

The Energy Regulatory Commission modifies the energy generation/supply schemes (Isolated Supply and Local Generation)

On December 31, 2021, the *“Resolution modifying Resolution No. A/049/2017 of the Energy Regulatory Commission , which describes the criteria for the interpretation of the concept “own needs”, established in Article 22 of the Electricity Industry Law, and the general aspects applicable to the Isolated Supply activity ,”* was published in the Federal Official Gazette (**“Resolution”**).

Article 22 of the Electricity Industry Law (“LIE”) provides that Isolated Supply is the generation, export or import of electric energy for satisfying own needs, without having to transmit such energy through the National Transmission Grid or through the General Distribution Grid.

The most relevant aspects of the Resolution are the following:

- Elimination of the Local Generation scheme, limiting the possibility for individuals to develop an on-site electric energy generation-supply option that allowed the delivery of surpluses of energy to load centers connected to the same Particular Grid.
- Restricts the possibility of participation of third-party experts in the activities of financing, installation, maintenance and operation of power plants under the Isolated Supply scheme.

Therefore, the holders of generation permits under the Isolated Supply scheme will be obliged to directly carry out such activities. If applicable, viable legal strategies to carry out these activities in compliance with the provisions of the Resolution must be analyzed on a case by case basis.

- Prohibition of the simultaneous coexistence of energy supply schemes (self-supply/cogeneration) under the Public Electricity Service Law and Isolated Supply under the LIE.

The foregoing reconfirms the intention of the current federal administration to limit the participation in the market of self-supply schemes and, especially, to force the migration of such self-supply schemes to regulated schemes under the LIE.

- Power plants under Isolated Supply schemes with interconnection to the National Electric System, regardless of having the infrastructure capable of ensuring that there will be no supply of electric energy to the National Electric System, must be represented in the Wholesale Electricity Market by a Generator, which will mean an additional regulatory burden for the implementation of this generation scheme.

- The capacity of the Power Plants under the Isolated Supply scheme must be equal to or less than the maximum demand of the Load Centers that are being supplied under the Isolated Supply scheme.
- The permit holders under the Isolated Supply scheme must submit financial guarantees, for both the interconnection of the power plant and the connection of the load center. Prior to this Resolution, it was only required to submit a financial guarantee for the greater of the capacity of the power plant or the demand of the load center.

It is important to note that the Third Transitory Provision of the Resolution provides that the modifications established therein will only apply to those requests for generation permits in Isolated Supply that are filed after the publication of the Resolution. The current generation schemes that have the permit granted by the CRE or that have requested it, will not be affected with the publication of the Resolution.

It is important to analyze, on a case-by-case basis, the electricity generation projects and business schemes, to determine the available legal defense mechanisms that could be implemented in case the Resolution generates any repercussion for a specific project or activity.

At Von Wobeser, we have advised several of our clients regarding situations of this nature, so we are ready to address any issue related to the Resolution.

For more information, please contact our experts:

Edmond Grieger, Partner:

+52 (55) 5258-1048 | egrieger@vwys.com.mx

Ariel Garfio, Partner:

+52 (55) 5258-1048 | agarfio@vwys.com.mx

Roberto Flores, Associate:

+52 (55) 5258-1048 | rflores@vwys.com.mx

S I N C E R E L Y

VON WOBESER Y SIERRA, S.C.

Mexico City, January 6, 2022.

The information contained in this note does not constitute, nor is it intended to constitute, nor shall be construed as legal advice on the topic or subject matter covered herein. This note is intended for general informational purposes only. To obtain legal advice on a particular matter in connection with this topic, please contact one of our attorneys referred to herein.

VON WOBESER Y SIERRA, S.C.

Paseo de los Tamarindos 60

05120 Mexico City

+52 (55) 5258 1000

vonwobeser.com