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NEW REGULATION OF CAPACITY PAYMENTS AMONG POWER GENERATION COMPANIES

On March 1st, 2016, Supreme Decree N° 62 of the Ministry of Economy, introduced in 2006 (hereinafter, the " **Decree 62** "), that regulates capacity transfers among power generation companies entered into force, modifying the methodology used to calculate transfers.

Introduction

The Chilean electric system remunerates power generation companies for two products: energy and capacity.

In general terms, when a power generation company injects electricity into the grid, they receive credits for energy and credits for capacity1. Likewise, each withdrawal made by a company results in a charge for energy and a charge for capacity.

Each power generation company with a surplus of capacity and/or energy injections has the right to be remunerated by the relevant power generation company with a deficit of capacity and/or energy (i.e. those making withdrawals in excess of the injections).

In connection with capacity payments, the Economic Load and Dispatch Center (hereinafter the " **CDEC** ") is the regulatory entity in charge of the calculation of the amounts payable between surplus and shortage generators, depending on:

• The contribution or availability of the relevant generator; and
• The demand of the relevant generator (which is given by its withdrawals to serve contracts with its costumers),

during periods of peak demand of the relevant system or subsystem.

Effectiveness of the new regulation

On June 16, 2006, Decree 62 was published in the Official Gazette; however, its effectiveness was suspended until March 1, 2016 due to

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the following reasons:

• Article transitory one of the Decree 62 stated that the application of its dispositions was subject to the implementation of the ancillary services regulation2.
• The Ancillary Services Regulation was introduced by Supreme Decree N° 130 of the Ministry of Energy, corresponding to year 2012 (hereinafter, "Decree 130"). However, its article transitory two established that the Ancillary Services Regulation would be implemented within 30 business days following the date on which the National Energy Commission (hereinafter the "CNE") approves the "Report on Definition and Program of the Ancillary Services" (hereinafter, the "IDPSC")
• On January 19, 2016, through exempt resolutions N° 28 and N° 29, the CNE approved the IDPSC for the CDEC-SIC and CDEC- SING.

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1 As it will be explained below, the mere availability of a power plant may entitle the power company to receive a credit for capacity, even when such power plant is not dispatched and no energy injections are recorded.

2 Ancillary services are regulated in the Decree 130 and are defined as the technical resources featured in the generation, transmission and distribution facilities, and the facilities of customers not subject to price regulation, which are required for the coordination of the system in order to: maintain the security of the service; guarantee the most economic operation; and guarantee the open access to the trunk and sub-transmission systems, pursuant to the applicable law.

Modifications introduced by Decree 62

• The Decree 62 replaced the concept of "Firm Capacity" for "Sufficiency Capacity". As a consequence, the current methodology of calculation of capacity payments considers the contribution of each power plant to the sufficiency of the whole system, excluding response features which are specifically regulated and remunerated under the Ancillary Services Regulation.
• The Decree 62 establishes that the capacity recognition of each power plant is determined by, "the generation capability compatible

with the sufficiency capacity1 and the peak demand commitments assigned to each generator2.
• The concept of “peak hours”3 referred to in Decree 397 was replaced and superseded under Decree 62 by the concept of “peak demand” which considers the average demand of the top 52 values of the annual load curve of each system or subsystem4.
• In terms of capacity prices and payments, Decree 62 expressly states that surplus generators are entitled to sell the surpluses of capacity that result from the balances of injections and withdrawals prepared by the Operations Department (hereinafter the “DO”) of the relevant CDEC, at the short-term node price of capacity contained in the node price report issued twice a year by the CNE during the months of April and October5.

Preliminary and Definitive Balance

The transfers of capacity and the amounts due amongst power generators are contained in the balances of injections and withdrawals of capacity prepared by the DO of the relevant CDEC.

According to article 4 of the Decree 62, the balance is the result of a preliminary calculation which must be made within the last month (i.e. December) preceding the first month of the year of calculation and must

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1 The capacity of a power plant to contribute to the capacity of sufficiency of the system or subsystem.

2 Article 1 of Decree 62.

3 Peak hours were the period comprehended from 18:00 to 23:00 during winter time and from 19:00 to 24:00 during summer time.

4 Article 1 of Decree 62.

5 Article 162 of the General Electric Services Law establishes the procedure for calculation of the short-term node prices. In general terms, for purposes of setting the node price of capacity, the node price report must consider the annual marginal cost of increasing the installed capacity of the relevant system which is given by the most economic power plants selected to supply additional capacity during

periods of peak demand.

consider the projected capacity demand of each generation company operating in synchronism with the relevant system1.

During the first month of the year following the year of calculation, the DO of the relevant CDEC must update the preliminary calculation and prepare a definitive balance in order to adjust and correct any projections that were not actually observed during the year of calculation.

The differences that arise between the payments determined by the definitive calculation and the payments executed by the preliminary calculation will cause a reliquidation.

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1 For instance, the preliminary balance for year 2017 must be made and inform by the DO of the relevant CDEC in December 2016.

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