

# Expert Guide

## Energy & Natural Resources

July 2013

CORPORATE *LiveWire*



# Renewable Energy Generation Trends in Mexico

By Edmond Grieger



In Mexico, as of 1 December, 2012, we have had a newly elected administration which is spearheaded by the president Mr. Enrique Peña Nieto from the Institutional Revolutionary Party (PRI), who has shown his determination to further develop the renewable energy market in the country, position which we could confirm as well from Mexico's National Energy Strategy (2013-2027) recently issued by the Federal Ministry of Energy (SENER). Among other important matters included in the National Energy Strategy, we highlight a strong trend to increase the availability and diversify the sources of energy generation as a principle of energy security in the country.

In Mexico, the primary energy agencies are the Federal Ministry of Energy (SENER), which is responsible for policy setting, the Federal Electricity Commission (CFE), the Federal Commission for Energy Regulation (CRE) and the Federal Commission for the Efficient Use of Energy (CONUEE), which are responsible for diverse implementation aspects.

Among various laws, regulations, strategies, programs and plans promoting and regulating the generation of energy through cleaner renewable sources, we remark three main legal instruments in particular, the Law for the Public Service of Electric Energy (amended 1992), the 2008 Law for the Use of Renewable Energy and the Financing of Energy Transition ("LAERFTE") and the 2012 General Climate Change Law. These laws and their corresponding regulations, with the exception of the General Climate Change Law which to date has no specific Regulations, provide the stage of a stronger regulatory environment for investment in renewable energy.

The Climate Change Law sets goals of reducing Mexico's greenhouse gas emissions 30% by 2020 and 50% by 2050, and generating at least 35% of its electricity from non-fossil energy sources by 2024, the former is also in harmony with the objectives included in the National Energy Strategy (2013-2027).

Some of the regulatory instruments and incentives for renewable energy that have been issued to date under the mentioned legal framework include a Virtual Energy Bank; Net Metering for small (up to 30kW) and medium scale (30kW up to 500kW) electricity producers; Fixed Transmission Costs and conduction of Open Seasons to develop infrastructure for renewable projects in the regions of our country lacking transmission infrastructure; and model contracts for suppliers and generators that use renewable energy. There are also some tax incentives such as, an accelerated depreciation for projects which use renewable energy sources and Tariff "0" for the import and export of non-polluting or energy efficient equipment and its accessories.



Other important regulatory instruments were recently published in the final quarter of 2012, such as the methodology for determining the amounts CFE will pay to renewable energy generators that are interconnected to the grid and specific guidelines for public auctions for small production renewable energy projects (which are under 30MW).

Mexico's constitution and regulatory laws to this date still reserve to the state the tasks of transmission, transformation, distribution, and selling of energy to the public in general. However, private investment in energy generation is possible under several investment schemes.

We could say that two of the most common schemes for private investors to develop renewable energy projects are actually the self-supply and co-

generation schemes. Self-supply is considered the generation of electricity for the satisfaction of the needs of the persons involved in the project, while cogeneration is defined as the generation of electricity produced together with steam or another type of secondary thermal energy, also to satisfy the needs of the persons involved in the project. Under the self-supply scheme, usually joint ventures are incorporated between investors, developers and the beneficiaries, where the former are included as minority shareholders in order for them to be supplied from the electricity generated in full compliance with the legal framework and benefiting from lower tariff rates in contrast to the ones offered by the CFE to the public in general.

Other attractive schemes are the small producer (for projects with an installed capacity inferior than 30 MW) and the independent producer schemes (higher than 30 MW), through which all the generated energy must be sold to the CFE. The CFE must execute long term contracts with the generators following the payment methodologies and guidelines recently issued. This new payment methodology applicable to small and independent producer schemes provides, among others, that in the payments to be made by the CFE it must consider the technology to be used for the generation of electricity; the location of the projects; and the externalities, with respect to the energy produced through conventional technologies.

In November 2012 the guidelines for the CFE to engage public tender procedures for small producer schemes entered into force as well. These tender guidelines have as purpose to provide clear and simple rules for a public bidding process (through an auction mode) that grants legal certainty to the investments carried out for the generation of electricity with renewable sources, and to purchase energy to the winners of these public bidding processes who have a permit for the generation under a small producer scheme.

To conclude, it is worth mentioning that a strategic energy reform is actually being negotiated in the country by the different political forces and we

are expecting that it could be sanctioned by Congress within the second semester of 2013.

We might assume that whatever the outcome of this strategic energy reform might be, it should continue to promote the development of private renewable energy projects in Mexico in order to achieve the goals set forth by the National Energy Strategy (2013-2027) and the General Climate Change Law.

“Other attractive schemes are the small producer (for projects with an installed capacity inferior than 30 MW) and the independent producer schemes (higher than 30 MW), through which all the generated energy must be sold to the CFE.”

Edmond Grieger is partner at Von Wobeser y Sierra, S.C., Head of the Energy, Environment and Natural Resources practices of the firm. He provides legal counsel on environmental and energy matters and disputes. He obtained his law degree from the Universidad Anáhuac and a Masters in Law (LL.M.) specialising in environmental and energy law at the Johannes Gutenberg Universität Mainz, Germany. He is member of the Mexican Bar Association, the Environment and Energy Committee of the ICC, and the Environment and Energy Law Commissions of the IBA.



Edmond Grieger can be contacted on +52 55 5258 1048 or alternatively via email at [egrieger@vwys.com.mx](mailto:egrieger@vwys.com.mx)