

New Gas Law Regulation: Brazil



Decree No. 10.712/2021 was published on June 04, 2021, to regulate the New Gas Law (Law No. 14.134/2021), sanctioned in April this year, to regulate the gas natural industry.

The new regulatory framework has as its primary objective the breaking of the monopoly in the sector to attract investments and consequently enable the development and reduction of final costs to the consumer, as well as allowing access to new agents in the country and ensuring greater legal certainty for investments.

The Gas Law covers all links in the natural gas supply chain, except exploration and production (which are dealt with in the Petroleum Law), and local piped gas services (which are the responsibility of the states). To this purpose, it changes the market rules related to the transportation, flow, treatment, processing, storage, conditioning, liquefaction, regasification, and commercialization of natural gas in Brazil.

The Decree aims to detail and complement the provisions of the Law, meeting the industry's request.

I. Gas transportation

The classification of gas transportation pipelines will be based on technical criteria of diameter, pressure, and length.

The natural gas transportation system may contain more than one capacity market area and the National Petroleum, Natural Gas and Biofuels Agency (ANP) will regulate the capacity market areas to favor the merger process between them.

Carriers must designate the manager of the capacity market area to which they belong and provide for the possibility of exchanging ownership of the natural gas in custody.

The text also clarifies that direct connection of natural gas end-users to the transmission grid will only be possible when permitted by state regulation, which eliminates a significant point of concern for the states.

II. Storage of natural gas

ANP may articulate with other agencies to regulate the exercise of underground storage of natural gas in geological formations other than those that produce or have produced hydrocarbons. The Agency will be responsible for regulating third-party access to underground natural gas storage facilities, following objective and transparent criteria.

The residual extraction of liquid hydrocarbons during the exercise of the underground storage of natural gas will be done under a simplified regime, as regulated by the ANP.

ANP may also give publicity to projects for the construction of natural gas outflow pipelines and natural gas processing units, to enable coordination between the owners of the facilities and the agents interested in access.

III. Distribution and commercialization of natural gas

To avoid anti-competitive practices, ANP is responsible for:

- a. establishing, as a condition for obtaining and maintaining authorizations to exercise competitive activities in the natural gas industry, rules that prevent authorized companies from being able, for example, to influence the commercial management and investment decisions of piped gas distributors.
- b. monitoring the operation of the natural gas market, ensuring transparency to market pricing.
- c. regulating the organization and operation of the wholesale natural gas market.
- d. drafting a diagnosis on the conditions of natural gas competition and of the concentration in the supply of natural gas in the country and adopt the necessary measures to create stimuli to increase competition.

The Decree makes clear the possibility of corporate relationships between companies that perform competitive activities and piped gas distributors but imposes conditions and restrictions for agents that perform competitive activities authorized in the Federal Government's sphere of competence.

IV. National Pact











The implementation of the necessary steps for the transition of the Brazilian natural gas industry to the new model should observe the principles and guidelines of the National Energy Policy Council (CNPE). The Ministry of Mines and Energy and the ANP should articulate with the states to improve the standards and development of the natural gas industry.

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