PROGRESS OR SETBACK? THE IMPACT OF MEXICO'S ELECTRICITY REFORM UNDER THE FACULTIES, RIGHTS, AND OBLIGATIONS OF DIFFERENT ACTORS IN THE POWER SECTOR

Alejandro López-Velarde Bolán[*]

Synopsis: Energy regulatory regimes around the world are undergoing a profound transformation as governments seek to balance multiple objectives such as securing reliable energy supplies, achieving ambitious decarbonization goals, promoting market efficiency, and advancing sector liberalization. Mexico exemplifies this tension through two contrasting energy reforms that have fundamentally reshaped its energy sector. The landmark 2013 energy reform dismantled one of the largest state monopolies in the world, which opened the energy industry to private sector participation to attract domestic and foreign investment and introduced competitive market mechanisms across the sector. However, the recent 2024 energy reform seeks to reverse this course by recentralizing state control and limiting private participation across the value chain, thereby dismantling fundamental elements of the earlier liberalization framework.

This article aims to analyze legally and theoretically how the 2024 energy reform reshapes the institutional and competitive landscape of the electricity sector, assessing whether state recentralization measures represent progress or setbacks for Mexican energy policy, as well as for liberalization and decarbonization efforts. The analysis reveals that while the 2024 reform introduces specific measures to boost decarbonization and social equity efforts, it fundamentally undermines competitive market principles through (i) restructuring autonomous regulatory bodies; (ii) reintegrating previously unbundled activities into the State-Owned Company; and (iii) imposing restrictive quotas on private participation. By highlighting these structural changes, this article emphasizes the implications of the 2024 energy reform for Mexico's electricity sector.

* Attorney admitted in Mexico in 2022; J.D., Universidad Iberoamericana Ciudad de México; LL.M. in Energy Transition Law, University of Aberdeen, 2025. Mr. Alejandro López-Velarde Bolán is an Associate of the law firm López Velarde, Wilson, Abogados, S.C. where he acts as Senior Associate of the Energy and Corporate Practice Group of the Mexico City office. Email: alopezb@lvwhb.com. This article does not contain or constitute legal advice.

I. INTRODUCTION

Energy systems represent one of the main pillars of contemporary economies across the globe.[1] Over the past decades, these systems have undergone profound transformations driven by technological innovation and the growing urgency to combat climate change.[2] This urgency is particularly evident in countries like Mexico, where climate change manifest itself in more frequent and intense hurricanes, causing damages throughout the country. In recognition of this reality, the United Nations established access to affordable, reliable, sustainable and modern energy for all as Sustainable Development Goal 7 within the 2030 Agenda,[3] thus consolidating the energy transition as an urgent global priority.[4] In parallel, multiple countries have intensified their efforts to decarbonize their energy sectors, committing to ambitious net-zero targets by 2050.[5]

In the case of Mexico, the energy sector has also experienced several reforms over the last decades, with the 2013 energy reform (2013-Reform) being especially important, as it marked a pivotal moment in the country's transition from a state-

1. Harsh Vijay Singh et al., *The Energy Transitions Index: An Analytic Framework for Understanding the Evolving Global Energy System*, 26 ENERGY STRATEGY REV., Nov. 2109, at 1, 1).

2. *Id*.

3. The 2030 Agenda for Sustainable Development, commonly referred to as the 2030 Agenda, is a global action plan that sets out 17 Sustainable Development Goals to be achieved by the year 2030. It was adopted by all United Nations Member States in 2015. *See* G.A. Res. 70/1, (Sep. 25, 2015).

4. *The 17 Goals*, U.N. DEP'T. OF ECON. AND SOC. AFFS. https://sdgs.un.org/goals (last visited Jun. 16, 2025).

5. UN ENV'T PROGRAMME, EMISSIONS GAP REPORT 2024: NO MORE HOT AIR . . . PLEASE! WITH A MASSIVE GAP BETWEEN RHETORIC AND REALITY, COUNTRIES DRAFT NEW CLIMATE COMMITMENTS 22-23, U.N. Doc. DEW/2672/NA (Oct. 24, 2024), https://www.unep.org/resources/emissions-gap-report-2024.

controlled model to a liberalized model.[6] This reform introduced fundamental elements necessary for a well-functioning electricity market, including the creation of the Wholesale Electricity Market (*Mercado Eléctrico Mayorista*—MEM), the legal unbundling of state-owned utility activities, the introduction of competition in different segments, and the strengthening of autonomous regulatory entities.[7]

However, at the end of 2024, Mexico enacted a new energy reform (the Energy Reform) that fundamentally altered the regulatory framework for both hydrocarbon and electricity sectors, prioritizing state control over these industries.[8] This change of direction in energy policy raises fundamental questions about the impacts on sector participants' rights and obligations, as well as the trajectory of Mexico's liberalization and decarbonization efforts, threatening to jeopardize the principles of a competitive and liberalized market that had driven the sector since the 2013-Reform. The electricity sector's abrupt shift from a state monopoly that had been in place since its nationalization in 1960 lasting over five decades, to a liberalized market and now back towards state predominance, reveals a persistent pattern of regulatory instability. These policy reversals constitute a significant systemic risk, undermining the long-term stability and regulatory predictability that are essential for investment.

While there is an extensive literature on the implementation and impacts of the 2013-Reform and liberalization processes in the electricity industry, the Energy Reform has not yet been subject to a comprehensive academic analysis evaluating the various impacts on market participants and entities. This article addresses this critical gap by systematically analyzing how the Energy Reform alters the faculties, rights and obligations of all actors involved in the electricity sector. Exploring whether these changes represent progress or setback in the processes of liberalization, decarbonization and power policy in Mexico. Given the scope and complexity of the Energy Reform, this article focuses exclusively on the analysis of the electricity sector, while the oil and gas sector is deliberately excluded, as its specific regulatory framework warrants a separate and independent study.

To address this critical gap, this article adopts a comprehensive analytical framework that discusses various legal provisions and the main impacts of the Energy Reform on the electricity sector. The analysis comprises a doctrinal

---

6. E. Cruz May et al., *Towards the Liberalization of the Energy Market: Structural Changes and Implementation Challenges of the 2013 Mexican Energy Reform Insights in the Energy Nexus*, 5 ENERGY NEXUS, Mar. 16, 2022, at 1, 10, https://www.sciencedirect.com/science/article/pii/S2772427122000080.

7. *Id*. at 4-7; *see generally* Reforma Energética: Resumen Ejecutivo [Energy Reform: Executive Summary], México Gobierno de la República [Mexico Government of the Republic] (Mex.), formato PDF, https://www.gob.mx/cms/uploads/attachment/file/164370/Resumen_de_la_explicacion_de_la_Reforma_Energetica11_1_.pdf (consultada el 27 de mayo de 2025) [hereinafter Reforma Energética: Resumen Ejecutivo [Energy Reform: Executive Summary]].

8. Decreto por el que se reforman el párrafo quinto del artículo 25, los párrafos sexto y séptimo del artículo 27 y el párrafo cuarto del artículo 28 de la Constitución Política de los Estados Unidos Mexicanos, en materia de áreas y empresas estratégicas [Decree reforming the fifth paragraph of Article 25, the sixth and seventh paragraphs of Article 27, and the fourth paragraph of Article 28 of the Political Constitution of the United Mexican States, regarding strategic areas and companies], Diario Oficial de la Federación [DOF] 31-10-2024 (Mex.).

normative legal analysis of past and current legislation, drawing on the theory of electricity market liberalization, and a comprehensive comparative of the regulatory model established by the 2013-Reform versus the new policy framework established by the Energy Reform. This multidimensional approach facilitates a rigorous assessment of the structural transformations of the Mexican electricity industry and its effects on liberalization and decarbonization efforts.

In this sense, following this introduction, the subsequent sections provide a comprehensive analysis of the transformation of Mexico's electricity market. Section II outlines the theoretical foundations of electricity market liberalization and traces the evolution of electricity regulation in Mexico from its early beginnings until the implementation of the Energy Reform. This historical perspective enables an assessment of whether the Energy Reform represents regulatory progress or setback. Section III analyses the new secondary energy laws in order to evaluate their impacts on regulatory institutions, focusing on the restructuring of institutional frameworks, the establishment of the National Energy Commission (*Comisión Nacional de Energía*—CNE), and the restructuring of the Federal Electricity Commission (*Comisión Federal de Electricidad*—CFE). Section IV analyses the new Electric Sector Law to evaluate the possibilities for private sector participation across each stage of the electricity value chain, as well as the implications for competition. Section V evaluates whether there has been progress or setbacks in the processes of liberalization and decarbonization of the industry. Finally, section VI offers conclusions derived from the analysis and provides final reflections on the implications of the Energy Reform for the electricity sector.

II. MARKET LIBERALIZATION AND ELECTRICITY REGULATION IN MEXICO

To assess whether the Energy Reform represents progress or setback in terms of private sector participation and economic efficiency, it is important to have an overview of what the liberalization of electricity markets entails, as well as Mexico's historical background in this sector. Therefore, this section focuses on (i) explaining electricity market liberalization and its main elements; (ii) describing the evolution of the Mexican electricity sector, from its beginnings with private participation, through full nationalization under state control, to the subsequent liberalization of the electricity market; and (iii) outlining the main regulatory changes introduced by the Energy Reform.

A. What is Electricity Market Liberalization?

Historically, electricity systems in Mexico (and around the world) operated under vertically integrated monopoly structures, whether state-owned or privately-owned.[9] These entities controlled all stages of the value chain (*i.e.*, electricity generation, transmission, distribution, and retail supply), operating without market competition.[10] The absence of competitive pressures led to systemic issues such

9. Paul L Joskow, *Lessons Learned From Electricity Market Liberalization*, 29 ENERGY J. (SPECIAL ISSUE 2) 9, 10 (2008), https://www.jstor.org/stable/27085628.

10. Paul L Joskow, *Introduction to Electricity Sector Liberalization: Lessons Learned from Cross-Country Studies, in* ELECTRICITY MARKET REFORM 1, 2-3 (Fereidoon P. Sioshansi & Wolfgang Pfaffenberger eds., 2006).

as high costs for consumers, operational inefficiencies, and lack of innovation.[11] However, driven by technological advancements and growing public dissatisfaction with the performance of state-owned companies, significant reforms emerged to establish competitive markets in this sector.[12]

The liberalization of the electricity market generally refers to the transition from a vertically integrated monopoly structure to a market-driven model that encourages competition and private sector participation across the value chain.[13] This restructuring enables private entities to engage in different segments of the sector, such as electricity generation and supply, while normally retaining transmission and distribution as natural monopolies.[14] This approach helps to prevent any single player from dominating the sector.

In this context, electricity market liberalization aims to reduce state control and foster competitive markets to achieve key objectives, including attracting domestic and foreign private investment, diversifying the energy mix, enhancing operational efficiency, lowering government subsidies, and reducing consumer costs.[15] Electricity market liberalization is based on the assumption that competitive markets drive these objectives more effectively than state-owned monopolies, primarily by incentivizing investment, boosting efficiency, and accelerating innovation.[16]

While approaches to electricity liberalization vary,[17] the process typically includes several of the following core elements:

1. Unbundling, which involves the structural separation of vertically integrated monopolies that control multiple stages of the electricity value chain into distinct, independently operated entities.[18] At the same time, unbundling can be implemented at varying levels of strictness, such as:

---

11. R. W. Bacon & J. Besant-Jones, *Global Electric Power Reform, Privatization and Liberalization of the Electric Power Industry in Developing Countries* 14 (The World Bank, Working Paper, Paper No. 2, 2002), https://documents1.worldbank.org/curated/en/226491468780869282/pdf/280850Global0electric0power0EMS0no-02.pdf; Joskow, *supra* note 10, at 11.

12. Bacon & Besant-Jones, *supra* note 11, at 1.

13. ULRIK STRIDBAEK, INT' LESSONS FROM LIBERALISED ELECTRICITY MARKETS 11, 47 (2005), https://iea.blob.core.windows.net/assets/d0c52ee9-6f54-4735-81b2-6e0dd3ddbe13/LessonsNet.pdf; Michael G. Pollitt, *The Role of Policy in Energy Transitions: Lessons from the Energy Liberalisation Era*, 50 ENERGY POL'Y 128, 128-30 (2012), https://www.sciencedirect.com/science/article/pii/S0301421512002091.

14. STRIDBAEK, *supra* note 13, at 47.

15. Robert Wilson, *Architecture of Power Markets*, 70 ECONOMETRICA 1299, 1299-1303 (2002), https://www.jstor.org/stable/3082000?seq=1; Tooraj Jamasb & Michael Pollitt, *Electricity Market Reform in the European Union: Review of Progress toward Liberalization & Integration*, 26 ENERGY J. 11, 26 (2005), https://www.jstor.org/stable/pdf/23297005.pdf; Joskow, *supra* note 10, at 11.

16. Pollitt, *supra* note 13, at 133.

17. *See generally* Paul L Joskow, *Electricity Sectors in Transition*, 19 ENERGY J. 25 (1998), https://www.jstor.org/stable/41322773?seq=1; *see also* Joskow, *supra* note 10; *see generally* SALLY HUNT, MAKING COMPETITION WORK IN ELECTRICITY (John Wiley & Sons 2022), https://regulationbodyofknowledge.org/wp-content/uploads/2013/03/Hunt_Making_Competition_Work.pdf; *see also* Pollitt, *supra* note 13.

18. Joskow, *supra* note 10, at 4; Bacon & Besant-Jones, *supra* note 11, at 4.

(a) Accounting unbundling, whereby vertically integrated companies maintain separate financial accounts for each operational segment (*e.g.*, generation vs transmission) while retaining common ownership and management.[19] This ensures financial transparency but does not alter organizational control.
(b) Legal unbundling, which forces an integrated energy company to separate its various activities into distinct legally independent entities, though they may remain under the same corporate group.[20]
(c) Ownership unbundling, is considered the most stringent form of separation. It prohibits a single entity from owning or controlling both transmission and generation/supply activities.[21]

The core purpose of unbundling is to eliminate anti-competitive practices by preventing integrated utilities from exploiting their control over multiple segments of the electricity value chain.[22] This includes restricting the sharing of sensitive information between entities to prevent distortions in competitive markets, preventing cross-subsidization, and ensuring non-discriminatory access to critical infrastructure, thereby guaranteeing equal opportunities for all market participants.[23]

2. Privatization, which involves the transfer or sale of state-owned assets (including ownership, control or operational management to private investors), is a frequent part of electricity market liberalization in many jurisdictions, and it seeks to improve service quality and drive innovation.[24]
3. Deregulation, which implies a reduction in the state's direct control in certain segments of the value chain, allows market forces to determine prices rather than having them set by the government.[25] However, it is important to note that deregulation does not imply the complete absence of regulation. In strategic sectors, such as energy, certain aspects like transmission and

19. Iñigo del Guayo, Gunther Kühne, & Martha Roggenkamp, *Ownership Unbundling and Property Rights in the EU Energy Sector*, *in* PROPERTY AND THE LAW IN ENERGY AND NATURAL RESOURCES 326, 331 (2010).

20. *Id*. at 331-32; HUNT, *supra* note 17, at 60.

21. del Guayo, Kühne & Roggenkamo, *supra* note 19, at 334.

22. Joskow, *supra* note 10, at 4-5.

23. del Guayo, Kühne & Roggenkamo, *supra* note 19, at 328-36.

24. Joskow, *supra* note 10, at 12; Bacon & Besant-Jones, *supra* note 11, at 4.

25. For a better understanding of deregulation and diverse examples, see generally Robert B. Horwitz, *Understanding Deregulation*, 15 THEORY & SOC'Y (SPECIAL DOUBLE ISSUE) 139 (1986), https://www.jstor.org/stable/657178; *see also* Paul L. Joskow, *Regulation and Deregulation after 25 Years: Lessons Learned for Research in Industrial Organization*, 26 REV. INDUS. ORG. 169, 188 (2005), https://www.jstor.org/stable/41799229?seq=1; Nydia Macgregor & Tammy L. Madsen, *Regulation/Deregulation*, *in* THE PALGRAVE ENCYCLOPEDIA OF STRATEGIC MANAGEMENT, 1411, 1411-13 (Mie Augier & David J. Teece eds., 2016).

distribution remain heavily regulated to ensure fairness to investors and consumers.[26]

4. Market competition, which entails allowing multiple private entities to operate in segments of the electricity sector where competition is technically viable, such as generation and retail supply.[27] In the case of generation, this enables diverse range of producers, including renewable energy firms and independent power producers to enter the market. In retail, it allows companies to compete directly by offering differentiated pricing, services, or green energy options to end consumers, who gain the freedom to choose suppliers that best align with their preferences and budgets.

5. The establishment of a wholesale energy market to enable real-time balancing of electricity supply and demand at competitive prices.[28]

6. The creation of independent regulatory bodies, which provide impartial decisions, thereby generating confidence in the private sector and attracting greater investment.[29]

B. Origins of the Electricity Sector and its Regulation in Mexico

The origins of electricity generation and use in Mexico can be traced back to as early as 1879, when the first small coal-fired thermoelectric plant was installed at a privately owned textile factory in León, Guanajuato, primarily to provide lightning for industrial operations.[30] Various private companies soon followed, installing similar localized generators for manufacturing, mining, and other economic sectors.[31] These early systems relied on on-site generators without any centralized transmission grids (as electricity was confined to the immediate factory or mine site), and were not available for households, with residential or public access emerging only gradually in urban areas.[32]

---

26. STRIDBAEK, *supra* note 13, at 47-57.

27. *Id*.; Bacon & Besant-Jones, *supra* note 11, at 4; Joskow, Paul L., "*Electricity Sector Restructuring and Competition: Lessons Learned*," *en* Cuadernos de Economía, vol. 40, núm. 121, diciembre de 2003, p. 548, 549-52 (Mex.), https://www.jstor.org/stable/41951470?seq=1.

28. Joskow, *supra* note 10, at 12.

29. *Id*. at 13.

30. For a more fulsome discussion of the history of the electricity sector in Mexico, see generally Omar Castrejon-Campos, Lu Aye, & Felix Kin Peng Hui, *Competition, Coordination, or Institutional Change? A Multi-Perspective Analysis of Historical Electricity Transitions in Mexico*, 84 ENERGY RSCH. & SOC. SCI., Feb. 2022, at 1; Ortega Lomelín, Roberto, La Evolución Constitucional de la Energía a Partir de 1917 [The Constitutional Evolution of Energy since 1917], 1ª. ed., México: Instituto Nacional de Estudios Históricos de la Revolución Mexicana, 2018 p. 77-225 (Mex.), https://biblio.juridicas.unam.mx/bjv/detalle-libro/5275-la-evolucion-constitucional-de-la-energia-a-partir-de-1917-coleccion-inehrm; *see generally* Victor Carreón & Armando Jimenez, *The Mexican Electricity Sector: Economic, Legal and Political Issues*, STAN. PROGRAM ON ENERGY & SUSTAINABLE DEV., https://fsi-live.s3.us-west-1.amazonaws.com/s3fs-public/evnts/media/Mexico.pdf (last visited May 3, 2025).

31. Lomelín, *supra* note 30, at 78-79; Castrejon-Campos, Aye, & Kin Peng Hui, *supra* note 30, at 3-4.

32. CTR. FOR ENERGY ECON., BUREAU OF ECON. GEOLOGY, UNIV. OF TEX. AT AUSTIN & INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY, GUIDE TO ELECTRIC POWER IN MEXICO 13-14 (1st

The initial development of the electricity sector lacked government oversight and regulation, resulting in abusive practices and electricity shortages.[33] In response to these issues, the Mexican government established the National Electricity Commission (by its Spanish acronym—CFE) in 1937 as the official entity responsible for organizing and managing a national system for the generation, transmission, and distribution of electricity, based on technical and economic principles, on a non-profit basis, with the aim of obtaining the highest possible return at minimum cost for the benefit of the general interest.[34]

By 1960, electricity service to the general public was provided by both the state (via CFE) and private companies.[35] However, in December of that year, a decree was published in the Official Gazette of the Federation (*Diario Oficial de la Federación*—DOF) that completely transformed the sector.[36] This decree established that "*[i]t corresponds exclusively to the Nation to generate, transmit, transform, distribute, and supply electrical energy for the provision of public service. In this matter, no concessions will be granted to private individuals, and the Nation will make use of the goods and natural resources required for such purposes.*"[37]

This moment marked the beginning of what is known as the nationalization of the Mexican electricity industry, whereby the provision of the public electricity services became the exclusive responsibility of the state, creating a vertically integrated monopoly and eliminating private participation.[38]

C. Opening of the Electricity Market: Regulation Between 2013 and 2024

The first significant attempt to reform the Mexican electricity sector after it was nationalized in 1960 took place in 1992 during the government of Carlos Salinas de Gortari.[39] The 1992 reform introduced modifications to the Public Electricity Service Law with the purpose of authorizing private participation in power generation for self-consumption; cogeneration; small-scale production; independent production; importation and exportation purposes; and for emergency cases with the limitation that any electricity surpluses must be sold exclusively to

---

ed., 2006), https://www.beg.utexas.edu/files/cee/legacy/Guide_To_Electric_Power_in_Mexico.pdf [hereinafter GUIDE TO ELECTRIC POWER IN MEXICO].

33. Alejandro López-Velarde, *New Regulation for the Power Generation and Gas Industries in Mexico: The Possibilities for Foreign Investors*, 40 ENERGY L. J. 87, 90 (2019).

34. Cárdenas Miranda, Elva Leonor, Reseña Histórica de la Comisión Federal de Electricidad [Historical Overview of the Federal Electricity Commission], en: Aproximaciones Comparadas sobre el Sector Eléctrico en Iberoamérica [Comparative Approaches to the Electricty Sector in Latin America], 1ª. Ed., México: Universidad Nacional Autónoma de México, 2022, p. 9-14 (Mex.), https://archivos.juridicas.unam.mx/www/bjv/libros/14/6571/4.pdf.

35. Lomelín, *supra* note 30, at 94.

36. Decreto que declara adicionado el párrafo sexto del Artículo 27 de la Constitución Política de los Estados Unidos Mexicanos [Decree declaring the addition of the sixth paragraph to Article 27 of the Political Constitution of the United Mexican States], Diario Oficial de la Federación [DOF] 29-12-1960 (Mex.).

37. *Id*.

38. GUIDE TO ELECTRIC POWER IN MEXICO, *supra* note 32, at 14.

39. Lomelín, *supra* note 30, at 104.

the CFE.[40] This restriction meant that the expected private investments did not materialize, as private generators were forced to sell their surplus of electricity to CFE at prices often set unattractively low by the state monopoly.[41]

Although this change represented a paradigm shift, its scope was limited. CFE retained its monopolistic control in key areas, such as exclusive control over transmission and distribution networks, as well as direct commercialization to end-users.[42]

In attempt to bring an end to CFE's four-decade monopoly over Mexico's electricity sector, constitutional reform initiatives were presented in 1999 and 2002 under Presidents Ernesto Zedillo and Vicente Fox, respectively.[43] These proposals sought to amend articles 27 and 28 of the Mexican Constitution to allow greater private participation in the electricity industry.[44] However, political disagreements in the Mexican Congress ultimately prevented the adoption of these reforms, thereby preserving the monopolistic structure that had persisted until that time.[45]

The 2013-Reform, promoted by President Enrique Peña Nieto, marked the most significant transformation of the Mexican electricity sector since its nationalization in 1960, allowing private companies to participate in electricity generation and commercialization to third parties other than the CFE.[46] The 2013-Reform began with the publication of the amendments to articles 25, 27 and 28 of the Mexican Constitution in the DOF on December 20, 2013, which provide the basis for the electricity sector.[47] This was followed by the enactment of several secondary laws in August 2014, which included the Electric Industry Law (by its

40. *Id*.; *see also* Ley del Servicio Público de Energía Eléctrica [Public Electric Energy Service Law], Diario Oficial de la Federación [DOF] 22-12-1975, últimas reformas DOF 09-04-2012, *repealed* DOF 11-08-2014 (Mex.).

41. *See* Constitución Política de los Estados Unidos Mexicanos, CP, [Political Constitution of the United Mexican States], *as amended*, art. 134, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 10-04-2026 (Mex.) (dictating that the government shall obtain services and goods at the lowest price possible).

42. ORG. FOR ECON. COOP. & DEV. (OECD), THE GOVERNANCE OF REGULATORS: DRIVING PERFORMANCE OF MEXICO'S ENERGY REGULATORS 52 (2017), https://www.oecd.org/content/dam/oecd/en/publications/reports/2017/01/driving-performance-of-mexico-s-energy-regulators_g1g73dc4/9789264267848-en.pdf [hereinafter THE GOVERNANCE OF REGULATORS].

43. Lomelín, *supra* note 30, at 114-19.

44. Castrejon-Campos, Aye, & Kin Peng Hui, *supra* note 30, at 16.

45. *Id*.

46. For a more fulsome discussion of the 2013 Energy Reform in Mexico, see generally López-Velarde, *supra* note 33; *see also* Cruz May et al., *supra* note 6, at 4-7.

47. Decreto por el que se Reforman y Adicionan Diversas Disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en Materia de Energía [Decree Amending and Adding Various Provisions of the Political Constitution of the United Mexican States on Energy Matters], Diario Oficial de la Federación [DOF] 20-12-2013 (Mex.); Cárdenas Miranda, *supra* note 34, at 18-19.

Spanish acronym—LIE),[48] the CFE Law,[49] among others.[50] The reform framework was further consolidated in December 2015 with the adoption of the Energy Transition Law.[51]

This reform was particularly notable for the creation of the MEM, where electricity, along with related services and products are bought and sold under a competitive system.[52] Additionally, the CFE was restructured from a "State-Owned Company" to a competitive "State Productive Company," operating similarly to private companies and adopting international corporate governance standards, while remaining under state ownership.[53] In this regard and in order to comply with competition standards, the CFE was legally unbundled into specialized subsidiaries and affiliates, each responsible for distinct segments of the electricity sector.[54]

At the operational level, the National Energy Control Centre (*Centro Nacional de Control de Energía*—CENACE) was separated from CFE to become a decentralized public body to function as an independent system operator of the National Electric Grid (*Sistema Eléctrico Nacional*—SEN) and the chief operator of the MEM.[55] Furthermore, an open access regime was introduced to guarantee non-discriminatory access to transmission and distribution networks for new private participants.[56]

These constitutional amendments and secondary laws dismantled one of the world's largest state monopolies, ending CFE's exclusive control over Mexico's electricity sector.[57] As a result, nearly all areas of the industry were opened to private sector competition, with the exceptions of nuclear energy, public service of transmission and distribution, and planning and control of the National Electric Grid.[58]

---

48. *See generally* Ley de la Industria Eléctrica [Electric Industry Law], Diario Oficial de la Federación [DOF] 11-08-2014, última reformas DOF 01-04-2024, *repealed*, DOF 18-03-2025 (Mex.).

49. *See generally* Ley de la Comisión Federal de Electricidad [Law of the Federal Electricity Commission], Diario Oficial de la Federación [DOF] 11-08-2014, últimas reformas DOF 11-05-2022, *repealed*, DOF 18-03-2025 (Mex.).

50. *See generally* Ley de Energía Geotérmica [Geothermal Energy Law], Diario Oficial de la Federación [DOF] 11-08-2014, *repealed*, DOF 18-03-2025 (Mex.); *see also* Ley de los Órganos Reguladores Coordinados en Materia Energética [Coordinated Regulatory Bodies in Energy Matters Law], Diario Oficial de la Federación [DOF] 11-08-2014, última reforma DOF 20-05-2021, *repealed*, DOF 18-03-2025 (Mex.).

51. *See* Ley de Transición Energética [Energy Transition Law], Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

52. THE GOVERNANCE OF REGULATORS, *supra* note 42, at 52.

53. *Id*. at 52-53.

54. Lomelín, *supra* note 30, at 215-216.

55. ENERGY POLICIES BEYOND IEA COUNTRIES: MEXICO 2017, INT'L ENERGY AGENCY 25 (Feb. 27, 2017), https://iea.blob.core.windows.net/assets/d82993b9-6034-4c56-b9f5-5860e82be975/EnergyPoliciesBeyondIEACountriesMexico2017.pdf; Alejandro Ibarra-Yunez, *Energy Reform in Mexico: Imperfect Unbundling in the Electricity Sector*, 35 UTILS. POL'Y 19, 20 (2015), https://www.sciencedirect.com/science/article/pii/S0957178715300060.

56. Ibarra-Yunez, *supra* note 55, at 21-24.

57. López-Velarde, *supra* note 33, at 98.

58. *Id*. at 109-110.

D. The Energy Reform of 2024-2025

Andrés Manuel López Obrador's presidential victory in 2018 marked a dramatic shift in Mexico's energy policy. Throughout his six-year administration, he sought to restore national energy sovereignty, criticizing the previous reform as a neoliberal framework that had strategically weakened the CFE and favored private interests at the expense of energy sovereignty.[59]

In response, Andrés Manuel López Obrador submitted a comprehensive energy reform in February 2024 designed to limit private sector participation and reinforce state control.[60] Consequently, amendments to articles 25, 27 and 28 of the Mexican Constitution were published in the DOF on October 31, 2024,[61] followed by secondary legislation on March 18, 2025, during the current administration of President Claudia Sheinbaum.[62] In this regard, the reform's principal modifications are as follows:

> 1. Amendment to article 25 of the Mexican Constitution redefines the legal nature of the CFE, transforming it from a "State Productive Company" to a "State-Owned Company."[63] This shift implies that the main purpose of the CFE will be social welfare and public service rather than its prior corporate and commercial scope, since one of the main changes in the current Electric Sector Law (by its Spanish acronym—LSE) is the binding principle whereby projects of the private sector must be in line with the projects of the Mexican

---

59. Iniciativa del Ejecutivo federal con Proyecto de Decreto por el que se reforman los artículos 25, 27 y 28 de la Constitución Política de los Estados Unidos Mexicanos, en materia de industrias estratégicas del Estado [Initiative of the Federal Executive with Draft Decree reforming articles 25, 27 and 28 of the Political Constitution of the United Mexican States, on matters of strategic industries of the State], Gaceta Parlamentaria, Cámara de Diputados, LXV Legislatura, num. 6457-14, anexo 14, 05-02-2024 (Mex.), formato PDF, https://gaceta.diputados.gob.mx/PDF/65/2024/feb/20240205-14.pdf.

60. *Id*.

61. *See generally* Decreto por el que se reforman el párrafo quinto del artículo 25, los párrafos sexto y séptimo del artículo 27 y el párrafo cuarto del artículo 28 de la Constitución Política de los Estados Unidos Mexicanos, en materia de áreas y empresas estratégicas [Decree reforming the fifth paragraph of Article 25, the sixth and seventh paragraphs of Article 27, and the fourth paragraph of Article 28 of the Political Constitution of the United Mexican States, on matters of strategic areas and companies], Diario Oficial de la Federación [DOF] 31-10-2024 (Mex.).

62. Decreto por el que se expiden la Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad; la Ley de la Empresa Pública del Estado, Petróleos Mexicanos; la Ley del Sector Eléctrico; la Ley del Sector Hidrocarburos; la Ley de Planeación y Transición Energética; la Ley de Biocombustibles; la Ley de Geotermia y, la Ley de la Comisión Nacional de Energía; se reforman diversas disposiciones de la Ley del Fondo Mexicano del Petróleo para la Estabilización y el Desarrollo y, se reforman, adicionan y derogan diversas disposiciones de la Ley Orgánica de la Administración Pública Federal [Decree enacting the Law of the State Public Company, Federal Electricity Commission; the Law of the State Public Company Petróleos Mexicanos; the Electric Sector Law; the Hydrocarbons Sector Law; the Energy Planning and Transition Law; the Biofuels Law; the Geothermal Law; and Law of the National Energy Commission; amending various provisions of the Mexican Petroleum Fund for Stabilization and Development Act and amending, adding, and repealing various provisions of the Organic Act of the Federal Public Administration], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

63. Constitución Política de los Estados Unidos Mexicanos, CP, [Political Constitution of the United Mexican States], *as amended*, art. 25, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 10-04-2026 (Mex.).

Government aimed to reduce the cost of electricity and bring electricity to the whole Mexican Republic.[64]

2. The amendment to article 27 of the Mexican Constitution maintained the existing constitutional prohibition to grant concessions over the planning and control of the National Electric Grid, as well as for the public services of transmission and distribution of electricity.[65] Moreover, the reform establishes a critical constraint by stating that the private sector may continue to participate in the activities of the electricity sector other than those mentioned above; however, its participation quota may in no case "prevail" over the participation of the CFE.[66]

3. Amendment to article 28, which adds that the functions performed by the state in the following strategic areas will not be considered monopolies: (a) lithium exploration, and (b) activities carried out by the State-Owned Companies.[67] Regarding the planning and controlling of the National Electric Grid, this will not be considered a state monopoly and it is added that its objectives are to provide the population with the lowest possible electricity prices, avoiding profit, in order to guarantee national security and sovereignty.[68]

4. The autonomous energy regulatory body named Energy Regulatory Commission (*Comisión Reguladora de Energía*—CRE) is extinguished, and the CNE is established as the new regulatory body, which is subject to the direct coordination of the Ministry of Energy (*Secretaría de Energía*—SENER).[69]

III. IMPACTS ON THE MEXICAN REGULATORY ENTITIES

The Energy Reform represents a significant restructuring of Mexico's energy policy framework, redistributing regulatory authority and redefining institutional roles across the electricity sector.[70] This section analyzes how the Energy Reform redefines the roles and faculties of SENER and CFE, and key regulatory bodies governing Mexico's electricity sector. It explores the different impacts of this

64. Ley del Sector Eléctrico [Electric Sector Law], art. 12, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

65. Constitución Política de los Estados Unidos Mexicanos,CP, [Political Constitution of the United Mexican States], *as amended*, art. 27, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 10-04-2026 (Mex.).

66. *Id*.

67. *Id*. at art. 28.

68. *Id*.

69. *See generally* Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de simplificación orgánica [Decree amending, adding and repealing several provisions of the Political Constitution of the United Mexican States, on matters of Organic Simplification], Diario Oficial de la Federación [DOF] 20-12-2024 (Mex.); *see also* Ley de la Comisión Nacional de Energía [Law of the National Energy Commission], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

70. *See generally* Ley del Sector Eléctrico [Electric Sector Law], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

institutional transformation on both the regulatory framework and the functioning of the sector.

A. The Role of the Ministry of Energy (SENER)

Prior to the Energy Reform, Mexico's electricity sector operated under a clear institutional division of responsibilities. SENER held primary responsibility for setting and implementing electricity sector policy, while the main regulatory functions rested within the CRE as an independent body overseeing sector operations and market rules.[71] However, the Energy Reform significantly altered this institutional balance, positioning SENER as the dominant authority in the industry's management. This shift marks a substantial departure from the previous model of distributed responsibilities and independent oversight.

Before its dissolution under the "*Decree amending, adding and repealing several provisions of the Political Constitution of the United Mexican States, regarding Organic Simplification"* published on December 20, 2024 in the DOF, the CRE was a coordinated autonomous regulatory body in energy matters, which possessed its own legal personality, technical and managerial autonomy, as well as the capacity to dispose of the revenues derived from its regulatory activities.[72] Its main functions included (i) granting permits and authorizations for sector participants; (ii) imposing economic sanctions for violations of the law; (iii) setting and regulating electricity tariffs and prices; (iv) establishing and monitoring legal unbundling requirements for electricity industry participants to ensure competitive market conditions; (v) issuing technical standards; (vi) granting clean energy certificates (CECs); among others.[73] This regulatory framework positioned CRE as the central authority responsible for maintaining order, ensuring fair competition, and overseeing technical compliance across the sector.

However, the Energy Reform extinguished several public bodies, including the CRE, transferring part of its functions, powers and attributions as a regulatory body to the SENER.[74] This handover not only generated significant changes in the electricity sector but also triggered significant implications for the private sector seeking to invest/participate in the industry.

One of the most significant consequences is that, by extinguishing the CRE as the independent regulator responsible for sectoral compliance, SENER shifted

---

71. RICHARD H. K. VIETOR & HAVILAND SHELDAHL-THOMASON, MEXICO'S ENERGY REFORM 5 (Harv. Bus. Sch. 2017), https://hepg.hks.harvard.edu/sites/g/files/omnuum10586/files/hepg/files/mexican_energy_reform_draft_1.23.pdf.

72. Ley de los Órganos Reguladores Coordinados en Materia Energética [Law of the Coordinated Regulatory Bodies in Energy Matters], arts. 2, 3, Diario Oficial de la Federación [DOF] 11-08-2014, última reformas DOF 20-05-2021, *repealed*, DOF 18-03-2025 (Mex.).

73. Ley de la Industria Eléctrica [Electric Industry Law], art. 12, Diario Oficial de la Federación [DOF] 11-08-2014, última reformas DOF 01-04-2024, *repealed*, DOF 18-03-2025 (Mex.).

74. *See generally* Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de simplificación orgánica [Decree amending, adding and repealing several provisions of the Political Constitution of the United Mexican States, on matters of Organic Simplification], Diario Oficial de la Federación [DOF] 20-12-2024 (Mex.).

from its traditional role of formulating and coordinating national energy policy to also becoming a direct regulator overseeing part of the energy sector.[75] This consolidation of regulatory authority removed the institutional counterweight that had previously guaranteed a balance in the electricity sector. It could create potential conflicts of interest given that the same entity that establishes the sector's policies simultaneously assumed the functions of regulation, supervision and application of economic sanctions, thereby centralizing all regulatory power within a single entity even with the new regulation provided by the CNE.[76]

Moreover, the removal of CRE's technical autonomy carries a substantial risk of politicization. The CRE previously operated as an independent body that made decisions grounded in legal frameworks and public interest considerations without the interference of political interests.[77] However, by transferring part of its functions to SENER, which is an entity subordinated to the federal executive branch,[78] critical decisions concerning permit approvals, tariff setting, or the supervision of the CNE could now be influenced by the political agenda of the government, thereby undermining the independence and impartiality that the CRE previously maintained under the 2013-Reform. This shift leaves essential principles such as competition and efficiency in the background, undermining the regulatory predictability and legal stability that investors and market participants require for long-term planning and investment decisions.[79]

At the same time, this centralization has fostered an atmosphere of distrust among investors.[80] Institutional stability, particularly the existence of autonomous regulatory bodies, represents one of the main elements that contribute to legal certainty and market confidence.[81] However, after the dissolution of the CRE, whose independence had previously ensured that decisions were free from political agendas, combined with the consolidation of regulatory powers described above, investors' distrust towards the Mexican government was generated,

75. Ley del Sector Eléctrico [Electric Sector Law], art. 10, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

76. *Id*.

77. THE GOVERNANCE OF REGULATORS, *supra* note 42, at 60-69.

78. Ley Orgánica de la Administración Pública Federal [Organic Law of the Federal Public Administration], *as amended*, art. 26, Diario Oficial de la Federación [DOF] 29-12-1976, última reformas DOF 16-07-2025 (Mex.).

79. López Ayllón, Sergio, "et al.," *La Desaparición de los Órganos Autónomos (Reformas en Materia de Simplificación Administrativa)* [*The Disappearance of Autonomous Bodies (Reforms in the Matter of Administrative Simplification*), *en* ANÁLISIS TÉCNICO DE LAS 20 INICIATIVAS DE REFORMAS CONSTITUCIONALES Y LEGALES PRESENTADAS POR EL PRESIDENTE DE LA REPÚBLICA [TECHNICAL ANALYSIS OF THE 20 INITIATIVES OF CONSTITUTIONAL AND LEGAL REFORMS PRESENTED BY THE PRESIDENT OF THE REPUBLIC] 66 (2024), https://archivos.juridicas.unam.mx/www/bjv/libros/15/7483/8.pdf.

80. Carrillo, Jesus, *Estancamiento Económico y el Nuevo Reto Energético* [*Economic Stagnation and the New Energy Challenge*], IMCO CENTRO DE INVESTIGACIÓN EN POLÍTICA PÚBLICA [IMCO CTR. RSCH. PUB. POL'Y], formato HTML, https://imco.org.mx/estancamiento-economico-y-el-nuevo-reto-energetico/ (consultada el 27 de marzo de 2025).

81. López Ayllón et al., *supra* note 79, at 66.

resulting in a loss of capital in electricity projects and the exit of big companies such as Iberdrola from the country.[82]

In this sense, following the aforementioned restructuring and reallocation of responsibilities, SENER now holds several key powers, including (i) conducting and coordinating national energy policy; (ii) executing technical and economic regulation, as well as enforcing sanctions in energy matters; (iii) overseeing CNE and the National Energy Control Centre; (iv) granting permits for electricity imports and exports; among others.[83]

This absorption of functions previously residing with the CRE into the SENER represents a clear setback from the governance model established by the 2013-Reform, which main objective was to liberalize the electricity market by strengthening autonomous entities,[84] that guaranteed impartiality in the regulation and supervision of the electricity sector. However, by centralizing different powers within a single entity, the current energy regulation contradicts market liberalization principles and risks deterring private investment in Mexico.

B. The Role of the National Energy Commission (CNE)

As a result of the Energy Reform, the CNE was established to replace the CRE. In this regard, the CNE operates as an entity with technical, operational, managerial and decision-making independence.[85] Among its main functions are the (i) granting of permits for the generation, storage, and commercialization of electricity; (ii) regulation of tariffs for transmission and distribution services; (iii) granting of CECs; (iv) registration of qualified end users and commercialists; among others.[86]

It is important to note that, unlike the CRE, which operated autonomously under the CRE Law,[87] the CNE is sectorized under the SENER, operating under its direct coordination.[88] This change significantly reduces the management

---

82. *Spanish Energy Giant Iberdrola to Sell US $5B in Assets, Exit Mexico*, MEX. NEWS DAILY (July 24, 2025), https://mexiconewsdaily.com/business/iberdrola-looking-leave-mexico-sells-assets/; Agustín Marco & José María Olmo, *Iberdrola Contrata a Barclays para Vender Quince Plantas y Salir de México por 4.000 M* [*Iberdrola Hires Barclays to Sell Fifteen Plants and Exit Mexico for 4,000 M*], EL CONFIDENCIAL [THE CONFIDENTIAL], formato HTML, https://www.elconfidencial.com/empresas/2025-07-23/iberdrola-barclays-mexico_4178131/ (consultada el 29 de julio de 2025); Darío Celis, *Reforma Judicial Espanta Inversiones Energéticas* [*Judicial Reform Scares Away Energy Investments*], EL HERALDO DE MÉXICO [THE HERALD OF MEXICO], formato HTML, https://heraldodemexico.com.mx/opinion/2025/5/14/reforma-judicial-espanta-inversiones-energeticas-698842.html (consultada el 26 de mayo de 2025).

83. Ley del Sector Eléctrico [Electric Sector Law], art. 10, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

84. *See generally* Reforma Energética: Resumen Ejecutivo [Energy Reform: Executive Summary], *supra* note 7.

85. Ley de la Comisión Nacional de Energía [Law of the National Energy Commission], art. 2, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

86. *Id*. at art. 7.

87. Ley de la Comisión Reguladora de Energía [Energy Regulatory Commission Law], art. 1, Diario Oficial de la Federación [DOF] 31-10-1995, última reformas DOF 28-11-2008, *repealed*, DOF 11-08-2014 (Mex.).

88. Ley de la Comisión Nacional de Energía [Law of the National Energy Commission], art. 2, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

independence of the CNE as the new energy regulator and centralizes decision-making in the federal executive branch, potentially altering the governance and oversight of the electricity sector.

Moreover, the CNE's budget and financing options also mark a significant departure from the previous model. While the CRE maintained greater fiscal independence through self-generated revenues from permit fees and royalties,[89] enabling decisions free from political pressure, the CNE depends entirely on budget allocations that must be approved by the Chamber of Deputies.[90] This financial dependence creates substantial risks of politicization as technical decisions, such as the granting of permits, imposition of sanctions, or tariff-setting, may become susceptible to political influence rather than being grounded in technical and regulatory criteria.

Regarding CNE's structure and functioning, the CNE is directed and managed by a General Director with a Technical Committee that is integrated by: (a) the head of SENER, with quality vote; (b) the heads of the Subsecretaries of Electricity and Hydrocarbons; (c) the heads of the Electricity and Hydrocarbons Units, and (d) three technical experts from the energy sector, appointed by the President.[91]

Unlike the previous model of the CRE, which was composed of commissioners appointed through a legislative process with the intervention of the Senate,[92] the CNE is operated by a single person, the General Director, who is freely appointed and removed by the Federal Executive and ratified by the Senate.[93] This structural difference could lead to changes in the regulation of the activities of the electricity sector due to the fact that power is being centralized in the General Director, who is strongly linked to the President, increasing the risk of greater political intrusion in decision making compared to the previous model.

C. The Restructuring of CFE and its Implications

As noted in section II, following the Energy Reform, CFE underwent a fundamental transformation from a "State Productive Company" to a "State-Owned Company," abandoning its previous corporate and commercial framework. Under the new Law of the State Public Company, Federal Electricity Commission (by its Spanish acronym—LCFE), which replaced the former CFE Law, the CFE is now classified as a parastatal entity within the Federal Public

89. Ley de los Órganos Reguladores Coordinados en Materia Energética [Law of Coordinated Regulatory Bodies in Energy Matters], art. 29, Diario Oficial de la Federación [DOF] 11-08-2014, última reformas 20-05-2021, *repealed*, DOF 18-03-2025 (Mex.).

90. Ley de la Comisión Nacional de Energía [Law of the National Energy Commission], art. 26, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

91. *Id*. at arts. 12, 18, 19.

92. Ley de los Órganos Reguladores Coordinados en Materia Energética [Law of Coordinated Regulatory Bodies in Energy Matters], arts. 5-9, Diario Oficial de la Federación [DOF] 11-08-2014, última reformas 20-05-2021, *repealed*, DOF 18-03-2025 (Mex.).

93. Ley de la Comisión Nacional de Energía [Law of the National Energy Commission], art. 14, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

Administration under SENER's oversight, with technical, operational and management independence, along with legal personality and proprietary assets.[94]

In addition, the Energy Reform fundamentally redefines the CFE's institutional purpose. Under the previous CFE Law, its primary purpose was conducting business, economic, industrial, and commercial activities to generate economic value and profitability for Mexico and complying with the national demand of electricity.[95] However, the Law of the State Public Company, Federal Electricity Commission shifts this focus, establishing the CFE's primary objective as ensuring energy justice for the population and promoting sustainable development within the activities of the electricity sector at the lowest cost.[96] This transformation represents a fundamental shift from a market-driven and profit-oriented model towards one emphasizing social rights and environmental responsibility, while reinforcing the role of the state through CFE as a central actor in the electricity sector and possibly aligning with global energy transition goals.

Moreover, the Law of the State Public Company, Federal Electricity Commission establishes that the CFE is directly in charge of the public service of transmission, distribution and basic supply,[97] prohibiting private sector participation in these activities. Notably, the law declares that none of the activities carried out by CFE constitute a monopoly.[98] This provision could mean that the State-Owned Company may be exempted from any antitrust scrutiny.

Additionally, one of the most significant impacts of the restructuring of the CFE is the dissolution of its subsidiary productive companies (CFE Supplier of Basic Services, CFE Transmission, CFE Distribution, and CFE Generation I, II, III, IV, V and VI), while maintaining those affiliate companies in which it holds more than 50% of its capital stock, including CFE Calificados, S.A. de C.V. and CFEnergía, S.A. de C.V.[99] These subsidiaries had originally been created under the 2013-Reform to comply with legal unbundling requirements designed to promote an efficient and competitive market.[100] However, as a result, CFE subrogated all the rights and obligations of its dissolved subsidiaries, returning once again to a state-dominance model.[101]

---

94. Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad [Law of the State Public Company, Federal Electricity Commission], art. 2, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

95. Ley de la Comisión Federal de Electricidad [Law of the Federal Electricity Commission], art. 4, Diario Oficial de la Federación [DOF] 11-08-2014, últimas reformas DOF 11-05-2022, *repealed*, DOF 18-03-2025 (Mex.).

96. Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad [Law of the State Public Company, Federal Electricity Commission], art. 3, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

97. *Id*. at art. 8.

98. *Id*. at art. 4.

99. *Id*. at arts. 61-62, tit. 6, trans. Tercero.

100. Lomelín, *supra* note 30, at 215-216.

101. Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad [Law of the State Public Company, Federal Electricity Commission], tit. 6, trans. Tercero, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

Likewise, the Energy Reform establishes that the CFE must prevail over private entities in generation and commercialization,[102] a point that will be discussed in more detail in the next section.

Finally, the interpretation of the Law of the State Public Company, Federal Electricity Commission is entrusted to SENER, while at the same time indicating that, in case of doubt, the CFE should be favored in the interpretation of this law in its transactions with the private sector.[103] This arrangement could create inherent conflicts of interest by prioritizing state interest over market neutrality. In this sense, CFE could receive favorable interpretations in areas such as priority dispatch of its power plants (even if they are less efficient), or preference could be given to CFE's fossil plants over private sector renewables, thereby distorting market competition.

IV. IMPACTS ON EACH PHASE OF THE ELECTRICITY INDUSTRY

The Energy Reform not only transformed the institutional and regulatory framework of the electricity industry but also caused important modifications throughout different activities within the power industry.[104] This section analyzes how the Energy Reform alters the way the private sector can participate in each phase of the value chain and outlines the different impacts that might affect the form of competition.

A. The State Prevalence in Generation and Commercialization

In line with the constitutional amendment to Article 27 discussed in section II, the Electric Sector Law, which replaced the Electric Industry Law, introduced the principle of prevalence of the state over private parties,[105] making it one of the main changes of the Energy Reform.

In this sense, the Electric Sector Law defines prevalence as "*[t]he preference of the State over private individuals in the activities of generation and commercialization, since it is responsible for guaranteeing the reliability, safety, continuity, and accessibility of the public electricity service*."[106]

Furthermore, the law states that in accordance with the principle of binding planning, the planning of the electricity sector must be designed to ensure that the state maintains at least 54% of the average energy fed into the National Electric Grid in a calendar year,[107] limiting private parties to a maximum of 46% participation in the generation and injection of energy into the National Electric Grid.

---

102. Constitución Política de los Estados Unidos Mexicanos, CP, [Political Constitution of the United Mexican States], *as amended*, art. 27, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 10-04-2026 (Mex.).

103. Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad [Law of the State Public Company, Federal Electricity Commission], art. 6, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

104. *See generally* Ley del Sector Eléctrico [Electric Sector Law], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

105. *Id*. at art. 3 (XXXVII).

106. *Id*.

107. *Id*. at art. 12 (VI).

The Regulations of the Electric Sector Law (by its Spanish acronym—RLSE) establishes that, in order to evaluate whether private parties' participation in generation activities remains within the permissible threshold, SENER must calculate—no later than the last business day of February of each year and pursuant to the methodology issued by SENER—the state's participation in generation as the quotient resulting from dividing the electricity generated and injected by the state by the total electricity generated and injected, multiplied by one hundred.[108] Based on the results, SENER shall identify additional generation, transmission, and other electricity infrastructure needs to be developed by the state.[109]

The Electric Sector Law grounds this state prevalence because of its responsibility to provide electricity to the population at the lowest possible cost and to ensure the reliability and security of the National Electric Grid.[110] However, this prevalence may raise several concerns for the private sector.

This state dominance may represent a significant departure from the competitive framework established by the 2013-Reform, creating substantial barriers to private sector participation in the power industry. The establishment that private parties cannot prevail over the state, together with the objective that the latter must reach 54% of energy injected into the National Electric Grid, could potentially mean that CFE plants (regardless of its technology) obtain priority in the electricity dispatch over private plants if, in the final months of a calendar year, the energy injected into the National Electric Grid by CFE falls below the required 54%, thus undermining market competition and discouraging future investments by the private sector.

B. Impacts on Generation

The Electric Sector Law establishes a comprehensive regulatory framework that contemplates different schemes for electricity generation, enabling the participation of both the private and public sectors.[111] Thus, generation of electricity can be developed by (i) the state (through CFE); (ii) private parties independently; or (iii) private parties jointly with the state under the new mixed investment schemes.[112] In this sense, the generation schemes that are contemplated in the Electric Sector Law are:

> 1. Distributed Generation, which underwent a significant modification compared to the previous law. The Electric Industry Law established a capacity threshold of less than 0.5 MW for projects seeking to participate under this scheme.[113] However, the

108. Reglamento de la Ley del Sector Eléctrico [Regulations of the Electric Sector Law], arts. 2 (XIII-XIV), 9, Diario Oficial de la Federación [DOF] 03-10-2025 (Mex.).

109. *Id.* at art. 9.

110. Ley del Sector Eléctrico [Electric Sector Law], art. 2, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

111. *Id*. at arts. 16-17.

112. *Id*. at art. 16.

113. Ley de la Industria Eléctrica [Electric Industry Law], art. 17, Diario Oficial de la Federación [DOF] 11-08-2014, última reformas DOF 01-04-2024, *repealed*, DOF 18-03-2025 (Mex.).

> Electric Sector Law extended this limit to less than 0.7 MW.[114] It is important to note that projects developed under this scheme are interconnected to the general distribution networks (GDN) and are not required to obtain a generation permit from the CNE.[115] Likewise, the electricity generated, along with its associated products, provides commercial flexibility, allowing generators to use the power for their own consumption or sell it through the CFE.[116]

While this increase in capacity may appear modest, it represents a positive aspect of the Energy Reform, enabling larger-scale projects to access key advantages of this scheme. These benefits include exemption from CNE permit requirements, thus streamlining administrative processes and reducing implementation times. This change may be particularly valuable for medium-sized companies and commercial or industrial facilities that need higher generation capacity to meet their energy demands.

> 2. Self-consumption (which replaces the figure of isolated supply scheme contemplated in the Electric Industry Law) refers to projects under a power plant with a generation capacity equal to or greater than 0.7 MW designed to meet the on-site own energy needs of the generation permit holder.[117] However, this scheme creates regulatory uncertainty in its interpretation when compared to the former isolated supply scheme.

The ambiguity is related to whether the self-consumption scheme will be strictly limited to the permit holder's own needs, or whether future regulations or general administrative provisions (by its Spanish acronym—DACGs) will adopt a more flexible interpretation. Under the previous law, the concept of own needs was interpreted broadly, allowing the delivery of energy to meet the needs of the permit holder's economic interest group. However, it is important to note that the definition of "economic interest group" established in the Electric Sector Law notably excludes any reference to shareholders, suggesting they may not fall within its scope.[118]

In December 2025, the CNE published in the DOF the DACGs to regulate the figure of Self-consumption of Electric Energy, which include the following definition:

> Self-consumption: A generation figure, recognized in the LSE, for carrying out the activity of electric power production through a Power Plant with a capacity equal to or greater than 0.7 MW, intended to satisfy, though a Private Network, the Own Needs on-site of the holder of the generation permit in force, or the

114. Ley del Sector Eléctrico [Electric Sector Law], art. 25, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

115. *Id*. at arts. 19, 25, 26.

116. *Id*. at arts. 25-27.

117. *Id*. at art. 30.

118. Ley del Sector Eléctrico [Electric Sector Law], art. 3 (XXV), Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

> Own Needs of other Sel-consumption Users recognized through a Self-consumption Group. . . .[119]

Based on this definition, it appears that the self-consumption scheme does allow for the delivery of electricity to other companies that qualify as members of a Self-consumption Group, which would suggest a broader interpretation closer to that which existed under the former isolated supply scheme. Nevertheless, certain ambiguities remain as to the precise scope and conditions under which such delivery may take place, particularly regarding which entities may be recognized as Self-consumption Users within a given group.[120] Therefore, it is advisable to continue monitoring any further regulations, guidelines, or administrative criteria that SENER or CNE may issue to fully determine the permissible interpretations of this framework.

In line with the self-consumption scheme, projects can operate in isolation or be interconnected to the grid and should preferably be carried out using renewable energies.[121] This preference marks a significant improvement in the Energy Reform compared to the previous regime, where there were few indications to use renewable energies. In this regard, it is important to note that while the Electric Sector Law does not mandate renewable energy use, projects utilizing these technologies may benefit from expedited permit approvals. Thus, the Mexican government is working with the private sector to develop renewable projects and clean technologies, with the aim of directly contributing to decarbonization and climate change goals, generating lower environmental impacts than conventional sources.

Isolated self-consumption projects are those in which all the produced energy must be consumed on-site and cannot be interconnected to the national transmission networks (NTN) or GDN.[122] Conversely, if they are interconnected to these grids, surpluses can be injected into the National Electric Grid, with or without compensation, as long as the permit holder: (i) has a generation permit and a valid interconnection contract; (ii) sells its electricity exclusively to the CFE; and (iii) has its own backup energy storage systems (ESS) or pays the CFE for backup services in case of intermittent power generation.[123] The fact that the

---

119. Acuerdo de la Comisión Nacional de Energía por el que se emiten las Disposiciones de Carácter General para regular la figura de Autoconsumo de Energía Eléctrica [Agreement of the National Energy Commission issuing the General Administrative Provisions to regulate the figure of Self-consumption of Electric Energy], art. 1.7. (I), Diario Oficial de la Federación [DOF] 12-12-2025 (Mex.).

120. The Regulations of the Electric Sector Law define a Self-Consumption Group and a Self-Consumption User as follows: (a) Self-Consumption Group: A "[s]et comprised of an Electric Power Plant associated with a permit for electricity generation for self-consumption centers and the consumption centers of one or more Self-Consumption Users that allocate the electricity from said Electric Power Plant to meet their needs, through a Private Network, under the terms of this regulation," and (b) Self-Consumption User: "A natural or legal person whose consumption centers receive and use electric energy from a Power Plant with a permit for the generation of electric energy under the figure of self-consumption, and who may be part of a Self-Consumption Group. . ." *See* Reglamento de la Ley del Sector Eléctrico [Regulations of the Electric Sector Law], art. 2 (XV), (XXXI), Diario Oficial de la Federación [DOF] 03-10-2025 (Mex.).

121. Ley del Sector Eléctrico [Electric Sector Law], art. 30, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

122. *Id*. at art. 31.

123. *Id*. at art. 32.

permit holder must sell its power surpluses exclusively to CFE constitutes one of the main constraints in the Electric Sector Law for the private sector, since by law, CFE must buy electricity at the lowest costs.[124]

> 3. Generation for the MEM, which consists of the generation of electricity and associated products from a power plant with a capacity equal to or greater than 0.7 MW, which is destined for sale in the MEM.[125] As in the case of self-consumption model, this scheme requires a generation permit granted by the CNE.[126]

Additionally, the Electric Sector Law introduces the new mixed development schemes, where projects are developed jointly by the state and the private sector.[127] This scheme can be implemented through: (i) long-term production; (ii) mixed investment; (iii) or any other scheme defined in the Electric Sector Law regulations or general administrative provisions issued by the SENER.[128]

In this context, long-term production refers to projects in which the CFE does not contribute capital for the development of the project; however, all the electricity generated is exclusively allocated to that entity, and the sale of any surplus to third parties is prohibited by the private shareholder.[129] This scheme presents both favorable and problematic features. On the one hand, it offers an advantage by establishing that CFE must acquire all the energy produced in accordance with the conditions stipulated in each contract,[130] thereby providing a purchase guarantee that offers commercial certainty to private investors, who do not need to seek alternative buyers for their energy. On the other hand, this scheme presents an important deficiency, as it does not specify the contributions that the state would make towards the development of these projects. Additionally, it remains unclear whether these projects will be considered as CFE generation or as private generation for the purposes of the prevalence principle.

With regard to the mixed scheme, CFE must maintain a minimum participation of 54%, either directly or indirectly, with the possibility of acquiring the electricity and associated products produced.[131] In addition, the electricity or products not acquired by CFE may be traded in the MEM, with CFE acting as the representative of the power plant.[132]

This scheme raises significant concerns due to the inherent power imbalance it creates. By limiting private sector participation to minority stakes, CFE gains

---

124. Constitución Política de los Estados Unidos Mexicanos,CP, Political Constitution of the United Mexican States], *as amended*, art. 134, Diario Oficial de la Federación [DOF] 05-02-1917, últimas reformas DOF 10-04-2026 (Mex.).

125. Ley del Sector Eléctrico [Electric Sector Law], art. 35, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

126. *Id*. at arts. 17, 18.

127. *Id*. at arts. 36, 38.

128. *Id*. at art. 38.

129. Ley del Sector Eléctrico [Electric Sector Law], art. 39, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

130. *Id*.

131. *Id*. at art. 40.

132. *Id*.

the power to decide where, when, how, and at what price electricity will be sold, as well as how the investment funds will be used. Furthermore, the mandatory requirement that all surplus energy transactions be conducted through CFE as the sole representative, creates additional market distortions because private parties are unable to pursue alternative commercial opportunities or optimize their revenue stream, even when more favorable conditions exist elsewhere. While CFE justifies this restriction as necessary to prioritize energy security, the policy effectively subordinates private investment to state control.

More fundamentally, this structure creates a strategic misalignment between the objectives of private companies and those of CFE. CFE operates under a public service mandate to ensure national energy supply, prioritizing affordability over profitability.[133] Private companies, conversely, are driven by commercial imperatives such as maximizing returns, optimizing energy quality, or both, naturally seeking the best market price.[134] These divergent goals inevitably generate conflicts that the current governance structure fails to resolve, potentially undermining future investments.

C. Impacts on Transmission and Distribution

With regard to the public service of transmission and distribution, the Electric Sector Law establishes that these activities are an exclusive strategic area of the state,[135] granting them priority over any other economic activity and over competing land uses, whether surface or underground, within areas designated for these activities.[136] Additionally, the Electric Sector Law provides that all land required for the development of the NTN and GDN are subject to legal easement.[137]

This regulatory change may create substantial legal challenges by significantly expanding state authority over private property, as the Electric Sector Law grants the government broader powers to utilize private land regardless of the owner's consent, potentially leading to extended government expropriation capabilities and property rights disputes.

D. Impacts on Basic Supply

Finally, with regard to basic supply, the Electric Sector Law represents a significant departure from the Electric Industry Law competitive framework. While the Electric Industry Law permitted multiple basic service providers to

133. Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad [Law of the State Public Company, Federal Electricity Commission], art. 3, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

134. Angus Downie, *How the Private Sector Can Advance Development*, OPEC FUND Q. 2/2024., July 26, 2024, at 4, 6, https://publications.opecfund.org/view/413358088/6/.

135. A strategic area refers to an economic activity that Congress deems essential to national economic development and reserves exclusively for state control, thereby prohibiting all private participation, both domestic and foreign.

136. Ley del Sector Eléctrico [Electric Sector Law], arts. 2, 57, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

137. *Id*.

operate alongside CFE,[138] giving residential consumers the freedom to choose their preferred electricity provider, the Electric Sector Law consolidates the basic supply exclusively under CFE, which is subject to regulated tariffs.[139] This monopolistic approach is based on CFE's obligation to provide electricity to citizens at the lowest possible price.[140]

This legislative modification completely eliminates private sector participation in the basic supply activity, effectively dismantling the competitive market that previously existed. The concentration of supply within a single entity removes market-based incentives that typically drive innovation, operational efficiency, and service quality improvements.[141] Without competitive pressure, there is less motivation to optimize costs or enhance service delivery, potentially leading to inefficiencies that could ultimately burden consumers with higher costs.[142]

In this regard, the Electric Sector Law creates a monopolistic environment in which households become entirely dependent on the CFE's tariff policies and service standards. This dependency eliminates consumer decision-making in the electricity market, preventing residential consumers from pursuing alternative suppliers that might better serve their specific budgetary constraints or service preferences.

These regulatory changes signal Mexico's departure from electricity sector liberalization. At the same time, the country appears to be reverting to a centralized approach that concentrates activities within its State-Owned Company.

E. Impacts on Storage

Regarding energy storage, it is well known that ESS are fundamental for counteracting renewable energy intermittency and ensuring a proper balance between electricity generation and demand.[143] ESS is essential for the proper functioning of the National Electric Grid. In this regard, it is important to note that, while ESS were permitted before the Energy Reform, the regulatory framework at that time lacked clear and specific rules for a systemic and orderly integration of ESS into the National Electric Grid. This absence of comprehensive guidelines created significant legal uncertainty that hindered the proper development of this activity.

In response to this absence of guidelines and frameworks, the Electric Sector Law addressed this regulatory gap by authorizing SENER to establish the terms, conditions, and operational schemes for ESS participation in Mexico's power

---

138. Ley de la Industria Eléctrica [Electric Industry Law], arts. 45-58, Diario Oficial de la Federación [DOF] 11-08-2014, última reformas DOF 01-04-2024, *repealed*, DOF 18-03-2025 (Mex.).

139. Ley del Sector Eléctrico [Electric Sector Law], art. 61, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

140. *Id*.

141. Joskow, *supra* note 10, at 11.

142. *See generally* Joskow, *supra* note 27; George Halkos, *Examining the Level of Competition in the Energy Sector*, 134 ENERGY POL'Y, Nov. 2019, at 1, 1-2, https://www.sciencedirect.com/science/article/pii/S0301421519305385.

143. J. Mitali, S. Dhinakaran & A.A. Mohamad, *Energy Storage Systems: A Review*, 1 ENERGY STORAGE & SAVING 166, 167 (2022), https://www.sciencedirect.com/science/article/pii/S277268352200022X.

sector.[144] Building on this foundation, the published general administrative provisions for ESS integration set out the general modalities and conditions under which the integration of these ESS into the National Electric Grid will take place, laying the foundations for their orderly development and contribution to the National Electric Grid.[145]

V. PROGRESS OR SETBACK IN MARKET LIBERALIZATION AND DECARBONIZATION EFFORTS

As observed in previous sections, the Energy Reform has fundamentally transformed the electricity sector in Mexico, raising substantial concerns about the industry's trajectory towards a genuine competitive and neutral market. This section analyzes how the Energy Reform aligns with or deviates from two fundamental dimensions of Mexico's energy policy: (i) decarbonization of the electricity system; and (ii) market liberalization. This analysis will reveal whether the Energy Reform brought progress or setbacks in these dimensions, as well as its implications for the future of the sector.

A. Impacts on Decarbonization Efforts

The Energy Planning and Transition Law (by its Spanish acronym—LPTE), enacted alongside the package of secondary laws,[146] represents a crucial element of the Energy Reform to achieve a more efficient transition to a decarbonized and cleaner system. This law replaces the previous Energy Transition Law (by its Spanish acronym—LTE)[147] and establishes a robust framework for achieving multiple objectives, such as developing a comprehensive strategy for energy transition; promoting sustainable energy utilization; ensuring compliance with clean energy obligations; and securing energy sovereignty, justice and self-sufficiency.[148]

In this regard, one of the main changes worth noting is that while the Energy Transition Law focused primarily on regulating the sustainable use of energy, addressing clean energy obligations and reducing polluting emissions from the electricity industry,[149] the Energy Planning and Transition Law expands its scope

144. Ley del Sector Eléctrico [Electric Sector Law], art. 82, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

145. *See generally* Acuerdo de la Comisión Nacional de Energía por el que se emiten las Disposiciones Administrativas de Carácter General para la integración de Sistemas de Almacenamiento de Energía Eléctrica al Sistema Eléctrico Nacional [Agreement of the National Energy Commission issuing the General Administrative Provisions for the Integration of Electric Energy Storage Systems into the National Electric System], Diario Oficial de la Federación [DOF] 16-04-2026 (Mex.).

146. *See generally* Ley de Planeación y Transición Energética [Energy Planning and Transition Law], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

147. *See generally* Ley de Transición Energética [Energy Transition Law], Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

148. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 1, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

149. Ley de Transición Energética [Energy Transition Law], art. 1, Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

to encompass the entire energy sector, covering both the electricity and hydrocarbon industries.[150]

This expanded framework carries profound implications for Mexico's path towards a cleaner and decarbonized energy system. However, it is important to note that, since President Andrés Manuel López Obrador's administration, efforts to combat climate change have suffered significant setbacks, resulting in the failure to meet national and international targets.[151] This pattern became evident in 2020, when Mexico submitted its updated nationally determined contribution (NDC) under the Paris Agreement, only for it to be revoked in 2021 after it was found that the targets were less ambitious than those of its 2016 predecessor.[152] Following this revocation, Mexico submitted a further revised NDC in 2022, setting a target of 35% reduction in greenhouse gas (GHG) emissions by 2030[153] (a target that remains considerably low compared with those of other nations).[154] Equally significant is the fact that by late 2024 and early 2025, Mexico was the only G20 member (or group of the twenties) without a net-zero commitment, earning a reputation for having some of the world's weakest climate policies.[155]

Since the start of the new administration of President Claudia Sheinbaum, public discourse and climate policy priorities have indicated that decarbonization plays a central role in the national agenda.[156] In this context, decarbonization efforts hold great importance for Mexico, not only to meet its international obligations under the Paris Agreement, but also, to address growing national vulnerabilities to climate change. Failure to meet the targets outlined in Mexico's NDCs could lead to consequences such as loss of credibility in environmental matters, damage to its reputation in the eyes of other countries, or loss of international (climate) funding.

In this regard, and with the aim of promoting decarbonization efforts, Mexico presented its "NDC 3.0" at the COP30 (or Conference of the Parties) in November

150. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], arts. 1, 3 (XXIII), Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

151. *See generally Mexico,* CLIMATE ACTION TRACKER (last updated Feb. 25, 2026), https://climateactiontracker.org/countries/mexico/#:~:text=and%20their%20future.-,Overall%20rating%20Critically%20insufficient,1.5%C2%B0C%20temperature%20limit.

152. *Id*.

153. CONTRIBUCIÓN DETERMINADA A NIVEL NACIONAL: ACTUALIZACIÓN 2022 [NATIONALLY DETERMINED CONTRIBUTION: 2022 UPDATE], SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES (SEMARNAT) & INSTITUTO NACIONAL DE ECOLOGÍA Y CAMBIO CLIMÁTICO (INECC) [MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES AND NATIONAL INSTITUTE OF ECOLOGY AND CLIMATE CHANGE] 9 (2022) (Mex.), formato HTML, https://unfccc.int/sites/default/files/NDC/2022-11/Mexico_NDC_UNFCCC_update2022_FINAL.pdf (consultada el 3 de febrero de 2026).

154. *See NDC Registry*, U.N. CLIMATE CHANGE, https://unfccc.int/NDCREG (last visited July 6, 2025).

155. Nick Ferris, *How Mexico Came to Have the Weakest Climate Policy in the G20*, ENERGY MONITOR (Sep. 6, 2023), https://www.energymonitor.ai/policy/how-mexico-came-to-have-the-weakest-climate-policy-in-the-g20/?cf-view&cf-closed.

156. India Bourke, *Claudia Sheinbaum: What a Climate-Scientist Turned President Might Mean for Global Efforts to Tackle Climate Change*, BBC (June 7, 2024), https://www.bbc.co.uk/future/article/20240607-claudia-sheinbaum-mexicos-new-climate-minded-president.

2025,[157] which for the first time sets an absolute and net emission target of between three hundred and sixty-four and four hundred and four million tons of CO_2 equivalent by 2035, as well as a net-zero emission target by 2050,[158] thereby marking a significant increase over previous targets and bringing Mexico into line with global ambitions. This NDC update reflects a renewed recognition of climate urgency under the administration of President Claudia Sheinbaum, which, unlike the previous sexennial term of Andrés Manuel López Obrador, explicitly links GHG emissions to the effects of climate change, such as the increase on hurricanes or droughts in Mexico.[159]

Such concerns are particularly relevant in Mexico, as climate change has led to an increase in environmental disasters.[160] The country has experienced a rise in highly destructive hurricanes in recent years, including Hurricane Erick, which struck the Pacific coast of Oaxaca as a category 3 in June 2025, causing material damage due to heavy rains, landslides, and floodings;[161] Hurricane John, also a category 3, caused floodings and heavy rains in southern Mexico, especially in Guerrero, in September 2024;[162] Hurricane Otis in 2023, which rapidly intensified to category 5, causing severe damage to the beaches of Acapulco and becoming one of the most destructive hurricanes in Mexico's history;[163] Hurricane Roslyn in 2022, which struck the Mexican Pacific coast, particularly Nayarit;[164] among others.

These natural disasters are due to the rise in ocean temperatures caused by GHG emissions, a phenomenon that experts in the field now publicly attribute to

157. *See generally* ACTUALIZACIÓN DE LA CONTRIBUCIÓN DETERMINADA A NIVEL NACIONAL 3.0 DE MÉXICO [UPDATE TO MEXICO'S NATIONALLY DETERMINED CONTRIBUTION 3.0], SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES (SEMARNAT) [MINISTRY OF ENVIRONMENT AND NATURAL RESOURCES] (2025) (Mex.), formato PDF, https://unfccc.int/sites/default/files/2025-11/NDC%203.0%20Me%CC%81xico_spanish.pdf (consultada el 3 de febrero de 2026).

158. *Id*. at 46, 120-121.

159. *Id*. at 92.

160. *See generally* J.A. Hicke et al., *North America*, *in* CLIMATE CHANGE 2022: IMPACTS, ADAPTATION AND VULNERABILITY OF WORKING GROUP II TO THE SIXTH ASSESSMENT REPORT OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE 1929 (H.O. Pörtner, et al., eds., CAMBRIDGE UNIV. PRESS 2022).

161. López, Alejandro I., *Erick, El Último Ejemplo de Huracanes Cada Vez Más Precoces y que se Intensifican Rápidamente* [*Erick, The Latest Example of Increasingly Early and Rapidly Intensifying Hurricanes*], EL. PAIS [THE COUNTRY] (June 20, 2025), formato HTML, https://elpais.com/mexico/2025-06-20/erick-el-ultimo-ejemplo-de-huracanes-cada-vez-mas-precoces-y-que-se-intensifican-rapidamente.html (consultada el 5 de febrero de 2026).

162. Benítez, Karla, *Reubicarán a 500 familias a Un Año del Huracán John; Honran a Víctimas en Acapulco* [*500 Families will be Relocated One Year after Hurrican John; Victims Honored in Acapulco*], EL HERALDO DE MÉXICO [THE HERALD OF MEXICO] (Sep. 23, 2025), formato HTML, https://heraldodemexico.com.mx/nacional/2025/9/23/reubicaran-500-familias-un-ano-del-huracan-john-honran-victimas-en-acapulco-732095.html (consultada el 5 de febrero de 2026).

163. Matt Williams, *Hurricane Otis Hits Mexico and Continues with Category 5 Intensity*, THE GUARDIAN (Oct. 27, 2023), https://www.theguardian.com/environment/2023/oct/27/hurricane-otis-the-eastern-pacifics-first-inland-category-5-storm.

164. *Hurricane Roslyn: At Least Three Dead on Mexico's Coast*, BBC (Oct. 24, 2022), https://www.bbc.co.uk/news/world-latin-america-63361816.

anthropogenic climate change.[165] Reports acknowledge that increased GHG emissions intensify the frequency and severity of hurricanes, causing devastating economic losses (estimated at billions of dollars per year), threats to coastal communities, and damage to infrastructure.[166] These findings underscore the national need for decarbonization, beyond mere compliance with treaties, to improve resilience and protect vulnerable populations.

In this regard, by embracing a holistic perspective on energy governance, the Energy Planning and Transition Law acknowledges that meaningful energy transition and sustainable energy use require coordinated actions across all energy sectors, not merely within the electricity industry.[167] This comprehensive approach enables more coherent and strategic planning, positioning Mexico to achieve both its national energy objectives and international climate commitments more effectively.

Likewise, the inclusion of the hydrocarbons sector is particularly significant, as it represents one of the country's largest sources of GHG emissions.[168] This integration allows the Energy Planning and Transition Law to address the energy sector's climate impact through a more direct, systematic, and comprehensive approach. By establishing a unified regulatory framework, the law will facilitate coordinated decarbonization efforts across both industries, creating synergies that enhance the overall effectiveness of climate mitigation strategies.

A second fundamental change introduced by the Energy Planning and Transition Law is its emphasis on strengthening state control in the energy sector.[169] The law establishes that binding planning must ensure the CFE's dominance across all industry activities.[170] This regulatory reorientation may limit private sector participation, leading to reduced investment in new energy infrastructure projects and thus hindering the development of additional renewable energy sources. This approach contrasts with the previous Energy Transition Law model, which actively promoted private sector engagement through competitive market mechanisms, thereby incentivizing a greater flow of private investment into energy projects.[171]

---

165. Ian de la Garza, *Unprecedented Acapulco Hurricane a Wake-Up Call on Climate Change*, MEX. BUS. NEWS (Nov. 23, 2023), https://mexicobusiness.news/energy/news/unprecedented-acapulco-hurricane-wake-call-climate-change.

166. *See generally* J.A. Hicke et al., *North America*, *in* CLIMATE CHANGE 2022: IMPACTS, ADAPTATION AND VULNERABILITY OF WORKING GROUP II TO THE SIXTH ASSESSMENT REPORT OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, *supra* note 160; *Climate Crisis, Displacement, and the Right to Stay: Mexico*, OTHERING & BELONGING INST. AT UC BEREKELY, https://belonging.berkeley.edu/climatedisplacement/case-studies/mexico (last visited Feb. 4, 2026).

167. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 1, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

168. *See generally Mexico,* IEA, https://www.iea.org/countries/mexico/emissions (last visited Jun. 15, 2025).

169. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 2, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

170. *Id*.

171. *See generally* Ley de Transición Energética [Energy Transition Law], Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

Additionally, the Energy Planning and Transition Law introduces substantial reforms to the CECs scheme.[172] The law seeks to accelerate clean energy growth through a modernized carbon market by implementing updated, more stringent regulations for CECs allocation.[173] Under the former Energy Transition Law framework, CECs were granted solely on the basis of electricity generated from clean energy sources, without considering other relevant factors.[174] The Energy Planning and Transition Law addresses this limitation by reforming the allocation criteria to better reflect each technology's actual contribution to GHG emission reductions.

In this regard, under this new regulatory framework, the Energy Planning and Transition Law requires an analysis of the actual emissions produced by each renewable or clean energy source before granting a CEC.[175] This approach marks a significant shift from the previous Energy Transition Law framework, which allowed power plants using these technologies to obtain CECs without evaluating their true emissions impact on the National Electric Grid.[176]

Furthermore, the Energy Planning and Transition Law establishes that the granting of CECs must take into account and reflect the actual use of fossil fuel backup required by clean energy technologies to operate within the National Electric Grid.[177] This provision arises from the fact that clean energy technologies often rely on fossil fuels to maintain grid stability, resulting in an indirect use of fossil-generated electricity sources as a backup mechanism to ensure system reliability.[178]

Among the law's innovative aspects, the Energy Planning and Transition Law introduces a groundbreaking approach to national energy policy by introducing energy poverty and energy justice as guiding principles.[179] In this regard, to address these challenges, the Energy Planning and Transition Law creates the Universal Energy Service Fund (*Fondo de Servicio Universal Energético*), with the purpose of reducing energy poverty, providing electricity access to all domestic users who do not have such service, as well as supplying efficient or renewable energy equipment to meet basic needs such as food preparation, lighting, and refrigeration.[180] Beyond achieving universal energy

172. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 60, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

173. *Id*.

174. Ley de Transición Energética [Energy Transition Law], arts. 68-74, Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

175. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 60, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

176. Ley de Transición Energética [Energy Transition Law], arts. 68-74, Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

177. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 60, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

178. Wood Mackenzie, *Addressing Risk from Renewable Energy Intermittency In Power Markets*, FORBES (Apr. 22, 2024), https://www.forbes.com/sites/woodmackenzie/2024/04/22/addressing-risk-from-renewable-energy-intermittency-in-power-markets/.

179. Ley de Planeación y Transición Energética [Energy Planning and Transition Law], art. 3 (XVI, XXI), Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

180. *Id*. at art. 50.

access, the Energy Planning and Transition Law actively promotes the adoption of clean energy, thereby advancing sectoral decarbonization while safeguarding human rights and environmental protection.

Lastly, the Energy Planning and Transition Law transitory articles require SENER to establish minimum targets for clean energy participation in electricity generation, corresponding to the long-term goals set forth in the General Law on Climate Change,[181] which establishes a target of 50% reduction in emissions by 2050 compared with 2000 levels.[182] Nonetheless, the Energy Planning and Transition Law contrasts with the Energy Transition Law, which established specific and progressive targets, such as a minimum participation of clean energy of 25% by 2018; 30% by 2021; and 35% by 2024,[183] thereby underscoring the need for clear and consistent regulatory frameworks for the energy sector.

However, at the time of writing, SENER has not yet set these targets, making it impossible to assess whether they will demonstrate sufficient ambition or fall short with modest percentage goals. The effectiveness of Mexico's clean energy transition will largely depend on the ambition level of these forthcoming targets.

B. Impacts on Mexico's Progress in Market Liberalization.

As outlined in section II, electricity market liberalization typically encompasses several core elements, such as unbundling of vertically integrated utilities, privatization, introduction of competition, deregulation, and the establishment of an independent regulator.[184]

The 2013-Reform marked the formal beginning of Mexico's liberalization process. This comprehensive reform opened the majority of the electricity industry activities and introduced key provisions, such as the creation of the MEM; the legal unbundling of CFE's vertically integrated activities into distinct subsidiaries; the establishment of competitive markets for electricity generation and retail supply; the strengthening of independent regulators; and the implementation of market-driven mechanisms designed to attract greater private sector investment and participation.[185] However, the Energy Reform subsequently altered the competitive framework of the electricity market, reversing many of the liberalization efforts established under the 2013-Reform.

The restructuring of CFE to a "State-Owned Company," fundamentally altered its legal structure and operational framework.[186] This restructuring reversed the unbundling process that had previously separated CFE's activities, thereby undermining the objective of ensuring fair competition among market

181. *Id*. at cap. III, trans. Sexto.

182. Ley General de Cambio Climático [General Law on Climate Change], *as amended*, art. trans. Segundo, Diario Oficial de la Federación [DOF] 06-06-2012, última reformas DOF 01-04-2024 (Mex.).

183. Ley de Transición Energética [Energy Transition Law], cap. III, trans. Tercero, Diario Oficial de la Federación [DOF] 24-12-2015, *repealed*, DOF 18-03-2025 (Mex.).

184. Joskow, *supra* note 10, at 4; Bacon & Besant-Jones, *supra* note 11, at 4.

185. *See generally* Reforma Energética: Resumen Ejecutivo [Energy Reform: Executive Summary], *supra* note 7; *see also* Cruz May et al., *supra* note 6.

186. Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad [Law of the State Public Company, Federal Electricity Commission], arts. 1-3, tit. 6, trans. Tercero, Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

participants.[187] Additionally, the reintegration of all electricity activities within CFE marks a return to the vertical integration that characterized the pre-2013 Reform era. This shift carries profound implications for the sector's competitive landscape and regulatory neutrality (two fundamental elements of the liberalization process that the 2013-Reform had specifically aimed to reinforce and protect).

Furthermore, the dissolution of the CRE and the transfer of most regulatory functions to SENER,[188] together with the establishment of the CNE under SENER's direct supervision,[189] significantly reduced regulatory independence. This institutional restructuring marks a major setback from competitive market principles by removing autonomous oversight mechanisms essential to ensuring impartial and objective decisions.

By concentrating regulatory functions and policy making within a single entity, the industry becomes increasingly vulnerable to political interference. The absence of institutional counterbalances undermines the conditions necessary for effective market liberalization, which depends on independent regulation to foster competition and attract private investment.[190] This centralization of power not only reverses the previous market-based reform but also signals a return to state-dominated energy governance that restricts competition and discourages new market entrants.

Moreover, designating CFE as the exclusive provider of basic supply services eliminates an entire market segment that was previously opened for competition. This concentration of market power directly contradicts one of the fundamental elements of market liberalization, which possesses the main objective of promoting competition in competitive segments such as the supply of electricity to residential consumers.[191]

Lastly, the most significant change introduced by the Energy Reform is the concept of state prevalence, which explicitly restricts private sector participation in electricity generation and commercialization activities.[192] Likewise, the limitation that private companies can only inject 46% of energy into the National Electric Grid in a calendar year, while the Mexican State must maintain at least 54% of the average energy injected into the grid in a calendar year,[193] represents a major shift from the previous model. These restrictions are particularly concerning, as they are not based on technical or efficiency criteria but rather on a political decision to maintain state control over the sector, risking the

187. *Id*. at trans. Tercero; Ortega Lomelín, *supra* note 30, at 215-216.

188. *See generally* Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de simplificación orgánica [Decree amending, adding and repealing several provisions of the Political Constitution of the United Mexican States, on matters of Organic Simplification], Diario Oficial de la Federación [DOF] 20-12-2024 (Mex.).

189. *See generally* Ley de la Comisión Nacional de Energía [Law of the National Energy Commission], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

190. Joskow, *supra* note 10, at 13.

191. *Id*. at 11-13.

192. Ley del Sector Eléctrico [Electric Sector Law], art. 3 (XXXVII), Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

193. *Id*. at art. 12.

prioritization of CFE's plants in dispatch decisions compared with private alternatives.

These measures directly contradict core liberalization principles where market participation should be equal for all actors rather than predetermined quotas.[194] By establishing limits on the private sector, the reform distorts essential market mechanisms and undermines the competitive dynamics that typically drive efficiency improvements and innovation.[195]

All these changes constitute a significant setback of Mexico's progress towards electricity market liberalization. The Energy Reform re-establishes key features of the state-dominated model that existed before the 2013-Reform, reversing various measures that were aimed at creating a liberalized market.

While it is true that complete renationalization of the electricity sector was avoided and some market mechanisms remain intact, such as the preservation of the: (i) MEM; (ii) participation in distributed generation; or (iii) self-consumption,[196] these elements do not compensate the overall damage caused to the electricity industry. By implementing the comprehensive changes outlined above, the Energy Reform effectively dismantles most of the key elements that were enacted in the 2013-Reform.

This setback could have profound implications for the sector's future development, leading to reduced operational efficiency, affecting incentives for innovation and improvements in service quality. Additionally, with weakened competition, consumers will likely bear the cost through higher prices.[197]

VI. CONCLUSION

This article critically analyzed whether the Energy Reform represents progress or setback in Mexico's energy policy, focusing on its impacts on the faculties, rights and obligations of the different actors in the electricity sector. The analysis strongly demonstrates that the Energy Reform marks a significant setback in relation to the principles of market liberalization, shifting from a market-oriented mechanism towards a state-focused model. The Energy Reform seeks to dismantle the essential institutional and structural foundations established by the 2013-Reform, prioritizing CFE's dominance across the entire value chain. This has significantly affected the rights and obligations of all industry participants and distorted the principles of competition that characterized the 2013-Reform.

Although the Energy Reform introduces some positive elements that promote decarbonization and social equity, such as the: (i) increased threshold for distributed generation activity from 0.5 MW to 0.7 MW; (ii) establishment of preferential use of renewable energies in the self-consumption scheme, thereby accelerating the energy transition; (iii) expansion of the scope of the Energy Planning and Transition Law to include the entire energy sector rather than only the electricity sector; and (iv) introduction of the principles of energy justice and

194. *See generally* Joskow, *supra* note 10; *see also* Joskow, *supra* note 27.

195. *See generally* Joskow, *supra* note 10; *see also* Joskow, *supra* note 27.

196. *See generally* Ley del Sector Eléctrico [Electric Sector Law], Diario Oficial de la Federación [DOF] 18-03-2025 (Mex.).

197. Joskow, *supra* note 27; Halkos, *supra* note 142, at 2.

energy poverty, which aim to protect human rights and the environment, these positive developments are overshadowed by the widespread recentralization of state control, raising important questions about the long-term efficiency, competitiveness, and innovation of the sector.

A clear example is the weakening of autonomous regulators by replacing the CRE with the CNE, which now operates under SENER coordination, compromising its institutional independence. In parallel, the transformation of CFE from a "State Productive Company" to a "State-Owned Company," together with the dissolution of its subsidiaries and the reintegration of all its operational activities, represents a clear return to a state-dominance model. This restructuring removes *de facto* regulatory safeguards that were implemented to prevent anti-competitive practices, such as protections against cross-subsidization, discriminatory practices and wrongful exchange of privileged information between different market activities, thus directly contradicting one of the main elements of market liberalization, which is to unbundle different stages of the value chain to ensure fair competition and prevent monopolistic abuse.

Additionally, the constraint requiring energy surpluses to be sold to the CFE under the self-consumption scheme represents a significant restriction, as it leaves no possibility for the private sector to explore alternative selling options. In parallel, the introduction of the concept of "prevalence" in the Mexican Constitution and secondary legislation constitutes one of the main setbacks compared to the 2013 model, since it explicitly prevents the private sector from prevailing over the state and limits private energy injection into the National Electric Grid to 46% within a calendar year. Furthermore, the re-establishment of CFE's dominance over basic supply leaves domestic consumers with no possibility to choose their electricity provider, effectively reversing the market liberalization efforts of previous years. This centralization of market power and reduction in competition carries substantial consequences, potentially resulting in higher prices, poorer service quality, and a lack of incentive to innovate, contradicting the government's goal of providing energy at the lowest possible price.

Lastly, although this analysis offers a critical evaluation based on current and past regulatory frameworks, the Energy Reform remains a recent event whose full implications have yet to unfold. The magnitude of its structural changes and the complexity of its implementation require evaluation over an extended timeframe to capture its real outcomes. It is therefore recommended that a follow-up study be conducted in the coming years, once the reform has matured operationally and empirical data is available to measure its actual impact.

This subsequent analysis should assess how institutional, regulatory, and operational changes have materialized in the daily functioning of the electricity sector. Monitoring key indicators such as operational efficiency, consumer price trends, service quality, investment levels, and progress towards clean energy generation targets will be essential. This second assessment would enable a more accurate determination of whether the Energy Reform has ultimately been beneficial or detrimental to Mexico's economic development and competitiveness.

Based on the structural shifts towards recentralization and reduced private sector involvement outlined in this analysis, I anticipate that the investment levels

could decline, particularly in private investment for clean or renewable energy projects due to the constraints on private energy injection into the National Electric Grid limited to 46% and the overall prioritization of CFE's dominance, which may deter private participation and innovation in decarbonization efforts.

In addition, it is important to dig deeper into the limitations identified in this study, particularly regarding the clean energy targets that SENER has yet to publish, as their absence hinders a robust assessment of the Energy Reform's actual environmental commitment.

This follow-up analysis will overcome time constraints inherent in this initial study and provide policymakers, academics, and industry stakeholders with a more solid empirical basis for understanding the impacts of the Energy Reform. It will also support informed decisions regarding whether adjustments to energy policy are necessary to pursue a more liberalized electricity sector, or whether the recentralization of state control proves effective within the current energy landscape.

ACRONYMS

CECs	Clean Energy Certificates
CENACE	National Energy Control Centre
CFE	National Electricity Commission
CNE	National Energy Commission
CRE	Energy Regulatory Commission
DACGs	General Administrative Provisions
DOF	Official Gazette of the Federation
ESS	Energy Storage Systems
GDN	General Distribution Networks
GHG	Greenhouse Gas
LCFE	Law of the State Public Company, Federal Electricity Commission
LIE	Electric Industry Law
LPTE	Energy Planning and Transition Law
LSE	Electric Sector Law
LTE	Energy Transition Law
MEM	Wholesale Electricity Market
NDC	Nationally Determined Contribution
NTN	National Transmission Networks
RLSE	Regulations of the Electric Sector Law
SEN	National Electric Grid
SENER	Ministry of Energy