

Energy Alert

February 22, 2016

If you read one thing . . .

- CRE has enacted the Provisions in order to promote efficient development of the generation, transmission and distribution sectors and the commercialization of electric energy.
- The Provisions establish the rights and obligations for transporters, distributors and users of transmission and distribution services, allowing competitive development of the WEM and efficiency in the provision of such services.
- The Provisions are an additional component of Mexico's ongoing energy reform, which seeks to protect the interests of the users and the public as a whole while ensuring effective, efficient and continuous services.



General Administrative Provisions on Transmission and Distribution

On February 16, 2016, the Energy Regulatory Commission (CRE) published the general administrative provisions regulating open access to the National Transmission Network (RNT) and the General Distribution Networks (RGD) and provision of related services (the "Provisions"). The Provisions were enacted by the CRE in order to further promote efficient development of the generation, transmission and distribution sectors and the commercialization of electric energy. The Provisions went into effect simultaneously with the start of operations of the Wholesale Electricity Market (WEM), which occurred on January 29, 2016.

The Provisions apply to the activities of the National Center for Energy Control (CENACE), as well as transporters and distributors, when they are engaged in transmission and distribution of electricity as part of the National Electric System (SEN). Whenever the Ministry of Energy, transporters or distributors form partnerships or enter into agreements with private third parties to carry out, on behalf of the Mexican government, the financing, installation, maintenance, management, operation and expansion of the infrastructure necessary to provide the transmission and distribution services, such partnerships and agreements will also be subject to the Provisions.

The following are some of the most relevant aspects of the Provisions:

- Transporters and distributors are responsible, respectively, for the construction and maintenance of transmission and distribution facilities, subject to the participation and guidance of CENACE in terms of operational control of SEN and the operation of the WEM.
- In line with the public-use purpose of the transmission and distribution services, transporters and distributors must grant open and nondiscriminatory access to the RNT and the RGD for users of such services, as follows:
 - No preference may be given to any applicant in the procurement, confirmation or allocation of capacity for transmission or distribution, other than the preferences already set forth in the **Market Rules**, the Provisions, the CGPS (the general terms and conditions for the provision of public services of transmission and distribution of electricity, which are included in the Provisions, as discussed in further detail below) and other applicable regulations.
- Open access to the RNT and the RGD is subject to specific parameters, which are detailed in the Provisions.
- CENACE must guarantee the implementation of a system that would allow equitable and nondiscriminatory access to the transmission and distribution networks for all qualified users on the basis of regulated tariffs.
- CENACE may deny access to a connection in the event that the network does not have the necessary capacity. Such denial must be properly justified and delivered in writing to the applicant in question.
- CENACE, transporters and distributors (or contractors) must enter into agreements establishing the terms and conditions for providing and invoicing public transmission and distribution services (the “Agreements”). These Agreements will ensure coordination between the applicable parties necessary for the successful technical and commercial operation of such services.
 - The Agreements must incorporate the terms of CGPS and be consistent with the Market Rules where relevant. For a more detailed discussion of the model Agreements, please refer to **our Client Alert** issued on January 28, 2016.
- The Provisions also set forth the quantitative parameters to be used for the evaluation of the performance of the RNT and the RGD, including the availability, quality and continuity of services.

General Terms and Conditions for the Provision of Public Services of Transmission and Distribution of Electricity (CGPS)

The CGPS terms have been included within the Provisions as an annex. These terms establish the rights and obligations for transporters, distributors, and users of transmission and distribution services, and reflect common industry practices under the principles allowing competitive development of the WEM and efficiency in the provision of such services.

The terms of the CGPS are generally nonnegotiable. The parties entering into the Agreements (including CENACE, transporters or distributors, and the market participants or end users) may not establish provisions that differ from the CGPS terms, unless the CGPS itself identifies such provisions as negotiable. In such special circumstances, the parties are allowed to modify the CGPS provisions as applied to their Agreements, provided that the general principles of the Provisions and the CGPS are preserved. If such special provisions are agreed upon by the parties, the CRE must be notified accordingly within the time frames set forth by the Provisions and the CGPS.

The CGPS also includes terms and conditions relating to:

- rights and obligations of service providers and users
- regulated tariffs
- invoicing and payments
- suspension and resumption of services
- penalties and loss compensation
- rescission or early termination of agreements
- dispute resolution.

The Provisions are yet another component of Mexico's ongoing energy reform, which seeks to protect the interests of the users and the public as a whole by ensuring that transporters and distributors provide effective, efficient and continuous services.

Contact Information

If you have any questions regarding this alert, please contact:

Dino Elizardo Barajas

dbarajas@akingump.com

310.552.6613

Los Angeles

Steven P. Otilar

sotillar@akingump.com

713.250.2225

Houston

Carlos M. Bermudez

cbermudez@akingump.com

310.728.3320

Los Angeles

Vladimir Fet

vfet@akingump.com

310.552.6616

Los Angeles

Larissa Calva Ruiz

lcalvaruiz@akingump.com

310.229.1063

Los Angeles