

## I. Order

1. The Energy Services Regulatory Entity (ERSE) submitted to the National Data Protection Commission (hereinafter CNPD), for an opinion, within the scope of public consultation 94, the proposal to reformulate the Quality of Service Regulation - RQS (Regulation n. 629/2017 of December 20) as well as the Service Quality Procedures Manual - MPQS, applicable to the National Electric System and the National Gas System.

2. The CNPD issues an opinion within the scope of its attributions and competences as an independent administrative authority with powers of authority to control the processing of personal data, conferred by subparagraph c) of paragraph 1 of article 57, in conjunction with subparagraph b) of paragraph 3 of article 58, and with paragraph 4 of article 36, all of Regulation (EU) 2016/679, of 27 April 2016 - General Regulation on Data Protection (hereinafter GDPR), in conjunction with the provisions of article 3, paragraph 2 of article 4, and paragraph a) of paragraph 1 of article 6, all of Law n° 58 /2019, of 8 August, which enforces the GDPR (hereinafter LE) in the domestic legal order.

## II. Analysis

3. The proposal to reformulate the Quality of Service Regulation, in the electricity sector, revises the definition of quality of service areas for consumers, extending its application to the Autonomous Region of Madeira. With regard to service continuity, the requirement imposed on network operators is amended by changing the standards for general and individual service continuity indicators. With regard to the quality of the commercial service, it is proposed that the evaluation of the performance in the frequency of reading only focus on local readings, carried out by the network operator or communicated by the customer. With regard to priority customers, the wording of article no. 103 is amended in order to clarify its wording and a new number is added to article no. 104, which explains the prohibition applicable to suppliers and network operators from registering Priority will be given to customers who do not fit into the categories of article 103. The reformulation proposal

extends the scope of application of improvement plans to be presented by network operators that detect difficulties in complying with general and individual standards of quality of service as well as the quality of electrical energy, now also being applied to the gas sector. Changes to the articles of chapters VII to X are also indicated, with a view to clarifying the wording. It is established the duty to send ERSE the plans for monitoring the quality of electricity and to be published in the

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Internet. Changes were also introduced regarding the classification as an exceptional event and the autonomous storage of energy.

4. In the gas sector, the necessary changes are made resulting from the publication of Decree-Law no. /692), highlighting the possibility of injecting renewable and low-carbon gases. The terminology itself was changed, leaving the gas to be "natural gas1", since it will be a mixture of several gases. In this way, the pleading was updated to the new terminology. Regarding the characteristics of the gas to be supplied to consumers, it is proposed that ERSE starts to establish the characteristics of the gas delivered to customers and, until their publication, the current ones remain in force. With regard to the monitoring of the characteristics of the gas, the need to disclose the results obtained was reinforced, through publication on the internet A misalignment of deadlines that occurred between the RQS and the MPQS was also corrected. Finally, regarding the interruption of gas producers, measures are set to be adopted by network operators in the event of non-compliance with the established rules regarding gas injection by producers of renewable or low-carbon gases, provided that in situations where there is no agreement between the parties, the decision rests with ERSE.

5. From the analysis of the proposal to reformulate the RQS, it appears that it does not raise new questions from the point of view of personal data protection.

6. However, paragraph 2 of the new article 108 provides that network operators, infrastructure operators and suppliers must keep accessible, for a minimum period of five years, information on quality of service, including full recordings of all calls,

necessary to verify compliance with the regulation.

7. Therefore, taking into account that the purpose of keeping the recordings of telephone calls is to ensure that ERSE is inspecting compliance with this Regulation, the CNPD considers it essential to introduce a clause expressly stating that they are only accessible by ERSE, and not by the controller. Only in this way can this processing of personal data be considered legitimate, adequate, necessary and not excessive - which translates into the conservation of the recordings of the calls for the period of time indicated above in compliance with the provisions of subparagraphs a) to c) of paragraph 1. of article 5 of the GDPR.

8. With regard to the proposed amendment to the Quality of Service Procedures Manual, only three aspects are highlighted: in addition to the repeal of procedure no. 1, it introduces the definition of a combined availability rate and proposes changes in ERSE's decision-making process about event classification

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exceptions in procedure no. 5. Such amendments do not introduce new features from the point of view of protection of personal data, so the CNPD has nothing to report.

No. Conclusion

9. On the grounds set out above, the CNPD recommends the reformulation of article 108 of the RQS, in order to establish that access to recordings of telephone calls can only be made by ERSE, in order to verify compliance with the regulation in analysis.

Approved at the session of January 19, 2021

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