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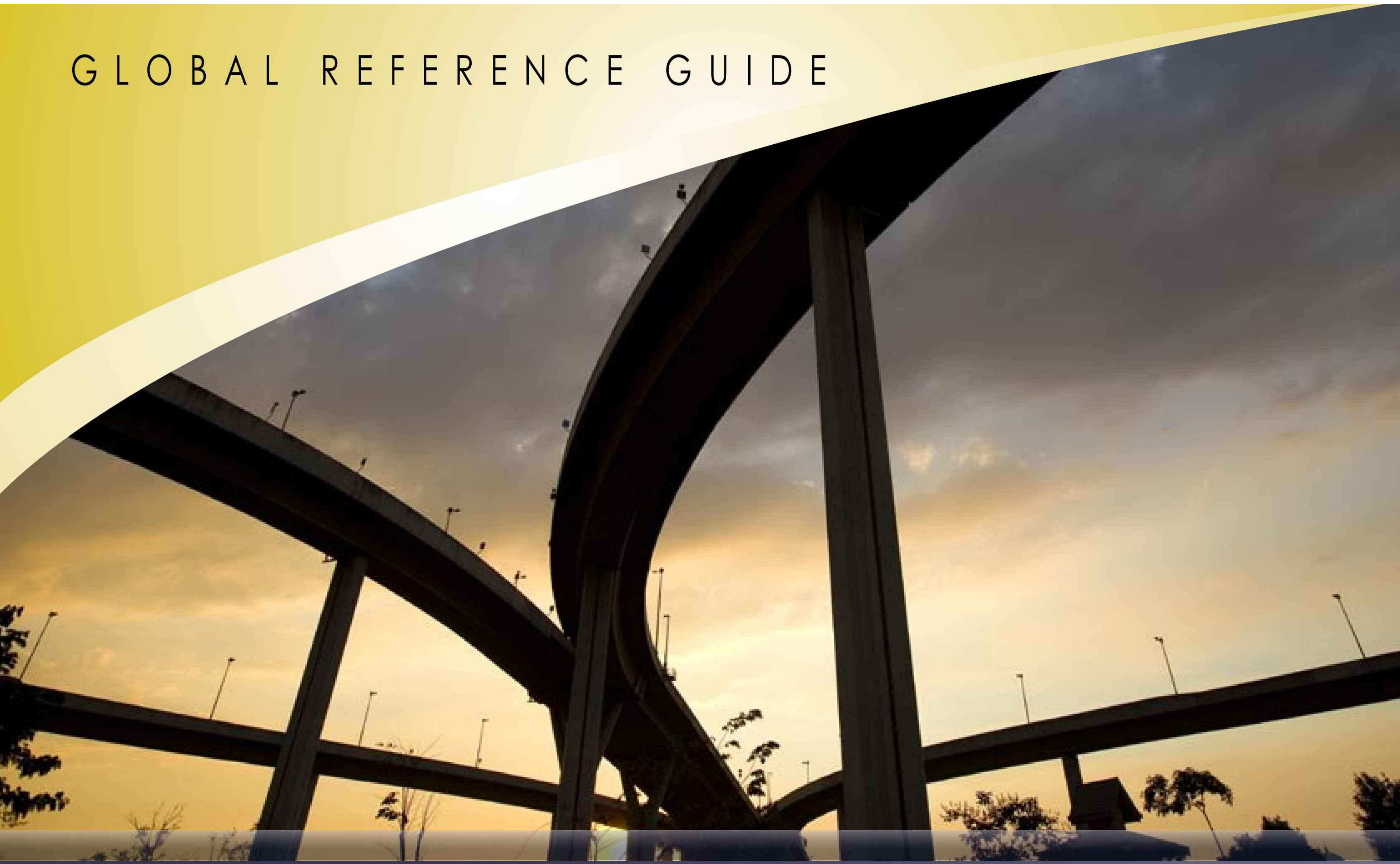

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Investment opportunities in renewable energy generation in Mexico

by Edmond Grieger and Virginia Cornett | Von Wobeser y Sierra, S.C.

DURING THE ADMINISTRATION OF PRESIDENT Felipe Calderón, a broad framework was set up to promote investment in renewable energy generation projects as part of Mexico's energy infrastructure strategy. The newly elected President Enrique Peña Nieto will now continue the development of the renewable energy market. In Mexico, the primary energy agencies are the Federal of Energy (SENER), which is responsible for policy setting, the Federal Electricity Commission Ministry (CFE), the Federal Commission for Energy Regulation (CRE) and the Federal Commission for the Efficient Use of Energy (CONUEE), which are responsible for different aspects of implementation.

There are currently three notable framework laws promoting renewable energy in Mexico – the Law for the Public Service of Electric Energy (amended 1992), the 2008 Law for the Use of Renewable Energy and the Financing of the Energy Transition (LAERFTE) and the 2012 Climate Change Law, which set the stage for creating a positive regulatory and financial environment for investment in renewable energy. The LAERFTE requires the development of the regulatory framework that is intended to make investment in renewable energies viable and profitable. It instructs the appropriate agencies to issue rules, model contracts, and incentives to ensure that the necessary infrastructure and regulatory schemes for renewable projects are in place.

The Climate Change Law has set goals for reducing Mexico's greenhouse gas emissions by 30 percent by 2020 and 50 percent by 2050, and generating at least 35 percent of its electricity from clean energy sources by 2024. To that effect, it instructs all levels of government to undertake climate change mitigation efforts, such as promoting the use of renewable energy to generate electricity, and to develop tax, financial and market instruments that favour the development of renewable energies. This law also provides for the creation of a climate change fund whose resources will be used to help finance renewable energy projects.

Regulatory instruments and incentives for renewable energy that have been developed and issued to date under the aforementioned framework include: a Virtual Energy Bank; net metering for small and medium scale electricity producers; fixed transmission costs, and conduction of open seasons in order to develop infrastructure for renewable projects in regions lacking transmission infrastructure; model contracts between suppliers and generators that use renewable energy; a model connection contract for renewable energy sources; guidelines for public auctions for small production renewable energy projects; and tax incentives for projects which use renewable energy sources and tariff '0' for the import and export of non-polluting or energy efficient equipment and its accessories.

According to Mexico's constitution and regulatory law, the state is required to fulfil the tasks of transmission, transformation, distribution, and selling of energy to the public. However, private investment in energy generation is still possible under several investment schemes or mechanisms, which were provided in the 1992 amendment to the Law for the Pubic Service of Electric Energy. These schemes include: (i) self-supply; (ii) cogeneration; (iii) exportation; (iv) importation for self-supply purposes; (v) independent power producer (IPP); and (vi) small producer.

To date the most popular schemes have been self-supply and cogeneration. Self-supply is the generation of electricity for the needs of the persons involved in the project, while cogeneration is the generation of electricity produced together with steam or another type of secondary thermal energy, for the needs of the persons involved in the project. Under the self-supply scheme, joint ventures are set up between investors and developers, and the beneficiaries are included as minority shareholders of the venture company in order for them to be directly supplied from the electricity generated. These companies benefit from attractive rates when compared to the rates offered by the CFE to the public.

Other attractive schemes being implemented by the federal government are the small producer and the independent producer schemes, through which, all generated energy must be sold to the CFE. The CFE must execute long-term contracts with the renewable energy generators following the payment methodologies and guidelines issued by the CRE.

The new payment methodologies applicable to small and independent producer schemes were recently approved and came into force in November 2012. Within the payments, the CFE will include the costs derived from the development and installation of the electricity generation capacity and from the electricity generated associated with the project. In order to establish these payments, the following factors will be taken into consideration: (i) the technology to be used for the generation of electricity; (ii) the location of the projects; and (iii) the externalities, with respect to the energy produced through conventional technologies.

The payment methodology will be applied to renewable energy projects in order to establish the minimum and maximum payments for the generation of electricity through the small and independent producer schemes.

In November 2012 the guidelines for the CFE to issue public tender offers for small producer schemes came into force. These guidelines provide clear and simple rules for a public bidding process, which grants legal certainty to investments made in the generation of electricity with renewable sources. ■