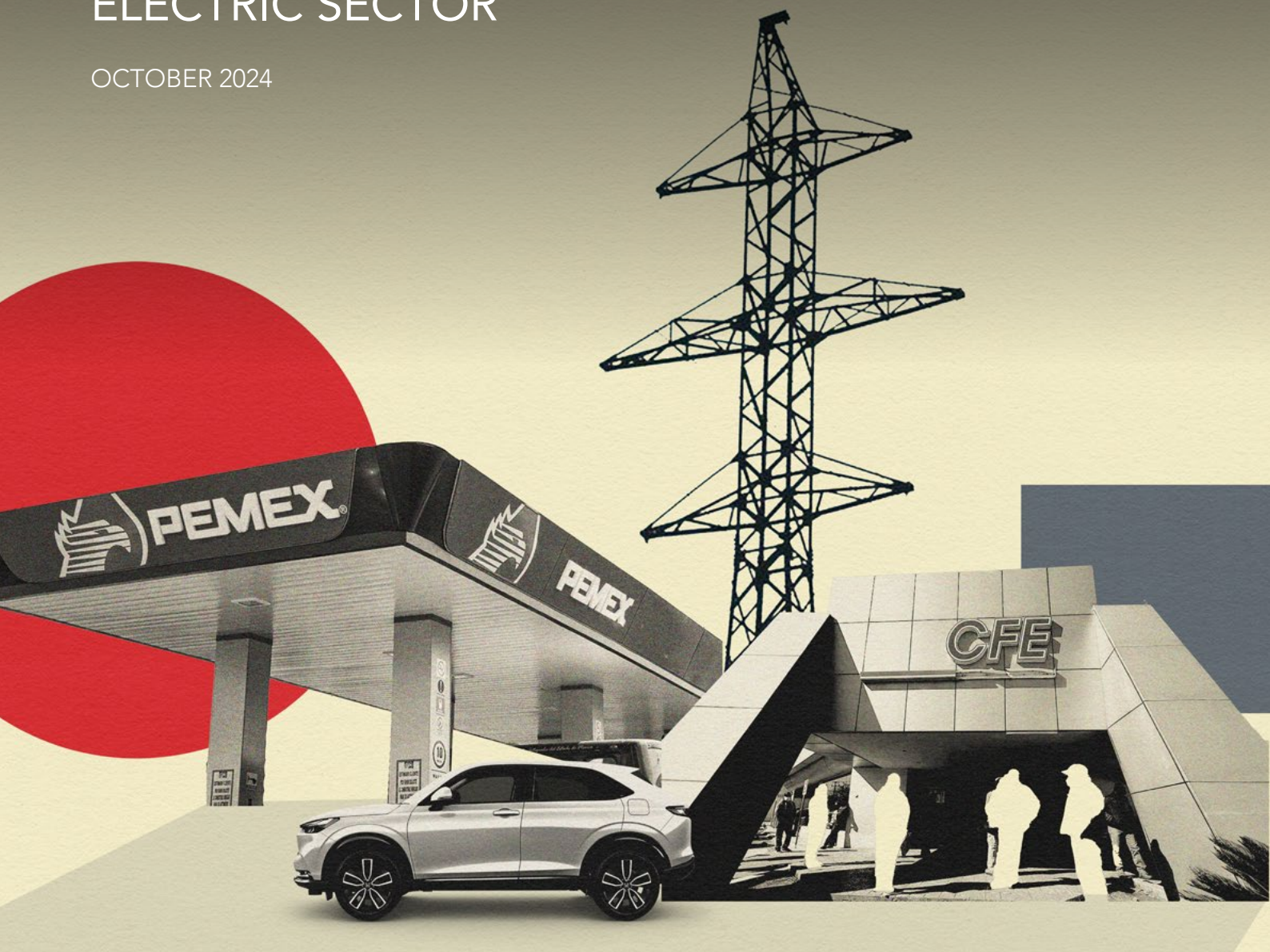


# CONSTITUTIONAL REFORM TO THE MEXICAN ELECTRIC SECTOR

OCTOBER 2024



**I. Government Companies**

**II. Prevalence and  
public service**

**III. Private sector  
participation**

On February 5 of this year, then President Andres Manuel López Obrador sent to the Mexican Chamber of Deputies a package of constitutional reforms, among which is the draft decree that reforms articles 25, 27 and 28 of the Political Constitution of the United Mexican States regarding strategic areas and companies.


- On October 31, 2024, the Department of the Interior (Secretaría de Gobernación) published in the Official Gazette of the Federation the Decree reforming the aforementioned articles.
- On November 6, 2024, the National Strategy for the Electric Sector was announced.
- The issuance of the secondary laws that provide content to the reform is pending, to be issued within a period of 180 days.

## I. Government Companies



The reform reverses the legal nature of the Federal Electricity Commission (CFE) as well as Petróleos Mexicanos (PEMEX) as State Productive Companies to return to their character as public companies, disappearing the profitability requirement, focusing on the effectiveness of the system.

## II. Prevalence and public service




Related to the previous point is the inclusion in the reform in the sense that individuals will not be allowed to have precedence over CFE - whose essence lies in fulfilling their social responsibility and guaranteeing the continuity and accessibility of the public electricity service.

The mentions of the prevalence of CFE in a market open to competition in terms of generation and commercialization are concerning, an opening recognized in the trade agreements to which our country is a party, as well as the reinsertion of a concept of public service, surpassed more

than ten years ago, in a context in which open activities in terms of generation and commercialization are performed by individuals based on permits granted by the regulatory body and not concessions, with the legal consequences that said distinction implies.

## III. Private sector participation



The approved reform to the constitutional text indicates that secondary laws regulate the way in which individuals can participate in activities of the electrical industry.

The reality of the country shows us the lag suffered in recent years in terms of electricity generation and the clear need to rely on the private sector (only 7.5% of new capacity was contributed by CFE in the period 2028-2023).

In this sense, it would be expected that secondary laws include new participation mechanisms for the private sector in electricity generation and commercialization activities.

On the other hand, even though the reform eliminates from the constitutional text the possibility that the State can enter into contracts with individuals in transmission and distribution activities, we do not rule out that the secondary laws include some mechanism that allows the Mexican State to rely on the private sector for the construction and maintenance of efficient transmission and distribution lines.

Factors such as the public finance commitments faced by the current administration and the need to modernize and increase the national transmission network and the general distribution networks must be added to the delay in electricity generation.

The signals sent by the government to the private sector with a proactive speech and ambitious goals in energy matters suggest that the sector will provide greater room to efficient participation of the public and private sectors.

**La National Strategy for the Electric Sector includes relevant information on investment plans and the participation of the private sector:**

- Public-private investment is expected to reach 32.4 billion USD in the next 5 years.
- Private companies are expected to install between 6,400 and 9,550 MW -an investment of 6 to 9 billion USD.
- Private companies will be encouraged to participate through: the sale of energy and capacity to CFE under long term contracts, public-private structures, and the sale of energy to the wholesale market.
- The threshold to operate on site without the need of a permit will be broadened to 0.7 MW and the consumption on site above such threshold will be promoted (for development zones and industrial parks) in projects from 0.7 to 20 MW that do not inject surplus to the system.
- Administrative procedures with the regulator will be simplified/digitalized.

It is recommended to be attentive and aware of these investment opportunities in the sector derived from the content of the secondary laws on the matter and details to come on available investment mechanisms. +