

Mexico: CENACE Publishes an Order to Suspend Pre-Commissioning Tests of Wind and Solar Power Plants

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PRACTICES Mexico, Renewable Energy, International

Within the context of the COVID-19 pandemic, the National Center for Energy Control (“CENACE”) notified users of the Market Information System of its “*Order to guarantee the efficiency, quality, reliability, continuity and security of the National Electric System, motivated by the recognition of the epidemic of the illness caused by the SARS-CoV2 virus (COVID-19)*,” (the “Order”), via the Public Area of the Market Information System of its official web page.

The Order establishes different actions and strategies of control, among them, the following:

- From May 3, 2020, all pre-commissioning tests of intermittent wind and solar power plants in process of commercial operation are suspended. For those that have not commenced operation, pre-commissioning tests will not be authorized.
- For Interconnected Systems Electrically Isolated, with integration of intermittent wind and solar power plants, operating actions and strategies will be applied to strengthen the sufficiency, quality, and continuity of power supply.
- To maintain control of the regulation of voltage minimizing the opening of transmission lines, and add physical inertia, Conventional Must Run Power Plants will be authorized in some regions of the National Electric System (*Sistema Eléctrico Nacional*, “SEN”).
- The applications for licenses programmed in the National Transmission Grid will be studied and analyzed to determine the viability, dates and times when the reliability of the SEN may be maintained.

The Order does not provide how long the suspension of pre-commissioning tests of wind and solar power plants will last, or whether it is permanent. It is also unclear in which regions of the SEN Conventional Must Run Power Plants will be authorized, or the criteria that will be used to issue these authorizations.

There is also a question on CENACE’s authority and jurisdiction to issue this Order, as, pursuant to the Law of the Power Industry, the Energy Regulatory Commission (“CRE”) is given the power and authority to dictate or enforce measures to protect public interests as to quality, reliability, continuity, and security of power supply, among which is included the suspension of operations.

One should note that the Order establishes these actions and strategies considering, from CENACE’s perspective, that (i) intermittent generation of wind and solar power plants affect the reliability of the SEN in sufficiency, quality and continuity of power supply, (ii) wind and solar power plants do not contribute to the primary control regulation of frequency quality, and (iii) wind and solar power plants do not contribute with physical inertia to the stability of the SEN.

Moreover, on May 6, 2020, the Federal Antitrust Commission (“COFECE”) issued an opinion on the Order stating that it has effects contrary to economic competition and free market participation in

power generation, in that (i) it creates uncertainty over the dispatch of wind and solar power plants that are currently operating in the market and enables possible discriminatory measures against them, and (ii) by unilaterally limiting the dispatch of these power plants, their capacity to compete would be reduced by impeding them from offering their power regardless of whether they are more efficient.

To this effect, COFECE recommended that the relevance of the Order be reviewed for, among other reasons, the lack of clarity of the measures, their application and term, and because COFECE considers that the Order enables possible and improper discriminatory treatment of certain power plants.

These measures by CENACE appear to benefit only those companies that have conventional power plants. In Mexico, these conventional generation plants are primarily owned by the Federal Commission of Electricity ("CFE"), which represent a higher operating cost and the use of fossil fuels.

Should you have any questions, please feel free to contact any of the lawyers listed below.

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