

CRE PUBLISHES UPDATES TO VALUES, CRITERIA, AND METHODOLOGIES FOR COGENERATION AND EFFICIENT COGENERATION SYSTEMS

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RESUMEN EJECUTIVO:

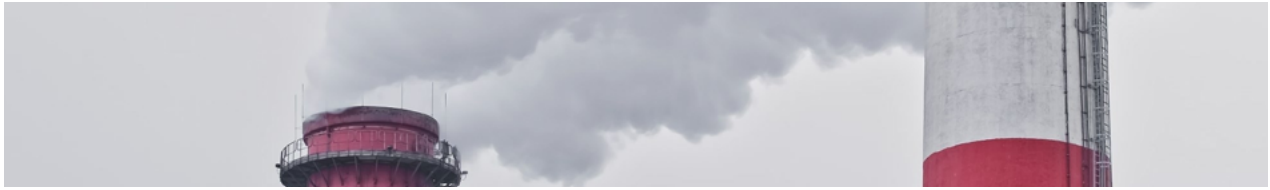
- On May 26, 2023, the Energy Regulatory Commission published the Agreement updating the values, criteria, and methodologies for cogeneration and efficient cogeneration systems.
- The Agreement deems combined cycle power plants as “clean energy” sources, generating problems in connection with the environmental goals set by Mexico and the operation of the clean energy certificates market, as well as Mexico’s emission reduction commitments with respect to its NDC and the operation of the clean energy certificate market.
- The Agreement became effective on May 29, 2023. It is important to note that the Agreement may be challenged through an indirect *amparo* trial.



On May 26, 2023, the Energy Regulatory Commission (“CRE”) published, in Mexico’s Federal Official Gazette (“DOF”), the “Agreement No. A/018/2023 by the Energy Regulatory Commission updating the reference values of the methodologies for the calculation of the efficiency of electric energy cogeneration systems and the criteria to determine efficient cogeneration, as well as the efficiency criteria and calculation methodology to determine the percentage of fuel-free energy established in resolutions RES/003/2011, RES/206/2014, RES/291/2012 and RES/1838/2016, respectively” (the “Agreement”).

The Agreement was previously published on May 23, 2023 as a draft by the CRE on the website of the National Commission for Regulatory Improvement (“CONAMER”), together with a request for exemption for the performance of a Regulatory Impact Analysis (“AIR”). The Agreement was approved by the CRE during an Extraordinary Session on May 24, 2023.

The Agreement deems combined cycle power plants as “clean energy” sources, generating the problems analyzed herein in connection with the environmental



goals set by Mexico and the operation of the clean energy certificates (“CEL”) market, as well as Mexico’s emission reduction commitments with respect to its NDC and the operation of the clean energy certificate (“CEL”) market.

CONTENT OF THE AGREEMENT

The Agreement updates the values, criteria, and calculation methodology concerning cogeneration and efficient cogeneration systems, including changes regarding: (i) the different loss factors for different voltage levels; (ii) the reference for each capacity range for the different types of power plants; (iii) the inclusion of power generation with two or more sequenced thermodynamic cycles (i.e. combined cycles); and (iv) the inclusion of power plants using auxiliary cooling technology.

Through the updates within the Agreement, experts note that combined cycle power plants are now considered as “clean energy” sources. Thus, the following issues are observed:

- + By considering combined cycle power plants as clean energy plants, the CRE intends to artificially improve Mexico’s compliance with its environmental goals to combat climate change and promote a low-carbon economy. These goals are included, among others, in the Energy Transition Law (“LTE”) and require Mexico to generate 35% of electricity from clean energy sources by 2024, as well as international commitments such as the Paris Agreement where Mexico is committed to reduce its greenhouse gas emissions by 22% by 2030.
- + By redefining the concept of clean energy to include combined cycle power plants, the CRE would allow these power plants to obtain CEL, which would generate an imbalance in the CEL market, causing an oversupply of CEL that would invalidate the value of the CEL market and nullify its value as a guide to verify Mexico’s progress in the country’s energy matrix.

Compliance with Mexico’s domestic and international goals and commitments must be achieved through the transition to cleaner and more sustainable energy sources that promote renewable energy, energy efficiency, and reduce greenhouse gas emissions, and not through simulations such as the one promoted by the CRE through the Agreement.

Likewise, the CEL mechanism and its legal regime must be respected in the terms in which it was designed with the purpose of integrating new clean generation in the country, which will continue to encourage decarbonization and advance towards a fair energy transition.

Furthermore, with respect to cogeneration, the LTE¹ factually states that “electricity generation through combined cycles may not be considered as efficient cogeneration”, so it could be interpreted and argued that the intention of the Agreement to consider combined cycles as clean energy sources is illegal.

Likewise, the publication of the Agreement in the DOF was made only 3 days after its publication as a draft in CONAMER’s web page, where the CRE requested the exemption of the AIR to prevent the Agreement from being publicly consulted. The Agreement was approved by the CRE and published in the DOF without sufficient discussion or analysis by the commissioners, according to the words of CRE Commissioner Norma Leticia Campos Aragón².

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Relevant links:

https://www.dof.gob.mx/nota_detalle.php?codigo=5690142&fecha=26/05/2023#gsc.tab=0



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¹ Transitory Article Sixteen, Section IV.

² <https://energiaadebate.com/modificara-cre-valores-criterios-y-metodologias-en-materia-de-cogeneracion/>