



CENACE decree on the occasion of the recognition of the SARS-COV2 epidemic and COFECE opinion therewith

On April 29th, the National Energy Control Center ("CENACE") issued the "Decree to Guarantee the Efficiency, Quality, Reliability, Continuity and Safety of the National Power System, as a result of the recognition of the SARS-CoV2 virus disease epidemic (COVID-19)" (hereinafter, the "Decree") for its publication in the Market Information System.

The above, considering as justification:

- i. the Decree declaring SARS-CoV2 virus disease epidemic (COVID-19) as a health emergency due to force majeure (the "Declaration"),

published in the Federal Official Gazette on March 30th, 2020;

- ii. the reduction in power consumption by End Users during the health emergency; and
- iii. the legal mandate of CENACE to strengthen and maintain the quality, reliability, continuity and safety of the Power Supply as provided for in Articles 132 and 136 of the Electric Industry Law.

The above implies, among other aspects,

that:

01. As from May 3rd, 2020, pre-operational testing of wind and photovoltaic power plants in commercial operation will be suspended. Likewise, for those facilities which have not started, pre-operational tests will not be authorized as of that date;
02. The operational limits of the main transmission corridors will be subject to determined magnitudes without the dependence of Remedial Action Schemes ("RAS");

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03. Applications for licenses scheduled in the National Transmission Network will be studied and analyzed to determine the viability, dates and times in which the reliability of the National Electricity System ("SEN") is maintained, without the dependence of the RAS in the event of a health emergency and contingency;
04. The transmission limits determined with the RAC dependency shall be activated;
05. To maintain control of voltage regulation by minimizing the opening of transmission lines, add physical inertia and short circuit fault currents, units of power plants will be discharged, in some regions of the SEN.

Therefore, taking as justification the Declaration and the reduction in electricity consumption, the CENACE has determined that the new intermittent energy projects (e.g., solar photovoltaic, wind, etc.) will not be able to be interconnected to the SEN nor will they be able to enter into operation, as long as these terms are suspended, which will remain indefinitely.

It is important to emphasize that the Decree, as any act of authority, can represent an impact to those affected parties (whether natural persons or companies), therefore, such parties may trigger jurisdictional activities, the defense of their rights under the ordinary and extraordinary resources in administrative matters.

In connection therewith, on May 7th 2020, the Federal Economic Competition Commission ("COFECE"), issued an official communiqué regarding the Decree, stating the following:

01. The Decree lacks clarity on the specific measures, their application and time frame, since the Decree does not specifies the reasons why the decrease in power consumption creates instability in the SEN, nor does it indicates how CENACE will apply these measures or establish criteria or parameters for its termination;
02. The Decree prevents for an indefinite period of time, the possibility for certain companies to compete in the electricity market through new wind and photovoltaic plants, and creates uncertainty about the dispatch of plants of this type already operating in the market and enables possible discriminatory measures against them;
03. The reduction in supply, through the delay in the entrance of new generating plants, artificially strengthens the market power of generators already operating, mainly the Federal Electricity Commission thus adding barriers to competition; and
04. COFECE considers that the issuance of said Decree could result in practices that violate the Federal Law of Economic Competition since it has effects contrary to the process of free concurrence and economic competition in the electric energy market in Mexico.

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