

How will Sheinbaum's electricity reform be implemented?

Publius Question XX/XXIV
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The Question

The year 2024 ends with the approval of a series of profound constitutional reforms affecting the Judiciary and the energy sector, as well as reforms in government transparency, imprisonment for tax crimes, economic competition regulation, telecommunications, and mining. With these reforms, President Sheinbaum will concentrate enormous power over both national and foreign private companies. Alongside the advance of organized crime and the looming USMCA review under Trump, these reforms have raised concerns among investors.

However, optimism remains within the energy sector. President Sheinbaum has made a special effort to build trust, indicating that the reforms will be implemented in a manner friendly to the private sector. She appointed professional and academic figures to lead the sector (and did not reappoint hardliners). She has met multiple times with business leaders and announced an Electricity Plan aimed at reassuring the industry, stating that the electricity market will be preserved, the technical independence of the regulator maintained, and new opportunities for private investment opened.

Details of the new legislation will not be available until February 2025 (or possibly even May), but Sheinbaum's Electricity Plan gives us a sense of the general direction of her project. Some elements validate the current optimism, while others justify investors' concerns. We know that the secondary legislation will include three main forms of private participation in large-scale electricity generation. Companies will be able to: a) sell electricity to CFE under long-term contracts, b) become minority partners in mixed public-private electric companies with CFE, and c) sell electricity in the wholesale market, without affecting CFE's minimum 54% market share. The Plan also notes that companies operating under "illegal" self-supply schemes (i.e., the main holders of self-supply permits) will be required to go before SENER (the Energy Ministry) to relinquish their permits and transition to the wholesale electricity market. The new general model emerging for large-scale generation is one of private participation subject to the discretion, on a case-by-case basis, of CFE (and SENER as its superior authority). This model grants the State greater control over the industry but also opens the door to corruption and favoritism.

While some issues are already known, there are critical questions still pending, currently being discussed by the teams drafting the secondary legislation. These include the future of: the system and market operator, CENACE (Will it be reintegrated into CFE? Will dispatch rules be altered?); the CRE (Will it lose 70% of its budget and staff?); COFECE (Will conditions on the Iberdrola purchase be eliminated?); the CFE (Will it become vertically reintegrated?); Quantum Energía (Will it disappear, or become the model for new mixed enterprises?). The industry currently operates under delicate competitive and financial balances. The electricity market is incredibly complex. Any thoughtless modification to the rules of the game could destroy existing business models.

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Publius Question XX/XXIV
December 11, 2024, p. 2.

Ergo

Claudia Sheinbaum knows that the electricity issue is key for her economic project to succeed: there will be no investment without energy. That's why she has appointed academics and technical experts to lead the sector and has courted business leaders. However, even though her electricity reform is, on the surface, less restrictive for investors than the one AMLO attempted in 2021 (see Annex), it could ultimately prove destructive. As any engineer knows, the more simultaneous modifications you make to a working machine, the less clear it becomes how it will actually function.

Sheinbaum will have to live with the consequences of the energy reform (her reform) for six years. Therefore, it would be surprising if she chose to exclude the interests of businesses or trade partners. She needs a more sustainable outcome than that. To achieve it, she must make changes gradually, supported by electricity market specialists, and through consultation with the affected parties.

Ex Post: Reforms and Attempts at Reform in the Electric Sector (2018–2024)



Verbatim

"It was my first trip to Mexico since president Claudia Sheinbaum took the reins of power (mostly)... there was more complacency than I expected –primarily from business, but some from government as well... Near term, I'd worry about infrastructure and energy, where Mexico needs private sector investment (since government is now constrained) and that requires a level of investment climate certainty that's hard to provide. And critically,..., the knock on investment implications of timing of USMCA review and agreement with the Americans."

Ian Bremmer, *Eurasia Group Update*, December 9th, 2024.

Publius Team



César E. Hernández
Managing Partner
cho@publius.com.mx



Eunice Hernández
Partner
eho@publius.com.mx



Lázaro Benavides
Senior Associate
lbi@publius.com.mx

Annex. *AMLO vs Sheinbaum in Energy.*

Publius Question XX/XXIV
December 11, 2024, p. 3.

Topic	2021 Constitutional Reform Initiative and Reforms to the Electricity Industry Law	2024 Constitutional Electricity Reform and National Energy Plan
Limits on Competition and Private Participation	<ul style="list-style-type: none"> Constitutional cap of 46% on private electricity generation. Modification of the economic dispatch to prioritize CFE power plants. 	<ul style="list-style-type: none"> Principle of non-preeminence of private entities over the state-owned public company and private participation through mixed producer schemes, long-term energy sales to CFE, and participation in the electricity market.
Self-supply generation	<ul style="list-style-type: none"> Considered illegal in the transitory provisions of the initiative. In practice, fines were imposed on companies operating under this model. 	<ul style="list-style-type: none"> Although the reform does not address this issue, the National Energy Plan considers self-supply illegal and states that those operating under this scheme must transition to other models.
Planning and control of the national electricity system	<ul style="list-style-type: none"> It was proposed that CFE be in charge of planning and controlling the national electricity system. 	<ul style="list-style-type: none"> The reform establishes that it will be under the responsibility of the state-owned public company to be established. Possible integration of CENACE into CFE or SENER.
State-Owned Productive Enterprises	<ul style="list-style-type: none"> It was proposed to eliminate CFE's legal separation and transform it into the State entity responsible for the strategic electricity sector, including its planning and control. 	<ul style="list-style-type: none"> CFE and PEMEX become public companies, and the concept of best practices is eliminated.
Energy transition	<ul style="list-style-type: none"> The aim was for the state, through CFE, to be responsible for the energy transition in the electricity sector. 	<ul style="list-style-type: none"> Although it is not included in the constitutional text, there is a strong energy transition component in the National Energy Plan and in the strategies to be implemented by the state-owned companies