EXPERT GUIDE

CorporateLiveWire

July 2014

Energy & Natural Resources 2014

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Back in Business?

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Globally, the architecture of energy sector is undergoing significant changes and challenges. Governments, industries and other stakeholders seek new solutions to ensure that energy sector follow 21st Century requirements of economic growth, sustainability and energy security. Simultaneously, the Ukrainian crisis and more recently the intensification of military tensions in Iraq - with new territorial conquests of the Sunni rebel forces of the Islamic State of Iraq and of Levant increasing speculation regarding potential intervention of the USA and Iran to support the Iraqi army - raise many and complex issues that can bring more uncertainty to energy security, related to the threat of a spectacular rise of the oil and natural gas prices. Everything has its own scale and while in central Europe the issue is how to construct new infrastructures to create independence from the Russian gas, in Portugal, after a number of measures that have been taken in the energy sector - as part of the conditions imposed by the Troika (IMF, ECB, EC) under the Portuguese bailout package of 2011 – it is expected that investors would start looking again to the Portuguese energy market.

We are currently witnessing some activity in the sector, namely in renewables.

This shows how stability of the regulatory system is important to eliminate regulatory risk perception.

Unlike Spain, that took more drastic measures namely in FIT's, Portugal has been able to incorporate the imposed measures and it is expected that the tariff deficit to be reduced to a residual amount of €600 million by 2020 (the amount is currently €4.4 billion), which is a very relevant aspect from the perspective of foreign investors when they are looking to the sector.

Most of the measures to reduce costs of the electric sector have been taken through legislation or agreements, which remove - or at least lowers - the reset of regulatory risk in the next years.

The revision of support schemes for co-generation with a downward adjustment of the FIT took place through *Ministerial Order nr. 140/2012* of 14 May 2012.

In line of the orientations defined in the Memorandum of Understanding on Specific Economic Policy Conditionality (Third Update, 15 March 2012), *Decree-law 251/2012* of 20 August has also approved a new regime for the capacity payments mechanisms for all existing thermal power plants that have not been benefiting of the regime of the Costs of Maintenance for Contractual Balance (the "CMEC´s") of Euros 6000/MW/year with no time limitation and investment incentive defined according to a methodology where the reserve margin refers to the date of the production license.

There has been a reduction of 120 million of Euros in the NPV of CMEC's fixed component (through a reduction of the interest rate) which means a reduction of around €13.1 million /year from January 2013.

By its turn, *Decree-law 35/2013*, of 28 February, approved a regime through which wind promoters could purchase - through annual upfront payments in Euro/MW during 2013-2020 - a regulated remuneration regime (with a floor and CAP mechanism) for the period after the initial 15 years of FIT. The goal of this regime is to obtain from wind promoters, benefiting from the regime with higher tariff, an economic contribution to reduce the regulated costs of the Portuguese Electricity system, but legal stability and value of existing contracts was maintained.

Finally, in the budget for 2014 (Law 83-C/2013, 31 December) the Government has created the so-called "Exceptional Contribution of the Energy Sector". This contribution - due by the entities that comprise the national energy sector excluding RES (namely owners of power plants, concessionaires of transmission and distribution networks of electricity and gas,

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operators of refining, storage transport and distribution of oil, etc.) - is not tax deductible and is focused on domestic fixed tangible and intangible assets being the general rate of 0.85%.
The results of the Exceptional Contribution are allocated to the Fund for the Systemic Sustainability of the Energy Sector created by Decree-Law 55/2014 of 9 April, which goals are (i) to contribute to the promotion of balance and systemic sustainability of the energy sector and the national energy policy by financing social and environmental policies of the energy sector, related to energy efficiency measures, and (ii) to reduce the debt of the National Electricity System through the revenue obtained with the result of the Exceptional Contribution. To achieve the goal of reduction of the National Electricity System's debt, the Fund revenues shall be deducted to the costs of general economic interest (the "CIEG"), that are reflected each year in the tariff of global use of the system applicable to final clients and suppliers.

Regardless of the grounds of the extraordinary contribution and the issues that it raises - namely it's tax and legal nature and the fact that it is not assessed on taxable profits but on assets and it is not tax deductible for corporate income tax purposes - this is an exceptional measure that was imposed to this specific sector and the question is for how long it will remain in force since the government has already announced that it will remain for 2015.
All the above referred measures have contributed for the regulation stability. The question now is if it will be enough to get the Portuguese energy sector back in business.

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