

Amendment of the Criteria for the Issuance of Clean Energy Certificates

November 2019

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Background

One of the main principles of the constitutional energy reform of 2013 is the sustainability of the national power industry. To such effect, the creation of certain mechanisms was envisioned to enable compliance with public policies on the diversity of energy sources, energy safety and, particularly, to promote the generation of clean energy. The Clean Energy Certificates (“CECs”) market,¹ established in the Power Industry Law (*Ley de la Industria Eléctrica*, “LIE”) and Energy Transition Law (*Ley de Transición Energética*), is one such mechanism.

The CECs market serves to contribute to the Nation’s goal of compliance with clean energy standards.² This market is based, on the one hand, on the issuance of CECs in favor of clean generators that comply with certain criteria issued by the Ministry of Energy (*Secretaría de Energía*, “SENER”). On the other hand, it is based on the obligations of suppliers, qualified user market participants and other responsible load entities to obtain CECs, depending on having a certain percentage of electrical energy consumed, which is also determined by SENER.

To such effect, on October 31, 2014, SENER issued the *Guidelines on the Criteria for the Issuance of Clean Energy Certificates and Obtainment Requirements* (the “Criteria”).³ Such Criteria established that clean power plants that had started operations after August 11, 2014, had the right to obtain CECs. With respect to legacy power plants which, in accordance with the LIE, are property of the Federal Electricity Commission (*Comisión Federal de Electricidad*, “CFE”), they were entitled to receive CECs, even if they had started operations before August 11, 2014, as long as they carried out a project to increase their clean energy production.

The Amendment of the Criteria for the Issuance of CECs

On October 28, 2019, SENER published in the *Federal Official Gazette* an amendment to sections I and II of article 4, first sub-paragraph, of the Criteria. This amendment allows legacy power plants (which, as referred to above, are the property of CFE, in accordance with the LIE) to obtain CECs for the totality of clean energy generated in such plants from the date the Criteria amendment entered into force (*i.e.*, October 29, 2019). This means that the condition of carrying out a project to increase the clean energy production was removed, in order to entitle CFE legacy power plants to obtain CECs.

SENER stated that this amendment will not have any impact on the CECs market and that its purpose is to promote free competition among public and private generators. However, such change could cause an oversupply

¹ CECs are certificates issued by CRE in favor of clean power generators that certify the production of 1MW/h through clean sources.

² The national goals of minimum participation of clean sources on power generation are: (i) 25 percent for 2018, (ii) 30 percent for 2021, and (iii) 35 percent for 2024.

³ *Lineamientos que establecen los criterios para el otorgamiento de Certificados de Energías Limpias y los requisitos para su adquisición.*

of CECs in the CECs market, considering that in 2018, the clean energy generation represented 22 percent of total gross generation, to which CFE contributed 65.7 percent.

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