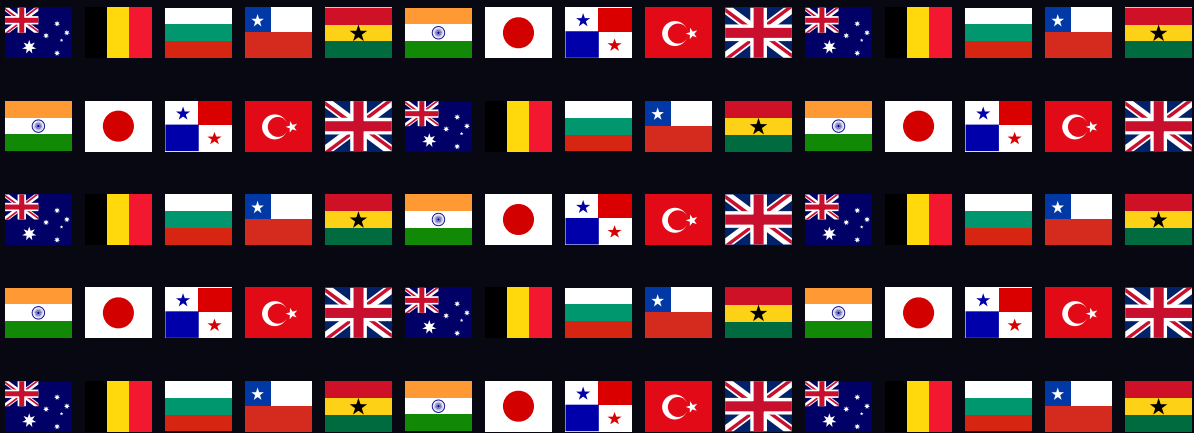


ELECTRICITY REGULATION

Chile



Electricity Regulation

Consulting editors

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Quick reference guide enabling side-by-side comparison of insights into the local legal framework; regulation of power generation, grid connection, and alternative energy sources; climate change policy; energy storage; nuclear power; transmission and distribution; sale of power, including retail and wholesale pricing and public service obligations; regulatory authorities; competition regulation including merger control; cross-border considerations including mergers and acquisitions and interconnection regulations; transactions between affiliates; and recent trends.

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LEGAL FRAMEWORK

Policy and law

What is the government policy and legislative framework for the electricity sector?

The policy implemented in the Chilean electricity market is mainly set out in Supreme Decree 148 issued by the Ministry of Energy in 2016 in which the National Energy Policy establishes a long-term vision for the energy sector (updated 2022).

Furthermore, the regulatory structure of the electricity sector is mainly comprised of the following legislation:

- the General Electric Services Law;
- General Bylaw of the General Electric Services Law, National Electric System Coordination and Operation Bylaw, Transmission Systems and Transmission Planning Bylaw, among other by-laws;
- Technical Standards issued by the National Energy Commission; and
- Joint instructions issued by the National Electric Coordinator as system coordinator in accordance with article 72-1 of the General Electric Services Law.

Law stated - 03 November 2022

Organisation of the market

What is the organisational structure for the generation, transmission, distribution and sale of power? How is this reflected in the regulatory structure?

Organisational structure

The Chilean institutional framework for energy is mainly composed of the following entities:

- Ministry of Energy: The President of the Republic's highest collaborative body, which is responsible for preparing and coordinating plans, policies and standards for the proper functioning and development of the sector, overseeing their compliance and advising the government on all matters related to the energy sector, including all types of primary and secondary energy sources.
- National Energy Commission: a decentralised public body related to the President of the Republic through the Ministry of Energy that analyses prices, tariffs and the technical standards to which the various players in the Chilean electricity market must adhere in order to provide adequate and reliable quality service that is compatible with the most economical operation.
- Electricity and Fuel Agency: a functionally decentralised service that is responsible for monitoring and supervising compliance with legal and regulatory provisions and technical standards for the generation, production, storage, transportation and distribution of liquid fuels, gas and electricity in order to verify that the quality of the services provided complies with current regulations and does not constitute a danger to persons or property. To comply with the aforementioned objectives, among others, it has the authority to interpret electrical regulations.
- National Electric Coordinator: an independent technical body in charge of coordinating the joint operation of all the interconnected facilities of the National Electric System.
- Panel of Experts: an autonomous collegiate body that resolves discrepancies and conflicts that arise among stakeholders in the Chilean electricity market arising from the application of the General Electric Services Law and the Gas Services Law.

Operational structure

Chile's current electricity legislation organises the Chilean electricity market into three segments: generation, transmission and distribution.

The generation segment operates under the principle of free competition and free access to transmission and distribution facilities to commercialise production. It is not recognised by the General Electric Services Law as a public service activity.

Companies can participate in the Chilean electricity market through spot market transactions at marginal costs (spot market), or through the market for agreements to supply free customers or the distribution companies of regulated customers (power purchase agreements).

The transmission segment, due to its economies of scale and extensive area, is recognised by the General Electric Services Law as a natural monopoly. Therefore, the state is in charge of actively regulating it through the assessment, valuation and remuneration of its main facilities (which are recognised by the General Electric Services Law as a public service activity), as well as other costs associated with the maintenance, operation and administration of the respective facilities. Likewise, the state, through the National Energy Commission, conducts centralised planning of the National Electric System's expansions. Then, through public and international bidding processes carried out by the National Electric Coordinator, the exploitation rights to the tendered works are awarded.

The distribution segment, due to its high-density economy, high investment cost and extensive customer supply area, is considered a natural monopoly, which implies the granting of a concession by the state. As is the case with transmission, particularly regarding its main segments, it is recognised by the General Electric Services Law as a public service. Therefore, it is regulated in a similar manner to transmission, except that network expansions are not centralised in the state; they are carried out autonomously by the concessionary company.

Finally, it should be noted that although Chilean electricity regulations, unlike those of other countries, do not expressly include the energy commercialisation segment, a growing market of customers is demanding more competition, which will lead to regulatory change. In fact, a bill on electricity portability is currently being processed, which, in general terms, expressly regulates the commercialisation segment.

Law stated - 03 November 2022

REGULATION OF ELECTRICITY UTILITIES – POWER GENERATION

Authorisation to construct and operate generation facilities

What authorisations are required to construct and operate generation facilities?

In Chile, companies do not require any special licence for the construction and operation of generation facilities.

Nevertheless, they must obtain certain permits set out in the electrical and sectorial regulations.

The following are the most important permits and requirements.

- Any owner, lessee, usufructuary or whoever in any way exploits generating plants connected to the National Electric System and subject to the coordination of the National Electric Coordinator, must constitute electricity generation companies domiciled in Chile.
- The authority must grant authorisation for the connection of any project to the National Electric System.
- Environmental permits must be obtained according to the specifics of the respective Project.
- A declaration that the project is under construction must be obtained from the National Energy Commission.



Furthermore, the General Electric Services Law restricts vertical integration among companies in the national transmission segment, on the one hand, and generation and distribution companies, on the other hand.

First, the law establishes that companies belonging to the national transmission segment may not engage, either by themselves or through related individuals or legal entities, in activities that in any way include the generation or distribution of electricity.

In addition, any individual company participating in the distribution and generation segment, or any user not subject to price fixing in the national transmission system, may not, directly or indirectly, hold a share greater than 8 per cent of the national transmission system's total investment value. Additionally, the combined share of generation and distribution companies and of the users not subject to price fixing in the national transmission system may not exceed 40 per cent of the National Electric System's total investment value. These ownership limitations extend to corporate groups or legal or natural persons that belong to transmission companies or that have joint action agreements with transmission, generation and distribution companies.

Law stated - 03 November 2022

Grid connection policies

What are the policies with respect to connection of generation to the transmission grid?

The principles and regulations applicable to connections are mainly set out in the following electrical norms:

- Chapter II bis and III of the General Electric Services Law;
- Transmission Systems and Transmission Planning Bylaw; and
- The National Electric System Coordination and Operation Bylaw.

The General Electric Services Law generally recognises that the transmission systems' electrical facilities are subject to an 'open access' system, which means that they can be used by third parties under technical and economic conditions that do not discriminate among users, with payment of the corresponding transmission system remuneration.

Consequently, the owners, lessees, usufructuaries or whoever exploits the transmission system facilities under any title, cannot deny access to the transportation or transmission service to any interested party on the grounds of technical capacity. Additionally, they must provide the facilities necessary for the construction of the works required to achieve the connection. Regarding transmission facilities that are not for public service, the same open access system applies but their use is subject to the availability of technical capacity.

Law stated - 03 November 2022

Alternative energy sources

Does government policy or legislation encourage power generation based on alternative energy sources such as renewable energies or combined heat and power?

Chile promotes renewable energy generation in many ways, such as the following:

- In 2008, the law on electricity generation from non-conventional renewable energy sources was passed in the Republic of Chile and amended in 2013. This law obliges electricity generation companies with an installed

capacity of more than 200 megawatts to market 20 per cent of their own or contracted energy from non-conventional renewable energy sources or hydroelectric power plants with a capacity of less than 40,000kw as of January 2010.

A bill is currently being processed to update the energy commercialisation percentages from these plants to 25 per cent of non-conventional renewable generation by 2025 and 40 per cent by 2030. An additional target states that generating companies shall sell at least 30 percent of renewable energy in each time block of the system to prevent situations in which renewable energy is used predominantly during the day.

- The State of Chile ratified the Paris Agreement. This agreement was reached within the framework of the United Nations Climate Change Convention. In this agreement, Chile agreed to reduce carbon emissions in the medium term.
- In March 2020, Chile signed an agreement with the largest companies that own thermoelectric power plants located in the country to remove coal-fired power plants from the energy grid.
- In November 2020, the State of Chile published the National Green Hydrogen Strategy, which entails Chile becoming a hydrogen-producing country using renewable energies, such as solar and wind energy.
- The government recently ratified the Escazu Agreement, which was launched within the framework of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean. This agreement reinforces, among others, the idea of every person's right to live in a healthy environment and enjoy sustainable development.
- In June 2022, the Climate Change Law was passed in Chile to achieve the goal of carbon neutrality, requiring 70 per cent of the energy grid to be supplied by renewable energies and achieving climate resilience by 2050.
- Through the National Energy Policy drafted in 2019 and updated in 2022, the State of Chile committed to reducing greenhouse gas production until carbon neutrality is achieved by 2050.

Law stated - 03 November 2022

Climate change

What impact will government policy on climate change have on the types of resources that are used to meet electricity demand and on the cost and amount of power that is consumed?

Current government policy aims to combat climate change by achieving and maintaining greenhouse gas emission neutrality goals by 2050. By doing so, the government aims to promote renewable energy development and thus green hydrogen production to replace fossil fuel consumption.

As a result, the promotion of renewable energies is intended to reduce the price of electricity.

Law stated - 03 November 2022

Storage

Does the regulatory framework support electricity storage including research and development of storage solutions?

The Chilean regulatory framework considers storage systems essential to the flexibility of a system with an important share of essentially variable non-conventional renewable energies. To this end, law number 20,936 was published in 2016 to define energy storage systems, establish their obligation to coordinate with the National Electric System and regulate compensations for lack of supply availability.

However, a bill currently in the legislative process will enable pure storage systems (ie, storage facilities not associated with generation plants), to participate in the short-term electricity market, in the case of both energy and power transfers.

This bill includes regulation of the following storage aspects:

- storage systems' participation in the electricity market; and
- the enabling of infrastructure connections that combine generation and consumption.

The bill has been recently approved by the Chilean Congress and is ready to be enacted by the President of the Republic.

Law stated - 03 November 2022

Government policy

**Does government policy encourage or discourage development of new nuclear power plants?
How?**

The State of Chile does not promote the use of nuclear energy because of the country's advantages in the development of zero-emission and cheaper energy generation options. In addition, since Chile is a seismic country, it has historically preferred to promote safer forms of energy generation.

The government does not currently offer any benefits for nuclear power projects aimed at producing electricity, as opposed to other forms of energy generation, such as renewable energy projects. Furthermore, the current regulations governing this type of projects require special authorisation from the Chilean Nuclear Energy Commission, which makes it simpler to develop other types of electricity generation projects that do not require said authorisation.

Law stated - 03 November 2022

REGULATION OF ELECTRICITY UTILITIES – TRANSMISSION

Authorisations to construct and operate transmission networks

What authorisations are required to construct and operate transmission networks?

In Chile, companies do not require any special licence to build and operate transmission facilities. Notwithstanding the foregoing, they must obtain specific permits set out in the electrical and sectorial regulations. The following are the most important permits and requirements:

- the operating companies or owners of the national transmission systems must be incorporated as open or closed corporations subject to the information and publicity requirements of the Law on Corporations;
- the authority must authorise any connection to the National Electric System;
- environmental permits must be obtained according to the specifics of the respective project; and
- a declaration that the project is under construction must be obtained from the National Energy Commission.

Furthermore, it should be noted that the General Electric Services Law restricts vertical integration among companies in the national transmission segment as well as generation and distribution companies.

First, it establishes that companies belonging to the national transmission segment may not engage, by themselves or

through related individuals or legal entities, in activities that in any way, include the generation or distribution of electricity.

Second, companies in the domestic transmission segment may only carry out activities that do not include electricity generation or distribution through subsidiaries or affiliated companies.

Finally, the individual share of companies operating in the distribution and generation segment, or of users not subject to price fixing in the national transmission system, may not exceed, directly or indirectly, 8 per cent of the total investment value of the national transmission system. The joint share of generation and distribution companies and users not subject to price fixing, in the national transmission system, may not exceed 40 per cent of the total investment value of the national system. These ownership limitations apply to business groups, legal entities, or individuals belonging to transmission companies or that have joint action agreements with transmission, generation and distribution companies.

Law stated - 03 November 2022

Eligibility to obtain transmission services

Who is eligible to obtain transmission services and what requirements must be met to obtain access?

The General Electric Services Law recognises that the electrical facilities of transmission systems are subject to an 'open access' system, which means that they can be used by third parties under technical and economic conditions that do not discriminate among users, through the payment of the corresponding transmission system remuneration.

Consequently, the owners, lessees, usufructuaries or whoever exploits the transmission system facilities under any title, cannot deny any interested party access to the transportation or transmission service for reasons of technical capacity. Additionally, they must provide any facilities necessary for the construction of the works required to achieve the connection. With respect to transmission facilities that do not provide public service, although the same open access system applies, the use of such facilities is subject to the availability of technical capacity.

Notwithstanding the foregoing, in order to connect to a transmission system, the third party must begin a process of interconnection of the respective project to the National Electric System under the supervision of the National Electric Coordinator. The process will depend on the type of transmission system to which it intends to connect:

- Public service transmission system: the third party must submit a request for connection approval to the National Electric Coordinator and, if declared admissible, pre-operational studies must be also submitted for review by the authority, which may approve or reject the connection based on reasonable grounds.
- Dedicated or private transmission system: In this case, the third party must submit a request for approval for the use of available technical capacity to the National Electric Coordinator. If the authority deems the request admissible, it must request information indicating whether or not there is technical capacity available in the transmission system owner's facilities and then, based on such information, it may approve or reject the use of such capacity.

In contrast to the previous case, once the applicant obtains approval from the National Electric Coordinator to use the available capacity, it must reach a technical and economic agreement with the facility owner to make use of the facility.

Law stated - 03 November 2022

Government transmission policy

Are there any government measures to encourage or otherwise require the expansion of the transmission grid?

The planning and expansion policy of the transmission system is centralised in the state, through the Ministry of Energy, which must initiate a long-term energy planning process every five years, considering energy generation and consumption expansion scenarios within a 30-year horizon. The planning must consider energy supply and demand projection scenarios, particularly for electricity, in light of impactful environmental policies, energy efficiency targets and the identification of energy generation development hubs, among others, in order to prepare possible development scenarios.

Subsequently, the National Energy Commission will be the body in charge of annually reviewing the results of the long-term energy planning and other variables related to transmission expansion in order to determine which works are necessary for the long-term supply. The respective report prepared by this authority may be reviewed at the request of interested third parties in the case of a discrepancy by the Panel of Experts. Then, it will be approved by the Ministry of Energy.

The above allows the set of transmission works required by the electric system to be determined annually, so that the National Electric Coordinator can then proceed with the respective public and international bidding processes to award the exploitation rights of such works.

Law stated - 03 November 2022

Rates and terms for transmission services

Who determines the rates and terms for the provision of transmission services and what legal standard does that entity apply?

The tariff system for different transmission systems, with the exception of the dedicated transmission system, is regulated by the General Electric Services Law, which entrusts them to the National Energy Commission, a public agency created by law. Said tariffs are set for four-year periods, after which the National Energy Commission must conduct a new tariffing process to determine the tariffs applicable for the next four-year period.

Law stated - 03 November 2022

Entities responsible for grid reliability

Which entities are responsible for the reliability of the transmission grid and what are their powers and responsibilities?

The entity responsible for the safety of the National Electric System is the National Electric Coordinator, which is an autonomous non-profit corporation under public law whose structure, functions and powers are governed by the General Electric Services Law, as well as by its own regulations. The National Electric Coordinator is a technical independent body in charge of the National Electric System operation.

The most important duties of the National Electric Coordinator are the following:

- to guarantee the coordination, safety and most economical operation of the national electric system;
- to guarantee open access to the transmission systems;

- to continuously monitor the competitive conditions of the electricity market;
- to issue any instructions necessary for the achievement of the coordinated operation targets; and
- request the submission of any information or updates thereto from the coordinators that it deems necessary for the fulfillment of its duties.

In addition, there is the Electricity and Fuel Agency, a service reporting to the Ministry of Energy that monitors and oversees compliance with legal and regulatory provisions and technical standards on electricity generation, production, storage, transportation and distribution. This includes verifying the quality of service provided to final customers and ensuring that energy resource operations and usage do not pose any danger to people or property. In order to fulfil its purpose, this body has, among others, the power to interpret the electric regulation.

Law stated - 03 November 2022

REGULATION OF ELECTRICITY UTILITIES – DISTRIBUTION

Authorisation to construct and operate distribution networks

What authorisations are required to construct and operate distribution networks?

The general rule is that a permanent or provisional public distribution service concession is required to establish, operate and exploit distribution facilities. In this segment, there is no centralised planning by the state and the distribution company decides how to plan the development and operation of its facilities to meet its customers' needs, without prejudice to the fact that the distribution systems are subject to the National Electric Coordinator's approval.

Additionally, it should be noted that electric service concession companies have the duty to report to the Electricity and Fuel Agency regarding the connection of any new facilities and/or users, as well as the performance of their facilities, including failures, their number and restoration times, among other variables. Consequently, this authority will be the body responsible for overseeing the distribution companies' operations, detecting any failure to comply with the regulations, and applying compensations and penalties when applicable.

On the other hand, it should be noted that public distribution service concessionaires must be incorporated as open or closed corporations and their business must exclusively consist of electricity distribution, subject to the information and publicity obligations referred to in the Law on Corporations.

The main purpose of the aforementioned legal obligation is to identify and limit any financial movements arising from the distribution activity, separating the accounting of companies that provide public distribution service from any other activities that they are allowed to carry out in parallel, such as, for example, the sale of energy to free customers (retail commercialisation and electricity product sales, among others). Notwithstanding the foregoing, public service concessionaires are not limited to conducting activities related to the segment. However, it should be noted that a bill on electricity portability is currently being processed, which, in general terms, expressly regulates the commercialisation segment.

Finally, it should be noted that obtaining environmental and sectoral permits will depend on the specifics of each respective project.

Law stated - 03 November 2022

Access to the distribution grid

Who is eligible to obtain access to the distribution network and what requirements must be met to obtain access?

In accordance with the provisions of the General Electric Services Law, public distribution service concessionaires must provide service to anyone who requests it, whether or not the user is located in the concession area or is connected to the company's facilities through its own lines or third-party lines, under the conditions stipulated in said law. The obligation to supply electricity implies the provision of the same voltage of the line subject to concession to which the user is connected.

The public service concessionaires may require reimbursable financial contributions from users of any kind who request service, or who expand their connected power, for the execution of the required electricity generation, transmission and distribution capacity expansions. Additionally, the company may require a sufficient guarantee from users requesting or extending their connected power by more than 10 kilowatts to ensure that the power requested will be used for an acceptable period of time.

Furthermore, in accordance with the provisions of the General Electric Services Law, the concessionaires of the public electricity distribution service must allow any means of generation whose surplus power that can be supplied to the electric system does not exceed 9,000 kilowatts to connect to their corresponding distribution facilities, as long as they comply with the safety and quality requirements of the services in force. To verify said requirements, the third party must request connection from the respective distribution company, which will determine whether said third party complies with the technical requirements to connect to the grid by means of the procedure indicated in Supreme Decree No. 88, which approves the regulations for small scale means of generation.

Law stated - 03 November 2022

Government distribution network policy

Are there any governmental measures to encourage or otherwise require the expansion of the distribution network?

There are no government incentives for the expansion or increase of distribution networks.

Law stated - 03 November 2022

Rates and terms for distribution services

Who determines the rates or terms for the provision of distribution services and what legal standard does that entity apply?

The tariffs are determined by the National Energy Commission, which is a public agency created by law.

The design of the tariffs is based on a four-year process of technical studies to determine the companies' efficient costs. Based on these costs, the authority sets a regulated rate, which is a discount rate that fluctuates between 6 and 8 per cent. This distribution tariff process is called Distribution Added Value and to determine its components, the National Energy Commission commissions a cost study through a bidding process with private parties. Said study is conducted and supervised by a committee of distribution company representatives.

The results of the study may be reviewed, corrected and adjusted by the National Energy Commission and in such case, the distribution companies may make observations that, if not addressed, may be filed as discrepancies before the Panel of Experts.

Then, the National Energy Commission will prepare the preliminary basic tariffs to determine the segment's profitability rates. The results of this process allow the National Energy Commission to set, by means of decrees, different tariff options for regulated customers and tolls for free customers within the distribution concession zone.

On the other hand, the distribution service provision conditions are determined by law and by the technical standards

established by the National Energy Commission.

Law stated - 03 November 2022

REGULATION OF ELECTRICITY UTILITIES – SALES OF POWER

Approval to sell power

What authorisations are required for the sale of power to customers and which authorities grant such approvals?

Chilean electricity regulations distinguish between two types of customers.

On the one hand, the regulated customer has connected power equal to or less than 500kilowatts (regulated customer) and, on the other hand, the free customer has connected power equal to or greater than 500kw (free customer). There is no distinction between commercial and domestic customers.

Regulated Customers are supplied by public distribution service concessionary companies whose distribution concession must be processed and granted by the Ministry of Energy to provide said service. As for free customers, they may be supplied by generation companies without the need for any special authorisation.

Law stated - 03 November 2022

Power sales tariffs

Is there any tariff or other regulation regarding power sales?

Chilean electricity regulations distinguish between two types of customers. On the one hand, regulated customers' connected power is equal to or less than 500kw (Regulated Customer) and, on the other hand, free customers' connected power is equal to or greater than 500kw (Free Customer).

Regulated customers are supplied by public distribution service concessionaires in exchange for a tariff consisting of the following components:

- cost of energy and power supply;
- costs associated with one-time charges for use of the different transmission systems;
- public service charge; and
- distribution added value: average investment, operation, maintenance and administration costs of serving customers. This indicator includes three items: (1) fixed charge; (2) energy and power loss factors applied to supply cost prices; and (3) distribution cost through which the distribution company receives its remuneration.

As for Free Customers, they may be supplied by generation companies and distribution companies through related companies by signing an energy supply agreement.

Law stated - 03 November 2022

Rates for wholesale of power

Who determines the rates for sales of wholesale power and what standard does that entity apply?

The General Electric Services Law requires public distribution service concessionaires to have a permanent energy supply that allows them to satisfy all their price-regulated customers' consumption. To comply with the

forementioned obligation, such companies must have supply agreements that are the result of public international bidding processes, whereby the distribution concessionaires award tenders to the most economical offers. These processes may not include the consumption of customers not subject to price regulation.

Law stated - 03 November 2022

Public service obligations

To what extent are electricity utilities that sell power subject to public service obligations?

The General Electric Services Law states that public distribution service concessionaires, as public utilities deemed to be natural monopolies, must comply with different requirements in order to fulfil their objectives. The main requirements are as follows:

- to supply all users who request the service without discrimination, regardless of whether they are located within the concession area or connected to the company's facilities by means of its own or third-party lines;
- to ensure the quality of supply;
- to have a permanent energy supply agreement that allows it to supply the total projected consumption of its regulated consumers for at least the next three years;
- to maintain the facilities in good condition and prevent any risk to persons or property in accordance with the law; and
- to provide transportation services so third parties may supply free customers located within the distribution concession area.

Law stated - 03 November 2022

REGULATORY AUTHORITIES

Policy setting

Which authorities determine regulatory policy with respect to the electricity sector?

The Ministry of Energy and the National Energy Commission.

Law stated - 03 November 2022

Scope of authority

What is the scope of each regulator's authority?

The Ministry of Energy is the highest collaborative body of the President of the Republic regarding energy sector governance and administration. It is in charge of the policies, plans and regulations for the development of the electricity sector.

The National Energy Commission is a technical decentralised body that is primarily responsible for planning transportation systems and analysing prices, tariffs and technical standards to which energy production, generation, transmission and distribution companies must adhere in order to provide adequate, safe quality service that is compatible with the most economical operation.

Law stated - 03 November 2022

Establishment of regulators

How is each regulator established and to what extent is it considered to be independent of the regulated business and of governmental officials?

The Ministry of Energy is a public state department created by Law No. 20,402 of 2009 that operates in accordance with the policies and instructions issued by the President of the Republic. It is completely independent from the regulated business.

The National Energy Commission is a public regulatory department created in 1978 by Law Decree No. 2,224 that reports directly to the Ministry of Energy. Notwithstanding the foregoing, like the Ministry of Energy, it is completely independent from the regulated business.

Law stated - 03 November 2022

Challenge and appeal of decisions

To what extent can decisions of the regulator be challenged or appealed, and to whom? What are the grounds and procedures for appeal?

The decisions of the regulatory bodies may be challenged in different administrative and judicial proceedings. Notwithstanding the foregoing, once a claim has been filed by an interested party with the administration, said claimant may not file the same claim before the Courts of Justice until the original claim has been resolved or the term for said claim to be considered dismissed has elapsed.

Administratively, decisions may be challenged by interested third parties before the same authorities by means of an appeal for reconsideration, or, alternatively, an appeal to a higher authority. Lastly, acts that are contrary to the law may be invalidated by an ex-officio administrative authority or at the request of a party within two years from the notification or publication of the act.

The following are considered interested parties in the administrative procedure:

- anyone who promotes the procedure as holders of individual or collective rights or interests;
- anyone who, without having initiated the procedure, has rights that may be affected by the decision made therein; and
- anyone whose individual or collective interests may be affected by the decision and who appears in the proceeding until a final decision has been handed down.

Subsequently, it should be noted that, when stipulated by law, the legality of acts by administrative authorities will be reviewed by the Office of the Comptroller General of the Republic.

In addition, the decisions of the regulatory bodies may be reviewed by the Ordinary Courts of Justice upon the filing of an illegality claim by the interested parties before the respective Court of Appeals, whose decision may then be reviewed by the Supreme Court upon the filing of an appeal.

Furthermore, anyone who suffers deprivation, disturbance or threat in the legitimate exercise of their constitutional rights and guarantees due to an illegal or arbitrary act or omission may file an action for protection before the respective Court of Appeals, which will immediately take any steps it deems necessary to restore the rule of law and ensure the due protection of the affected party.

Finally, in the cases covered by the General Electric Services Law, the interested parties may bring a discrepancy before

the Panel of Experts, an autonomous collegiate body whose main duty is to resolve any discrepancies or conflicts that may arise among stakeholders in the national electricity market arising from the application of the General Electric Services Law and the Gas Services Law.

Law stated - 03 November 2022

ACQUISITION AND MERGER CONTROL – COMPETITION

Responsible bodies

Which bodies have the authority to approve or block mergers or other changes in control over businesses in the sector or acquisition of utility assets?

The general rule states that the authorities authorised to approve or block mergers or other modifications in the market shall be the National Economic Prosecutor's Office and the Court for the Defense of Free Competition.

Notwithstanding the foregoing, according to articles 7 and subsequent articles of the General Law of Electric Services, there are rules that limit vertical integration among companies of the electric sector, and according to article 9 of the General Law of Electric Services, the Electricity and Fuel Agency shall be the body in charge of overseeing compliance with said law.

Law stated - 03 November 2022

Review of transfers of control

What criteria and procedures apply with respect to the review of mergers, acquisitions and other transfers of control? How long does it typically take to obtain a decision approving or blocking the transaction?

Pursuant to Law Decree No. 211 on free competition, the procedures aimed at analysing and controlling concentration operations may be administrative when they are conducted before the National Economic Prosecutor's Office or jurisdictional when the case is heard by the Court for the Defense of Free Competition at the request of an individual or the National Economic Prosecutor's Office.

Second, it should be noted that the criterion used to determine whether an economic concentration operation infringes on free competition is the assessment of the competition levels by modelling the market with and without the merger taking place. Then, based on said modelling, it is determined whether said transaction grants, reinforces, increases, or may grant, reinforce, or increase the merged entity's capacity, individually or jointly with others, to exercise market power, or when it tends or may tend to do so.

Furthermore, it should be noted that, the General Electric Services Law contains rules limiting the vertical integration of companies in the transmission segment with companies in the distribution and generation segments. Therefore, to conduct a merger or acquisition of electric companies, an analysis must be performed to determine whether these special rules have been contravened.

Finally, the administrative procedure before the National Economic Prosecutor's Office has a maximum duration of 60 days. Regarding the procedure before the Court for the Defense of Free Competition, there is no data showing a clear trend in procedure time so the duration will depend on the complexity of the case and the Court's workload at the time the procedure is processed.

Law stated - 03 November 2022

Prevention and prosecution of anticompetitive practices

Which authorities have the power to prevent or prosecute anticompetitive or manipulative practices in the electricity sector?

The authorities that have such powers are:

- The National Electric Coordinator: an independent technical body in charge of coordinating the operation of the jointly interconnected facilities in the National Electric System that operate in an interconnected manner. Among other duties, said body is responsible for the ongoing monitoring of the competitive conditions in the electricity market in order to guarantee the electric system's coordination principles.
- The Electricity and Fuel Agency is a functionally decentralised service whose purpose is to supervise and oversee compliance with legal and regulatory provisions and technical standards for the generation, production, storage, transportation and distribution of liquid fuels, gas and electricity. It verifies whether the quality of the services provided complies with current regulations and does not pose any danger to persons or property. In order to comply with the aforementioned objectives, it has, among others, the power to interpret electrical regulations.

In accordance with article 7 and following the General Electric Services Law, there are rules that limit vertical integration between companies in the electricity sector, and in accordance with article 9 of said law, the Electricity and Fuel Agency is the body in charge of ensuring compliance. Therefore, said agency can only inspect free competition in this specific case.

Law stated - 03 November 2022

Determination of anticompetitive conduct

What substantive standards are applied to determine whether conduct is anticompetitive or manipulative?

Law Decree No. 211 on unfair competition states that any person who executes or signs a deed, act or agreement, individually or collectively that prevents, restricts or hinders free competition will be punished by law.

According to Law Decree No. 211, the main facts, acts or agreements that prevent, restrict or hinder free competition or tend to produce such effects include the following:

- agreements or concerted practices among competitors that consist of fixing sales or purchase prices, limiting production, allocating market zones or quotas, or affecting the outcome of bidding processes, as well as agreements or concerted practices that, conferring market power to competitors, consist of determining marketing conditions or excluding current or potential competitors;
- the abusive exploitation of a dominant market position by an individual economic agent or a group thereof by fixing purchase or sale prices, imposing the sale of another product, allocating market zones or quotas, or imposing similar abuse on others; and
- predatory or unfair competition practices, aimed at achieving, maintaining or increasing a dominant position.

Furthermore, the General Electric Services Law has a series of special rules on the prohibition of vertical integration that apply to companies in the generation, transmission and distribution segments, which consist of the following:

- The operating companies or owners of the national transmission systems must be incorporated as open or closed corporations subject to the information and publicity requirements referred to in Law No. 18,046 on corporations.

The operating companies or owners of the national transmission systems may not engage, either by themselves or through related individuals or legal entities, in activities that include any form of generation or distribution of electricity. However, if they intend to engage in other business that does not include the aforementioned activities, they may only carry them out through subsidiaries or affiliated companies.

- The individual share of companies operating in any segment of the electric power system other than the national transmission system, or of users not subject to price fixing in the national transmission system may not directly or indirectly exceed eight percent of the total investment value of the national transmission system. The joint share of generation and distribution companies and of groups of users not subject to price fixing in the national transmission system may not exceed 40 per cent of the total investment value of the national system. These ownership limitations extend to business groups, legal entities or individuals that belong to transmission companies or that have joint action agreements with transmission, generation and distribution companies.

Law stated - 03 November 2022

Preclusion and remedy of anticompetitive practices

What authority does the regulator (or regulators) have to preclude or remedy anticompetitive or manipulative practices?

The electricity market regulators do not currently have the authority to preclude or remedy anticompetitive practices, since this power is legally vested in other government agencies, such as the National Economic Prosecutor's Office and the Court for the Defense of Free Competition, among others.

Law stated - 03 November 2022

INTERNATIONAL

Acquisitions by foreign companies

Are there any special requirements or limitations on acquisitions of interests in the electricity sector by foreign companies?

There are no special requirements or limitations on foreign companies acquiring an interest in the electricity sector. Notwithstanding the foregoing, acquisition transactions that are considered concentration transactions must be authorised by the National Economic Prosecutor's Office in accordance with the rules set forth in Law Decree No. 211 on free competition.

Finally, the acquisition transaction must comply with the rules set forth in Law No. 18,045 on the securities market.

Law stated - 03 November 2022

Authorisation to construct and operate interconnectors

What authorisations are required to construct and operate interconnectors?

The authorisations required to build and operate power lines are the same as those required to operate national

transmission facilities. The authorisations are as follows:

- the operating companies or owners of the national transmission systems must be incorporated as open or closed corporations subject to the information and publicity requirements set forth in the law on corporations;
- the authority must grant authorisation for the interconnection to the national electric system
- environmental permits must be obtained in accordance with the specifics of the respective project;
- a declaration that the project is under construction must be obtained from the national energy commission; and
- finally, it should be noted that companies do not require any special licence for the construction and operation of transmission facilities.

Additionally, it is important to point out that the General Electric Services Law restricts vertical integration among companies in the national transmission segment as well as generation and distribution companies. First, it establishes that companies belonging to the national transmission segment may not engage, either on their own or through related individuals or legal entities, in activities that include the generation or distribution of electricity in any form.

Finally, companies in the domestic transmission segment may only conduct activities that do not include electricity generation or distribution through subsidiaries or affiliated companies.

Law stated - 03 November 2022

Interconnector access and cross-border electricity supply

What rules apply to access to interconnectors and to cross-border electricity supply, especially interconnection issues?

The policies and legal norms that regulate the connection are mainly set out in the following electrical norms:

- Chapter II Bis and III of the General Electric Services Law;
- transmission systems and transmission planning regulations; and
- Regulations for the National Electric System coordination and operation.

Then, the rules applicable to the International Interconnection Systems (IIS) include the following:

- article 78 of the General Electric Services Law, which defines the concept of IIS;
- article 82 of the General Electric Services Law, which sets forth the requirements to carry out the international exchange of electric services; and
- The Transmission Systems and Transmission Planning Regulations in Supreme Decree No. 37 issued by the Ministry of Energy and published on 25 May 2021.

Law stated - 03 November 2022

TRANSACTIONS BETWEEN AFFILIATES

Restrictions

What restrictions exist on transactions between electricity utilities and their affiliates?

The General Electric Services Law restricts vertical integration among companies in the national transmission segment

as well as generation and distribution companies. These limitations on ownership extend to business groups, legal entities and individuals that belong to transmission companies or that have joint action agreements with transmission, generation and distribution companies.

The limitations are as follows:

- First, regarding public distribution service concessionaires, the individual share of companies operating in the distribution and generation segment or of users not subject to price fixing in the national transmission system may not directly or indirectly exceed eight percent of the total investment value of the national transmission system.
- In addition, the law states that the joint share of generation and distribution companies and groups of users that are not subject to price fixing in the national transmission system may not exceed 40 per cent of the total investment value of the national system. These ownership limitations extend to business groups, legal entities and individuals that belong to transmission companies or have joint action agreements with transmission, generation and distribution companies.
- Finally, transactions among related companies must comply with the rules established in Law No. 18,045 on the securities market.

Law stated - 03 November 2022

Enforcement and sanctions

Who enforces the restrictions on utilities dealing with affiliates and what are the sanctions for non-compliance?

The Electricity and Fuel Agency is the inspection authority in the case of any violation of the General Electric Services Law in this regard.

The penalties set forth in the General Law of Electric Services for this case are as follows:

- written warning;
- fine of approximately US\$50 to US\$7,500,000;
- revocation of authorisation or licence;
- confiscation;
- temporary or definitive closure; and
- forfeiture of the provisional concession.

Notwithstanding the foregoing, offenders may also be sanctioned by special laws or sued in the ordinary courts for any damage caused by their action or omission.

Law stated - 03 November 2022

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics in electricity regulation in your jurisdiction?

- Rationing decree: Chile is currently experiencing a severe and extensive drought that has resulted in low water

availability in the reservoirs that supply the hydroelectric power plants that supply energy to the National Electric System, which could lead to a possible electricity generation deficit. Therefore, approximately 10 months ago, the Ministry of Energy issued a rationing decree containing measures to reduce the impact of the deficit on users, to encourage and promote generation capacity increase, to encourage voluntary energy savings and to reduce the economic costs that such deficit may cause in the country.

- Storage: a storage bill was recently passed in Congress to (1) increase the proportion of renewable energies in the electricity grid by promoting storage technologies and (2) facilitate the efficient connection of net billing systems.
- Energy efficiency: Energy Efficiency Regulations were passed this year to establish the procedure for energy consumption reporting, completed and planned energy efficiency actions, mechanisms and requirements for energy management system implementation, energy management system inspection procedures, the approval procedure for inspection companies, the verification procedure regarding the validity and application of Chilean standards or their international equivalents, and the requirements for reports issued by the Ministry of Energy on energy consumption and efficiency progress and projections, among others.

A bill to update the share of renewable energy: A bill is currently being processed to update energy commercialisation percentages from these plants to 25 per cent non-conventional renewable generation by 2025 and 40 per cent by 2030. Another target specifies that at least 30 per cent of the energy sold by generating companies must be renewable in each of the different hourly blocks of the system to avoid situations in which renewable energy is used predominantly during the day.

Law stated - 03 November 2022

Jurisdictions

 Australia	King & Wood Mallesons
 Belgium	Linklaters LLP
 Bulgaria	Kinkin & Partners
 Chile	Pruzzo Ruscica Brotfeld
 Ghana	Kimathi & Partners Corporate Attorneys
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