

Updates and Highlights in the Mexican Energy Sector, December 2016-January 2017

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As part of the implementation of the Mexican energy reform of 2013, several new regulations and administrative guidelines affecting the hydrocarbons and power industries were issued during December 2016 and January 2017. These are of particular importance to oil and gas producers, power generators and others looking to invest or expand operations in Mexico's dynamic energy sector.

I. Hydrocarbons

December 2, 2016. Open season exemptions for natural gas pipelines. The Energy Regulatory Commission ("CRE") published the criteria under which permit holders and applicants of natural gas pipeline permits may be exempt from carrying out an open season when extending a system or developing a new one.

December 9, 2016. ASEA HSE Guidelines. The National Agency for Industrial Safety and Environmental Protection of the Hydrocarbons Sector ("ASEA") published the HSE Guidelines on seismic, superficial exploration, and extraction of hydrocarbons. The purpose of these Guidelines is to establish the technical elements with which operators must comply.

December 27, 2016. Maximum Gasoline and Diesel Prices. The Ministry of Finance and Public Credit ("SHCP") published the maximum price regime for gasoline and diesel and the methodology for price determination. The purpose of this resolution is to determine the prices for gasoline and diesel for the regions where the Energy Regulatory Commission (CRE) had not authorized price liberalization.

December 30, 2016; January 5, 2017. Pemex TRI and PEP Organizational Statutes. Pemex Transformación Industrial ("Pemex TRI") and Pemex Exploración y Producción published their Organizational Statutes, which contain the basic structure of these two state productive enterprises, their divisions, authority of managers and personnel, etc.

January 24, 2017. ASEA Guidelines for Root Cause Analysis and Audits. ASEA published two regulations of critical importance to the hydrocarbons industry: (a) Guidelines to conduct root cause analysis for accidents occurring in the facilities of the regulated parties ("RCA Guidelines"), and (b) Guidelines for external audits of the operation and development of Industrial, Operative and Environmental Protection Management Systems ("Audit Guidelines"). The purpose of the RCA Guidelines is to establish the criteria and formats to conduct root cause analysis ("RCA") in accidents arising out of any of the activities related to the hydrocarbons industry (upstream, midstream, and downstream), and to classify accidents in three categories, depending on their severity. The purpose of the Audit Guidelines is to establish the rules and formats to conduct, at least once every two years, external audits of the operation and development of the Industrial, Operative and Environmental Protection Management Systems.

January 25, 2017. Pemex TRI Assignment of Capacity. The CRE published the Program to Assign Natural Gas Marketing Contracts of Pemex TRI, as part of the asymmetric regulation of that entity. The purpose of this Program is to schedule the assignment of 70 percent of the volume of the contracts which will take place in a period of at least one and a half years, through three phases: phase I: 20 percent; phase II: 20 percent and phase III: 30 percent.

January 25, 2017. SCJN Antitrust Ruling Regarding Pemex. The Supreme Court of Justice of Mexico ("SCJN") resolved a case where Pemex was accused of monopolistic practices by bundling fuel supply and transportation services to gas stations. Although the SCJN's decision related to events pre-dating the 2013 energy reform and favored Pemex, the SCJN held that the supply of fuels to gas stations cannot be conditioned or tied to specific transportation services required by Pemex or a Pemex-directed third party. The decision, although it is not yet mandatory under Mexican jurisprudence on lower courts, should be taken into consideration when marketing fuel to gas stations.

II. Power

December 14, 2016. CENACE Resolution. The National Center for Energy Control ("CENACE") published a resolution whereby it determines which elements will comprise the National Transmission Network and General Distribution Network of the Wholesale Market. The National Transmission Network corresponding to the Wholesale Market will be integrated by (a) the elements of the high tension electric networks with a nominal tension equal or superior to 69 kV; (b) the electric substations that have transformation elements with nominal low tension equal or superior to 69 kV; (c) the transformation elements that are part of the electric substations referred in item (b) destined for self-supply services and/or for the start of Central Electric Units; and (d) the transformation elements that are part of the electric substations referred in item (b) and that are used to connect the Static Var Compensator ("SVC"). In contrast, the General Distribution Network corresponding to the Wholesale Market will be integrated by (i) medium tension substations with a nominal low tension equal or superior to 13.2 kV and less than 69 kV interconnection to Central Electric Units of Market Participants and emergency Central Electric Units; and (ii) the transformation elements that are part of the electric substations with a nominal high tension equal or superior to 69 kV and a nominal low tension equal or superior to 13.2 kV and lower than 69 kV.

December 15, 2016. SENER Interconnection Guidelines. The Ministry of Energy published the Interconnection Guidelines for Power Plants with a capacity less than 0.5 MW. These Interconnection Guidelines establish the administrative and infrastructure requirements that must be met by Suppliers, Exempt Generators, and Generators representing power plants with a capacity less than 0.5 MW in order to interconnect their Power Plants to the General Distribution Network.

December 22, 2016. CRE Efficiency Criteria. The CRE published the General Provisions containing the efficiency criteria and methodology to determine the percentage of free fuel energy in the power generation processes. The purpose of these General Provisions is to (a) determine the efficiency criteria used in the "clean energy" definition contained in the Electric Industry Law; (b) establish the percentage of free fuel energy used for the calculation of Clean Energy Certificates that the Clean Generators will have the right to obtain when using fossil fuels; and (c) establish the methodology for the calculation of power density in hydroelectric power plants.

January 16, 2017. CFE New Transmission Rates. The Federal Electricity Commission (*Comisión Federal de Electricidad* – "CFE") published the new transmission rates for 2017. The rates for consumers of less than or equal to 220 kV voltage will be 0.0668 pesos/kWh, while the applicable

rate for consumption of more than 220 kV will be 0.1521 pesos/kWh. These rates are applicable for all market participants, including qualified users, suppliers, and traders, and for power exports having their last connection point in Mexico. The rates for power generators with voltages less than or equal to 220 kV will be 0.0531 pesos/kWh and 0.0961 pesos/kWh for voltages superior than 220 kV. These tariffs are applicable to generators participating in the Wholesale Electricity Market, and for power injections associated with imports whose first point of interconnection is located in Mexico.

Should you have any questions please contact any of the lawyers listed below.