

Resolutions that modified the Guidelines regarding Clean Energy Certificates are declared null and void.

Energy and Infrastructure, April 5, 2024

On March 12, 2024, the Ministry of Energy published in the Federal Official Gazette the Resolution informing all participants of the wholesale electricity market and the population in general, that the "Resolution amending the Guidelines that establish the criteria for the granting of Clean Energy Certificates and the requirements for their acquisition published on October 31, 2014" and the "Resolution amending the Second Transitory Article of the Resolution amending the Guidelines that establish the criteria for the granting of Clean Energy Certificates and the requirements for their acquisition published on October 31, 2014", published on October 28 and December 10, 2019, respectively, have become null and void.

By way of context, prior to the publication of the resolutions now declared null and void, the guidelines regarding Clean Energy Certificates ("CELs") established that Clean Generators were entitled to receive CELs for a period of up to 20 years, provided that they represented (i) power plants that generate electricity from clean energy sources and have entered into operation after August 11, 2014, and (ii) legacy power plants that generate electricity from clean energy sources (a) that have carried out a project to increase their clean energy production, or (b) with respect to the capacity that they exclude from their legacy interconnection contract.

By means of the publication of such resolutions now declared null and void, the regulations were amended for the purpose of eliminating requirements "(a)" and "(b)" from item "(ii)" listed above, with the intention of allowing clean power plants that had entered into operation prior to August 11, 2014 to now have the right to receive CELs, which would mainly benefit mainly the Federal Electricity Commission, which has a significant installed capacity of clean energy derived from its hydroelectric and nuclear power plants.

The declared invalidity derives from the *amparo* lawsuit with file number 1724/2019, which final judgment was issued on June 15, 2022 by the First District Court in Administrative Matters Specialized in Economic Competition, Broadcasting and Telecommunications, who determined to grant the *amparo* and protection of justice to the complaining party, with respect to the two challenged resolutions. As a result, the right to receive CELs is maintained in accordance with the CELs guidelines published on October 31, 2014, i.e., CELs will not be granted with respect to the installed capacity of clean power plants operated under the Electric Energy Public Service Law.

Contact us:

Horacio M.de Uriarte

Partner | hdeuriarte@macf.com.mx

Patricio Trad

Partner | ptrad@macf.com.mx

Eugenio Macouzet

Partner | emacouzet@macf.com.mx

Martín Sánchez

Partner | msanchez@macf.com.mx

Aisha Calderón

Associate | acalderon@macf.com.mx

+52 (55) 5201 7400

For further information, visit:

www.macf.com.mx

