



GRUPO BANCO MUNDIAL

 **FGV CER**

*Centro de Estudos  
em Regulação e  
Infraestrutura*


# IN THE PURSUIT OF IMPROVED GOVERNANCE IN THE POWER SECTOR IN BRAZIL

# PREMISES AND HYPOTHESIS

 Good governance is positively correlated with good industrial performance

 Good governance means

- Clarity of roles – no overlaps in competencies and functions performed
- Due regulatory process leading to grounded decisions
- Transparency and accountability

 Governance is pivotal to overcome the major challenges the sector faces currently

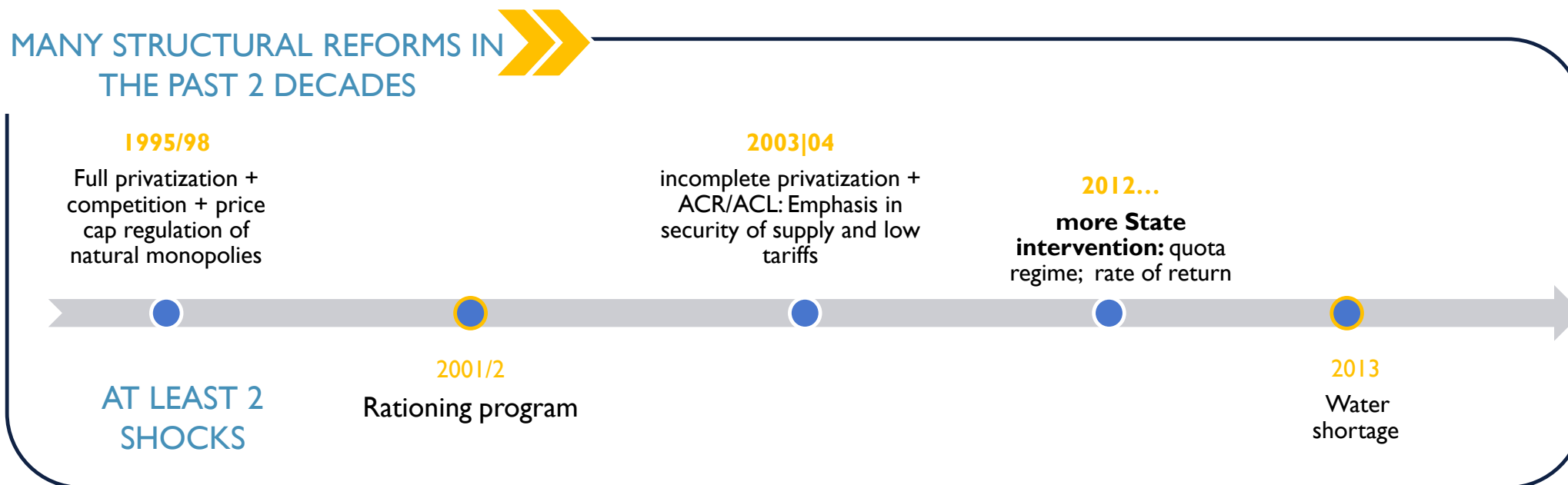


# CURRENT SITUATION



# VERY COMPLEX SECTORAL GOVERNANCE

MANY STRUCTURAL REFORMS IN  
THE PAST 2 DECADES



**VERY COMPLEX INSTITUTIONAL DESIGN POSES CHALLENGES TO COORDINATION:** CNPE, MME, ANEEL, ONS, CCEE, CMSE, EPE, ELETROBRAS...

**UNANTICIPATED CHANGES IN THE REGULATORY FRAMEWORK:**  
PM 579/12; DISPATCH OUT OF MERIT ORDER; GSF...



# DELAYS IN GENERATION AND TRANSMISSION PROJECTS

## PROJECT DELAYS (2005-2012)



Generation:

UHE: 79%, average 8 months

UTE: 75%, average 11 months

Wind: 88%, average 10 months

Transmission:

83% delay, average 14 months

\*Losses estimated to be of R\$ 8.3 billion (TCU)

# FEDERAL GOVERNMENT IS THE MAJOR PLAYER IN GENERATION AND TRANSMISSION

□ Generation - 10 Major Players (Source: BIG/ANEEL, August 2016)

	Company	Installed Capacity (KW)
1	<b>CHESF (ELETROBRAS)</b>	<b>10,613,131.002</b>
2	<b>FURNAS (ELETROBRAS)</b>	<b>9,411,200.003</b>
3	<b>ELETRONORTE (ELETROBRAS)</b>	<b>9,222,104.104</b>
4	TRACTEBEL	7,323,817.735
5	<b>ITAIPU BINACIONAL (50% ELETROBRAS)</b>	<b>7,000,000.006</b>
6	<b>PETROBRAS</b>	<b>6,239,224.607</b>
7	CEMIG-GT	5,310,278.408
8	RIO PARANA ENERGIA	4,995,200.00
9	COPEL-GT	4,921,216.00
10	SANTO ANTONIO ENERGIA (39% FURNAS)	3,150,760.00

□ Eletrobras holds around 50% of transmission lines

□ CVM conviction of the Federal Government for abuse of controlling powers (PM 579/12)

# TRANSMISSION – REDUCTION OF INVESTMENT ATTRACTION: REGULATORY RISK AND ECONOMIC CRISIS

- Projects with delay and new investments lagging behind needs

**Table 1** – Investment that failed to be contracted

Year	Auctioned		Desert		(% ) Desert	
	Lots	Investment (R\$)	Lot	Investment (R\$)	Lots	Investment (R\$)
2007	7	2,009,174,995.74	0	-	-	-
2008	29	17,044,664,257.70	1	110,427,043.42	3.4%	0.6%
2009	19	4,422,471,043.50	0	-	-	-
2010	20	2,462,883,196.00	1	31,645,985.20	5.0%	1.3%
2011	24	6,650,484,624.00	1	21,658,666.40	4.2%	0.3%
2012	23	10,622,286,962.40	3	482,119,282.00	13.0%	4.5%
2013	34	11,837,268,521.40	10	2,075,631,180.00	29.4%	<b>17.5%</b>
2014	27	15,632,441,678.90	12	4,364,532,336.51	44.4%	<b>27.9%</b>
2015	25	24,079,253,000.00	16	12,175,064,000.00	64.0%	<b>50.6%</b>

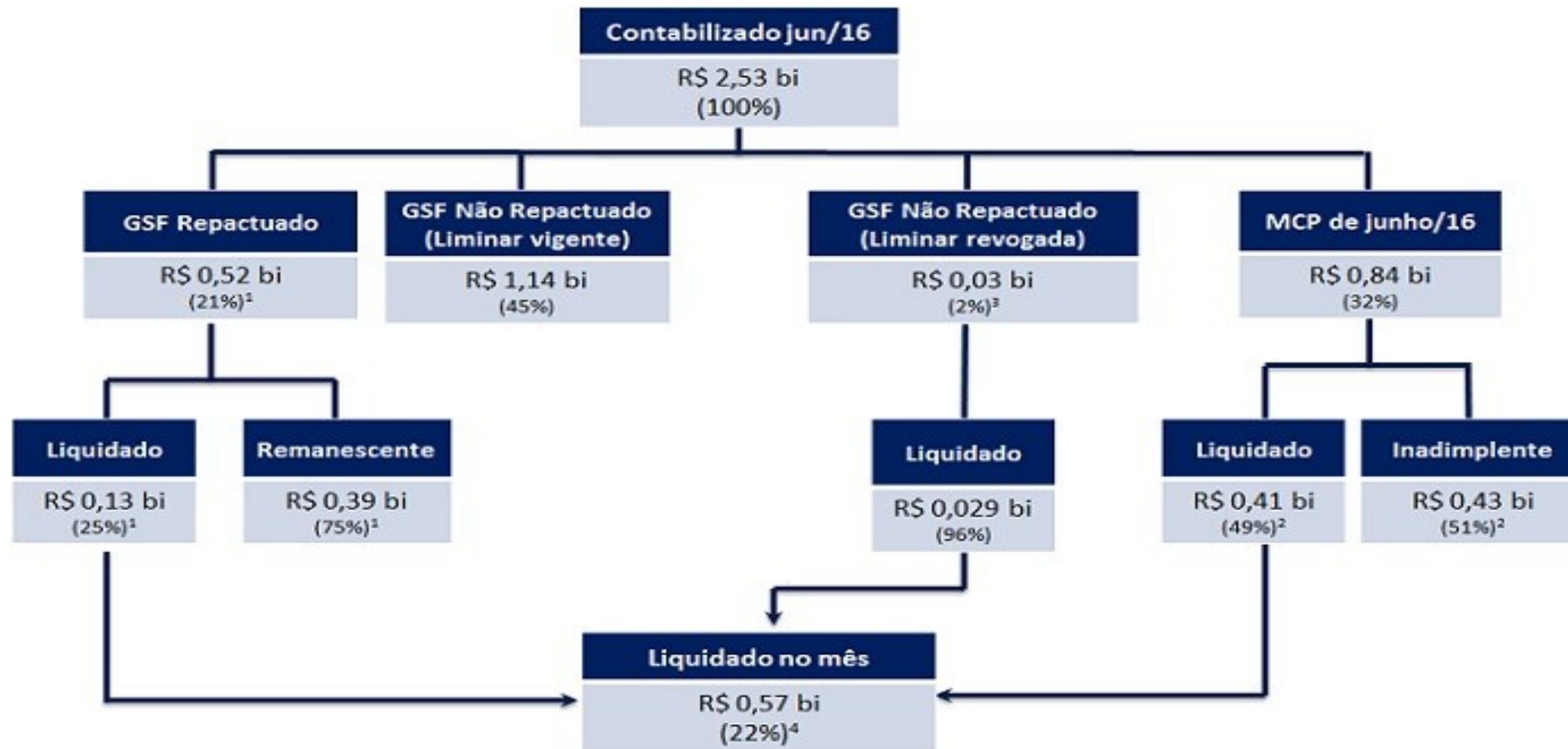
# DISCOS UNABLE TO TIMELY RESPOND TO SCENARIO CHANGES – INCENTIVE PROBLEMS

- Mostly privatized
- DISCOs in very difficult financial situation
  - Involuntary exposure to the spot market by the end of 2012 (subcontracted) at extremely high prices
  - Economic crisis + tariff increase led to increase of consumers' default and increase of losses
  - Economic crisis + clients' migration to ACL led to DISCOs being over-contracted by 2016
- Prices at ACR and ACL are very different, being more elastic in the ACL
- DISCOs do not have flexibility to adjust their portfolios according to demand change
- Federal DISCOs to be privatized according to ELETROBRAS. Initial failed attempt (Celg-D)



# CCEE FACING SEVERE PROBLEMS THAT IMPOUND MARKET CLEARING

## CCEE, JUNE 2016 - GSF





# INTERACTION WITH EXTERNAL INSTITUTIONS



# LITIGATION CCEE, INJUNCTIONS IMPACTING LIQUIDATION – JUNE 2016

GSF

138

Liminares vigentes

+

CNPE 03

128

Liminares vigentes

+

Ajustes judiciais

17

Liminares vigentes

283

Liminares vigentes  
na contabilização de junho/2016

# TCU'S INCREASING SECTORAL REVIEW

Year	Total decisions made by TCU Plenary regarding the electricity sector	Total decisions made by TCU Plenary regarding the electricity sector with structural relevance
2012	23	7
2013	13	5
2014	28	12
2015	34	15
2016	20	9
<b>Total</b>	<b>118</b>	<b>48</b>

CERI, based upon public available information at TCU's website in August 2016. We have considered to be of structural relevance TCU's decisions made in operational auditing procedures ("auditorias operacionais"); decisions classified as "Subjects of Major Significance" ("Temas da Maior Significância") or of different natures, in which TCU discusses or decides issues that are relevant for sectoral governance.


# LEGISLATIVE ACTION ALSO REQUIRES ATTENTION

THERE ARE CURRENTLY AT LEAST 390  
DRAFT ACTS BEFORE THE LOWER  
HOUSE OF THE PARLIAMENT THAT MAY  
IMPACT THE ELECTRICITY SECTOR



- Amendments to the Constitution, Statutes, Legislative Decrees, Resolutions
- Detailed review and follow up is advisable


# KEY MESSAGES




Coordination among actors should be emphasized, especially among CNPE and CMSE



Agents' governance should be revisited and improved




Due regulatory processes: policy decisions shall be subject to public consultation and RIA (not only ANEEL's decisions, but also CNPE, MME etc.)




Governance of State-Owned companies shall be enhanced and enforced (Law 13,303/2016)

# KEY MESSAGES




Need to reduce litigation at both consumer and regulatory issues



Decisions based on evidence and legal framework are less likely to be contested

- Enhancement of decision-making process could help reducing TCU's and judicial review



Change of supply matrix is likely to require more coordination with water and NG policy makers and regulators



Good governance requires continuous interaction with

- Financial institutional players: MF and BNDES
- Environmental framework
- Water and gas institutional actors
- Competition authorities



THANK YOU

