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Office of the President files an Initiative to Reform the Electric Industry Law

On January 29, 2021, the President of Mexico submitted to the Chamber of Representatives (*Cámara de Diputados*) of the Mexican Congress an initiative (the "Initiative") to reform the Electric Industry Law ("LIE").

Prior to its entry into force, the Initiative needs to be discussed and approved by a majority vote in both chambers of the Mexican Congress. Since the Initiative was submitted by the President of Mexico as a "preferential initiative", both chambers of Congress are required by law to discuss and vote such measure within 60 days following submission of the Initiative.

The Initiative pursues the current administration's policy and process of strengthening the Federal Electricity Commission ("CFE"). As such, the Initiative proposes to reform essential provisions of the LIE:

- Modify CENACE's dispatch criteria to the following order of priority: hydroelectric facilities, power plants owned by CFE, solar and wind power plants owned by private parties and, lastly, privately owned combined-cycle power plants.
- Eliminate the requirement that Basic Services Suppliers to enter into Electric Coverage Agreements exclusively through public auctions.
- Eliminate the provision requiring that "*the generation and commercialization of electric energy be provided under a competitive regime*".
- Require CENACE to grant priority to CFE owned and controlled Power Plants having physical power delivery commitments in the use of the National Transmission Network and the General Distribution Networks.
- Allow open and not unduly discriminatory access to the National Transmission and General Distribution Networks only "*when technically feasible*."
- Provide that the Wholesale Electricity Market shall guarantee, in the first instance, the new Electric Coverage Agreements with Physical Power Delivery Commitments, which may only be entered into by Basic Services Suppliers, and, secondly, the supply provided by clean power generators.
- Require that Clean Energy Certificates be issued to any Generator producing power from Clean Energy sources, regardless of the date of commercial operation of the relevant facility.

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Furthermore, it is important to mention that the Transitory Articles of the Initiative provide that:

- (i) grandfathered self-supply (*autoabastecimiento*) permits governed by the prior Electric Energy Public Service Law may be revoked by the Energy Regulatory Commission (*Comisión Reguladora de Energía*) under the terms established by the LIE, and
- (ii) the grandfathered Agreements for Capacity Commitment and Purchase of Associated Electric Power entered into with independent power producers pursuant to the repealed Electric Energy Public Service Law are to be reviewed by CFE and, if applicable, renegotiated or terminated.

We invite you to reach out to your usual contacts at Ritch Mueller to discuss any particular situation regarding the Initiative, its specific consequences and potential defensive strategies in relation to any such consequences. Alternatively you may contact us at contacto@ritch.com.mx so that we may direct your concerns to the appropriate members of our team.

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