

An overview of the Portuguese e-mobility market

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Manuel Santos Vitor

PLMJ Law Firm, Lisbon

manuel.santosvitor@plmj.pt (mailto:manuel.santosvitor@plmj.pt)

Catarina Cortez Gamito

PLMJ Law Firm, Lisbon

catarina.cortezgamito@plmj.pt (mailto:catarina.cortezgamito@plmj.pt)

Historical and legal background

One of the main national priorities in what concerns the Portuguese electricity sector is the development and full implementation of a strong electric mobility ('e-mobility') market. This priority largely results from the government concerns associated not only with the environment (ie, reduction of greenhouse gas (GhG) emissions by using clean energy) but also with the national economy (ie, reduction of public administration and consumer costs; creation of a new industry to develop the necessary technology for said market; and reduction of consumption of fossil fuels).

Considering the above, the Portuguese e-mobility programme was initiated in 2010^[1] with the enactment of a first package of legislation, together with the beginning of the development of the charging grid, hence launching the first part of the pilot phase of this project. The legislation package established the legal framework of the project and several incentives were created to promote the e-mobility subsector in the country.

Despite these efforts, from 2011 onwards, the project suffered a massive step back due to the financial crisis and the intervention of the Troika^[2] in the country, which lasted until 2014, resulting in the reduction of incentives and cutting public funding of the project.

As of 2014 and until 2016, the government enacted a new package of legislation to boost the Portuguese e-mobility market and open the latter to both suppliers and operators of charging points. That specific legislation is still in force and includes the following:

1. Decree-Law no 39/2010, of 26 April, as last amended by Decree-Law no 90/2014, of 11 June 2014 and Law no 82-D/2014, of 31 December 2014, setting out the legal framework regarding the Portuguese e-mobility sector;
2. Council of Ministers Resolution no 49/2016, of 1 September 2016, establishing the first and second phases of the e-mobility pilot project;
3. Order no 8809/2015, of 29 July 2015, setting out the Action Plan for Electric Mobility;
4. ERSE Regulation no 879/2015, of 26 November 2015, setting out the rules for the performance of the activities associated with the e-mobility sector (ERSE being one of the regulators for the energy services activities); and
5. other ministerial orders establishing all technical and safety aspects applicable to electric installations, as well as the applicable fees for the purposes of registering and licensing suppliers of electricity and operators of charging points, respectively.^[3]

In 2016, the second part of the pilot phase was initiated. This second phase aimed at creating 1,604 regular charging points and 50 fast charging points by 2018. For now, Portugal has currently more than 1,250 charging points across around 50 municipalities (including in the Autonomous Region of Madeira). [4]

The market phase of this project, which entails the payment of the charging of electric vehicles in the public grid, was to be implemented during the first quarter of 2017. However, that date has long passed and the market phase has not yet been implemented (ie, charging services are still free of charge).

'State of the art' – a brief overview of the e-mobility sector

Currently, the key players of this electricity subsector are the Ministry of Economy (ME), the Energy Services Regulatory Authority (ERSE), the General Directorate for Energy and Geology (DGEG), and Mobi.E SA ('Mobi.E'), a state-owned company that is responsible for the management of the charging grid.

The e-mobility market includes the following three types of activities:

1. Management of the charging grid

As stated above, the Portuguese charging grid is exclusively managed by Mobi.E, following appointment by the government. This activity entails the management of the electricity and financial flows associated with charging grid operations and its infrastructures. [5]

Mobi.E also has reporting obligations towards ERSE and DGEG and its remuneration is based on the return on the operation of the assets as set in ERSE's guidelines.

Finally, it is important to note that Mobi.E was supposed to manage the grid until 12 June 2018. However, at the date of this article, the charging grid is still managed by said company.

2. Supply of electricity

In Portugal, this activity is carried out under free market conditions, requiring only a simple registration with the DGEG for such purpose. [6] This activity entails the purchase and subsequent sale of electricity to electric vehicles at charging points and, even, the possibility to sell electricity in any of the grid's charging points.

Further obligations of the supplier include a reporting obligation towards ERSE and Mobi.E on the quantity and prices of the electricity supplied.

3. Operation of the charging points

This activity is carried out under free market conditions and includes the installation, marketing, operation and maintenance of the grid's charging points with both public and private access. For the purposes of carrying out this activity, an operating licence – valid for ten years and renewable for equal periods – must be issued by the DGEG. [7]

Currently, Portugal has several operators duly licensed, such as EDP Comercial SA, Galp Power SA, Prio Energy SA, among others. [8]

Further obligations of operators of charging points include: (a) the certification of the facilities (ie, the charging points) by the DGEG; and (b) the application to obtain additional permits/authorisations concerning planning, environmental and construction rules (if applicable to each case).

With regard to charging points, the latter may be located in (a) public places (being part of the charging grid); (b) private places but necessarily connected to the public grid (ie, available to the general public); or (c) private places with limited access (ie, consumers' homes), which may be installed, operated and maintained by either a licensed charging point operator or by the holders, at any title, of said private places (eg, owners, tenants).^[9]

The remuneration structure applicable to the aforesaid types of players shall be implemented at market phase and shall encompass the following: (a) the consumer pays a total fee to the supplier (being this fee agreed by the parties and including the prices of electricity, charging services and further costs relating to the management of the grid); (b) the suppliers pay for the use of the charging points to its operator; and (c) both the operator and the suppliers pay a fee directly to Mobi.E.

In order to promote the development of the Portuguese e-mobility sector, the Portuguese state introduced not only financial but also operational incentives applicable to both companies and individuals, as follows:

1. tax incentives regarding the acquisition or conversion of electric vehicles (ie, the 'Green Taxation' package, which includes tax exemptions relating to the corporate autonomous taxation rate (IRC), to the annual vehicle tax (IUC), to the vehicle tax; and/or the possibility to partially or totally deduct the VAT amount associated with the acquisition, repair or conversion of vehicles into electric or hybrid vehicles); and
2. the access to free/special parking and circulation conditions.^[10]

Conclusion

The efforts of the government to continue the necessary promotion and implementation of this e-mobility subsector, not only on a private level but also within the public administration and public companies, has now begun to reap the rewards.

This, together with the growth of environmental awareness and the blatant reduction of costs associated with electric vehicles, as well as the implementation of incentives towards both companies and individuals, created the understanding – in both the Portuguese business sector and in the general public – that this e-mobility market is the future and, as such, has been boosted, becoming a new hub for both national and foreign investors.

Last but not the least, there is a considerable interest from market players at an international level to enter the Portuguese market.

Notes

[1] After the enactment of Council of Ministers Resolution no 20/2009, of 20 February 2009, which established electric mobility as a priority.

[2] The Troika encompassed the International Monetary Fund, the European Central Bank and the European Commission.

[3] Order nos 240/2015 and 241/2015, both enacted on 12 August 2015; Order no 252/2015, of 19 August 2015; Order nos 220/2016 and 221/2016, both of 10 August 2016; Order no 222/2016, of 11 August 2016; and Order no 231/2016, of 29 August 2016.

[4] This data is available at the Mobi.E website, www.mobie.pt/where-electric-mobility (<http://www.mobie.pt/where-electric-mobility>).

[5] Note that Mobi.E may also own charging points.

[6] Note that suppliers must also be registered as charging point operators.

[7] Note that charging point operators may also be registered as suppliers.

[8] For a full list of operators, see **www.mobie.pt/operators/operators-list#focus-target** (**<http://www.mobie.pt/operators/operators-list#focus-target>**).

[9] Private charging points are also subject to additional permits/authorisations under the planning and construction legal frameworks (with a case-by-case analysis needed at municipal level); and to the technical requirements set out by DGEG and in the applicable Ministerial Orders.

[10] For instance, in certain municipalities the parking of electric vehicles on public land is free of charge. Note that, despite all the incentives referred to above, up to the date of this article, there are no tax incentives for companies that wish to install charging points at their facilities.

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