia	All consumers
31°	Luxembourg	All consumers
32°	Letonia	All consumers
33°	El Salvador	All consumers
34°	Cyprus	All consumers
35°	Malta	All consumers
36°	USA	All free in 19 States
37°	Russia	All free except residential
38°	Canada	All free in Ontario and Alberta
39°	Turkey	Above 0,20 kW
40°	Singapore	Above 0,45 kW
41°	Colombia	Above 100 kW
42°	Guatemala	Above 100 kW
43°	Panama	Above 100 kW
44°	Peru	Above 200 kW
45°	Uruguai	Above 250 kW
46°	Argentina	Above 300 kW
47°	**Brazil**	**Above 500 kW**
48°	Chile	Above 500 kW
49°	Philippines	Above 750 kW
50°	Taiwan	Above 750 kW
51°	India	Above 1.000 kW
52°	Mexico	Above 1.000 kW
53°	Equador	Above 1.000 kW
54°	Dominican Rep.	Above 1.000 kW
55°	Bolivia	Above 1.000 kW
56°	China	In the process of opnening the market

SOURCE: ABRACEEL

WHAT CHANGES FOR SELF-PRODUCING CONSUMERS?

Self-producers are defined as consumers who have been granted a license to a generation project to produce electricity at their own risk.

BEFORE THE PM VS. AFTER THE PM

Before the PM, only a minimum demand of 3 MW was required for each consumer unit and there was no provision for aggregating demands/loads.

- With the enactment of the PM, aggregate contracted demand equal to or greater than 30,000 kW (with individual units of at least 3,000 kW).

Before the PM, the possibility of corporate structuring was more restricted (two corporate levels) and there was no talk of an economic group or the use of affiliates (as a legal concept).

- With the enactment of the PM, it becomes necessary to have a shareholding (direct or indirect, with voting rights) in the company holding the concession OR common corporate control (controlling, controlled or affiliated), subject to the percentage of shareholding.

The structure of disproportionate distribution of dividends is common, but before the PM, there was no minimum and pragmatic investment requirement.

- With the publication of the PM:
  - i. when the company issues non-voting shares granting a greater amount of economic rights than voting shares, the economic group of each shareholder must hold at least 30% of the total share capital.
  - ii. If the SPV holding the grant issues non-voting shares that confer economic rights in an amount greater than those conferred by the voting shares, the minimum shareholding required of each shareholder's economic group must be equal to or greater than 30% of the total share capital.

This is the wording of the PM, but in our **opinion** it does not make sense for the corporate group of shareholders other than the consumer to have to make the minimum investment.

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- The new rules proposed in the PM for self-production reduce the number of consumers who can make use of these arrangements.
- However, from a corporate perspective, consumers may have more freedom to structure new self-production arrangements.

LAST RESORT SUPPLIER

The concept of the last resort supplier ("LRS"), responsible for supplying electricity on an emergency basis to free consumers, should be regulated by February 2026.

Distributors can act as LRSs, but the decision on whether this activity will be given exclusively to distributors is still pending.

DISCOUNT ON GRID TARIFFS

The PM restricts the maintenance of the 50% discount on the grid tariff (TUSD/TUST) applicable to the production and consumption of electricity from renewable source projects - the discount will only be applicable to the volume of registered electricity and validated by the parties before the Chamber of Electric Energy Commercialization (CCEE) until 12.31.2025.

The discount will no longer apply if:

i. the PPA is assigned;
ii. the term of the PPA is extended;
iii. the term of the PPA is open-ended;
iv. the PPA is not registered with CCEE;
v. Registrations and validations occur after December 31, 2025; or
vi. the volumes of energy registered and validated with the CCEE are initially set at zero and are changed or adjusted after December 31, 2025.

TRANSITION RULE

Consumers already considered self-producers before May 21, 2025 remain exempt from the new demand and participation limits, provided that:

- They are party to a contract registered with the CCEE before the PM;
- They re part of an economic group with a 100% stake in the grant; or
- They submit with 60 days from the PM's publication the share purchase/ sale agreement or option agreement.

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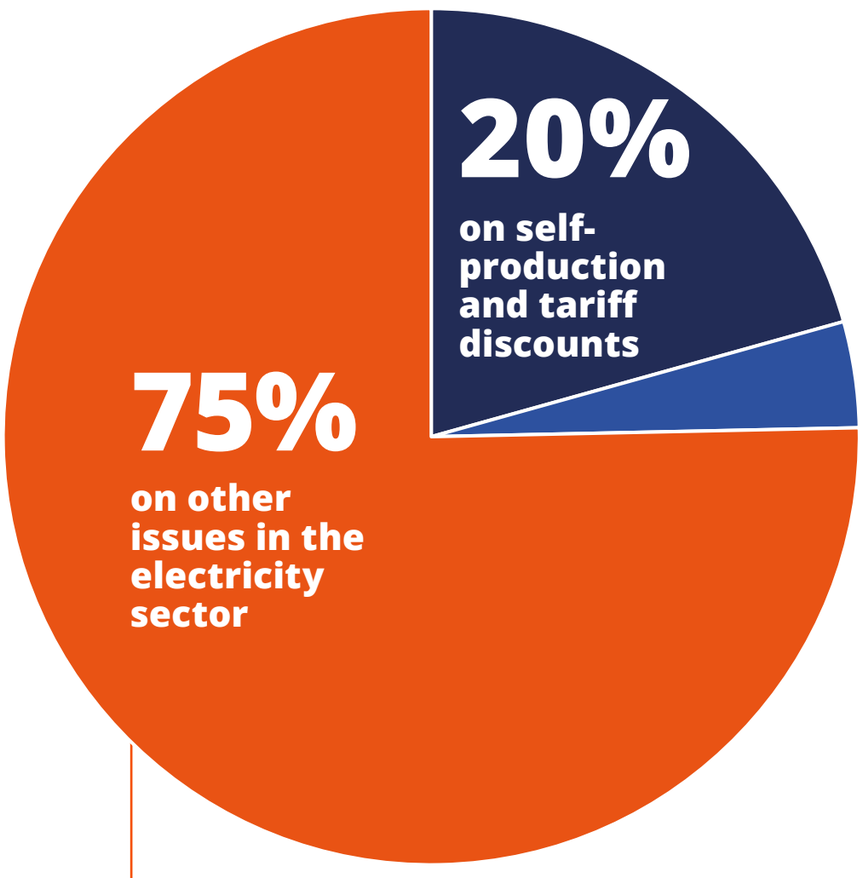
- **The pressure on the CDE budget, which according to ANEEL could reach R$50 billion by 2025, is a major problem in the Brazilian electricity sector and must be dealt with properly.**
- **The modernization of the electricity sector is essential and initiatives in this direction are welcome. Market opening stands out in this context.**
- **Notwithstanding this, some of the provisions and rules proposed in the Provisional Measure could be legally challenged - such as the treatment given to the TUSD/TUST discount at the peak of consumption.**
- **ANEEL is likely to assess International experience in countries with free markets for further regulation, especially with respect to the SUI. Accordingly, opportunities for advocacy and international cooperation may exist.**

AMENDMENTS

APPROVAL PROCESS OF THE PM

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Maximum validity period of 120 days for approval (60 days + 60 days)

26.05.2025
Joint committee appointed



600
amendments submitted

SELF-PRODUCTION, TARIFF DISCOUNTS AND OPENING OF THE ELECTRICITY MARKET: MAIN CHANGES PROPOSED IN AMENDMENT*

- A large number of amendments sought to change the wording of §1-P, which deals with the discount on the tariffs for use of the transmission and/or distribution systems, and §1-Q, which lists the cases in which discounts cannot be applied.

  ex.: Amendments 10, 40, 73, 113, 313 and others.

- Alternatively, many amendments seek to suppress §1-P and §1-Q in their entirety, as well as other amendments that seek to suppress all the paragraphs dealing with the discount.

  ex.: Amendments 552, 578, 584 and others.

- Several amendments deal with the opening of the electricity market: some seek to bring forward the opening to other consumers to August 2026 (amendment 104), others seek to extend the deadline to 2035 and 2037, respectively (amendment 11), and even those that seek to link the opening of the ACL to the expiry of the contracts signed by each distributor (amendment 69).

- Several of the amendments submitted fall outside the original scope of the Provisional Measure, including a large number of proposals to change the current MMGD regulations (amendments 11, 176, 201, 237 and others), electricity storage systems (amendment 255 and similar ones such as 267 and 272) and the creation of the People's Energy Program, financed by the Brazilian federal government, with the aim of ensuring the free supply of up to 220 kWh/month through MMGD systems (amendment 127).

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- **The Chairman of the Joint Committee has the prerogative to reject outright any amendments that are not in line with the original text of the PM.**

* The sample frame used to analyze the amendments to Provisional Measure No. 1.300/2025 also included those proposed by certain members of parliament who have frequently (and publicly) stood out in discussions relating to the electricity sector, namely: João Carlos Bacelar; Luis Carlos Heinze; Alessandro Vieira; Danilo Forte; Arnaldo Jardim; and Efraim Filho. This methodological cutoff, however, does not mean that other parliamentary amendments were not considered during the legislative process.

We are at your disposal if
you have any questions or
need additional information.

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