

Energy Reform 2025 – CNE and Planning and Energy Transition Law

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On January 29, 2025, President Claudia Scheinbaum submitted to the Senate a major bill for the enactment of a package of new secondary laws concerning the Mexican energy industry, and a series of amendments to other related laws (the "Bill"). This newsletter focuses on the part of the Bill relating to the Law of the National Energy Commission and the Planning and Energy Transition Law. In subsequent newsletters we will address the matter related to the hydrocarbons sector and other areas of the energy industry.

As indicated in previous communications, the main purpose of the Bill is to harmonize the secondary laws concerning the energy industry with the constitutional reform published in the Federal Register ("DOF") on October 31, 2024, regarding strategic areas and companies, and the constitutional reform published in the DOF on December 20, 2024, regarding administrative simplification.

These constitutional reforms provided for the following changes, among others:

- the transformation of Comisión Federal de Electricidad ("CFE") and Petróleos Mexicanos ("Pemex") into State-owned public companies, with a vertically integrated structure, establishing that their activities will not be considered monopolistic;
- establishing the exploitation of lithium as an exclusive strategic area of the State
- establishing the prevalence of CFE in the generation of electricity and the prohibition of profit in the provision of essential services;
- establishing that the planning in the energy sector will be binding, under the leadership of the Ministry of Energy ("SENER")
- establishing the internet service provided by the State as a new strategic area;

- establishing the basis for the Energy Regulatory Commission and the National Hydrocarbons Commission to cease to exist, transferring their functions to SENER.

Law of the National Energy Commission

The proposed Law of the National Energy Commission ("LCNE") establishes the creation of the National Energy Commission ("CNE"), as a deconcentrated body of the Ministry of Energy ("SENER") of a technical nature, with technical, operational, managerial and decision-making independence.

Purpose and Authority

The purpose of the CNE will be to regulate, supervise and impose penalties on activities related to the electricity sector and the hydrocarbons sector whose performance is governed by the Law of the Hydrocarbons Sector, the Law of the Electricity Sector and the provisions derived therefrom (the "Energy Activities"). The following are among the scope of authority of the CNE:

- Issuing technical, administrative and operational acts and resolutions on Energy Activities, as well as to monitor and supervise their compliance;
- Issuing regulations and general administrative provisions on Energy Activities, as well as to supervise and oversee their compliance;
- Imposing and enforcing penalties and provisional or preemptive measures (including closure and suspension of facilities);
- Granting, modifying, updating, revoking and terminating permits, authorizations and other administrative acts regarding Energy Activities (excluding permits and authorizations for exploration and production of hydrocarbons, the treatment,

refining, marketing and storage of crude oil, import and export permits and cross participation authorizations, which remain in charge of SENER), as well as monitoring and supervising their compliance. The following are among the permits that remain in charge of the CNE:

- permits for the generation and marketing of electric energy;
 - permits for the processing, liquefaction, regasification, compression, decompression, transportation, storage, distribution, marketing and sale to the public of natural gas;
 - permits for the formulation, transportation, storage, distribution, marketing and sale to the public of petroleum products; and
 - permits for the transportation, storage and marketing of petrochemicals.
- Issuing the methodology to determine the tariffs and considerations for the electricity sector (including the regulation, prior favorable opinion of SENER, of the tariffs for basic supply, transmission, distribution, operation of the National Center for Energy Control and ancillary services not included in the wholesale electricity market), and regulating the considerations, prices and tariffs applicable to the activities of the hydrocarbon sector.
 - Regulating, granting and keeping a registry of clean energy certificates containing at least the information of those granted, the qualified users to whom those issue them and the end users obliged to acquire them, as well as to monitor and supervise their compliance.

Organization

The CNE shall be directed and administered by a Director General, who shall be freely appointed and removed by the President of the Republic and ratified by the Senate.

In addition, the CNE will have a Technical Committee, which is a collegiate body whose purpose is to hear, opine on, analyze, evaluate, rule and approve the legal or administrative acts issued by the CNE.

The Technical Committee of the CNE is made up of the heads of:

- SENER, who presides and has the casting vote;
- The Undersecretary of Electricity of SENER;
- The Undersecretary of Hydrocarbons of SENER;
- CNE's Electricity Unit;
- CNE's Hydrocarbons Unit, and
- Three technical experts from the energy sector, appointed by the President of the Republic, for periods of four years, on a staggered and annual succession basis, with the possibility of being ratified for up to an equal period.

Finally, the CNE will have the administrative units determined in its internal regulations.

Remedies to Challenge Acts of the CNE

The acts or omissions of the CNE may be challenged through the defense remedies provided under the applicable legal provisions; however, in the case of resolutions resulting from a proceeding conducted in the form of a trial, only the act that ends the proceeding may be challenged for violations committed in the resolution or during the proceeding.

In the case of legally and factually grounded decisions approved and issued by the CNE or its Technical Committee, those who carry out the Energy Activities will not be able to allege an economic damage or loss.

Planning and Energy Transition Law

The purpose of the Planning and Energy Transition Law ("LPTE") is to establish and regulate binding planning for the energy sector and the strengthening of the energy transition, as well as the sustainable use of energy, compliance with obligations concerning clean energies

and the reduction of polluting emissions, while maintaining the competitiveness of the productive sectors, in order to contribute to energy sovereignty, justice and self-sufficiency.

The scope of the concept of "binding planning" contemplated in the LPTE and other laws under discussion in the Mexican Congress is not fully defined; however, it is clear that one of its objectives is to delimit the participation of private investment in the energy sector, since the entire development of the sector and the granting of permits and authorizations required by private parties to develop their activities in the sector will be subject, in all cases, to the planning criteria determined by SENER. In this sense, the LPTE is especially important for all those seeking to participate in projects related to the electricity and hydrocarbons sectors in Mexico.

Agencies and Entities Involved in Planning

SENER will be in charge of the binding planning of the energy sector. In addition, the following agencies and entities will also participate in the planning of the energy sector according to the scope of authority established in the LPTE itself, always under the coordination of SENER:

- SENER,
- the Ministry of the Environment and Natural Resources,
- the National Commission for the Efficient Use of Energy ("CONUEE")
- the National Center for Energy Control ("CENACE"),
- the CNE; and
- the National Institute of Electricity and Clean Energies.

The Energy Planning Council will be the coordinating and monitoring body of the national energy planning established through the planning instruments, as well as the improvement of the energy information required for such planning. The Council will be chaired by the head of SENER and will be integrated by:

- a technical secretary;
- the undersecretaries of SENER, and
- one person representing each of Petróleos Mexicanos, Comisión Federal de Electricidad, the National Center for Natural Gas Control, CENACE, CNE, CONUEE and LitioMX.

In addition, there may be representatives of various ministries and other public or private entities may be invited by the Chairman of the Council, who may participate with voice, but without vote.

Planning Instruments

The main instruments in which the planning of the energy sector will be reflected are the following:

- the **National Energy Transition Strategy** the "Strategy"): guiding instrument for national policy in the medium and long term in the areas of energy transition, sustainable use of energy, energy efficiency, clean energies, energy justice, innovation, technological development and training of human resources in the energy sector;
- the **Energy Sector Program**;
- the **Plan for Energy Transition and Sustainable Use of Energy** ("PLATEASE"): a document for the planning of the energy transition and sustainable use of energy with a 15-year horizon, which shall establish the activities, programs and projects derived from the Strategy during the term of office of the Federal Executive branch;
- the **Electricity Sector Development Plan** ("PLADESE"): document that establishes the plan for the development and modernization of the electricity sector infrastructure with a 15-year horizon, which is prepared and published by SENER, with the support of Comisión Federal de Electricidad, CENACE and CNE, as well as public and private organizations determined by SENER; and
- the **Hydrocarbon Sector Development Plan** ("PLADESHi"): document that establishes the plan for

the development and modernization of the hydrocarbons sector infrastructure with a 15-year horizon, which is prepared and published by SENER, with the support of Petróleos Mexicanos, the National Center for Natural Gas Control and the CNE, as well as the public and private organizations determined by SENER.

These instruments will be published in the Federal Register, and the Ministry of Finance and Public Credit shall include in the proposed Federal Expenditures Budget the provisions of resources necessary to comply with the priority objectives established therein.

Other Actions and Measures

The LPTE establishes a series of other actions, measures and programs related to the planning and development of the energy sector, including the following:

- Targets for renewable and other clean energies established in the Strategy will be established (as minimum percentages in relation to the total electricity generation in Mexico).
- There will be a National Atlas of Areas with Renewable Energy Potential and a National Energy Information System.
- Methodologies will be developed for the quantification of emissions and the valuation of externalities.
- Mandatory energy management systems will be established for users with high energy consumption patterns,
- SENER may propose to the Ministry of Finance and Public Credit support mechanisms or fiscal or financial incentives to promote energy efficiency, the integration of clean energy systems, energy justice and the fight against energy poverty, innovation and technological development, the training of human resources and the reduction of emissions in the energy sector.
- SENER may issue Mexican Official Standards in the matters covered by the LPTE.

- The Ministry of Economy, in coordination with SENER, will identify the critical minerals necessary for the energy transition, guaranteeing their availability, access and sustainable use.

Financing

Regarding financing for the energy transition and the reduction of energy poverty, the LPTE establishes that the necessary resources for the Federal Public Administration to comply with the obligations set forth in the LPTE shall come from Federal Expenditures Budget, the Wholesale Electricity Market, the Mexican Petroleum Fund for Stability and Development, the financial and economic instruments available for public works and services, and other instruments that may be established for such purposes. The Federal Executive branch shall implement policies and measures to facilitate financial, economic and market support for compliance with the purposes of the LPTE.

There will be a Fund for Energy Transition and Sustainable Use of Energy to support clean energies and energy efficiency projects. Public entities will have preference in the allocation of resources from this fund and, secondarily, private entities with governing bodies whose majority decision corresponds to the public sector and non-profit organizations.

Likewise, the LPTE contemplates a Universal Energy Service Fund to finance actions for electricity coverage for populations that do not have access to electricity yet, energy justice and the reduction of energy poverty.

Resources will be allocated to finance scientific research, technological development, innovation and human resources training projects focused on the optimal use of hydrocarbons, energy transition and the sustainable use of energy. These resources will be administered and coordinated by SENER.

On the other hand, the LPTE establishes financing schemes for the sustainable use of energy through agreements between an end-user and a financing provider (which may be a commercial company or a financial entity) with the following characteristics:

- The financing provider provides the necessary capital to carry out a project that contributes to the

replacement of energy inefficient equipment and appliances, make improvements to buildings in which energy consumption is made for their thermal conditioning to make them more efficient, or the installation of economically viable equipment in homes that allow the use of renewable energy sources to meet their needs, in each case, using the technologies eligible for financing determined by CONUEE.

- Programs or projects that establish the use of this financing mechanism shall be submitted to SENER for approval.
- In the event SENER determines that the financing is appropriate, the end-user may authorize the financing provider to recover its capital and financing costs through the end-user's electricity supply or natural gas distribution billing, in which case, the electricity supplier or natural gas distributor shall enter into an agreement with the financing provider, in accordance with the format approved by the CNE (and by the Federal Consumer Protection Agency, in the case of residential users), to establish the terms in which the electricity supplier or natural gas distributor shall provide to the financing provider the service of collection from the end user (without assuming responsibility in the event of default by the end user).
- The financing provider shall seek to apply competitive interest rates, in accordance with the technical criteria issued for such purpose by SENER.

Clean Energy Certificates ("CELs")

In order to foster the growth of clean energies, SENER will establish criteria and issue provisions to recognize clean energy generators and grant CELs.

In order to make visible the need for fossil energy backup in the operation of clean energies, the provisions issued by SENER shall consider the actual emissions level of each technology and each permittee, and the methodology issued by the CNE in this regard shall consider the use of

backup and ancillary and additional services provided by fossil energies that are indispensable for the operation of clean energies, considering the annual operation data of the National Electric System provided by CENACE.

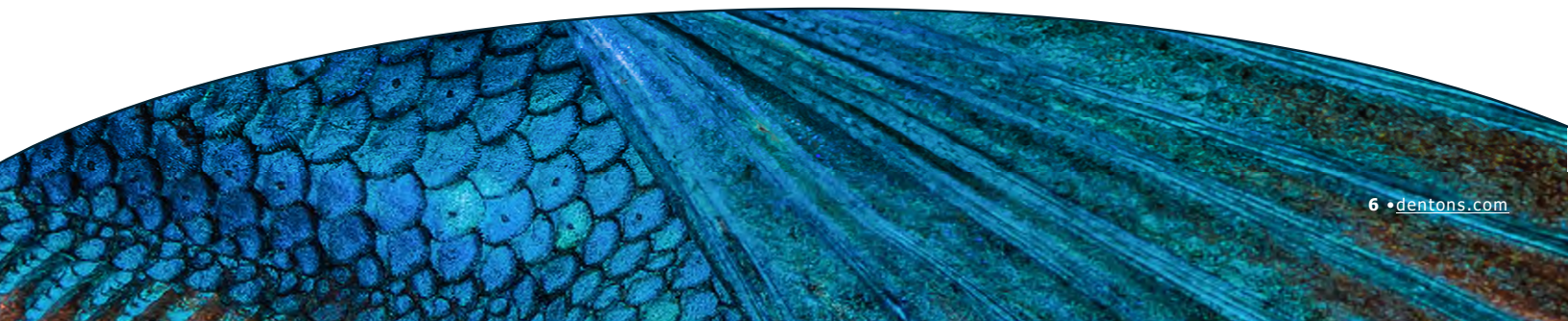
Rules are established for the operation of the public registry of CELs for which the CNE will be responsible, in which the CELs, their owners and the legal acts necessary for their purchase, sale, granting as collateral or any other transaction that actually, virtually or legally involves the transfer of their ownership will be registered.

Acknowledgments and Penalties

The recognition of excellence in energy efficiency is established to recognize facilities, buildings, companies or products that stand out in the sustainable and efficient use of energy on a voluntary basis.

SENER, through CONUEE, may enter into voluntary agreements with participants in the productive sectors that have significant energy consumption per physical production unit, to reduce the energy intensity of their activities; however, the possibility of establishing mandatory energy efficiency actions is also contemplated.

Finally, various penalties are established for public servants and other persons (including private parties) who fail to comply with the provisions of the LPTE.



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