

## Supreme Court rules on constitutionality of the reform to the Electricity Industry Law

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In plenary sessions of April 5 and 7, Mexico's Supreme Court of Justice ruled on the action of unconstitutionality filed by two thirds of the Senate, against the amendment to the Electricity Industry Law presented by the President and approved by the Mexican Congress early in 2021.

The discussion was divided by sections and amended provisions of the Electricity Industry Law. Of the provisions that were analyzed, for some of them there was a simple majority in favor of their validity (constitutionality), while for others, there was a simple majority in favor of their lack of validity (unconstitutionality), for different reasons.

In order for the ruling of an action of unconstitutionality to result in the declaration of unconstitutionality of a norm, a qualified majority of eight votes is required. Since such qualified majority was not obtained with respect to any of the challenged provisions, none of them was declared unconstitutional by the Court and the action of unconstitutionality was dismissed.

On the other hand, if a qualified majority rules on the validity of a provision, the reasons used by the Supreme Court are binding for lower courts. The foregoing is relevant in connection with the various amparo proceedings that are being analyzed by the District Courts.

Following is the sense of the votes by subject, where we mark with an asterisk those for which there was a qualified majority regarding the validity of the provision in question for any reason:

Subject	Provision	Confirms validity (constitutionality)	Dismissal without making a judgment
Dispatch order and coverage agreements with physical delivery	Article 3, section V		x
	Article 3, section XII	x	
	Article 3, section XII Bis	x	
	Article 3, section XIV	x	
	Article 4, section VI		x
	Article 26		x
	Article 101		x
	Article 108, section V	x*	
	Article 108, section VI		x
Interconnection feasibility	Article 4, section I	x*	
Energy permits	Article 12, section I	x*	
Grouped interconnection	Article 35, first subparagraph	x*	
Coverage agreements through auctions	Article 53		x
Clean Energy Credits	Article 126, section II		x
Review of Self-supply Permits	Transitory Provision Fourth	x	
Review of IPP Contracts	Transitory Provision Fifth	x	

It is necessary to wait for the ruling to be formally issued in order to determine in which cases and for what reasons, certain provisions were deemed as valid by a qualified majority, and whether it could be the case that lower courts find different reasons to rule on a different manner.

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