

## **D. Risk Factors**

### **Risks Relating to our Company**

***The renewal of our concessions, which were due to expire between 2015 and 2017, pursuant to Law No. 12,783, may adversely affect our financial condition and results of operations.***

On September 11, 2012, the Brazilian Government enacted Provisional Measure No. 579/2012, later converted into Law No. 12,783 ("Law No. 12,783"), in order to regulate the terms and conditions for the renewal of concessions for the generation, distribution and transmission of electricity which were due to expire between 2015 and 2017. The terms of the law provide that companies may, only once, renew their generation and transmission concessions for a further thirty year term, provided they accept certain conditions established by ANEEL, such as accepting the revised tariffs to be calculated by ANEEL, and submitting to the agency's quality standards.

On December 4, 2012, we renewed the generation and transmission concessions which were due to expire between 2015 and 2017 of Eletrobras Chesf, Eletrobras Eletronorte, Eletrobras Eletrosul and Eletrobras Furnas for further 30 year terms pursuant to Law No. 12,783. By doing so, we accepted the application of the significantly reduced revised tariffs and annual permitted revenues (*Receita Anual Permitida*) as remuneration for our generation and transmission activities in accordance with the Ministry for Mining and Energy's ordinance Nos. 578 and 579. While renewing our generation and transmission concessions for an additional 30 years assures us of long-term revenue generating assets, for the year ended December 31, 2012 the effects of Law 12,783, and specifically the significantly reduced tariffs effective January 1, 2013 with respect to those assets with concessions expiring in the years 2015 through 2017, resulted in a non-recurring charge of R\$10.1 billion. Furthermore, we expect that in the future our revenues from concessions that have been renewed pursuant to Law 12,783 will be significantly lower, and may result in us incurring losses in 2013 and in subsequent periods. For more information regarding the effects of Law No. 12,783 on our income, please see "Item 5, Operating and Financial Review and Prospects – Overview – The Effects of Law No. 12,783" below. For further information about which of our concessions were renewed pursuant to Law No. 12,783, please see "Item 4, Information on the Company – Business Overview – Generation – Concessions."

***The amount of any indemnification payments to be received following renewal of our concessions, which were due to expire between 2015 and 2017, may not be sufficient to cover our investments in these concessions.***

By agreeing to renew the concessions, which were due to expire between 2015 and 2017, we accepted indemnification for the unamortized portion of our assets relating to those concessions. However, until December 31, 2013 we have the right to claim indemnification from ANEEL (i) in relation to any transmission assets, which became operational prior to 2000 and (ii) for the modernization of any generation assets in accordance with Law No. 12,783. The value of any indemnification payments received by us might be less than the amounts we accounted for and invested in those transmission and generation assets, which could materially adversely affect our financial condition and results of operations.

***The value of the revised tariffs we calculated based on our expected expenses, costs and revenues may be higher than the tariffs we will eventually receive.***

Law No. 12,783 determines, among other things, the tariffs to be charged by concessionaires based on costs of operation and maintenance, charges, taxes and payments for the use of the transmission and distribution systems. By agreeing to renew our concessions early, we made certain assumptions about the assets of Eletrobras Furnas, Eletrobras Chesf and Eletrobras Eletrosul that may not materialize over time, particularly in relation to planned cost reductions. As a result, the tariffs we will receive in time may be lower than predicted, which could materially adversely affect our financial condition and results of operations.

***There are no guarantees that our existing concession contracts will be renewed and, if so, at what terms.***

We carry out our generation, transmission and distribution activities pursuant to concession agreements entered into with the Brazilian Government through ANEEL.

The Brazilian Government may renew any existing concessions that were not renewed pursuant to Law No. 12,783 for an additional period of 30 years without the need to carry out a new bidding process. In case we request such a renewal, the Brazilian Government may grant their approval on less favorable terms. This applies to approximately 37.5% of our generation assets, all of our distribution assets and 5.8% of our transmission assets, other than Itaipu and our nuclear power plants, Angra I and Angra II.

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Given the Brazilian Government's discretion in relation to the renewal of concessions, we may face considerable competition from our competitors during the renewal process. Consequently, we cannot give you any assurances that our concessions will be renewed or renewed under similar conditions. Further, our shareholders may choose not to renew any expiring concessions if the terms of the renewal are not favorable, which would adversely affect our financial condition and results of operations.

***The value of any government bonds received by us in exchange for our credits in Itaipu might be less than the value of our credits.***

Law No. 12,783 authorized the Brazilian Government to acquire any of the credits we hold against Itaipu as a result of our financing of the construction of the Itaipu hydroelectric power plant in exchange for Brazilian Government bonds (*títulos da dívida pública mobiliária*) of an equivalent value. Should the Brazilian Government acquire these credits, the value of any government bonds transferred to us may be less than the value of our credits in Itaipu and could materially adversely affect our financial condition and results of operations.

***Any hydroelectric generation concessions renewed pursuant to Law No. 12,783 are subject to a quota allocation regime.***

As a result of the renewal of our hydroelectric generation concessions, our generation companies must comply with a quota allocation regime under which those companies are required to provide power to distribution companies which also renewed their concessions pursuant to Law No. 12,783. Accordingly, we cannot access the free market, which generally attracts higher returns, to sell any electricity generated by such companies, and our financial condition and results of operations could be materially and adversely affected.

***We are controlled by the Brazilian Government, the current policies and priorities of which directly affect our operations and may conflict with interests of our investors.***

The Brazilian Government, as our controlling shareholder, has pursued (and may continue to pursue) some of its macroeconomic and social objectives through us using principally Brazilian Government funds, which we administer. These funds are the RGR Fund, the CCC Account and the CDE Account.

The Brazilian Government also has the power to appoint eight out of the 10 members of our Conselho de Administração (or Board of Directors) and, through them, a majority of the executive officers responsible for our day-to-day management. Additionally, the Brazilian Government currently holds the majority of our voting shares. Consequently, the Brazilian Government has the majority of votes at our shareholders' meetings, which empowers it to approve most matters prescribed by law, including the following: (i) the partial or total sale of the shares of our subsidiaries; (ii) increase of our capital stock through a subscription of new shares; (iii) our dividend distribution policy, as long as it complies with the minimum dividend distribution regulated by law; (iv) issuances of securities in the domestic market and internationally; (v) corporate spin-offs and mergers; (vi) swaps of our shares or other securities; and (vii) the redemption of different classes of our shares, independent from approval by holders of the shares and classes that are subject to redemption.

Our operations impact the commercial, industrial and social development promoted by the Brazilian Government. The Brazilian Government has in the past and may in the future require us to make investments, incur costs or engage in transactions (which may include, for example, requiring us to make acquisitions) that may not be consistent with our objective of maximizing our profits.

***We are subject to rules limiting borrowing by public sector companies and may not be able to obtain sufficient funds to complete our proposed capital expenditure programs.***

Our current budget anticipates capital expenditures of approximately R\$10.2 billion in 2013. We cannot assure you that we will be able to finance our proposed capital expenditure programs from either our cash flow or external resources. Moreover, as a state controlled company, we are subject to certain rules limiting our indebtedness and investments and must submit our proposed annual budgets, including estimates of the amounts of our financing requirements and sources of our financing, to the Ministry of Planning, Budget and Management and the Brazilian Congress for approval. Thus, if our operations do not fall within the parameters and conditions established by such rules and the Brazilian Government, we may have difficulty in obtaining the necessary financing

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authorizations, which could create difficulties in raising funds. If we are unable to obtain such funds, our ability to invest in capital expenditures for expansion and maintenance may be adversely impacted, which would materially adversely affect the execution of our growth strategy, particularly our investment in large scale projects, which could materially adversely affect our financial condition and results of operations.

### ***We own a number of subsidiaries whose performance significantly influences our results.***

We conduct our business mainly through our operating subsidiaries, including Eletrobras Eletronorte, Eletrobras CGTEE, Eletrobras Eletronuclear, Eletrobras Chesf, Eletrobras Furnas and Eletrobras Eletrosul and through Itaipu. Our ability to meet our financial obligations is therefore related in part to the cash flow and earnings of those subsidiaries and the distribution or other transfer of those earnings to us in the form of dividends, loans or other advances and payment. Some of our subsidiaries are, or may in the future be, subject to loan agreements that require that any indebtedness of these subsidiaries to us be subordinate to the indebtedness under those loan agreements. Our subsidiaries are separate legal entities. Any right we may have to receive assets of any subsidiary or other payments upon its liquidation or reorganization will be effectively subordinated to the claims of that subsidiary's creditors (including tax authorities, trade creditors and lenders to such subsidiaries), except to the extent that we are a creditor of that subsidiary, in which case our claims would still be subordinated to any security interest in the assets of that subsidiary and indebtedness of that subsidiary senior to that held by us.

### ***The amounts we receive from the Fuel Consumption Account may decrease.***

The Brazilian Government introduced the Fuel Consumption Account, or CCC Account, in 1973. The purpose of the CCC Account is to generate financial reserves payable to distribution companies and some generation companies (all of which must make annual contributions to the CCC Account) to cover some of the costs of the operation of thermoelectric plants in the event of adverse hydrological conditions. In recent periods, the amounts we (and other companies in our industry) have received as reimbursements from the CCC Account have exceeded our contributions to that account.

Following the enactment of Law No. 12,783, we are no longer required to make payments to the CCC Account. Nevertheless, the CCC Account has not been abolished. The assets which remain will still be distributed to generation and distribution companies which may incur additional expenses due to the use of thermoelectric plants should hydrological conditions be unfavorable. To ensure its continuing viability, Law No. 12,783 allows for transfers between the *Conta de Desenvolvimento Energético* (Energy Development Account or CDE Account) and the CCC Account.

However, we cannot assure you that we will continue to receive reimbursements from the CCC Account and any decrease in the amounts we receive may materially adversely affect our financial condition and results of operations.

### ***We may be unable to fully implement our strategy.***

Our ability to implement the principal components of our strategy depends on a series of factors, among them, our ability to:

- Implement an operational efficiency plan aimed at reducing costs, increasing revenues and improving the quality and reliability of our services;
- Expand our business in a sustainable and profitable manner; and
- Improve our business model, corporate governance and management.

We cannot guarantee that we will be to accomplish these objectives in their entirety or successfully. Any impact on the main elements of our strategy may adversely affect our financial condition and results of operations.

### ***If any of our assets were deemed assets dedicated to providing an essential public service, they would not be available for liquidation in the event of our bankruptcy and could not be subject to attachment to secure a judgment.***

On February 9, 2005, the Brazilian Government enacted Law No. 11,101, or the New Bankruptcy Law. The New Bankruptcy Law, which came into effect on June 9, 2005, governs judicial recovery, extrajudicial recovery and liquidation proceedings and replaces the

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debt reorganization judicial proceeding known as *concordata* (reorganization) for judicial and extrajudicial recovery. The New Bankruptcy Law provides that its provisions do not apply to government owned and mixed capital companies (such as Eletrobras). However, the Brazilian Federal Constitution establishes that mixed capital companies, such as Eletrobras, which operate a commercial business, will be subject to the legal regime applicable to private corporations in respect of civil, commercial, labor and tax matters. Furthermore, Law No. 12,767/2012 provides that judicial and extrajudicial recovery do not apply to public entity concessionaires until the termination of those concessions. Accordingly, it is unclear whether or not the provisions relating to judicial and extrajudicial recovery and liquidation proceedings of the New Bankruptcy Law would apply to us.

We believe that a substantial portion of our assets, including our generation assets, our transmission network and our limited distribution network, would be deemed by Brazilian courts to be related to providing an essential public service. Accordingly, these assets would not be available for liquidation in the event of our bankruptcy or available for attachment to secure a judgment. In either case, these assets would revert to the Brazilian Government pursuant to Brazilian law and the terms of our concession agreements. Although the Brazilian Government would in such circumstances be under an obligation to compensate us in respect of the reversion of these assets, we cannot assure you that the level of compensation received would be equal to the market value of the assets and, accordingly, our financial condition and results of operations may be affected.

***We may be liable for damages, subject to further regulation and have difficulty obtaining financing if there is a nuclear accident involving our subsidiary Eletrobras Eletronuclear.***

Our subsidiary Eletrobras Eletronuclear, as an operator of two nuclear power plants, is subject to strict liability under Brazilian law for damages in the event of a nuclear accident. The Vienna Convention on Civil Liability for Nuclear Accidents (or the Vienna Convention) became binding in Brazil in 1993. The Vienna Convention provides that an operator of a nuclear installation, such as Eletrobras Eletronuclear, in a jurisdiction which has adopted legislation implementing the Vienna Convention, will be strictly liable for damages in the event of a nuclear accident (except as covered by insurance). Eletrobras Eletronuclear is regulated by several federal and state agencies. As of December 31, 2012, Eletrobras Eletronuclear's Angra I and Angra II plants were insured for an aggregate amount of U.S.\$1,000 million in the event of a nuclear accident (see "Item 4.B, Business Overview - Generation - Nuclear Plants"). In addition to the liability for damages in the event of a nuclear accident, Eletrobras Eletronuclear has acquired insurance to cover operational risks due to potential equipment failure, in the amount of U.S.\$390,4 million for each unit. We cannot assure that this coverage will be sufficient in the event of a nuclear accident. Accordingly, any nuclear accident may have a material adverse effect on our financial condition and results of operations.

The Brazilian nuclear regulatory authority CNEN has not established any additional safety requirement existing or planned for the nuclear power plants as a result of the Fukushima accident in Japan. Eletrobras Eletronuclear complied with all the requests of CNEN regarding the lessons learned from the Fukushima accident, including the performance of "stress tests" developed for European reactors in accordance with the technical guidelines set forth by the European Commission. The Brazilian site conditions for the existing plants were subject before the Fukushima accident to an extensive reevaluation for licensing the construction of the third unit (Angra III) at the same site. The results of the reevaluation confirmed the adequacy of the safety design criteria.

The technology applied in the Brazilian nuclear power plants and the design, incorporating additional safety features such as double emergency supply systems and alternatives for passive reactor cooling, should withstand accidents beyond the design basis. Nonetheless, Eletrobras Eletronuclear established a comprehensive program to evaluate and enlarge its existing safety margins and allocated approximately US\$150 million to be applied towards this effect through 2016. Therefore, the Fukushima accident did not affect nuclear power generation in Brazil; our current plants remain operational and our projects are still on schedule.

***We do not have alternative supply sources for the key raw materials that our thermal and nuclear plants use.***

Our thermal plants operate on coal and/or oil and our nuclear plants operate on processed uranium. In each case, we are entirely dependent on third parties for the provision of these raw materials. In the event that supplies of these raw materials become unavailable for any reason, we do not have alternative supply sources and, therefore, the ability of our thermal and/or nuclear plants, as applicable, to generate electricity would be materially adversely affected, which may materially adversely affect our financial condition and results of operations.

***Our distribution companies operate under challenging market conditions and historically, in the aggregate, have incurred losses.***

Our distribution activities are carried out in the northern and northeastern regions of Brazil, representing 12.1% of our consolidated net revenue as of December 31, 2012. The northern and northeastern regions of Brazil are the poorest regions in the country, and our distribution subsidiaries incur significant commercial losses due to illegal connections, as well as relatively high levels of default by consumers in those regions. Historically, in the aggregate, our distribution subsidiaries have incurred losses which have adversely affected our consolidated results of operations. In May 2008, we implemented a new management structure for our distribution activities. As a result, several measures have been taken in order to reduce commercial losses and to renegotiate debts due by consumers in default with our distribution subsidiaries. However, we cannot be certain that such measures will succeed, and that the losses suffered by our distribution subsidiaries will be substantially reduced. We also cannot be certain that the conditions in the market where these subsidiaries operate will not deteriorate.

In addition, the tariffs we charge for sales of electricity to customers are determined by ANEEL pursuant to concession agreements and Brazilian law, which establish mechanisms that permit adjustment periodically. ANEEL determines the level of any adjustment by analyzing the costs of each distribution company and their weighted average cost of capital, or WACC. The third tariff review cycle for energy distribution companies resulted in a WACC of 7.5%. Given that the macroeconomic indicators of Brazil have recently improved, the new WACC could lead to lower energy costs while other costs remain stable. Therefore, our electrical power distribution subsidiaries may incur losses, and may continue to adversely affect our financial condition and results of our operations.

***We may incur losses and spend time and money defending pending litigation and administrative proceedings.***

We are currently a party to numerous legal proceedings relating to civil, administrative, environmental, labor and tax claims filed against us. These claims involve substantial amounts of money and other remedies. Several individual disputes account for a significant part of the total amount of claims against us. We have established provisions for all amounts in dispute that represent a probable loss in our view after consulting our legal advisors and in relation to those disputes that are covered by laws, administrative decrees, decrees or court rulings that have proven to be unfavorable. As of December 31, 2012, we provisioned a total aggregate amount of approximately R\$5,556 million in respect of our legal proceedings, of which R\$636 million were related to tax claims, R\$3,780 million were related to civil claims and R\$1,139 million were related to labor claims. (See "Item 8.A, Consolidated Financial Statements and Other Information - Litigation").

In the event that claims involving a material amount and for which we have no provisions were to be decided against us, or in the event that the losses estimated turn out to be significantly higher than the provisions made, the aggregate cost of unfavorable decisions could have a material adverse effect on our financial condition and results of operations. In addition, our management may be required to direct its time and attention to defending these claims, which could preclude them from focusing on our core business. Depending on the outcome, certain litigation could result in restrictions in our operations and have a material adverse effect on certain of our businesses.

***Our insurance coverage may be insufficient to cover potential losses.***

Our business is generally subject to a number of risks and hazards, including industrial accidents, labor disputes, unexpected geological conditions, changes in the regulatory environment, environmental hazards and weather and other natural phenomena. Additionally, we and our subsidiaries are liable to third parties for losses and damages caused by any failure to provide generation, transmission and distribution services.

Our insurance covers only part of the losses that we may incur. We maintain insurance in amounts that we believe to be adequate to cover damages to our plants caused by fire, general third-party liability for accidents and operational risks. If we are unable to renew our insurance policies from time to time or losses or other liabilities occur that are not covered by insurance or that exceed our insurance limits, we could be subject to significant unexpected additional losses.

***Judgment may not be enforceable against our directors or officers.***

All of our directors and officers named in this annual report reside in Brazil. We, our directors and officers and our Fiscal Council members, have not agreed to accept service of process in the United States. Substantially all of our assets, as well as the assets of these

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persons, are located in Brazil. As a result, it may not be possible to effect service of process within the United States or other jurisdictions outside Brazil upon these persons, attach their assets, or enforce against them or us in United States courts, or the courts of other jurisdictions outside Brazil, judgments predicated upon the civil liability provisions of the securities laws of the United States or the laws of other jurisdictions.

***If we are unable to remedy the material weaknesses in our internal controls, the reliability of our financial reporting and the preparation of our financial statements may be materially adversely affected.***

Pursuant to SEC regulations, our management, including our Chief Executive Officer and Chief Financial Officer, evaluate the effectiveness of our disclosure controls and procedures, including the effectiveness of our internal control over financial reporting. Our internal controls over financial reporting are designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. As a result of our management's evaluation of the effectiveness of our disclosure, controls and procedures in 2012, our management determined that these controls and procedures were not effective due to material weaknesses in our internal controls over financial reporting. These material weaknesses included our lack of design and maintenance of effective operating controls over:

- financial reporting based criteria established by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO, including: internal control deficiencies not remediated in a timely manner; lack of adequately implemented risk assessment process to ensure that effective controls were adequately designed and implemented that would prevent and detect material misstatements to our financial statements, based on risks known by us; lack of adequate effective information technology controls, including those related to segregation of duties, security and monitoring access to our financial application programs and data;
- monitoring and approval processes relating to the recording of recurring and non-recurring journal entries;
- the completeness/accuracy of the judicial deposits and legal lawsuits, including periodic reviews/updates of them and the expected losses for accrual purposes;
- the completeness/accuracy or the review/monitoring of the post retirement benefits plans (pension plans) sponsored by us;
- the impairment calculation of assets. Specifically, there is no evidence of the analysis of financial information that was used for the impairment calculation of assets; and
- the appropriate review/monitoring related to the preparation of financial statements and related disclosures, and insufficient headcount of internal accounting personnel.

In response to these findings by our management, we have established a working group consisting of representatives from certain areas in which we operate. This working group has identified goals which the directors and managers for each area have to meet. In addition, we are currently working with outside consultants who assisted us during the testing stage and are continuing to help us devise specific actions to remedy the existing material weaknesses. In the event we are unable to remedy these material weaknesses, the reliability of our financial reporting and the preparation of our financial statements may be materially adversely affected, which may materially adversely affect our company and our reputation.

## Risks Relating to Brazil

***The Brazilian Government has exercised, and continues to exercise, significant influence over the Brazilian economy. Brazilian economic and political conditions have a direct impact on our business, financial condition, results of operations and prospects.***

The Brazilian economy has been characterized by the significant involvement of the Brazilian Government, which often changes monetary, credit and other policies to influence Brazil's economy. The Brazilian Government's actions to control inflation and effect other policies have often involved wage and price controls, depreciation of the *real*, controls over remittances of funds abroad, intervention by the Central Bank to affect base interest rates and other measures. We have no control over, and cannot predict, what measures or policies the Brazilian Government may take in the future. Our business, financial condition, results of operations and prospects may be adversely affected by changes in Brazilian Government policies, as well as general factors including, without limitation:

- Brazilian economic growth;
- inflation;
- interest rates;
- variations in exchange rates;
- exchange control policies;
- liquidity of the domestic capital and lending markets;
- fiscal policy and changes in tax laws; and
- other political, diplomatic, social and economic policies or developments in or affecting Brazil.

Changes in, or uncertainties regarding the implementation of, the policies listed above could contribute to economic uncertainty in Brazil, thereby increasing the volatility of the Brazilian securities market and the value of Brazilian securities traded abroad.

***The stability of the Brazilian real is affected by its relationship with the U.S. dollar, inflation and Brazilian Government policy regarding exchange rates. Our business could be adversely affected by any recurrence of volatility affecting our foreign currency-linked receivables and obligations.***

The Brazilian currency has experienced high degrees of volatility in the past. The Brazilian Government has implemented several economic plans, and has used a wide range of foreign currency control mechanisms, including sudden devaluation, small periodic devaluation during which the occurrence of the changes varied from daily to monthly, floating exchange market systems, exchange controls and parallel exchange market. From time to time, there was a significant degree of fluctuation between the U.S. dollar and the Brazilian *real* and other currencies. On December 31, 2012, the exchange rate between the *real* and the dollar was R\$2.0435 to U.S.\$1.00.

The *real* may not maintain its current value or the Brazilian Government may implement foreign currency control mechanisms. Any governmental interference with the exchange rate, or the implementation of exchange control mechanisms, could lead to a depreciation of the *real*, which could reduce the value of our receivables and make our foreign currency-linked obligations more expensive. Other than in respect of our revenues and receivables denominated in U.S. dollars, such devaluation could materially adversely affect our business, operations or prospects.

On December 31, 2012, approximately 38.93% of our consolidated indebtedness, which equals R\$19,330 million as of such date, was denominated in foreign currencies, of which R\$19,007million (or approximately 38.28%) was denominated in U.S. dollars, and approximately R\$9,419 million (or approximately 48.73%) of such foreign indebtedness related to Itaipu indebtedness.

***Inflation, and the Brazilian Government's measures to curb inflation, may contribute significantly to economic uncertainty in Brazil and materially adversely impact our operating results.***

Brazil has historically experienced high rates of inflation. Inflation and some of the Brazilian Government's measures taken in an attempt to curb inflation have had significant negative effects on the Brazilian economy generally. Since the introduction of the *real* in 1994, Brazil's rate of inflation has been substantially lower than in previous periods. However, inflationary pressures persist, and policies adopted to contain inflationary pressures and uncertainties regarding possible future governmental intervention have contributed to economic uncertainty.

Brazil may experience high levels of inflation in the future. Inflationary cost pressures may lead to further government intervention, including the introduction of policies that could adversely affect our business, financial condition, results of operations and prospects.

#### **Risks Relating to the Brazilian Power Industry**

***We cannot predict whether the constitutionality of the Electricity Regulatory Law will be upheld; if it is not, we may face both uncertainty and costs in re-aligning our business.***

In 2004, the Brazilian Government enacted the Electricity Regulatory Law, a far reaching piece of legislation that provides the framework for regulation of the electricity sector in Brazil. Among other changes, the new legislation (i) modifies the rules regarding the purchase and sale of electric power between generation companies and distribution companies; (ii) established new rules for the auction of generation companies; (iii) created the Electric Power Commercialization Chamber ("CCEE") and new divisional bodies; and (iv) modified the responsibilities of the Energy and Mining Ministry and ANEEL. We have aligned our business within this framework. However, the constitutionality of the Electricity Regulatory Law is being challenged in the Brazilian Supreme Court. The Supreme Court has not yet issued a final ruling in this case although it recently agreed to deny a request to suspend the effectiveness of the Electricity Regulatory Law while the challenge is pending. If the Supreme Court were to hold that the Electricity Regulatory Law is unconstitutional, this would result in significant uncertainty in Brazil as to the appropriate regulatory framework for the electricity sector, which could materially adversely affect the operation of our business. Moreover, we have no way of predicting the terms of any alternative framework for the regulation of electricity in Brazil. We would likely face costs in re-aligning our business to meet the requirements of any such framework, which would materially adversely affect our financial condition and results of operations.

***We could be penalized by ANEEL for failing to comply with the terms of our concession agreements and we may not recover the full value of our investment in the event that any of our concession agreements are terminated.***

We carry out our generation, transmission and distribution activities in accordance with concession agreements we execute with the Brazilian Government through ANEEL. The length of such concessions varies from 20 to 35 years. ANEEL may impose penalties on us in the event that we fail to comply with any provision of our concession agreements. Depending on the extent of the non-compliance, these penalties could include substantial fines (in some cases up to two percent of our gross revenues in the fiscal year immediately preceding the assessment), restrictions on our operations, intervention or termination of the concession. For example, on May 22, 2010, our subsidiary Eletrobras Furnas received a R\$53.7 million fine from ANEEL, as a result of ANEEL determining that there were two malfunctions in the protection system of the Itaberá and Ivaiporã substations that led to power outages and disruption in generation on November 10, 2009. ANEEL may also terminate our concessions prior to their due date in the event that we fail to comply with their provisions, are declared bankrupt or are dissolved, or in the event that ANEEL determines that such termination would serve the public interest (see "Item 4.B, Business Overview - Generation - Concessions").

As of December 31, 2012, we believe we were in compliance with all material terms of our concession agreements. However, we cannot assure you that we will not be penalized by ANEEL for a future breach of our concession agreements or that our concessions will not be terminated in the future. In the event that ANEEL were to terminate any of our concessions before their expiration date, the compensation we recover for the unamortized portion of our investment may not be sufficient for us to recover the full value of our investment and, accordingly, could have a material adverse effect on our financial condition and results of operations.



***We may be subject to administrative intervention if we provide our services in an inadequate manner or violate contractual obligations, regulations and other legal obligations.***

In August 2012 the Brazilian Government published a provisional measure which later became Law No. 12,767/2012, permitting ANEEL to intervene in electric power concessions considered part of the public service in order to guarantee adequate levels of service as well as performance of the concession contract, regulations and other relevant legal obligations. If ANEEL were to intervene in concessions as part of an administrative procedure, management would have to present a recovery plan to correct any violations and failures that gave rise to the intervention. Should the recovery plan be dismissed or not presented within the timelines stipulated by the regulations, ANEEL may, among other things, expropriate or forfeit the concession, reallocate our assets or adopt measures which may alter our shareholding structure.

If the holders of our concessions are subject to an administrative intervention, we and our subsidiaries may be subject to an internal reorganization in accordance with the recovery plan presented by management, which may adversely affect our financial condition and results of operations. In addition, should the recovery plan be rejected by the administrative authorities, ANEEL would be able to use its powers described above, which may adversely affect our financial condition and results of operations.

***Our generation, transmission and distribution activities are regulated and supervised by the Brazilian Government. Our business could be adversely affected by any regulatory changes or by termination of the concessions prior to their expiration dates, and any indemnity payments for the early terminations may be less than the full amount of our investments.***

According to Brazilian law, ANEEL has the authority to regulate and supervise the generation, transmission and distribution activities of electrical energy concessionaires, such as us and our subsidiaries, including in relation to investments, additional expenses, tariffs and the passing of costs to customers, among other matters. Regulatory changes in the electrical energy sector are hard to predict and may have a material adverse impact on our financial condition and results of operations.

Concessions may be terminated early through expropriation and/or forfeiture. Granting authorities may expropriate concessions in the interest of the public as expressly provided for by law, in which case granting authorities carry out the service during the concession period. A granting authority may declare the forfeiture of concessions after ANEEL or MME conduct an administrative procedure and declare that the concessionaire (a) did not provide proper service for more than 30 consecutive days and did not present any acceptable alternative to ANEEL or to ONS, or failed to comply with the applicable law or regulation; (b) lost the technical, financial or economic conditions necessary to provide the service properly; and/or (c) did not comply with the fines charged by the granting authority.

Penalties are set forth in ANEEL Resolution No. 63, of May 12, 2004, and include warnings, substantial fines (in certain cases up to 2.0% of the revenue for the fiscal year immediately preceding the evaluation), restrictions on the concessionaire's operations, intervention or termination of the concession.

We may contest any expropriation or forfeiture and will be entitled to receive compensation for our investments in expropriated assets that have not been fully amortized or depreciated. However, the indemnity payments may not be sufficient to fully recover our investments, which could materially adversely affect our financial condition and results of operations.

***ANEEL establishes the tariffs for generation, transmission and distribution based on certain criteria established by law.***

Eletrobras conducts its generation, transmission and distribution activities in accordance with the terms of the concession contracts entered into with the Brazilian Government through ANEEL and in certain cases ANEEL is responsible for setting the tariffs. The concessions renewed in 2012 pursuant to Law No. 12,783 were conditional on ANEEL establishing new tariffs and annual permitted revenue rates. If ANEEL questions or rejects our tariff adjustment requests based on our investments incurred to date, our financial condition and results of operations may be adversely affected.

***We are subject to strict safety, health and environmental laws and regulations that may become more stringent in the future and may result in increased liabilities and increased capital expenditures.***

Our operations are subject to comprehensive federal, state and local safety, health and environmental legislation as well as supervision by agencies of the Brazilian Government that are responsible for the implementation of such laws. Among other things, these laws

require us to obtain environmental licenses for the construction of new facilities or the installation and operation of new equipment required for our business. The rules are complex and may change over time, making our ability to comply with the applicable requirements more difficult or even impossible, thereby precluding our continuing or future generation, transmission and distribution operations. For example, the Ministry of Environment required us to fulfill 33 steps related to health and safety and the environment in order to receive a permit for operation of our Madeira river project. We see increasing health and safety requirements as a trend in our industry. Moreover, private individuals, non-governmental organizations and the public have certain rights to commence legal proceedings to obtain injunctions to suspend or cancel the licensing process. In addition, Brazilian Government agencies could take enforcement action against us for any failure to comply with applicable laws. Such enforcement action could include, among other things, the imposition of fines, revocation of licenses and suspension of operations. Such failures may also result in criminal liability, irrespective of our strict liability to perform environmental remediation and to indemnify third parties for environmental damage. We cannot accurately predict the effect that compliance with enhanced environmental, health or safety regulations may have on our business. If we do not secure the appropriate permits, our growth strategy will be significantly adversely affected, which may materially adversely affect our results of operations and our financial condition.

***Environmental regulations require us to perform environmental impact studies on future projects and obtain regulatory permits.***

We must conduct environmental impact studies and obtain regulatory permits for our current and future projects. We cannot assure you that these environmental impact studies will be approved by the Brazilian Government, that public opposition will not result in delays or modifications to any proposed project or that laws or regulations will not change or be interpreted in a manner that could materially adversely affect our operations or plans for the projects in which we have an investment. We believe that concern for environmental protection is an increasing trend in our industry. Changes in environmental regulations, or changes in the policy of enforcement of existing environmental regulations, could materially adversely affect our results of operations and our financial condition by delaying the implementation of electricity projects, increasing the costs of expansion, or subjecting us to regulatory fines for non-compliance with environmental regulations.

***We are affected by hydrological conditions and our results of operations could be affected.***

Hydrological conditions could adversely affect our operations. For example, hydrological conditions that result in a low supply of electricity in Brazil could cause, among other things, the implementation of broad electricity conservation programs, including mandatory reductions in electricity generation or consumption. The most recent period of extremely low rainfall in a large portion of Brazil was in the years immediately prior to 2001, and as a result, the Brazilian Government instituted a program to reduce electricity consumption from June 1, 2001 to February 28, 2002. Furthermore, precipitation levels recorded in 2012 were relatively low, which in turn reduced the levels of reservoirs at our hydroelectric power plants. Consequently, we needed to rely on thermal plants to generate energy we had expected to generate from our hydroelectric plants, which was significantly more expensive.

A recurrence of unfavorable hydrological conditions that result in a reduced supply of electricity to the Brazilian market could cause, among other things, the implementation of broad electricity conservation programs, including mandatory reductions in electricity consumption or the imposition of special taxes on the sector to finance thermal power plants, which are often more expensive than hydroelectric plants per MW of energy produced. Therefore, it is possible that prolonged periods of reduced precipitation levels could adversely affect our financial condition and the results of operations in the future. Our generation capacity could also be affected by events such as floods which might damage our installations. This may in turn materially adversely affect our financial condition and results of operations.

***Construction, expansion and operation of our electricity generation, transmission and distribution facilities and equipment involve significant risks that could lead to lost revenues or increased expenses.***

The construction, expansion and operation of facilities and equipment for the generation, transmission and distribution of electricity involve many risks, including:

- the inability to obtain required governmental permits and approvals;
- the unavailability of equipment;
- supply interruptions;

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- work stoppages;
- labor unrest;
- social unrest;
- interruptions by weather and hydrological conditions;
- unforeseen engineering and environmental problems;
- increases in electricity losses, including technical and commercial losses;
- construction and operational delays, or unanticipated cost overruns; and
- the unavailability of adequate funding.

For example, we experienced work stoppages during the construction of our Jirau, Santo Antônio and Belo Monte hydroelectric plants. We do not have insurance coverage for some of these risks, particularly for those related to weather conditions. Furthermore, the implementation of investments in the transmission sector have suffered delays due to the difficulty to obtain the necessary government permits and approvals. This has led to delays in investments in generation due to the lack of transmission lines to drain production. If we experience any of these or other unforeseen risks, we may not be able to generate, transmit and distribute electricity in amounts consistent with our projections, which may have a material adverse effect on our financial condition and results of operations.

***We are strictly liable for any damages resulting from inadequate supply of electricity to distribution companies, and our contracted insurance policies may not fully cover such damages.***

Under Brazilian law, we are strictly liable for direct and indirect damages resulting from the inadequate supply of electricity to distribution companies, such as abrupt interruptions or disturbances arising from the generation, distribution or transmission systems. Accordingly, we may be held liable for such damages even if we were not at fault. As a result of the inherent uncertainty involved in these matters, we do not maintain any provisions in relation to potential damage, and these interruptions or disturbances may not covered by our insurance policies or may exceed the coverage limits of such policies. Accordingly, if we are found liable to pay damages in a material amount, our financial condition and results of operations would be materially adversely affected to a greater degree than those claims where we have recorded provisions.

### **Risks Relating to our Shares and ADSs**

***If you hold our preferred shares, you will have extremely limited voting rights.***

In accordance with the Brazilian Corporate Law and our by-laws, holders of the preferred shares, and, by extension, holders of the ADSs representing them, are not entitled to vote at our shareholders' meetings, except in very limited circumstances. This means, among other things, that a preferred shareholder is not entitled to vote on corporate transactions, including mergers or consolidations with other companies. Our principal shareholder, who holds the majority of common shares with voting rights and controls us, is therefore able to approve corporate measures without the approval of holders of our preferred shares. Accordingly, an investment in our preferred shares is not suitable for you if voting rights are an important consideration in your investment decision.

***Exercise of voting rights with respect to common and preferred shares involves additional procedural steps.***

When holders of common shares are entitled to vote, and in the limited circumstances where the holders of preferred shares are able to vote, holders may exercise voting rights with respect to the shares represented by ADSs only in accordance with the provisions of the deposit agreement relating to the ADSs. There are no provisions under Brazilian law or under our by-laws that limit ADS holders' ability to exercise their voting rights through the depository bank with respect to the underlying shares. However, there are practical limitations upon the ability of ADS holders to exercise their voting rights due to the additional procedural steps involved in

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communicating with such holders. For example, holders of our shares will receive notice directly from us and will be able to exercise their voting rights by either attending the meeting in person or voting by proxy. ADS holders, by comparison, will not receive notice directly from us. Rather, in accordance with the deposit agreement, we will provide the notice to the depository bank, which will in turn, as soon as practicable thereafter, mail to holders of ADSs the notice of such meeting and a statement as to the manner in which instructions may be given by holders. To exercise their voting rights, ADS holders must then instruct the depository bank how to vote their shares. Because of this extra procedural step involving the depository bank, the process for exercising voting rights will take longer for ADS holders than for holders of shares. ADSs for which the depository bank does not receive timely voting instructions will not be voted at any meeting.

***If we issue new shares or our shareholders sell shares in the future, the market price of your ADSs may be reduced.***

Sales of a substantial number of shares, or the belief that this may occur, could decrease the prevailing market price of our common and preferred shares and ADSs by diluting the shares' value. If we issue new shares or our existing shareholders sell shares they hold, the market price of our common and preferred shares, and of the ADSs, may decrease significantly. Such issuances and sales also might make it more difficult for us to issue shares or ADSs in the future at a time and a price that we deem appropriate and for you to sell your securities at or above the price you paid for them.

***Political, economic and social events as well as the perception of risk in other countries, including the United States, European Union and emerging countries, may affect the market prices for securities in Brazil, including Eletrobras shares.***

The Brazilian securities market is influenced by economic and market conditions in other countries, including the United States, European Union and emerging countries. Despite the significant different economic conjecture between these countries and Brazil, investors' reactions to events in these countries may have a relevant adverse effect on the market value of Brazilian securities, especially those listed on the stock exchange. Crisis in the United States, European Union or emerging countries may reduce investors' interest in Brazilian companies, including Eletrobras. For example, the prices of shares listed on BM&FBOVESPA have been historically affected by fluctuations of the American interest rate as well as the variations of the main indexes for North-American shares. Events in other countries and capital markets may adversely affect the market price of Eletrobras shares to the extent that, in the future, it could difficult or prevent access to capital markets and investment financing on acceptable terms.

The Global Financial Crisis that began in the second half of 2008 had significant consequences, including in Brazil, such as volatility on the stock and credit market, lack of credit, higher interest rates, general economic desacceleration, volatile exchange rates, inflationary pressure, among others, that could adversely affect us, affect the price of Brazilian securities, including Eletrobras shares.

The persistence of uncertainty in Europe, especially in Greece, Spain, Italy and Portugal, intensified the concern about their fiscal sustainability and their default risk, therefore reducing investor confidence and bringing volatility to the markets. Furthermore, projected growth in the United States remains low, considering certain savings criteria (?), firmer fiscal policies and lower global growth rates. The continuous financial deterioration of these countries appears to have adversely affected the global economy and, indirectly, the emerging markets, including Brazil and China, which have already begun to show signs of slowing their rate of growth.

***Exchange controls and restrictions on remittances abroad may adversely affect holders of ADSs.***

You may be adversely affected by the imposition of restrictions on the remittance to foreign investors of the proceeds of their investments in Brazil and the conversion of *reais* into foreign currencies. The Brazilian Government imposed remittance restrictions for approximately three months in late 1989 and early 1990. Restrictions like these would hinder or prevent the conversion of dividends, distributions or the proceeds from any sale of our shares, as the case may be, from *reais* into U.S. dollars and the remittance of the U.S. dollars abroad. We cannot assure you that the Brazilian Government will not take similar measures in the future.

***Exchanging ADSs for the underlying shares may have unfavorable consequences.***

As an ADS holder, you benefit from the electronic certificate of foreign capital registration obtained by the custodian for our preferred shares underlying the ADSs in Brazil, which permits the custodian to convert dividends and other distributions with respect to the preferred shares into non-Brazilian currency and remit the proceeds abroad. If you surrender your ADSs and withdraw preferred shares, you will be entitled to continue to rely on the custodian's electronic certificate of foreign capital registration for only five business days from the date of withdrawal. Thereafter, upon the disposition of or distributions relating to the preferred shares unless

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you obtain your own electronic certificate of foreign capital registration or you qualify under Brazilian foreign investment regulations that entitle some foreign investors to buy and sell shares on Brazilian stock exchanges without obtaining separate electronic certificates of foreign capital registration you would not be able to remit abroad non-Brazilian currency. In addition, if you do not qualify under the foreign investment regulations you will generally be subject to less favorable tax treatment of dividends and distributions on, and the proceeds from any sale of, our preferred shares.

If you attempt to obtain your own electronic certificate of foreign capital registration, you may incur expenses or suffer delays in the application process, which could delay your ability to receive dividends or distributions relating to our preferred shares or the return of your capital in a timely manner. The depositary's electronic certificate of foreign capital registration may also be adversely affected by future legislative changes.

***You may receive reduced dividend payments if we incur net losses or our net income does not reach certain levels.***

Under Brazilian Corporate Law and our by-laws, we must pay our shareholders a mandatory distribution equal to at least 25% of our adjusted net income for the preceding fiscal year, with holders of preferred shares having priority of payment. Our by-laws require us to pay holders of our preferred shares annual dividends equal to the greater of 8% (in the case of our class "A" preferred shares (subscribed on June 23, 1969) and 6% (in the case of our class "B" preferred shares (subscribed on June 24, 1969), calculated by reference to the capital stock portion of each type and class of stock. The priority minimum dividend payable to holders of our preferred shares must be paid whenever there is a net profit or, in the event of losses in that year, whenever a reserve of profits is available. If our net income is negative or insufficient in a fiscal year, our management may recommend at the annual shareholders' meeting in respect of that year that the payment of the mandatory dividend should not be made. In these circumstances there is no impediment for the majority shareholder to further capitalize the Company, which could result in the dilution of the current shareholders' shares.

***You may not be able to exercise preemptive rights with respect to the preferred or common shares.***

You may not be able to exercise the preemptive rights relating to the preferred or common shares underlying your ADSs unless a registration statement under the United States Securities Act of 1933, as amended, (the "Securities Act"), is effective with respect to those rights or an exemption from the registration requirements of the Securities Act is available. We are not obligated to file a registration statement with respect to the shares relating to these preemptive rights, and we cannot assure you that we will file any such registration statement. Unless we file a registration statement or an exemption from registration applies, you may receive only the net proceeds from the sale of your preemptive rights by the depositary or, if the preemptive rights cannot be sold, they will be allowed to lapse and accordingly your ownership position relating to the preferred or common shares will be diluted.

***Changes in Brazilian tax laws may have an adverse impact on the taxes applicable to a disposition of our shares or ADSs.***

Law No. 10,833 of December 29, 2003 provides that the disposition of assets located in Brazil by a non-resident to either a Brazilian resident or a non-resident is subject to taxation in Brazil, regardless of whether the disposition occurs outside or within Brazil. This provision results in the imposition of income tax on the gains arising from a disposition of our common or preferred shares by a non-resident of Brazil to another non-resident of Brazil. There is no judicial guidance as to the application of Law No. 10,833 of December 29, 2003 and, accordingly, we are unable to predict whether Brazilian courts may decide that it applies to dispositions of our ADSs between non-residents of Brazil. However, in the event that the disposition of assets is interpreted to include a disposition of our ADSs, this tax law would accordingly result in the imposition of withholding taxes on the disposition of our ADSs by a non-resident of Brazil to another non-resident of Brazil.

Because any gain or loss recognized by a U.S. Holder (as defined in "Item 10.E, Taxation - Material United States Federal Income Tax Consequences") will generally be treated as a U.S. source gain or loss unless such credit can be applied (subject to applicable limitations) against tax due on the other income treated as derived from foreign sources, such U.S. Holder would not be able to use the foreign tax credit arising from any Brazilian tax imposed on the disposition of our common or preferred shares or our ADSs.