Third party access & market development

Law No. 11,909 sets stronger rules for third party access to gas pipelines previously addressed by Law No. 9,478. Third party access is an important instrument for developing a competitive natural gas market by allowing product transport on a competitive basis.

Transpoters must offer the following modalities of service:

- Firm Transport Service
- Interruptible Transport Service
- Extraordinary Transport Service

All capacity for Firm Transport Service must be allocated by means of open season procedures promoted by ANP. The Agency will set maximum service rates during the open season process, conducted in a non-discriminatory and transparent manner. Transparency, publicity and warranty of access to all interested in the contraction of transport services are assured. ANP has duty to publicize available movement capacities and the modalities on which those can be contracted.

Evolution of the natural gas sector regulatory regime in Brazil

- 1995: Constitutional Amendment No. 5 – Establishes the end of Petrobras monopoly
- 1995: Constitutional Amendment No. 9 – Introduces concession of local distribution services
- 1996: Petroleum Law (Law No. 9,478) – Creates ANP and the National Energy Policy Council (CNPE)
- 1997: ANP is established
- 1997: ANP Directive 164 – implements third party access
- 1997: ANP Directive 118 – regulates Liquefied Natural Gas (LNG) distribution
- 1999: Oil and Gas Prices Liberalization
- 2003: ANP Directive 32 – Establishes the retail rules for CNG for automotive use
- 2003: ANP Directive 256 – implements dispute resolution procedures
- 2003: ANP Directive 01 – on information disclosure procedures for natural gas trading and transport
- 2004: Law No. 10,847 – Energetic Research Company is created
- 2004: ANP Directive 27 – establishes new open season procedures
- 2005: Gas Law proposal
- 2009: Gas Law (Act 11,909)
What has changed with the Gas Law

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1 MME - Ministry of Mines and Energy

ANP and the natural gas sector

Since 1998, when it was created, the National Agency of Petroleum, National Gas and Biofuels (ANP) has been fulfilling its role of implementing the national oil and gas policy with emphasis on consumers interests and on the supply security of these resources in Brazil.

In over a decade, ANP has authorized the construction and operation of many pipelines and other activities, including the recent operation of regasification terminals.

These initiatives have enabled many advances in the natural gas sector, including the 359% transportation network expansion, totaling 6,840 km in 2008. In the Upstream, ANP has promoted bidding rounds for blocks whose operation by concessionaires led to a 60% increase in confirmed gas reserves in Brazil, from 228 bcm in 1998 to 365 bcm in 2008. All these initiatives have enabled the growth of natural participation in the Brazilian total primary energy supply from 3% to around 10% (1999-2008).

Natural gas legislation

The natural gas industry had been regulated since 1997 by Law 9,478, also known as the Petroleum Law, which covers the industry of oil and natural gas. This legal framework prescribed general rules for natural gas and oil industries.

Since the promulgation of the Petroleum Law, market agents called for a more specific law to address specific issues of the natural gas industry. These efforts resulted in the establishment of a new institutional framework with the promulgation of the Law 11,909/2009 — the Gas Law — which regulates transportation, treatment, processing, storage, liquefying, regasification and trading of natural gas in Brazil.

ANP & the Gas Act

The Gas Law gave ANP additional responsibilities such as:

- Approving standard transport contracts to be signed between concessionaries or authorized transporter and carriers.
- Establishing criteria for calculating the capacity of natural gas pipelines.
- Authorizing trading within federal jurisdictional responsibility.
- Regulating natural gas storage, including third party access.
- Overseeing of natural gas transmission over transport network, assuming its coordination in case of shortage.
- Promoting auctions for construction and operation of transport pipelines.
- Elaborating auctions pre-notice and drafts of concession contracts for natural gas transport.
- Setting (for concessions) or approving (for authorizations) transport tariffs.