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## BUFETE LAN / ANALYSIS



### MEXICO ELECTRICITY SYSTEM IS IMPORTANTLY AMENDED

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Another step in the dismantling of the Energy Reform of 2013 which allowed a substantial participation of national and foreign private investment in the oil and electricity sectors has been accomplished.

Gradually, step by step, through resolutions of the energy authorities and now by legislative activity, Mexico has been amending the 2013 Reform with the main purpose of strengthening the role of the State and of its productive companies such as *Petróleos Mexicanos* (PEMEX) and the *Comisión Federal de Electricidad* (Federal Commission of Electricity – CFE).

A few days ago, Mexican Congress approved important amendments to the *Ley de la Industria Eléctrica* (Law on the Electricity Industry – the Law), amendments that transform key features pertaining to the national electricity sector.

**Bufete Lan Law Firm** in Mexico City highlights some of the relevant aspects of these reforms to the mentioned Law.



In general, the amendments grant dominance to the CFE in the national electricity system vis-à-vis private entities, main producers of clean or renewable energies.

The reforms reflect not only a change in technical aspects but are the product of a relevant ideological shift of the current federal administration which sees the public sector as paramount in controlling and conducting strategic areas of the national economy such as energy, among others. According to this view, key and strategic resources should be predominantly exploited by the public sector, leaving private actors a subsidiary role.

In the electricity sector, the federal authorities have argued that private investors were given in 2013 unfair and undue privileges in detriment of the Nation over its energy strategic resources so amendments were necessary to imbue equilibrium in the public-private equation.

On the other hand, the private sector argues that the new public policies favoring the State industries and, particularly, the amendments to the Law on the Electricity Industry will induce the formation of undesired monopolies in detriment of healthy competition for the benefit of users.

Likewise, the amendments –they say- favor pollutant sources of energy such as fuel oil and coal affecting Mexico's international legal obligations in the field of renewable energies adopted in the Paris Agreement and even in Mexico's legislation.

Independently of the merit of these positions, the fact is that, as mentioned, gradually, step by step, some of the fundamentals of the 2013 Reform are being transformed by the current federal administration.

The Law on the Electricity Industry has as main purpose to regulate the planning and control of the National Electricity System, the Public Service of Transmission and Distribution of Electric Energy and related activities pertaining to the electricity industry.

Likewise, said legislation aims to promote a sustainable development of the electricity industry guaranteeing its efficient and continued delivery for the benefit of consumers, as well as the fulfillment of obligations pertaining to the universal and public service, the promotion of clean energies and the reduction of pollutant emissions.

This Law contemplates diverse permits for private parties interested in executing allowed activities. The permits and authorizations involved are granted by the *Comisión Reguladora de Energía* (Commission for the Regulation of Energy). Permit holders shall be individuals and/or juridical entities legally established in Mexico.

Which are, in a nutshell, the main amendments to the Law on the Electricity Industry?

- The CFE centrals, including those using coal and fuel oil, will dispatch first their electricity to the national network, as mentioned below.
- New contract formats will be developed.
- Contracts already in force with independent energy producers may be subject to review.
- Permits of self-sufficiency could even be revoked by the Commission for the Regulation of Energy if obtained through acts constituting *fraude a la loi*.
- Implementation of a new mechanism of dispatch: First, the energy produced by CFE hydroelectric plants. Then, energy generated by CFE other plants, followed by energy produced by private wind, solar and combined cycle plants.
- The granting of Certificates of Clean Energies – instruments designed to promote the production and use of renewable energies- will not depend of the property or of the date of start of the electrical plants' commercial operations, allowing thus the CFE not to have the obligation to acquire those Certificates through biddings.

With the amendments approved by Congress a few days ago, it is clear that the public Federal Commission of Electricity will enjoy dominance in the national electricity system waning the role of private parties.

This, in line with the ideological shift of the current federal administration which now favors public entities such as PEMEX and CFE to predominantly exploit the Nation's strategic energy resources.

It is expected that more relevant changes could be coming. **Bufete Lan Law Firm** will on time report on this matter for its clients and contacts around the world.

Should you need further information on the above mentioned amendments or professional advice, please contact us at [bufetelan@bufetelan.com](mailto:bufetelan@bufetelan.com)

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