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Díaz Bobillo, Vittone & Asociados

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LAW AND PRACTICE:

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Contributed by Díaz Bobillo, Vittone & Asociados

The 'Law & Practice' sections provide easily accessible information on navigating the legal system when conducting business in the jurisdiction. Leading lawyers explain local law and practice at key transactional stages and for crucial aspects of doing business.

Law and Practice

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Díaz Bobillo, Vittone & Asociados has extensive experience in assisting power and natural gas companies through every step of their business (generation, transport and distribution). The firm has also worked and assisted local and foreign companies in investments and start-ups in the renewable energy field (solar, wind and biomass). The firm provides full assistance, including drafting of the procurement documents and subsequent negotiation and execution of turn-key (EPC) contracts for construction of thermal or hydro electrical facilities; requesting and obtaining local and federal permits for the construction and commission-

ing of facilities; obtaining permits to vacate and connect to the electricity system; drafting and negotiating connection agreements with the High Voltage Transmission Utilities; negotiation of financial terms; tax incentives; and in general representing the said companies before the regulatory authorities. The firm has also extensive experience acting before both judicial and arbitration local and international courts. The firm has been actively involved in the renegotiation process launched by the new administration that took office in 2015 of the power and natural gas transmission rates.

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1. General Structure and Ownership of the Power Industry

1.1 Principal Law Governing the Ownership and Structure of the Power Industry

At the end of the 1980s, the Argentine electric power sector was run by companies owned by the Federal and Provincial Governments (Hidronor, SEGBA, Agua y Energía, among others) in charge of the generation, transmission and distribution of electric power.

Those companies were “vertically” integrated, i.e. the same company was engaged in generation, transmission and distribution activities without limitation.

That scenario changed in 1989 with the passage of Law No. 23,696 – State Reform Law – published in the Official Gazette on 23 August 1989, which paved the way for the privatisation of government-owned companies, including those providing electric power generation, transmission and distribution services.

As from that date, government-owned companies were privatised and the Federal and Provincial Governments assumed the role of regulators and supervisors of those activities.

The electric power sector was privatised in 1992 pursuant to Federal Law No. 24,065 – Electric Power Law – published in the Official Gazette on 16 January 1992.

That law mainly established the vertical and horizontal division of the electricity industry (separating the generation, transmission and distribution sectors), defined national policy objectives in the field of energy, and created a National Regulatory Agency (ENRE – *Ente Nacional Regulador de Energía Eléctrica*) with the power to establish the rates to be applied by distribution and transportation companies and to settle controversies among the agents of the electricity market. The law also determined rate principles applicable to transmission and distribution and set forth basic rules for the operation of the Wholesale Electricity Market and dispatch, creating to that end a “forward market” (where the price is determined by supply and demand) and a “spot market” (where the price is determined by the system’s economic cost).

As regards the electricity market structure and its agents, the Electric Power Law set forth the vertical and horizontal division of electric power generation, transmission and distribution activities, and defined the following as agents of the federal electricity market:

- Generators: the owners of an electric power plant whose output is placed in whole or in part in the transmission and/or distribution system subject to federal jurisdiction.
- Transportation companies: the holders of a transmission concession, in charge of the transmission and transformation of electric power, from the point of delivery by generators to the point of reception by the distributor or large user.
- Distribution companies: those that, within a concession area, are in charge of the supply of electric power to final users (e.g. residential users) who cannot contract supply independently.
- Large users: which, due to the higher capacity required, may directly contract supply with generators, and/or distribution companies and/or trading companies, through agreements where prices are freely agreed upon.

While generation is a deregulated activity, which depends on demand and supply and is only regulated as far as public interest is concerned, distribution and transmission activities are regulated and are considered a public service and legal monopolies; their rates are established by the Regulatory Agency (ENRE), which must cover the cost of service and ensure a reasonable rate of return to concession holders.

As a result of the privatisation process started in the late 1980s and early 1990s most of the electric companies were turned over to private hands.

The federal and provincial governments have approximately a 29% direct share in the generation sector, mainly the bi-national dams of Yacyreta and Salto Grande, the nuclear power plant Atucha and those power plants owned by Energía Argentina SA (ENARSA). The other power plants are private.

The distribution and transmission sectors are mostly in the hands of private companies through concessions granted by the Federal Government (in the case of transmission) and by each of the provincial states (in the case of distribution).

In order to reduce the participation of the Federal Government in the electric power generation sector, Executive Decree No. 882/17 (published in the Official Gazette on 1 November 2017) instructed the Federal Ministry of Energy and Mining to promote the sale to private parties of ENARSA's power plants (Ensenada Barragán, Brigadier López and Manuel Belgrano II combined cycle power generation plants) and of the interest held by the Federal Government in other power plants. As a result, the aforementioned share of the Federal Government should be reduced once these sales are completed.

Limitations on Vertical and Horizontal Integration in the Electric Power Market

Within the framework of that vertical and horizontal division referred to above (which fosters competition) the Electric Power Law sets forth certain restrictions and limitations to avoid vertical integration (among agents of different sectors) and horizontal integration (among agents of the same sector).

As regards vertical integration, the law prohibits a generator, distribution company, large user and/or any of their controlling or controlled companies from becoming the owner or controlling shareholder of a transportation company. Thus, an agent engaged in the purchase and sale of electric power (generator) cannot be the owner (directly or indirectly) of a transportation company. In the same vein, the law also prohibits a transportation company, or its controlling company, from purchasing and selling electric power. These limitations are not only included in the Electric Power Law but also in the concession contracts entered into by the Federal Government and the different transportation companies.

The aim of this limitation is to guarantee the "open access" of all agents to transmission systems and facilities and thus avoid the abuse of a dominant position by one group over another.

Besides this, the law also sets limitations to horizontal integration among different agents, in that this requires prior approval by the Regulatory Agency. Examples of these kinds of limitations are upon the possibility for two or more distribution companies to consolidate or merge into one group, and/or the possibility for a transportation or distribution company to buy an interest in another transportation or distribution company, respectively. In contrast with the absolute limitations to vertical integration, in this case companies may merge into one group or buy an interest in another agent, provided they have the prior authorisation of the Regulatory Agency.

In addition to these limitations imposed by the law upon vertical and horizontal concentrations among market agents, in the case of generation – although no limitation is expressly mentioned in the Electric Power Law – as regards the possibility of a merger, generators are subject to certain provisions included in the bidding terms and conditions of those companies and their by-laws, which establish that a merger with another generator or the purchase or sale of the majority shareholding in another generator must be approved beforehand by the Regulatory Agency. Likewise, those generators that have entered the market after the privatisation process (whose bidding terms and conditions or by-laws do not include the requirement for prior approval by the Regulatory Agency) are subject to the limitation set forth by section 19 of the Electric Power Law, which prohibits acts

that may give rise to unfair competition and/or abuse of a dominant market position, as could occur in the case of a merger and/or concentration among generators.

In those cases, the Regulatory Agency is responsible for making sure that any such merger and/or purchase and sale among generators does not affect the principle of free competition that must prevail in the generation sector, and does not create an abuse of a dominant market position.

In addition to the Electric Power Law, the Antitrust Law (Law No. 27,442) also aims to restrict conducts of any kind intended to limit or distort competition or market access or that may constitute an abuse of a dominant market position which may adversely affect the general economic interest. This law prohibits suppliers or demanders from distorting the free play of supply and demand, and if any of them is in a dominant market position – i.e. if any of them is a legal or natural monopoly – the law prohibits them from abusing said position.

1.2 Principal State-Owned or Investor-Owned Entities

According to the latest annual report published by the Regulatory Agency (2016), the main players in the private sector in power generation are ENEL Argentina S.A., Central Puerto S.A. (formerly SADESA), Pampa Energía and AES Generación S.A. On the other hand, the main state-owned power companies are Yacyreta, Salto Grande, the nuclear power plant Atucha and the power plants owned by Energía Argentina SA (ENARSA).

Regarding transportation, the Federal Government has granted transportation concessions to the following companies: Transener S.A., Transba S.A., Transpa S.A., Transco S.A., Transnea S.A., Transnoa S.A. and Distrocuyo S.A.

In the case of the power distribution service, in the areas of the City of Buenos Aires and its suburbs the concessions have been granted by the Federal Government to Edesur S.A. and Edenor S.A., and in the rest of the country the Provincial Governments are in charge of the distribution of electricity. In some provincial states, this service is rendered by private companies (i.e. Province of Rio Negro), and in others it is rendered directly by state companies.

1.3 Foreign Investment Review Process

No specific restrictions apply to foreign investment in the power industry.

Once foreign companies (duly established in the country) have entered the electric power market they are subject to the same provisions applicable to local investors as regards legal protection against condemnation, confiscation or seizure by the Federal Government.

As regards the applicable law, access to the Wholesale Electricity Market as a generator and/or the award of a distribution or transmission concession also entail the obligation to comply with the provisions of Argentine laws (as applicable law) and to submit to the jurisdiction of Argentine courts, which will be the competent courts if a controversy arises between market agents and national authorities.

Notwithstanding the foregoing, in certain cases in which the Federal Government is not a party (e.g. an Electric Power Purchase Agreement between a generator and a large user), the parties may agree to submit to the jurisdiction of a foreign court (e.g. ICC) to settle any controversy between them.

It is also worth mentioning that as from 1991, and in order to promote private capital investment, the Federal Government entered with other countries into several reciprocal investment protection treaties granting the citizens of any of those countries who invested in another the right to choose – in case of a controversy – between (i) the jurisdiction of the country where the investment was made (Argentina) or (ii) the jurisdiction of the International Centre for Settlement of Investment Disputes, or ICSID, or (iii) an arbitral tribunal pursuant to the Rules of the United Nations Commission on International Trade Law, or UNCITRAL. Those treaties were adopted by law and several controversies have been submitted to arbitration.

1.4 Principal Law Governing the Sale of Power Industry Assets

See **1.1 Principal Law Governing the Ownership and Structure of the Power Industry.**

1.5 Central Planning Authority

The Argentine electric regulatory framework is formed mainly by two laws still in effect: Law No. 15,336 (passed in 1960) and Law No. 24,065 (Electric Power Law – effective as from 1992).

The first one (known as the “Federal Electric Power Law”) regulates generation, transformation, transmission and distribution activities subject to federal jurisdiction and determines that those activities which, among others, are intended to serve the electric power trade among the different jurisdictions of the country, form part of the Argentine Interconnection System and/or are related to the trade of electric power to foreign countries are subject to federal jurisdiction.

Thus, according to this legal provision, all activities, except for those related to the distribution of electric power within a province that is connected to the Argentine Interconnection System (generation, transmission and a certain portion of distribution in the Province of Buenos Aires), are under

federal jurisdiction and, as set forth in the Electric Power Law, are subject to the following federal authorities:

- The Energy Secretariat, in charge of defining the energy policy, passing the regulations for dispatch, establishing seasonal prices and their quarterly adjustments applicable by distributors to users, authorising and granting access to the different market players, authorising electric power export and/or import transactions and resolving – as appellate body – the appeals submitted by the Regulatory Agency.
- CAMMESA (Wholesale Electricity Market Administration Company), created in 1992 by Law No. 24,065, in charge of the management of the electricity market in which power transactions are conducted, and of guaranteeing that technical decisions made are transparent and fair. CAMMESA was organised as a non-profit corporation, in charge of the coordination of the dispatch operation of electric power generation units and the administration of economic transactions carried out in the Argentine electricity market. Eighty per cent of CAMMESA's shares are owned by the agents of the Wholesale Electricity Market (in equal parts by generation, transmission and distribution agents and large users, with each of them holding a 20% share) and the remaining 20% is held by the Federal Government, which has the power of veto. Its board of directors is made up of two directors of each of the Associations of electricity market agents: ADEERA (*Asociación de Distribuidores de Energía Eléctrica de la República Argentina*) [distribution companies], ATEERA (*Asociación de Transportistas de Energía Eléctrica de la República Argentina*) [transportation companies], AGUEERA (*Asociación de Grandes Usuarios de Energía Eléctrica de la República Argentina*) [large users] and AGEERA (*Asociación de Generadores de Energía Eléctrica de la República Argentina*) [generators]. This board of directors is chaired by the Federal Government.
- The Regulatory Agency (ENRE), a self-financing agency created by the Electric Power Law, which acts as the oversight authority of the Wholesale Electricity Market and the different agents of the electricity market (generators, transportation and national distribution companies and large users). Its duties imposed by law are: determination of distribution and transportation companies' rates, prevention of anti-competitive and/or discriminatory practices by market agents, protection of the environment, guarantee of "open access" to transmission facilities, imposition of penalties on market agents in case of infringement of legal or contractual provisions, and acting in an adjudicative capacity in controversies arising between market agents.

As regards those activities that are subject to local – and not federal – jurisdiction (as in the case of electric power distribution), each province has its own authorities (Energy Secretariat, provincial regulatory agency, among others) to which companies (either state-owned or private) are subject.

These provincial agencies may have jurisdiction over rates, infringements and control, among other things.

1.6 Material Changes in Law or Regulation

In December 2015, due to the distortion of the Wholesale Electricity Market, the Federal Government passed Decree No. 134/2015 declaring an "emergency of the Argentine power sector" until 31 December 2017 and instructed the Ministry of Energy and Mining to design and implement an action plan intended to adjust the quality and safety of the power supply and ensure the provision of public power services in appropriate technical and economic conditions.

In this context, in January 2017, the Energy Secretariat, through Resolution No. 19/17, implemented a new compensation scheme for power generation to replace the prior schedule (effective since 2013), which increased the compensation of generation companies by revaluing greater availability of plant and greater accuracy in the declaration of guaranteed availability.

In this vein, through Resolution No. 287/2017, dated May 2017, the Energy Secretariat instructed CAMMESA to call for bids for new thermal generation capacity originating from open or combined cycle or co-generation units, with an availability commitment to satisfy the demand of the Wholesale Electricity Market. As a result of this bidding process, eight open or combined cycle and four co-generation projects were approved.

In addition, Executive Decree No. 882/2017, dated October 2017, promoted the sale by the National State of several government-owned assets, which has led to the current bidding process launched by ENARSA for the sale of its stake in the power generation plants Ensenada de Barragán (560 MW) and Brigadier Lopez (280 MW).

On the other hand, and to achieve the consumption targets established in the Renewable Energies Promotion System created by Law No. 27,191, during 2017 the Federal Government passed the following rules intended to promote the installation of new renewable source power generation plants: (i) Resolution No. 275/2017 issued by the Ministry of Energy and Mining, which launched Round 2 of "Programa RenovAr" for the award of supply agreements for new renewable electric energy generation projects; and (ii) Resolution No. 281/2017 issued by the Ministry of Energy and Mining, which regulated the forward market for renewable energy supply agreements freely entered into by large users and private generators.

In turn, and as regards renewable energy sources, the Argentine Congress passed Law No. 27,424, which declared the distributed generation of renewable energies for self-consumption and for the injection of any contingent sur-

pluses of electric energy into the distribution grid to be of “national interest”.

Finally, through Resolutions No. 602 and No. 603 dated 30 November 2017, the National Electric Agency approved the distribution cost and the rate schedule applicable to distribution companies in the City of Buenos Aires and its suburbs (Edesur and Edenor) as from 1 December 2017.

Based on the rate increases in public services, on 31 May 2018, the Argentine Congress approved Bill No. 27,443 declaring a rate emergency until 31 December 2019 and also provided that as from 1 November 2017 and for 2018 and 2019 the increase in electric power, natural gas and water rates shall not exceed the “Salary Variation Coefficient”, except for certain higher categories of users of gas and electric power services.

This project was vetoed by the Argentine Executive through Decree No. 499/18, which repealed the aforementioned bill and ratified the structural change in the power policy of Argentina and its intent to gradually return to the regulatory framework established by the Electric Power Law.

2. Market Structure, Supply and Pricing

2.1 Structure of the Wholesale Electricity Market

As from 1992, with the passage of the Electric Power Law, the operation of the power market is subject to two principles:

- The existence of a “forward market”, allowing agreements to be freely executed by the parties, where prices and other contract terms and conditions may be freely agreed by sellers (i.e. generators) and buyers (distribution companies or large users); and
- The existence – hand in hand with the forward market (or contract market) – of a “spot market”, where power prices are not freely agreed by the parties but arise from the free play of supply and demand. In this market, prices are determined on an hourly basis based on the economic production cost, represented by the short-term marginal cost.

In turn, there are two prices in the spot market: (i) a “spot” price, that is, the price determined on an hourly basis taking into account the economic production cost, payable to generators which then dispatch, and which varies on an hourly and on a daily basis, depending, among other things, on the type of fuel used, water availability for hydroelectric plants and hourly demand; and (ii) a “seasonal” price, applicable to purchases made by distribution companies, which arises from the need to stabilise the cost of power purchased by them in the spot market for a set period in order to avoid the rate changes that would take place if such distribution companies were to pass on to their users prices that varied

on an hourly basis. This seasonal (or stabilised) price is calculated in advance based on the spot price anticipated for the next period and a Stabilisation Fund which sets off the differences between the seasonal price (paid by distribution companies) and the actual spot price (payable to generators).

The rate schedule applied until early 2002, when as a consequence of the deep economic, social and political crisis then faced by Argentina, the Federal Government started to get more involved in the power market and to take actions deeply affecting the power regulatory framework implemented in 1992. Among such actions, the Federal Government resolved to:

- Freeze and convert to pesos (Argentine currency) the power service rates; and
- Amend the rate scheme for generation, converting to pesos all economic variables of the electricity market. It also established USD120/MWh as a cap price, and the spot price of power in the Wholesale Electricity Market is determined according to the variable cost of production with natural gas, even if the power plant is not generating electricity with such fuel.

The Federal Government thus amended the method for the determination of prices applicable until such date for generators as they began to establish cap prices and prices which, instead of taking into account the true production cost of power plants, considered as a reference only the cost of natural gas as if there was full availability of natural gas for all generators.

Reduction of “seasonal prices” charged by distribution companies (as a result of conversion to pesos and the rate freeze) also led to large users not being attracted towards concluding contracts in the forward market, which gradually lost strength vis-à-vis the spot market, where prices were regulated.

All these actions resulted in a structural deficit in the power market, which caused several generator, distribution and transportation companies (whose incomes were regulated and capped) to postpone investments in the power system, resulting, in the short term, in a severe lack of supply relative to a growing energy demand such that prices did not reflect the actual cost.

Due to this situation, the Federal Government was forced as from 2004 to take actions to install additional generation capacity to satisfy the power deficit. Such actions included (i) the creation in 2004 of the “FONINVEMEM” (Fund for Investments required to increase the Electric Power Supply in the Wholesale Electricity Market), a fund created for the construction of two combined cycle plants (currently operating); (ii) the “Energy Plus Service” (*Servicio de Energía*

Plus) designed in 2006 to foster power supply agreements between generators installing new generation capacity and users in need of a greater power backup; and (iii) the instruction to CAMMESA in 2007 to enter into new supply agreements with agents adding generation capacity to the system.

In 2013, upon passage of Resolution No. 95/13 issued by the Energy Secretariat, the Government established a new compensation scheme for generators to replace the then current compensation scheme for all the generation sector (except for those generators with a special compensation system approved by the Government).

The new system established the following compensation scheme for generators:

- A “fixed cost” compensation that generators receive according to their production technology and scale and which replaces the prior capacity compensation scheme;
- A “variable cost” (non-fuel) compensation, calculated on a monthly basis and determined on the basis of the power generated by the generator; and
- An “additional” compensation which consists of a portion paid to the generator and another portion deposited in trust for works, which is also determined taking into account the total generated power.

Therefore, while power plants continued with the dispatch based on their efficiency (economic dispatch), the “spot” price to be received by the generator was replaced by those prices established by Resolution No. 95/13 issued by the Energy Secretariat.

Together with the new compensation scheme established by Resolution No. 95/13, inclusion of new contracts in the market was discontinued and large users were forced to purchase their power directly from CAMMESA.

That compensation scheme implemented in 2013 was maintained until 2017, when the Energy Secretariat passed Resolution No. 19/2017 setting forth new values to compensate generators on the basis of the available capacity and generated power, and created the possibility to offer availability commitments with a differential compensation equal for all technologies. The Resolution also stipulates that compensations denominated in US dollars will be converted to pesos at the exchange rate informed by the Argentine Central Bank as of the last business day of each month.

Like the compensation scheme implemented by Resolution No. 95/13 issued by the Energy Secretariat, this new compensation scheme – currently in force – applies to all generators except those under a differential compensation scheme as is the case with generators which entered into contracts pursuant to the Energy Plus Service (2006) and

pursuant to those programmes and resolutions passed by the current Federal Government which fostered agreements in the forward market through the RenovAr 1 and 2 programmes, Resolution No. 21/17 issued by the Energy Secretariat (which promoted the installation of the new thermal generation capacity), Resolution No. 287/17 (which promoted the installation of new co-generation power plants) and Resolution No. 281/17 (which created the renewable source forward market applicable to those demanders that choose to purchase renewable source electricity directly from generators and not from CAMMESA). In these cases, generators receive the price corresponding to the capacity and power stipulated in those contracts.

Although the current compensation scheme follows the 2013 criteria (with a pre-established price to pay for capacity and power), it is gradually shifting – based on the possibility to enter into capacity availability agreements with CAMMESA – towards a contract market among private parties where large users and distribution companies may act as purchasers instead of CAMMESA, as is currently the case.

The government intends, as stated in its resolutions, to go back to the principles of the regulatory framework established by the Electric Power Law, where the responsibility to contract demand lies directly with distribution companies and large users, and not CAMMESA.

Finally, concurrently with the passage of these measures that increased the compensation of generators, the Federal Government also passed: (i) Resolution SEE 20/17, whereby seasonal prices to be paid by distributors were increased; (ii) ENRE Resolutions 66/16, 68/16, 69/16, 71/16, 73/16, 75/16, 77/16, 79/16, 01/17 and 02/17, whereby transmission rates received by transportation companies were increased; and (iii) ENRE Resolutions 63/17 and 64/17, whereby as of February 2017, public rates paid by users of Edenor and Edesur, the two distribution companies subject to federal jurisdiction, were increased.

2.2 Imports and Exports of Electricity

The Electric Power Law expressly contemplates the possibility of electric power exports and imports, and delegates to the Energy Secretariat the power to authorise said activities.

Said authorisation to export or import electric power becomes effective through an administrative act of the Energy Secretariat, which expressly authorises the applicant to carry out that transaction provided that it has previously provided evidence to the Secretariat that it has the required capacity and fuel to carry out that export or import.

There are two types of export and import transactions: (i) through export or import contracts in the forward market

(contract market); or (ii) through the spot market (interruptible exchanges).

The import of power is considered as generation added to the local market, while export is considered as demand added to the market in the border (gateway).

The law expressly sets forth that contracts are freely agreed upon by the parties and must indicate the names of the parties thereto, the effective term, the price of contracted capacity and power, the transmission system to be used, the gateway that will be used for the exchange, the firm contracted capacity and the units used as backup of said capacity.

These transactions may be carried out by generators, trading companies, large users and distributing companies.

Argentina has entered into several agreements with neighbouring countries to provide a framework of legal security to those transactions, such as:

- the Memorandum entered into by Argentina and Brazil on the Development of Electric Power Exchange and Future Electric Power Integration (“*Memorandum de Entendimiento entre la REPUBLICA ARGENTINA y la REPÚBLICA FEDERATIVA DEL BRASIL sobre el Desarrollo de Intercambios Eléctricos y Futura Integración Eléctrica*”) entered into in Buenos Aires on 13 August 1997;
- the Memorandum entered into by Argentina and Chile on 29 August 2014 to promote the exchange of natural gas, electric power and cooperation in the field of energy (“*Memorandum de Entendimiento a los fines de propender al intercambio de gas natural, energía eléctrica y a la cooperación en materia energética a República Argentina y la República de Chile del 29 de agosto de 2014*”); and
- the Agreement of Mutual Cooperation and Electric Interconnection (“*Convenio de Cooperación Recíproca e Interconexión Eléctrica*”) entered into in 1987 by the Energy Secretariat of Argentina and ANDE of Paraguay.

Some export authorisations granted by the Energy Secretariat are:

- Authorisation granted to Generación Mediterránea S.A., as generator to export electric power to Uruguay, purchased by Administración Nacional de Usinas y Transmisiones Eléctricas (UTE) (Res. SE 715/2010);
- Authorisation granted to ENDESA CEMSA S.A., as trading company, to export electric power to Uruguay, purchased by Administración Nacional de Usinas y Transmisiones Eléctricas (UTE) (See Res. SE 1076/09);
- Authorisation granted to Comercializadora de Energía del Mercosur S.A. (CEMSA), as trading company, to export firm power and electric power to Brazil, purchased by

CIEN-Companhia de Interconexao Energetica (Res. SEyM 263/2000 and Res. SE 79/2003); and

- Authorisation granted to Termoandes S.A., as generator, to export electric power to Chile, purchased by GENER S.A. (See res. SE 145/07).

2.3 Supply Mix for the Entire Market

The energy matrix in Argentina is as follows:

- Fossil: 65%
- Hydraulic: 28%
- Other renewable energies: 1.7%
- Nuclear: 5.3%

Note: Generation of “other renewable energies” includes wind, photovoltaic power, hydroelectrical plants up to 50 MW, and biogas and biomass power plants already existing.

Data obtained from the “Monthly Report of the Wholesale Electricity Market”, issued by the National Commission of Nuclear Energy (CNEA by its Spanish acronym) in April 2018 (Year XVIII No. 208).

2.4 Principal Laws Governing Market

Concentration Limits

See **1.1 Principal Law Governing the Ownership and Structure of the Power Industry.**

2.5 Agency Conducting Surveillance to Detect Anti-Competitive Behaviour

See **1.1 Principal Law Governing the Ownership and Structure of the Power Industry.**

3. Climate Change Laws and Alternative Energy

3.1 Principal Climate Change Laws and/or Policies

As regards climate change, Argentina has ratified the United Nations Framework Convention on Climate Change (Law No. 24,295), the Kyoto Protocol (Law No. 25,438), the Doha Amendment to the Kyoto Protocol (Law No. 27,137) and the Paris Agreement (Law No. 27,270).

While there is no specific law on climate change, as regards electric power, Argentina has taken certain actions supplementing the referred-to international agreements, which include the following: (i) the creation of a federal programme for development of alternative and sustainable energies and fuels (Provision No. 166/2001 issued by the Undersecretariat of Environmental Planning and Policy); (ii) the establishment of the conditions and requirements to be met by companies or bodies responsible for the design, construction and/or operation of thermal power plants, as well as the establishment of gas pollutant emission limits and the methodology

used to measure pollution levels (Resolution No. 108/2001 issued by the Energy Secretariat); (iii) the creation of a federal programme for the rational and efficient use of electric power (Executive Decree No. 140/2007); (iv) the establishment of environmental rules and of limits to the emission of gases from generators (Resolution No. 1049/2012 issued by the Energy Secretariat); (v) the creation of a regime promoting the production of biofuels which establishes that fossil fuels traded in the country should be mixed with biofuels, in proportions which have been gradually increased (Laws No. 26,093 and No. 26,334 and complementary regulations); and (vi) the reduction in the maximum sulphur content in the gasoil used for generation of electric power in certain cases (Resolution No. 5/2016 issued by the Hydrocarbon Resources Secretariat).

On the other hand, Argentina has implemented a federal programme for climate change mitigation applying to several sectors. The Federal Action Plan for Energy and Climate Change (“*Plan de Acción Nacional de Energía y Cambio Climático*”) has been recently implemented with the purpose of reducing the amount of greenhouse gas emissions by 2030. The planned mitigation actions are mainly focused on improving energy efficiency, fostering the development of renewable energies and increasing the use of biofuels.

Finally, it should be stated that the objective of Argentina’s environmental rules is to reach certain minimum conditions for environmental protection. Such rules include General Environmental Law No. 25,675, which ensures the minimum conditions for achievement of a sustainable and adequate environmental management, the preservation and protection of biological diversity and the implementation of sustainable development.

3.2 Principal Law and/or Policies Relating to the Early Retirement of Carbon-Based Generation

There is no specific plan in Argentina for the early retirement of carbon-based power plants.

3.3 Principal Law and/or Policies to Encourage the Development of Alternative Energy Sources

Law No. 26,190 (2006), as amended by Law No. 27,191 (2015), created a federal promotion system for the use of renewable energy sources. This promotion system is intended to foster the generation of electric power from renewable sources for public service provision, research for technological development and manufacturing of equipment to this end.

This promotion system considers that non-fossil energy sources suitable for sustainable use in the short, medium and long terms are renewable energy sources. In this regard, the law includes wind power, solar thermal energy, solar photovoltaic energy, geothermal power, tidal power, wave power,

marine current power, hydraulic power, biomass, landfill gases, sewage treatment plant gases and/or biofuels among those generation sources.

The Argentine system to promote electric power generation from renewable sources establishes ramp consumption targets in order to reach a 20% renewable energy share of the total electric power consumption of the Argentine energy matrix by 31 December 2025. The promotion system establishes that these consumption targets must be achieved individually by large users, who shall be subject to monitoring and to penalties in the case of non-compliance.

As regards incentives, Law No. 27,191 establishes certain tax benefits for those projects investing in new renewable energy generation works. This law also creates a financing and guaranty fund called “FODER”. While this fund has both guaranty and financing duties, pursuant to law, at present it only engages in guaranty transactions.

To achieve the consumption targets of the promotion system and with the emergence of a structural change in the domestic energy policy since 2016, the Federal Government has implemented three important schemes for trading renewable energy.

Firstly, the RenovAr programme was established through Resolutions No. 136/2016, No. 252/2016 and No. 275/2017 issued by the Ministry of Energy and Mining, which consists of a series of competitive bidding processes carried out by the Federal Government for the award of 20-year supply agreements for the installation of new renewable energy generation capacity to be entered into by the successful bidder and CAMMESA (on behalf of the large users and distribution companies). Two rounds were held of this programme where numerous bidders participated and had the chance to secure a World Bank Guarantee Facility in case of default by the Federal Government, should they become successful bidders. At present, this Federal Government policy is a case study of Harvard’s School of Government.

Under this RenovAr programme, the National State awarded in 2016 up to 29 projects for an aggregate power of 1,143 MW, which represents approximately 3.1% of total national electrical consumption. Furthermore, the Federal Government called for an improvement of offers by means of which it managed to award 30 new projects for an aggregate power of 1,281.5 MW. Later, in 2017, the Federal Government launched a new programme (RenovAr 2), under which it awarded 88 projects for an aggregate power of 2,043 MW. Information related to these processes may be found online in the CAMMESA website.

Secondly, the forward market was created through Resolution No. 281/2017 issued by the Ministry of Energy and

Mining, which consists of a market for renewable energy supply agreements freely entered into by large users and private generators. Participation in this market is restricted to the availability of power transmission lines, and generators intending to do business in this market must compete for dispatch priority.

Finally, the recently passed Law No. 27,424 declares that distributed generation for self-consumption and for the injection of contingent electric power surpluses into the grid is of national interest. These provisions establish the main aspects according to which small users generating renewable energy with their facilities may sell electric energy surpluses to the system by injecting them into the grid operated by its area distribution company. Regulation of this law by the Federal Government is pending.

Notwithstanding the aforesaid, certain Argentine provinces have passed local regulations for distributed generation, including Mendoza (Resolution EPRE No. 019/15), Jujuy (Provincial Law No. 6023), Santa Fe (“Prosumidores Programme”), Salta (Provincial Law No. 6025), Río Negro (Resolution EPRE No. 64/17) and Neuquén (Provincial Law No. 3006).

4. Generation

4.1 Principal Laws Governing the Construction and Operation of Generation Facilities

The construction and operation of electric power generation facilities in Argentina is subject to (a) the Electric Power Law, (b) the “Proceedings established for the operation programming, load dispatch, and price estimation, set forth by the Federal Electricity Department through Resolution ex SEE No. 61/92” (the “Proceedings”), and (c) the provisions of the Regulatory Agency.

For operation purposes, owners of generation facilities must obtain among other authorisations: (i) a permit to act as Wholesale Electricity Market agent from the Energy Secretariat, (ii) access to transmission capacity from the Regulatory Agency and (iii) a commercial authorisation of the generation power plant from CAMMESA.

Owners must also obtain provincial and municipal work permits from the jurisdiction where the generation power plant is being constructed and cause electric, water and gas pipeline easements or rights of way, as applicable, to be created.

In the environmental field, generators must submit an Environmental Impact Assessment (EIA) to the environmental body of the jurisdiction where its facilities are to be constructed and secure the approval thereof through an Envi-

ronmental Impact Declaration (EID). Facility owners must also request permits for water intake and discharge and the authorisation for installation of fuel tanks and stacks, if applicable.

Resolution ENRE No. 555/2001, as amended, obliges all of the agents of the Wholesale Electricity Market (including generators) to implement an Environmental Management System (SGA – *Sistema de Gestión Ambiental*) and keep at all times an environmental plan aimed at continually improving environmental standards.

For operation and maintenance of generation facilities, owners must comply with the operation and dispatch rules established in the Proceedings. Also, the generators must obtain authorisation for the personnel operating the facilities for connection with the Argentine Interconnection System, pursuant to Resolution No. 208/1998 issued by the Energy Secretariat, and authorisation for operators, according to CAMMESA’s Technical Procedure No. 15.

4.2 Proponent’s Eminent Domain, Condemnation or Expropriation Rights

Pursuant to Annex 17 of the Proceedings, to be considered a generator in the electricity market, the generator must own facilities that are part of an establishment or plant intended for generation, co-generation or self-generation of electric power.

As a general rule, for construction and operation of generation facilities, no special domain rights are required other than those provided for in ordinary laws.

However, in the case of hydroelectric generation facilities, a concession granted by the Government is required for the use of water.

4.3 Requirements for Decommissioning

Pursuant to the provisions of the Proceedings, for decommissioning of an electric generation or co-generation facility, the facility owner shall send a six-month prior notice to CAMMESA of such decommissioning. In the case of self-generators, a two-month prior notice is required. Decommissioning shall take place at the beginning of the first seasonal period following that during which the aforementioned term expires.

Any generator voluntarily requesting its decommissioning from the interconnected system may not request its reconnection until after 12 months have elapsed following decommissioning.

In addition, generators, co-generators or self-generators must fulfil all technical, environmental and operating rules set out by CAMMESA, the Energy Secretariat and the Regu-

latory Agency in connection with their decommissioning for each specific case.

5. Transmission

5.1 Regulation of Construction and Operation of Transmission Lines and Associated Facilities

5.1.1 Principal Laws Governing the Construction and Operation

The construction and operation of electric power transmission lines are governed mainly by (a) the Electric Power Law, (b) the Proceedings, (c) the resolutions of the Regulatory Agency and (d) the bidding terms and conditions and the concession contract applicable to each transportation company.

Electricity transportation is an activity subject to federal jurisdiction, undertaken within the framework of a concession contract, performed primarily by private entities. This includes high tension transportation, trunked distribution transportation and international transportation.

High tension transportation, comprising the whole 500 kV system linking the different regions of the country, is awarded solely to Transener S.A. Regional transportation is under the responsibility of trunked distribution transportation companies, which are: (i) Transnoa, with jurisdiction over the Northwestern region comprising the Provinces of Tucumán, Catamarca, La Rioja, Salta, Jujuy and Santiago del Estero; (ii) Distrocuyo, with jurisdiction over the Cuyo region comprising the Provinces of San Juan and Mendoza; (iii) Transba, with jurisdiction over the Province of Buenos Aires; (iv) Transnea, with jurisdiction over the Northeastern region comprising the Provinces of Formosa, Chaco, Corrientes and part of Entre Ríos; (v) Transcomahue, with jurisdiction over the Provinces of Río Negro, Neuquén and part of La Pampa; and (vi) Transpa, with jurisdiction over the Patagonia region.

The purpose of a transportation concession is the exclusive supply of the electric energy transportation service within a determined geographical area. This exclusivity prevents the grantor authority from allowing any other player to provide the same service within the determined region. The term of a transportation concession is 95 years, divided into one initial 15-year term and subsequent ten-year periods thereafter.

Prior to the construction and/or operation of electric power transmission lines, the owner of a concession must obtain from the Regulatory Agency a certificate of public convenience and necessity for the construction or expansion of the transmission network pursuant to section 11 of the Electric

Power Law. To that end, transportation companies must follow the procedure set forth by Resolution No. 69/2001 of the Regulatory Agency, as amended and complemented by Resolutions No. 454/2009 and No. 467/2009 of that agency. To that end, the Regulatory Agency shall publicise those applications and shall conduct public hearings prior to the granting of the corresponding certificate.

Besides this, the Regulatory Agency shall request an Environmental Impact Assessment (EIA) and shall verify compliance with safety rules and technical work procedures prior to issuing its resolution and granting said certificate.

Upon completion of the works, transportation companies shall inform the Regulatory Agency of the commissioning of the facilities and submit the Completion Environmental Audit together with the Environmental Planning of that agent, under its Environmental Management System pursuant to Resolution No. 274/2015 of the Regulatory Agency.

Furthermore, transportation companies shall abide by the rules for expansion of power systems approved by Resolutions No. 033/2014 and No. 122/2014 issued by the Regulatory Agency.

Pursuant to section 15 of the Electric Power Law and section 10 of Resolution No. 69/2001 of the Regulatory Agency, the Regulatory Agency shall pass a resolution within three months after the request for application for this certificate.

Annex 16 of the Proceedings provides for three alternatives for the expansion of transmission facilities: (i) the entering into of construction, operation and maintenance contracts between a transportation company and another Wholesale Electricity Market agent; (ii) expansions through public bidding at the request of a Wholesale Electricity Market agent or group of agents made to a transportation company; and (iii) minor expansions made by transportation companies.

For the operation and maintenance of transportation facilities, the transportation company shall secure the authorisation of all its operators pursuant to CAMMESA's Technical Proceeding No. 15.

Transportation companies shall operate and maintain their facilities and equipment in such a way as to avoid endangering public safety and shall comply with the regulations and resolutions of the Regulatory Agency and of the corresponding concession agreement. To that end, facilities and equipment shall be subject to regular reviews, inspections and tests by the Regulatory Agency, which may suspend service provision, repair or replace facilities and equipment, among other actions intended to protect public safety.

5.1.2 Terms and Conditions Imposed in Approvals to Construct and Operate Transmission Facilities

The terms and conditions applicable to transportation companies to obtain the approval of the construction and operation of electric transmission facilities are stated in Resolution No. 69/2001 of the Regulatory Agency, which regulate the procedure for securing the public convenience and necessity certificate.

Resolution No. 467/2009 issued by the Regulatory Agency approved the methodology to assess capacity expansion works of the public electric power transmission and distribution service subject to federal jurisdiction.

Therefore, the Regulatory Agency mainly analyses any possible restrictions that the works might cause to transmission and distribution lines, as well as the potential impact on users or other interested parties, and any contingent technical, functional and operating benefits or adverse effects for the system, public safety and the environment.

Concessionaires of electric power distribution and transmission services are subject to the system for procurement of local goods recently set forth by Law No. 27,437.

As part of the approval procedure to obtain the public convenience and necessity certificate, a public hearing must be held where all interested parties may file an objection to the works, which shall be taken into consideration by the Regulatory Agency.

5.1.3 Proponent's Eminent Domain, Condemnation or Expropriation Rights

Pursuant to Law No. 19,552 passed in 1972 of Administrative Easement for Electric Transmission Lines, transportation and distribution companies in Argentina have the right to request that an administrative easement be created in those premises where electric transmission lines or facilities will be constructed.

This easement may be created by agreement between the parties or through an administrative resolution by the Regulatory Agency, and must be entered in the real property registry of the corresponding jurisdiction.

Pursuant to Law No. 19,552, a transportation or distribution company requiring an easement shall pay a compensation to the owner of the property subject to the easement for an amount derived from the value of the land and of the portion of such land subject to easement in each case, which shall vary according to the area in which the property is located.

Once the easement is authorised, and at the request of the owner of the property, title prohibitions and restrictions may be established, as well as safety rules to be complied with by the owner in connection with persons and third party assets.

The easement applies not only to electric lines but to all facilities, equipment or mechanisms intended to transmit and transform electric power, such as transformer stations.

Finally, it should be taken into account that although Law No. 19,552 is a federal law, the provinces have similar easement laws. Federal Law No. 19,552 is regulated by Resolution No. 589/2015 issued by the Regulatory Agency.

5.1.4 Transmission Service Monopoly Rights

Transportation companies have the exclusive right and duty to provide electric power transmission services within the geographic area under concession.

Territorial exclusivity for transmission of electric power was granted in each case through a concession by the Federal Government. Therefore, transportation companies must provide the service pursuant to the provisions of the applicable bidding terms and conditions and the concession contract.

The Federal Government must guarantee exclusivity to each transportation company within the area under concession.

As stated above (**5.1.1 Principal Laws Governing the Construction and Operation**), high tension transportation, comprising the whole 500 kV system linking the different regions of the country, is awarded solely to Transener S.A. Regional transportation is under the responsibility of trunked distribution transportation companies, which are: (i) Transnoa, with jurisdiction over the Northwestern region comprising the Provinces of Tucumán, Catamarca, La Rioja, Salta, Jujuy and Santiago del Estero; (ii) Distrocuyo, with jurisdiction over the Cuyo region comprising the Provinces of San Juan and Mendoza; (iii) Transba, with jurisdiction over the Province of Buenos Aires; (iv) Transnea, with jurisdiction over the Northeastern region comprising the Provinces of Formosa, Chaco, Corrientes and part of Entre Ríos; (v) Transcomahue, with jurisdiction over the Provinces of Río Negro, Neuquén and part of La Pampa; and (vi) Transpa, with jurisdiction over the Patagonia region.

5.2 Regulation of Transmission Service, Charges and Terms of Service

5.2.1 Principal Laws Governing the Provision of Transmission Service, Regulation of Transmission Charges and Terms of Service

The electric power transmission service, as well as applicable rates and charges, are mainly governed by (a) the Electric Power Law, as regulated by Decree No. 1398/92, (b) the Proceedings, (c) the regulations issued by the Regulatory Agency and (d) the bidding terms and conditions and the concession contract applicable to each transportation company.

Pursuant to sections 40 and 41 of the Electric Power Law, rates charged by transportation companies for the provision of the public service must be “*fair and reasonable*” and must allow transportation companies to obtain sufficient income to cover the reasonable operating costs of the service, taxes, depreciation and a rate of return “*in proportion to the degree of effectiveness and operating efficiency of the company*” and which must also be “*similar, as an average of the industry, to other activities of similar or comparable risk at national or international level*”.

5.2.2 Establishment of Transmission Charges and Terms of Service

Argentina has adopted a price cap scheme. The rate scheme and initial rate schedule for the first five years of concession were included in the concession contracts in force.

An ordinary review of rates is carried out every five years, as set forth by the Electric Power Law. To such end, each transportation company must submit a proposal to the corresponding Regulatory Agency one year before expiration of each ordinary five-year rate period. The Regulatory Agency shall call a public hearing and finally shall approve the rate for said five-year period.

However, transportation companies may require an extraordinary rate review in case there are “*objective and substantiated circumstances*” pursuant to section 46 of the Electric Power Law.

Rates may be challenged before the Federal Electric Power Regulatory Agency or the relevant applicable authority by way of administrative or court of law proceedings.

Finally, after over a decade of rate freeze, underinvestment and cross-subsidisation in the power sector, at present Argentina is undergoing a rate restructuring process aimed at phasing out most of the subsidies applicable to electric power transportation rates by 2019.

This process started at the end of 2015 when the new administration took office, declared the emergency of the national electric sector and ordered the Energy Ministry to draft and execute a programme aimed at securing adequate technical and economic conditions of electric generation, distribution and transportation services.

Under such guidelines, during 2016 and 2017 the administration launched several renegotiating processes with the different concession holders (both high tension and trunked) aimed at reviewing, among other matters, the current rates of service for the period 2017–2021.

5.2.3 Open Access Transmission Service

Pursuant to the Electric Power Law, Wholesale Electricity Market agents have free access to the electric power transmission and distribution facilities.

Thus, transportation and distribution companies must guarantee non-discriminated access by third parties to their system’s transmission capacity, which includes the transformation and access to any other facility or service as may be determined by the Regulatory Agency.

It should be noted that, although third party access to transmission capacity is free and non-discriminated, it is not unrestricted because there may be restrictions related to the lack of transmission capacity of the line.

6. Distribution

6.1 Regulation of Construction and Operation of Electric Distribution Facilities

6.1.1 Principal Laws Governing the Construction and Operation of Electric Distribution Facilities

Distribution of electric power is subject to provincial jurisdiction and thus to local provisions, except for Edenor and Edesur (the distribution companies in the City of Buenos Aires and its suburbs), which are subject to federal jurisdiction and, as a result, are governed by federal laws.

Construction and operation of federal electric distribution facilities is mainly governed by (a) the Electric Power Law, as regulated by Decree No. 1398/92, (b) the Proceedings, (c) the resolutions issued by the Energy Secretariat and the Regulatory Agency and (d) the bidding terms and conditions and the concession contract applying to each federal distribution company.

Prior to the construction and/or operation of federal electric power distribution facilities the owner of a concession must obtain from the Regulatory Agency a certificate of public convenience and necessity for the construction or expansion of the transmission network pursuant to section 11 of the Electric Power Law. To that end, distribution companies must follow the procedure set forth by Resolution No. 69/2001 of the Regulatory Agency, as amended and supplemented by Resolutions No. 454/2009 and No. 467/2009

of that agency. The Regulatory Agency shall publicise those applications and shall conduct public hearings prior to the granting of the corresponding certificate.

Besides this, the Regulatory Agency shall request an Environmental Impact Assessment (EIA) and shall verify compliance with safety rules and technical work procedures prior to issuing its resolution and granting such certificate.

Upon completion of the works, federal distribution companies shall inform the Regulatory Agency of the commissioning of the facilities and submit the Completion Environmental Audit together with the Environmental Planning of that agent, under its Environmental Management System pursuant to Resolution No. 274/2015 of the Regulatory Agency.

Furthermore, federal distribution companies shall abide by the rules for expansion of power systems approved by Resolutions No. 033/2014 and No. 122/2014 issued by the Regulatory Agency.

For the operation and maintenance of distribution facilities, the owner shall obtain the operator's authorisation for all the personnel operating facilities of 132 kV or more to be connected to the Argentine Interconnection System pursuant to CAMMESA's Technical Procedure No. 15.

Distribution companies shall operate and maintain their facilities and equipment in such a way as to avoid endangering public safety and shall comply with the regulations and resolutions of the Regulatory Agency. To that end, facilities and equipment shall be subject to regular reviews, inspections and tests by the Regulatory Agency, which may suspend service provision, repair or replace facilities and equipment, among other actions intended to protect public safety.

Finally, provincial distribution companies shall follow the guidelines of their provincial concession, subject to provisions on quality, safety, expansions and penalties applicable in each provincial jurisdiction.

6.1.2 Terms and Conditions Imposed in Approvals to Construct and Operate

The terms and conditions applicable to federal distribution companies to obtain approval for the construction and operation of electric transmission facilities are stated in Resolution No. 69/2001 of the Regulatory Agency, which regulates the procedure for securing the public convenience and necessity certificate.

Resolution No. 467/2009 issued by the Regulatory Agency approves the methodology to assess capacity expansion works of the public electric power transmission and distribution service subject to federal jurisdiction.

Therefore, the Regulatory Agency mainly analyses any possible restrictions that the works might cause to transmission and distribution lines, as well as the potential impact on users or other interested parties, and any contingent technical, functional and operating benefits or adverse effects for the system, public safety and the environment.

Concessionaires of electric power distribution services are subject to the system for procurement of local goods recently set forth by Law No. 27,437.

As part of the approval procedure to obtain the public convenience and necessity certificate a public hearing must be held where all interested parties may file an objection to the works, which shall be taken into consideration by the Regulatory Agency.

Provincial distribution companies are subject to the terms and conditions established by the regulatory agency of each local jurisdiction.

6.1.3 Proponent's Eminent Domain, Condemnation or Expropriation Rights

See **5.1.3 Proponent's Domain, Condemnation or Expropriation Rights**.

6.1.4 Distribution Service Monopoly Rights
Distribution companies have the exclusive right and duty to provide the public service of electric power distribution within the geographical area under concession at both federal (Edenor and Edesur) and provincial level.

Territorial exclusivity for the distribution of electric power was granted in each case through concession by the Federal Government or the provinces after the carrying out of public bidding processes. Therefore, distribution companies shall carry out their activities pursuant to the applicable bidding terms and conditions, the concession contract and the rules for the supply to users.

The Federal or Provincial Government, as applicable in each exclusive area, shall ensure exclusivity for development of such activities by the concession-holding distribution company.

6.2 Regulation of Distribution Service, Charges and Terms of Service

6.2.1 Principal Laws Governing the Provision of Distribution Service, Regulation of Distribution Charges and Terms of Service

The electric power distribution service as well as charges and rates are mainly governed by the Electric Power Law, as regulated by Decree No. 1398/92, the resolutions issued

by the Energy Secretariat and the Regulatory Agency, the bidding terms and conditions and the concession contract applicable to each distribution or transportation company.

Pursuant to the provisions of sections 40 and 41 of the Electric Power Law, rates charged by federal electric power distribution companies for provision of the public service must be “*fair and reasonable*” and must allow such companies to obtain sufficient income to cover reasonable operating costs of the service, taxes, depreciation and a rate of return “*in proportion to the degree of operating effectiveness and efficiency of the company*” and “*similar, as an average of the industry, to activities of similar or comparable risk at national or international level*”.

Rates charged by provincial distribution companies are governed by the laws of each local jurisdiction, which are in line with similar federal provisions.

6.2.2 Establishment of Distribution Charges and Terms of Service

Argentina has adopted a price cap scheme. The rate system and initial rate schedule of federal distribution companies for the first five years of concession were applied to the concession contracts in force.

An ordinary review of rates is carried out every five years, as set forth by the Electric Power Law. To this end, each federal distribution company must submit a proposal to the Regulatory Agency one year before expiration of each ordinary five-year rate period. The Regulatory Agency shall call a public hearing and finally shall approve the rate for said five-year period.

However, federal distribution companies may require an extraordinary rate review in case there are “*objective and substantiated circumstances*” pursuant to section 46 of the Electric Power Law.

Rates may be challenged before the Regulatory Agency or the relevant applicable authority by way of administrative or court of law proceedings.

Finally, after over a decade of rate freeze, under investment and cross-subsidisation in the power sector, at present Argentina is undergoing a rate restructuring process aimed at phasing out most subsidies applicable to federal electric power distribution rates by 2019.

This process started by the end of 2015 when the new administration took office, declared the emergency of the national electric sector and ordered the Energy Ministry to draft and execute a programme aimed at securing adequate technical and economic conditions of electric generation, distribution and transportation services.

Under such guidelines, during 2016 and 2017 the administration launched several renegotiation processes with the different concession holders – Edesur and Edenor – aimed at reviewing, among other matters, the current rates of service for period 2017–2021.

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