

New Secondary Laws for the Electricity Sector (Part Two)

On February 4, 2025, President Claudia Sheinbaum presented to the Senate a package of energy reforms that seeks to transform the sector's secondary legislation. As part of this comprehensive reform, eight new laws are issued and three more are modified, with the aim of strengthening the State's stewardship, guaranteeing energy security and promoting the transition to a more sustainable model.

In this second part, we will analyze the following bills: (i) the Energy Planning and Transition Law, which redefines the national clean energy strategy, (ii) the Law of the National Energy Commission, which replaces the CRE with a new centralized regulatory entity, (iii) the Geothermal Law, which modernizes the regulations for the use of geothermal resources in the country and (iv) the Law of the State Public Company, Federal Electricity Commission (Comisión Federal de Electricidad).

1. Energy Planning and Transition Law

The Energy Planning and Transition Law ("LPTE") seeks to establish a comprehensive strategy for the energy transition, strengthen the State's stewardship and guarantee the country's energy security and self-sufficiency. This law introduces structural changes in the planning and regulation of the sector, with a broader approach that includes not only the generation of clean energy, but also the diversification of the energy matrix and the consolidation of a more sustainable and equitable model.

With its eventual entry into force, the LPTE will repeal the Energy Transition Law ("LTE"), published in 2015, and replace its regulatory framework with a more robust planning, control and financing structure. The new legislation establishes a series of strategic instruments that will allow for a clearer definition of the country's energy goals, aligning renewable energy efforts with energy security and economic efficiency.

• Shift in Focus: From Sectoral Regulation to Integrated Planning

While the LTE focused on regulating the sustainable use of energy, clean energy and the reduction of polluting emissions in the electricity industry, the LPTE broadens its scope to cover the entire energy sector, including the electricity and hydrocarbons industry.

One of the most notable changes in the LPTE is its emphasis on strengthening the State's stewardship over the energy sector. Unlike the LTE, which promoted private sector participation under market rules, the LPTE seeks to guarantee the prevalence of the CFE as guarantor of the electricity supply, ensuring the continuity, accessibility and reliability of the service.

- **Creation of New Energy Planning Instruments**

The LPTE aims to introduce a more robust and binding planning structure, consisting of the following plans:

- **National Energy Transition Strategy:** Defines long-term goals for the energy sector.
 - **Electricity Sector Development Plan (PLADESE):** Guiding document for the expansion and modernization of the electricity sector.
 - **Hydrocarbon Sector Development Plan (PLADESHI):** Defines strategies for the production, storage and transportation of hydrocarbons.
 - **Plan for Energy Transition and Sustainable Energy Use (PLATEASE):** Establishes specific strategies for diversifying the energy matrix and reducing emissions.
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- **Incorporating the Concept of Energy Justice and Combating Energy Poverty**

A novel aspect of the LPTE is the inclusion of Energy Justice as a guiding principle. The law establishes mechanisms to reduce energy poverty, ensuring that all communities in the country have access to electricity and energy to cover basic needs such as lighting, refrigeration and cooking. To this end, it creates the Universal Energy Service Fund, which will finance electrification projects in rural and marginalized urban areas, prioritizing clean energy and efficient technologies.

- **Modifications to the Clean Energy Certificates Scheme (CELs)**

The LPTE introduces significant changes to the Clean Energy Certificates (CELs) scheme, with the objective of making its application more efficient and realistic within the Mexican energy market. Unlike the LTE, which established an award methodology based solely on the generation of electricity with clean sources, the LPTE adjusts the rules to more accurately reflect the real contribution of each technology to decarbonization.

Specifically, one of the most relevant changes of the LPTE is the obligation to evaluate the actual emissions of each technology before granting a Clean Energy Certificate. Under the LTE, any generation facility with renewable energy or technology considered "clean" could receive CELs without considering their total impact on the emissions of the electricity system.

Another key change in the LPTE is the incorporation of a fossil backup analysis in the delivery of CELs. Under the previous scheme, some clean generation technologies depended at certain times on the electric grid to guarantee their continuity, which implied that, indirectly, they could be using electricity from fossil sources. This adjustment seeks to encourage the development of infrastructure that allows the integration of clean energies without increasing the demand for fossil fuel generation.

- **Increased Focus on Technology Development and Innovation**

Another important change that the LPTE will introduce is the strengthening of scientific research and technological development in energy matters. The LPTE establishes that the Ministry of Energy must promote innovation in energy storage, biofuels, transportation electrification and new energy efficiency technologies.

- **Transparency and Access to Energy Information**

To ensure accountability, the LPTE creates the National Energy Information System, a public access portal where energy sector data will be registered and updated, including information on emissions, clean energy generation and financing of energy transition projects.

- **Compliance with LPTE Decarbonization Goals**

The LPTE introduces a comprehensive approach to the decarbonization of the energy sector, establishing a series of mechanisms and strategies aimed at the progressive reduction of carbon emissions. In line with the General Law on Climate Change, the Ministry of Energy must set specific goals to reduce dependence on fossil fuels and increase the participation of energy sources with low or zero emissions.

- **Transitory Provisions**

- **Deadline for the Issuance of the LPTE Regulations.** The federal executive branch must issue the Regulations of the LPTE within 180 calendar days from the effective date of the law.
- **Publication of New Energy Planning Instruments.** The Ministry of Energy must publish in the Federal Official Gazette, within 365 calendar days, the New Energy Planning Instruments.
- **Transition in the Regulation of Clean Energy Certificates (CELs).** It is established that the National Energy Commission must update the regulations on Clean Energy Certificates within 365 days after the entry into force of the LPTE.
- **Adjustments to the Environmental Impact Assessment Methodology.** The LPTE obligates the Ministry of Energy and the Ministry of Environment and Natural Resources (SEMARNAT) to carry out strategic environmental impact studies in regions with high clean energy potential within the first six months of the law's entry into force.

2. Law of the National Energy Commission

The National Energy Commission ("**CNE**") will be a technical body, under the Ministry of Energy, with technical, operational and managerial independence.

Unlike the Energy Regulatory Commission ("**CRE**"), which currently operates with autonomy under the Law of Coordinated Energy Regulatory Bodies (**LORCME**), the CNE will be subject to the direct coordination of the Ministry of Energy. This change will imply a reduction in the regulator's independence and a greater centralization of energy decision-making within the federal executive branch, which could modify the governance and supervision scheme in the electricity sector.

- **Attributions in the Electricity Sector**

The CNE will have several key functions in electricity regulation. Among them, it will be in charge of determining tariff methodologies and monitoring electricity supply costs, as well as supervising the application of subsidies, particularly in basic supply.

Regarding the regulation of the electricity market, the CNE will be the authority in charge of granting, modifying and revoking permits for the generation and commercialization of electricity. A relevant aspect will be the supervision of the Wholesale Electricity Market, including the regulation of energy transmission and distribution tariffs.

- **Structure and Operation**

The CNE will be organized around a General Directorate, which will be responsible for its administration and legal representation. Unlike the CRE model under the LORCME, in which there was a Governing Body composed of commissioners appointed through a legislative process involving the Senate, the CNE will be managed by a single person appointed directly by the federal executive branch.

To ensure collegial decision-making, the Commission will have a Technical Committee, which will primarily:

- Approve technical and operational resolutions in the energy sector.
- Endorse the regulations and administrative provisions issued by the Commission.
- Authorize the modification, updating, revocation and termination of permits and authorizations in the electricity sector.
- Define the methodologies for rates and compensation in the electricity and hydrocarbon sectors.
- Oversee the performance and productivity of CFE and other regulated entities.

- **Financing and Budget**

The CNE's budget will be approved by the Chamber of Deputies, which represents a significant change with respect to the current scheme of the CRE and the National Hydrocarbons Commission (CNH), which had greater budgetary independence as they were financed with their own revenues derived from fees and charges.

- ***Transitory Provisions***

- **Initial appointment of authorities.** The federal executive branch will appoint the first person to head the General Directorate of the CNE, without the need for ratification by the Senate, and it will also appoint the members of the Technical Committee.
- **Suspension of administrative deadlines.** The deadlines and terms of ongoing formalities and procedures will be suspended for 90 calendar days from the publication of the LCNE to ensure an orderly transition.
- **Continuity of previous regulations.** All provisions, rules, guidelines and criteria issued by the CRE and the CNH will remain in effect insofar as they do not conflict with the LCNE, until they are updated or replaced.
- **Transfer of files and lawsuits.** Permits, authorizations and other acts issued by the CRE and the CNH will remain in effect until their expiration or revocation by the new authority. Pending lawsuits and legal appeals in which the CRE and the CNH are parties will be assumed by the CNE or the SENER.

3. Geothermal Law

The new Geothermal Law would repeal the current Geothermal Energy Law, and its purpose is to update the regulations related to the use of geothermal resources in Mexico. In the explanatory memorandum of the Draft Decree, it is stated that updating the regulatory framework regarding geothermal energy would allow the development of projects that are currently at a standstill.

- **Incorporation of the "registry" into the exploration permit**

The Geothermal Law incorporates the concept of "registration" into the "exploration permit", thus simplifying the procedures to carry out exploration activities. The "registration" used to consist of the authorization of the State prior to obtaining an exploration permit, by virtue of which a private party or the CFE was authorized to carry out the reconnaissance activities.

- **Recognition of diverse uses**

Another substantial change is the express recognition that geothermal resources can have diverse uses and are not just for the generation of electricity. In this regard, the following activities are some of the "diverse uses" recognized: district or greenhouse heating, drying of agricultural or industrial products, aquaculture, canning, chemical extraction, freshwater distillation, metal recovery, and paper pulp manufacturing.

The Geothermal Law also requires that a “permit for diverse uses” be obtained to use and exploit geothermal resources for the "diverse uses" mentioned in the previous paragraph, in addition to obtaining the respective concession title for the exploitation of the geothermal resource.

- **Transitory Provisions**
 - A term of 180 working days from the effective date is granted to issue the regulations of the Geothermal Law.
 - Within a period of one year from the date the Geothermal Law enters into force, the CFE must request an extension from SENER in those geothermal areas that have an exploration permit in force and in which it wishes to continue with the exploration work.
 - Applications for registrations, permits or concessions pending at the entry into force of the Geothermal Law must be resolved in accordance with the Geothermal Energy Law (the repealed law).

4. Law of the State Public Company, Federal Electricity Commission (Comisión Federal de Electricidad)

The Law of the State Public Company, Federal Electricity Commission ("**CFE Law 2025**") would repeal the Federal Electricity Commission Law ("**CFE Law 2014**").

- **Change of legal nature**

With the constitutional reform published in the DOF on October 31, 2024, the change from "Empresa Productiva del Estado" to "Empresa Pública del Estado" was introduced with respect to those strategic activities carried out by the CFE. In this regard, the CFE Law 2025 establishes that, as a State Public Company, the CFE will be an entity of the Federal Public Administration under the SENER, which will be part of the Parastatal Public Administration, maintaining its technical, operational and management independence, with legal capacity and its own assets, under a special regime.

- **Purpose of the CFE**

There is a clear difference in the objectives and purpose of the two laws, since under the CFE Law 2014 its purpose is the development of business, economic, industrial and commercial activities under its purview, generating economic value and profitability for the State; whereas, the CFE Law 2025 establishes that its purpose is to procure "energy justice for the people" and the sustainable development of the activities of generation, storage, transmission, distribution, commercialization and supply of electricity.

- **Elimination of Subsidiary Production Companies**

The CFE Law 2025 eliminates subsidiary production companies and only considers subsidiary companies, which are companies in which the CFE holds more than 50% of their capital stock. These subsidiary companies are not parastatal entities and are governed by the private law applicable depending on where they were created.

- **Special Regime for Sustainability**

This regime introduces new obligations for CFE in terms of environmental and social sustainability, such as the development of a program to reduce the environmental impact of its activities, including the reduction of greenhouse gas emissions, the transition to a low carbon economy and compliance with international environmental agreements.

- **Transitory Provisions**

- The contracts, agreements, trusts, concessions, authorizations and permits granted by any regulatory authority for the full exercise of the activities of the eliminated subsidiary production companies are understood to be granted to the CFE and continue to be effective until the end of their term in accordance with the regulations under which they were formalized.
- All provisions, rules, guidelines, policies, criteria and other regulations issued by any body or administrative unit of the CFE or its subsidiary production companies that are eliminated, remain in force insofar as they do not conflict with the CFE Law 2025 or the resolutions issued by the SENER, until such time as the competent bodies or administrative units issue new rules or determine their reform or repeal.
- Lawsuits, arbitration, proceedings and procedures of any nature that have been initiated or in which CFE's subsidiary production companies are involved must be continued until their conclusion by the competent administrative units of CFE that assume the functions in accordance with the structural reorganization.

These new laws will seek to redefine Mexico's energy sector through a greater centralization and strengthening of the role of the State in the planning, regulation and operation of the electricity industry, establishing new strategic instruments to guarantee energy security and accelerate the transition to clean sources.

It is important to note that, as of the date of publication of this document, the new secondary legislation on electricity analyzed above is still subject to the corresponding legislative procedure and therefore may be subject to additional changes and adjustments.

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