

Compensation for curtailment under Law 15.269/2025: Regulatory Challenges

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Law 15.269/2025 – which originated in Provisional Measure 1.304/2025 – marks a significant reform in Brazil's power sector. Among its central provisions is compensation for curtailment (forced reductions in electricity generation), an issue that has gained prominence with the growth of wind and solar power in Brazil's energy mix, especially after the 2023 blackout, when market participants began to call for permanent and transparent mechanisms to reimburse generators for losses resulting from system-wide operational constraints.

The legislative process by which the Provisional Measure was converted into Law 15.269 reflected competing interests: generators sought protection against financial losses from system-imposed curtailment, while consumers and other stakeholders advocated for limits to prevent excessive cost pass-through to end-user tariffs. The final version of the legislation establishes two distinct compensation regimes, both incorporated into Law 10.848/2004 (the Law on Commercialization of Electric Power).

For the future, article 1§10(VI) of Law 10.848/2004 establishes a system-wide model – originally designed to operate through System Service Charges (SSC) – to cover the costs of curtailment due to external grid unavailability for all power plants. For past events, article 1-B introduces a retroactive regime that guarantees compensation only for curtailment affecting solar and wind power plants connected to the National Grid (SIN – Sistema Interligado Nacional) between September 1, 2023, and the date Law 15.269 was published (November 25, 2025), conditional on the generator signing a commitment and waiving any legal claims.

A systematic reading of the legislation indicates that, under the retroactive regime of article 1-B, generators will receive full compensation for costs associated with external grid unavailability and system reliability. In the forward-looking regime, the Law provides for coverage of costs related to external grid unavailability, as specified in §10.

There is, however, a point of ambiguity in §11 of article¹, which must be interpreted in conjunction with §10. While §11 prohibits the inclusion of certain costs in the charge that will fund the future compensation regime, it leaves open the possibility of covering costs related to system reliability, as long as two conditions are both met: (i) the grid access agreements do not explicitly contemplate the possibility of curtailment; and (ii) the generator is in full compliance with the minimum technical requirements for grid connection.

It will be essential to monitor how ANEEL, Brazil's electric power regulator, implements these provisions through regulations, and ANEEL Public Consultation 45/2019¹ which will play a decisive role in clarifying how the two compensation regimes will operate. The regulator may address scenarios in which reliability events are covered by System Service Charges,

especially when those events are not caused by generator failures but arise from unforeseen system needs not specified in grid access agreements.

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NOTE

¹ ANEEL Public Consultation 45/2019, chaired by Director Agnes da Costa, was created to gather input and additional information for improving the regulation that will establish operational criteria for reducing or limiting generation in the National Grid (SIN).

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