



**MIJARES ANGOITIA**  
**CORTES Y FUENTES**

**COFECE ISSUES OPINION ON THE COMPETITION IMPLICATION OF THE RESOLUTION OF MEASURES FOR COVID-19 ISSUED BY CENACE**

**May 12, 2020**

On May 7, 2020, the Federal Economic Competition Commission ("COFECE") issued an opinion (the "Opinion") on the "Resolution to Ensure the Efficiency, Quality, Reliability, Continuity and Safety of the National Electricity Grid, due to the recognition of the SARS-CoV2 virus (COVID-19) epidemic disease" (the "Resolution") issued by National Centre of Energy Control ("CENACE"), regarding certain provisions of it that could hinder competition in the electricity market.

The Opinion focuses mainly in items fourth to seventh of the Resolution and points out generally how such measures lack clarity and justification in their exposition. Likewise, it considers that they generate the temporarily displacement of the most efficient power plants in Mexico and how in turn, the inefficient power generation would generate increased power tariffs for consumers or more governmental subsidies.

The mains issues raised in the Opinion are the following:

- i. There is a lack of reasoning to sustain that the failures in the National Grid referred to in the Resolution are related to the operation of renewable sources. Moreover, while the Resolution refers to the need to stabilize the system during the health emergency, the failures referred therein were generated before the health emergency started.
- ii. The measure related to the activation of must-run plants could privilege power plants owned by the Federal Commission of Electricity ("CFE") over other more efficient plants.
- iii. The measure related to the suspension of preoperational tests is not justified. Moreover, this prevents the operation of plants that could be more efficient. Such delay could also artificially strengthen the market power of generators that are already operating, through the creation of barriers to competition.
- iv. The measures related to dispatch generate uncertainty as to the operation of renewable sources and could limit their ability to compete in the market.
- v. There is a need to clarify the temporal scope of application of the Resolution.
- vi. COFECE recommends, among others, that all measures implemented on solar and wind plants as a result of the Resolution, are duly justified from a technical standpoint and are made public. Additionally, it recommends avoiding a discriminatory treatment to power plants and guaranteeing the economic dispatch (preferring cheaper generation without compromising the stability of the National Grid) according to the applicable law.

---

<sup>1</sup> The Firm's note on the Resolution is available [here](#).

**COFECE ISSUES OPINION ON THE COMPETITION  
IMPLICATION OF THE RESOLUTION OF MEASURES FOR  
COVID-19 ISSUED BY CENACE**

**MIJARES ANGOITIA  
CORTES Y FUENTES**

**May 12, 2020**

vii. COFECE recommends carrying out an analysis in coordination with all market participants, to address in the short term the affectations that have been identified in the National Grid and in the operations of the CFE, to stabilize the system in the medium term and to reduce social costs of energy generation.

Should these measures have an adverse effect on you, please do not hesitate to contact our team with expertise in antitrust matters, who can be of assistance:

**Francisco Fuentes Ostos | Partner | [ffuentes@macf.com.mx](mailto:ffuentes@macf.com.mx)**

**Pilar Mata Fernández | Partner | [pmata@macf.com.mx](mailto:pmata@macf.com.mx)**

**Carlos Orcí Berea | Partner | [corci@macf.com.mx](mailto:corci@macf.com.mx)**

**+52 (55) 5201 7400**

**Mijares, Angoitia, Cortés y Fuentes, S.C.**