

The guidelines and criteria for granting clean energy certificates were modified by the Ministry of Energy

On October 28, 2019, the Ministry of Energy (“SENER”) published in the Official Federal Gazette the “*Ruling amending the Guidelines that establish the criteria for the granting of Clean Energy Certificates and the requirements for their purchase, published on October 31, 2014*” (“**Ruling**”) through which the criteria for granting the Clean Energy Certificates (“**CELs**”) are changed primarily in benefit of the Federal Electricity Commission (“**CFE**”) legacy power plants that generate electricity from clean energy sources (e.g. efficient cogeneration, nuclear energy, hydroelectric, etc.). The most relevant aspects of the Ruling are the following:

- Changes were made to number 4 of the guidelines, to eliminate the requirement applicable to the legacy power plants to present a project for increasing their production of clean energy, in order to be entitled to be granted CELs.

In this respect, the legacy power plants under the Electric Industry Law are all those power plants, owned principally by the CFE, that operated before the entrance into force of this Law.

In this way, the power plants owned by bodies, entities or companies of the State, including the CFE, may receive CELs without needing to generate an investment plan for better production of energy based on clean sources.

- The second transitory article of the Ruling indicates that the CELs granted to the clean and legacy power plants can only certify the production of all their power beginning with the entrance into force of the Ruling, not taking into account the production of electricity prior to that date.
- To a certain extent we can say that this Ruling effectively consolidates the energy policy established in the National Development Plan, in order to strengthen the CFE, seeking to generate additional income for that state productive company through the sale of CELs of its legacy power plants in the market created for that purpose.
- The Ruling will also generate a greater offer of CELs in the market, which will have an impact on the price of CELs in such market.
- It is worth mentioning that when the draft of this Ruling was published, more than 50 private sector parties and sector associations made comments through the National Regulatory Improvement Commission (“**CONAMER**”) complaining about the negative impact that this Ruling would have on the CELs market and arguing that the Ruling should be subject to a Regulatory Impact Statement so the society could participate in the discussion of its content and scope, which petitions were dismissed by the federal government.

- Finally, we can mention that the Ruling is not in line with nor promotes the achievement of the goals established in the international commitments undertaken by Mexico through the ratification of the Paris Accord in the U.N. Conference on Climate Change (COP21) to mitigate and combat climate change, and it is also contrary to the terms of the General Climate Change Law and the Energy Transition Law, since it is not a mechanism that helps to meet the national targets for the minimum participation of clean energy in the generation of electricity of 35% for 2024.

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Sincerely,

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Mexico City, October 29, 2019.