

# MEXICO'S PRESIDENT SUBMITS BILL TO ENACT NEW ENERGY LEGISLATION

## *Notes on the proposed Electricity Sector Law*

On February 5th, 2025, Mexico's President submitted to the Senate an initiative to enact eight new laws on energy matters, aimed to adapt the legal framework to the constitutional amendments of October 2024 on strategic areas and companies, in addition to reflecting the new public policy contained in the national energy strategies announced last November.

The initiative consists of a package of laws proposed to regulate the electricity sector, the hydrocarbons sector, geothermal resources, and biofuels, as well as government planning and the energy transition; also, to reorganize the State-owned public companies, both Pemex and CFE, and to create the new National Energy Commission ("CNE"). Certain articles of the financial and tax laws on hydrocarbons, as well as the Organic Law of the Federal Public Administration, would be amended too.

The new legislation must be approved by both houses of Congress no later than April 30, 2025. Although there could be specific adjustments to the initiative derived from the parliamentary discussion, we do not estimate that such would result in structural changes due to the broad and solid majorities of the governing coalition.

Below are some of the key aspects of one of the laws of greatest interest to our clients and to the public opinion: the Electricity Sector Law ("LSE"). In future publications, we will provide similar exercises on hydrocarbons and other fields.

### ***Electricity Sector Law***

Most of the contents of the proposed LSE are identical to those of the current Electricity Industry Law ("LIE"), which is a good sign per se. However, to illustrate the underlying ideological shift, while the primary objective of the LIE is to "promote the sustainable development of the electricity industry", the LSE's primary objective would be to "preserve the Nation's energy security and self-sufficiency". Additionally, "accessibility" would become a new value to be guaranteed in the National Electric System ("SEN"), reinforcing the government's role in promoting access to electricity (addressing energy justice and energy poverty).

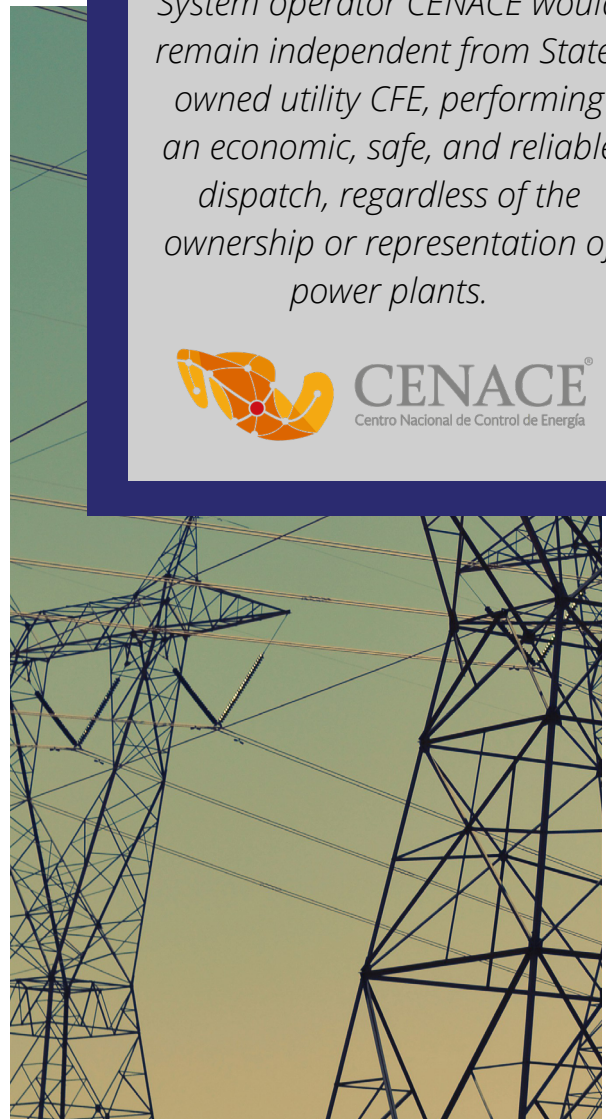
## No Prevalence of Private Entities and Economic Dispatch

- Mexico's Constitution establishes that private entities shall not prevail over the State-owned company in the electricity industry activities in which they participate. The initiative appropriately acknowledges this concept in certain articles. However, it is problematic that it seeks to define "prevalence" as the State's preference over private entities in generation and commercialization activities, as it guarantees certain values in the "public service of electricity". The latter concept is not fully developed with all its potential consequences throughout the law, and it is implicitly limited to basic supply.
- At the same time, it would be established that "generation and commercialization would take place under a competitive regime with no prevalence for private entities", and that the binding government planning for the electricity sector must guarantee such non-prevalence, ensuring that the State maintains at least 54% of the annual average energy injected into the grid; the specific details would be provided in administrative regulations.
- In any case, it does not seem that CFE would have permanent priority dispatch because: a) "Economic dispatch of load" would be defined as the process by which generation, demand response, and storage are scheduled to meet demand while minimizing variable production costs and complying with operational, reliability, and security constraints; b) the language from the 2021 LIE amendments, which explicitly prioritized certain power plants over clean energy sources, would no longer be included; and c) the National Energy Control Center ("CENACE") would perform a safe and economic dispatch (adding "reliable"), regardless of the ownership or representation of power plants.

*System operator CENACE would remain independent from State-owned utility CFE, performing an economic, safe, and reliable dispatch, regardless of the ownership or representation of power plants.*



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## CFE

- The essence of CFE would be to fulfill its social responsibility and ensure the continuity and accessibility of the public service of electricity, providing it to the people at the lowest possible price, and avoiding profit. The initiative makes it clear that this rule would apply only to basic supply as a strategic activity, and that CFE would be the sole basic supplier.
- Legal unbundling of activities would be required for all the sector companies except for CFE, which would maintain operational and functional separation only for purposes of the Wholesale Electricity Market (“MEM”).
- CFE would be able to purchase electricity and other products either directly through bilateral contracts and self-supply surpluses, or through competitive acquisition mechanisms (these would no longer be called “auctions”, nor would they be mandatory).

## Generation

- Three generation types are proposed: distributed, for self-consumption, or for the MEM.
- Permit-exempt generation capacity would increase from 500 kW to 700 kW.
- Self-consumption (currently “isolated supply”) would be either interconnected or isolated. In principle, capacities between 700 kW and 20 MW would have expedited and simple permits under the regulations, with preference for renewable sources.
- Interconnected self-consumption could inject surpluses for free or offer them exclusively to CFE, which could opt to acquire them. Intermittent generators injecting into the grid would need to have their own backup via storage or pay CFE for it.

*Qualified supply would still be the main alternative for large consumers to procure electricity. Also, the law would create a more favorable setting for onsite generation projects.*



- Mixed generation schemes would be subject to binding planning:
  - Long-term production: the State would not contribute any capital; all production would be sold to CFE, which would represent the power plant in the MEM; CFE could opt to acquire it at the end of the contract.
  - Mixed investment: CFE with direct or indirect participation of at least 54% (preference for Mexican partners under equal conditions); CFE or third parties would acquire the products.
- A cogeneration modality would be created, with a technical definition and mandatory dispatch only for the consumption of the associated facility, mainly benefiting Pemex.

## **Grids and Storage**

- It represents a setback that, in certain articles, the initiative abandons a basic principle of grid regulation, which states that access must be “open” and “not unduly discriminatory”; instead, it would only be offered “when technically feasible.”
- Storage is mentioned as an activity that may require a permit based on the criteria determined by the Department of Energy (“SENER”). A storage system is also defined as a set of components that allow the extraction of electrical energy from a source or grid and its storage for later use or injection. The CNE would regulate the compensations for services provided.

## **Supply and MEM**

- The MEM would remain, with the State being responsible for ensuring its efficient and reliable operation, prioritizing the values of the SEN, and seeking equality among participants.
- The obligation to register in the Qualified Users Registry (“RUC”) for eligible load centers connected after the entry into force of the LIE would be eliminated. However, qualified supply would continue being the primary alternative for large end users to procure electricity.
- Clean energy certificates (“CELS”) would not depend on ownership of the clean power plants or the date when they started operating. During the first four months of each year, SENER would set the required percentage for the following three years, with the possibility of revising and adjusting it (currently, it can only be increased). CELS would expire after 30 months.
- Legal figures such as demand response and financial transmission rights would also remain for future implementation.

## **Authorities**

- It is good news that CENACE is proposed to stay independent from CFE, especially considering the constitutional provision that appears to grant control of the SEN to the State-owned public company that is established.

- Under the new model, the boundaries between public policy, regulation, and operation would become blurred. Upon the entry into force of the LSE, SENER would:
  - Approve the general conditions for electricity supply, although it is unclear whether this would also apply to transmission and distribution services.
  - Grant import and export authorizations for electricity.
  - Regulate aspects of distributed generation and electromobility.
  - Authorize the social impact assessment of the energy sector, replacing the current evaluation (“EVIS”); it would be public, entail a definitive or conditional authorization, and require annual implementation reports (SENER may impose sanctions).
  - Follow up on transmission and distribution projects until they are operational.
  - Evaluate compliance with the objectives of CFE, CENACE, and CNE.
- Regarding the last point, CNE would be significantly weakened as it would become a deconcentrated body within SENER, where “binding planning” would effectively include defining the new regulatory framework.

## Transitional Regime

- Until new regulations are issued, all current regulations derived from the LIE will remain in force as long as they do not contradict the LSE. Any permits or contracts would continue to be valid.
- Although the text of the LSE does not contain the word “legacy”, the initiative’s introduction acknowledges all legacy figures, announcing clear and simplified procedures for their transition to the new schemes.
- Members of self-supply companies could directly request their exclusion from permits and interconnection contracts.

At CCN, we remain at your service to elaborate on any of the aspects discussed and to address any concerns regarding the upcoming legal framework of Mexico’s energy sector, the details of its implementation, and the opportunities and challenges it will create.



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